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March 24, 1981

Highlights

Cumulative List of Public Laws—The fourth and final cumulative list of public laws for the second session of the 96th Congress can be found in the **Reader Aids** section of the issue of January 7, 1981.

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Highlights

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FEDERAL TRADE COMMISSION

16 CFR Part 460

Trade Regulation Rule: Labeling and Advertising of Home Insulation; Partial Exemption for Cellulose Insulation

AGENCY: Federal Trade Commission.

ACTION: Invitation to comment on tentative partial exemption and notice of conditional stay.

SUMMARY: The Federal Trade Commission has tentatively decided to grant an exemption to manufacturers of certain types of cellulose insulation from the requirement in § 460.5(a)(2) of its Trade Regulation Rule on labeling and advertising of home insulation [16 CFR Part 460]. Section 460.5(a)(2) requires that tests to determine R-value of cellulose insulation be conducted at settled density, as determined by the General Services Administration's (GSA) Federal Specification HH–I–515D (June 15, 1978). This partial exemption would be conditioned upon the use of an alternative procedure to determine settled density which is incorporated as Method B, Specification 51–GP–60M (April 1, 1979) of the Canadian Government Specifications Board (CGSB). The Canadian specification permits the calculation of settled density by adjusting a blown density result by a factor of 1.27. The Commission also has issued a conditional stay of the requirement that those cellulose manufacturers use the settled density test procedure which was required by GSA Specification HH–I–515D (June 15, 1978), pending a final Commission decision on the exemption petition. The stay is conditioned on the use of Method B in the CGSB Specification 51–GP–60M.

DATES: Effective date of conditional stay: March 24, 1981. Written comments regarding the Commission's tentative decision to grant the conditional exemption will be accepted until April 23, 1981.

ADDRESSES: Written comments should be addressed to the Secretary, Federal Trade Commission, 6th and Pennsylvania Ave., N.W., Washington, D.C. 20580. All comments should be captioned: "Comment on Proposed Partial Exemption for Cellulose Manufacturers—Home Insulation Rule, FTC File No. 215–59."

FOR FURTHER INFORMATION CONTACT: Kent C. Howerton, 202–724–1515, Attorney, Division of Energy and Product Information, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: On August 31, 1979, the Commission promulgated a Trade Regulation Rule concerning the labeling and advertising of home insulation (44 FR 50218). On August 15, 1980, the Commission announced that the effective date of the rule would be September 29, 1980 (45 FR 54702).

Monotherm Industries, Inc., and Con-Serv, a Division of Bay State Gas Company, filed a Petition for a partial exemption from the Rule.[1] The Petition seeks a partial exemption from Section 460.5(a)(2) of the Rule, which requires that the R-value of cellulose insulation be determined at its settled density, according to the test procedure set out in General Services Administration (GSA) Federal Specification HH–I–515D. By an advisory opinion issued September 25, 1980, the Commission interpreted this provision to require the use of the test procedure set out in the GSA Specification which was in effect at the time the Rule was promulgated in August, 1979.[2]

This test procedure is generally known as the Canadian drop box test method for determining the settled density of cellulose. At the same time, the Commission stated that it would accept use of the results of the settled density test procedure required by the current version of the GSA specification [3] as compliance with § 460.5(a)(2) of the Rule.[4] That test procedure is generally known as the cyclone shaker test method.

In support of their Petition for a partial exemption, Monotherm and Con-Serv argue that the Canadian drop box test method is presently impossible to conduct because of the lack of qualified laboratories; that the Canadian authorities have concluded that a portion of the original drop box test is unnecessary; and that the Canadian authorities have developed a simple, inexpensive, and efficient procedure for determining settled density which provides test results substantially comparable to the full Canadian drop box test. They also assert that the cyclone shaker test is unacceptable to them because it allegedly overstates cellulose settled density. Therefore, Petitioners urge that they, and other manufacturers of cellulose, be exempted from the test procedure required by § 460.5(a)(2), conditioned on their use of the simpler procedure developed by the Canadian authorities.

Section 18(g) of the Federal Trade Commission Act permits the Commission to grant exemptions from Trade Regulation Rules where the "application of a rule * * * to any person or class of persons is not necessary to prevent the unfair or deceptive act or practice to which the rule relates * * *." [5] The unfair or deceptive act or practice which § 460.5(a)(2) is intended to prevent is the overstatement of the R-value and

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[1] Copies of the Petitioners' cover letter dated December 18, 1980, and the petition are available for public inspection as documents X–13 and X–14, respectively, in F.T.C. File No. 215–59. Copies of Petitioners' cover letter dated January 16, 1981, and an enclosed exhibit supplementing the Petition are available for public inspection as documents X–15 and X–16, respectively, in F.T.C. File No. 215–59.

[2] GSA Federal Specification HH–I–515D (June 15, 1978).

[3] GSA Federal Specification HH–I–515D, Amendment–1 (October 11, 1979).

[4] In the advisory opinion issued September 25, 1980, the Commission noted that it would permit (but not require) the use of an alternative test procedure known as the cyclone shaker test. The Commission took this action in view of the fact that the GSA specification referenced by the Rule was amended shortly after the Rule was promulgated to require that R-values be determined at the settled density determined by the cyclone shaker test, rather than by the Canadian drop box test. Consequently, there was significant confusion in the industry as to which test procedure was required under the Rule, compounded by erroneous staff advice. In addition, the Commission recognized that both the Consumer Product Safety Commission (CPSC) and GSA currently required cellulose manufacturers to conduct the cyclone shaker test for purposes of conducting flammability tests. To avoid unnecessary compliance costs imposed by a different test, and taking into account its required use by the two federal agencies, the Commission decided to permit its use.

[5] 15 U.S.C. § 57a(g)(2).

coverage area of cellulose insulation which is due to the failure to account for the effect of settling on its R-value and coverage area. A specific test procedure was prescribed to ensure, to the extent technically feasible, that a uniform and accurate method is used to eliminate this overstatement of R-value. The test requirement ensures that consumers will not only get accurate information about the R-value they will receive, but also uniform information which can be used to compare competing brands of cellulose. To the extent that the proposed alternative procedure produces results comparable to the drop box test, while reducing compliance costs, the Rule's purposes and the public interest would be served by permitting the alternative method of compliance. The most important question is therefore whether the proposed alternative procedure does yield substantially equivalent results.

The Canadian drop box test was developed by National Research Council of Canada (NRCC), an organization roughly comparable to the National Bureau of Standards, based on research it had conducted. The test consists of blowing cellulose at a prescribed application rate and angle into standardized containers to determine a "blown" density. The containers next are dropped six times from a specified height, and then exposed to controlled temperature and humidity cycling for at least twenty-eight days. The settled density of the product is then determined by measurement.

NRRC researchers conducted a series of tests to determine if a numerical correlation could be drawn between simple "blown" density and the settled density results of the full drop box procedure.[6] The researchers took 82 samples of 56 cellulose insulation materials and determined blown and settled density according to the full Canadian drop box test. Based on the results of these tests,[7] the researchers concluded that the average product settled 21.5%. More importantly, they also found that most products "behave as the hypothetical average product."[8] Therefore, the researchers concluded that settled density could be determined accurately and simply by multiplying the blown density by the factor of 1.27, which is equivalent to a 21.5% settling effect.[9] Subsequently, the Canadian government's specification was changed to permit the use of this factor in determining settled density for coverage charts.[10]

Having reviewed the NRCC reports, the Commission has tentatively determined that this "factor" procedure adequately reproduces the results that would be achieved by the full drop-box test for those types of cellulose insulation studied. The Commission believes, however, that interested parties should have an opportunity to comment on the "factor" procedure's accuracy and correlation with the full drop box test. Therefore, the Commission will accept public comment on this issue for a period of 30 days.

In addition to considering whether the "factor" procedure is accurate and correlates with the drop box test, the Commission must also weigh the effects of granting the relief sought. Clearly, the major benefits from permitting the use of the factor procedure in lieu of the full drop box test are the lower cost of the factor method and the increased speed with which it can be conducted. No special humidity-temperature chambers are needed; no lengthy cycling period is required. Especially since most cellulose manufacturers are small businesses, minimizing compliance costs is an important goal.

However, the Commission solicits public comment on any adverse effects that might result from adopting the "factor" procedure. For example, to the extent that some cellulose products settle more or less than the average 21.5%, the use of the factor will lead to labeled R-values which are different than those actually obtained by consumers who buy the non-average product. This may be particularly of concern with respect to cellulose materials which may settle significantly more than average. In that instance, the consumer will be getting less R-value than that represented on the label and fact sheet. While the Canadian research data indicates that only a few products fall into this category, and that the resulting distortion is not great,[11] the Commission is interested in receiving public comment on this issue.

In addition, the factor of 1.27 was derived only from certain types of cellulose products.[12] Thus, while the majority of cellulose manufacturers should be able to use the factor procedure, some might not.[13] Those whose products are different from those upon which the Canadian factor was based would not be able to use the alternative factor method. Thus, while it appears that allowing the alternative use of the Canadian factor method will overcome the alleged burdensomeness involved in the full "drop box" test procedure for some products, the fact that the factor method may not be appropriate for all cellulose products could have some adverse impact on the ability of these other cellulose manufacturers to compete. The Commission believes that public comment can indicate whether such an effect is likely to occur.

Weighing the benefits and potential adverse effects, the Commission has tentatively decided to grant a partial exemption from the testing requirements of § 460.5(a)(2) based on use of the proposed factor procedure.

The question also arises whether interim relief should be granted, pending the completion of the exemption proceeding. The Canadian data, and the action of the Canadian government in incorporating the factor procedure into its specification, present a strong *prima facie* case for the accuracy of the factor procedure. Since this is the same organization responsibile for the development of the test upon which the Commission presently relies, it is appropriate for the Commission to give serious weight to the improvements or simplifications it has created. Further, there is no question but that the drop box test is expensive and time-consuming. In view of these facts, the Commission sees no compelling reason to require manufacturers of the types of cellulose materials tested by NRCC to use the drop box test pending the conclusion of the exemption proceeding. Therefore, the Commission has granted a temporary partial stay of § 460.5(a)(2) for those cellulose manufacturers, if they use the factor procedure, including the initial determination of blown density, which is embodied in method B in the Canadian specification.

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[6] M. Bomberg and C. J. Shirtliffe, Comments on Standardization of Density and Thermal Resistance Testing of Cellulose Fiber Insulation for Horizontal Applications, Building Research Note #147, National Research Council of Canada (May, 1979). A copy is available for public inspection as document Y-1 in F.T.C. File No. 215-59.

[7] *Id.*, at Table. 1.

[8] *Id.*, at p.2. The standard deviation was only 1.9%. Ninety-three percent of the measurements of total settlement varied within only a ±3.5% spread.

[9] *Id.*, at Appendix A.

[10] *See* CGSB standard 51-GP-60M. A copy is available for public inspection as document number X-16 in F.T.C. File No. 215-59.

[11] *Supra* note 6, at Table 1. Only 2 of the 82 samples tested settled more than 3.5% more than the average, and both were under 4%.

[12] *Supra* note 6, at p.2. The data apply only to newsprint-based cellulose treated with borax and boric acid, or with boric acid, or with borax, boric acid and aluminum sulphate based chemical compositions.

[13] The proposed conditional exemption to allow the alternative use of the Canadian factor procedure to determine settled density is limited at this time to those cellulose products which are substantially the same as those which are included in the Canadian data. *Id.*

Following the comment period, the Commission will review the comments received and will determine whether to make permanent its decision to grant a partial exemption conditioned upon use of the factor, or to rescind its tentative decision and its conditional stay, or to take other action.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 81-9034 Filed 3-23-81; 8:45 am]

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DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 270, 275, 290, and 295

[TD ATF-80]

Large Cigars; Deletion of Wholesale Price Marks on Packages

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF).

ACTION: Final rule (Treasury decision).

SUMMARY: This rule deletes regulations in 27 CFR Parts 270, 275, 290, and 295 for wholesale price markings on packages of large cigars. The marking requirements were originally added by a Treasury decision published January 26, 1977, but were temporarily suspended pending further study by the Bureau. This study has been completed, and ATF has decided not to require manufacturers and importers to show wholesale price information on packages of large cigars. Consequently, the present Treasury decision eliminates all regulatory requirements for wholesale price package markings.

EFFECTIVE DATE: April 23, 1981.

FOR FURTHER INFORMATION CONTACT: Steve Simon, Research and Regulations Branch (202-566-7626), or Melvin T. Bruce, Tobacco Advisor (202-566-7568), Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226.

SUPPLEMENTARY INFORMATION: On December 3, 1976, ATF published a notice of proposed rulemaking (Notice No. 305, 41 FR 53055). The notice dealt with changes in the basis for taxation of large cigars as required by Public Law 94-455. One of the provisions of that notice proposed that manufacturers and importers mark packages of large cigars with the suggested delivered price to retailers (wholesale price), which is the tax base under the new taxing system. It was explained that this wholesale price information was similar in nature to the previously required tax class information and was pertinent for—

(1) Determination of the tax at the time of removal;

(2) Any subsequent refunds or credits to the manufacturer or importer;

(3) Entries in the manufacturer's records of tax-determined products returned to the factory;

(4) Payments made to wholesale and retail dealers in connection with disaster claims; and

(5) Tax liabilities incurred and satisfied by proprietors of export warehouses.

Numerous comments were received from the industry objecting to the package marking proposal. The commenters said that this would be an extremely costly requirement for the industry, while affording very little benefit to either the Government or industry. The cigar manufacturers agreed that if this requirement were dropped they would be willing to accept refund of large cigar taxes based on the minimum tax applicable during a specified period preceding the date of the claim.

The Bureau felt that with built in regulatory safeguards protecting the Government in case of withdrawals from the market, and with similar provisions requiring payment of the maximum tax for losses and shortages at export warehouses, wholesale price information on packages might not be essential. Consequently, the regulations as adopted in Treasury Decision ATF-40 (42 FR 4998, January 26, 1977) suspended the provisions relating to wholesale price information pending a study of the need for such information, and solicited additional public comment that would be relevant to this study.

The study consisted of on-site inspections of export warehouses and tobacco products factories. Information was sought regarding known problems associated with the absence of wholesale price package markings, as a result of the suspension of regulatory requirements already discussed. The results of the study showed that since industry had offered (in response to the notice of proposed rulemaking) to give the Government maximum tax except where industry furnished evidence to show that a lesser amount was due, package price markings were not very important. Furthermore, it was shown that, in those cases where wholesale price markings would have been useful, other records were generally available to supply the same information. This left only a few isolated instances where the lack of specific information regarding wholesale price would require the Bureau to collect the maximum tax or refund the minimum amount applicable to that brand and front mark recorded during the record retention period (about three years). It is clear, from the industry comments received, that it would be far preferable to the cigar industry to accept these adjustments than to be required to mark packages of large cigars with the wholesale price information.

A records simplification that is made by this Treasury decision provides an option in 27 CFR 270.183 for all large cigars with a wholesale price of more than $235.294 per thousand to be combined for record purposes. This is one of the possible changes for which public comment was requested in the preamble to Treasury Decision ATF-40. In accordance with ATF's program for improving the clarity of regulations, occasional non-substantive stylistic changes are also made.

Drafting Information

The principal authors of this document were Dorene F. Erhard and Steve Simon of the Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, other personnel from offices of the Bureau of Alcohol, Tobacco and Firearms and from the Department of the Treasury participated in developing these regulations, in matters affecting both substance and style.

Authority and Issuance

This Treasury Decision is issued pursuant to Notice No. 305 (41 FR 53055) and Treasury Decision AFT-40 (42 FR 4998).

This Treasury decision is issued under the authority found in 26 U.S.C. 7805 (68A Stat. 917).

Accordingly, the regulations in 27 CFR Parts 270, 275, 290, and 295 are amended as follows:

PART 270—MANUFACTURE OF CIGARS AND CIGARETTES

Paragraph A. The following amendments are made to 27 CFR Part 270:

1. Paragraph (b) of § 270.21, listing large cigar tax rates that were in effect prior to February 1, 1977, is deleted because it is obsolete. Paragraph (a) is divided into two paragraphs. As amended, § 270.21 is revised to read as follows:

§ 270.21 Cigar tax rates.

(a) On cigars, manufactured in or imported into the United States, the following taxes are imposed by law:

(1) *Small cigars.* Seventy-five cents per thousand.

(2) *Large cigars.* Eight and one-half percent of the wholesale price, but not more than $20 per thousand.

(b) Cigars not exempt from tax under 26 U.S.C. Chapter 52 and the provisions of this part which are removed but not intended for sale are taxed at the same rate as similar cigars removed for sale.

(Sec. 202, Pub. L. 85-859, 72 Stat. 1414, as amended by sec. 2128, Pub. L. 94-455, 90 Stat. 1921 (26 U.S.C. 5701))

2. In § 270.183, material relating to suspension of wholesale price markings is deleted; the requirement for recording wholesale prices of tax-determined large cigars is deleted; and an option is added which will allow the record of large cigars removed subject to tax with a wholesale price at or above the highest tax category ($20 per thousand) to be shown as if the wholesale price were $236 per thousand. As amended, § 270.183 is revised to read as follows:

§ 270.183 Record of cigars and cigarettes.

The record of a manufacturer of tobacco products shall show the date and total quantities of all cigars and cigarettes, by kind (small cigars—large cigars; small cigarettes—large cigarettes):

(a) Manufactured;

(b) Received in bond by—

(1) Transfer from other factories,

(2) Release from customs custody, and

(3) Transfer from export warehouses;

(c) Received by return to bond;

(d) Disclosed as an overage by inventory;

(e) Removed subject to tax (by wholesale price for large cigars, except that those over $235.294 per thousand may optionally be shown as if the wholesale price were $236 per thousand;

(f) Removed, in bond, for—

(1) Export,

(2) Transfer to export warehouses,

(3) Transfer to other factories,

(4) Use of the United States, and

(5) Experimental purposes off factory premises;

(g) Otherwise disposed of, without determination of tax, by—

(1) Consumption by employees on factory premises,

(2) Consumption by employees off factory premises, together with the number of employees to whom furnished,

(3) Use for experimental purposes on factory premises,

(4) Loss,

(5) Destruction, and

(6) Reduction to tobacco;

(h) Disclosed as a shortage by inventory; and

(i) On which the tax has been determined and which are—

(1) Received, and

(2) Disposed of.

(Sec. 2128(c), Pub. L. 94-455, 90 Stat. 1921 (26 U.S.C. 5741))

3. Paragraphs (b), (c), and (d) of § 270.214, relating to expression of wholesale price on packages of large cigars, are deleted. Paragraph (a) of that section is rephrased for improved clarity. As amended, § 270.214 is revised to read as follows:

§ 270.214 Notice for cigars.

Before removal subject to tax, every package of cigars shall have adequately imprinted on it, or on a label securely affixed to it—

(a) The designation "cigars";

(b) The quantity of cigars contained in the package; and

(c) For small cigars, the classification of the product for tax purposes (i.e., either "small" or "little").

(Sec. 202, Pub. L. 85-859, 72 Stat. 1422 (26 U.S.C. 5723))

4. Material in § 270.311 relating to the suspension of wholesale price package markings is deleted. Other material in this section is redrafted for improved clarity. As amended, § 270.311 is revised to read as follows:

§ 270.311 Action by claimant.

(a) *General.* Where cigars and cigarettes are withdrawn from the market and the manufacturer desires to file claim under the provisions of § 270.282 or § 270.283, he shall assemble the products in or adjacent to a factory if they are to be returned to bond or at any suitable place if they are to be destroyed or reduced to tobacco. The manufacturer shall group the products according to the rates of tax applicable to the products, and shall prepare a schedule of the products, on ATF Form 3069 (5200.7), in triplicate. All copies of the schedule shall be forwarded to the regional regulatory administrator for the region in which the products are assembled.

(b) *Large cigars.* Refund or credit of tax on large cigars withdrawn from the market is limited to the minimum amount applicable to that brand and size of cigar during the required record retention period (see § 270.185), except where the manufacturer establishes that a greater amount was actually paid. For each claim involving large cigars withdrawn from the market the manufacturer shall include a certification on either ATF Form 3069 (5200.7), ATF Form 2635 (5620.8), or IRS Form 843, to read as follows: "The amounts claimed relating to large cigars are based on the lowest wholesale prices applicable to the cigars during the required record retention period, except where specific documentation is submitted with the claim to establish that any greater amount of tax claimed was actually paid."

(Sec. 202, Pub. L. 85-859, 72 Stat. 1419, as amended (26 U.S.C. 5705))

PART 275—IMPORTATION OF CIGARS, CIGARETTES, AND CIGARETTE PAPERS AND TUBES

Par. B. The following amendments are made to the regulations in 27 CFR Part 275:

1. Paragraph (b) of § 275.31, listing tax rates that were in effect prior to February 1, 1977, is deleted because it is obsolete. Paragraph (a) is divided into two paragraphs. As amended, § 275.31 is revised to read as follows:

§ 275.31 Cigars.

(a) On cigars imported or brought into the United States, the following internal revenue taxes are imposed by law:

(1) *Small cigars.* Seventy-five cents per thousand.

(2) *Large cigars.* Eight and one-half percent of the wholesale price, but not more than $20 per thousand.

(b) Cigars not exempt from tax under this part which are removed but not intended for sale are taxed at the same rate as similar cigars removed for sale.

(68A Stat. 907, as amended (26 U.S.C. 7652); sec. 202, Pub. L. 85-859, 72 Stat. 1414, as amended by sec. 2128, Pub. L. 94-455, 90 Stat. 1921 (26 U.S.C. 5701))

2. Paragraphs (b), (c), and (d) of § 275.73, relating to expression of wholesale price on packages of large cigars, are deleted. Paragraph (a) is rephrased for greater clarity. As amended, § 275.73 is revised to read as follows:

§ 275.73 Notice for cigars.

Before removal subject to internal revenue tax, every package of cigars, except as provided in § 275.75, shall have adequately imprinted on it, or on a label securely affixed to it—

(a) The designation "cigars";

(b) The quantity of cigars contained in the package; and

(c) For small cigars, the classification of the product for tax purposes (i.e., either "small" or "little").

(Sec. 202, Pub. L. 85-859, 72 Stat. 1422 (26 U.S.C. 5723))

3. A reference in § 275.139 to the temporary suspension of wholesale price markings is deleted. Other material in § 275.139 is rephrased for

improved clarity. As amended, § 275.139 is revised to read as follows:

§ 275.139 Records.

Every manufacturer of tobacco products and cigarette papers and tubes in the United States who receives cigars, cigarettes, or cigarette papers or tubes or Puerto Rican manufacture, without payment of internal revenue tax, under his bond, shall keep separate records of all items received, removed subject to tax, removed for tax-exempt purposes, and otherwise disposed of, showing the following information:

(a) Date, quantity, and kind of cigars and cigarettes (small cigars—large cigars; small cigarettes—large cigarettes).

(b) The wholesale price of large cigars removed subject to tax, except that if the wholesale price is more than $235.294 per thousand, it may be shown as if it were $236 per thousand.

(c) The date and number of books or sets of cigarette papers of each different numerical content.

(d) The date and number of cigarette tubes.

(Sec. 2128(c), Pub. L. 94-455, 90 Stat. 1921 (26 U.S.C. 5741))

4. Material in § 275.170, relating to the temporary suspension of wholesale price package markings, is deleted. Other minor changes are made in this section to improve its readability. As amended, § 275.170 is revised to read as follows:

§ 275.170 Destruction or reduction to tobacco, action by taxpayer.

(a) *General.* Where cigars, cigarettes, and cigarette papers and tubes which have been imported or brought into the United States are withdrawn from the market and the taxpayer desires to file claim for refund of the tax on the articles, he shall, in addition to the requirements of § 275.163, assemble the articles at any suitable place, if they are to be destroyed or reduced to tobacco. The taxpayer shall group the articles according to the rates of tax applicable to the articles, and shall prepare a schedule of the articles on ATF Form 3069 (5200.7), in triplicate. All copies of the schedule shall be forwarded to the regional regulatory administrator for the region in which the cigars, cigarettes, and cigarette papers and tubes are assembled.

(b) *Large cigars.* Refund or credit of tax on large cigars withdrawn from the market is limited to the minimum amount applicable to that brand and size of cigar during the required record retention period (see § 275.22) except where the importer establishes that a greater amount was actually paid. For each claim involving large cigars withdrawn from the market the importer shall include a certification on either ATF Form 3069 (5200.7), ATF Form 2635 (5620.8), or IRS Form 843, to read as follows: "The amounts claimed relating to large cigars are based on the lowest wholesale prices applicable to the cigars during the required record retention period except where specific documentation is submitted with the claim to establish that any greater amount of tax claimed was actually paid."

(Sec. 202, Pub. L. 85-859, 72 Stat. 1419, as amended (26 U.S.C. 5705))

5. Material in § 275.172, relating to the temporary suspension of wholesale price package marking requirements, is deleted. Other minor changes are made in this section to improve its readabiltiy. As amended, § 275.172 is revised to read as follows:

§ 275.172 Return to nontaxpaid status, action by taxpayer.

(a) *General.* Where cigars, cigarettes, and cigarette papers and tubes which have been imported or brought into the United States are withdrawn from the market and the taxpayer desires to file a claim for refund of the tax on the articles and return them to a nontaxpaid status, he shall, in addition to the requirements of § 275.163, assemble the articles in or adjacent to the factory in which the articles are to be retained or received in a nontaxpaid status. The taxpayer shall group the articles according to the rates of tax applicable to the articles, and shall prepare a schedule of the articles, on ATF Form 3069 (5200.7), in triplicate. All copies of the schedule shall be forwarded to the regional regulatory administrator for the region in which the cigars, cigarettes, and cigarette papers and tubes are assembled.

(b) *Large cigars.* Refund or credit of tax on large cigars withdrawn from the market is limited to the minimum amount applicable to that brand and size of cigar during the required record retention period (see § 275.22) except where the importer establishes that a greater amount was actually paid. For each claim involving large cigars withdrawn from the market the importer shall include a certification on either ATF Form 3069 (5200.7), ATF Form 2635 (5620.8), or IRS Form 843, to read as follows: "The amounts claimed relating to large cigars are based on the lowest wholesale prices applicable to the cigars during the required record retention period, except where specific documentation is submitted with the claim to establish that any greater amount of tax claimed was actually paid."

(Sec. 202, Pub. L. 85-859, 72 Stat. 1419, as amended (26 U.S.C. 5705))

PART 290—EXPORTATION OF CIGARS, CIGARETTES, AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX, OR WITH DRAWBACK OF TAX

Par. C. The following amendments are made to the regulations in 27 CFR Part 290:

1. Material in § 290.67, relating to the temporary suspension of wholesale price marking requirements, is deleted. As amended, § 290.67 is revised to read as follows:

§ 290.67 Payment of tax.

(a) *General.* The taxes on cigars, cigarettes, and cigarette papers and tubes with respect to which the evidence described in § 290.66 is not timely furnished shall become immediately due and payable. The taxes shall be paid to the district director of internal revenue, for the district in which the factory or export warehouse is located, with sufficient information to identify the taxpayer, the nature and purpose of the payment, and the articles covered by the payment. (ATF Form 4640 (5600.5) may be used for this purpose.)

(b) *Large cigars.* The amount of tax liability on large cigars shall be based on the maximum tax rate of $20 per thousand unless the person liable for the tax establishes that a lower tax rate is applicable.

2. In § 290.143, the requirement for separate inventories of large cigars with wholesale prices above and below $235.294 per thousand is eliminated. Also, the reference to suspension of package marking requirements is deleted. As amended, § 290.143 is revised to read as follows:

§ 290.143 General.

(a) Every export warehouse proprietor shall make a true and accurate inventory on ATF Form 3373 (5220.3) to the regional regulatory administrator, of the numbers of (1) small cigars, (2) large cigars, (3) small cigarettes, (4) large cigarettes, (5) cigarette papers and (6) cigarette tubes, held by him at the times specified in this subpart.

(b) This inventory shall be subject to verification by an ATF officer. A copy of each inventory shall be retained by the export warehouse proprietor for 2 years following the close of the calendar year in which the inventory is made and shall be made available for inspection by any ATF officer upon his request.

(Sec. 202, Pub. L. 85-859, 72 Stat. 1422 (26 U.S.C. 5721))

3. The regulations in § 290.186 are amended to remove the requirement for wholesale price package markings on packages of large cigars. Paragraphs (b), (c), and (d) are deleted, and the other material in the section is redrafted for improved clarity. As amended, § 295.186 is revised to read as follows:

§ 290.186 Tax classification for cigars.

Before removal from a factory under this subpart, every package of cigars shall have adequately imprinted on it, or on a label securely affixed to it—

(a) The designation "cigars";

(b) The quantity of cigars contained in the package; and

(c) For small cigars, the classification of the product for tax purposes; (i.e., either "small" or "little").

(Sec. 202, Pub. L. 85-859, 72 Stat. 1422 (26 U.S.C. 5723))

4. The requirement for wholesale price package markings is removed from § 290.253 by deleting paragraphs (b), (c), and (d). Also, the other material in the section is redrafted for improved clarity. As amended, § 290.253 is revised to read as follows:

§ 290.253 Tax classification for cigars.

Before withdrawal of cigars from a customs warehouse under this subpart, every package of cigars shall have adequately imprinted on it, or on a label securely affixed to it—

(a) The designation "cigars";

(b) The quantity of cigars contained in the package; and

(c) For small cigars, the classification of the product for tax purposes (i.e., either "small" or "little").

(Sec. 202, Pub. L. 85-859, 72 Stat. 1422 (26 U.S.C. 5723))

PART 295—REMOVAL OF CIGARS, CIGARETTES, AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX, FOR USE OF THE UNITED STATES

Par. D. The regulations in 27 CFR 295.44 are amended to remove the requirement for wholesale price package markings. Paragraphs (b), (c), and (d) are deleted, and the other material in the section is redrafted for more clarity. As amended, § 295.44 is revised to read as follows:

§ 295.44 Notice for cigars.

Before removal under this part, every package of cigars shall have adequately imprinted on it, or on a label securely affixed to it—

(a) The designation "cigars";

(b) The quantity of cigars contained in the package; and

(c) For small cigars, the classification of the product for tax purposes (i.e., either "small" or "little").

(Sec. 202, Pub. L. 85-859, 72 Stat. 1422 (26 U.S.C. 5723))

Signed: December 4, 1980.

G. R. Dickerson,

Director.

Approved: February 3, 1981.

John P. Simpson,

Acting Assistant Secretary (Enforcement and Operations).

[FR Doc. 81-8796 Filed 3-23-81; 8:45 am]

BILLING CODE 4810-31-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2610

Valuation of Plan Benefits in Non-Multiemployer Plans; Amendment Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule; technical amendment.

SUMMARY: This amendment to the regulation on Valuation of Plan Benefits in Non-Multiemployer Plans contains the interest rates and factors for the period beginning April 1, 1981. The interest rates and factors are to be used to value benefits provided under terminating non-multiemployer pension plans covered by Title IV of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001 *et seq.* (1976), *as amended by* the Multiemployer Pension Plan Amendments Act of 1980, Pub. L. No. 96-364, 94 Stat. 1208, (the "Act").

This amendment is necessary to provide rates for the period beginning April 1, 1981 to be used with the formulas under the Valuation of Plan Benefits in Non-Multiemployer Plans regulation which becomes effective April 1, 1981. This amendment adopts the same rates as those adopted in the amendment to the Interim regulation on Valuation of Plan Benefits which was published March 13, 1981 (46 FR 16685). These rates and factors will remain in effect until PBGC publishes a notice revising them.

EFFECTIVE DATE: April 1, 1981.

FOR FURTHER INFORMATION CONTACT: Ms. Nina R. Hawes, Staff Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, D.C. 20006, 202-254-3010.

SUPPLEMENTARY INFORMATION: On January 28, 1981, the Pension Benefit Guaranty Corporation (the "PBGC") issued a final regulation establishing the methods for valuing plan benefits of terminating non-multiemployer plans covered under Title IV of the Employee Retirement Income Security Act of 1974, as amended, (46 FR 9492 *et seq.*). On March 13, 1981, the PBGC published an amendment to the Interim regulation on Valuation of Plan Benefits containing rates for plans that terminate on or after April 1, 1981 (46 FR 16685). This notice is a technical amendment which conforms the interest rates and factors in the final rule to the rates published on March 13.

Accordingly, Appendix B of the Final Rule on Valuation of Plan Benefits in Non-Multiemployer Plans is amended by this document to add a set of interest rates and factors for plans that terminate on or after April 1, 1981. These rates and factors will remain in effect until such time as PBGC publishes another notice which changes the rates.

Because the Multiemployer Pension Plan Amendments Act of 1980 established a new insurance program for multiemployer plans, we note that the rates and factors added by this publication are applicable to non-multiempolyer plans only.

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This determination is based on the need to determine and issue new interest rates and factors promptly, so that the rates can reflect, as accurately as possible, current market conditions. The PBGC has found that the public interest is best served by issuing the rates and factors on a prospective basis so that plans may be able to calculate the value of plan benefits before submitting a notice of intent to terminate. Also, plans will be able to predict employer liability more accurately prior to plan termination. Moreover, because of the need to provide immediate guidance for the valuation of benefits under plans that will terminate on or after April 1, 1981, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making the rates set forth in this amendment to the final regulation effective less than 30 days after publication.

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291 of February 17, 1981, (46 FR 13193) because it will not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers or

individual industries, or significant adverse effects on competition, employment, investment, productivity, innovation or competition.

In consideration of the foregoing, Part 2610 of Chapter XXVI, Title 29, Code of Federal Regulations, is hereby amended by revising the heading of Table XXIII and by adding a new Table XXIV to Appendix B, as follows:

Appendix B—Interest Rates and Quantities Used To Value Immediate and Deferred Annuities

* * * * *

XXIII. *The following interest rates and quantities used to value benefits shall be effective for plans that terminate on or after February 1, 1981 and before April 1, 1981.*

* * * * *

XXIV. *The following interest rates and quantities used to value benefits shall be effective for plans that terminate on or after April 1, 1981.*

I. *Interest rate for valuing immediate annuities.*

An interest rate of 10 percent shall be used to value immediate annuities, to compute the quantity "G_r" for deferred annuities and to value both portions of a cash refund annuity.

II. *Interest rate for valuing death benefits.*

An interest rate of 5 percent shall be used to value death benefits other than the decreasing term insurance portion of a cash refund annuity.

III. *Interest rates and quantities used for valuing deferred annuities.*

The following factors shall be used to value deferred annuities:

(1) $k_1 = 1.0925$
(2) $k_2 = 1.08$
(3) $k_3 = 1.04$
(4) $n_1 = 7$
(5) $n_2 = 8$

(Secs. 4002(b)(3), 4041(b), 4044, 4062(b)(1)(A), Pub. L. 93-406, 88 Stat. 1004, 1020, 1025-27, 1029, (1974), as amended by Secs. 403(1), 403(d) and 402(a)(7), Pub. L. 96-364, 94 Stat. 1302, 1301, 1299, (1980))

Issued at Washington, D.C., on this 19th day of March, 1981.

Robert E. Nagle,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 81-8676 Filed 3-23-81; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 762

Midway Islands Code

AGENCY: Department of the Navy, Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending the Midway Islands Code, codified in 32 CFR Part 762, to reflect certain recent administrative and organizational changes. Specifically, U.S. Naval Station, Midway Island, has been disestablished, and the functions once performed by the Naval Station relating to the administration of the Midway Islands have been transferred to the U.S. Naval Air Facility, Midway Island. In addition, the Fourteenth Naval District has been disestablished, and area coordination responsibilities formerly assigned to the Commandant, Fourteenth Naval District, have been reassigned to Commander, Naval Base Pearl Harbor. Therefore, the Midway Islands Code is being amended by substituting the words "U.S. Naval Air Facility" wherever the words "U.S. Naval Station" now appear, and by substituting the words "Commander, Naval Base Pearl Harbor" for the words "Commandant, Fourteenth Naval District."

EFFECTIVE DATE: March 24, 1981.

FOR FURTHER INFORMATION CONTACT: Staff Judge Advocate, Commander Naval Base, Pearl Harbor, HI 96860 (808) 471-0291.

Accordingly, 32 CFR Part 762 is amended as follows:

§§ 762.4, 762.6, 762.28, 762.34, 762.42, 762.50, 762.55, 762.58, 762.80, 762.92 [Amended]

1. In the sections and subsections of Part 762 listed immediately below, remove the words "U.S. Naval Station" and substitute therefor the words "U.S. Naval Air Facility":

762.4(b)
762.6, lines 4, 10-11 and 16
762.28(b), lines 3 and 5
762.34(a)
762.42
762.50(a)
762.55
762.58(b)
762.80(a)(2)
762.92

§§ 762.52 and 762.72 [Amended]

2. In the following sections and subsections of Part 762, remove the words "Commandant, Fourteenth Naval District" and substitute therefor the words "Commander, U.S. Naval Base, Pearl Harbor":

762.52
762.72(a)
762.72(c)
762.72(d)
762.72(e), lines 1-2 and 5-6

(Sec. 48, 74 Stat. 424; 3 U.S.C. 301, E.O. 11048, 3 CFR, 1959-1963 Comp., p. 632, (1962))

Dated: March 17, 1981.

P. B. Walker,

Captain, JAGC, U.S. Navy Alternate Federal Register Liaison Officer.

[FR Doc. 81-8681 Filed 3-23-81; 8:45 am]

BILLING CODE 3810-71-M

POSTAL SERVICE

39 CFR Part 10

International Express Mail Rates

Correction

In FR Doc. 81-8042, appearing at page 17016, in the issue of Tuesday, March 17, 1981, make the following change:

On Page 17019, third column, Table 17, the rate for two pounds, reading "29.00" should be changed to read "29.90".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 9E2194/R304; PH-FRL 1786-1]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the residues of the insecticide methidathion (*O,O*-dimethylphosphorodithioate, *S*-ester with 4-(mercaptomethyl)-2-methoxy-Δ^2-1,3,4-thiadiazolin-5-one) and its metabolite in or on the raw agricultural commodity mangos at 0.05 part per million (ppm). This regulation was requested by the Interregional Project No. 4 (IR-4). This regulation establishes the maximum permissible level for residues of the subject insecticide in or on mangos.

EFFECTIVE DATE: March 24, 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: Clinton Fletcher, 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: EPA issued a notice that was published in the **Federal Register** of December 24, 1980 (45 FR 85103) that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition number 9E2194 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Station of Florida.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, establish a tolerance for residues of the insecticide methidathion (*O,O*-dimethylphosphorodithioate, *S*-ester with 4-(mercaptomethyl)-2-methoxy-$\Delta^2$1,3,4,-thiadiazolin-5-one) and its methabolites in or on the raw agricultural commodity mangos at 0.05 part per million.

No comments or requests for referral to an advisory committee were received in response to this proposed regulation.

The data submitted in the petition and all other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. It is concluded that the tolerance will protect the public health. Therefore, 40 CFR Part 180 is amended as set forth below.

Any person adversely affected by this regulation may, on or before April 23, 1981, 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 supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this regulation from the OMB review requirements of Executive Order 12291 pursuant to section 8(b) of that Order.

Effective Date: March 24, 1981.

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

Dated: March 9, 1981.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Therefore, Subpart C of 40 CFR Part 180 is amended by alphabetically inserting the raw agricultural commodity "mangos" in the table under § 180.298 to read as follows:

§ 180.298 Methidathion; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Mangos	0.05
* * * * *	

[FR Doc. 81–8883 Filed 3–23–81; 8:45 am]

BILLING CODE 6560–32–M

40 CFR Part 180

[OPP–260038A; PH–FRL 1785–8]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; 2,4-D Isopropyl Ester

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a regulation revising 40 CFR 180.142(a) by allowing the postharvest use of 2,4-*D* isopropyl ester in or on the raw agricultural commodity citrus fruits at 5 parts per million. This regulation was requested by the Interregional Research Project No. 4 (IR–4). This regulation establishes the maximum permissible level of 2,4-*D* isopropyl ester in or on the citrus fruits at 5 parts per million resulting from postharvest application.

DATE: Effective on March 24, 1981.

ADDRESS: 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: Clinton Fletcher, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 509C, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (202–557–7123).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of December 24, 1980 (45 FR 85105) that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experimental Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted a pesticide petition (6E1797) to the EPA on behalf of the IR–4 Technical Committee and the Agricultural Experimental Station of California. The petition proposed that 40 CFR 180.142(a) be amended to allow the postharvest use of the 2,4-*D* isopropyl ester in or on citrus fruits under the established 5 ppm tolerance for citrus.

No comments or requests for referral to an advisory committee were received in response to this proposed regulation. Therefore, it is concluded that the tolerance will protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, on or before April 23, 1981, 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 supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this regulation from OMB review requirements of Executive Order 12291 pursuant to section 8(b) of that Order.

Effective date: March 24, 1981.

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

Dated: March 9, 1981.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Therefore, Subpart C of 40 CFR Part 180 is amended by revising paragraph (a) under § 180.142 to read as follows:

§ 180.142 2,4-D; tolerances for residues.

(a) Tolerances are established for residues of the herbicide, plant growth regulator, and fungicide 2,4-*D* (2,4-dichlorophenoxyacetic acid) in or on the raw agricultural commodities as follows: 5 parts per million in or on apples, citrus fruits, pears, and quinces. The tolerance on citrus fruits also includes residues of 2,4-*D* (2,4-dichlorophenoxyacetic acid) from the preharvest application of 2,4-*D* isopropyl ester and 2,4-*D* butoxyethyl ester and from the postharvest application of 2,4-*D* alkanolamine salts and 2,4-*D* isopropyl ester to citrus fruits.

* * * * *

[FR Doc. 81–8882 Filed 3–23–81; 8:45 am]

BILLING CODE 6560–32–M

40 CFR Part 180

[PH-FRL 1786-3; PP 4E1454/R302]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the herbicide diphenamid including its desmethyl metabolite on raspberries at 1.0 part per million (ppm). This regulation was requested by the Interregional Project No. 4 (IR-4). This regulation establishes the maximum permissible level for residues of the subject herbicide on raspberries.

EFFECTIVE DATE: Effective on March 24, 1981.

ADDRESS: 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: Clinton Fletcher, 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: EPA issued a notice that was published in the **Federal Register** of December 24, 1980 (45 FR 85101) that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition number 4E1454 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of Maryland.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act establish a tolerance for residues of the herbicide diphenamid (*N,N*-dimethyl-2,2-diphenylacetamide) including its desmethyl metabolite (*N*-methyl-2,2-diphenylacetamide) in or on the raw agricultural commodity raspberries at 1.0 ppm.

No comments or requests for referral to an advisory committee were received in response to this proposed regulation.

The data submitted in the petition and all other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. It is concluded that the tolerance will protect the public health. Therefore, 40 CFR Part 180 is amended as set forth below.

Any person adversely affected by this regulation may, on or before April 23, 1981, 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 supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this regulation from the OMB review requirements of Executive Order 12291 pursuant to section 8(b) of that Order.

Effective date: March 24, 1981.

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

Dated: March 9, 1981.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Therefore, Subpart C of 40 CFR Part 180 is amended by alphabetically adding the raw agricultural commodity "raspberries" under § 180.230 to read as follows:

§ 180.230 Diphenamid; tolerance for residues.

* * * * *

1.0	
raspberries.	

* * * * *

[FR Doc. 81-8880 Filed 3-23-81; 8:45 am]

BILLING CODE 6560-32-M

40 CFR Part 180

[PH-FRL 1785-5, OPP-300043A]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for lecithin when used as an inert (or occasionally active) ingredient in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest. This regulation was requested by Decco Tiltbelt Agricultural Technology.

EFFECTIVE DATE: Effective on March 24, 1981.

ADDRESS: 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: John A. Shaughnessy, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 514D, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7110).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of January 19, 1981 (46 FR 5003) that Decco Tiltbelt Agricultural Division, Box 120, 1713 S. California Ave., Monrovia, CA 91016, had submitted a request to the EPA to establish an exemption from the requirement of a tolerance for lecithin under 40 CFR 180.1001(c). No comments or requests for referral to an advisory committee were received in response to this proposal. It has been concluded that the amendment will protect the public health, and therefore, the amendment to the regulation should be adopted as set forth below.

Any person adversely affected by this regulation may, on or before April 23, 1981, 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 supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this regulation from the OMB review requirements of Executive Order 12291 pursuant to section 8(b) of that Order.

For information on the Regulatory Flexibility Act requirements, see the Appendix to this regulation.

Effective date: March 24, 1981.

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

Dated: March 13, 1981.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Therefore, Subpart D of 40 CFR Part 180 is to be amended by alphabetically inserting "lecithin" in the list under § 180.1001(c) to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredient	Limits	Uses
* * * * *		
Lecithin	Meeting Food Chemicals Codex specification.	Emulsifier.
* * * * *		

Appendix to [OPP-300043A], Lecithin Exemption From Tolerance

Certification Under Regulatory Flexibility Act:

Pursuant to the Regulatory Flexibility Act (Pub. L. 96-543, 94 Stat. 1164, 5 U.S.C. 601-612), all "notice-and-comment" rulemaking which is proposed after January 1, 1981, must be accompanied by a regulatory flexibility analysis, or by a certification by the Administrator that no such analysis is necessary because the regulation will not have a significant economic impact on a substantial number of small entities.

Under secs. 408 and 409 of the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended (21 U.S.C. 346a, 348), the Agency is authorized to establish by regulation tolerance levels, exemptions from the requirements for a tolerance, or food additive levels, for pesticides whose use results in residues on food or feed. The establishment of a tolerance or an exemption or an additive level allows a pesticide product to be registered for a particular use resulting in residues on food or feed. This generally has some beneficial economic impact on the producer, distributor, and professional applicator of the pesticide, as well as on the ultimate user of the pesticide, usually a grower or food processor, who would otherwise not be able to sell crops containing residues of that pesticide. Adverse impacts are usually non-existent or insignificant.

This regulation will allow the use of lecithin in pesticide products applied to food crops. Any costs resulting from this rule would almost certainly be outweighed by the benefits to the registrants of being able to register this additional use.

Accordingly, I hereby certify that this proposed regulation would not, if promulgated, have a significant economic impact on a substantial number of small entities. Therefore, this regulation does not require a regulatory flexibility analysis.

Dated: March 11, 1981.

Walter C. Barber, Jr.,

Acting Administrator.

[FR Doc. 81-8878 Filed 3-23-81; 8:45 am]

BILLING CODE 6560-32-M

40 CFR Part 180

[PH-FRL 1786-2; PP OE2371/R305]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the herbicide terbacil and its metabolites on asparagus at 0.2 part per million (ppm). This regulation was requested by the Interregional Project No. 4 (IR-4). This regulation establishes the maximum permissible level for residues of the subject herbicide on asparagus.

EFFECTIVE DATE: Effective on March 24, 1981.

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

FOR FURTHER INFORMATION CONTACT: Clinton Fletcher, 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: EPA issued a notice that was published in the **Federal Register** of December 24, 1980 (45 FR 85104) that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition number OE2371 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Michigan and Washington.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act establish a tolerance for residues of the herbicide terbacil (3-tert-butyl-5-chloro-6-methyluracil) and its metabolites 3-tert-butyl-5-chloro-6-hydroxymethyluracil (A), 6-chloro-2,3-dihydro-7-hydroxymethyl-3,3-dimethyl-5*H*-oxazolo (3,2-a) pyrimidin-5-one (B), and 6-chloro-2,3-dihydro-3,3,7-trimethyl-5*H*-oxazolo (3,2-a) pyrimidin-5-one (C) at 0.2 ppm in or on asparagus.

The data submitted in the petition and all other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. It is concluded that the tolerance will protect the public health. Therefore, 40 CFR Part 180 is amended as set forth below.

Any person adversely affected by this regulation may, on or before April 23, 1981, 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 supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this regulation from OMB review requirements of Executive Order 12291 pursuant to section 8(b) of that Order.

Effective date: March 24, 1981.

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

Dated: March 9, 1981.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Therefore, Subpart C of 40 CFR Part 180 is amended by alphabetically adding the raw agricultural commodity "asparagus" in the table under § 180.209(b) to read as follows:

§ 180.209 Terbacil; tolerances for residues.

* * * * *

(b) * * *

Commodities	Parts per million
* * * * *	
Asparagus	0.2
* * * * *	

[FR Doc. 81-8879 Filed 3-23-81; 8:45 am]

BILLING CODE 6560-32-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80-203; RM-3422]

FM Broadcast Station in Corning, California; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Class B FM Channel 264 to Corning, California, as that community's first FM assignment, in response to a petition for rule making filed by Valley FM Radio.

DATE: Effective April 20, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

(Proceeding terminated).

Adopted: February 20, 1981.

Released: February 25, 1981.

In the matter of amendment of § 73.202(b), Table of Assignments, FM broadcast stations (Corning, California); report and order.

1. Before the Commission is a *Notice of Proposed Rule Making*, 45 FR 32029, published May 15, 1980, proposing the assignment of Class B FM Channel 264 or alternate Channel 221A to Corning, California. The *Notice* was issued in response to a petition filed by Valley FM Radio ("petitioner"). Supporting comments were filed by the petitioner, stating its intent to apply for authority to construct and operate on the Class B channel, if assigned. No oppositions to the proposal were received.

2. Petitioner requested the assignment of Channel 264 to Corning, however, noting the size of the community, we proposed alternate Channel 221A. Petitioner was requested to provide a showing of need for the Class B facility, including a *Roanoke Rapids* and *Anamosa* study, and to indicate whether it would be interested in a Class A facility for Corning. In response, petitioner contends that a Class A facility could neither provide service to the sparsely populated communities nor attract the revenue through advertising needed to operate. Therefore, it urges the Commission to assign the Class B channel to Corning instead of the proposed Class A assignment.

3. Corning (pop. 3,573),[1] in Tehama County (pop. 29,512), is located approximately 160 kilometers (100 miles) north of Sacramento, California. It has no local aural broadcast service.

4. Petitioner incorporated by reference the information contained in the *Notice* which demonstrated the need for a first FM assignment to Corning. In response to the *Notice*, petitioner claims that a wide area coverage Class B facility would provide a first FM service to 1,556 square kilometers (607 square miles) for 2,185 persons and a second FM service to 2,232 square kilometers (872 square miles) for 5,337 persons. It would also provide a first nighttime service to 3,932 square kilometers (1,536 square miles) for 8,245 persons and a second nighttime service to 2,088 square kilometers (816 square miles) for 49,984 persons. However, petitioner's *Roanoke Rapids* study failed to consider several assignments which would substantially reduce the first and second FM service figures and petitioner's nighttime service figures were based on AM stations, but did not include FM assignments.

5. As a result of the proposed Channel 264 assignment to Corning, nine communities with populations greater than 1,000 would be precluded from assignments on Channels 264 and 265A. Of these, two communities (Willits and Orland, California) have no AM stations or FM assignments. Petitioner submitted a listing of alternate channels available to the communities precluded by the Class B assignment, as requested in the *Notice*.[2]

6. We have given careful consideration to the proposal and believe Channel 264 should be assigned to Corning, California. Although a community of this size is not normally assigned a Class B channel, from the information submitted by the petitioner it does appear that the Class B assignment would nevertheless provide some first and second FM and aural services to persons in sparsely populated areas. Additionally, there has been no expression of interest in operating a Class A facility in this area. Since alternate channels are available to the precluded areas, we believe that the preclusion impact is insignificant. Thus, in view of the insignificant preclusion impact by virtue of the availability of alternate channels and the apparent need for a wide coverage area station, we find the proposal justified.

7. Accordingly, it is ordered, That effective April 20, 1981, the FM Table of Assignments (§ 73.202(b) of the Commission's Rules) is amended with respect to the community listed below:

City	Channel No.
Corning, California	264

8. Authority for the action 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 § 0.281 of the Commission's Rules.

9. It is further ordered, That this proceeding is terminated.

10. For further information concerning this proceeding, contact Montrose H. Tyree, 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. 81-8863 Filed 3-23-81; 8:45 am]

BILLING CODE 6712-01-M

[1] Population figures are taken from the 1970 U.S. Census.

[2] Alternative channel assignments listed for Orland consist of Channels 221A, 257A and 285A and for Willits—221A, 244A, 249A, 257A and 261A.

47 CFR Part 73

[BC Docket No. 80-527; RM-3509]

Radio Broadcast Services, FM Broadcast Stations in Columbia and Monroe City, Miss.; Changes Made in Table of Assignments; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This action corrects erroneous statement that Channel 269A in Monroe City, Missouri (BC Docket No. 80-527), remained unapplied for. In fact, an application for the channel, filed by Lynlee Broadcasting Co., Inc. (BPH 800808AB) is pending.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kathy A. Grant, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Columbia and Monroe City, Missouri).

Released: March 3, 1981.

1. On February 10, 1981, the Commission adopted a *Report and Order* (46 FR 13515) assigning Channel 269A to Columbia, Missouri, and substituting Channel 292A for Channel 269A at Monroe City, Missouri. In paragraph 3 of the *Report and Order*, we erroneously stated that Channel 269A, while recently assigned to Monroe City, remained unoccupied and unapplied for. An application for the channel, filed by Lynnlee Broadcasting Co., Inc. (BPH 800808AB) is pending.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-8848 Filed 3-23-81; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-169; RM-3371]

FM Broadcast Stations in Lewisburg and Ronceverte, West Virginia; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule (report and order).

SUMMARY: This action assigns FM Channel 249A to Ronceverte, West Virginia, in response to a petition filed by Radio Greenbrier, Inc. The assigned channel could provide Ronceverte with its first local aural broadcast service. In addition, Channel 288A is reassigned from Ronceverte to Lewisburg, West Virginia, to reflect its use there.

DATE: Effective: March 24, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

Adopted: February 2, 1981.

Released: February 10, 1981.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM broadcast stations (Lewisburg and Ronceverte, West Virginia); *report and order.*

(proceeding terminated).

1. The Commission has under consideration, the *Notice of Proposed Rule Making,* 45 FR 28768, published April 30, 1980, proposing the assignment of FM Channel 249A to Ronceverte, West Virginia, as that community's first FM assignment; and the reassignment of FM Channel 288A from Ronceverte to Lewisburg, West Virginia, to reflect its actual use there.[1] The *Notice* was issued in response to a petition filed by Radio Greenbrier, Inc. (petitioner). The petitioner filed supporting comments and expressed its intent to apply for the channel, if assigned. In addition, the National Radio Astronomy Observatory (NRAO) and the Naval Research Laboratory (NRL) filed comments reminding potential applicants that the *Notice* provisions of § 73.1030 of the Commission's Rules are applicable here because Ronceverte is located within the radio "quiet zone."

2. Ronceverte (pop. 1,982),[2] in Greenbrier County (pop. 32,090) is located approximately 126 kilometers (78 miles) southeast of Charleston, West Virginia. It is served locally for fulltime AM Station WRON.

3. As stated in the *Notice,* Ronceverte is the agricultural supply center for eastern Greenbrier County, and the site for several small factories. Sufficient information was submitted to demonstrate the need for an FM assignment.

4. We believe that the public interest would be served by assigning Channel 249A to Ronceverte, West Virginia, since it would provide that community with an opportunity for its first local aural broadcast service. We shall also reassign Channel 288A from Ronceverte to Lewisburg, West Virginia, to reflect its current use in that community.

5. Petitioner expressed its concern that since Channel 288A was authorized for use in Lewisburg, although assigned to Ronceverte, pursuant to the 10-mile rule (see *In Re Radio Greenbrier, Inc.,* Docket Nos. 78-333 and 78-334, 80 FCC 2d. 125 (1980)), that Channel 249A may also be authorized for use at another community. Thus petitioner requests that we stipulate that the 10-mile rule shall not be applied to Channel 249A. However petitioner should note that by the terms of § 73.203(b), the 10-mile rule may not be invoked against the same community more than once.

6. Because the assignment is located in the radio "quiet zone" all applicants for Channel 249A in Ronceverte, should be aware of the Commission's notice requirements to the NRAO and NRL as set forth in § 73.1030 of the Commission's Rules.

7. Pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules, it is ordered, That effective March 24, 1981, the FM Table of Assignments (§ 73.202(b) of the Commission's Rules) is amended with regard to the communities listed below:

City	Channel No.
Ronceverte, West Virginia	249A
Lewisburg, West Virginia	288A

8. It is further ordered, That this proceeding is terminated.

9. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-9660.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-8884 Filed 3-23-81; 8:45 am]

BILLING CODE 6712-01-M

[1] Channel 288A is assigned to Ronceverte, West Virginia, however, under the 10-mile rule [§ 73.203(b)], a construction permit was granted to operate on Channel 288A at Lewisburg, West Virginia.

[2] Population figures are taken from the 1970 U.S. Census.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 671

Commercial Tanner Crab Fishery off the Coast of Alaska

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

ACTION: Final rule.

SUMMARY: The Director, Alaska Region, (Regional Director), National Marine Fisheries Service (NMFS), closes by field order part of the South Peninsula District in Registration Area J to fishing for Tanner crab (*Chionoecetes* spp) by vessels of the United States. The action is necessary because the desired harvest level in the western part of the South Peninsula District has been reached. The action will prevent overfishing on localized stocks of Tanner crab.

EFFECTIVE DATE: 12:00 noon Alaska Standard Time, March 20, 1981 until 12:00 noon Alaska Daylight Time, May 15, 1981. Public comments must be received on or before April 8, 1981.

ADDRESS: Comments may be sent to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT: Robert McVey (address above). Telephone (907) 586-7221.

SUPPLEMENTARY INFORMATION:

The Fishery Management Plan for the Commercial Tanner Crab Fishery off the Coast of Alaska (FMP) provides for in-season adjustments to fishing seasons and areas. Implementing rules in 50 CFR Part 671 specify in § 671.27(b) that these decisions shall be made by the Regional Director under the criteria set out in that section. On June 17, 1980, the Assistant Administrator for Fisheries, NOAA, delegated to the Regional Director authority to promulgate field orders making in-season adjustments.

50 CFR 671.26(f) creates four districts within Registration Area J. One of these is the South Peninsula District which is managed by the Alaska Department of Fish and Game (ADF&G) as two separate districts, the South Peninsula

district in the west ("new South Peninsula district") and the Chignik district in the east. Amendment 6 to the FMP will subdivide the South Peninsula district into two districts to be consistent with the State's management regime; final rules to this effect have not yet been promulgated.

The districts were created, in part, to prevent overfishing of individual Tanner crab stocks by allowing closure of a particular district when the desired harvest level in that district is reached. Although an optimum yield of six million pounds has been proposed by the North Pacific Fishery Management Council for the new South Peninsula district, a guideline harvest level of 3–6 million pounds was adopted by the Alaska Board of Fisheries in December 1980. This harvest level was based on the 1980 indexing survey conducted by ADF&G. The survey indicated a 50 percent reduction in numbers of harvestable crab over the previous seasons.

The 1980–81 season opened December 1 and, as of February 22, about 2.5 million pounds of crab have been harvested within the new South Peninsula district. Catch per unit of effort has been 21 crabs per pot, a decline from the 1979–80 season of 27 crabs per pot. Average width and weight of crabs being landed are less this season than they were last season, indicating that the average overall size of the crabs in the population is smaller. This is undesirable for the commercial fishery.

Evaluation of the above data indicates the harvest within the new South Peninsula district should be held to about 3.2 million pounds. This amount will be harvested by March 13, 1981.

In light of this information, the Regional Director has found that the number of harvestable Tanner crab in the western portion of the South Peninsula District is substantially different from the number anticipated at the beginning of the fishing year, and that this circumstance reasonably supports the closing of the western portion of the South Peninsula District for the rest of the 1980–81 fishing year at 12:00 noon, Alaska Standard Time, on March 13, 1981, rather than at 12:00 noon, Alaska Daylight Time, on May 15.

Because the information upon which the Regional Director based his finding has only recently become available, it would be impracticable to provide a meaningful opportunity for prior public notice and comment on this field order and still impose the March 13, 1981 closure which sound conservation of the resource and the prevention of overfishing appear at this point to demand. The Regional Director therefore finds, under 5 USC § 553(b) and (d)(3) and under 50 CFR 671.27(b)(4)(i), that there is good cause for not providing opportunity for advance notice and public comment on this field order prior to its promulgation, and for not allowing the passage of the normal 30-day period before it goes into effect. Therefore, under 50 CFR 671.27(a)(2), this field order shall become effective at 12:00 noon, Alaska Standard time, on March 13, 1981, following its filing for publication in the **Federal Register** and publication for 48 hours through ADF&G procedures. Under 50 CFR § 671.27(b)(4)(iii), public comments on this field order may be submitted to the Regional Director at the address stated above for 15 days ending April 8, 1981. During the 15-day comment period, the data upon which this field order is based will be available for public inspection during business hours (8:00 a.m.–4:30 p.m.) at the NMFS Kodiak field office, ADF&G Building, at Kashevaroff and Mission Roads, Kodiak, Alaska. The Regional Director will reconsider the necessity of this field order in light of the comments received, and subsequently publish in the **Federal Register** a notice either extending, modifying, or rescinding this field order.

A final environmental impact statement was prepared on approval and implementation of the FMP under section 102(2)(c) of the National Environmental Policy Act, and is on file with the Environmental Protection Agency.

The Acting Administrator, NOAA, has determined that this field order is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291, because: (1) it will not result in an annual effect on the economy of $100 million or more; (2) it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (3) it will not result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. By enhancing the long-term productivity of the Tanner crab fishery resource and thus increasing the long-term availability of Tanner crab to domestic fishermen and consumers, this field order can be expected to enhance investment in and the productivity of the United States fishing industry, to lower Tanner crab prices to consumer, and to enhance the ability of the United States fishing industry to compete in foreign shellfish markets. The short-term restrictions imposed by this field order are not expected to result in countervailing short-term decreases in investment, productivity, and competitiveness or in significant increases in consumer prices, because: (1) the total amount of crab involved in the closure is relatively small; (2) the anticipated harvest of 3.2 million pounds is well within reasonable expectations for yield from the fishery in 1981; and (3) alternative fishing grounds are available to participants in the fishery adjacent to the area to be closed. This field order implements existing regulations under the FMP. For these same reasons, the Acting Administrator, NOAA, determines that this field order will not have a significant economic impact on a substantial number of small entities, and thus does not require the preparation of a regulatory flexibility analysis under 5 USC §§ 603 and 604. Finally, this action does not increase the Federal paperwork burden for individuals, small businesses, and other persons (Paperwork Reduction Act of 1980).

Because of the need outlined above for prompt action to protect the Tanner crab resource from overfishing, this field order responds to an emergency situation within the meaning of section 8 of Executive Order 12291, "Federal Regulation," and is thus exempt from the requirement of section 3(c)(3) of that Order that it be submitted to the Director of the Office of Management and Budget 10 days prior to publication. This field order is being transmitted to the Director simultaneously with its filing in the **Federal Register**.

Signed on behalf of the Regional Director in Washington, D.C. this 19th day of March, 1981.

(16 USC 1801 et seq. 50 CFR § 671.27)

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

PART 671—TANNER CRAB OFF ALASKA

50 CFR § 671.26 is amended by adding paragraph (f)(4) as follows:

§ 671.26 Season and gear restrictions.

* * * * *

(f) Registration Area J.

* * * * *

(4) *Early Closure of 1980–81 Fishing Year in Part of South Peninsula District.* Notwithstanding paragraph (f)(2)(ii) of this section, the taking of Tanner crab in the following portion of the South Peninsula District is prohibited after 12:00 noon, Alaska Standard Time, on March 20, 1981: from east of the

longitude of Scotch Cap Light (164°44'06" W. longitude) to west of a line connecting the following points:

(i) Kupreanof Point (55°34' N., 159°36' W.)

(ii) the easternmost point of Castle Rock (55°16'48" N., 159°29' W.)

(iii) the intersection of a line extending southeast (135°T) from point (2) to (157°35' W. longitude).

This paragraph shall expire at 12:00 noon, Alaska Daylight Time, on May 15, 1981.

[FR Doc. 81-8950 Filed 3-20-81; 10:25 am]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 46, No. 56
Tuesday, March 24, 1981

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

DEPARTMENT OF EDUCATION

34 CFR Part 104

Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting From Federal Financial Assistance

AGENCY: Department of Education.

ACTION: Correction of the notice of intent to develop regulations and extended comment period.

SUMMARY: The Secretary corrects the notice of intent to develop regulations under section 504 of the Rehabilitation Act of 1973 regarding access rights of hearing-impaired persons to television programs. That notice of intent was published in the **Federal Register** on January 19, 1981, pages 4955–4956. Also, the period for public comment is extended.

DATE: All comments in response to the corrected Notice must be received on or before May 8, 1981.

ADDRESS: Comments should be addressed to Mr. Edward A. Stutman, Office for Civil Rights, Department of Education, 400 Maryland Avenue S.W., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Mr. Edward A. Stutman, telephone (202) 245–0781 (Voice or TTY).

SUPPLEMENTARY INFORMATION: On January 19, 1981, at 46 FR 4955, the Secretary of Education published a notice stating that the Department intends to amend regulations under Section 504 of the Rehabilitation Act of 1973, as amended, to define the rights of hearing-impaired persons to access to television programs. Included in the notice was a series of questions on issues which the proposed regulations might address, and on which the public was invited to comment. Two lines were inadvertently omitted from question #4. For the convenience of the reader, the entire list of questions is restated below.

1. Should the Department pursue its intention to issue detailed regulations on the Section 504 obligations of television broadcasters and systems of broadcasters? Are there other means of defining and ensuring compliance with these obligations?

2. What is the nature and extent of the benefit derived by broadcasters from the availability of television programs produced with Department of Education funds?

3. What is the nature and extent of the benefit derived by systems of broadcasters, such as the Public Broadcasting Service (PBS) and regional networks, from the availability of these programs?

4. Which activities carried out by broadcasters and systems of broadcasters are subject to the requirements of Section 504 by reason of the benefits referred to above? For example, would broadcasters and systems of broadcasters be required to make some or all programs that they broadcast or distribute accessible to persons with impaired hearing by reason of the availability of programs produced with Department funds? By what regulatory standard should any obligation to make programs accessible be determined?

5. What differences, if any, should there be in the Department's treatment of commercial and non-commercial broadcasters and systems of broadcasters? Why?

6. What are the advantages and disadvantages of using the various available methods of making television programs accessible to persons with impaired hearing? Currently available methods include open captioning, closed captioning, and sign language interpreting. Commenters are invited to consider, with regard to these and other possible methods, such factors as effectiveness in making programs accessible to the greatest possible number of hearing-impaired persons, the extent to which the method adversely affects the video portion of programs, cost, availability of resources (such as captioning capacity or qualified interpreters), and anticipated technological developments. Are particular methods better suited for some programs than others?

7. Should the Department limit the methods which may be used? If so, which method or methods should the Department select, and why?

8. Should the Department differentiate between various types of programs in setting standards for program accessibility? Examples of such programs include live programs, programs broadcast shortly after being recorded, programs intended only for local use, and programs recorded before a certain date. If so, what should be the basis for distinctions? Commenters are invited to consider such factors as technological feasibility, cost, availability of resources to provide access, and size of potential audience.

9. How soon after publication should any requirements for program accessibility take effect?

Dated: March 13, 1981.

T. H. Bell,

Secretary of Education.

[FR Doc. 81-8805 Filed 3-23-81; 8:45 am]
BILLING CODE 4000-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[A-2-FRL 1780-1]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; New Jersey and Virgin Islands

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: Regulations promulgated under the provisions of Section 111(d) of the Clean Air Act require States to submit to the Environmental Protection Agency (EPA) plans to control fluoride emissions from existing primary aluminum plants. Alternatively, a State may submit to EPA a "negative declaration" which certifies that no primary aluminum plants exist within the State's boundaries. The purpose of this **Federal Register** notice is to propose approval of such negative declarations which have been submitted to EPA by the State of New Jersey and the Territory of the Virgin Islands.

DATE: Comments must be received on or before April 23, 1981.

ADDRESSES: All comments should be addressed to: Charles S. Warren,

Regional Administrator, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278.

Copies of the letters received from New Jersey and the Virgin Islands are available for public inspection during normal business hours at:

Environmental Protection Agency, Air Programs Branch, Room 1005, Region II Office, 26 Federal Plaza, New York, New York 10278;

Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, D.C. 20460;

Virgin Islands Department of Conservation and Cultural Affairs, Division of Natural Resources Management, Charlotte Amalie, St. Thomas, Virgin Islands 00801;

New Jersey Department of Environmental Protection, Division of Environmental Quality, John Fitch Plaza, Trenton, New Jersey 08625.

FOR FURTHER INFORMATION CONTACT:

William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278 (212) 264–2517.

SUPPLEMENTARY INFORMATION: Section 111(d) of the Clean Air Act requires states to submit to the Environmental Protection Agency (EPA) plans to control emissions of designated pollutants from designated facilities. "Designated pollutants" are pollutants which are not included on a list published under the provisions of Section 108(a) of the Clean Air Act (criteria pollutants), or are not regulated under the provisions of Section 112(b)(1)(A) of the Clean Air Act (hazardous air pollutants), but which are pollutants for which standards of performance for new sources have been established under Section 111(b) of the Clean Air Act (New Source Performance Standards). A "designated facility" is an existing facility which emits a designated pollutant and which would be subject to a new source performance standard for that pollutant if the facility were new.

Emission guidelines for fluoride emissions from existing primary aluminum plants were discussed in an April 17, 1980 **Federal Register** notice at 45 FR 26294. The states were directed to submit to EPA a control plan by January 19, 1981, nine months after the date that the emission guidelines were issued. Alternatively, where a state does not contain a designated facility (such as primary aluminum plant) within its borders, the state may, instead, submit a letter to EPA certifying the nonexistence of any such designated facility, as provided by Subpart A of 40 CFR Part 62. This letter is termed a "negative declaration."

The State of New Jersey and the Territory of the Virgin Islands have submitted "negative declarations" to EPA with regard to primary aluminum plants. These were submitted on September 29, 1980 and July 21, 1980, respectively. This fulfills their responsibility for submitting state control plans as required by Section 111(d) of the Clean Air Act, and Subpart A of 40 CFR Part 62. A more detailed discussion of 111(d) control plans is contained in the October 18, 1977, July 10, 1978 and November 3, 1978 issues of the **Federal Register** (42 FR 55796, 43 FR 29585, and 43 FR 51393, respectively).

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it identifies where State plans are not needed, thereby reducing further regulatory requirements.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any Comments from OMB to EPA and any EPA response to those comments are available for public inspection from: Air Programs, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278.

This notice of proposed rulemaking is issued under the authority of Sections 111(d) and 301(a) of the Clean Air Act, as amended, to advise the public that comments may be submitted within 30 days of publication of this notice on whether the proposed action is appropriate.

Pursuant to the provisions of 5 U.S.C. 605(b) I hereby certify that the attached rule will not, if promulgated, have a significance economic impact on a substantial number of small entities. This action imposes no new requirements.

(Sections 111 and 301 of the Clean Air Act, as amended (42 U.S.C. 7413 and 7601))

Dated: March 5, 1981.

Charles S. Warren,

Regional Administrator, Environmental Protection Agency.

[FR Doc. 81-8872 Filed 3-23-81; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 162

[PH-FRL 1714-8; OPP-250023]

Certain Biological Control Agents; Proposed Exemption From Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: This rule proposes exemptions from regulation under section 25(b) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, for certain organisms which are used as biological control agents and which are therefore considered "pesticides" under the definition set forth in FIFRA secion 2(u). This exemption is proposed by the Administrator under the authority of FIFRA section 25(b)(1), on the grounds that such biological control organisms are "adequately regulated by another Federal agency." The proposed rule sets forth the regulatory roles of the Federal agencies involved, the categories of organisms exempted, and procedures for determining if a specific organism is or should be covered by this exemption.

DATE: Comments must be received on or before May 26, 1981.

ADDRESS: Written comments should bear the document control number OPP–250023 and should be submitted to: Document Control Officer, Management Support Division (TS–793), Office of Pesticides and Toxic Substances, Room E–107, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460.

Comments received will be available for public inspection in Room 447 East Tower, at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

Fred S. Betz, Section 25(b) Working Group Coordinator, Hazard Evaluation Division (TS–769), Office of Pesticide Programs, Evironmental Protection Agency, Rm. 800A, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–0267).

SUPPLEMENTARY INFORMATION: This rule is being proposed under section 25(b)(1) of FIFRA and will be designated as 40 CFR 162.5–1. It is being proposed as part of EPA's General Policy for the Regulation of Biorational Pesticides, as described in the **Federal Register** on May 14, 1979 (44 FR 28093). Additional exemptions may be made at a later date

under section 25(b)(1) or 25(b)(2) of FIFRA.

Background

When a living organism is intended for use as a biological control agent to prevent, repel, destroy or mitigate a pest, or is intended for use as a plant growth regulator, defoliant or desiccant, it is considered to be a pesticide under FIFRA, section 2(u), and is therefore regulated under that Act. In general, FIFRA requires that pesticides intended for use for other than research purposes be registered by EPA prior to distribution or sale. Such registration can only be issued by EPA if, on evaluation of information submitted prior to registration, EPA concludes that the pesticide can be used without unreasonable adverse effects on man or the environment.

Prior to 1979, EPA had no formal policy defining the scope of its responsibilities for registration of biological control agents. Instead, the Agency considered registration of such organisms on an *ad hoc* basis, and only a few registrations, for certain microorganisms (e.g., *Bacillus thuringiensis*), were issued.

On May 14, 1979, the Agency proposed in the **Federal Register** a General Statement of Policy for regulation by EPA of such microorganisms. The policy defined the microorganisms it would regulate as including viruses, bacteria, fungi, protozoa and algae. The proposed policy also stated the Agency's intent to formalize this position by exempting from regulation under FIFRA certain living organisms, other than microorganisms, used as biological control agents. EPA is authorized by FIFRA section 25(b) to exempt from the provisions of the Act, by regulation, any pesticide which the Administrator "determines either (1) to be adequately regulated by another Federal agency, or (2) to be of a character which is unnecessary to be subject to * * * (the) Act * * *"

Section 25(b)(2) cannot be used to exempt biological control agents in general from FIFRA, because such living organisms may have a substantial potential for direct adverse effects on humans, or on the environment, through alteration of the ecosystems into which they are introduced. Pesticides with these characteristics ordinarily require regulation under FIFRA.

Similarly, a broad exemption under section 25(b)(1) ("* * * adequate regulation by another Federal agency * * *") cannot be made for all biological control agents, since only EPA currently has adequate mechanisms for regulating all such organisms to prevent unreasonable adverse effects on humans or the environment. However, both the U.S. Department of Agriculture (USDA) and the Department of the Interior (USDI) have mechanisms to adequately regulate many macroorganisms, and some microorganisms, which may have adverse ecological effects, but no known significant adverse effects on humans. Therefore, it is possible to exempt many biological control agent from regulation under section 25(b)(1) of FIFRA.

Program implementation of USDA's regulatory authority is mainly within the Animal and Plant Health Inspection Service (APHIS). Under the Plant Pest Act (7 U.S.C. 150 aa–ii) and the Plant Quarantine Act (7 U.S.C. 151–167), APHIS Is responsible for regulating—by inspection, quarantine, and permit requirements—the importation and interstate movement of plants, plant pests, and articles capable of disseminating plant pests and diseases. This includes *invertebrate* organisms considered pesticides under FIFRA which may, directly or indirectly, be pests of nontarget organisms. Pursuant to the Plant Pest Act and rules thereunder, the importation and interstate movement of such pests requires a permit from USDA, which may impose conditions necessary to prevent unregulated dissemination of such organisms. This often involves quarantine of the organisms to ensure that organisms, including hyperparasites, which could be detrimental to plant or animal life are not released into the environment.

In addition, USDA maintains a similar, but voluntary, quarantine and permit program for importation and release of non-pest biological control organisms. These biological control organisms are aslo checked for the presence of hyperparasites prior to issuance of a permit for release from quarantine.

Extensive research and development activities related to biological control agents and assessment of their impacts are also carried on in USDA's Science and Education Administration, Forest Service, and APHIS.

This general regulatory responsibility for plant pests combined with the voluntary program for regulation of biological control organisms and various USDA research and development activities, provides the framework for adequate regulation by USDA of many biological control agents.

With some minor exceptions, USDI has regulatory authority over *vertebrate* life forms which may be injurious to humans or the environment, or are otherwise within the Department's jurisdiction, and which may be considered pesticides under FIFRA.

Specifically, the Fish and Wildlife Service has broad authorities and responsibilities associated with the conservation of fish and wildlife resources. The Migratory Bird Treaty Act of 1918, as amended, establishes a Federal responsibility for the protection of international migratory bird resources, while the Endangered Species Act of 1973, as amended, provides for the conservation and protection of threatened and endangered species of fish, wildlife, and plants.

Other USDI authorities deal indirectly with biological control agents, including the Animal Damage Control Act of March 2, 1931, which provides for investigations, demonstrations, and control of mammalian predators, rodents, and birds. Also, the Lacey Act of May 25, 1900, as amended, provides authority to prohibit importation and transportation in interstate commerce of wild vertebrates and other animals declared by the Secretary of the Interior to be injurious to humans, agriculture, or wildlife resources, except under certain circumstances and pursuant to regulations promulgated by the Department.

These authorities under the Animal Damage Control and Lacey Acts allow the regulation of a vertebrate biological control agent when it is also considered a pest or problem. Those Acts do not provide authority to regulate an organism which only has beneficial effects as a biological control agent and which is not a pest or problem, unless the agent is an animal which is itself protected under some statute. However, vertebrates which may be used as pesticides are relatively few, and the potential for further development of such organisms as pesticides is lower than it is for invertebrates and microorganisms.

Therefore, EPA has concluded that biological control agents, with the exception of those described in § 162.5–12(d)(1) of this proposed rule, are adequately regulated and monitored by other agencies. If future events demonstrate that certain biological control agents exempted under this rule are not being adequately regulated by other agencies, those organisms would be referred to the attention of the appropriate agency, or would be added to this section by amendment. In the latter case, those organisms would no longer be considered exempt from the provisions of FIFRA.

Procedures for Determining Exemption Status

EPA expects that questions will arise in the future as to whether or not

specific biological control organisms should be classified as exempt or non-exempt under this rule—i.e., whether or not living organisms or questionable taxonomic class fit into the categories of non-exempt organisms described in § 162.5–1(d)(1). There may also be questions concerning the need to establish new non-exempt categories for biological control agents which are no longer "adequately" regulated by another agency or to establish an exception to existing non-exempt categories for specific biological control agents which are adequately regulated by another agency.

Paragraph (c) of this proposed rule authorizes the Administrator to resolve such questions. To aid the Administrator, paragraph (c) provides a detailed procedure for determining whether or not a specific living organism should be exempt under this rule. Basically, this paragraph requires the Administrator to answer six questions: (1) Is the material a "pesticide"?; (2) Is it a living organism?; (3) Is the organism of the same general type as those described in § 162.5–1(d)(1)?; (4) Is the organism currently regulated by another agency?; (5) Does the organism have a potential for human health effects?; (6) If the organism is not clearly covered by § 162.5–1(d)(1), should it specifically be made a non-exempt organism by amendment of that paragraph?

Depending on the answers to these questions, the Administrator will determine whether or not the living organism is a biological control agent exempt under the existing rule, and whether or not its status should be changed by amendment of the rule. Of course, in questionable cases the Administrator may need technical or scientific advice on several of these questions. To this end, EPA intends to enter into an understanding with other concerned agencies, including USDA, USDI, and the Food and Drug Administration, authorizing the Administrator to call on an interagency panel for such assistance on the *ad hoc* basis.

Exemptions

Section 162.5–1(d) of the proposed rule is intended to exempt all living organisms, with certain specific exceptions (e.g., bacteria, viruses, fungi, algae, and protozoa) from regulation under FIFRA.

Although this rule potentially exempts thousands of species of biota, its practical application at this time would affect only a very few. It would affect only those living organisms that currently have a specific combination of characteristics which allows their use as pesticides.

The major types of living organisms currently used as biological control agents which this rule would exempt from regulation are the parasitic and predaceous arthropods used to control populations of their insect hosts and prey. Their most intensive use has historically been under the auspices of USDA and State research and development activities.

Individual species, and occasionally genera, of any of the living organisms described as not exempted under § 162.5–1(d)(1)-(v) may be specifically exempted by amendment of this rule should circumstances warrant such an exemption in the future. Conversely, specific species which would be exempted by this proposed rule may be classified as non-exempt by amendment of the rule for reasons of the public health or environmental quality. Paragraph (d) of this proposed rule has been structured for the addition of amendments.

Regulatory Flexibility Analysis

Pursuant to section 3(a) of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354; 94 Stat. 1165; 5 U.S.C. 60 et seq.), this proposed regulation has been reviewed and it has been determined that a regulatory flexibility analysis is not required since the final regulation will not have a significant adverse impact on a substantial number of small businesses, small organizations, or small governments.

The final rule will have no known adverse effect on small organizations or small governments. Only a very few small businesses will be affected by the rule (i.e., those producing biological control agents for use as pesticides) since the technology involved is still relatively new and since the market for biological control agents is still relatively small in relation to that for chemical pesticide products. In addition, the rule will have no adverse impact on these businesses since its effect will be to eliminate the burdens, or potential burdens, imposed by FIFRA on the pesticide producers. Those producers who are not exempt from FIFRA by this rule will be subject only to existing requirements under FIFRA and other regulations written under sec. 3 of FIFRA. This proposed rule would not create any new burdens for producers of non-exempt organisms.

Under E.O. 12291, E.P.A. must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not Major because it exempts manufacturers and distributors of biological control agents from regulations under section 25(b) of FIFRA and therefore decreases the costs they would have incurred if not exempt.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at: Document Control Officer, Management Support Division (TS–793), Office of Pesticides and Toxic Substances, Room 447, East Tower, EPA, 401 M Street SW., Washington, D.C. 20460.

Statutory Review

The Secretary of Agriculture has reviewed the proposed regulation in accordance with section 25(a) of FIFRA and has concurred in its publication with only a minor drafting suggestion for the preamble. The minor change suggested by the Secretary has been made.

The FIFRA Scientific Advisory Panel (SAP) also received a copy of the proposed rule for review in accordance with section 25(d) of FIFRA and in a memorandum dated December 17, 1980, the SAP concurred without comment.

(Sec. 25(b) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended by sec. 23, Pub. L. 95–396, 92 Stat. 819; (7 U.S.C. 136 *et seq.*))

Dated: February 9, 1981.

Walter C. Barber, Jr.,

Acting Administrator.

It is proposed to amend 40 CFR Part 162 by adding a new § 162.5–1, to read as follows:

§ 162.5–1 Exemption of certain pesticides from further regulation under FIFRA.

(a) *General.* (1) This regulation exempts certain biological control agents from the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, (Pub. L. 95–396; 92 Stat. 819; 7 U.S.C. 136 *et seq.*), under the authority of section 25(b) of FIFRA. It does not exempt such organisms from any other applicable Federal or State law or regulation.

Paragraph (d)(1) of this rule exempts all living organisms which are considered pesticides by definition under FIFRA section 2(u), and which are defined as biological control agents by paragraph (b) of this rule, except those organisms specifically described in paragraph (d)(1)(i)–(v). The exemption made by paragraph (d)(1) is based on the fact that the exempted organisms are adequately regulated by the U.S. Departments of Agriculture or of the Interior, or by other Federal agencies, under express statutory grants of authority or under other programs administered by those agencies. Should

any exempted organism cease to be adequately regulated by another agency, it will be listed as an exception to the exemption by amendment of this rule.

(2) This regulation also sets forth procedures which the Administrator will follow in making future determinations as to whether or not certain organisms are, or should be, exempt from regulation under FIFRA.

(b) *Definitions.* Unless otherwise indicated, terms used in this section have the meanings set forth in section 2 of FIFRA and in § 162.3. In addition, as used in this section, "biological control agent" means any living organism applied to or introduced into the environment to control the population or biological activities of another life form which is considered a pest under section 2(t) of FIFRA.

(c) *Procedures for Determining Exemptions.* In deciding whether a substance is an organism covered by an exemption in paragraph (d)(1):

(1) The Administrator will determine whether the substance is a pesticide as defined by section 2(u) of FIFRA. If it is not, then it is not within the scope of section 25(b) of FIFRA or paragraph (d)(1) of this section.

(2) If the substance is a pesticide, then the Administrator will determine if it is a biological control agent. If it is not, then paragraph (d)(1) of this section does not apply.

(3) If the substance is a biological control agent, then the Administrator will determine whether it belongs to one of the classes specifically excluded from exemption under paragraph (d)(1) of this section.

(i) If the biological control agent is exempt from regulation, the Administrator may consider whether it should be made non-exempt by amendment of paragraph (d)(1) of this section.

(ii) If the biological control agent is excluded from exemption under paragraph (d)(1) of this section, the Administrator may determine how it is to be regulated under FIFRA, or whether it should be specifically exempted under either section 25(b)(1) or 25(b)(2) of FIFRA.

(4) If the Administrator is considering whether to specifically grant an exception for a biological control agent as described in paragraph (c)(3)(ii)(B) of this section, the Administrator shall determine:

(i) Whether the biological control agent has a potential for adverse effects on human health or the environment. If it has no such potential, the biological control agent may be exempted by amendment of this regulation on the grounds that it is of a nature which does not require regulation.

(ii) Whether the biological control agent is adequately regulated by another Federal agency. If the agent is adequately regulated, it shall be exempted by amendment of this section.

(5) When the Administrator is considering whether to withdraw an exemption for a biological control agent as described in paragraph (c)(3)(i) of this section, the Administrator shall determine whether the agent is being adequately regulated by another Federal agency. If the biological control agent is not being adequately regulated, the Administrator may specifically withdraw its exemption by amendment of this regulation and shall thereafter exercise appropriate regulatory authority over the organism under FIFRA.

(d) *Exemptions.* (1) As authorized by section 25(b)(2) of FIFRA, all biological control agents are hereby exempted from the provisions of FIFRA, except the following:

(i) Living organisms taxonomically defined as viruses.

(ii) Living organisms taxonomically defined as bacteria, rickettsia, mycoplasmas, or 1-form of bacteria.

(iii) Living organisms classified as members of the animal subkingdom *Protozoa.*

(iv) Organisms classified as fungi of lower taxonomic order than the Sub-Division *Basidiomycotina*, or as members of the Class *Teliomycetes*, or the Sub-Class *Phragmobasidiomycetidae* of the *Basidiomycotina*, as defined in Ainwsorth's and Bisby's *Dictionary of the Fungi* (6th ed., 1971), which is incorporated by reference. This document is available at most university libraries and bookstores. It is also available for inspection at the U.S. Department of Agriculture, Science and Education Administration, National Agricultural Library, Lending Division, Beltsville, MD 20705. These materials are incorporated as they exist on the date of approval and a notice of any change in these materials will be published in the **Federal Register.**

(v) Organisms classified as members of Class I, *Schizophyceae*, of Division I of the Plant Kingdom, *Protophyta*, including blue-green algae, as described in *Bergey's Manual of Determinative Bacteriology* (8th ed., 1974) which is incorporated by reference. This document is available at most university libraries and bookstores. It is also available for inspection at the main library of the U.S. Environmental Protection Agency, Room 2404 WSM, 401 M St., S.W., Washington, D.C. 20460. These materials are incorporated as they exist on the date of approval and a notice of any change in these materials will be published in the **Federal Register.**

[FR Doc. 81-8085 Filed 3-23-81; 8:45 am]

BILLING CODE 6560-32-M

Notices

Federal Register
Vol. 46, No. 56
Tuesday, March 24, 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.

CIVIL AERONAUTICS BOARD

[Docket 39410]

Air Berlin USA Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled proceeding is assigned to be held on April 2, 1981, at 2:00 p.m. (local time), Room 1003, Hearing Room B, Universal Building North, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned administrative law judge.

Order 81-3-69, adopted March 12, 1981, defined issues to be considered in this investigation. Matters to be discussed at the prehearing conference will include affirmation of the issues, establishing procedural dates for the proceeding, and such other matters as will contribute to the proper and expeditious conduct of the investigation.

Dated at Washington, D.C., March 18, 1981.

Elias C. Rodriquez,

Administrative Law Judge.

[FR Doc. 81-8909 Filed 3-23-81; 8:45 am]

BILLING CODE 6320-01-M

[Docket 39327]

Jet America Fitness Investigation; Notice of Hearing

Notice is hereby given that a hearing in the above-entitled matter is assigned to be held on April 9, 1981, at 10:00 a.m. (local time) in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue, NW., Washington, D.C. before the undersigned administrative law judge.

Dated at Washington, D.C., March 18, 1981.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 81-8910 Filed 3-23-81; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Sugar and Syrups From Canada; Preliminary Results of Administrative Review of Antidumping Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Antidumping Duty Order.

SUMMARY: This notice is to advise the public that the Department of Commerce has conducted an administrative review of the antidumping duty order on sugar and syrups from Canada. The review covers the five known exporters of this merchandise to the United States. Since this is the initial review of this order, the time period covered for all exporters is from the date liquidation was suspended, November 8, 1979 through March 31, 1980. The review indicates the existence of a dumping margin for one exporter. Two other exporters did not ship to the United States, an additional exporter did not supply any information, and the fifth furnished an inadequate response. As a result of this review, the Department has preliminarily determined to assess dumping duties, for the one shipping exporter that provided adequate information, equal to the calculated difference between foreign market value and purchase price. For the two firms which supplied inadequate or no information, the Department has used the best information available. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: March 24, 1981.

FOR FURTHER INFORMATION CONTACT: Betty L. Hood, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C., 20230 (202-377-5222).

SUPPLEMENTARY INFORMATION:

Procedural Background

On April 9, 1980, an antidumping duty order with respect to sugar and syrups from Canada was published in the **Federal Register** (45 FR 24126-7). The Department of Commerce ("the Department") published in the **Federal Register** of March 16, 1981 (45 FR 16921) a notice of intent to conduct administrative reviews of certain antidumping findings and orders. As required under section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has conducted an administrative review of the antidumping duty order on sugar and syrups from Canada. On January 1, 1980, the provisions of title I of the Trade Agreements Act of 1979 became effective. Title I replaced the provisions of the Antidumping Act of 1921 ("the 1921 Act") with a new title VII to the Tariff Act. The substantive provisions of the 1921 Act apply to all unliquidated entries made prior to January 1, 1980.

Scope of the Review

Imports covered by this review are shipments of sugar and syrups produced from raw sugar derived from sugar cane and sugar beets. The sugar is refined into granulated or powdered sugar, icing, or liquid sugar. The subject merchandise is currently classifiable under items 155.2025, 155.2045, and 155.3000 of the Tariff Schedules of the United States Annotated (TSUSA).

The Department knows of a total of five exporters to the United States of Canadian sugar and syrups. This review covers all five of the exporters from the date liquidation was suspended, November 8, 1979, through March 31, 1980. This is the initial administrative review of this order.

The Department found that one responding exporter, Redpath Sugars Ltd., exported sugar to the United States in the period under review. Two companies stated that they did not export sugar and syrups during this time period. The estimated deposit rate for these exporters is their fair value rate, since this is the most recent information available. Two exporters failed to respond or provided inadequate responses to the Department's questionnaire. For these non-responsive exporters we proceeded to use the best information available. The best information here is the amount for the one responding exporting firm in the current period, as it is higher than the fair value rates.

Purchase Price

The Department used purchase price, as defined in section 203 of the 1921 Act, since the one known sale was made to an unrelated U.S. purchaser and entry was made prior to January 1, 1980.

In this case purchase price was calculated on the basis of the F.O.B.

plant price to an unrelated purchaser in the United States, with deductions for duty, fees and brokerage. An addition was made for Customs duty paid upon importation into Canada of raw material used to produce the exported product, which duty was rebated upon exportation of the merchandise to the United States. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price as defined in Section 205 of the 1921 Act, since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. The foreign market value is based on the F.O.B. factory price, with adjustments for a competitive discount, cash discount, and rebates. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of comparing purchase price to foreign market value, we preliminary determine that the following margins exist for the period November 8, 1979 through March 31, 1980:

Canadian exporter	Margin (U.S. dollars per pound)
Atlantic Sugar, Ltd	[1] 0.0223
B. C. Sugar	[1] .010105
F. W. Jones & Son, Ltd	.0345
Redpath Sugars, Ltd	.0345
St. Lawrence Sugar, Ltd	.0345

[1] No shipments during current period.

Interested parties may submit written comments on these preliminary results on or before April 23, 1981, and may request disclosure and/or a hearing on or before April 8, 1981. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess duties on all entries made during the time period involved. The Department will issue appraisement instructions separately on each exporter directly to the Customs Service.

Further, as required by § 353.48(b) of the Commerce Regulations, a cash deposit based upon the margins calculated above shall be required on all shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. This requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

March 17, 1981.

[FR Doc. 81-8820 Filed 3-23-81; 8:45 am]

BILLING CODE 3510-25-M

Office of the Secretary

Privacy Act of 1974; Proposed New System of Records

The purpose of this notice is to propose a new Privacy Act System of Records entitled: Descriptive Data Questionnaire—Commerce/MBDA–1.

James H. Lowry and Associates is conducting a study to determine the critical long- and short-term business management development needs of minorities. The Minority Business Development Agency (MBDA) has awarded a contract to James H. Lowry and Associates under which approximately 6,000 reasonably successful minority business managers/entrepreneurs, and 1,000 minority students currently enrolled in graduate schools of management or business administration will be surveyed on a voluntary basis. The survey is designed to allow in-depth exploration of the participants' personal experiences in order to develop programs to meet the needs of the target audience.

The purpose of this proposed system COMMERCE/MBDA–1 is to safeguard the collection and maintenance of personal data during and after the survey. James H. Lowry and Associates will submit a comprehensive report of the findings of this survey with specific policy and program recommendations for the development of MBDA-sponsored initiatives. The report will not contain individually identifiable data. The survey information will be destroyed by September 30, 1982.

A complete description of the system is set forth below.

As required by the Privacy Act, the Commerce Department submitted a New System Report dated March 18, 1981, to the Congress and to the Office of Management and Budget.

Although the Act requires the opportunity for public comment only on the proposed new routine uses, comments regarding any portion of this notice will be given due consideration before final publication. Any interested person may submit written data, views, or arguments to the Assistant Secretary for Administration (Attention: Information Policy Division, Room 5319) U.S. Department of Commerce, 14th & E Streets, N.W., Washington, D.C. 20230, any time on or before April 24, 1981. The comments will be available, as received, for public inspection at the above address between the hours of 9 a.m. and 4 p.m., Monday through Friday (except holidays).

This system of records will become effective 30 days from the date of publication (Apr. 24, 1981), provided the Department's request for a waiver of the 60-day advance notice requirement is granted by the Office of Management and Budget, or unless the Department notices to the contrary.

(5 U.S.C. 552a(e) (4) and (11), Sec. 3 of the Privacy Act of 1974 (Pub. L. 93–579, 88 Stat. 1896))

Dated: March 18, 1981.

Clifford J. Parker,

Acting Assistant Secretary for Administration.

Commerce/MBDA–1

SYSTEM NAME:

Descriptive Data Questionnaire—COMMERCE/MBDA–1

SYSTEM LOCATION:

James H. Lowry and Associates, Suite 1340, 303 East Wacker Drive, Chicago, Illinois 60601.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Students and business managers and entreprenuers surveyed on a voluntary basis as part of the study of business management development needs of minorities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Age, sex, ethnic origin, education, company data, assessment of career and goals, organizational affiliation(s), personal performance evaluation, opinions of career opportunities/impediments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 11625.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The James H. Lowry Associates, specifically the Project Manager and an administrative staffer, will use this information to identify those areas which MBDA's business management development program should address.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper copy in file folders for 60 days; then converted to magnetic tape.

RETRIEVABILITY:

By site code, cross-referenced with individuals' names on master list until September 30, 1982.

SAFEGUARDS:

Records are located in company vault with access limited to those whose official duties require access. Only two James H. Lowry and Associates employees will have access.

RETENTION AND DISPOSAL:

Survey information will be destroyed September 30, 1982.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director for Planning, Budget and Evaluation, MBDA, U.S. Department of Commerce, Washington, D.C. 20230.

NOTIFICATION PROCEDURE:

Information may be obtained from Deputy Chief Counsel, MBDA, U.S. Department of Commerce, Washington, D.C. 20230.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to same address as stated in the Notification section above.

CONTESTING RECORD PROCEDURES:

The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

RECORD SOURCE CATEGORIES:

Subject individual and those authorized by the individual to furnish information.

[FR Doc. 81-9001 Filed 3-23-81; 8:45 am]
BILLING CODE 3510-21-M

DEPARTMENT OF DEFENSE

[DOD 4500.34-R]

Carrier Representation by Agent

AGENCY: Office of the Secretary of Defense.

ACTION: Notice; request for comments.

SUMMARY: The Commander, Military Traffic Management Command, has received a suggestion to eliminate certain paragraphs of the Personal Property Traffic Management Regulation, entitled "Carrier Representation by Agent." The purpose of this document is to seek public guidance before a final decision is made.

DATE: Interested persons may submit written data, views and arguments on or before June 1, 1981.

ADDRESS: Commander, Military Traffic Management Command (ATTN: MT-PPQ), Washington, D.C. 20315.

FOR FURTHER INFORMATION CONTACT: LTC Joseph Jurjevich, USAF, Telephone 202-756-1692.

SUPLEMENTARY INFORMATION: The material to be eliminated under Chapter 6, 6002, subparagraph d.(8), "Carrier Representation by Agents," (page 6-9) reads as follows:

(a) For households goods originating and destined for delivery within CONUS, only four carriers to a single destination state and the DC may be represented in an origin area by the same local agent. Of the four carriers, not more than two motor carriers may hold operating authority in all of CONUS, or not more than two may be regulated freight forwarders. The combined total of 48-state motor carriers and regulated freight forwarders may not exceed three. If an agent also acts as a carrier to service a specified destination State and the DC, such agent may represent only three other carriers serving that State and the DC.

(b) For household goods, originating in the US and destined overseas, only four carriers may be represented in an origin area by the same local agent. If an agent represents himself as a carrier, such agent may represent only three other carriers. Carriers under the CF/AC of other carriers, not competing in the same code of service, are considered one carrier for carrier/agent representative purposes. The same applies for the purpose of imposing penalties providing in paragraph 6005.

(c) For household goods and unaccompanied baggage originating overseas and destined to a point in CONUS or another point overseas, the Commander, MTMC, with the advice of the field or designated representative in overseas areas, will take steps to assure that the number of carriers represented by any single oversea agent does not exceed the capability of that agent during any period.

(d) For household goods originating at, and destined to points within a given state (intrastate), an agent may represent only one carrier offering service to, from, or between points within that state. When an agent represents himself as a carrier performing such intrastate service, he may represent no other carriers performing the same service.

(e) The Commander, MTMC, may, in (a) and (b) of the above grant an exception to those numerical limitations when such an exemption would be consistent with the program's effective management and when the agent has the capability to represent a greater number of carriers during any period. Upon receipt of a written request from an agent for an exception to the numerical limitations, the ITO will add written recommendations, specifically addressing such aspects as impact on the Program's effective management at the installation, the capability of the agent to represent a greater number of carriers during all periods, and past performance of the agent in providing service during all periods. The agent's request, together with the ITO's recommendation, will be forwarded to the appropriate MTMC area commander concerned for review. Recommendations/comments will be forwarded to the Commander, MTMC. The case will be reviewed by the Commander, MTMC, considering all data submitted along with the recommendations of the military services. If the agent so elects, a hearing may be given. Otherwise, if the agent's request is not favorably considered, the entire case, together with the reasons for proposed disapproval, will be returned to the agent directly for additional comment and rebuttal. Such additional data will be returned to the Commander, MTMC, for further consideration and final decision. A complete record of the proceedings will be furnished to the agent in the event the request is finally disapproved. Final notification of approval/disapproval will be through the area commander and the ITO concerned with information to military service headquarters concerned.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

March 18, 1981.

[FR Doc. 81-8606 Filed 3-23-81; 8:45 am]
BILLING CODE 3810-70-M

Defense Science Board Task Force on Mapping, Charting, and Geodesy; Advisory Committee Meeting

The Defense Science Board Task Force on Mapping, Charting and Geodesy (MC&G) will meet in closed session on 21-22 April 1981 at the DMA Aerospace Center, St. Louis, Missouri.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary for Research and Engineering on scientific and technical matters as they affect the

perceived needs of the Department of Defense.

At its meeting on 21–22 April 1981 the Defense Science Board Task Force on MC&G will review the Defense Department's plans and programs concerning generation, derivation, collection and transmission of MC&G data which is critical to the guidance of cruise missiles and other future weapons systems.

In accordance with 5 U.S.C. App. 1 § 10(d) (1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. § 552b(c)(1)(1976), and that accordingly, this meeting will be closed to the public.

M. S. Healy,
OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.
March 19, 1981.
[FR Doc. 81-8915 Filed 3-23-81; 8:45 am]
BILLING CODE 3810-70-M

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

Title I, Elementary and Secondary Education Act; Notice of Intent To Waive Certain Title I, ESEA, Requirements for Trust Territory of the Pacific Islands

AGENCY: Department of Education.

ACTION: Notice of intent.

SUMMARY: Notice is given that, under section 1003(a) of the Elementary and Secondary Education Act of 1965 (as amended by the Education Amendments of 1978 and renumbered by Pub. L. 96–46), the Secretary of Education intends to waive the applicability of certain Title I, ESEA, requirements to the Bureau of Education for the Trust Territory of the Pacific Islands (TTPI). In addition to identifying the Title I requirements that the Secretary intends to waive, this notice sets forth the terms and conditions upon which the Secretary intends to grant the waiver.

EFFECTIVE DATE: The proposed waiver will not be granted until at least 30 days after publication of this notice. All comments must be received on or before April 23, 1981.

ADDRESSES: All comments should be sent to Dr. Gene C. Fusco, Office of Compensatory Education, 400 Maryland Avenue, SW. (Room 3642, ROB–3), Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Dr. Gene C. Fusco, Telephone: (202) 245–2506.

SUPPLEMENTARY INFORMATION:

A. Authority for Granting a Waiver

The Elementary and Secondary Education Act of 1965 was amended by the Education Amendments of 1978 (Pub. L. 95–561) to authorize the Secretary to waive certain Title I, ESEA, requirements for the TTPI. In particular, Section 1003(a)(1) of the Act states that "[i]f the [Secretary] determines that compliance with any of the requirements of this Act * * * Trust Territory of the Pacific Islands is impractical or inappropriate because of conditions or circumstances particular to * * * such jurisdiction(s), he may waive any of those requirements upon the request of the State educational agency for such jurisdiction."

B. Waiver Request

In a document dated July 15, 1980, the TTPI Bureau of Education formally asked the Secretary to waive the applicability of certain Title I requirements to all Title I funds obligated by the Bureau. This waiver request identifies the requirements contained in, or based upon, the following sections of Title I as those for which it is seeking a waiver:

Section 123(a)
Section 124 (a) and (b)
Section 125(a)(1) (A), (B), and (C)
Section 125(a)(2)(A) (i) and (ii)

The July 15, 1980, waiver request clearly describes why the Title I requirements listed above are impractical or inappropriate in light of conditions in the TTPI. In general, the request is based upon the fact that virtually all students are educationally deprived and it is impractical to serve those most in need. By seeking a waiver for these requirements, the TTPI Bureau of Education hopes to be permitted to use Title I funds for upgrading the general educational program to a level where it becomes appropriate to serve the most educationally deprived. The waiver also requests relief from certain parent advisory council requirements because they are inappropriate to the culture.

C. Management Plan

Section 1003(a)(2) of the Elementary and Secondary Education Act of 1965 provides that any waiver of Title I requirements for the TTPI must "* * * be subject to such terms and conditions as the [Secretary] deems necessary to carry out the purposes of this Act," including the submission of a plan for the management of the funds provided under the Act, in order to insure that they are used in a manner designed to achieve the purposes of the Act.

In accordance with section 1003(a)(2), the TTPI Bureau of Education submitted a management plan in conjunction with its July 15, 1980, waiver request. The management plan points out that the major goal of the Title I program in TTPI is to raise the level of reading achievement of all students in the Trust Territory by improving the quality of instruction in the classroom. Competent instruction, emphasizing all aspects of reading in the classroom, is the prime focus. There is a need for inservice training for all personnel involved in the program. Support of the focus to improve the reading skills of all children requires strong administrative support and a more thorough involvement of parents and community members in the program.

D. Notice of the Secretary's Intent To Grant a Waiver

Section 1003(a)(1) of the Elementary and Secondary Education Act of 1965 requires that at least 30 days prior to approving any such request for a waiver, the Secretary shall "* * * publish in the **Federal Register** a notice of his intent to grant such a waiver and the terms and conditions upon which such a waiver will be granted."

In accordance with the above requirement, notice is hereby given that, subject to the terms and conditions described below, the Secretary intends to waive the requirements contained in the following sections of the Title I statute: 123(a), 124 (a) and (b), 125(a)(1) (A), (B), and (C), and 125(a)(2)(A) (i) and (ii). Unless the Secretary publishes further notice in the **Federal Register**, approval of the TTPI July 15, 1980, waiver request will be granted 30 days after publication of this notice of intent to waive.

E. Terms and Conditions Upon Which the Secretary Intends To Grant a Waiver

The Secretary intends to approve the request for a waiver only if the TTPI Bureau of Education formally agrees to comply with the following terms and conditions:

(1) All Title I funds that are obligated by the TTPI Bureau of Education during the period covered by the waiver must be spent in accordance with—

(a) All applicable statutory and regulatory requirements, except those Title I requirements that are specifically identified in the waiver; and

(b) The management plan that was submitted in conjunction with the July 15, 1980, waiver request, or amendments to the plan that have been approved by the Secretary.

(2) During the period covered by the waiver, the TTPI Bureau of Education must, on or before September 30 of each year, submit a report to the Secretary which describes the results and effectiveness of the Title I program in TTPI and progress that has been made in developing appropriate evaluation tools.

F. Opportunity for Public Comment

The Secretary invites public comments on this notice of intent to waive certain Title I requirements for the TTPI. Interested persons may send written comments to Dr. Gene C. Fusco, at the address given at the beginning of this notice. All comments must be received on or before April 23, 1981.

(Catalog of Federal Domestic Assistance No. 84009 Educationally Deprived Children Local Educational Agencies) Part I of OMB Circular A-95 does not apply to this program.

Dated: March 18, 1981.

T. H. Bell,

Secretary of Education.

[FR Doc. 81-8845 Filed 3-23-81; 8:45 am]

BILLING CODE 4000-01-M

National Advisory Council on Indian Education

Meeting

AGENCY: National Advisory Council on Indian Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Search Committee of the National Advisory Council on Indian Education and, also describes the functions of the Council. Notice of the meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. The meeting is closed to the public. This announcement does not meet the required 15 days advance notice to the public due to scheduling problems.

DATES: Search Committee Meeting: April 6, 1981, 8:00 a.m. to 7:00 p.m.

ADDRESS: National Advisory Council on Indian Education, 425 13th Street, N.W., Suite 326, Washington, D.C. 20004.

FOR FURTHER INFORMATION CONTACT: Dr. Michael P. Doss, Executive Director, National Advisory Council on Indian Education, 425 13th Street, N.W., Suite 326, Washington, D.C. 20004 202/376-8882.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Indian Education is established under Section 442 of the Indian Education Act, Title IV of Pub. L. 92-318, (20 U.S.C. 1221g). The Council is established to:

(1) Submit to the Secretary of Education a list of nominees for the position of Deputy Assistant Secretary for Indian Education;

(2) Advise the Secretary of Education with respect to the administration (including the development of regulations and of administrative practices and policies) of any program in which Indian children or adults participate from which they can benefit, including Title III of the Act of September 30, 1950 (Pub. L. 81-874) and Section 810, Title VIII of the Elementary and Secondary Education Act of 1965 (as added by Title IV of Pub. L. 92-318 and amended by Pub. L. 93-380), and with respect to adequte funding thereof;

(3) Review applications for assistance under Title III of the Act of September 30, 1950 (Pub. L. 81-874), Section 810 of Title VIII of the Elementary and Secondary Education Act of 1965 as amended and Section 314 of the Adult Education Act (as added by Title IV of Pub. L. 92-318), and make recommendations to the Secretary with respect to their approval;

(4) Evaluate programs and projects carried out under any program of the Department of Education in which Indian children or adults can participate or from which they can benefit and, disseminate the results of such evaluations;

(5) Provide technical assistance to local educational agencies and to Indian educational agencies, institutions and organizations to assist them in improving the education of Indian children;

(6) Assist the Secretary of Education in developing criteria and regulations for the administration and evaluation of grants made under Section 303(b) of the Act of September 30, 1950 (Pub. L. 81-874) as added by Title IV, Part A, of Pub. L. 92-318;

(7) Submit to the Congress not later than March 31 of each year a report of its activities, which shall include any recommendation it may deem necessary for the improvement of Federal education programs in which Indican children and adults participate, or from which they can benefit, which report shall include a statement of the Council's recommendations to the Secretary with respect to the funding of any such programs; and,

(8) Be consulted by the Secretary of Education regarding the definition of term "Indian," as follows:

Sec. 453 [Title IV, Pub. L. 92-318]. For the purpose of this title, the term "Indian" means any individual who (1) is a member of a tribe, band or other organized group of Indians, including those tribes, bands or groups terminated since 1940 and those recognized now or in the future by the State in which they reside or, who is a descendant, in the first or second degree, of any such member; or, (2) is considered by the Secretary of the Interior to be an Indian for any purpose; or, (3) is an Eskimo or Aleut or other Alaska Native; or, (4) is determined to be an Indian under regulations promulgated by the Secretary, after consultation with the National Advisory Council on Indian Education which regulations shall further define the term "Indian."

The Search Committee meeting will be closed to the public from 8:00 a.m. to 7:00 p.m. on April 6, 1981, to conduct interviews for the position of Deputy Assistant Secretary for the Office of Indian Education. The meeting will be closed under the authority of Section 10(d) of the Federal Advisory Committee Act [Pub. L. 92-463; 5 U.S.C. Appendix I) and under exemptions (2) and (6) contained in the Government in the Sunshine Act (Pub. L. 94-409; 5 U.S.C. 552b (c) (2) and (6)]. The interviews of each candidate will include discussions of their qualifications and fitnes for the position and will touch upon matters which would constitute a serious invasion of privacy if conducted in open session.

A summary of the activities at the closed session and related matters which are informative to the public consistent with the policy of Title 5 U.S.C. 552b (c) will be available to the public within fourteen days of the meeting.

The proposed agenda includes: (1) Interviewing candidates.

Dated: March 19, 1981.

Dr. Michael P. Doss,

Executive Director, National Advisory Council on Indian Education.

[FR Doc. 81-8834 Filed 3-23-81; 8:45 am]

BILLING CODE 4000-01-M

National Advisory Council on Indian Education; Meeting

AGENCY: National Advisory Council on Indian Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Executive Committee of the National Advisory Council on Indian Education and, also describes the functions of the Council. Notice of the meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. The meeting is closed to the public. This announcement does not meet the required 15 days advance notice to the public due to scheduling problems.

DATES: Executive Committee Meeting: April 7, 1981, 9:00 a.m. to 5:00 p.m.

ADDRESS: National Advisory Council on Indian Education, 425 13th Street, N.W., Suite 326, Washington, D.C. 20004.

FOR FURTHER INFORMATION CONTACT: Dr. Michael P. Doss, Executive Director, National Advisory Council on Indian Education, 425 13th Street, N.W., Suite 326, Washington, D.C. 20004 202/376-8882.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Indian

Education is established under Section 442 of the Indian Education Act, Title IV of Pub. L. 92–318, (20 U.S.C. 1221g). The Council is established to:

(1) submit to the Secretary of Education a list of nominees for the position of Deputy Assistant Secretary for Indian Education;

(2) advise the Secretary of Education with respect to the administration (including the development of regulations and of administrative practices and policies) of any program in which Indian children or adults participate from which they can benefit, including Title III of the Act of September 30, 1950 (Pub. L. 81–874) and Section 810, Title VIII of the Elementary and Secondary Education Act of 1965 (as added by Title IV of Pub. L. 92–318 and amended by Pub. L. 93–380), and with respect to adequate funding thereof;

(3) review applications for assistance under Title III of the Act of September 30, 1950 (Pub. L. 81–874), Section 810 of Title VIII of the Elementary and Secondary Education Act of 1965 as amended and Section 314 of the Adult Education Act (as added by Title IV of Pub. L. 92–318), and make recommendations to the Secretary with respect to their approvals;

(4) evaluate programs and projects carried out under any program of the Department of Education in which Indian children or adults can participate or from which they can benefit and, disseminate the results of such evaluations;

(5) provide technical assistance to local educational agencies and to Indian educational agencies, institutions and organizations to assist them in improving the education of Indian children;

(6) assist the Secretary of Education in developing criteria and regulations for the administration and evaluation of grants made under Section 303(b) of the Act of September 30, 1950 (Pub. L. 81–874) as added by Title IV, Part A, of Pub. L. 92–318;

(7) submit to the Congress not later than June 30 of each year a report of its activities, which shall include any recommendation it may deem necessary for the improvement of Federal education programs in which Indian children and adults participate, or from which they can benefit, which report shall include a statement of the Council's recommendations to the Secretary with respect to the funding of any such programs; and,

(8) be consulted by the Secretary of Education regarding the definition of term "Indian," as follows:

Sec. 453 [Title IV, Pub. L. 92–318]. For the purpose of this title, the term "Indian" means any individual who (1) is a member of a tribe, band or other organized group of Indians, including those tribes, bands or groups terminated since 1940 and those recognized now or in the future by the State in which they reside or, who is a descendant, in the first or second degree, of any such member; or, (2) is considered by the Secretary of the Interior to be an Indian for any purpose; or, (3) is an Eskimo or aleut or other Alaska Native; or, (4) is determined to be an Indian under regulations promulgated by the Secretary, after consultation with the National Advisory Council on Indian Education which regulations shall further define the term "Indian."

The Executive Committee meeting will be closed to the public from 9:00 a.m. to 5:00 p.m. on April 7, 1981, to review proposals based on the provisions of the Indian Education Act, Title IV, Pub. L. 92–318, Section 442(b)(2) and, make recommendations to the Secretary with respect to their approval. The meeting will be closed under the authority of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C., Appendix 1) and under exemptions (4) and (6)] contained in the Government in the Sunshine Act (Pub. L. 94–409; 5 U.S.C. 552b (c) (4) and (6)]. The reviewing of proposals must be held in the highest confidence until the announcement is released by the proper authorities as to which projects will be funded. Financial, privileged and confidential information in and related to these proposals will be discussed at the review session. Personal information, the disclosure of which would constitute a clearly unwarranted invasion of privacy, will also be discussed. Such matters are protected by exemptions (4) and (6) of Section 552b (c), Title 5 U.S.C.

A summary of the activities at the closed session and related matters which are informative to the public consistent with the policy of Title 5 U.S.C. 552b (c) will be available to the public within fourteen days of the meeting.

The proposed agenda includes: (1) Review of proposals.

Dated: March 19, 1981.

Dr. Michael P. Doss,

Executive Director, National Advisory Council on Indian Education.

[FR Doc. 81-8836 Filed 3-23-81; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Public Participation in Negotiation of Initial Long-Term Power Sales and Certain Other Contracts

AGENCY: Bonneville Power Administration (Bonneville), Department of Energy.

ACTION: Notice of negotiation of initial long-term power sales and certain other contracts/public participation.

SUMMARY: The Pacific Northwest Electric Power Planning and Conservation Act (Regional Act) requires that Bonneville simultaneously offer, within 9 months of the date of enactment, long-term power sales contracts to: (1) existing public body and cooperative customers and investor-owned utility customers; (2) Federal agency customers; (3) electric utility customers participating in the residential exchange; and (4) the direct-service industrial customers. Bonneville has recently begun the development and negotiation of prototype contract provisions which will be included in individual contracts offered to each customer. Each customer's contract will contain the applicable prototype contract provisions as well as provisions uniquely tailored to the services provided by Bonneville to such customer. By this Notice, Bonneville clarifies the role of the public in this negotiation process.

Bonneville recognizes that the contract negotiations must take place between the entities that the Regional Act directs will be parties to the contracts. Bonneville believes that the parties, both Bonneville and its customers, are responsible for representing the interest of electric consumers, including members of the general public. Contract negotiations have historically taken place between Bonneville and its customers without a specific public process, and contracts are exempted from Bonneville's published public participation procedure (45 FR 73531, November 5, 1980).

However, the negotiations occurring as the result of the Regional Act are unusual in that they involve the simultaneous negotiation and offering of several types of long-term power sales and other contracts with some 150 customers. These contracts will implement certain power supply obligations of the Regional Act.

Because of these unusual circumstances, Bonneville has opened the negotiation process to public observation and is accepting public comment for Bonneville to consider in the negotiations.

In addition, Bonneville makes public each week a list of the scheduled contract negotiation meetings. The schedule is offered as a convenience to those interested in the negotiations and includes each meeting for which a time and place have been established. The schedule may not include meetings which are planned and conducted after the weekly schedule becomes available.

Bonneville considers this an appropriate form of public participation in keeping with its obligation to keep the region informed of major power issues. Bonneville will continue to offer the opportunity for public observation of the negotiation sessions, with an opportunity for oral public comment at

the conclusion of each negotiating session, and to offer the opportunity to those who are not parties to the contracts to make written comments to Bonneville. Bonneville will make available the papers previously distributed at negotiation sessions to any person who makes a written request for the material. Written requests should be sent to the Bonneville Public Involvement Coordinator. The prototype contracts will be available for inspection at the office of the Public Involvement Coordinator.

EFFECTIVE DATE: March 24, 1981.

FOR FURTHER INFORMATION CONTACT: Ms. Donna L. Geiger, Public Involvement Coordinator, P.O. Box 12999, Portland, Oregon 97212, 503–234–3361, extension 4261. Oregon callers outside of Portland may use the toll-free number 1–800–452–8429; callers in California, Idaho, Montana, Nevada, Utah, Wyoming, and Washington may use 1–800–574–6048. Information on contracts is also available from Bonneville's Area and District Managers: Ronald H. Wilkerson, Spokane Area Manager, Room 561, U.S. Court House, East 920 Riverside Avenue, Spokane, Washington 99201, (509) 456–2518; John H. Jones, Portland Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97208, (503) 234–3361, ext. 4551; Randall W. Hardy, Seattle Area Manager, 415 First Avenue North, Room 250, Seattle, Washington 98109, (206) 442–4130; Roy Nishi, Walla Walla Area Manager, West 101 Poplar, Walla Walla, Washington 99362, (509) 525–5500, ext. 701; Gordon H. Brandenburger, Kalispell District Manager, P.O. Box 758, Kalispell, Montana 59901, (406) 775–6202; Ronald K. Rodewald, Wenatchee District Manager, Suite 117, Morris Building, 23 South Wenatchee, Wenatchee, Washington 98801, (509) 662–4379; Ladd Sutton, Eugene District Manager, Room 206, U.S. Federal Building, 211 East 7th Street, Eugene, Oregon 97401, (503) 345–0311; Robert N. Laffel, Idaho Falls District Manager, 531, Lomax Street, Idaho Falls, Idaho 83401, (208) 523–2706.

SUPPLEMENTARY INFORMATION: The Regional Act directs Bonneville to commence negotiations and offer initial long-term power sales contracts simultaneously to "existing public body and cooperative customers and investors-owned utility customers," Federal agency customers, electric utility customers under the exchange provisions of the Act, and the existing direct-service industrial (DSI) customers. Bonneville opened the process with an organizational meeting on January 23, 1981, preceding the start of actual negotiations. The meeting allowed Bonneville and the other negotiating parties to establish a framework within which the negotiations could take place. A decision was also made at the meeting to develop prototype contracts, negotiated by task teams composed of Bonneville negotiators and representatives of the parties. Each prototype contract corresponds to a category of customer or a category of interest. The categories are: (1) Power Sales Contracts for Nonscheduling Customers and Scheduling Customers (Computed Demand); (2) Residential Load Purchase/Sale Contracts (Exchange contracts); (3) Direct-Service Industrial Power Sales Contracts; (4) Conservation Contracts; (5) Purchase of Resource Capability and Resource Plus Preconstruction Investigation Contracts; (6) Purchase of Output, Including Short-Term Power Purchase; (7) Service and Exchange; and (8) Resource Option.

The power sales contracts must be offered by Bonneville to the customers on or before September 8, 1981, the date which meets the requirement of Section 5(g) of the Regional Act to offer contracts "within nine months after the effective date of [the] Act." The power sales contracts may be offered by an earlier date if negotiations can be completed in time to make such an offer. Each customer offered a power sales contract will have 1 year from the date of the offer to accept service. While the prototype contracts will address issues of interest to the affected customers, final adjustments to specific contracts will be negotiated with the individual customers as necessary before the contracts are offered. Other contracts will be offered when negotiations are completed and the program which is the subject of the contract is ready to be developed (i.e., power purchase contracts will be offered when the standards and criteria of the Act have been met).

Bonneville announced in the December 1980 technical meetings with customers and other interested persons on the Regional Act, that the contract negotiation sessions would be open to the public. This is in keeping with Bonneville's policy that, as a public agency, it transacts its business in public.

Bonneville will continue to open the negotiating sessions to public observation. In addition, members of the public who wish to comment at the conclusion of individual negotiating sessions, may do so. Bonneville will also accept written comments.

Bonneville will also continue to post, and otherwise make available, a weekly notice giving the times and places of the negotiating sessions. However, due to the ongoing nature of the negotiations and the short time in which to accomplish the process, the sessions are held at the convenience of the parties and are directed toward the accomplishment of the negotiations. Bonneville cannot guarantee that notice will ber given in every instance, although a reasonable effort will be made to note changes in the schedule.

Bonneville will make available the papers distributed at the negotiation sessions. The papers may be inspected at the office of the Bonneville Public Involvment Coordinator. In addition, persons who wish to receive the documents on a regular basis may request that their names be added to a mailing list established for this purpose. The request should be made in writing to the Bonneville Public Involvement Coordinator. The prototype contracts will be available for inspection at the office of the Public Involvement Coordinator.

Bonneville believes that this approach will allow the public the opportunity to express views in the formative portion of the negotiating process while honoring the legal relationship between Bonneville and its customers and will allow Bonneville to meet its statutory obligations to offer the contracts by September 8, 1981.

Dated: March 17, 1981.

Earl Gjelde,

Acting Administrator.

[FR Doc. 81-8613 Filed 3-23-81; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 81-CERT-006]

Public Service Electric & Gas Co.; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

Public Service Electric and Gas Company (Public Service), 80 Park Place, Newark, New Jersey 07101, filed an application on March 6, 1981, with the Economic Regulatory Administration (ERA) for certification of an eligible use of natural gas to displace fuel oil at eight of its electric generating stations located in New Jersey: Bergen in Ridgefield; Essex in Newark; Hudson in Jersey City; Kearney in Kearney; Linden in Linden; Sewaren in Sewaren; Edison in Edison; and Mercer in Trenton, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file and available for public inspection at the ERA, Division of Natural Gas Docket

Room, Room 7108, RG–55, 2000 M Street, N.W., Washington, D.C. 20461, from 8:30 a.m.–4:30 p.m., Monday through Friday, except Federal holidays.

In its application, Public Service states that the volume of natural gas for which it requests certification is approximately two billion cubic feet. This volume is estimated to displace the use of approximately 292,000 barrels of No. 6 fuel oil (0.3 percent sulfur) and approximately 8,000 barrels of No. 2 fuel oil (0.2 percent sulfur) or kerosene (0.1 percent sulfur) per year.

The quantities at each location are subject to considerable variation with changes in demand and availability of the various generating units, but estimated gas usage and resulting oil displacement volumes are listed below:

Location	Estimated volume (MMCF)[1]	Estimated oil displacement (in thousands of barrels)	
		0.3 pct sulfur No. 6 oil	0.2 pct sulfur No. 2 oil or 0.1 pct sulfur kerosene
1. Bergen Generating Station, Ridgefield, N.J.	688	134	
2. Essex Generating Station, Newark, N.J.	25		4
3. Hudson Generating Station, Jersey City, N.J.	772	115	
4. Kearny Generating Station, Kearny, N.J.			
5. Linden Generating Station, Linden, N.J.			
6. Sewaren Generating Station, Sewaren, N.J.	290	43	
7. Edison Generating Station, Edison, N.J.	25		4
8. Mercer Generating Station, Trenton, N.J.			
Total	2,000	292	8

[1] MMFC is million cubic feet.

The eligible seller is the Alabama Tennessee Natural Gas Company, P.O. Box 918, Florence, Alabama 35637. The gas would be transported by the Texas Eastern Transmission Corporation, P.O. Box 2521, Houston, Texas 77001; and the North Alabama Gas District, 1100 Woodward Avenue, Muscle Shoals, Alabama 35660.

Public Service has previously been issued certification by the ERA allowing purchases of natural gas from various eligible sellers for use at the same eight electric generating stations named in this certification as follows:

ERA Docket No.	Amount	Remarks
79-CERT-020	24.1 Bcf per year.	Expired June 24, 1980, and recertified as 80-CERT-020.
80-CERT-014	5 Bcf per year	Effective May 5, 1980.
80-CERT-017	4 Bcf per year	Effective June 25, 1980.
80-CERT-020	17.5 Bcf per year.	Recertification of 79-CERT-020 and Effective June 25, 1980.
80-CERT-026	1 Bcf per year	Effective Sept. 17, 1980.
80-CERT-032	16 MMcf per year.	Effective Sept. 30, 1980, and expired Oct. 31, 1980.
80-CERT-044	8 Bcf per year	Effective Jan. 19, 1980.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 7108, RG–55, 2000 M Street, N.W., Washington, D.C. 20461, Attention: Mr. Albert F. Bass, within ten (10) calendar days of the date of publication of this notice in the **Federal Register.**

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to Public Service and any persons filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C., on March 18, 1981.

Barton R. House,

Acting Administrator, Economic Regulatory Administration.

[FR Doc. 81-8912 Filed 3-23-81; 8:45 am]

BILLING CODE 6450-01-M

Applications for Entitlement Benefits for Petroleum Substitutes

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Applications for Entitlement Benefits for Petroleum Substitutes.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of additional applications submitted to the ERA for designation as eligible recipients of entitlements under the domestic crude oil allocation program (10 CFR, Part 211, § 211.67). The first list of pending applications was published September 10, 1980, 45 FR 59613, and a second list of pending applications was published February 17, 1981, 46 FR 5326.

Under amendments to the Mandatory Petroleum Allocation Regulations, the ERA may grant entitlements to the producer, marketer, or consumer of a petroleum substitute made from domestically renewable sources of biomass, coal, solid waste or tar sands which is used as fuel in a refinery or which is used outside a refinery as a boiler fuel or elsewhere as fuel. The appendix contains a list of additional firms which have applied prior to December 31, 1980, for designation of their eligibility to receive entitlement benefits on a case-by-case basis as provided under Section 211.67. Those applications are now being reviewed by the ERA and a public disclosure copy of each application is available for public inspection.

FOR FURTHER INFORMATION CONTACT:

T. Wendell Butler, Acting Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration, 2000 M Street, N.W., Room 6128, Washington, D.C. 20461, (202) 653–3372

William Funk (Office of General Counsel), Department of Energy, Forrestal Building, 1000 Independence Avenue, S.W., Room 6A–127, Washington, D.C. 20585 (202) 252–6739.

SUPPLEMENTARY INFORMATION: Section 211.67(a)(5) of the Mandatory Petroleum Allocation Regulations provides for the automatic inclusion in the crude oil entitlements program of shale oil produced from domestic sources, ethyl alcohol derived from domestic biomass and blended into gasohol, solid municipal waste and derivatives thereof used as fuel, and methane derived from municipal sewage or landfills.

Section 211.67(a)(5) also provides for the issuance of entitlements to other petroleum substitutes which the ERA determines on a case-by-case basis to be eligible for participation in the entitlements program. Those petroleum substitutes which are eligible only on a

case-by-case basis include solid, liquid, or gaseous fuels derived from domestically found solid waste sources, and fuel in a liquid form which is derived from domestic biomass, coal, or tar sands.

On September 10, 1980, the ERA published a list of 63 applications pending as of June 23, 1980 (September 10, 1980, 45 FR 59613). On February 17, 1981, the ERA published a list of 13 applications received by ERA as of June 23, 1980, which had inadvertently been omitted from this list (February 17, 1981, 46 FR 5326). Ninety-nine additional applications have been received by ERA as of December 31, 1980. These additional applicants are identified in the appendix to this notice. The appendix also provides the date on which the firm's application was filed and indicates the type of petroleum substitute for which each applicant is seeking entitlements.

Non-confidential copies of all applications filed by the firms listed in the appendix, including supporting documentation, may be examined at the ERA Office of Public Information, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461, between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Any person may file with the ERA a submission relevant to any application. Any submission which is received within thirty days of the publication of this notice will be considered by the ERA prior to determining whether to permit the inclusion of any firm in the entitlements program. Filings should be submitted to: Economic Regulatory Administration, Office of Petroleum Operations, Entitlements Program, Room 6128, 2000 M Street, N.W., Washington, D.C. 20461.

Issued in Washington, D.C. March 17, 1981

T. Wendell Butler,

Acting Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Appendix

Company	Date filed	Type of application
Allen Products Co., Inc.	9/18/80	Waste Cardboard.
Allentown & Sacred Heart Hospital Center.	7/15/80	Industrial Solid Waste.
Allied Paper Co	8/18/80	Black Liquor, Bark.
Alma Plantation, Alma Factory.	10/31/80	Bagasse.
AMFAC, Inc.	6/25/80	Bagasse.
Appleton Paper, Inc	8/07/80	Black Liquor, Bark, Wood Waste, Sludge, Refuse.
Arcata Redwood Company.	12/08/80	Wood Waste, Sawdust, Bark.
Atchison, Topeka & Santa Fe Railway Co.	12/17/80	Wood Waste.

Appendix—Continued

Company	Date filed	Type of application
Badger Paper Mills, Inc.	6/30/80	Bark, Black Liquor.
Beasley Lumber Products.	11/26/80	Bark, Sawdust, Shavings.
Breaux Bridge Sugar Co-op, Inc.	10/30/80	Bagasse.
Bruce's, Inc	10/27/80	Wood Fuel.
Buckeye Cellulose Corp.	12/03/80	Black Liquor, Wood Waste.
Cajun Sugar Co-op	10/28/80	Bagasse.
Caldwell Sugar Co-op, Inc.	10/30/80	Bagasse.
Calypso Plywood Co., Inc.	12/17/80	Wood Waste.
Casey's Mill, Inc	12/01/80	Wood Waste.
Caterpillar Tractor Co	11/25/80	Waste Oil, Paper, Wood, Plastic.
Chickasabogue Lumber Co.	9/09/80	Wood Waste.
Coastal Lumber Co	11/26/80	Bark, Sawdust, Shavings.
Collins & Aikman Corp	12/02/80	Wood Pellets.
Community Playthings	10/01/80	Wood Waste, Sawdust, Shavings, Briquettes.
Container Corp. of America.	9/26/80	Black Liquor, Bark.
Continental Forest Industries.	9/15/80	Black Liquor, Bark, Wood Waste.
Cora Texas Mfg. Co	10/28/80	Bagasse.
Corbett Lumber Corp	12/30/80	Sawdust, Bark.
Coulbourn Lumber Co	11/28/80	Sawdust, Shavings.
Crown Zellerbach Corp.	7/14/80	Black Liquor, Bark, Wood Waste.
C. S. Steen Syrup Mill	10/31/80	Bagasse.
Dant & Russell Inc	12/30/80	Bark, Sawdust, Wood Chips.
Davies Hamakua Sugar Co.	7/02/80	Bagasse.
Dugas & LeBlanc, Ltd., Westfield Factory.	10/31/80	Bagasse.
Evans Lumber Co., Inc.	11/26/80	Sawdust, Shavings.
F. C. Howell & Sons Lumber Co., Inc.	12/17/80	Bark, Wood Waste.
Formica Corp	11/24/80	Waste Laminate.
Gary Refining Co	11/03/80	Gilsonite.
Glenwood Co-op, Inc., Glenwood Factory.	10/31/80	Bagasse.
Guy C. Lee Mfg. Co	12/17/80	Bark, Wood Waste.
Harry L. Laws & Co., Inc.	10/30/80	Bagasse.
Helvetia Sugar Co-op, Inc.	10/30/80	Bagasse.
Iberia Sugar Co-op, Inc.	10/30/80	Bagasse.
James W. Younce & W. T. Ralph Lumber Co., Inc.	12/17/80	Wood Waste.
Jeanerette Sugar Co., Inc.	10/31/80	Bagasse.
J. S. Turner & Son	11/26/80	Bark, Sawdust, Shavings.
Keener Lumber Co., Inc.	12/17/80	Bark, Wood Waste.
Kimberly-Clark Corp	9/02/80	Black Liquor, Bark, Wood Waste.
Kirby Forest Industries, Inc.	11/02/80	Bark.
Kirby Forest Industries, Inc.	11/25/80	Bark.
Knouse Foods Co-op, Inc.	7/07/80	Food Waste.
Koppers Co., Inc	11/06/80	Bark, Wood Waste.
Lafourche Sugar Corp	10/30/80	Bagasse.
Lianga Pacific, Inc	9/09/80	Wood Waste.
Lloyd Smithwick Logging Co.	12/17/80	Wood Waste.
M. A. Patout & Son Ltd. Enterprise Factory.	10/31/80	Bagasse.
Meeker Sugar Co-op, Inc.	10/30/80	Bagasse.
Moss Planing Mill Co	12/24/80	Sawdust.
N & C Lumber Co	12/24/80	Bark, Sawdust.
The Nestle Co., Inc	11/10/80	Waste Coffee, Wax Oil.
Oaktown Sugar Co., Inc.	10/31/80	Bagasse.
Osceola Farms Co	9/23/80	Bagasse.
Perentech Papers, Inc	12/23/80	Black Liquor Solids.

Appendix—Continued

Company	Date filed	Type of application
Pine Hall Brick & Pipe Co.	10/30/80	Wood Waste.
Proctor & Gamble Paper Products Co.	12/03/80	Bark, Wood Waste.
Pruitt Lumber Co	12/01/80	Sawdust, Bark.
Publishers Paper Co	10/28/80	Black Liquor, Waste Sludge.
Pulaski Furniture Co	7/16/80	Wood Waste.
Riegel Products Corp	6/30/80	Wood Waste.
Rio Grande Valley Sugar Growers, Inc.	11/14/80	Bagasse.
Savoie Industries, Inc., Lula Factory.	10/31/80	Bagasse.
SCM Organic Chemical Div.	8/29/80	Waste Oil.
Sherex Chemical Co	12/30/80	Fatty Acid Pitch, Waste Organic Overheads.
Scott Paper Company	12/01/80	Bark, Wood Waste, Wood Fines.
Simpson Paper Co	7/23/80	Black Liquor.
Skidmore College	10/20/80	Waste Auto-Oil.
Smithfield Sugar Co-op.	10/30/80	Bagasse.
Sonoco Products Co	7/07/80	Black Liquor, Bark, Wood Waste.
South Coast Sugars, Inc.	10/31/80	Bagasse.
Southern Brick Co	7/25/80	Wood Waste.
St. James Sugar Co-op.	10/30/80	Bagasse.
St. Joe Paper Co	11/03/80	Bark, Woodfines, Black Liquor.
St. Martin Sugar Co-op.	10/28/80	Bagasse.
St. Mary Sugar Co-op	10/30/80	Bagasse.
St. Regis Paper Co	9/30/80	Black Liquor, Bark, Wood Waste.
Sterling Sugars, Inc., Sterling Factory.	10/31/80	Bagasse.
Stonecutter Mills Corp	11/03/80	Wood Waste, Green & Dry Dust.
Superwood Corp	8/27/80	Wood Waste, Green & Dry Dust.
Superwood Corp	9/16/80	Wood Waste.
Sylvachem Corp	8/29/80	Waste Oil.
Talisman Sugar Corp	11/03/80	Bagasse.
Teepak, Inc	9/30/80	Bark, Wood Waste.
Thilmany Pulp & Paper Co.	10/15/80	Black Liquor, Bark, Waste Paper.
Toney-Thayer Lumber Co.	12/01/80	Bark, Sawdust.
United States Sugar Corp.	8/22/80	Bagasse.
U. S. Gypsum Co	12/21/80	Wood Waste, Sawdust, Bark.
Waialua Sugar Co., Inc.	7/16/80	Bagasse.
Warmack Lumber Co	12/24/80	Bark, Sawdust.
Westvaco Corp	6/30/80	Wood Waste, Bark, Black Liquor, Tall Oil Pitch.
Whinney Haw Stables	9/05/80	Methane.
Williams Lumber Co	11/28/80	Sawdust, Bark.

[FR Doc. 81-8830 Filed 3-23-81; 8:45 am]

BILLING CODE 6450-01-M

Cibro Gasoline Corp.; Proposed Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Proposed Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent and on potential claims against the refunds deposited in

an escrow account established pursuant to the Consent Order.

EFFECTIVE DATE: February 18, 1981.

COMMENTS BY: April 23, 1981.

ADDRESS: Send comments to Edward F. Momorella, District Manager for Enforcement, Northeast District, Economic Regulatory Administration, 10th Floor, 1421 Cherry Street, Philadelphia, Pennsylvania 19102.

FOR FURTHER INFORMATION CONTACT: Herbert Maletz, New York Audit Director, Northeast District, 252 Seventh Avenue, New York, New York 10001, (212) 620–7606.

SUPPLEMENTARY INFORMATION: On February 18, 1981, the Office of Enforcement of the ERA executed a Consent Order with Cibro Gasoline Corporation. Under 10 CFR Section 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution unless the DOE determines otherwise. By its terms the Consent Order becomes effective only after DOE has requested comments with respect to the Consent Order. Although the ERA has signed and tentatively accepted the Proposed Consent Order, the ERA may, after consideration of comments, withdraw its acceptance and if appropriate, attempt to negotiate an alternative Consent Order.

I. The Consent Order

Cibro Gasoline Corporation (Cibro), with its home office located in Bronx, New York, is a firm engaged in the sale of motor gasoline and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Cibro, the Office of Enforcement of the ERA, and Cibro entered into a Consent Order, the significant terms of which are as follows:

1. During the period June 6, 1979 through December 30, 1979 (audit period), Cibro allegedly overcharged its end-user and reseller/retailer classes of purchaser in the resale of motor gasoline.

2. It is alleged that Cibro incorrectly computed its maximum legal selling price in its sales of motor gasoline to the classes of purchaser listed above during the audit period. As as result, Cibro charged prices in excess of those permitted under 10 CFR 212.93(a).

3. This Consent Order constitutes neither an admission by Cibro that it has violated the Mandatory Petroleum Price Regulations nor a finding by ERA that Cibro has violated such regulations.

4. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

5. Cibro shall pay $15,000.00 in compromise of civil penalties.

II. Disposition of Refunded Overcharges

In this Consent Order, Cibro will refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. above, the sum of $418,819.00.

In order to accomplish the refund of overcharge of $335,055.00 to end-users, Cibro will issue, during the refund period, either cash payments or credit memorandum to affected customers in these classes of purchaser. Customers of larger volumes will receive refunds based on their pro rata purchases during the audit period; customers of smaller volumes during the audit period will be divided into sub-classes of volumes and paid an equal amount per capita within such sub-class.

In order to accomplish the refund of overcharges of $83,764.00 to reseller/retailers, Cibro will issue, during the refund period, certified checks made payable to the United States Department of Energy and delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the Cibro refund amount in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR Section 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the Cibro refunds will be made in the general public interest by an appropriate means such as payment of the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. Potential Claimants: Interested persons who believe that they have a claim to all or a portion of the Cibro refund amounts should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to this refund amount.

After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. Other Comments: The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Edward F. Momerella, District Manager of Enforcement, Northeast District, Department of Energy, 1421 Cherry Street, Philadelphia, Pennsylvania 19102. You may obtain a free copy of this Consent Order by writing to the same address or by calling (215) 597–2633. You should identify your comments on the outside of the envelope and on the documents you submit with the designation, "Comments on Cibro's Consent Order." We will consider all comments which are pertinent as described above and which we receive by 4:30 p.m., Eastern Standard Time, on April 23, 1981. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR Section 205.9(f).

Issued in Philadelphia, Pennsylvania on the 23rd day of February 1981.

Edward F. Momorella,

District Manager, Northeast District Enforcement.

[FR Doc. 81-8833 Filed 3-23-81; 8:45 am]

BILLING CODE 6450-01-M

Coline Gasoline Corp.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Action Taken on Consent Order

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces notice of filing a Petition for the Implementation

of Special Refund Procedures for refunds received pursuant to a Consent Order.

DATE: Petition submitted to the Office of Hearings and Appeals: March 13, 1981.

FOR FURTHER INFORMATION CONTACT:
Charles L. Croxton, Program Manager for Natural Gas Liquids, Program Operations Division, Office of Enforcement, 2000 M Street, N.W., Room 5204, Washington, D.C. 20461, (202) 653-3541.

SUPPLEMENTARY INFORMATION: On January 8, 1980, the Office of Enforcement of the ERA published notification in the **Federal Register** that it executed a Consent Order with Coline Gasoline Corporation (Coline) of Santa Fe Springs, California on November 19, 1979, 45 FR 1672 (1980). Interested persons were invited to submit comments concerning the terms, conditions, or procedural aspects of the Consent Order. In addition, persons who believe they have a claim to all or a portion of the refund of overcharges paid by Coline pursuant to the Consent Order were requested to submit notice of their claims to the ERA.

Although interested persons were invited to submit comments regarding the Consent Order to the DOE, no comments were received. The Consent Order, therefore, was not modified.

Pursuant to the Consent Order, Coline refunded the sum of $628,480.79 including interest by certified check made payable to the United States Department of Energy. This amount has been placed into a suitable account pending determination of its proper distribution.

The following person submitted a claim to the ERA: Mobil Oil Corporation.

Action Taken

The ERA is unable to identify readily the persons entitled to receive the $628,480.79 including interest or to ascertain the amounts of refunds that such persons are entitled to receive. The ERA, therefore, has petitioned the Office of Hearings and Appeals (OHA) on March 13, 1981 to implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, 10 CFR 205.280 *et seq.* to determine the identity of persons entitled to the refunds and the amounts owing to each of them. Persons who believe they are entitled to all or a portion of the refunds should comply with procedures of 10 CFR Part 205, Subpart V.

Issued in Washington, D.C. on the 13th day of March 1981.

Robert D. Gerring,
Director, Program Operations Division.

[FR Doc. 81-8831 Filed 3-23-81; 8:45 am]
BILLING CODE 6450-01-M

The Powerplant and Industrial Fuel Use Act; Notice and Issuance of an Order Granting Temporary Public Interest Exemptions Pursuant to Section 311

The Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of its issuance of an Order granting temporary public interest exemptions, pursuant to the authorities granted it by section 311(e) of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. § 8301 *et seq.*, (FUA or the Act), and the implementing regulations thereunder (10 CFR § 501.68 and 10 CFR Part 508, from the natural gas use prohibitions of section 301(a)(2) and (3) of the Act to the following powerplants in order to displace high sulfur residual fuel oil:

Docket No.	Petitioner	Generating station	Powerplant identification No.
50645-2443-04-41	Community Public Service Company	Lordsburg	4
51694-1403-01-41	Louisiana Power and Light Company	Ninemile Point	1
51887-8054-01-41	Mississippi Power & Light	Gerald Andrus	1

The Order is set forth following this Notice and has been sent by certified mail to the Petitioners.

The petitioners filed for these temporary public interest exemptions pursuant to 10 CFR Part 508 (Exemption for Use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978, April 9, 1979, 44 FR 21230, hereafter referred to as the Special Rule). A notice of the petitions and proposed order granting these temporary exemptions were published in the **Federal Register** on January 30, 1981 (46 FR 9984), presenting an opportunity for public comments and for interested persons to request a hearing relating to the petitions and the proposed order. All comments that referred to specific petitions were supportive of them.

The powerplants listed above are either prohibited by section 301(a)(2) of FUA from using natural gas as a primary energy source, or are prohibited from using natural gas as a primary energy source in excess of the average base year proportion allowed in section 301(a)(3) of the Act. These temporary exemptions will allow these units to burn natural gas, notwithstanding the prohibitions of section 301(a)(2) and (3) of FUA, to displace consumption of high sulfur residual fuel oil.

Statement of Reasons

Because world oil supplies continue to be unstable, there is an urgent need to use these natural resources wisely.

To the extent that the near-term choice of fuels for certain existing powerplants is limited to petroleum or natural gas, the use of natural gas is preferred over petroleum. The use of natural gas in these powerplants will be a significant step toward reducing our short-term oil consumption and will help the United States reduce its dependence on imported petroleum.

This increased use of natural gas will also protect the Nation from the effects of any oil shortages, and will cushion the impact of increasing world oil prices, which have a detrimental effect on the Nation's balance of payments and domestic inflation rate.

To the extent that increased use of natural gas will accomplish these goals, it will reduce the importation of petroleum and further the goal of national energy self-sufficiency.

The petitioners have demonstrated that these powerplants, for which they are requesting temporary exemptions, are existing units that are either prohibited from using natural gas as a primary energy source by section 301(a)(2) of FUA, or prohibited from using natural gas in excess of the average base year proportion allowed in section 301(a)(3) of FUA. The petitioners have also shown that the proposed use of natural gas as a primary energy source, to the extent that such use would be prohibited by section 301(a)(2) or (3) of FUA, will displace consumption of high sulfur residual fuel oil, and will not displace the use of coal or any other alternate fuel in any facility of the petitioners' utility systems, including the powerplants for which these temporary exemptions are issued.

By establishing these facts, the petitioners have met the eligibility criteria set out in 10 CFR § 508.2. Since the increased use of natural gas is in keeping with the purposes of FUA and is in the public interest, and since the petitioners have demonstrated that they have met the eligibility criteria, ERA is granting these temporary exemptions.

Copies of all comments received during the public comment period will be available for public inspection and copying in the Public Information Office located in Room B–110, 2000 M Street, N.W., Washington, D.C. 20461.

Any questions regarding these temporary exemptions should be directed to Mr. James W. Workman, Director, Powerplants Conversion Division, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, Room 3112D, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653–4268.

Decision and Order

The Economic Regulatory Administration (ERA) of the Department of Energy hereby issues this Decision and Order granting temporary public interest exemptions from the prohibitions of section 301(a) (2) and (3) of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. § 8301 *et seq.*, (FUA or the Act). This Decision and Order is issued pursuant to section 311(e) of FUA, 10 CFR § 501.68 and 10 CFR Part 508 to the petitioners who own or operate the powerplants listed in the table below.

Docket No.	Petitioner	Generating station	Powerplant identification No.
50645-2443-04-41	Community Public Service Company	Lordsburg	4
51694-1403-01-41	Louisiana Power and Light Company	Ninemile	1
51887-8054-01-41	Mississippi Power & Light	Gerald Andrus	1

Duration of Temporary Exemptions

ERA grants these temporary public interest exemptions until December 7, 1981. Upon the request of the petitioners, these exemptions may be extended for an additional period at the discretion of ERA. However, a temporary public interest exemption, including all extensions and the period during which the petitioners were allowed to burn natural gas while their petitions were pending, may not exceed the maximum 5 year period authorized by the Act, or extend beyond June 30, 1985. All requests for extensions must be filed with ERA by September 7, 1981. The temporary exemptions are subject to termination by ERA, upon six months written notice, if ERA determines such termination to be in the public interest.

Effective Date of Decision and Order

This Decision and Order shall become effective on the sixtieth calendar day following its publication in the **Federal Register**. However, in accordance with the policy set forth in the notice implementing this Special Rule (44 FR 21230, April 9, 1979), ERA will take no action with respect to any natural gas used by the exempted powerplants during the pendency period prior to the date this Decision and Order becomes effective.

Terms and Conditions

Pursuant to section 314 of FUA and 10 CFR § 508.6, the temporary exemptions granted under this Decision and Order are conditioned upon, and shall remain in effect, so long as each petitioner, its successors and assigns, complies with the following terms and conditions:

(1) Petitioner will report to ERA for the period during which the petition was pending, and for each subsequent six-month period thereafter (periods ending June 30 and December 31), the actual monthly volumes of natural gas consumed in each exempted powerplant, and an estimate of the number of barrels of each type of fuel oil displaced. The report must be submitted within thirty days of the end of each six-month period.

(2) Petitioner will submit to ERA, within one year after the date this Decision and Order is issued, a system-wide fuel conservation plan to include the period covered by these temporary exemptions, including the means by which the petitioner will measure progress in implementing this plan. If the petitioner has received temporary public interest exemptions under previous orders, the first granted exemption order establishes the due date for the system-wide conservation plan.

(3) If the petitioner seeks to have the exemptions extended, the fuel conservation plan must cover both the initial period covered by these temporary exemptions and the additional period, including the means by which the petitioner will measure progress in implementing this plan.

(4) Petitioner will submit annually to ERA, commencing with the calendar year ending December 31, 1982, a report on progress achieved in implementing the pertinent fuel conservation plan, if the petitioner's exemptions are extended beyond December 7, 1981.

ERA's grant of these temporary public interest exemptions does not relieve an existing powerplant from compliance with any rules or regulations concerning the acquisition or the distribution of natural gas that are administered by the Federal Energy Regulatory Commission or any State regulatory agency or from any obligations the utility may have to its customers.

Issued in Washington, D.C. on March 17, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 81–8829 Filed 3–23–81; 8:45 am]

BILLING CODE 6450–01–M

Triton Oil & Gas Corp.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Action Taken on Consent Order

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces notice of filing a Petition for the Implementation of Special Refund Procedures for refunds received pursuant to a Consent Order.

DATE: Petition submitted to the Office of Hearings and Appeals: March 16, 1981.

FOR FURTHER INFORMATION CONTACT: Charles L. Croxton, Program Manager for Natural Gas Liquids, Program Operations Division, Office of Enforcement, 2000 M Street, N.W., Room 5204, Washington, D.C. 20461, (202) 653–3541.

SUPPLEMENTARY INFORMATION: On July 11, 1979, the Office of Enforcement of the ERA published notification in the **Federal Register** that it executed a Consent Order with Triton Oil and Gas Corporation (Triton of Dallas Texas on June 27, 1979, 44 FR 40548 (1979). Interested persons were invited to submit comments concerning the terms, conditions, or procedural aspects of the Consent Order. In addition, persons who believe they have a claim to all or a

portion of the refund of overcharges paid by Triton pursuant to the Consent Order were requested to submit notice of their claims to the ERA.

Although interested persons were invited to submit comments regarding the Consent Order to the DOE, no comments were received. The Consent Order, therefore, was issued as signed.

Pursuant to the Consent Order, Triton refunded the sum of $78,358.48 by certified check made payable to the United States Department of Energy. This sum was received by DOE has been placed into a suitable account pending determination of its proper distribution.

Action Taken: The ERA is unable to identify readily the persons entitled to receive the $78,358.48 or to ascertain the amounts of refunds that such persons are entitled to receive. The ERA, therefore, has petitioned the Office of Hearings and Appeals (OHA) on March 16, 1981 to implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, 10 CFR 205.280 *et seq.* to determined the identity of persons entitled to the refunds and the amounts owing to each of them. Persons who believe they are entitled to all or a portion of the refunds should comply with the procedures of 10 CFR Part 205, Subpart V.

Issued in Washington, D.C. on the 17th day of March 1981.

Robert D. Gerring,

Director, Program Operations Division.

[FR Doc. 81-8837 Filed 3-23-81; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 4040-000]

Bountiful City; Application for New Major License

March 18, 1981.

Take notice that Bountiful City (Applicant) filed on January 19, 1981, an application for a new major license [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)825(r)] for the constructed Olmsted water power project, FERC No. 4040, located on the Provo River, in Utah County, Utah, near the City of Orem, Utah. The project affects lands of the United States, within the Uinta National Forest. The original license held by Utah Power & Light Company expired on October 20, 1975, and the project is operating under annual license.

Correspondence concerning the application should be directed to: Mr. W. Berry Hutchings, Manager, Bountiful City Light & Power Dept., 198 South 200 West, Bountiful, Utah 84010.

Project Description—Olmsted Hydroelectric Project consists of: (1) a concrete diversion dam having a 15-foot maximum height and an 80-foot length, including a 62-foot long spillway topped by variable height stop-log flashboards; (2) a pond with 52 acre-feet of storage capacity and a water surface elevation ranging between 5,181 and 5,186 feet m.s.l.; (3) a concrete screened water intake structure 104 feet in length along the right bank leading to; (4) a 25,117-foot long 8.5-foot diameter steel or concrete gravity pipeline including (a) a Taintor gate control screening structure and (b) a siltation structure; (5) a wood and/or concrete lined tunnel 950 feet long, 13 feet wide, and 10 feet high opening into; (6) a concrete and steel "pressure box" structure 50 feet long, 50 feet wide, and 60 feet high with trash screens and four Taintor gates connecting to; (7) three 730-foot long steel penstocks varying in diameter from 60 to 48 to 54-inches and a 730-foot long, 6-foot diameter steel penstock; (8) a concrete, brick, and steel powerhouse containing three 2,400-kW generating units and a 5,500-kW generating unit; (9) a tailrace 800 feet long; (10) electrical facilities connecting to a 44-kV switchyard; and (11) appurtenant facilities.

The Applicant proposes to: (1) perform ordinary operation and maintenance; (2) phase out operation of Olmsted Plant by the year 2000; and (3) develop a recreational area for public use surrounding the historic Olmsted Power Plant.

Purpose of Project—All power generated from the Olmsted Power Plant would be used by the Applicant for municipal purposes.

Competing Applications—This application was filed as a competing application to that of Utah Power and Light Company Project No. 596 filed on April 7, 1975, and most recently revised on April 25, 1980, under 18 CFR 4.33 (1980), and, therefore, no further competing applications will be accepted for filing.

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 C.F.R § 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 14, 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. 81-8943 Filed 3-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA80-2-21 (PGA80-3) et al.]

Columbia Gas Transmission Corp. et al; Pipeline Rates Consolidation; Order Granting Leave To Withdraw Original Complaint, Accepting Amended Complaint, and Consolidating Proceedings

Issued: March 18, 1981.

In the matter, of Columbia Gas Transmission Corporation and Columbia LNG Corporation [Docket No. TA80-2-21 (PGA80-3)], Consolidated Gas Supply Corporation, and Consolidated LNG Company [Docket No. TA80-2-22 (PGA80-5)(IPR80-3) (LFUT80-2) and (RD&D80-2)], Southern Natural Gas Company [Docket No. RP80-136], State of Ohio Ex Rel. William J. Brown, Attorney General [Docket No. RP80-129].

The Attorney General of the State of Ohio (Ohio) filed a complaint in this docket on August 9, 1980, in which numerous allegations were made regarding the LNG facility at Cove Point, Maryland. It was alleged that Columbia Gas Transmission Corporation (Columbia), Columbia LNG Corporation (Columbia LNG), Consolidated Gas Supply Corporation (Consolidated), and and Consolidated System LNG Company (Consolidated LNG) have violated tariff and contract provisions by failing to invoke minimum bill provisions following the cessation of LNG deliveries by Algeria; violated tariff provisions by failing to invoke minimum bill provisions following an accident on October 6, 1979, at the Coved Point facility; engaged in transactions which have resulted in a shifting of the risk of loss to consumers; charged unlawful and excessive rates for deliveries from the Cove Point facility; and, unlawfully overcollected capital costs through their PGA clauses.

On September 15, 1980, separate Answers were filed by both Columbia and its LNG affiliate, and Consolidated and its LNG affiliate, denying all allegations of tariff violations and unlawful activity set forth in the Attorney General's Complaint.

A Motion for Consolidation and Memorandum in Support was filed on November 3, 1980 by Ohio, in which it requested consolidation of the Complaint with proceedings in Docket Nos. TA80-2-21 (PGA80-3) and TA80-2-22 (PGA80-5)(IPR80-3)(LFUT80-2)(RD&D80-2). Ohio argued in support of its Motion that the two proceedings and its Complaint in this docket raised common questions of law and fact, noting a further similarity between the parties. No responses have been filed in this docket in opposition to Ohio's Motion for Consolidation.

On February 17, 1981, Ohio filed a Motion For Leave To File An Amended Complaint, to which was attached the Amended Complaint. The Amended Complaint realleged all counts contained in the original Complaint, with the exception of the allegation that Columbia, Columbia LNG, Consolidated and Consolidated LNG violated tariff provisions by failing to invoke the minimum bill following the October 6, 1979 accident at Cove Point.

The basic issue raised by Ohio is whether the total operations of the Cove Point LNG terminal have been sufficiently continuous with adequate levels of delivery to justify full cost recovery under the Columbia LNG and Consolidated LNG tariffs, or whether the level of service should have triggered the minimum bill provisions in the companies' tariffs. Ohio's Amended Complaint alleges a fraudulent purpose in the delivery by Columbia LNG and Consolidated LNG of a "*de minimis* stream of gas", while recovering the full cost of an "inoperable" Cove Point LNG terminal. This procedure is alleged by Ohio to be in violation of both Opinion Nos. 622 and 622-A, and the public policy. Ohio states that this issue arises as a result of the fact that Sonatrach, the state owned and operated national oil and gas company of Algeria, terminated all LNG shipments to Cove Point on April 1, 1980. To date there has been no resumption of such shipments, which were originally terminated pending the negotiations of an LNG price increase for Sonatrach.

The minimum bill provisions in the tariffs of Columbia LNG and Consolidated LNG also frame the subject matter in the proceedings initiated by Commission order of August 29, 1980 in Docket Nos. TA80-2-21, TA80-2-22 and RP80-136. Therefore, the Commission finds that it is appropriate to consolidate these proceedings to assure consistency in the resolution of related claims and to avoid unnecessary duplication of effort. In addition, the Commission shall grant the Attorney General of the State of Ohio leave to withdraw the original Complaint which was filed on August 4, 1980, pursuant to Section 1.11(d) of the Commission's Rules of Practice and Procedure.

The Commission Orders: (A) The Attorney General of the State of Ohio shall be granted leave to withdraw the complaint filed in Docket No. RP80-129 on August 4, 1980, in accordance with 18 CFR 1.11(d). In addition, the Commission hereby accepts the Amended Complaint filed in this docket on February 17, 1981 by the Attorney General.

(B) The November 3, 1980 request by the Attorney General of the State of Ohio for consolidation of the Complaint, as amended, with the proceedings in Docket Nos. TA80-2-21, *et al.*, shall be granted for purposes of hearing and decision, pursuant to 18 CFR 1.20(b). The scope of these proceedings shall be consistent with both the Commission's August 29, 1980 order in those dockets, and the Commission's order herein.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-9044 Filed 3-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3649-000]

Mitchell Energy Company, Inc.; Application for Preliminary Permit

March 17, 1981.

Take notice that Mitchell Energy Company, Inc. (Applicant) filed on November 3, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for proposed Project No. 3649 to be known as Mississippi Lock and Dam No. 7 Hydroelectric Project to be located at the U.S. Army Corps of Engineers' Mississippi Lock and Dam No. 7, a navigation project, on the Mississippi River, near the town of Lacrosse, in Winona County, Minnesota. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Mitchell L. Dong, President, Mitchell Energy Company, Incorporated, 173 Commonwealth Avenue, Boston, Massachusetts 02116. 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 an existing U.S. Army Corps of Engineers lock and dam. Project No. 3649 would consist of: 1) a proposed powerhouse located just below the existing dam; 2) proposed transmission lines and 3) appurtenant facilities. Applicant estimates the capacity of the proposed generator units to be 12 MW. The project is located on Federal lands.

The Applicant estimates that the average annual energy output would be 77,260,000 KWh.

Purpose of Project—Energy produced at the proposed project would be sold to a local utility.

Proposed Scope and Cost of Studies Under Permit—Applicant has requested a 24-month permit to prepare a definitive project report, including preliminary design and economic feasibility studies, hydrological studies, environmental and social studies and soil and foundation data. The cost of the aforementioned activities along with obtaining agreements with other Federal, State, and local agencies is estimated to be $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—Anyone desiring to file a competing application must submit to the Commission, on or before May 18, 1981, either the competing application itself or a notice

of intent to file a 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 July 17, 1981. A notice of intent must conform with the requirements of 18 C.F.R. § 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 C.F.R. § 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 May 18, 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. 3649. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the orginal 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. 81-8946 Filed 3-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4016-000; Project No. 4020-000]

Arkansas Power & Light Co. and Arkansas Electric Cooperative Corp.; Application for Preliminary Permit

March 18, 1981.

Take notice that the Arkansas Power and Light Company (AP&L) filed on January 11, 1981, and the Arkansas Electric Cooperative Corporation (AEC) filed on January 16, 1981, competing applications [pursuant to Federal Power Act, 16 U.S.C. Sections 791(a)–825(r)] for preliminary permit for a proposed hydroelectric power project that would be known as the Lock and Dam No. 3 Project, FERC Project Nos. 4016 and 4020, respectively. The proposed project is located on the White River in Independence County, Arkansas. The applications are on file with the Commission and are available for public inspection. Correspondence with the Arkansas Power and Light Company, should be directed to: Mr. W. Henry Jones; Manager, Civil Engineering; Arkansas Power and Light Company, Post Office Box 551, Little Rock, Arkansas 72203. Correspondence with the Arkansas Electric Cooperative Corporation, should be directed to: Mr. Louis Fish, Assistant General Manager, Arkansas Electric Cooperative Corporation, 8000 Scott Hamilton Drive, Little Rock, Arkansas 72209. 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 No. 4016 would consist of: (1) the existing Lock and Dam No. 3 (the dam is 31 feet high and has a crest length of 750 feet, the lock is 147 feet long and 36 feet wide); (2) a reservoir of negligible storage capacity; (3) a new powerhouse, adjacent to Lock No. 3, having a generating capacity of 8,400 kW; (4) a new switchyard; (5) a new transmission line; and (6) appurtenant facilities. AP&L estimates that the average annual energy output would be 48,000,000 kWh. The proposed Project No. 4020 would utilize the same Lock and Dam No. 3 and its reservoir, and would also include a new powerhouse adjacent to Lock No. 3 having a generating capacity of 15,000 kW. AEC estimates that the average annual energy output would be 80,000,000 kWh. The owner of Lock and Dam No. 3 is the Arkansas College.

Purpose of Project—AP&L proposes to utilize a portion of the energy generated and sell the remainder to the AEC and local municipalities. AEC proposes to utilize all the energy generated for distribution to its members.

Proposed Scope and Cost of Studies Under Permit—AP&L seeks issuance of a preliminary permit for a period of two years and AEC seeks issuance for a period of three years. Both Applicants would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, project power potential, and all information necessary for inclusion in an application for a license. AP&L estimates the cost of studies under the preliminary permit would be between $20,000 and $50,000 and AEC estimates the cost to be between $38,000 and $80,000.

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 each application may be obtained directly from the respective 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 May 18, 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 July 17, 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 protest 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 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 May 18, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protest, 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. 4016 and Project No. 4020. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the orginal 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. 81-8934 Filed 3-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4266-000]

Burton Allen Finberg; Application for Preliminary Permit

March 18, 1981.

Take notice that Burton Allen Finberg (Applicant) filed on February 27, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 4266 to be known as Albion Hydroelectric Project located on the Blackstone River in the Towns of Lincoln and Cumberland, Providence County, Rhode Island. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Burton Allen Finberg, 184 University Avenue, Providence, Rhode Island 02906. 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 run-of-the-river project would consist of: (1) an existing concrete rollway dam, about 300 feet long and 25 feet high; (2) an existing reservoir with a negligible storage capacity of 235 acre feet at surface elevation of 87.7 feet m.s.l.; (3) a new headrace with gate structure and trashracks at the east (left) dam abutment; (4) a new powerhouse with an installed capacity of 850 kW; (5) a tailrace; and (6) other appurtenances. The Applicant estimates that the average annual energy output would be about 5,180,000 kWh.

Purpose of Project—Project energy would be sold to the Blackstone Valley Electric Company.

Proposed Scope and Cost of Studies Under Permit—Applicant seeks issuance of a preliminary permit for a period of 24 months, during which time he would perform hydraulic, construction, economic, environmental, historic, and recreational studies, and if the proposed project is determined feasible, prepare an application for an FERC license. Applicant estimates cost of studies under the permit would not exceed $43,000.

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 Application.—Anyone desiring to file a competing application must submit to the Commission, on or before May 21, 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 July 20, 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 May 21, 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. ——. 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. 81-8935 Filed 3-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. EC81-8-000]

Central Maine Power Co.; Application

March 18, 1981.

The filing company submits the following:

Take notice that on March 5, 1981, Central Maine Power Company (Central Maine) filed an application with the Federal Energy Regulatory Commission pursuant to Section 203 of the Federal Power Act seeking an order authorizing it to acquire through merger all of the assets of Carrabassett Light and Power Company (Carrabassett).

Central Maine is an electric utility organized under the laws of Maine with its principal office at Augusta, Maine. It serves approximately 380,00 customers in an area of 10,600 square miles in the central and southern parts of Maine.

Carrabassett is an electric utility incorporated under the laws of Maine and has its principal office at North Anson, Maine. It serves approximately 505 customers in the Towns of Anson and Embden, Somerset County, Maine. Carrabassett currently purchases all of its power requirements from Central Maine under a contract filed with the Federal Energy Regulatory Commission. The territory served by Carrabassett is located adjacent to the Central Maine system and, according to the application, Carrabassett's rates in general are higher than those now charged by Central Maine.

The application states that Central Maine proposes to exchange that number of shares of its common stock which, when multiplied by the Market Value (as defined in the proposed Plan of Merger) of that stock on the closing date equals or most nearly equals the total value of $246,377 for all of the outstanding common stock of Carrabassett, said sum of $246,377 being subject to change to the extent the Net Worth (as defined) of Carabassett shall have changed as of the effective time of the merger.

Central Maine represents that the intergration of the relatively small electric utility system of Carrabassett into the larger intergrated system of Central Maine will result in assuring an adequate supply of electric energy in the territory now served by Carrabassett.

Any person desiring to be heard or to make any protest with reference to said application should, on or before April 3, 1981, file with the Federal Energy Regulatory Commission in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc.81-9036 Filed 3-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-317-000]

Central Vermont Public Service Corp.; Filing

March 18, 1981.

The filing company submits the following:

Take notice that on March 2, 1981, Central Vermont Public Service Corporation (Central Vermont) submitted for filing a proposed modification of the availability provision of Central Vermont's Rates 8 and 8-A. Central Vermont's Rate 6 has been superseded thereby.

A copy of this filing has been served upon the parties to this proceeding.

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 Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before April 3, 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 available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-8937 Filed 3-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. CS81-59-000, et al.]

Emefco Petroleum Inc., et al.; Applications for "Small Producer" Certificates[1]

March 18, 1981.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before April 3, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protest filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

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 held without further notice before the Commission on all applications in which no petition to intervene is filed within

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where 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 Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No.	Date filed	Applicant
CS81-59-000	2/17/81	Emefco Petroleum, Inc., Suite 500, 1580 Lincoln St. Denver, Colorado 80203
CS81-60-000	2/18/81	Charles W. Kemp, 1701 E. Highland Dr., Hobbs, New Mexico 88240
CS81-61-000	2/18/81	James R. and Carl D. Doverspike, co-partners, d.b.a. J. C. Enterprises, P.O. 90, Ringgold, PA 15770
CS81-62-000	2/19/81	Ellis W. Manning, Jr., P.O. Box 2514, Casper, Wyoming 82602
CS81-63-000	2/19/81	Velda B. Wyche, 2208 Windsor Road, Austin, Texas 78703
CS81-64-000	2/26/81	Douglas G. Fuller, 904 American Tower, Shreveport, LA 71101
CS81-65-000	2/26/81	Patti W. Link, 4222 Somerville, Dallas, TX 75026
CS81-66-000	2/18/81	Theodore C. Whitson, 465 Winn Way, Suite 241, Decatur, GA 30030
CS81-67-000	2/27/81	Todd L. White, 726 White Drive, Garland, TX 75040
CS71-317-000	[1] 2/10/81	Coales Energy Trust and Elizabeth H. Maddux (formerly George H. Coales Estate), 1610 Milam Building, San Antonio, Texas 78205

[1] Being noticed to reflect a name change.

[FR Doc. 81-8936 Filed 3-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4187-000]

Marc Leon Figueira; Application for Preliminary Permit

March 18, 1981.

Take notice that Marc Leon Figueira (Applicant) filed on February 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. 4187 to be known as Sheridan Creek Project located on a tributary to Sheridan Creek in Shasta County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Marc Leon Figueira, P.O. Box 558, Route #2, Shingletown, California 96088. 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) a diversion structure; (2) a pipeline; (3) a 25-foot wide and 30-foot long powerhoue containing one generating unit rated at 411 kW; (4) a new one-half-mile long access road; and (5) a 200-foot long transmission line. The project would be operated on a run-of-the-river basis.

The Applicant estimates that the average annual energy output would be one million kWh.

Purpose of Project—The energy generated by the project would be sold to the Pacific Gas and Electric Company.

Proposed Scope and Cost of Studies Under Permit—Applicant seeks issuance of a preliminary permit for a period of 18 months, during which time it would conduct engineering, environmental, economic, and feasibility studies, and prepare an FERC license application. No new roads would be required to conduct the studies.

The cost of the studies to be performed under the preliminary permit is estimated to be $20,000.

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 any 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 May 20, 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 July 20, 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, protests, or petition to intervene must be received on or before May 20, 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", "PROTESTS", 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. 4187. Any comments, notices of intent, competing applications, protests, or petitions to interene 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, NE., 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, NW., 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. 81-8939 Filed 3-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4041-000]

Massachusetts Municipal Wholesale Electric Co.; Application for Preliminary Permit

March 18, 1981.

Take notice that Massachusetts Municipal Wholesale Electric Company (Applicant) filed on January 21, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for proposed Project No. 4041 to be known as the Westville Project located on the Quinebaug River in Southbridge, Worcester County, Massachusetts. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Phillip C. Otness, General Manager, Massachusetts Municipal Wholesale Electric Company, Stony Brook Energy Center, P.O. Box 426, Ludlow, Massachusetts 01056. 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 Army Corps of Engineers' Westville dam and the associated reservoir and would consist of a new powerhouse containing a single turbine-generator with a total rated capacity of 1 MW and a transmission line.

The Applicant estimates that the average annual energy output would be 4,300,000 kWh.

Purpose of Project—Energy generated at the project would be utilized by the Applicant for distribution to its 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 $40,000.

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 Westville Project No. 3339 filed on August 19, 1980, by Water Power Development Corporation, under 18 CFR (1980), and, therefore, no further competing applications or notices of intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest 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 14, 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. 4041. Any comments, protests, or petitions to intervene must be filed by providing the orginal and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., 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, 825 North Capitol Street, NE., Room 208 RB Building, Washington, D.C. 20426. A copy of any 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. 81-8940 Filed 3-23-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP81-10-002]

Western Gas Interstate Co.; Notice of Filing

March 18, 1981.

Take notice that on March 6, 1981, Western Gas Interstate Company ("Western") filed Second Substitute Sixteenth Revised Sheet No. 3A to its FERC Gas Tariff, Original Volume No. 1. Said tariff sheet is proposed to become effective on December 2, 1980.

Western states that Second Substitute Sixteenth Revised Sheet No. 3A is being filed in compliance with the Commission's letter order dated December 30, 1980, in Docket No. RP81-10-001 requiring Western to refile revised rates "consistent with the Office of Pipeline and Producer Regulation Order in Docket No. TA81-1-52-001 (PGA81-1a)."

Western states that copies of this filing were served upon Western's transmission system customers and the interested state regulatory commissions.

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 Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before March 30, 1981. Protests will be considered by the Commission 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 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. 81-8942 Filed 3-23-81; 8:45 am]

BILLING CODE 6450-85-M

ENVIRONMENTAL PROTECTION AGENCY

[PH-FRL 1785-7; OPP 180553A]

Arizona and California; Amendment to Specific Exemption for Fenvalerate on Lettuce

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted an amendment to specific exemptions issued to Arizona and California for the use of Pydrin on lettuce to control *Heliothis* species.

FOR FURTHER INFORMATION CONTACT: Jack E. Housenger, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Room 502C, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7123).

SUPPLEMENTARY INFORMATION: Notice of these exemptions appeared in the **Federal Register** of February 19, 1981 (46 FR 13107). Item 15 has been amended to read as follows:

15. Head lettuce with residue levels of fenvalerate not exceeding 10 parts per million may enter into interstate commerce. The Food and Drug Administration, U.S. Department Health and Human Services, has been advised of this action.

All other terms of the specific exemptions still apply.

Dated: March 13, 1981.

Edwin L. Johnson,

Deputy Assistant Administrotor for Pesticide Programs.

[FR Doc. 81-8889 Filed 3-23-81; 8:45 am]

BILLING CODE 6560-32-M

[OPP 180580; PH-FRL 1786-4]

Arkansas; Issuance of Specific Exemption for Bolero and Propanil in Rice Fields

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption to the Arkansas State Plant Board (hereafter referred to us the "Applicant") for use use of Bolero (thiobencarb) alone or in a tank mixture with propanil to control grasses, aquatic weeds, and boardleaf weeds infesting 200,000 acres of dry-seeded rice fields in 41 Arkansas counties. The specific exemptions are issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: The specific exemption expires on August 31, 1981.

FOR FURTHER INFORMATION CONTACT: Jack E. Housenger, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Room 502C, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7123).

SUPPLEMENTARY INFORMATION: According to the Applicant, grasses are very competitive with rice and can reduce rice yields by from 25 to 90 percent; the aquatic weed complex can reduce yields from 10 to 25 percent; and broadleaf weeds can reduce grain yields as much as 24 percent. The Applicant claims that currently registered pesticides have limitations resulting in ineffective control. Bolero, which contains the active ingredient (a.i.) thiobencarb, is an unregistered product manufactured by the Chevron Chemical Company. Propanil is currently registered for use on rice and is manufactured by several chemical companies. The Applicant estimates that a total savings of $16 million can be realized from the proposed use of Bolero alone or in combination with propanil through more efficient weed control resulting in increased efficacy of other production inputs and the reduced number of herbicide applications needed.

EPA has determined that residues of thiobencarb and its metabolites should not exceed 0.2 part per million (ppm) on rice grain, 1.0 ppm on rice straw, 0.05 ppm in milk, and 0.2 ppm in eggs, and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep from the proposed use. Residues of propanil are not expected to exceed those levels already established from use of the proposed Bolero and propanil tank maxture. These levels have been judged to be adequate to protect the public health.

EPA has required consultations with the State Fish and Game Department and the Office of Endangered Spices, Fish and Wildlife Service, U.S. Department of the Interior, to safeguard against potential hazards to non-target organisms and federally designated endangered and threatened spices.

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 pesticides named above until August 31, 1981, subject to the following conditions:

1. The Applicant is responsible for ensuring that all provisions of this specific exemption are met. It is also responsible for providing information in accordance with 40 CFR 166.5. This information must be submitted to EPA Headquarters through the EPA Regional Office. Information provided in accordance with paragraph (a) of this section must include the exact location of the places of application. A report summarizing the results of this program, as required in paragraph (d), must be submitted by December 31, 1981.

2. The product Bolero 8 EC, manufactured by Chevron Chemical Co., may be applied alone or in a tank mixture with propanil. EPA-registered propanil products, as emulsifiable concentrates containing 3 or 4 pounds a.i. per gallon, which are registered for use on rice, may be used.

3. Bolero 8 EC must be shipped under the most recently accepted labeling in connection with this product's use under an experimental use permit.

4. Bolero 8 EC may be applied at a rate of 4 pints of formulation (4.0 pounds a.i.) per acre as a late pre-emergence or early post-emergence application. Bolero 8 EC may also be used in a tank mixture with propanil at a rate of 3 pints of formulation (3.0 pounds a.i.) of Bolero 8 EC and 3 pounds a.i. propanil per acre and applied as an early post-emergence application. Applications are to be made in accordance with the labeling submitted.

5. A maximum of 100,000 gallons of Bolero 8 EC may be applied to 200,000 acres of dry-seeded rice in the 41 counties specified in the application.

6. Applications may be made with aerial equipment using a minimum of 10 gallons of spray mixture per acre, or with ground equipment using 15 to 20 gallons of spray mixture per acre.

7. All applications will be made by commercial or private applicators certified in this category of pest control.

8. Precautions will be taken to avoid spray drift to nontarget areas. The pesticide will not be applied when weather conditions favor drift.

9. Crops other than rice may not be planted in treated fields for 6 months following treatment.

10. Second-crop (stubble crop) rice may not be treated.

11. Phytotoxicity may occur from this use.

12. Only a single application of Bolero 8 EC (late pre-emergence or early post-emergence) is permitted.

13. A fish/wildlife monitoring program must be carried out. The results of this program must be detailed and forwarded to EPA Headquarters as soon as they become available, but no later than December 31, 1981.

14. All applicable directions, restrictions, and precautions on the proposed labeling for Bolero 8 EC and on the EPA-registered propanil label must be followed.

15. The available data indicate that nontarget aquatic invertebrates and fish larvae could potentially be adversely inpacted from this use pattern. Additionally, the endangered naiad, *Potamilus capax*, would be the federally designated endangered species most likely exposed to this herbicide. The agricultural requirement for frequent flushings as well as the label requirement for rain or flush (irrigation) after treatment would increase the likelihood of Bolero contaminating aquatic environments downstream from rice fields.

Consultations must be held regarding measures to safeguard against potential hazards to nontarget organisms and federally designated endangered and threatened species with the State Fish and Game Department and the Office of Endangered Species, Fish and Wildlife Service, U.S. Department of the Interior, respectively. Bolero must not be used in areas where impact on endangered/threatened species is likely.

16. Residues of thiobencarb and its metabolites resulting from the above application are not expected to exceed 0.2 ppm on rice grain, 1.0 ppm on rice straw, 0.05 ppm in milk, and 0.2 ppm in eggs, and the meat, fat, and meat by-products of cattle, goats, hogs, horses, poultry, and sheep. Residues of propanil are not expected to exceed those levels already established. Commodities with residues not in excess of these levels may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health and Human Services, has been advised of this action.

17. The EPA shall be immediately informed of any adverse effects resulting from the use of Bolero alone or with propanil in connection with this exemption.

(Sec. 18, as amended (92 Stat. 819; 7 U.S.C. 136))

Dated: March 13, 1981.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 81-8867 Filed 3-23-81; 8:45 am]

BILLING CODE 6560-32-M

[PP 6G1838/T289; PH-FRL 1785-4]

Butachlor; Extension of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Temporary tolerances have been extended for residues of the herbicide butachlor [*N*-(butoxymethyl)-2-chloro-2',6'diethylacetanilide] in or on the raw agricultural commodities rice at 0.5 part per million (ppm) and rice straw at 3 ppm.

DATE: These temporary tolerances expire April 23, 1982.

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, (703-557-7066).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of April 29, 1980 (45 FR 28485) that temporary tolerances had been established for residues of the herbicide butachlor [*N*-(butoxymethyl)-2-chloro-2',6'-diethylacetanilide] in or on the raw agricultural commodities rice at 0.5 ppm and rice straw at 3 ppm. These tolerances were established at the request of Monsanto Agricultural Products Co., 1101 17th St. NW., Washington, D.C. 20036. Monsanto Co. has requested an extension of the temporary tolerances to permit the continued marketing of the above raw agricultural commodities when treated in accordance with the experimental use permit (524-EUP-30) 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 other relevant material have been evaluated, and it has been determined that the temporary tolerances will protect the public health. Therefore, the temporary tolerances are extended on the condition that the pesticide be used in accordance with the experimental use permit with the following provisions:

1. The amount of the pesticide to be used will not exceed the amount authorized in the experimental use permit.

2. Monsanto Co. will 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 these records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire April 23, 1982. Residues remaining in or on the raw agricultural commodities after the expiration date 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 temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicates that such revocation is necessary to protect the public health.

(Sec. 408 (j), 68 Stat. 516, (21 U.S.C. 346a(j)))

Dated: March 17, 1981.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 81-8868 Filed 3-23-81; 8:45 am]

BILLING CODE 6560-32-M

[PH-FRL 1785-3; PP 8G2066/T294]

Ethephon; 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 ethephon [(2-chloroethyl) phosphonic acid] in or on the raw agricultural commodity cottonseed at 0.5 part per million (ppm).

DATE: This temporary tolerance expires June 15, 1982.

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, (703-557-7066).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of April 17, 1980 (45 FR 26125) that a temporary tolerance had been extended for residues of the plant growth regulator ethephon in or on cottonseed at 0.5 ppm. This extension was requested by Union Carbide Agricultural Products Co., 300 Brookside Ave., Ambler, PA 19002.

Union Carbide has requested an extension of the temporary tolerance to permit the continued marketing of the above raw agricultural commodity when treated in accordance with the experimental use permit (264–EUP–55) 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 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 pesticide be used in accordance with the experimental use permit with the following provisions:

1. The amount of the pesticide to be used will not exceed the amount authorized in the experimental use permit.

2. Union Carbide will 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 these records available to any authorized officer or employer of the EPA or the Food and Drug Administration.

This temporary tolerance expires June 15, 1982. Residues remaining in or on the raw agricultural commodity after the expiration date 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 tolerance.

This temporary tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicates that such revocation is necessary to protect the public health.

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 346a(j)))

Dated: March 17, 1981.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 81-8871 Filed 3-23-81; 8:45 am]

BILLING CODE 6560-32-M

[TSH-FRL 1785-6; OPTS-51203A]

Metal Resinate; Premanufacture Notice; Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice amends the premanufacture notice (PMN) submitted by a certain company as required by section 5(a)(1) of the Toxic Substance Control Act (TSCA) on the chemical metal resinate (generic name provided by the company). The company claimed its identity as confidential business information.

SUPPLEMENTARY INFORMATION: EPA issued a notice of receipt of a PMN (P–80–344) published in the **Federal Register** of January 27, 1981 (46 FR 8710). Under *"Toxicity Data."* appearing at page 8711 (FR Doc. 81–2694), second column, the information provided under said data is amended by adding the sentence, "This reflects effects caused by the PMN substance as shipped in a hydrocarbon solvent."

Dated: March 17, 1981.

Edward A. Klein,

Director, Chemical Control Division.

[FR Doc. 81-8870 Filed 3-23-81; 8:45 am]

BILLING CODE 6560-31-M

[AD-FRL 1786-6]

National Air Pollution Control Techniques Advisory Committee; Open Meeting

Under Public Law 92–463, notice is hereby given that a meeting of the National Air Pollution Control Techniques Advisory Committee will be held on April 29 and 30, 1981, at the Hilton Inn, Washington Room, 1707 Hillsborough Street, Raleigh, North Carolina 27605. The commerical telephone number is (919) 828–0811.

The tentative agenda for the meeting is as follows:

April 29 (Wednesday)—9 a.m.

- Metallic Mineral Processing Plants, New Source Performance Standard (Section 111)
- Gypsum Plants, New Source Performance Standard (Section 111)
- Manufacture of Styrene-Butadiene Copolymers, Control Techniques Guidelines for Volatile Organic Compounds (Sections 101(b) and 103)
- Equipment Leaks from Natural Gas/Gasoline Processing Plants, Control Techniques Guidelines for Volatile Organic Compounds (Section 101(b) and 103)

April 30 (Thursday)—9 a.m.

- Continuation of April 29—As Required
- Fugitive Emissions from Polymers and Resin Manufacture, Control Techniques Guidelines for Volatile Organic Compounds (Sec. 101(b) and 103)
- Coke Wet Quenching, New Source Performance Standard (Section 111)

All meetings are open to the public. Anyone wishing to make a presentation should contact Ms. Mary Jane Clark at the Emission Standards and Engineering Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, by April 22, 1981. The commercial telephone number is (919) 541–5571, and the FTS number is 629–5571.

The dockets containing material relevant to metallic mineral processing plants (A–81–03), gypsum plants (A–80–15), and coke wet quenching (A–81–06) are located in the U.S. Environmental Protection Agency, Central Docket Section, West Tower Lobby—Gallery 1, 401 M Street SW., Washington, D.C. 20460. The docket may be inspected between 8 a.m. and 4 p.m. on weekdays, and a reasonable fee may be charged for copying.

Dated: March 19, 1981.

Edward F. Tuerk,

Acting Assistant Administrator, for Air, Noise, and Radiation.

[FR Doc. 81-8873 Filed 3-23-81; 8:45 am]

BILLING CODE 6560-26-M

[AS-FRL 1784-7]

The National Contingency Plan; Delay in Mailing of Draft Revision

AGENCY: Environmental Protection Agency.

ACTION: A delay in the mailing of the draft revision of the National Contingency Plan for the March 26th Public Meeting.

SUMMARY: An initial draft copy of the National Contingency Plan will not be mailed before the Public Meeting on the National Contingency Plan, March 26, 1981. However, the draft should be available at the Public Meeting and a two-week public comment period will follow.

DATE: A change from the original notice. Time is extended 30 minutes and will be from 9:00 a.m. until 12:30 p.m. Date is still March 26, 1981.

ADDRESS: No change from the original notice. Lisner Auditorium, George Washington University, 21st and H Streets NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Ms. Julie Frazier, EPA, Office of Hazardous Emergency Response (WH–548), 401 M Street SW., Room 2817, Mail, Washington, D.C. 20460, Telephone: (202) 755–9685.

Dated: March 18, 1981.

Michael B. Cook,

Deputy Assistant Administrator, Hazardous Emergency Response (WH–548).

[FR Doc. 81-8874 Filed 3-23-81; 8:45 am]

BILLING CODE 6560-36-M

[EW-FRL 1787-1]

Motor Vehicle Pollution Control; Waiver of Oxides of Nitrogen Emission Standards; Cancellation of Public Hearing

AGENCY: Environmental Protection Agency.

ACTION: Cancellation of tentatively scheduled public hearing.

SUMMARY: This notice cancels a public hearing that EPA tentatively scheduled for March 25, 1981, to consider a request by General Motors Corp. (GM) for a waiver of the 1982 model year oxides of nitrogen (NOx) emission standard for its 4.3 liter (L) light-duty diesel engine family. EPA will consider this waiver request on the basis of information submitted or otherwise included in the record. The record for this waiver request will remain open for written submissions of interested parties until April 3, 1981.

DATES: This notice cancels a public hearing that was tentatively scheduled for March 25, 1981.

ADDRESSES: Parties may submit written information concerning GM's waiver request to the Director, Manufacturers Operations Division (EN–340), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 (Docket Number EN–81–4). Copies of all materials relevant to the waiver request will be available for public inspection during normal working hours (8:00 a.m. to 4:00 p.m.) at U.S. Environmental Protection Agency, Central Docket Section (A–120), Gallery I, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Deborah Schloss, Attorney/Advisor, Manufacturers Operations Division (EN–340), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 472–9421.

SUPPLEMENTAL INFORMATION:

I. Background and Discussion

EPA announced in a recent **Federal Register** notice, 46 FR 15893 (March 10, 1981) that it had received a request from GM pursuant to section 202(b)(6)(B) of the Clean Air Act (Act)[1] for waiver of the 1982–1984 NOx emission standard for its 4.3L light-duty diesel engine family.

Section 202(b)(6)(B) of the Act allows any manufacturer to petition the Administrator of EPA for waiver of the 1981–1984 model year NOx standard of 1.0 gram per mile (g/mi). The Administrator, after notice and opportunity for public hearing, may waive the standard for any class or category of light-duty diesel vehicles manufactured during the four model year period up to a maximum level of 1.5 g/mi, if the manufacturer can show that the waiver is necessary to permit the use of diesel engine technology. The waiver may be granted if the Administrator can make the findings specified in section 202(b)(6)(B) of the Act.

In the **Federal Register** notice announcing receipt of GM's waiver application, EPA stated that it had tentatively scheduled a public hearing for March 25, 1981 to consider GM's request for the 1982 model year only.[2] EPA stated that it would cancel the hearing and make its waiver decision on the basis of written submissions and information otherwise contained in the record if no party notified EPA by March 12, 1981 that it wished to appear and present oral testimony. That notice also stated that the comment period would close by April 3, 1981.

EPA has not received notification from any party stating that it wishes to appear and present oral testimony concerning GM's waiver request. Therefore, EPA has cancelled the hearing scheduled for March 25, 1981. Interested parties may still submit written information for the Administrator's consideration until April 3, 1981 regarding GM's request for a waiver of the 1982 model year NOx emission standard for its 4.3L diesel engine family.

II. Procedures for Public Participation

Although EPA will not hold a public hearing to consider GM's waiver request, any party may still submit written data, views, and arguments which EPA will enter into the record upon which the Administrator bases his waiver decision. Interested parties who make written submissions should address considerations set forth in detail by the guidelines for submission of waiver requests, that EPA published in the **Federal Register** (43 FR 30341, (July 14, 1978)). Interested parties should address the following issues in particular:

(1) Whether a waiver is necessary to permit the use of diesel engine technology in the class or category of vehicles or engines for which an applicant requests a waiver;

(2) Whether the waiver would endanger the public health;

(3) Whether the waiver would result in significant fuel savings at least equal to the fuel economy standard applicable under the Energy Policy and Conservation Act (EPCA);

(4) Whether the technology utilized in the class or category for which a waiver is sought: (a) has a potential for long-term air quality benefit, and (b) has the potential to meet or exceed the average fuel economy standard applicable under EPCA at the expiration of the waiver, and;

(5) The level of NOx emissions, not to exceed 1.5 g/mi, which an applicant's diesel vehicle class or category could meet in each of the model years for which an applicant requests a waiver.

The record will remain open until April 3, 1981, for the submission of pertinent written information for consideration by the Administrator in formulating his waiver decision. EPA will make this information available for public inspection at the EPA Central Docket Section, Docket Number EN–81–4.

Dated: March 19, 1981.

Richard D. Wilson,

Acting Assistant Administrator for Enforcement.

[FR Doc. 81–8998 Filed 3–23–81; 8:45 am]

BILLING CODE 6560–33–M

[1] 42 U.S.C. § 7521(b)(6)(B), as amended 1977.

[2] EPA will consider GM's waiver request for the 1983 and 1984 model years in separate waiver proceedings.

FEDERAL COMMUNICATIONS COMMISSION

[Report No. A–27]

AM Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Released: March 20, 1981.

Cut-off Date: April 30, 1981.

Notice is hereby given that the applications listed in the attached appendix are hereby accepted for filing. They will be considered to be ready and available for processing after April 30, 1981. An application, in order to be considered with any application appearing on the attached list or with any other on file by the close of business on April 30, 1981, which involves a conflict necessitating a hearing with any application on this list must be substantially complete and tendered for filing at the close of business on April 30, 1981.

Petitions to deny any application on this list must be on file with the Commission not later than the close of business on April 30, 1981.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

BP–791119AF (WBRM), Marion, North Carolina, Lake City Broadcasting Corp.

Has: 1250 kHz, 1 kW, D. Req: 1250 kHz, 0.5 kW, 1 kW-LS, DA-N, U

BP-800121AU (new), Monroe, North Carolina, Del Broadcasting, Inc. Req: 1430 kHz, 2.5 kW, DA-2, U

BP-800317AG (KSKS), Conroe, Texas, Montgomery Metro, Inc. Has: 1140 kHz, 0.25 kW, DA-D, Req: 1140 kHz, 1 kW, DA-D

BP-801008AB (new), Deer Trail, Colorado, Gold Bar Broadcasting and Communications, Inc. Req: 1370 kHz, 5 kW, DA-D

BP-810108AE (new) Gatlinburg, Tennessee, Gatlinburg Broadcast Communications, Inc. Req: 1230 kHz, 250 W, 1 kW-LS, U

BP-810128AH (KIOA), Des Moines, Iowa, Mid America Broadcasting, Inc. Has: 940 kHz, 5 kW, 10 kW-LS, DA-2, U. Req: 940 kHz, 5 kW, 50 kW-LS, DA-2, U

BP-810209AL (new), Bountiful, Utah, General Broadcasting, Inc. Has: 680 kHz, 1 kW, D. Req: 700 kHz, 1 kW, 10 kW-LS, DA-2, U

[FR Doc. 81-8843 Filed 3-23-81; 8:45 am]

BILLING CODE 6712-01-M

[Report No. B-11]

AM Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Released: March 23, 1981.

Cut-off Date: May 1, 1981.

Notice is hereby given that the following applications have been accepted for filing. Because they are in conflict with applications previously accepted for filing and subject to cut-off dates for conflicting applications by either cut-off list or operation of § 73.3516(e) of the Commission's Rules, no application which would be in conflict with any of these applications will be accepted for filing.

Petitions to deny these applications must be on file with the Commission not later than the close of business on May 1, 1981.

Minor amendments to these applications, and to those they are in conflict with, may be filed as a matter of right not later than the close of business on May 1, 1981.

BP-810206AL (New), San Jacinto, California, Allesandro Broadcasting Company. Req: 830 kHz, 5 kW, 50 kW-LS, DA-2, U

BP-810209AB (New), La Mirada, California, New Radio Corporation. Req: 830 kHz, 1 kW, 50 kW-LS, DA-2, U

BP-810209AE (New), San Marcos, California, Western Radio Group. Req: 830 kHz, 1 kW, DA-N, U

BP-810209AF (New), Los Angeles, California, International Institute of Los Angeles. Req: 830 kHz, 1 kW, 5 kW-LS, DA-2, U

BP-810209AH (Kude), Oceanside, California, Dolph-Petty Broadcasting Company, Has: 1320 kHz, 500 W, DA-1, U, Req: 830 kHz, 1 kW, 2.5 kW-LS, DA-N, U

BP-810209AK (New), Orange, California, Orange County Broadcasting Corporation. Req: 830 kHz, 1 kW, 2.5 kW-LS, DA-N, U

BP-810209AM (New), La Mesa, California, Pro Broadcasters. Req: 830 kHz, 2.5 kW, 10 kW-LS, DA-N, U

BP-810209AN (New), Santee, California, Santee Broadcasting Company, Inc. of Indiana. Req: 830 kHz, 1 kW, 2.5 kW-LS, DA-N, U

BP-810209AQ (New), Tucson, Arizona, Doylan Forney. Req: 830 kHz, 1 kW, 50 kW-LS, DA-N, U

BP-810302AB (New), New Haven, Connecticut, Southern Connecticut Radio. Req: 1340 kHz, 250 W, 1 kW-LS, U (mutually exclusive with renewal application of WNHC, New Haven, Connecticut)

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 81-8842 Filed 3-23-81; 8:45 am]

BILLING CODE 6712-01-M

[Docket No. 81-161; Transmittal Nos. 545, 546, 547]

Hawaiian Telephone Co.; Memorandum Opinion and Order

Adopted: March 13, 1981.

Released: March 20, 1981.

In the matter of Hawaiian Telephone Co., CC Docket No. 81-161, Transmittal No. 545, Tariff F.C.C. No. 18, Exchange Network Facilities for Interstate Access; Hawaiian Telephone Co., Transmittal No. 546, Tariff F.C.C. No. 19, Customer Indirect Network Exchange Access; Hawaiian Telephone Co., Transmittal No. 547, Revisions to Tariff F.C.C. No. 11, Foreign Exchange Service. Instituting investigation.

1. Before the Bureau are several petitions requesting rejection or, in the alternative, suspension and investigation of three separate access charge tariffs filed by the Hawaiian Telephone Company (Hawaiian). These include: proposed Tariff F.C.C. No. 18, to be called Exchange Network Facilities for Interstate Access (ENFIA); proposed Tariff F.C.C. No. 19, to be known as Customer Indirect Network Exchange Access (CINEA); and, finally, revisions to Hawaiian's existing Tariff F.C.C. No. 11, Foreign Exchange Service (FX).[1] For reasons explained below, we will deny the petitions against Hawaiian's ENFIA tariff and allow it to become effective. We find, however, that the CINEA and FX tariff filings raise issues of lawfulness and, accordingly, we will suspend them for the full statutory period and institute and investigation.

Background

2. By these three tariff proposals Hawaiian seeks compensation for use of its local exchange network in the provision of interstate MTS/WATS-type and private line services. In order to more fully understand the nature of Hawaiian's three tariff proposals, a brief review of compensation arrangements and recent Commission action in this area is warranted.

A. Current Local Exchange Compensation Arrangements

3. Three different mechanisms have evolved for compensating operators of local telephone exchange facilities for originating or terminating interstate communications. Under the traditional mechanism which dates back to the mid-1940's, compensation occurs among Bell-System Operating Companies (BSOCs) and AT&T Long Lines through a process called "division of revenues" and between independent telephone companies and BSOCs through a process called "settlements". The divisions/settlements process was designed to operate as a single system producing consistent results for Bell and non-Bell telephone companies. Under the divisions/settlements process, a telephone company that originates or terminates interstate calls receives compensation from an interstate revenue pool based upon the company's total exchange and interexchange expenses and investments apportioned to the interstate operation. The procedures for determining the interstate exchange and interexchange expenses and investments is based on the Separations Manual.[2] Most

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[1] United States Transmission Systems, Inc. (USTS) and Southern Pacific Communications Company (SPCC) have filed petitions for rejection or suspension and investigation of Hawaiian's ENFIA, CINEA and FX tariff proposals. General Electric Company and Sears Roebuck & Co. (GE/Sears) filed joint petitions for rejection or suspension and investigation of Hawaiian's CINEA and FX tariff proposals. The General Services Administration (GSA) and Defense Communications Agency of the Department of Defense (DOD), on behalf of the Federal Executive Agencies (FEA), filed a petition for rejection or suspension and investigation of Hawaiian's FX tariff revisions. Also before us are Hawaiian's oppositions to these petitions.

[2] The cost apportionment procedures of the Separations Manual are arrived at by state regulators and the Commission under the mechanism of a Federal-State Joint Board convened pursuant to Section 410 of the Communications Act, 47 U.S.C. 410. The Separations Manual forms a basis for regulatory review of interstate rates by the Commission (based on the costs apportioned to the interstate jurisdiction by the Separations Manual) and for review of intrastate rates by state regulators (based on costs apportioned to the intrastate jurisdiction by the Separations Manual). On the federal side, the Separations Manual is incorporated in Part 67 of the Commission's Rules, 47 CFR 67.1; and depending on the jurisdiction involved it may or

Continued

interstate services, including interstate Message Telecommunications Service (MTS) and Wide Area Telecommunications Service (WATS), are included in the pooling arrangement.

4. A second means of compensating operators of local telephone exchange facilities for interstate communications usage is through the collection of a charge from an interexchange carrier who does not participate in the divisions/settlements process. Such charges, for example, are contained in BSOC Tariff F.C.C. No. 8, commonly known as the Exchange Network Facilities for Interstate Access (ENFIA) tariff. This tariff specifically sets out charges for interconnection services provided to other common carriers (OCC) in their provision of MTS/WATS-equivalent services. This ENFIA tariff resulted from a negotiation process under Commission *aegis* and ultimate agreement on an interim method for developing rates for MTS/WATS-type interconnections with local exchange networks. The Commission accepted the ENFIA agreement and allowed the ENFIA rates to become effective in *Exchange Network Facilities for Interstate Access (ENFIA)*, 71 F.C.C. 2d 440 (1979).

5. A final means of compensation which has developed for local telephone exchange companies is the collection of a separate charge from users of private line services that are connected with exchange facilities at one end, such as foreign exchange service (FX) and common control switching arrangements (CCSA) with off-network access lines (ONALS). Traditionally, both FX and CCSA subscribers have been billed for the open end origination or termination service at the same rate which local subscribers pay for local business exchange service in the area served by the local exchange. Revenues from the private line portion of the FX and CCSA services provided by Bell and non-Bell telephone companies are included in the interstate revenue pool and associated expenses and investments are included in the divisions/settlements computations. However, revenus from the open end service are retained by the carrier who provides the service and that carrier absorbs any associated costs. Although the open end service for interstate FX and CCSA is an interstate service, carriers have usually reported the revenues and any associated expenses and investments as intrastate for purposes of jurisdictional separations. In connection with OCC FX and CCSA services, local exchange carriers provide and bill the open end service connection directly. Local exchange carriers that provide the open end service also provide OCCs with a link between the telephone company's local central office and the OCC switching facility. That link serves essentially the same purpose as the trunk connection between the local central office and the Bell company toll switch. Those facilities are offered at non-uniform rates by various BSOCs pursuant to tariffs filed with this Commission and the associated revenues are excluded from the interstate revenue pool.

B. Commission Proposed Nationwide Tentative Access Charge Plan

6. The Commission's concerns over compensation arrangements stem, in part, from the changing communications industry structure that has resulted from competitive entry and related regulatory policies regarding the provision of interexchange facilities by OCCs. In this connection, a great deal of attention has been paid to compensation arrangements because of the legal obligation imposed upon local telephone companies under Section 201 of the Communications Act, 47 U.S.C. 201, to interconnect their local exchange facilities with interstate services without regard to what interexchange carrier may be providing the interstate service or what kind of interstate service is being offered over such interconnected facilities. This right to interconnection is limited only by the duty to pay a fair and reasonable sum to the local telephone companies for the service.[3]

7. However, as the Commission has recently observed in the *Second Supplemental Notice* of the *MTS and WATS Market Structure* proceeding,[4] the compensation which local exchange operators receive through the three mechanisms described above varies in a manner that does not appear to reflect actual differences in the costs of originating or terminating various services. The issue here is whether these disparities may produce discrimination among competing interexchange carriers and, also, indirectly result in different end user rates which violate Section 202(a) of the Communications Act, 47 U.S.C. 202(a). Moreover, as the Commission also noted in the *Second Supplemental Notice*, the discrimination problem is not confined to differences in compensation mechanisms. It extends to discrimination between message services as a whole and pooled private line services as a whole which results from use of the Separations Manual for the purpose of allocating exchange plant costs among various interstate services. As explained, the Separations Manual contains a combination of procedures designed for the purpose of apportioning message and private line costs between interstate and intrastate jurisdictions, but does not allocate exchange plant costs among various interstate services.

8. In recognition of the immediate need to develop nondiscriminatory exchange access charges for all interstate services, including those provided by the OCCs, the Commission asked for comment in the *Second Supplemental Notice* on a proposed tentative plan for uniform nationwide access charges and an exchange revenue pool.[5] Under this plan access charges would be prescribed for four categories of interstate service (MTS/WATS, FX/CCSA access, private line, and OCC–ENFIA). Although the access charges would be used to determine the compensation interexchange carriers would pay for access service, the amounts received by exchange carriers for the use of exchange plant for interstate service would not depend upon the access charge. Rather, the amount of compensation would depend upon the carriers pro rata share of all investment and expense in plant devoted to interstate service. Thus, the plan would require that access charge revenues be pooled in much the same manner that Bell and non-Bell interstate revenues are pooled under the present contractual arrangement. The pooled revenues would be reallocated among the exchange carriers in order to enable each exchange carrier to receive its interstate exchange plant expenses and a share of the residue that reflects its pro rata share of the interstate exchange plant investment. In this manner, it is anticipated that the end result should not be substantially different from the results that are produced by the current divisions/settlements process. The pooled access charges would include some services, such as ENFIA, that are not now pooled. The exchange pool would also include access charge revenues from carriers in Alaska,

may not form part of a state regulatory agency's rules or requirements. The Separations Manual does not specify how revenues are to be divided between the Bell and independent telephone companies. This matter is normally governed by negotiated carrier-to-carrier contracts.

[3] See, *MCI Telecommunications Corp. v. FCC*, 580 F.2d 590 (D.C. Cir.), *cert. denied*, 439 U.S. 980 (1978).

[4] *MTS and WATS Market Structure*, 67 F.C.C. 2d 757 (1978), *Supplemental Notice*, 73 F.C.C. 2d 222 (1979), *Second Supplemental Notice*, 77 F.C.C. 2d 244 (1980), and *Report and Third Supplemental Notice*, 81 F.C.C. 2d 177 (1980).

[5] This action was taken pursuant to authority in Section 201(a), 47 U.S.C. 201(a), to effectuate a division of revenues among carriers.

Hawaii, and overseas territories or possessions that might not be described as full partners in the existing contractual arrangement.

9. Although the proposed tentative access charge plan would alter the existing divisions/settlements mechanism, the plan has not been designed to affect the existing separations procedures contained in the Separations Manual. As was pointed out in the *Second Supplemental Notice*, there would be no misallocation between the state and interstate jurisdictions if aggregate interstate exchange plant costs derived from the Separations Manual are allocated among interstate services under the proposed plan in a manner that differs from the Separations Manual message and private line allocations used to arrive at an aggregate allocation between interstate and intrastate services. The proposed plan was designed to be used under any Separations Manual partly in recognition of the urgent need for new access charge arrangements and partly in recognition that revisions to the Separations Manual for that purpose would be complex and a time consuming process.

10. Although the Commission's plan does not require revision of the Separations Manual to incorporate a new formula for allocating exchange plant costs among interstate services prior to the prescription of new access charge arrangements, the Commission has convened a Federal-State Joint Board to reexamine rules for the apportionment of exchange plant investment between interstate and intrastate services in light of comments filed in the *MTS–WATS Market Structure* proceeding. See, *Notice of Proposed Rulemaking and Order Establishing a Joint Board (Joint Board)*, 78 F.C.C. 2d 837 (1980). The Joint Board is also to consider recommended technical amendments to the Separations Manual to facilitate the Commission's decision in the *Second Supplemental Notice* to prescribe access charges and to consider deletion or revision of provisions which have been rendered obsolete by recent decisions to deregulate most customer premises terminal equipment. See, *Second Computer Inquiry*, 77 FCC 2d 384 (1980).

C. ENFIA Agreement and Ratemaking Methodology

11. This brings us to the ratemaking methodology under the ENFIA agreement. It is designed to compensate local telephone companies for originating and terminating MTS/WATS-type services on the same basis as they would be compensated under the settlements/divisions process by AT&T Long Lines for originating and terminating MTS and WATS. In this connection, the ENFIA ratemaking methodology relies on use of the cost apportionment procedures of the Separations Manual. Under these procedures, costs associated with private line service are directly assigned to the appropriate jurisdiction, while costs that are common to the provision of more than one switched service, including MTS and WATS, are allocated between jurisdictions on the basis of usage. A substantial portion of MTS and WATS exchange costs allocated to the interstate jurisdiction through this process are derived through the use of the Subscriber Plant Factor (SPF) formula. The SPF formula is applied to certain defined jointly used subscriber plant in the local exchange network utilized by these interstate services.[6] Under the ENFIA ratemaking methodology use of the Separations Manual differs in the following respects: (1) the rate pertaining to the use of local exchange subscriber plant by MTS/WATS-type services is based upon an assumed number of minutes of use per month per line; (2) there is a percentage based phasing in of jointly used subscriber plant costs derived through use of the SPF formula which depends upon the level of combined revenues of all OCCs from MTS/WATS-type services;[7] and (3) the use of the cost procedures of the Separations manual in this fashion compensates the local telephone companies through ENFIA rates, rather than under a settlements or division of revenues process.

12. In ENFIA, the Commission reached no conclusion as to whether the derivation of the ENFIA rates for MTS/WATS-type services were cost based. The Commission stated that it had no evidence to make such a determination and that the parties to the proceeding had not provided any evidence which could demonstrate the relationship of the negotiated compensation to relevant costs. Acceptance of the ENFIA agreement was perceived as a reasonable means of avoiding complex and protracted litigation over methodologies, rate levels, and rate components. However, the Commission added at that time that it would prescribe compensation should the agreement not continue beyond its initial three year term.[8]

13. Among the signatories to the ENFIA agreement is GTE Service Corporation (GTE), an entity owned and controlled by the holding corporation which controls all of the FTE domestic local telephone companies, including Hawaiian. Under the ENFIA agreement, GTE has, among other things, agreed to recommend to its domestic telephone operating affiliates that they follow the ENFIA methodology by using their own specifically identifiable costs, that they use the same percentage based phasing in of jointly used subscriber plant costs derived through the use of the Separations Manual SPF formula, and lastly, that they enter into a standard form contractual arrangement with OCCs who seek ENFIA connections in GTE's service area.

14. It is also significant to note that the scope of the ENFIA agreement did not cover compensation to local telephone companies for open end interstate private line services which are connected with exchange facilities, such as FX and CCSA–ONAL. Costs associated with the use of the local exchange network by private line services, unlike message services, have been traditionally assigned under the Separations Manual directly to either the interstate or intrastate jurisdiction. Based upon this assignment of costs, FX and CCSA subscribers currently pay an intrastate (B–1) charge for access to the local exchange pursuant to state tariffs.

15. Recently, in *New York Telephone Company*,[9] the Commission held that a tariff filed with the New York Public Service Commission (NY PSC) by New York Telephone Company imposing a surcharge which would be levied solely upon interstate FX and CCSA subscribers for use of the local exchange network must be filed with this Commission rather than the state commission. This holding was based upon the Commission's finding that FX and CCSA open end access must be considered as part of an end to end interstate service within the Commission's jurisdiction. For reasons stated in *New York Telephone*

[6] The Subscriber Plant Factor (SPF) is defined in paragraph 23.444 of the Separations Manual and can be expressed in formula form as SPF = .85 LSU + 2SLU × CSR. The subscriber line usage (SLU) equals the ratio of interstate holding time minutes to total holding time minutes and the composite station ratio (CSR) is a price variable reflecting the difference between the study area interstate traffic characteristics and the industry wide interstate traffic characteristics. Due to the instability of the CSR from year to year, AT&T has used a value of about 1.2 for the CSR since 1971. With the CSR equal to 1.2, the formula becomes SPF = 3.25 SLU.

[7] The ENFIA agreement states that only 35 to 55 percent of the SPF related costs are to be recovered by the ENFIA rate.

[8] The ENFIA agreement expires on February 28, 1982.

[9] 76 F.C.C. 2d 349, *recon. denied* 80 F.C.C. 2d 287, *aff'd in New York Telephone Company v. FCC*, 632 F.2d 1059 (1980).

Company, the Commission had not asserted its rate regulation authority over FX and CCSA exchange access where the rates for exchange service charged to FX and CCSA subscribers were the same as those charged local customers. Additionally, in the *Second Supplemental Notice*, the Commission stated that it would allow the present anomalous situation of state tariffs charging for a portion of an end to end service that lies within the interstate jurisdiction to continue until the FX/CCSA situation can be fully resolved through Separations Manual revisions or until such time as the proposed nationwide tentative access charge plan is implemented.[10] Until now no tariffs have been filed with the Commission imposing charges on open end interstate FX and CCSA subscribers for use of local exchange facilities. Hawaiian's FX and CINEA tariff proposals represent the first filings of this kind.

Tariff Proposals

16. The service offerings under Hawaiian's ENFIA, CINEA, and FX tariff proposals, all scheduled to become effective on March 15, 1981, would provide local exchange interconnection services for certain interstate users of Hawaiian's local exchange network facilities in the provision of interstate service. More specifically, the ENFIA offering would establish charges for OCCs, including the international record carriers and other specialized common carriers, assessing Hawaiian's local exchange network in order to provide MTS/WATS-type services, as well as interstate data or record type services. Unlike the ENFIA offering, the CINEA offering would apply to Hawaiian's non-carrier customers and would establish charges for use of Hawaiian's local exchange network via indirect access from a customer's interstate or overseas private line services (whether or not provided by Hawaiian). Finally, under the FX tariff proposal, Hawaiian would replace the local basic exchange (individual business line, individual business rotary line, and private branch exchange trunk) charge segment of the total charge for interstate FX service with an access charge for usage of the local exchange network.[11]

17. Under Hawaiian's proposed ENFIA tariff, the local exchange service provided for an MTS/WATS-type interconnection would include the following: (1) connection of the carriers system to the local exchange network via Voice Grade Central Office Connecting Facilities (VGCOCF), (2) central office switching and trunking and (3) local distribution facilities (or jointly used subscriber plant) including trunking, telephone terminal equipment, station connections, and subscriber lines. Each of these would have a separate rate element. With respect to the VGCOCF rate element, the regulations, rates, and charges would be the same as those contained in Hawaiian's Tariff No. 4. The rates for the second and third elements (use of the local exchange switching and trunking facilities and jointly used subscriber plant) would consist of a flat monthly rate for each ENFIA connection.

18. The local exchange service provided under Hawaiian's CINEA and FX tariffs for private line customers includes the same type facilities as offered under the second and third rate elements of Hawaiian's ENFIA tariff, that is the central office switching and trunking facilities and jointly used subscriber plant. However, under the CINEA and FX tariffs, the charge for these facilities would be expressed as a single rate element providing a flat monthly charge for access by each interstate private line service channel. With respect to the connection from the CINEA customer's premises to the local exchange network, Hawaiian states that this connection would be provided under its local tariff offerings.

19. Hawaiian's ENFIA, CINEA, and FX rates covering the use of the local exchange switching and trunking facilities and jointly used subscriber plant are similarly developed. In each instance, Hawaiian has employed the ratemaking methodology as set forth in the negotiated ENFIA agreement. As for the development of costs associated with the use of Hawaiian's local exchange facilities under the ENFIA, CINEA, and FX tariffs, Hawaiian has relied on its own 1978 separations study for company operations adjusted to be in accordance with the Separations Manual. For each of the three offerings, Hawaiian's cost support material shows the unit costs associated with the local exchange facilities to be identical. However, the ENFIA, CINEA, and FX rates would vary as a result of different minutes of use projections for each of the services as applied to the unit costs for jointly used subscriber plant. The ENFIA monthly rate of $208.43 (exclusive of the charge for the VGCOCF) reflects a projected 3000 minutes of use per ENFIA connection in accordance with the latest figures under the ENFIA settlement agreement. The CINEA monthly rate of $123.00 reflects a projected 1744 minutes of use per CINEA connection derived from a special study conducted by Hawaiian on local business trunk usages. Lastly, the FX monthly rate of $167.60 reflects a projected 2400 minutes of use per FX connection derived from an AT&T mainland study of FX usage of local exchange networks.[12]

Contentions of the Parties

A. Arguments for Rejection of Hawaiian's ENFIA Tariff Proposal

20. SPCC and USTS argue that Hawaiian's ENFIA tariff should be rejected because Hawaiian's use of the ENFIA methodology does not result in the establishment of cost based rates for MTS/WATS-type interconnection service with Hawaiian's local exchange network. They assert that the level of Hawaiian's ENFIA rates, twice that of AT&T's ENFIA rates, shows that Hawaiian's reliance on the ENFIA methodology is unjustified. More specifically, SPCC maintains that the unjust level of Hawaiian's ENFIA rates may be attributed, in part, to the improper allocation of jointly used subscriber plant costs calculated by using the Separations Manual CSR ratio and SPF formula which is asserts were designed only for use in the continental United States. USTS additionally contends that Hawaiian's ENFIA tariff results in non-cost based rates because Hawaiian is in contravention of the ENFIA Agreement by not entering into a carrier-to-carrier contract as recommended by GTE to all its affiliates under the ENFIA agreement. SPCC also claims that Hawaiian's support material fails to comply with § 61.38 of the

[10] The proposed access charge plan would provide for accounting and revenue requirement adjustments to the FX/CCSA classification at the time access service compensation arrangements are prescribed if the Separations Manual revisions for inclusion of some investments and expenses attributable to open end FX/CCSA access service in the interstate rate base and expenses have not yet been adopted.

[11] Additionally, we note that Hawaiian's FX tariff proposal stems, in part, from the Commission's decision in *Hawaiian Telephone Company*, 78 F.C.C. 2d 1062 (1980), ordering Hawaiian to interconnect and provide local exchange service to the Department of Defense (DOD) by allowing extensions of 19 private line interstate communications circuits, provided to DOD by Western Union International, Inc., and American Satellite Company, from the Navy Technical Control Center in Wahiawa Hawaii, to Hawaiian's central office in Honolulu. DOD's purpose in seeking interconnection was to allow the General Services Administration (GSA) to use the excess capacity of its private lines for FTS service. Hawaiian has informed us that it is presently waiting for the FX tariff proposal to become effective before providing this interconnection service. DOD and GSA state that other services are being provided GSA on an interim basis.

[12] Some per minute rate differences are apparently due to rounding in Hawaiian's cost calculations.

Commission's Rules, 47 CFR 61.38. In this regard, it questions the validity of cost figures derived from Hawaiian's 1978 separations study adjusted to be in accordance with the Separations Manual and, especially, Hawaiian's local switching and trunking costs.

21. As further grounds for rejection, SPCC argues that Hawaiian's ENFIA rates are unlawfully discriminatory because they fail to take into account differences in interconnection services provided to OCCs without appropriate cost adjustments. Since there are currently no competitive carriers providing MTS/WATS-type services to Hawaii, SPCC submits that the Commission should require Hawaii to await a decision in the *MTS/WATS Market Structure* inquiry on a method for determining just and reasonable access charges or require Hawaii to develop and implement a non-discriminatory access arrangement based upon a direct study of the costs involved in providing local exchange service to the OCCs. SPCC claims that the sanctioning of Hawaiian's ENFIA rates could, in the future, foreclose effective competition because of the high level of these rates.

B. Arguments for Rejection of Hawaiian's CINEA and FX Tariff Proposals

22. Petitioners seek rejection of the CINEA and FX tariffs under a claim that Hawaiian's use of the ENFIA methodology results in non-cost based access charges that are unlawful under the Communications Act. In this regard, they argue that the ENFIA methodology was neither designed nor accepted in *ENFIA* or under the ENFIA agreement for use in the development of interstate private line access charges. In particular, SPCC asserts that the ENFIA methodology should not be accepted for use in developing private line access charges because it uses the Separations Manual SPF formula which was designed solely to recover from interstate jurisdictions local exchange plant costs associated with MTS and WATS service. GE/Sears further submit that Hawaiian's use of the ENFIA methodology results in access charges that include costs for local exchange facilities which are not used by interstate private line subscribers. They complain that they are already paying for many of these local exchange facilities and that allowing Hawaiian to establish access charges for private line subscribers covering these costs an additional time would be unjust and unreasonable without offsetting adjustments in local revenue requirements, MTS or WATS rates, or station equipment.

23. GE/Sears, SPCC, and FEA additionally argue that allowing Hawaiian's CINEA and FX tariff to become effective at this time would be contrary to the public interest and prejudge Commission action on access charges and related matters in the *MTS and WATS Market Structure* and the *Joint Board* proceedings. In this regard, GE/Sears and SPCC maintain that Hawaiian's access charges are developed in a manner that is contrary to the Commission's interim access charge proposal in the *MTS and WATS Market Structure* proceeding. SPCC further submits that piecemeal implementation of access charges on a state by state basis utilizing differing methodologies and ratemaking philosophies will cause rate churning and confusion to the public. SPCC also contends that the alleged high level of the CINEA and FX rates were designed to force customers to utilize MTS and WATS service provided by AT&T in partnership with Hawaiian and, as such, Hawaiian's tariff proposals must be viewed as being anti-competitive.

24. As further ground for rejection, SPCC and FEA assert that Hawaiian's CINEA and FX tariff proposals would impost a discriminatory surcharge on interstate private line customers who wish to use local exchange service. In this regard, SPCC maintains that Hawaiian's CINEA and FX tariff proposals provide no more service than the basic local telephone service for private lines. Since Hawaiian's local exchange businges line rate structure is presumably lawful and should provide for the recovery of all costs, SPCC asserts that the imposition of a higher rate on one service and class of customers without justifying the differences in the services and their associated costs violates the like services standard of Section 202(a) of the Communications Act, 47 U.S.C. 202(a). Further, since Hawaiian has failed to show that the local business charges are noncompensatory, FEA believes that the local business charges now being paid by foreign exchange customers should not be replaced by the proposed FX charges.

25. GE/Sears additionally argue that Hawaiian has failed to comply with § 61.38 of the Commission's Rules. In this regard, they maintain that Hawaiian's minutes of use studies bear no relationship to actual use of the local exchange facilities by interstate private line traffic in Hawaii, and, moreover, that Hawaiian has failed to address the impact its CINEA and FX traffic proposals would have on traffic patterns and quality of service in Hawaii. They claim that Hawaiian's private line access charges are likely to cause costly shifts in tariff patterns which would adversely effect both tool and private lines services.

26. GE/Sears separately contend that Hawaiian's CINEA and FX tariffs violate Section 410(c) of the Communications Act. Unless changes are made to the Separations Manual through the convening of a Federal-State Joint Board by the Commission under Section 410(c) of the Act, they submit that Hawaiian's CINEA and FX tariffs would effect a unilateral and unlawful change in the Separations Manual by shifting part of Hawaiian's intrastate plant, expenses, and revenue requirements to the interstate jurisdiction. Until any recommended changes are acted upon by the Commission, as the result ofthe Federal-State Joint Board, the argument here is that Hawaiian must abide by the Separations Manual and can recover only those interstate costs which are covered by MTS and WATS or direct assignments of plant to private line services.

C. Arguments for Suspension and Investigation of Hawaiian's ENFIA, CINEA, and FX Tariff Proposals

27. As an alternative to rejection of Hawaiian's ENFIA, CINEA and FX tariffs, petitioners request suspension, for the full statutory period, and investigation bases upon the same grounds as set forth above. Also, as an alternative to suspension and investigation, USTS asks us to convene meetings among interested parties for the purpose of reaching an interim negotiated settlement for the local exchange services proposed by Hawaiian.

D. Hawaiian's Opposition

28. Hawaiian takes the position that its ENFIA, CINEA and FX tariff proposals comply with Commission policy. In this regard, Hawaiian asserts that the consistent use of the ENFIA methodology in developing the proposed ENFIA, CINEA, and FX rates will ensure that costs associated with the use of Hawaiian's local exchange network are shared by all interstate users. Hawaiian further maintains that these tariff proposals should not be looked upon as prejudging Commission proceedings concerned with access charge matters, such as the *MTS/WATS Market Structure* proceeding. It notes that all three tariffs contain a provision which acknowledges that modification,

revision, or withdrawal may be necessary because of future Commission action in such proceedings. Also recognizing that the *MTS/WATS Market Structure* proceeding will address discrimination issues related to the imposition of access charges, Hawaiian asserts that, in the interim, the Commission should look favorably upon Hawaiian's efforts to develop tariff proposals of a consistent basis as a means to avoid any possible discrimination between various interstate users of its local exchange network. Hawaiian additionally submits that its decision to file tariffs rather than enter into carrier-to-carrier contracts was based upon practical considerations stemming from Hawaiian's role as a concurring interstate and international carrier. As for differences in the level of Hawaiian's proposed ENFIA rates and AT&T's ENFIA rates, Hawaiian explains that this results from using its own specific costs which it maintains is consistent with the ENFIA agreement and the Commission's ENFIA decision. With respect to its CINEA tariff, Hawaiian asserts it does not provide interstate private line customers with local exchange service under presently effective tariffs. Similarly, Hawaiian notes that the FX tariff revisions are essential if it is to meet on a timely basis present customer needs, particularly those of FEA, for FX type services. Hawaiian also maintains that the minutes of use studies used in the deveopment of its CINEA and FX rates are the best available indicators for determining usage of the local exchange network by private lines users of its CINEA and FX services. As a separate matter Hawaiian purports to have sifficient capacity to meet any changes in traffic patterns which might be caused by the CINEA and FX tariffs.

Discussion

A. ENFIA

29. Our examination of the material submitted by Hawaiian in support of its ENFIA tariff proposal shows that Hawaiian has not deviated from the ENFIA methodology in the development of its ENFIA charges. In particular, this analysis reveals that Hawaiian has adhered to the ENFIA agreement in its material respect, including rate element consistency, use of the same percentages for phasing in jointly used subscriber plant costs, and assumed minutes of use per line per month for determining the rates associated with MTS/WATS-type interconnection with local exchange facilities.

30. Petitioners maintain, however, that Hawaiian's ENFIA rates are unlawfully high in comparison with AT&T's ENFIA rates. They attribute this alleged unlawfulness to Hawaiian's use of a high CSR ratio in the SPF formula for developing the interstate apportionment of jointly used subscriber plant costs, and, further, Hawaiian's use of its own specifically identifiable costs under the ENFIA methodology rather than Bell system average interstate costs.

31. With respect to the CSR ratio, we find nothing improper in Hawaiian's calculations. In this case, the higher CSR ratio reflects no more than the sizeable distance between Hawaii and the mainland United States. We also find unpersuasive SPCC's contention that use of the ENFIA methodology results in an improper allocation of jointly used subscriber plant costs because the CSR ratio and the SPF formula were designed only for use in the continental United States. We recognize that the rates and services between Hawaii and the mainland United States are not integrated at present and, as such, Hawaiian is not currently subject to the Separations Manual.[13] However, even if it is assumed for present purposes that the CSR ratio and SPF formula were designed only for use in the continental United States, this does not mean that Hawaiian's use of the CSR ratio in the SPF formula to allocate jointly used subscriber costs in accordance with the ENFIA methodology is improper or unlawful or should be investigated. Moreover, at this moment, a Federal-State Joint Board, convened by the Commission in Docket No. 21263. *Integration of Rates and Services, AT&T, et al*, 64 F.C.C. 2, 1033 (1977), has before it a joint motion by AT&T and Hawaiian to accept the current Separations Manual as the basis of rate and service integration between Hawaii and the mainland United States. This represents a change in Hawaiian's position favoring adoption of its Hawaiian II Separations Plan which would have called for a much higher allocation of costs for jointly used subscriber plant.

32. As for Hawaiian's use of its own specifically indentifiable costs under the ENFIA methodology, we note that the Commission in *ENFIA* had approved this practice for independent telephone companies of the GTE system. USTS's argument that Hawaiian violated the ENFIA agreement by filing a tariff suggests that we should now reject Hawaiian's use of specifically identifiable costs because Hawaiian's ENFIA rates have not been negotiated under a carrier-to-carrier contract mechanism. In the *ENFIA* decision, the Commission acknowledged GTE's intent to "recommend" to its affiliates that they enter into carrier-to-carrier contracts in implementing the ENFIA agreement. However, we find nothing in the ENFIA agreement, the decision in ENFIA, or the Communications Act which precludes GTE's affiliates from filing a tariff with this Commission implementing the ENFIA agreement based upon the use of an independent telephone company's own specifically identifiable costs. Additionally, SPCC has failed to provide sufficient basis to question the validity of Hawaiian's specifically identifiable costs, as well as other costs used by Hawaiian in the development of its ENFIA rates. In this regard, we further find that Hawaiian has supplied adequate cost support material under § 61.38 of the Commission's Rules.

33. This leaves the question of whether this filing should be rejected or investigated because the rates assertedly are not cost based. The Commission recognized in *ENFIA* that rates for MTS/WATS-type local exchange service interconnection developed under the ENFIA methodology may not necessarily be cost based or nondiscriminatory. However, it sanctioned use of the negotiated ENFIA methodology on an interim basis so as to enable local exchange carriers to immediately satisfy the court imposed obligation for local exchange carriers to interconnect their facilities with MTS/WATS-type services. This determination was also based upon its recognition that a case-by-case consideration and resolution of the complex costing and discrimination issues associated with such interconnection compensation arrangements could prove to be a costly and time consuming process. Although in the *MTS and WATS Market Structure* proceeding significant strides have been made towards uniformly resolving the costing and discrimination issues surrounding local exchange compensation arrangements for MTS/WATS-type services, as well as other interstate services, the Commission has yet to adopt and implement its proposed access charge plan. Until this occurs, we shall follow the Commission's position in *ENFIA*, that is, to allow independent telephone companies of the GTE system to implement compensation arrangements for MTS/WATS-type local exchange interconnection services

[13] The forward to the Separations Manual states that "These procedures are not *necessarily* designed to apply to * * * Hawaii * * *" (emphasis supplied).

using ENFIA methodology and their own specifically identifiable costs. In this regard, since Hawaiian has complied with the negotiated ENFIA methodology and sufficient reason has not been shown to question Hawaiian's own specifically identifiable costs, we will neither reject not suspend and investigate Hawaiian's ENFIA tariff.

B. CINEA and FX

34. Petitioners argue that rejection of CINEA and FX is warranted because it was improper for Hawaiian to use the ENFIA methodology to develop local exchange access charges applicable to interstate private line services. We recognize that the scope of the ENFIA agreement was limited to the development of compensation arrangements for MTS/WATS-type local exchange interconnection. However, neither the ENFIA agreement nor the ENFIA decision reached any conclusion as to whether application of the ENFIA methodology should be restricted to MTS/WATS-type local exchange interconnection. The parties to the ENFIA agreement recommended only that the Commission address and resolve the special problems associated with local exchange compensation arrangements for interstate private line services. Although in the *MTS/WATS Market Structure* proceeding the Commission is in the process of resolving issues concerning local exchange compensation arrangements for all interstate services, it has not as yet adopted or implemented a proposed access charge plan. At the same time, we also recognize that Hawaiian's CINEA and FX tariffs, unlike Hawaiian's ENFIA tariff, are the first such tariffs before the Commission proposing local exchange compensation arrangments for users of interstate private lines. As such, we are without any prescribed methodology or other standard by which we can make a prima facie determination of the lawfulness of Hawaiian's CINEA and FX tariffs. Since the Commission's authority to reject a tariff filing is limited to a clear violation of the Act, a prior Commission order, or our Rules, we find that rejection of Hawaiian's CINEA and FX tariffs simply because Hawaiian has choosen to use the ENFIA methodology to develop its CINEA and FX rates is not appropriate here. See *Associated Press v. FCC*, 448 F.2d 1095 (D.C. Cir. 1971).

35. Nor are petitioner's other arguments in support of rejection persuasive. We find that Hawaiian has provided adequate support material to comply with § 61.38 of the Commission's Rules. As to the assertion that Hawaiian's FX and CINEA tariff should be rejected because they unilaterally impose a change in the Separations Manual in violation of Section 410(c) of the Act, we note that Hawaiian is not obligated under Part 67 of our Rules to follow the Separations Manual. Moreover, the Separations Manual has not been adopted by the Federal-State Joint Board for rate and service integration between Hawaii and the United States. However, even if Hawaiian were under the Separations Manual, we would not find the proposed tariff revisions unlawful for violation of Section 410(c) or Part 67. The Separations Manual procedures govern the apportionment of costs between carriers and jurisdictions, but do not constrain carriers in the methodologies they may employ for ratemaking purposes. Thus, we are not prepared to conclude at this stage of our consideration that Hawaiian's CINEA and FX tariffs are unlawful.

36. We do, however, find that Hawaiian's use of the ENFIA methodology to develop its CINEA and FX rates raises questions regarding the lawfulness of these rates which warrant investigation. As noted, the ENFIA methodology relies on use of those procedures in the Separations Manual for determining exchange costs associated with MTS and WATS on a per minute basis. Through the application of the SPF formula the Separations Manual assigns significantly greater local exchange plant costs to the Interstate jurisdiction than on a relative usage basis (SLU). However, the Separations Manual does not assign the costs of local exchange plant used by private line services in this manner. Rather these costs are directly assigned to the appropriate jurisdiction. Traditionally, therefore, charges to private line customers for open end local exchange service have been designed to recover a share of the telephone company's intrastate revenue requirement, as determined by the costs which the Separations Manual directly assigns to the intrastate jurisdiction. In turn, these overall jurisdictional cost assignments fixed by the Separations Manual cannot be modified except through action by a Federal-State Joint Board and the Commission. See, Section 410(c) of the Act and Part 67 of the Commission's Rules. In this case, by its use of the ENFIA methodology, Hawaiian has developed costs for CINEA and FX comparable to the MTS/WATS costs produced by the Separations Manual through application of the SPF formula. This procedure suggests that the costs developed, taken together with other intrastate costs, may be inconsistent with the total jurisdictional costs assigned by the separations process. Should this be the case, Hawaiian's proposed CINEA and FX rates could yield revenues in excess of the company's jurisdictional revenue requirement as determined by jurisdictional separations costs. Therefore, in order to justify the proposed rates, Hawaiian will be expected to establish in the investigation that the costs which it seeks to recover are consistent with the overall jurisdictional costs assigned by the separations process. Compounding this task is the fact that Hawaiian currently does not rely on the cost allocation procedures of the Separations Manual for assignment of jurisdictional costs. Nevertheless, Hawaiian's use of a methodology for purposes of rate development which is grounded in the Separations Manual makes such a showing necessary.

37. Also in need of investigation are Hawaiian's projections of local network usage of 1744 minutes per month for CINEA customers and 2400 minutes per month for FX customers. With respect to the CINEA minutes of use study, we question whether the selection of large toll users as a universe and use of a weighted toll use factor of 50 percent can reasonably reflect local exchange network usage by interstate private line customers. In this regard, we expect Hawaiian to justify the CINEA minutes of use study by providing additional information regarding the nature and number of large toll customers surveyed and further information on the derivation of the weighted toll use factor of 50 percent. As for Hawaiian's projected minutes of use for FX customers, we question Hawaiian's reliance on an AT&T minute of use study in a situation where Hawaiian has a universe of one customer with 11 FX circuits to survey. We anticipate that Hawaiian will provide satisfactory justification for using the AT&T mainland study or provide us with a traffic study based on its own FX circuits.

38. Hawaiian's CINEA and FX tariffs raise other issues of lawfulness as well. We question whether Hawaiian's CINEA and FX tariff proposals would not impose an unreasonable surcharge on interstate private line customers who wish to access the local exchange. In resolving this issue, we expect to consider future developments in the *MTS and WATS Market Structure* proceeding. Furthermore, there is some indication in these tariffs that Hawaiian may recover costs associated with private line usage of its local exchange

network more than once, expecially in the case of CINEA customers where certain local business charges would still remain applicable. This issue relates to our concern, as noted above, with whether any offsetting adjustments are necessary, or have already been made by Hawaiian, to local revenue requirements for use of Hawaiian's local exchange network as a result of additional revenues which would be received under the CINEA and FX tariffs.

39. A further issue is possible unlawful discrimination. Hawaiian has chosen to classify its FX and CINEA customers under separate tariffs and charge these customers different rates for use of its local exchange network. It apparently seeks to justify this classification scheme on the basis of how CINEA and FX customers will access its local exchange network. However, the CINEA and FX tariffs would impose charges only for use of the local exchange network after the CINEA and FX customers have interconnected with Hawaiian's local exchange. This interconnection and means of access appear to be identical for both CINEA and FX customers. Hawaiian's support material reveals no underlying differences in service or costs for the local exchange network service being provided to these customers under the separate tariffs. The rate differences result solely from the different minutes of use projections made by Hawaiian with respect to each of these services. Assuming that the ENFIA methodology is found to be proper for the development of rates for interstate private line usage of Hawaiian's local exchange, Hawaiian will still be required to justify its proposed establishment of two separate tariffs for its interstate private line customers where no cost or service differences are shown. Furthermore, as noted, Hawaiian has developed flat monthly rates, based on average usage, for each customer classification. However, Hawaiian fails to satisfactorily explain why it has not chosen a single average rate applicable to all private line customers or conversely, why it has not chosen a scheme whereby all private line customers pay for actual usage on the same basis.

40. In view of the above matters concerning the lawfulness of Hawaiian's CINEA and FX tariffs, we shall order an investigation and suspend these tariffs for the full statutory period. We are suspending these tariffs for five months because of the substantial and immediate rate impact these tariffs would have on both interstate private line customers and carriers.

41. There is one more matter we wish to address here. We recognize that Hawaiian is under a final Commission order in *Hawaiian Telephone Company* to interconnect its local exchange network with DOD's private line network for FX service in Hawaii which would be used by GSA. Aside from the fact that FEA has indicated, without submitting any detail, that other services are being provided GSA on an interim basis, we do not believe that Hawaiian must wait for the FX tariff proposal to become effective before providing this interconnection service. Tariff changes can be made to its FX tariff allowing interconnection without implementation of the proposed FX rates. DOD would pay for the interconnection service, as do other customers taking service under the FX tariff, at the local exchange business rates currently in effect. If DOD so desires, we expect such tariff changes to be implemented immediately by Hawaiian.

42. Finally, we believe that the questions raised here concerning the lawfulness of Hawaiian's CINEA and FX tariffs can be satisfactorily and promptly addressed and resolved through the use of written comment procedures. Hawaiian will have the burden of proving that its CINEA and FX tariffs are just, reasonable, and not unduly discriminatory under Sections 201 and 202 of the Act. If our investigation shows that Hawaiian's CINEA and FX tariffs are unlawful, we shall consider possible rate prescriptions.

43. Accordingly, it is ordered, That pursuant to authority delegated in § 0.291 of the Commission's Rules, 47 CFR 0.291, and pursuant to Section 4(i), 4(j), 201, 202, 203, 204, 205, and 403 of the Communications Act, 47 U.S.C. 154(i), 154(j), 201, 202, 203, 204, 205, and 403, an investigation is instituted into the lawfulness of Hawaiian Telephone Company's CINEA and FX tariff proposals.

44. It is further ordered, That Hawaiian Telephone Company, Southern Pacific Communications Company, United States Transmission Systems, Inc., General Electric Company, Sears Roebuck & Co., and the General Services Administration and Defense Communications Agency of the Department of Defense, on behalf of the Federal Executive Agencies shall be parties to this proceeding. Any other interested persons who wish to participate as parties may file a notice with the Commission within 30 days of the release of this order, or by filing comments in response to Hawaiian Telephone Company's direct case.

45. It is further ordered, That Hawaiian shall submit its direct case within 45 days of the release of this order. Other parties may file their reply cases or comments within 30 days thereafter. Hawaiian Telephone Company may file its response within 15 days thereafter.

46. It is further ordered, That Hawaiian Telephone Company's CINEA and FX tariff proposals are suspended for a period of five months.

47. It is further ordered, That the petitions to reject, or in the alternative, to suspend and investigate Hawaiian Telephone Company's CINEA and FX tariffs are granted to the extent indicated and otherwise are denied.

48. It is further ordered, That the petitions to reject, or in the alternative, to suspend and investigate Hawaiian Telephone Company's ENFIA tariff are denied.

49. It is further ordered, That this action is effective immediately.

50. It is further ordered, That the Secretary shall cause this Memorandum Opinion and Order to be published in the **Federal Register.**

Federal Communications Commission.

Joseph A. Marino,

Acting Chief, Common Carrier Bureau.

[FR Doc. 81-8641 Filed 3-23-81; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 2070]

Boston Overseas, Inc.; Order of Revocation

On March 16, 1981, Boston Overseas, Incorporated, 33 Broad St., Boston, MA 02109, requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 2070.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), § 5.01(c), dated August 8, 1977;

It is ordered, that Independent Ocean Freight Forwarder License No. 2070 issued to Boston Overseas, Incorporated, be revoked with out prejudice to reapplication for a license in the future, effective March 16, 1981.

It is further ordered, that Independent Ocean Freight Forwarder License No. 2070 issued to Boston Overseas, Incorporated be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Boston Overseas, Incorporated.

Daniel J. Connors,

Director, Bureau of Certification and Licensing.

[FR Doc. 81-8846 Filed 3-23-81; 8:45 am]

BILLING CODE 6730-01-M

Colon International, et al.; Independent Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Colon International (Jorge A. Colon, d.b.a.), 7856 N.W. 72nd Avenue, P.O. Box 51-4120, Miami, FL 33166

Wesco Shipping (U.S.A.) Ltd., One World Trade Center, Rm. 7967, New York, NY; Officers: Daria Alfonso, President/Director; Y. Violet Cavaco, Secretary/Treasurer

World Forwarders (Nicholas B. Santangelo, d.b.a.), 453 Harmon St., Brooklyn, NY 11237

By the Federal Maritime Commission.

Dated: March 19, 1981.

Joseph C. Polking,

Acting Secretary.

[FR Doc. 81-8847 Filed 3-23-81; 8:45 am]

BILLING CODE 6730-01-M

Notice of Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before April 13, 1981. Comments shall include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments should discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. T-3956-1.

Filing party: Mr. Robert W. Goethe, Assistant Executive Director, Georgia Ports Authority, P.O. Box 2406, Savannah, Georgia 31402.

Summary: Agreement No. T-3956-1, between Georgia Ports Authority and Moller Steamship Co., Inc., as agent for Maersk Line (Lessee), modifies the parties' basic agreement which provides for the one-year lease and exclusive use of certain paved premises located within Container Central at Garden City terminal, Chatham County, Georgia. The purpose of the modification is to include an additional article to the original lease (Article 24), which would allow Lessee to rent additional slots, if available, at a rate of $190 per slot. Article 24 may be invoked by written memorandum signed on behalf of both parties whereupon all terms and conditions of the basic agreement will be applicable to such additional assignments, unless expressly modified in the memorandum.

Agreement No. 10413.

Filing party: Mr. R. J. Finnan, Chief Tariff Publishing Officer, Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, Louisiana 70130.

Summary: Agreement No. 10413, between Lykes Bros. Steamship Co., Inc. (Lykes) and Carolina Shipping Company (Carolina), provides that Lykes will appoint Carolina as its agent in respect to services provided by and controlled by Lykes for intermodal traffic destined to or originating from Charleston, South Carolina. Compensation and fees will be as agreed upon from time to time by the parties.

Agreement No. 10414.

Filing party: Robert A. Peavy, Esq., Morgan, Lewis & Bockius, 1800 M Street, N.W., Washington, D.C. 20036.

Summary: Agreement No. 10414, entitled "PRC-USA Eastbound Rate Agreement," has been entered into by American President Lines, Ltd., Lykes Bros. Steamship Company, Inc., Sea-Land Service, Inc., United States Lines, Inc., and Waterman Steamship Corporation. The instant agreement would establish a Rate Agreement in the eastbound trade from ports and points in the People's Republic of China to ports and points in the United States, including Hawaii and Alaska. Membership in the Rate Agreement is open to any party that regularly provides service as a vessel operating common carrier by water serving ports or points in the trade. Any qualified carrier admitted to membership will automatically become a member of the applicable autonomous "Flag Group" which will be determined in accordance with the flag of registry of the vessels it operates. Each "Flag Group"; i.e., U.S., People's Republic of China, or Third-Flag, may maintain separate tariffs apart from those established by the Rate Agreement until such tariffs are superseded by Rate Agreement tariff(s). Any party may take independent action with respect to Rate Agreement or "Flag Group" tariff matters by giving appropriate notice in accordance with the procedures set forth in the agreement.

Dated: March 18, 1981.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Acting Secretary.

[FR Doc. 81-8812 Filed 3-23-81; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1831]

Rocky Ford Moving Vans, Inc., d.b.a. Texas International Port Service; Order of Revocation

On February 24, 1981, Rocky Ford Moving Vans Inc., dba Texas International Port Services, 3811 West Industrial Avenue, Midland, Texas 79702 requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 1831.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), § 5.01(c), dated August 8, 1977;

It is ordered, that Independent Ocean Freight Forwarder License No. 1831 issued to, Rocky Ford Moving Vans Inc., dba Texas International Port Service be revoked without prejudice to reapplication for a license in the future effective February 24, 1981.

It is further ordered, that Independent Ocean Freight Forwarder License No. 1831 issued to Rrocky Ford Moving Vans Inc., dba Texas International Port Service be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Rocky Ford

Moving Vans Inc., dba Texas International Port Service.

Daniel J. Connors,

Director, Bureau of Certification and Licensing.

[FR Doc. 81-8811 Filed 3-23-81; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR § 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than April 16, 1981.

A. *Federal Reserve Bank of Kansas City* (Thomas M. Hoenig, Assistant Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

FirstBank Holding Company and FirstBank Holding Company of Colorado, Lakewood, Colorado (industrial banking activities; Colorado): to engage through a subsidiary, Vail FirstBank Industrial Bank, in operating an industrial bank as authorized by Colorado law. These activities would be conducted from an office located in Vail, Colorado, serving the town of Vail, Colorado and the surrounding area.

B. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President), 400 Sansome Street, San Francisco, California 94120:

Bankamerica Corporation, San Francisco, California (financing, servicing, and insurance activities; Kansas and Missouri): to engage, through its indirect subsidiary, FinanceAmerica Credit Corporation, a Delaware corporation, in the activities of making or acquiring for its own account, loans and other extensions of credit such as would be made or acquired by a finance company; servicing such loans and other extensions of credit; and offering credit-related life, credit-related accident and disability and credit-related property insurance. Such activities will include, but not be limited to, making loans and other extensions of credit to consumers and small businesses, purchasing installment sales finance contracts, making loans secured by real and personal property, and offering credit-related life, accident and disability and property insurance directly related to extensions of credit made or acquired by FinanceAmerica Credit Corporation.

These activities will be conducted from a *de novo* office located in Overland Park, Kansas, serving the states of Kansas and Missouri.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, March 17, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-8886 Filed 3-23-81; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

[F-81-2]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent, in conjunction with the Administrator of General Services, the consumer interests of the executive agencies of the Federal Government in proceedings before the Mississippi Public Service Commission involving intrastate telecommunications service rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Mississippi Public Service Commission involving the application of the South Central Bell Telephone Company for an increase in rates for private line telecommunications service. The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: March 13, 1981.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 81-8853 Filed 3-23-81; 8:45 am]

BILLING CODE 6820-25-M

[F-81-3]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent, in conjunction with the Administrator of General Services, the consumer interests of the executive agencies of the Federal Government in proceedings before the Missouri Public Service Commission involving intrastate telecommunications service rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Missouri Public Service Commission involving the application of the Southwestern Bell Telephone Company for increases in rates for telecommunications services. The authority delegated to the Secretary of Defense shall be exercised concurrently

with the Administrator of General Services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: March 13, 1981.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 81-8854 Filed 3-23-81; 8:45 am]

BILLING CODE 6820-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Arthritis Advisory Committee; Meeting Cancellation

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The meeting of the Arthritis Advisory Committee scheduled for April 2 and 3, 1981, and announced by notice in the **Federal Register** of March 13, 1981 (46 FR 16727) has been cancelled.

FOR FURTHER INFORMATION CONTACT: John G. Harter, Bureau of Drugs (HFD-150), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4260.

Dated: March 18, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-8815 Filed 3-19-81; 10:38 am]

BILLING CODE 4110-03-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by Adam J. Trujillo, District Director, Orlando District Office, Orlando, FL.

DATE: The meeting will be held at 2 p.m., Friday, April 3, 1981.

ADDRESS: The meeting will be held at Jordan Marsh-Training Room, Palm Beach Mall, 1801 Palm Beach Lakes Blvd., West Palm Beach, FL.

FOR FURTHER INFORMATION CONTACT: Lynne C. Trauba, Consumer Affairs Officer, Food and Drug Administration, P.O. Box 118, Orlando, FL 32802, 305-855-0900.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's Orlando District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: March 18, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-8817 Filed 3-23-81; 8:45 am]

BILLING CODE 4110-03-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by Thomas L. Hooker, District Director, Baltimore District Office, Baltimore, MD.

DATE: The meeting will be held at 10 a.m., Tuesday, April 14, 1981.

ADDRESS: The meeting will be held at the Baltimore District Office, Food and Drug Administration, 900 Madison Ave., Baltimore, MD.

FOR FURTHER INFORMATION CONTACT: Anne B. Lane, Consumer Affairs Officer, Food and Drug Administration, 900 Madison Ave., Baltimore, MD, 21201, 301-962-3731.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's Baltimore District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: March 18, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-8818 Filed 3-23-81; 8:45 am]

BILLING CODE 4110-03-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by William C. Hill, District Director, San Francisco District Office, San Francisco, CA.

DATE: The meeting will be held from 3:30 to 5 p.m., Wednesday, April 8, 1981.

ADDRESS: The meeting will be held at the Washoe Association for Retarded Citizens Bldg., 790 Sutro St., Reno, NV 89512.

FOR FURTHER INFORMATION CONTACT: Connie Y. Saito, Consumer Affairs Officer, Food and Drug Administration, 50 United Nations Plaza, Rm. 518, San Francisco, CA 94102, 415-556-2062.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's San Francisco District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: March 18, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-8819 Filed 3-23-81; 8:45 am]

BILLING CODE 4110-03-M

Health Care Financing Administration

Privacy Act of 1974; New and Altered Systems of Records

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Waiver of advance notice period for a new system of records and an altered system of records.

SUMMARY: HCFA provided notification of an altered system in the **Federal Register** (46 FR 3989-3991), January 16, 1981. That system is 09-70-0001, Medicare Second Surgical Opinion Experiments. HCFA also provided notification of a proposed new system in the **Federal Register** (46 FR 7453-7456), January 23, 1981. That system is 09-70-0023, Evaluation of the Home Dialysis Aide Demonstration. Both notices stated that HCFA had requested that the Office of Management and Budget (OMB) grant a waiver of the usual requirement that a new or altered system not be put into effect until 60 days after the report is sent to OMB and the Congress.

OMB granted the requested waivers on February 12, 1981.

Accordingly, effective dates for the systems are February 12, 1981, for altered system 09-70-0001, and February 23, 1981, for new system 09-70-0023 (including the routine uses).

Dated: March 17, 1981.

Paul Willging,

Acting Administrator, Health Care Financing Administration.

[FR Doc. 81-8823 Filed 3-23-81; 8:45 am]

BILLING CODE 4110-35-M

Office of the Secretary

Federal Council on the Aging; Long-Term Care Committee; Meeting

The Federal Council on the Aging was established by the 1973 Amendments to the Older Americans Act of 1965 (Pub. L. 93-29, 42 U.S.C. 3015) for the purpose of advising the President, the Secretary of Health and Human Services, the Commissioner on Aging, and the Congress on matters relating to the special needs of older Americans.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. app. 1, sec 10, 1976) that the Committee will hold a meeting on Wednesday, April 8, 1981 at 9:30 a.m. to 4:30 p.m. in Rooms 403-425A, Hubert Humphrey Building, 200 Independence Ave., S.W., Washington, D.C. 20201.

The agenda will consist of a discussion with Federal officials on the policy implications of the Council's recently published chartbook on information and issues on the need for long term care.

Further information may be obtained from the Federal Council on the Aging, Washington, D.C. 20201. Telephone (202) 245-0441.

FCA meetings are open for public observation.

Dated: March 17, 1981.

Rev. Msgr. Charles J. Fahey,

Chairman, Federal Council on the Aging.

[FR Doc. 81-8914 Filed 3-23-81; 8:45 am]

BILLING CODE 4110-92-M

Privacy Act of 1974; Report of a New System of Records

AGENCY: Office of the Assistant Secretary for Planning and Evaluation (ASPE), Office of the Secretary (OS), Department of Health and Human Services (DHHS).

ACTION: Notification of a New System of Records.

SUMMARY: In accordance with 5 U.S.C. 552a(e)(4), we are issuing public notice of our intent to establish a new system of records: Recipient Survey for the Monthly Reporting and Retrospective Accounting Study, HHS/OS/ASPE, 09-90-0087. We are proposing also to include a routine use with the system in accordance with 5 U.S.C. 552a(e)(11). The proposed new system will provide for data on the nature and extent of the effects of the monthly reporting system on the well-being of AFDC clients. Non-individually identifiable data are used for analysis by the contractor for this evaluation, any agency of government, and any member of the public who wishes to conduct statistical analysis of such data.

We will collect data from 13 local welfare offices in three states and on about 5,000 individuals. The public is invited to submit comments on the routine use of this system of records on or before April 23, 1981.

DATES: We filed a report of a new system of records with the President of the Senate, the Speaker of the House of Representatives, and the Director, Office of Management and Budget (OMB) on March 19, 1981. A request for waiver of the OMB advance notice requirement has been submitted. If OMB does not grant the waiver, the new system will not be implemented until the normal 60-day waiting period has elapsed. However, if OMB does grant the waiver, the system would be implemented on the date the waiver is granted.

The routine use will become effective April 23, 1981, (but not before the system has been implemented) unless HHS receives comments which would result in a contrary determination.

ADDRESS: Address comments to the ASPE Privacy Act Officer, Department of Health and Human Services, 200 Independence Avenue SW., Washington, D.C. 20201. We will make comments received available for public inspection in Room 419E, Hubert Humphrey Building, at the above address.

FOR FURTHER INFORMATION CONTACT: Project Officer, Monthly Reporting Project, Office of the Assistant Secretary for Planning and Evaluation, 200 Independence Avenue SW., Washington, D.C. 20201, telephone number 202-245-1794, Room 457F.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, proposes to initiate a new system of collecting data under the authority of a special Congressional appropriation initiated in fiscal year 1978.

The Monthly Reporting Systems Project being tested constitutes a major change in the way in which welfare clients provide information to state and local agencies. The systems are intended to increase the accuracy of AFDC grant payments and thereby potentially reduce total grant outlays. The evaluation of monthly reporting focuses on four basic issues; the effect of the monthly reporting system on total AFDC caseload and payment; on payment accuracy and error rates; on administrative costs and structures; and on AFDC recipients. Studying the effects on recipients is the only task that will include a system of records with personal identifiers. All other tasks where data are provided to the contractor are State initiated and controlled. Those data are made available to the contractor without any individual indentifiers.

Five thousand individuals in 13 local welfare offices in 3 states are the minimum number of offices and individuals necessary in a study of this type to yield statistically reliable national estimates of the difference between experimental and control cases. This sample size gives a .8 probability of detecting at the 95 percent confidence level a 10 percentage point difference between experimental and control cases, where the value on the variable of interest is 40 percent for the control group.

To evaluate the effects of monthly reporting on participating AFDC clients, it is necessary to interview them to determine the extent and nature of the problems they have with the monthly reporting form; the degree to which the new form increases the time and costs of reporting in terms of providing benefits when needed; the incidence of failure to provide benefits to eligible household; the effects on the quality of nonfinancial services provided to clients; and the way in which the system changes clinet interaction with agency personnel; e.g., are fewer trips made to the welfare office under a monthly reporting system? This is the only area of this project in which information will be collected from the public for analysis. Not only Federal policy makers but both state administrators and client advocates feel particularly strongly that these client effects should be analyzed in detail. Because of the potential behavioral effects induced by the test policies, no other data sources can substitute for face-to-face client interviews.

All personal indentifiers will be removed from the data before it is entered into analysis files to assure that the respondents' confidentiality is protected. Individual respondents will never be identified in any analyses or reports submitted by Abt Associates, Inc. for this project.

A letter to the survey respondents states that participation is voluntary. The Privacy Act Statement will be provided in printed form to all potential respondents so they may have the

opportunity to read the statement and provide their verbal informed consent, prior to any interviews by Abt Associates, Inc. At that time, should the respondent have any questions about the purpose of survey, the interviewer will answer them. Also, the interviewer will read the statement to the client, should the client be unable to read. Standard procedures as described further on will be established by Abt Associates with respect to the handling and use of personal indentifying information which will be gathered in the course of the interview effort.

For the interviewing effort, a separate sheet of paper will contain the names of the respondents to each interview. This will be used for data verification, potential follow-up to obtain missing interview information, and other quality control procedures. All individually identifiable information on the respondent or his or her household will be entered in the Respondent Information Booklet (RIB), but not onto the interview data. The interviews will not contain any personal indentifiers, but will use a unique system of identification which will not identify the individual. The RIB is linked to the interview by this unique identification number only and contains name, address and telephone number of respondent as well as names and birth-dates of household members. No personal information will be entered into an automated data base containing only the aggregated demographic data.

These data will not be disclosed or released to any other agency, organization, or individual except under the routine use requirements of the Privacy Act or as otherwise required by law. All hard copy interview data will be destroyed by Abt Associates, Inc., under the control of the ASPE Project Officer, within 30 days of the conclusion of the contract. Abt Associates, Inc. will retain all other records for the life of the evaluation and then return data void of personal identification to the Office of the Assistant Secretary for Planning and Evaluation.

This system is neither designed nor intended to be used to measure the behavior of any specific individual with respect to any data that are collected as part of the demonstration or evaluation.

The Privacy Act of 1974 allows us to disclose information without the consent of the individual for "routine uses," that is, disclosure for purposes that are compatible with the purposes for which the data are collected. We are establishing one routine use of information in this system. This routine use provides for disclosure in response to congressional inquiries made on behalf of any individual included in the system of records.

Individually identifiable data are maintained at Abt Associates, Inc., the contractor for this evaluation. The contractor safeguards the identifiable data according to the Department's ADP Systems Manual, "Part 6, ADP System Security." Identifiable data on other than magnetic tape or disk are maintained by the contractor in locked cabinets in a limited access area. All hard copy identifiable data will be destroyed by Abt Associates within 30 days of the conclusion of the contract. We further protect magnetic data with special account numbers and passwords.

Since we propose to establish this system in accordance with the requirements of the Privacy Act, we anticipate no adverse effect on the privacy or personal rights of individuals.

Dated: March 18, 1981.

Gerald Britten,

Acting Assistant Secretary for Planning and Evaluation.

00-90-0087

SYSTEM NAME:

Recipient Survey for the Monthly Reporting and Retrospective Accounting Study/HHS/OS/ASPE

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Abt Associates, Inc. 55 Wheeler Street Cambridge, Massachusetts 02138

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system will include a sample of approximately 5,000 recipients of Aid to Families with Dependent Children (AFDC)/Food Stamp (FS) programs in three states some of whose cases are active in either the monthly or conventional reporting systems and some others, whose cases have been closed after being active at some point during the experimental period.

CATEGORIES OF RECORDS IN THE SYSTEM:

The contractor maintains two sets of files, containing the data the evaluation was designed to collect.

One file, the Respondent Information Booklets (RIB) consists of the names, addresses, telephone numbers, and names and birthdates of household members. It also includes the record of the one-time payment to the respondent. A unique individual identifying number links this file to the other file. Only this unique number permits identification of the individual.

The other file consists of non-individually identifiable information, except for the linking number attached, that include: prior participation in the welfare system and the nature and extent of prior work experience; reporting burden in time and money, promptness and accuracy; receipt of benefits other than their regular check; recipient's understanding of rules and regulations; current circumstances of closed case respondents, and demographics. The file will be retained as magnetic tape and disk.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 1115, Social Security Act, as amended.

PURPOSE(S)

The proposed new system will provide for data on the nature and extent of the effects of the monthly reporting system on the well-being of AFDC clients. This system will determine: (1) how much time, cost, and effort recipients must expend to comply with monthly reporting rules, and the comparable response burden under the pre-existing system; (2) recipient understanding of the experimental and control groups, and recipient attitudes about the two groups; (3) the difference between the experimental and control treatments in the meeting of current need, where "current" refers to the period covered by the payment, and "need" is defined by AFDC program rules; and (4) the extent to which recipients have access to alternative resources over the short term, and are able to budget these various resources.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made on behalf of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING, OF RECORDS IN THE SYSTEM.

STORAGE:

Magnetic tape and disk, paper and card records.

RETRIEVABILITY:

The contractor performs linkage between the data sets through a number common to both the identified data and the non-individually identified data only for purposes of validation of data, matching and management of data collection.

SAFEGUARDS:

The contractor, Abt Associates, Inc., stores the Respondent Information Booklet (RIB) containing individual identifiers separately from the interviews in locked file cabinets whose access will be restricted to authorized Abt Associates personnel only. Interviews with non-individually identifiable information are stored separately in a locked safe. Magnetic data are further protected by special account numbers and passwords.

The contractor conforms to the Department's ADP Systems Manual, "Part 6, ADP System Security." Access to the linkage associated with identifiable data for individuals is subject to the specific approval of the Project Director at Abt Associates, Inc. Information with individual identifiers is used to verify that records and personal statements are in substantial agreement and that critical data are not missing. Should there be apparent discrepancies, the correct situation could be identified through follow-ups. These uses are performed only by persons employed by Abt Associates, Inc. and then only on a "need to know" basis. At the conclusion of the data collection and cleaning period, all files containing RIBs will be destroyed.

Non-individually identifiable data are used for analysis in support of the overall demonstration evaluation. Research topics of the evaluation include: payment and caseload effects; payment accuracy; administrative outcomes and recipient effects. The aggregated data without personal identifiers are available to any member of the public or to any agency of the government.

The Office of the Assistant Secretary for Planning and Evaluation may conduct analyses of non-individually identifiable data, as necessary.

The Government Project Officer may have access to the identifiable records only to monitor the contractor's performance of the evaluation.

RETENTION AND DISPOSAL:

Magnetic files that contain non-individually identifiable information will be destroyed by shredding or degaussing no more than three years after field work on this evaluation or at such time as it is determined that no further validation of the data will be undertaken.

There are no plans for the destruction of the non-individually identifiable data.

SYSTEMS MANAGER(S) AND ADDRESS:

Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services, 200 Independence Avenue, S.W., Washington, D.C. 20201

NOTIFICATION PROCEDURE:

An individual requesting notice as to whether the system of records contains information pertaining to him/her, should write to the Government Project Officer, at the address below, indicting his/her full name, current address and any other addresses since March 1981. Simultaneously, with requesting notification of inclusion in the system of records, the individual may request record access as described in the "Record Access Procedure" Section.

Project Officer, Monthly Reporting Demonstration Project, Room 457F, Office of the Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services, 200 Independence Avenue, S.W., Washington, D.C. 20201.

RECORD ACCESS PROCEDURES:

Individuals who, through the notification procedures set out above, have established that the system of records contains information pertaining to them may request access to those records by writing to the Government Project Officer at the address given above. The Government Project Officer will notify the individual as to the place and time for access to the record(s). If the requestor prefers, and the information requested is not too voluminous, the material may be mailed.

CONTESTING RECORD PROCEDURES:

Contact the Government Project Officer at the address given above, reasonably identify the record, specify the information being contested, the rational for the challenge and supply the information to be substituted.

RECORD SOURCE CATEGORIES:

Information will be obtained from face-to-face interviews, client information systems and recipient case files.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 81-8970 Filed 3-23-81; 8:45 am]

BILLING CODE 4110-12-M

DEPARTMENT OF THE INTERIOR

Geological Survey

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Getty Oil Company has submitted a Development and Production Plan describing the activities it proposes to conduct on lease OCS–G 3983, Block 264, Vermilion Area, offshore Lousiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: March 16, 1981.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 81-8856 Filed 3-23-81; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Tenneco Oil Exploration and Publication has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 0819, Block 168, Ship Shoal Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is

considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plan available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: March 16, 1981.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 81-8857 Filed 3-23-81; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Union Oil Company of California has submitted a Development and Production Plan describing the activities it proposes to conduct on Leases OCS 0204, 0205, 0208, and OCS–G 3544, Blocks 38, 42, and 43, Vermilion Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: March 16, 1981.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 81-8858 Filed 3-23-81; 8:45 am]

BILLING CODE 4310-31-M

Bureau of Indian Affairs

Bad River Band of the Lake Superior Tribe of Chippewa Indians, Bad River Reservation, Wisconsin

March 11, 1981.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.1.

On August 25, 1980, pursuant to authority contained in the Federal Property and Administrative services Act of 1949, as amended by Public Law 93–599 dated January 2, 1975 (88 Stat. 1954), the below-described property was transferred by the Administrator of General Services to the Secretary of the Interior, without reimbursement to be held in trust for the use and benefit of the Bad River Band of the Lake Superior Tribe of Chippewa Indians, Bad River Reservation, Wisconsin:

SE¼, NE¼, Sec 25, T. 47 N., R. 2 W., 4th P.M., Ashland County, Wisconsin, containing 40 acres more or less.

These lands are to be treated as and receive the same benefits and protection as other trust lands held for the benefit and use of the Bad River Band of the Lake Superior Tribe of Chippewa Indians.

James F. Canan,

Acting Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 81-8814 Filed 3-23-81; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[M 37604]

Coal Lease Offering by Sealed Bid; Montana

March 17, 1981.

U.S. Department of the Interior, Bureau of Land Management, Montana State Office, Granite Tower Building, 222 North 32nd Street, P.O. Box 30157, Billings, Montana 59107. Notice is hereby given that at 2 p.m., April 22, 1981, in the Conference Room on the 6th Floor of the Granite Tower Building, the coal resources in the tract described below will be offered for competitive lease by sealed bid to the qualified bidder of the highest cash amount per acre. No bid will be considered which is less than $25/acre and no bid will be accepted for less than fair market value as determined by the authorized officer. This offering is being made as a result of an application filed by Decker Coal Company in accordance with the provisions of the Mineral Leasing Act of 1920 (41 Stat. 437), as amended, and the Department of Energy Organization Act of August 4, 1977 (91 Stat. 565, 42 U.S.C. 7101).

Bids received after 2 p.m. on the day of the sale will not be considered. Sealed bids may not be modified or withdrawn unless such modification or withdrawal is received at the above address before 2 p.m., April 22, 1981. The successful bidder is obligated to pay for the newspaper publication of this Notice.

Coal Offered

The tract is located in Big Horn County approximately 4 miles northeast of Decker, Montana, 21 miles northeast of Sheridan, Wyoming, and 40 miles southwest of Ashland, Montana, and contains 440.00 acres:

T. 9 S., R. 40 E., P.M.M.,
Sec. 8, SE¼NE¼, N½SE¼, SW¼SE¼;
Sec. 9, W½NW¼;
Sec. 17, E½SW¼;
Sec. 20, N½NE¼, SE¼NE¼.

The coal resources offered are limited to all strippable reserves of the Anderson-Dietz #1 (D–1) and the Anderson-Dietz #2 (D–2) seams. The U.S. Geological Survey shall make the final determination on whether to mine the Anderson-Dietz (D–2) seam. Geological Survey has reported that the D–1 seam contains an estimated total of 16.5 million tons of strippable reserves and that the D–2 seam contains an estimated total of 5.3 million tons of

strippable coal reserves. The Anderson-Dietz #1 (D–1) seam averages 51 feet thick over the described lands. The coal is subbituminous B and averages (as-received) 9,624 Btu/lb. with 23.67 percent moisture, 0.33 percent sulfur and 3.81 percent ash. The Anderson-Dietz #2 (D–2) seam averages 20 feet thick over the described lands. The coal is subbituminous B and averages (as-received) 9,398 Btu/lb. with 24.06 percent moisture, .30 percent sulfur and 4.69 percent ash. The coal resources are within the Powder River Basin Known Recoverable Coal Resource Area.

Rental and Royalty

The lease issued as a result of this offering will provide for payment of an annual rental of $3.00 per acre or fraction thereof and a royalty payable to the United States at the rate of 12.5 percent of the value of coal mined by surface methods. The value of coal shall be determined in accordance with 30 CFR 211.63.

Detailed Statement of Sale

A detailed statement of the sale, including bidding instructions and the terms of the lease, is available at the office listed above. All case file documents and written comments submitted by the public on fair market value or royalty rates, except those portions identified as proprietary which meet the exemptions stated in the Freedom of Information Act, will be available for public inspection at the Bureau of Land Management Office at the address given above.

Roland F. Lee,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-8655 Filed 3-23-81; 8:45 am]

BILLING CODE 4310-84-M

[Serial No. I-15375]

Idaho; Proposed Withdrawal Continuation

March 13, 1981.

The Bureau of Land Management has filed a statement of justification for continuation of an existing Public Water Reserve Withdrawal. The Bureau desires to continue the withdrawal in its entirety for a period of 20 years. The continuation would be made pursuant to the authority contained in Section 204 of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2754; 43 U.S.C. 1714). The following described land is included in the proposed continuation:

Boise Meridian, Idaho

(I–15375)

Public Water Reserve 107, Secretarial Order of Interpretation No. 186

T. 12 S., R. 32 E.,
Sec. 10, SW¼SW¼.
The area described aggregates 40 acres in Power County, Idaho.

The land is segregated from operation of the public land laws, including location for non-mettaliferous minerals under the mining laws. It is otherwise open to the mining and mineral leasing laws. No change in the segregative effect of the withdrawal or use of the lands is proposed.

Notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal continuation. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned officer on or before April 23, 1981. Upon determination by the State Director, Bureau of Land Management, that a public hearing will be held, a notice will be published in the **Federal Register** giving the time and place of such hearing. In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the proposed withdrawal continuation may be filed with the undersigned officer on or before April 23, 1981.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. He will review the withdrawal justification to insure that continuation would be consistent with the statutory objectives of the programs for which the land is dedicated the area involved is the minimum essential to meet the desired needs, the maximum concurrent utilization of the land is provided for, and an agreement is reached on the concurrent management of the land and its resources. He will also prepare a report for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued and, if so, for how long. The final determination on continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

All communication in connection with this proposed withdrawal continuation should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Federal Building, Box 042, 550 West Fort Street, Boise, Idaho 83724.

Vincent S. Strobel,

Chief, Branch of L&M Operations.

[FR Doc. 81-8880 Filed 3-23-81; 8:45 am]

BILLING CODE 4310-84-M

[Serial No. I-15377]

Idaho; Proposed Withdrawal Continuation

March 13, 1981.

The Bureau of Land Management has filed a statement of justification for continuation of an existing Public Water Reserve Withdrawal. The Bureau desires to continue the withdrawal in its entirety for a period of 20 years. The continuation would be made pursuant to the authority contained in Section 204(L) of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2754; 43 U.S.C. 1714). The following described land is included in the proposed continuation:

Boise Meridian, Idaho

(I–15377)

Public Water Reserve 107, Secretarial Order of Interpretation No. 131

T. 7 S., R. 36 E.,
Sec. 9, SW¼NW¼, NW¼SW¼.
The area described aggregates 80 acres in Bannock County, Idaho.

The land is segregated from operation of the public land laws, including location for non-metalliferous minerals under the mining laws. It is otherwise open to the mining and mineral leasing laws. No change in the segregative effect of the withdrawal or use of the lands is proposed.

Notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal continuation. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned officer on or before April 23, 1981. Upon determination by the State Director, Bureau of Land Management, that a public hearing will be held, a notice will be published in the **Federal Register** giving the time and place of such hearing. In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the proposed withdrawal continuation may be filed with the undersigned officer on or before April 23, 1981.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential

demand for the land and its resources. He will review the withdrawal justification to insure that continuation would be consistent with the statutory objectives of the programs for which the land is dedicated the area involved is the minimum essential to meet the desired needs, the maximum concurrent utilization of the land is provided for, and an agreement is reached on the concurrent management of the land and its resources. He will also prepare a report for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued and, if so, for how long. The final determination on continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

All communication in connection with this proposed withdrawal continuation should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Federal Building, Box 042, 550 West Fort Street, Boise, Idaho 83724.

Vincent S. Strobel,

Chief, Branch of L&M Operations.

[FR Doc. 81-8861 Filed 3-23-81; 8:45 am]

BILLING CODE 4310-84-M

[Serial No. I-4733]

Idaho; Proposed Withdrawal Continuation

March 13, 1981.

The Bureau of Land Management has filed a statement of justification for continuation of the existing land withdrawal made by Public Land Order No. 5507 of June 23, 1975. The Bureau desires to continue the withdrawal in its entirety for a period of 20 years. The continuation would be made pursuant to the authority contained in Section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751; 43 U.S.C. 1714. The following described land is included in the proposed continuation:

Boise Meridian, Idaho

T. 10 S., R. 23 E.,
Sec. 32, SE¼SE¼.
T. 11 S., R. 15 E.,
Sec. 23, NW¼.
T. 12 S., R. 15 E.,
Sec. 4, SE¼NW¼, NE¼SW¼.

The area described aggregates 280 acres in Twin Falls County, Idaho.

The lands, known as the Burger, Castleford and Burley exclosures, have been withdrawn to preserve their cultural and historical values and to permit their continued use for ecological research. The land is withdrawn from appropriation under the public land laws and from grazing under the Taylor Grazing Act, but not from leasing under the mineral leasing laws. It is being proposed that the withdrawal be modified to exclude livestock grazing only inside the fenced exclosures on each tract.

Notice is herey given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal continuation. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned officer on or before April 23, 1981. Upon determination by the State Director, Bureau of Land Management, that a public hearing will be held, a notice will be published in the **Federal Register** giving the time and place of such hearing. In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the proposed withdrawal continuation may be filed with the undersigned officer on or before April 23, 1981.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. He will review the withdrawal justification to insure that continuation would be consistent with the statutory objectives of the programs for which the land is dedicated, the area involved is the minimum essential to meet the desired needs, the maximum concurrent utilization of the land is provided for and an agreement is reached on the concurrent management of the land and its resources. He will also prepare a report for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

All communication in connection with this proposed withdrawal continuation should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Federal Building, Box 042, 550 West Fort Street, Boise, Idaho 83724.

Vincent S. Strobel,

Chief, Branch of L&M Operations.

[FR Doc. 81-8859 Filed 3-23-81; 8:45 am]

BILLING CODE 4310-84-M

[Serial No. I-9100]

Idaho; Proposed Withdrawal Continuation

March 13, 1981.

The Bureau of Land Management has filed a statement of justification for continuation of the existing land withdrawal made by Public Land Order No. 5592 of July 6, 1976. The Bureau desires to continue the withdrawal in its entirety for a period of 20 years. The continuation would be made pursuant to the authority contained in Section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751; 43 U.S.C. 1714. The following described land is included in the proposed continuation:

Boise Meridian, Idaho

T. 50 N., R. 5 W.,
Sec. 4, Lot 13

The area described aggregates 37.50 acres in Kootenai County, Idaho.

The lands have been withdrawn for protection of its recreational, natural, scenic, wildlife and watershed values. The land adjoins the Spokane River and is located ½ mile from the community of Post Falls, Idaho. It is segregated from appropriation under the public land laws, including the mining laws, but not the mineral leasing laws. No change in the segregative effect of the withdrawal or use of the lands is proposed.

Notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal continuation. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned officer on or before April 23, 1981. Upon determination by the State Director, Bureau of Land Management, that the public hearing will be held, a notice will be published in the **Federal Register** giving the time and place of such hearing. In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the proposed withdrawal continuation may be filed with the undersigned officer on or before April 23, 1981.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. He will review the withdrwal justification to insure that continuation would be consistent with the statutory objectives of the programs for which the land is dedicated, the area involved is the minimum essential to meet the desired needs, the maximum concurrent

utilization of the land is provided for and an agreement is reached on the concurrent management of the land and its resources. He will also prepare a report for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

All communication in connection with this proposed withdrawal continuation should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Federal Building, Box 042, 550 West Fort Street, Boise, Idaho 83724.

Vincent S. Strobel,

Chief, Branch of L&M Operations.

[FR Doc. 81-8862 Filed 3-23-81; 8:45 am]

BILLING CODE 4310-84-M

[OR 19341]

Oregon; Proposed Continuation of Withdrawal

The Bureau of Land Management, U.S. Department of the Interior, proposes that the existing land withdrawal made by Public Land Order No. 754 of September 14, 1951, be continued in its entirety as to the following described land for a 20-year period, pursuant to Section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751, 43 U.S.C. 1714:

Willamette Meridian

Myrtle Island

T. 24 S., R. 7 W.,
Sec. 20, Lot 9;
Sec. 21, Lot 11.

Containing 28.28 acres in Douglas County, Oregon.

The purpose of the withdrawal is to protect the scientific and educational values of the Oregon myrtle located on Myrtle Island as a timber preservation area. The status of the withdrawal is proposed to be modified from a timber preservation area to a research natural area. The land is currently segregated from operation of the public land laws, generally, including the mining laws and mineral leasing laws. No change in the segregative effect is proposed, except to restore the land to operation of the mineral leasing laws.

Notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal continuation. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned on or before April 27, 1981. Upon determination by the State Director, Bureau of Land Management, that a public hearing will be held, a notice will be published in the **Federal Register** giving the time and place of such hearing. In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the proposed withdrawal continuation may be filed with the undersigned officer on or before April 27, 1981.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. He will review the withdrawal justification to insure that continuation would be consistent with the statutory objectives of the programs for which the land is dedicated; the area involved is the minimum essential to meet the desired needs; the maximum concurrent utilization of the land is provided for; and an agreement is reached on the concurrent management of the land and its resources. He will also prepare a report for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

All communications in connection with this proposed withdrawal continuation should be addressed to the undersigned officer, Bureau of Land Management, U.S. Department of the Interior, P.O. Box 2965, Portland, Oregon 97208.

Dated: March 13, 1981.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-8851 Filed 3-23-81; 8:45 am]

BILLING CODE 4310-84-M

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before March 13, 1981. Pursuant to § 1203.13 of 36 CFR Part 1202, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by april 8, 1981.

Carol Shull,

Acting Chief, Registration Branch.

ARIZONA

Yavapai County

Prescott, *Iron Turbine Windmill*, 415 W. Gurley St.

GEORGIA

Chatham County

Savannah vicinity, *Hill Hall at Savannah State College*, Campus of Savannah State College.

INDIANA

Johnson County

Franklin, *Johnson County Courthouse Square*, Court House Sq.

KANSAS

Geary County

Junction City, *Old Junction City High School*, Adams at 6th St.

Riley County

Manhattan, *Platt, Jeremiah, House*, 2005 Claflin Rd.

OREGON

Clackamas County

Government Camp vicinity, *Clackamas Lake Ranger Station*, S of Government Camp on Skyline Rd.

Multnomah County

Bridal Veil vicinity, *Multnomah Falls Lodge and Footpath*, NE of Bridal Veil on Old Columbia River Hwy.

WASHINGTON

Okanogan County

Tonasket vicinity, *Bonaparte Mountain Cabin*, E of Tonasket in Okanogan National Forest.

WEST VIRGINIA

Boone County

Madison, *Boone County Courthouse*, State St.

Cabell County

Huntington, *Memorial Arch*, Memorial Park.

WISCONSIN

Manitowoc County

Manitowoc, *Manitowoc County Courthouse*, 8th St. at Washington St.

Waukesha County
Delafield, *Delafield Fish Hatchery*, Main St.

[FR Doc. 81-8551 Filed 3-23-81; 8:45 am]
BILLING CODE 4310-03-M

Office of the Secretary

Privacy Act of 1974—Revision and Update of Notices of Systems of Records

This notice updates and revises the information which the Department of the Interior has published describing systems of records maintained which are subject to the requirements of Section 3 of the Privacy Act of 1974, 5 U.S.C. 552a. All changes being published are editorial in nature, and reflect organization and minor administrative changes which have occurred since the publication of the material in the **Federal Register** on April 11, 1977 (42 FR 18968), and February 14, 1979 (44 FR 9633).

Four records systems are no longer maintained as Privacy Act systems of records and are deleted as follows:

1. System Name: Fish Tag Returns—Interior, FWS–12 (Published at 42 FR 19086).

2. System Name: American Attitudes Towards Animals—Interior, FWS–15 (Published at 42 FR 19087).

3. System Name: Waterfowl Hunter Attitude Study—Interior, FWS–16 (Published at 42 FR 19087).

4. System Name: Animal Damage Control Authorization Records—Interior, FWS–18 (Published at 42 FR 19088).

Part VIII of the Appendix containing addresses of facilities of the Department which pertain to the U.S. Fish and Wildlife Service (Published at 42 FR 18972) is updated and republished.

The following system notices are updated and republished in their entirety below.

1. System Name: Travel Records—Interior, FWS–2 (Published at 42 FR 19082).

2. System Name: Security File—Interior, FWS–3 (Published at 42 FR 19082).

3. System Name: Tort Claim Records—Interior, FWS–4 (Published at 42 FR 19082).

4. System Name: National Wildlife Refuge Special Use Permits—Interior, FWS–5 (Published at 42 FR 19083).

5. System Name: Hunting and Fishing Survey Records—Interior, FWS–6 (Published at 44 FR 9633).

6. System Name: Water Development Project and/or Effluent Discharge Permit Application Review—Interior, FWS–7 (Published at 42 FR 19083).

7. System Name: Fish Disease Inspection Report—Interior, FWS–8 (Published at 42 FR 19084).

8. System Name: Farm Pond Stocking Program—Interior, FWS–9 (Published at 42 FR 19084).

9. System Name: National Fish Hatchery Special Use Permits—Interior, FWS–10 (Published at 42 FR 19085).

10. System Name: Real Property Records—Interior, FWS–11 (Published at 42 FR 19085).

11. System Name: Endangered Species Licensee System—Interior, FWS–19 (Published at 42 FR 19088).

12. System Name: Investigative Case File System—Interior, FWS–20 (Published at 42 FR 19089).

13. System Name: Permits System—Interior, FWS–21 (Published at 42 FR 19089).

14. System Name: U.S. Deputy Game Warden—Interior, FWS–22 (Published at 42 FR 19090).

15. System Name: Motor Vehicle Permit Log—Interior, FWS–23 (Published at 42 FR 19090).

16. System Name: Payroll—Interior, FWS–24 (Published at 42 FR 19091).

17. System Name: Contract and Procurement Records—Interior, FWS–25 (Published at 42 FR 19091).

18. System Name: Migratory Bird population and Harvest Systems—Interior, FWS–26 (Published at 42 FR 19091).

19. System Name: Avitrol Authorization Records—Interior, FWS–28 (Published at 42 FR 19093).

20. System Name: Animal Damage Control Non-Federal Personnel Records—Interior, FWS–29 (Published at 42 FR 19093).

Additional information regarding this notice may be obtained from the Departmental Privacy Act Officer, Office of Information Resources Management, Office of Secretary, U.S. Department of the Interior, Washington, D.C. 20240, telephone 202-343-6191.

Dated: March 18, 1981.

William L. Kendig,
Deputy Assistant Secretary of the Interior.

APPENDIX

* * * * *

VIII. FISH AND WILDLIFE SERVICE

A. Headquarters Office

Fish and Wildlife Service
U.S. Department of the Interior
18th and C Streets, N.W.
Washington, D. C. 20240

B. Regional Offices

Portland Regional Office (Region 1)
Fish and Wildlife Service
U.S. Department of the Interior
1500 N. E. Irving Street
Post Office Box 3737
Portland, Oregon 97208

Albuquerque Regional Office (Region 2)
Fish and Wildlife Service
U.S. Department of the Interior
500 Gold Avenue, S.W.
Albuquerque, New Mexico 87102

Twin Cities Regional Office (Region 3)
Fish and Wildlife Service
U.S. Department of the Interior
Federal Building
Fort Snelling
Twin Cities, Minnesota 55111

Atlanta Regional Office (Region 4)
Fish and Wildlife Service
U.S. Department of the Interior
17 Executive Park Drive, N. E.
Atlanta, Georgia 30329.

Boston Regional Office (Region 5)
Fish and Wildlife Service
U.S. Department of the Interior
John W. McCormack Post Office and Courthouse
Boston, Massachusetts 02109

Denver Regional Office (Region 6)
Fish and Wildlife Service
U.S. Department of the Interior
10597 West Sixth Avenue
Lakewood, Colorado 80215

Alaska Area Office
Fish and Wildlife Service
U.S. Department of the Interior
813 D Street
Anchorage, Alaska 99501

C. Law Enforcement District Offices

Special Agent-in-charge
813 D Street
Anchorage, Alaska 99501

Special Agent-in-charge
P. O. Box 3737
Portland, Oregon 97208.

Special Agent-in-charge
Room E 1924-2800 Cottage Way
Sacramento, California 95825

Special Agent-in-charge
P. O. Box 25486
Denver Federal Center
Denver, Colorado 80225.

Special Agent-in-charge
P. O. Box 1038
Independence, Missouri

Special Agent-in-charge
P. O. Box 329
Albuquerque, New Mexico

Special Agent-in-charge
P. O. Box 45
Twin Cities, Minnesota 55111

Special Agent-in-charge
546 Carondelet Street-Room 408
New Orleans, Louisiana 70130

Special Agent-in-charge
P. O. Box 95467
Atlanta, Georgia 30347

Special Agent-in-charge
P. O. Box 290
Nashville, Tennessee 37202

Special Agent-in-charge
95 Aquahart Road
Glen Burnie, Maryland 21061

Special Agent-in-charge
Hangar 11, Room 1-49
John F. Kennedy Airport

Jamaica, New York 11430
Special Agent-in-charge
P. O. Box 34
Boston, Massachusetts 02101

* * * * *

INTERIOR/FWS-2

SYSTEM NAME:

Travel Records—Interior, FW-2.

SYSTEM LOCATION:

Denver Service Center, U.S. Fish and Wildlife Service, Department of the Interior, P.O. Box 25346, Denver Federal Center, Denver, Colorado 80225. (2) Input documents supplied by all facilities of the U.S. Fish and Wildlife Service. (See Appendix for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have performed official travel for the U.S. Fish and Wildlife Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains authorizations to perform travel, travel advance records, and vouchers claiming reimbursement for expenses incurred in the performance of travel.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5701–5709; 5 U.S.C. 5721–5733 and 20 U.S.C. 905(a); 5 U.S.C. 5722 and 5 U.S.C. 5742(b); and 5 U.S.C. 4111(b).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is to form the legal basis for the disbursement of federal funds. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; and (5) to Federal, state, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ASSESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Maintained in manual form in file folders.

RETRIEVABILITY:

Indexed by name of traveler.

SAFEGUARDS:

Maintained in accordance with the provisions of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Made in accordance with FPMR 101–11.4 dated August 1, 1974.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Denver Service Center U.S. Fish and Wildlife Service, Department of the Interior, P.O. Box 25346, DFC, Denver, Colorado 80225.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Office initiating the travel authorization and individual on whom the record is maintained.

INTERIOR-FWS-3

SYSTEM NAME:

Security File—Interior, FWS-3.

SYSTEM LOCATION:

Office of Safety and Security, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Occupants of critical-sensitive and non-critical sensitive positions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains notice of level of security clearance granted to the individual or notice of favorable full-field report as well as SF-86 supplied by individual, as appropriate.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10450.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are to (a) document security clearances granted to individuals, and (b) to document suitability determinations for federal employment. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; and (5) to Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

File maintained in individual folders.

RETRIEVABILITY:

Folders identified by employee name.

SAFEGUARDS:

Folders contained in locked cabinet.

RETENTION AND DISPOSAL:

Destroyed when clearance requirement no longer exists or when employee separates.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Office of Safety and Security, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records

pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES.

A request for access may be addressed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Information supplied by individual and the Office of Personnel Management.

INTERIOR/FWS-4

SYSTEM NAME:

Tort Claim Records—Interior, FWS–4.

SYSTEM LOCATION:

(1) Division of Contracting and General Services, U.S. Department of the Interior, Fish and Wildlife Service, Washington, D.C. 20240; (2) regional offices of Fish and Wildlife Service. (See Appendix for regional addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Claimants for damages to personal property or personal injury.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains information regarding the individual who is required to evaluate a claim for damage to personal property or personal injury, i.e., name, address, insurance company, estimates of repair costs, accident reports by Government officials, law enforcement officials, attorneys, hospital and doctors' reports and bills for service, statements from witnesses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Tort Claims Act (28 U.S.C. 2671–2680).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the record is for evaluation by tort claims officers, attorneys in the Office of the Solicitor, Department of the Interior. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Maintained in paper form, in "Tort Claim files."

RETRIEVABILITY:

By name of claimant.

SAFEGUARDS:

Maintained in compliance with provisions of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Disposed four years after settlement of claim. Record copies held by Office of the Solicitor, Department of the Interior.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Contracting and General Services, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the System Manager, with respect to records located in the Washington office, and to regional directors with respect to records located in the office for which each is responsible. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access shall be addressed to the System Manager, with respect to records located in the Washington office, and to regional directors, with respect to records located in the office for which each is responsible. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual submitting claim; investigative reports, including statements from witnesses; medical reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Privacy Act does not entitle an individual to access to information compiled in reasonable anticipation of a civil action or proceeding.

INTERIOR/FWS-5

SYSTEM NAME:

National Wildlife Refuge Special Use Permits—Interior, FWS–5.

SYSTEM LOCATION:

Regional offices of the Fish and Wildlife Service.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for special use permits and cooperative farm agreements on Service lands.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the name, address of cooperative/permittees, types of special uses, period of use, and any special conditions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 688dd-ee). See 50 CFR, Parts 29 and 32.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is identification of personnel having special use permits and cooperative farming agreements on National Wildlife Refuge. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper in files.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Records are maintained in accordance with the provisions of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Special use permits and cooperative farming agreements are usually maintained not more than one year following the period of use.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Refuge Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records shall be addressed to the System Manager, with respect to records located in the Washington office, and to regional directors with respect to records located in regional or field offices. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access shall be addressed to the System Manager, with respect to records located in the Washington office, and to regional directors with respect to records located in regional or field offices. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

INTERIOR/FWS-6

SYSTEM NAME:

Hunting and Fishing Survey Records—Interior, FWS-6

SYSTEM LOCATION:

Division of Program Plans, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals participating in hunting, fishing and nonconsumptive wildlife activities, and who voluntarily respond to fishing and hunting survey questionnaires.

CATEGORIES OF RECORDS IN THE SYSTEM:

Survey forms and questionnaires containing information on attitudes, interests, participation in, expenditures, and statistics regarding the use of fish and wildlife resources.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Property and Administrative Services Act of 1949, as amended; the Fish and Wildlife Act of 1956 (16 U.S.C. 741a–742l); the Federal Aid in Wildlife and Fish Restoration Acts of 1937 and 1950, as amended, 16 U.S.C. 777–777k, 669–669i.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USES AND THE PURPOSE OF SUCH USES:

The primary use of the records is the development of statistical analyses to assist State and Federal governments in managing wildlife resources. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order, or license, to appropriate Federal, State, local or foreign agencies responsible for investigation or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ASSESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape.

RETRIEVABILITY:

Indexed by identification number.

SAFEGUARDS:

Maintained in accordance with the provisions of 43 CFR 2.51.

RETENTION AND DISPOSAL:

For each survey that uses this system, the records will be maintained until summary analyses are completed, after which the names and address will be destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Program Plans, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240.

NOTIFICATIONS PROCEDURE:

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURE:

A request for access may be addressed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirementsof 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

Interior/FWS-7

SYSTEM NAME:

Water Development Project and/or Effluent Discharge Permit Application Review—Interior, FWS—7

SYSTEM LOCATION:

(1) Division of Ecological Services, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240. (2) All regional, area, and field offices of the Division of Ecological Services. (See Appendix for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who apply for permits from other regulatory agencies including the Corps of Engineers, and the Environmental Protection Agency. (The records contained in this system which pertain to indviduals contain principally proprietary information concerning sole proprietorships. Some of the records in the system which pertain to individuals may reflect personal information, however. Only the records reflecting personal information are subject to the Privacy Act. The system also contains records concerning corporations and other business entities. These records are not subject to the Privacy Act.)

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains some public notices or permit applications from regulatory agencies which give name, address, and description of work that the applicant is requesting authorization to perform. In order to adequately evaluate the proposed project's effect on fish and wildlife resources, additional project information is at times requested and therefore on file. Environmental impact statements and environmental assessments on some proposed projects also are on file.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Fish and Wildlife Coordination Act, as amended (16 U.S.C. 661–666c; 48 Stat. 401).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is to review and comment on permit applications. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Maintained on paper in file folders.

RETRIEVABILITY:

Indexed by State, name of applicant, and public notice number.

SAFEGUARDS:

Maintain records in accordance with provisions of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Varies in each location but generally held from two to five years and then either sent to Records Center or destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Ecological Services, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records shall be addressed to the System Manager, with respect to records located in the Washington office, and to regional directors, with respect to records located in regional or field offices. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access shall be addressed to the System Manager, with respect to records located in the Washington office, and to regional directors with respect to records located in regional or field offices. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Regulatory agency from which permit is requested, State, and the individual on whom the record is maintained.

INTERIOR/FWS-8

SYSTEM NAME:

Fish Disease Inspection Report—Interior, FWS—8.

SYSTEM LOCATION:

(1) Division of Fish Hatcheries, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240. (2) Regional offices of Fish and Wildlife Services. (See Appendix for Regional addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Commercial trout farmers who request that their fish be inspected for known fish diseases. The majority of the commercial trout farmers are business establishments, however, there may be some private individuals involved. (The records contained in this system which pertain to individuals contain principally proprietary information concerning sole proprietorships. Some of the records in the system which pertain to individuals may reflect personal information, however. Only the records reflecting personal information, however. Only the records reflecting personal information are subject to the Privacy Act. The system also contains records concerning corporations and other business entities. These records are not subject to the Privacy Act.)

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and address of requester and information concerning disease.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

18 U.S.C. 42–44, 3054, 3112, 62 Stat. 687, 83 Stat. 281, Fish and Wildlife Act of 1956, 16 U.S.C. 742a–742l; Fish and Wildlife Coordination Act, 16 U.S.C. 661–666c.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of fish disease inspection records maintained in the system is to certify the disease status of populations of fish in the case of transferring, marketing, or distribution control. Disclosures outside the Department of the Interior may be made (1) to do the appropriate agency or agencies, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting a violation or potential violation of a statute, regulation, rule, order or license, whether civil, criminal or regulatory; or charged with enforcing or implementating the statute, rule, regulation, order or license violated or potentially violated; (2) to the U.S. Department of Justice when related to litigation or anticipated litigation; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Maintained on Standard Form 3–226.

RETRIEVABILITY;

Indexed by name.

SAFEGUARDS:

Records maintained in accordance with the provisions of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Indefinite.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Fish Hatcheries, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records shall be addressed to the System Manager, with respect to records located in the Washington office, and to regional directors with respect to records located in the office for which each is responsible. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access shall be addressed to the System Manager, with respect to records located in the Washington office, and to regional directors with respect to records located in the office for which each is responsible. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual or entity that requests the inspection.

INTERIOR/FWS-9

SYSTEM NAME:

Farm Pond Stocking Program—Interior, FWS—9.

SYSTEM LOCATION:

Regional offices of the Fish and Wildlife Service and National Fish Hatcheries.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for stocking private farm ponds with fish.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, size of pond, species of fish requested and other information needed to evaluate application.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Ponds are stocked in conjunction with the Agricultural Stabilization and Conservation Programs of the Department of Agriculture. Fish and Wildlife Coordination Act, 16 U.S.C. 661–666c.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is to insure that the stocking policy is maintained and to keep track of where various species have been stocked. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained on 3½ x 9 inch cards.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Records are maintained in accordance with the provisions of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Destroyed after ten years.

SYSTEM MANAGER(S) AND ADDRESS:

Regional directors (See Appendix for addresses).

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records shall be addressed to the System Managers, with respect to records located in regional or field offices. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access shall be addressed to the System Manager, with respect to records located in regional or field offices for which each is responsible. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

INTERIOR/FWS-10

SYSTEM NAME:

National Fish Hatchery Special Use Permits—Interior, FWS–10.

SYSTEM LOCATION:

Regional offices of Fish and Wildlife Service and National Fish Hatcheries where records are maintained.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have made application for special use permits on National Fish Hatcheries.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the name and address of permittees, types of special uses, period of use, and any special conditions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

16 U.S.C. 460k–3; 16 U.S.C. 664. See 50 CFR 70.71.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is to limit and control the use of the property at the National Fish Hatcheries. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individial in response to an inquiry from a Congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ASSESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper in files.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Records are maintained in accordance with the provisions of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Destroyed after one year following period of use.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Hatcheries and Fish Resource Management Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240.

NOTIFICATION PROCEDURES:

Inquiries regarding the existence of records shall be addressed to the System Manager, with respect to records located in the Washington office, and to regional directors with respect to records located in the office or facility for which each is responsible. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access shall be addressed to the System Manager, with respect to records located in the Washington office, and to regional directors with respect to records located in the office or facility for which each is responsible. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

INTERIOR/FWS-11

SYSTEM NAME:

Real Property Records—Interior, FWS-11.

SYSTEM LOCATION:

Regional Offices. Area Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Landowners, tenants and permittees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of individual files, i.e., title file; case file; and correspondence file. Along with this material is the corresponding tract appraisal report. The title file contains title evidence, original instrument of conveyance, copy of acquisition contract, title curative and closing data, title opinions, survey description and plat, payment vouchers, and appraisal summary. The case file contains a copy of the acquisition contract, copy of instrument of conveyance, closing data, survey description and plat, payment vouchers and appraisal summary. The correspondence file contains all general correspondence, negotiator's contacts and all material in connection with relocation assistance, permits or outgrants when appropriate. The appraisal report consists of the property description, local market data including comparable sales information, location maps and an analysis of value.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Land acquisition and disposal authorities are as follows: Migratory Bird Conservation Act, as amended (16 U.S.C. 715 et seq.); Migratory Bird Hunting Stamp Act, as amended (16 U.S.C. 718 et seq.); Fish and Wildlife Act of 1956, as amended (16 U.S.C. 742a et seq.); Fish and Wildlife Coordination Act, as amended (16 U.S.C. 661–666c); Recreational Use of Conservation Areas Act, as amended (16 U.S.C. 460k–460k–4); Colorado River Storage Project Act, as amended (43 U.S.C. 620g); Endangered Species Act of 1973 (16 U.S.C. 1531–1543); National Wildlife Refuge System Administration Act, as amended (16 U.S.C. 668dd–668ee); Act of May 19, 1948 (PL 80–547), as amended (16 U.S.C. 667b–667d); Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. 471 et seq.); and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (40 U.S.C. 4601 et sec.).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) transfer of pertinent documents to authorized title companies or abstractors to obtain title evidence for closings; (b) transfer of pertinent documents to Regional Solicitors and the U.S. Department of Justice for title opinions and condemnation purposes; (c) for use of appraisal information in negotiations; (d) for permit and outgrant purposes; (e) reporting lands as excess to the General Services Administration for transfer or disposal. Disclosures outside the Department of the Interior may be made (1) to the Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; and (3) Congressional inquiry.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Title File-in legal size binders. Case and Correspondence Files-in letter size file folders.

RETRIEVABILITY:

By name of individual.

SAFEGUARDS:

Maintained with safeguards in accordance with 43 CFR 2.51.

RETENTION AND DISPOSAL:

Title File-stored as permanent records in GSA records center. Case and Correspondence Files-maintained until case is closed, then retired to GSA records center and destroyed after two years.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Realty, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records shall be addressed to the System Manager, with respect to records located in the Washington office, and to regional directors, with respect to records located in the offices for which each is responsible. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access shall be addressed to the System Manager, with respect to records located in the Washington office, and to regional directors, with respect to records located in the office for which each is responsible. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Public records, other governmental contracts, community contacts, and named individuals.

INTERIOR/FWS-19

SYSTEM NAME:

Endangered Species Licensee System—Interior. FWS-19.

SYSTEM LOCATION:

(1) Division of Law Enforcement, U.S. Fish and Wildlife Service, Washington, D.C. 20240. (2) Law Enforcement District Offices of the Fish and Wildlife Service (See Appendix for addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who request a license to import or export fish and/or wildlife or products thereof. (The records contained in this system which pertain to individuals contain principally proprietary information concerning sole proprietorships. Some of the records in the system which pertain to individuals may reflect personal information, however. Only the records reflecting personal information are subject to the Privacy Act. The system also contains records concerning corporations and

other business entities. These records are not subject to the Privacy Act.)

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains name, address, date of birth, height, weight, color of hair and eyes, business phone number, occupation and social security number of individual requesting license. Businesses are identified by type, name and title and phone number of principal officer and State of incorporation, if applicable.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Endangered Species Act of 1973 (16 U.S.C. 1531(d); 87 Stat. 884).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is to identify licensees authorized to import or export fish and/or wildlife or products thereof. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) publication in the Federal Register, as required by law.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Maintained in folders.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Maintained in segregated area secured by a locking device in accordance with 43 CFR 2.51.

RETENTION AND DISPOSAL:

Indefinite.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records shall be addressed to the System Manager, with respect to records located in the Washington office, and to Special Agents in Charge, Law Enforcement Districts 1–13, with respect to records located in the district for which each is responsible. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access shall be addressed to the System Manager, with respect to records located in the Washington office, and to Special Agents in Charge, Law Enforcement Districts 1–13, with respect to records located in the district for which each is responsible. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom file is being maintained.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Under the specific exemption authority provided by 5 U.S.C. 552(k)(2), the Department of the Interior has adopted a regulation, 43 CFR 2.79(b) which exempts this system from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I) and (f) and the portions of 43 CFR Part 2, Subpart C which implement these provisions. The reasons for adoption of this regulation are set out at 40 FR 50432 (October 29, 1975).

INTERIOR/FWS-20

SYSTEM NAME:

Investigative Case File System—Interior, FWS–20.

SYSTEM LOCATION:

(1) Division of Law Enforcement, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (2) Law Enforcement District Offices of the Fish and Wildlife Service (See Appendix for addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Subjects of investigation relative to violation of fish and wildlife laws.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains name and address, place and date of birth plus other available data identifying the subjects of investigation in violation of the fish and wildlife laws as well as other information incidental to these investigations all of which carry criminal sanctions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Assault Act (18 U.S.C. 111), Bald Eagle Act (16 U.S.C. 668–668d), Black Bass Act (16 U.S.C. 851–856), Lacey Act (18 U.S.C. 42–44), National Wildlife Refuge System Administration Act (16 U.S.C. 668dd–668ee), Migratory Bird Hunting Stamp Act (16 U.S.C. 718–718h), Migratory Bird Treaty Act (16 U.S.C. 703–711), Endangered Species Act (16 U.S.C. 1531–1543), Marine Mammal Act (16 U.S.C. 1361–1407), Upper Mississippi Refuge Act (16 U.S.C. 721–731), Bear River Refuge Act (16 U.S.C. 690), Fish and Wildlife Recreation Act (16 U.S.C. 460k–460k–4), Airborne Hunting Act (16 U.S.C. 742j) and Tariff Classification Act (19 U.S.C. 1527).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES.

The primary use of the records is to include all investigative and enforcement information reported to and investigated by the Division of Law Enforcement, U.S. Fish and Wildlife Service. Disclosurers outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regualtion, order or license.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Maintained in segregated area secured by a locking device in accordance with 43 CFR 2.51.

RETENTION AND DISPOSAL:

Indefinite.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Under the general exemption authority provided by 5 U.S.C. 552a(j)(2). Department of the Interior has adopted

a regulation, 43 CFR 2.79(a), which exempts the system from all of the provisions of 5 U.S.C. 552a and the regulations in 43 CFR, Part 2, Subpart C, except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), (11) and (l) of 5 U.S.C. 5521 and the portions of the regulations in 43 CFR, Part 2, Subpart C implementing these subsections. The reasons for adoption of this regulation are set out at 40 FR 37217 (August 26, 1975). Under the specific exemption authority provided by 5 U.S.C. 552a(k), the Department of the Interior has adopted a regulation, 43 CFR 2.79(b), which exempts this system from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I) and (f) and the portions of 43 CFR Part 2, Subpart C which implement these provisions. The reasons for adoption of this regulation are set out at 40 FR 50432 (October 29, 1975).

INTERIOR/FWS-21

SYSTEM NAME:

Permits System—Interior, FWS-21.

SYSTEM LOCATION:

(1) Division of Law Enforcement, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. (2) Law Enforcement District Offices of the Fish and Wildlife Service (See Appendix for addresses). (3) Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for permits to conduct certain activities in areas of fish and wildlife. (The records contained in this system which pertain to individuals contain principally proprietary information concerning sole proprietorships. Some of the records in the system which pertain to individuals may reflect personal information, however. Only the records reflecting personal information are subject to the Privacy Act. The system also contains records concerning corporations and other business entities. These records are not subject to the Privacy Act.)

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the name, address, date of birth, height, weight, color of hair and eyes, business phone number, occupation and social security number of persons applying for permit. Business agencies and institutions are identified by type, name, title and phone number of principal officer and State of incorporation, if applicable. Contains information on location of the activity and a briefing of the type of the proposed activity. May also include the qualifications, educational background and experience of the applicant.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

16 U.S.C. 668a, 16 U.S.C. 1539, 16 U.S.C. 704–711, 16 U.S.C. 1371, 18 U.S.C. 42–44, and 19 U.S.C. 1527.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is to identify holders of permits which authorize otherwise illegal activity having to do with fish and/or wildlife. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) publication in the Federal Register, as required by law.

POLICIES AND PRACTICES FOR STORING, RETIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Maintained in segregated area secured by a locking devise in accordance with 43 CFR 2.51.

RETENTION AND DISPOSAL:

Indefinite.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Law Enforcement, or Chief, Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Under the specific exemption authority provided by 5 U.S.C. 552a(k)(2), the Department of the Interior has adopted a regulation, 43 CFR 2.79(b), which exempts this system from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f) and the portions of 43 CFR, Part 2, Subpart C which implement these provisions. The reasons for adoption of this regulation are set out at 40 FR 37217 (August 26, 1975).

INTERIOR/FWS-22

SYSTEM NAME:

U.S. Deputy Game Warden—Interior, FWS-22.

SYSTEM LOCATION:

Regional offices of the Fish and Wildlife Service. (See Appendix for addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for U.S. Deputy Game Warden Commissions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the name, address, date and place of birth, social security number, height, weight, color of hair and eyes of applicants for U.S. Deputy Game Warden Commissions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Fish and Wildlife Act of 1956 (16 U.S.C. 742a–742l; 70 Stat. 1119).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are to indentify holders of and applicants for U.S. Deputy Game Warden commissions. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; and, (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Maintained in segregated area secured by a locking device in accordance with 43 CFR 2.51.

RETENTION AND DISPOSAL:

Destroyed after commission expires.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Personnel Management and Organization, U.S. Fish and Wildlife Service, Room 3455, Main Interior Building, 18th and C Streets, N.W., Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records shall be addressed to the System Manager, with respect to records located in the Washington office, and to regional directors, with respect to records located in the office for which each is responsible. A written signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access shall be addresed to the System Manager, with respect to records located in the Washington office, and to regional directors, with respect to records located in the office for which each is responsible. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES;

Individuals on whom the file is being maintained.

INTERIOR/FWS-23

SYSTEM NAME:

Motor Vehicle Permit Log—Interior, FWS—23.

SYSTEM LOCATION:

(1) Division of Personnel Management and Organization, U.S. Fish and Wildlife Service, Washington, D.C. 20240. (2) Regional offices (See Appendix for Regional addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees who require Government Vehicle Operator Permit.

CATEGORIES OF RECORDS IN THE SYSTEM:

Log reflecting employee name, driver's license number, duty station location, date of issue of permit and date permit expires.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Property and Administrative Service Act of 1949, (40 U.S.C. 471), as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is a ready reference of names of holders of motor vehicle permits and date when permit must be renewed. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; and, (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained as simple log in loose-leaf binder.

RETRIEVABILITY:

Maintained by date and in alphabetical order.

SAFEGUARDS:

Log maintained as information system for personnel staff with normal non-security confidential procedures meeting requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Maintenance of a log on a continuing basis consistent with need of the individual to have a current permit.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Personnel Management and Organization, U.S. Fish and Wildlife Service, Room 3455, Main Interior Building, 18th and C Streets, NW., Washington, D.C., 20240.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records shall be addressed to the System Manager, with respect to records located in the Washington office, and to regional directors, with respect to records located in the office for which each is responsible. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access shall be addressed to the System Manager, with respect to records located in the Washington office, and to Regional directors, with respect to records located in the office for which each is responsible. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom record is maintained.

INTERIOR/FWS-24

SYSTEM NAME:

Payroll—Interior, FWS—24.

SYSTEM LOCATION:

Division of Financial and Management Systems, U.S. Fish and Wildlife Service, Main Interior Building, 18th and C Streets, NW., Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All paid employees in the Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Pay, leave and cost distribution records, including deductions for bonds, insurance, income taxes, allotments to financial institutions, overtime authorizations, and shift schedules.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5101, et seq., 31 U.S.C. 66a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) fiscal operations for payroll, leave, insurance, tax, retirement and cost

programs; (b) disclosure to the Department of the Treasury for preparation of (1) payroll checks and (2) payroll deduction and other checks to Federal, State and local government agencies, non-governmental organizations and individuals; (c) disclosure to the Internal Revenue Service and to State, Commonwealth, Territorial and local governments for tax purposes; (d) disclosure to the Civil Service Commission in connection with retirement, life insurance and health insurance accounts; (e) disclosure to another Federal agency to which an employee has transferred. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, contract, grant or other benefit; and (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in folders and on computer media.

RETRIEVABILITY:

By employee social security number.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

One year from date employee separates.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Financial and Management Systems, U.S. Fish and Wildlife Service, Room 3347, Main Interior Building, 18th and C Streets, NW., Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained, and supervisors.

INTERIOR/FWS-25

SYSTEM NAME:

Contract and Procurement Records—Interior, FWS-25.

SYSTEM LOCATION:

(1) Division of Contracting and General Services, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240. (2) Regional offices of Fish and Wildlife Service. (See Appendix for regional addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals submitting unsolicited proposals or replying to solicitations for bids. (The records contained in this system which pertain to individuals contain principally proprietary information concerning sole proprietorships. Some of the records in the system which pertain to individuals may reflect personal information, however. Only the records reflecting personal information are subject to the Privacy Act. The system also contains records concerning corporations and other business entities. These records are not subject to the Privacy Act.)

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains information regarding the individual which would be required to evaluate contract proposals, i.e., name, age, education, experience, references, and possible other pertinent information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Property and Administrative Act of 1949, as amended 40 U.S.C. 741–745; Fish and Wildlife Act of 1956, 16 U.S.C. 742a–7421; 70 Stat. 1119.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is evaluation by contracting officers and technical representatives of operating (requesting) Division or Office placing name and address on bidders list for use in sending out future solicitations. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper form, in either the "Bidders Mailing List" file or a "Contract Folder".

RETRIEVABILITY:

By name and contract number.

SAFEGUARDS:

Records maintained in compliance with provisions of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Bidders Mailing List—until individual requests withdrawal or solicitation returned unanswered. Destroyed immediately. Contract Files: Four years after closing of file.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Contracting and General Services, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, and regional directors (See Appendix for regional addresses).

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the System Manager, with respect to records located in the Washington Office, and to regional directors, with respect to records located in the office for which each is responsible. A written, signed request stating that the requester seeks information concerning records

pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the System Manager, with respect to records located in the Washington Office and to regional directors, with respect to records located in the office for which each is responsible. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual submitting proposals for consideration.

INTERIOR/FWS-26

SYSTEM NAME:

Migratory Bird Population and Harvest Systems—Interior, FWS–26.

SYSTEM LOCATION:

(1) Office of Migratory Bird Management, U.S. Fish and Wildlife Service, U.S. Department of the Interior, Patuxent Wildlife Research Center, Laurel, Maryland 20811. (2) Minor portions of the files comprising the system are found in the Washington Office, Regional Offices, and field offices of the U.S. Fish and Wildlife Service; offices of State conservation agencies, and other Federal and State agencies; universities; national, regional and local conservation organizations; and individuals who contribute to the collection of population and harvest information which is eventually transferred to the Office of Migratory Bird Management, Laurel, Maryland, for storage.

CATEGORIES OF INDIVIDUALS COVERED BY THE STYSTEM:

The system contains information on: (1) Persons applying for bird banding permits. (2) Persons issued bird banding permits. (3) Persons reporting upon banded birds encountered in the wild. (4) Persons participating in migratory bird population surveys. (5) Persons submitting harvest data for migratory game birds taken under hunting regulations. (6) Unidentified persons observed in the field hunting migratory game birds.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application forms for bird banding permits, including name, address, and related information to evaluate the application, records and reports on the harvest of migratory birds, including types of birds, location, related data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Migratory Bird Treaty Act of July 3, 1918 (16 U.S.C. 703–711; 40 Stat. 755).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records maintained in the system are (a) data are routinely used by biologists and/or law enforcement offices of the U.S. Fish and Wildlife Service, Canadian Wildlife Service, Mexican Department Fauna Silvestre, and State and Provincial Conservation Agencies to further understanding, protection, management and utilization of the North American migratory bird resource; (b) portions of the data files including name and address listings are used for research purposes and for guidance, planning and coordination of research on migratory birds; (c) reports of summarized and analyzed data originating from banding and surveys are analyzed and published by the U.S. Fish and Wildlife Service and other cooperating agencies: studies containing analyzed migratory bird population and harvest data also appear in the technical literature involving the records or the subject matter of the records. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information that may aid investigations or indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit; (6) to the Canadian Wildlife Service, Environmental Management Service, Department of the Environment, Ottawa, Ontario, Canada K1A OH3 and Mexican Direccion General Fauna Silvestre, Aquiles Serdan 28–70, Pisa, Mexico 3, DF, Mexico, as part of cooperative agreements; (7) routinely or upon request all or portions of the files, including name and address listings, are supplied to cooperators and researchers in other Federal, State, and local agencies; members of national, regional or local conservation organizations, university researchers and private individuals who establish a bona fide need for the information; (8) to contributors of band recovery information related to the bander and banding of the banded bird they reported, likewise, contributors of survey and harvest information are sometimes supplied with reports of populations and harvest surveys to which they had contributed. (Routine uses (1) and (2) apply only to those individuals in nos. (1) and (2) of the above paragraph 'Categories of individuals covered by the system,' and not to individuals who supply voluntary information to aid the Service in migratory bird management and research.)

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records comprising the various files of the system are maintained on paper forms and correspondence, punched and/or interpreted cards, magnetic computer tape, computer printouts or listings, magnetic disc packs, microfilm and microfiche cards. Summarized information is found in unpublished and published reports.

RETRIEVABILITY:

The files comprising the system are indexed in various way depending upon the nature and use of the record. Files may be arranged by type of survey, species of migratory birds, cooperators, time periods, geographical areas, and biological characteristics of the banded, observed, or harvested bird. Most of the files are oriented to the migratory bird resource and its utilization; the identity of the individual person is retained only for edit, banding authority compliance; response, and acknowledgment purposes. In the banding files the identity of the bander is permanently obtainable through interpretation of the permit number. Inasmuch as banding and other surveys of migratory birds and their harvest are based upon statistical sampling of a larger universe, the identity of individuals is usually deleted early in the analysis.

SAFEGUARDS:

Records comprising the system are stored within the fenced and locked premises of the Patuxent Wildlife Research Center, Laurel, Maryland. The records themselves are stored within a locked building and the master computer files are retained in a locked vault. Only authorized individuals have access to these records. Magnetic tape files containing records of banded birds are stored for computer processing at the Washington Computer Center of the Department of the Interior. Current versions of banding tape files are stored in a locked, fire and explosion proof vault. Backup versions are stored in a library that must be entered through two locked doors. All requests for data, beyond those routinely supplied to cooperators, are reviewed by the Assistant Chief, Office of Migratory Bird Management, Laurel, Maryland. Care is taken to insure that the requesting individual has a legitimate need for the information and that the information which is supplied is limited to his specific needs. Furthermore, care is taken to protect the proprietary rights of researchers to first use of data arising from their personal banding efforts; persons requesting data generated by other researchers are instructed to secure clearance for use of the data with the original bander. Policies regarding the release and use of bird banding data are developed in consultation with the Canadian Wildlife Service and other cooperators. Means for developing improved safeguards for the computer record files at Laurel, and policies regarding release of data from the files maintained there is presently under study.

RETENTION AND DISPOSAL:

Some records are maintained only for a few days until the data can be transferred to other media, such as computer tapes or microfilm, for permanent storage. Because of the great scientific value attached to some of the files, such as those comprising the North American Bird Banding Program, source documents of banding are retained indefinitely; this is done to facilitate the possible correction and edit of those records. In contrast, source documents for other files are periodically destroyed by recycling. Computer tabulations are retained for five years or until such time as they have been updated. A system to catalog computer files is being developed; this system will insure that obsolete files are destoryed while insuring the retention of those required for current or future use.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

An individual desiring to know whether the system contains information relating to himself may address his inquiry to the System Manager. An individual seeking information about the system should provide his complete name and address, and if possible, indicate the nature of the data file (banding, population surveys, migratory game bird harvests, etc.) in which he is most interested.

RECORD ACCESS PROCEDURES:

Inquiries concerning access to and correction of records in the system may be directed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 42 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

The files comprising the Migratory Bird Populations and Harvest System evolve from several diverse groups of people. These may be generally categorized as (1) persons applying for authority to band birds, (2) persons granted authority to band birds, (3) persons reporting encounters with banded birds, (4) persons supervising or participating in various population surveys of migratory birds, (5) persons purchasing migratory bird hunting stamps, and (6) persons who hunt migratory game birds or otherwise utilize the migratory game bird resource.

INTERIOR/FWS-28

SYSTEM NAME:

Avitrol Authorization Records—Interior, FWS-28.

SYSTEM LOCATION:

Wildlife Services Office, U.S. Fish and Wildlife Service, 11 North Pearl Street, P.O. Box 150, Albany, New York 12201.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Aerial applicators of Avitrol for treating corn to prevent blackbird damage in cornfields.

CATEGORIES OF RECORDS IS THE SYSTEM:

Contains name, address, home and business telephone number, type of aircraft, New York State applicator's registration number and signature of applicant affirming that he or she has read and understands the Environmental Protection Agency registration label. The applicant also agrees to submit to the State Supervisor, Division of Wildlife Services, prior to treatment, a list of the number and location of fields to be treated.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Act of March 2, 1931 (46 Stat. 1468, 7 U.S.C. 426–426b; Federal Insecticide, Fungicide and Rodenticide Act as amended (7 U.S.C. 135–135k); and Migratory Bird Treaty Act of 1918, as amended (16 U.S.C.) 703–711; 40 Stat. 755.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is for documentation of the qualifications for aerial applicators of Avitrol-treated grain to prevent blackbird damages while minimizing the hazard to non-target species of birds. Disclosures outside the Department of the Interior may be made, (1) to the U.S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, and (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Maintained on a letter size form.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Records are maintained in a standard office filing cabinet and office is locked when personnel are not present.

RETENTION AND DISPOSAL:

Made in accordance with FPMR 101–11.4, dated August 1, 1974.

SYSTEM MANAGER(S) AND ADDRESS:

State Supervisor, U.S. Fish and Wildlife Service, 11 North Pearl Street, P.O. Box 150, Albany, New York 12201.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records shall be addressed to the System Manager. A written, signed request stating that the requestor seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access shall be addressed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the Systems Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

INTERIOR/FWS-29

SYSTEM NAME:

Animal Damage Control Non-Federal Personnel Records—Interior, FWS—29.

SYSTEM LOCATION:

(1) Division of Wildlife Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240; (2) regional offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

State employees, cooperative employees paid by a cooperator, and private corporation employees (in Idaho). The number of individuals covered are: State-159, Cooperative-221, Corporation-6 (in Idaho).

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Supervisor's Record of Employees (Non-Federal)—Recruitment forms, medical forms, security records, life and health insurance forms, military service records, motor vehicle exam records, education and skills records, training records, disciplinary and suspension records, letters of commendation; (2) Payroll Records—Time and attendance records, State retirement records, social security records, workman's compensation insurance records, leave records, salary and expense cost records; (3) Travel Expense and Mileage Report; (4) Animal Damage Control Records—Hunter and trapper (district field assistant) records on animals taken, weekly itinerary and report of activity of trappers and hunters.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Act of March 2, 1931 (46 Stat. 1468; 7 U.S.C. 426–426b); Federal Insecticide, Fungicide and Rodenticide Act as amended 87 U.S.C. 135–135); and Migratory Bird Treaty Act of 1981, as amended (16 U.S.C. 703–711; 40 Stat. 755).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND TE PURPOSES OF SUCH USES:

The primary uses of the records are to (a) serve as a tool for the State supervisors in the financial and manpower management of Animal Damage Control programs (b) form the legal basis for the disbursement of funds and (c) forms basis for preparation of statistical reports. Disclosures outside the Department of the Interior may be made, (1) for administrative uses by cooperating Federal, State, county, and local governmental units, and cooperating private organizations and associations, (2) to the U.S. Department of Justice when related to litigation or anticipated litigation, (3) of information indicating a violation or potential violation of a statute, regulation rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, and (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Maintained in folders in files.

RETRIEVABILITY:

By employee name.

SAFEGUARDS:

Records and forms are maintained in a standard office filing cabinet and office is locked when authorized personnel are not present.

RETENTION AND DISPOSAL:

Non-record administrative material disposed 30 days after employment terminates or in compliance with State regulations on disposal of payroll records subject to audit.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Wildlife Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

Inquiries regarding existence of records shall be addressed to the Chief, Division of Wildlife management, with respect to records located in the Washington Office, or to regional directors with respect to records located in the office for which each is responsible. A written signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A written request for access signed by the requester shall be addressed to the appropriate State Supervisor. The request must meet the content requirement of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the Systems Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom record is maintained.

[FR Doc. 81-8971 Filed 3-23-81; 8:45 am]
BILLING CODE 4310-55-M

INTERSTATE COMMERCE COMMISSION

[Volume No. 44]

Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: March 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 contracts carriers.

By the Commission, Restriction Removal Board, Members Sporn, Alspaugh, and Shaffer.

Agatha L. Mergenovich,

Secretary.

MC 1540 (Sub-17)X, filed March 9, 1981. Applicant: P & J FURNITURE DELIVERY, INC., R.D. 10, Box 468, York, PA 17404. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. Applicant seeks to remove restrictions from its lead certificate to (1) change the commodity descriptions (a) from furniture (new or uncrated, in some instances), pianos, etc., to "furniture and fixtures" and (b) from glass products to "clay, concrete, glass or stone products"; (2) allow two-way authority where one-way authority exists between specified points in PA, NJ, and MD, and, points in specified States mainly in the eastern portion of the U.S.; (3) delete the facilities limitation at York, PA on sheet 3; (4) remove the restriction "against the transportation of such commodities when moving as part of household goods movement"; and (5) replace authority to serve specified points with county-wide authority: York, Gettysburg, and Hanover with York and Adams County, PA; and Elizabeth and Hoboken with Union and Hudson Counties, NJ.

MC 9194 (Sub-4)X, filed March 6, 1981. Applicant: AAA TRANSFER, INC., 615 South 96th, Seattle, WA 98108. Representative: Michael D. Duppenthaler, 211 South Washington St., Seattle, WA 98104. Applicant seeks to remove restrictions from its Sub–3F certificate to (1) broaden its commodity description from general commodities (with the usual exceptions and automobiles) to "general commodities (except classes A and B explosives)"; (2) remove the "in containers or trailers" restriction; and (3) remove the "ex-water" restriction.

MC 10955 (Sub-15)X, filed March 3, 1981. Applicant: RENNER MOTOR LINES, INC., 622 West Waterloo Road, Akron, OH 44314. Representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, OH 43215. Applicant seeks to remove restrictions in its lead and Sub-2, 3, 6, 7, 10, 11, 12, 13, and 14 certificates to (1) broaden the commodity descriptions: in Sub-2, 3, and 6 to "petroleum products and equipment" from petroleum products, in containers, grease guns, fittings for oil pumps and grease equipment, in truckloads; in Sub-3 and 14 to "rubber products" from rubber soles and heals, and rubber tire flaps; in Sub-7 and 12 to "molds, machinery, and fabric" from molds, machinery and fabric used in the manufacture of rubber products; Sub-10 to "foodstuffs" from salt, in packages, and pepper, sugar or mineral mixtures in packages, not exceeding 10 percent of the weight of the shipment of salt, when included as an incidental part of a shipment sale; Sub-11 and 12 to "general commodities, except classes A and B explosives" from general commodities with the usual restrictions; Sub-13 to "polyurethane products" from molded polyurethane foam cushions, and (2) broaden the territorial descriptions by substituting county-wide authority in place of specified cities and plantsites, and change from one-way service to radial authority, as follows: lead certificate, between points in Summit County, OH, and points in WV, PA, MD, and DC, and between Summit County, OH (Barberton, OH), and points in WV and PA; Sub-2 between points in McKean County, PA (Bradford, PA), and points in Summit, Richland, Marion and Allen Counties, OH (Akron, Mansfield, Marion and Lima, OH); Sub-3 between points in Portage County, OH (Mogadore, OH), and points in PA, WV, MD, and DC, between KcKean County, PA (Bradford, PA and points within one mile of Bradford, and points in Franklin County, OH, and between Medina County, OH (Wadsworth, OH), and points in PA; Sub-6 between McKean County, PA (Bradford, PA and points within one mile of Bradford), and points in Wyandot County, OH; Sub-7 between Allegany County, MD (Cumberland, MD) and points in Summit County, OH (Akron, OH); Sub-10 between Summit County, OH (Akron, OH), and points in parts of NY and PA, and points in DE, MD, and DC; Sub-11 between Summit County, OH (Barberton, OH), and points in OH; Sub-12 between points in Belmont County, OH (Blaine, OH), and points in WV, PA, MD and DC, between Allegany County, MD (Cumberland, MD), and points in Belmont County, OH (Blaine, OH), between Delmont County, OH (Blaine, OH), and points in OH, except those in five OH counties); Sub-13 between Bucks County, PA (Doylestown, PA), and points in Wayne County, IN (Richmond, IN); and in Sub-14 between Taylor County, WV (plantsite near Grafton, WV), and points in MD, OH and PA.

MC 15770 (Sub-6)X, filed March 13, 1981. Applicant: CALORE FREIGHT SYSTEM, INC., Second Street, High Spire, PA 17034. Representative: Joseph M. Klements, Richardson and Tyler, 84 State Street, Boston, MA 02109. Applicant seeks to remove restrictions in its Sub-5 certificate (1) in order to broaden the commodity description from: *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and automobiles, trucks, and buses as described in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, 232, and 766) which at the time are moving on bills of lading of freight forwarders as defined in 49 U.S.C. sec. 10102(8), to "general commodities (except classes A and B explosives)", and (2) remove the freight forwarder bill of lading limitation, to authorize service non-radially between points in 13 eastern States and DC.

MC 22311 (Sub-31)X, filed March 9, 1981. Applicant: A. LINE, INC., P.O. Box 765, Hammond, IN 46325. Representative: Edward P. Bocko, P.O. Box 496, Mineral Ridge, OH 44440. Applicant seeks to remove restrictions in its Sub-12F, 14F, 16F, and 20F certificates to (1) broaden the commodity description from (a) iron, steel, zinc, lead, and products of iron, steel, zinc, and lead, construction materials supplies and equipment to "metal products and construction materials" in Sub-14F; roofing and building materials to "construction materials and building materials" in Sub-16F; precast concrete beams, roof decks, joints, crypts, and panels to "building materials and crypts" in Sub-20F; (2) remove the "except commodities in bulk" restriction in Sub-12F and 14F; (3) eliminate the facilities limitations in Sub-12F, 14F, 16F, and 20F; (4) change city-wide to county-wide authority from Blue Island to Cook County, IL in Sub-14; Joliet to Will County, IL in Sub-14F and 16F; Fort Wayne to Allen County, IN, Kokomo to Howard County, IN, and Centerville to Appanoose County, IA in Sub-14F; and Oshkosh to Winnebago County, WI and Bluffton to Allen County, OH in Sub-20F; (5) expand one-way authority to radial authority between (a) Chicago, IL and points in AR, IN, IA, KS, KY, MO, MI, MN, NE, OH, PA, WV, and WI in Sub-12F; (b) Cook and Will Counties, IL, Allen and Howard Counties, IN, Grand Rapids and Lansing, MI, Columbus and Toledo, OH, Appanoose County, IA and those points in the U.S. in and east of MN, IA, MO, AR, and LA in Sub-14F; (c) Will County, IL and points in MI and OH in Sub-16F; and (d) Winnebago County, WI and

points in IN, IL, IA, KY, MI, MO, MN, ND, OH, PA, SD, TN, and WV; Allen County, OH and points in IN, IL, KY, MI, PA, TN, and WV; and St. Louis, MO and points in IL, IA, LA, MS, TN, and KY in Sub-20F.

MC 31389 (Sub-326)X, filed March 5, 1981. Applicant: McLEAN TRUCKING COMPANY, 1920 West First Street, Winston-Salem, NC 27154. Representative: David F. Eshelman, P.O. Box 213, Winston-Salem, NC 27154. Applicant holds authority to perform regular- and irregular-route operations throughout the United States under its certificates MC 31389 and numerous Sub-Nos. thereunder; MC 71459 (Sub-65, 70, 71, 72, and 74) (acquired in MC-F-13974); MC 2998 and Sub-Nos. thereunder; MC 134308 (Sub-2, 3, 6, 8, 11, and 12) (acquired in MC-F-13761); MC 17006 (acquired in MC-F-71434); MC 22987 and Sub-Nos. thereunder (acquired in MC-F-12086); and under permit MC 3582 (acquired in MC-F-71434). It seeks to remove all exceptions (except classes A and B explosives) in its general commodities authority in its regular and irregular routes in MC 31389 lead certificate and Sub-28, 29, 30, 35, 38, 50, 65, 69, 70, 78, 81, 87, 90-93, 95, 96, 97, 99-101, 103, 105-113, 116, 117, 119, 120, 121, 124, 126, 127, 129, 130, 131, 133-137, 140-148, 150, 152, 154, 156, 160, 161, 164, 165, 167, 168, 170, 173, 175, 177, 179, 181-184, 187, 188, 190-195, 197, 199-204, 206-213, 215, 216, 220, 221, 223, 227-233, 237-241, 243, 244, 245, 246, 249-250, 251, 253, 254, 256-260, 263, 265-269, 271, 272, 273, 277-281, 283, 285, 286, 287, 289-294, 296-301, 303, 304, 305, 307, 317, 322, and 323; MC 2998 lead certificate and Sub-10, 16, 19, 20, 21, 22, 23, 24, and 25; MC 71459 certificate Sub-65, 70, 71, 72, and 74; MC 22987 lead certificate and Sub-4 and 6; MC 134308 certificate Sub-2, 3, 6, 8, 11, and 12; and MC 17006 lead certificate. Applicant also seeks to authorize service at all intermediate points along its authorized regular routes between named points in its lead certificate MC 31389 (eastern one half of U.S.) and Sub-28 (VA), 29 (SC), 30 (NC), 35 (DE), 48 (MD), 87 (KY), 92 (KY), 93 (RI), 95 (OH), 99 (IL), 100 (NC), 105 (NY), 112 (PA), 116 (TX), 120 (TN), 121 (LA), 124 (VA), 127 (NY), 142-146 (New England), 154 (NY), 170 (MN), 179 (TX), 183 (IL), 232 (Midwest), 233 (IL), 235 (KS), 243 (FL), 259 (KY), 263 (PA), 266 (AR), 269 (South), 285 (VA), 287 (GA), 290 (MI), 291 (IL), 293 (OK), 322 (MS), and 323 (AR); lead certificate MC 2998 (MI) and Sub-16 (IN), 22 (OH), and 25 (MI); MC 134308 Sub-2, 3, and 6 (OK); MC 71459 Sub-70 (AZ), 71 (AZ), 72 (West), and 74 (CO), and; lead certificate MC 22987 (CA). Applicant also seeks to broaden the territorial descriptions in its irregular route authorities from one-way authority to radial authority between numerous combinations of specialized origins and points throughout the United States in MC 31389 lead, route 300, p. 28, lines 58-66 and 71; Rt. 300, p. 29, lines 6-7 and 15-16; Rt. 347, p. 33, lines 68-69 and 73-74; Rt. 347, p. 34, lines 5-6 and 9-10; Rt. 419, p. 42, lines 18-19, 22-23, 30, 37, and 46-47; Sub-46; Sub-54; Sub-116, p. 85, lines 51-56, 59-64, and 67-68; Sub-116, p. 86, lines 7-8 and 11-14; Sub-232, p. 108, lines 53 and 64; Sub-232, p. 111, line 61, Sub-247; Sub-317, lines 5, 19-20, 23-24, 27-28, and 38-39; and Sub-323, sheet 5; and MC 2998, lead, sheet 4, and; Sub-15 and 26; and MC 17006, lead, sheet 3; and MC 22987 lead and Sub-2, and; permit MC 3582. Applicant also seeks to remove the restriction against return transportation for compensation on its regular routes in MC 31389 Sub-100, p. 71, lines 59-60, and MC 71459 Sub-72, Rts. 131 and 132, and also seeks to authorize two-way between operations over its regular routes by adding "and return over the same route" in MC 31389, Sub-232, p. 106, lines 54-55; Sub-232, p. 108, lines 38-39 and 42-43; and Sub-232, p. 111, lines 28-30. Applicant also seeks to remove numerous "originating at and/or destined to" restrictions involving named points in designated States in MC 31389 lead certificates, Rts. 166 (TN), 167 (TN), 210 (IL), Rt. 238, p. 23, lines 23-26 and 76-77 (MO/IL), 251 (OH), and Rt. 382, p. 38, lines 20-22 (IL); and Sub-79 (IL); 95 (OH); 103 (MO); 129 (AR); Sub-140, lines 67-68 (TX); 141 (Midwest); 154 (PA); 194 (KY); 208 (GA); 213 (KY); 216 (East); 232, section F (KS); 235 (Kansas City); 263 (East); 266, lines 52-66 (MO); 269 (South); 277 (NC facilities); 273 (St. Louis); 278 (FL); 284 (TX); 287, sheet 3 (IL); 322, sheet 4 (South); and 323, sheets 2, 4, and 7 (MS); MC 71459, Sub-72, Rts. 161A (Los Angeles); 161B (CA); 163 (AZ); 171 (AZ); 186 (NM); 198 (NV); 214 (AZ); Rts. 220-225 (CO); Rts. 234-236 (CO); 240 (CO); 244 (CO); 245 (CO); and Rt. 295 (MN); and MC 2998, lead certificate, sheet 4 (MI), and Sub-22 (OH).

Applicant also seek to remove restrictions limiting service against or to transportation (radially and non-radially) between named points in the involved States in MC 312389, lead certificate, Rte. 38, p. 24, lines 16 and 21 (ID); Rt. 379, lines 45-47 (NC); 701, lines 32-35 (WV); and Rt. 702, lines 60-61, part a (OH); and Sub-35, p. 67, lines 16-19 (NY); 81 (TN); 91 (PA); Sub-116, p. 80, part c (AR); 116, p. 81, lines 45-53 and 58-60 (LA); 116, p. 82, lines 12-13, 20-24, 31-36, 46-50, and 76-77 (TX); 116, p. 83, lines 56-66 (LA); 116, p. 84, lines 15-56 and 60-62 (TX); 116, p. 86, lines 16-19 (LA); Sub-140 (LA); 183 (WI); 195 (VA); 232, part (B) (KS); 243 (FL), and; 278 (GA); and MC 71459, Sub-72, routes 48 (WA); Rt. 231 (UT); Rt. 269, parts a and b (MO); Rt. 320 (TX); Rt. 325 (TX); and Rt. 348 (OK). It also seeks to remove restrictions limiting service to traffic moving to, from, or through named points throughout the U.S. in MC 31389, lead, Rt. 310, lines 28-31; Rt. 323, lines 34-35; Rt. 324, lines 45-48; Rt. 382, lines 16-22; and Part VI, (A), lines 29-30; and Sub-116, p. 74, lines 55-56, 65, and 72-73; Sub-116, p. 80, Part C; Sub-116, p. 81, Part D; Sub-116, p. 83, lines 8-10; Sub-116, p. 84, lines 43-45; Sub-119; 124; 136; and Sub-323, sheets 2, 4, 5, 8, and 9. Applicant also seeks to remove numerous restrictions limiting service to the transportation of traffic moving to or from specific points on the below-listed States in MC 31389, lead certificate, Routes 295-300, p. 28, lines 17-18 (MI); Rt. 363 (B) (Part IV), p. 36, lines 18-20 (OH); Rt. 382, lines 47-51 and 60-61 (OH); Rts. 420-682, Part V (a-y) p. 58-60 (East); Rt. 702, p. 63, lines 60-69 (KY); and Sub-116, p. 77, lines 38-41 (LA); Sub-161 (South/Southwest); Sub-170, lines 11-17 (IL); Sub-232 (Part B) p. 107, lines 73-75 (KS); and Sub-232, p. 111, line 34 (NE); and MC 71459, Sub-72, Rt. 16 (WA); Rt. 20 (WA); Rt. 28 (WA); Rt. 69 (CA); Rts. 131, 132, and 133 (U.S. territories); Rt. 136 (CA); Rts. 140-143 (CA); Rt. 161A (AZ); Rt. 161B (CA); Rt. 272 (KS); and Rg. 299 (WI). Applicant also seeks to remove various directional restrictions (e.g: westbound, northbound traffic) in certificate MC 31389, lead, Rt. 31, lines 61-62; Rt. 174, line 39-41; Rt. 190, lines 18-22; and Rt. 364, line 30-31; and MC 71459, Sub-72, Rts. 10, 160, and 256. Applicant also seeks to remove restrictions limiting service at named points "for purposes of joinder only" in MC 31389, lead certificate Rts. 696 and 697, lines 65-69 (Baltimore, MD/Wash., D.C.); Sub-100 (Franklin, VA); Sub-116, p. 75, lines 16-18 (Fairfield, TX); Sub-116, p. 83, lines 8-10 (Fairfield, TX); Sub-116, p. 84, lines 29-30 (Barney, GA); Sub-116, p. 84, lines 34-35 (Hahira, GA); Sub-116, p. 84, lines 39-40 (Madison, FL); Sub-129 (Little Rock, AR); Sub-170 (Davenport, IA); and Sub-287, Sheet 3 (IL); and MC 71459 Sub-72, Rt. 14 (Bellingham, WA); Rts. 201 and 202 (Kosmos, WA); Rt. 203 (Kelso, WA); Rt. 207 (Bakersfield, CA); Rt. 208 (Aquila, AZ); Rt. 2111 (Klamath Falls, OR); Rt. 212 (Reno, NV); Rt. 213 (Everett, WA); Rt. 214 (Tucson, AZ); Rts. 220-226 (western Hwy. points); Rt. 247 (Ogallala, NW); Rt. 218 (Hwys. 30 and 30A junction); Rt. 249 (Fort Morgan, CO); and Rts. 358-360 (Kingman, AZ). Applicant also seeks to broaden its

commodity descriptions (1) by removing restrictions against transporting commodities in bulk in certificate MC 31389, Sub-79; Sub-116, p. 85, lines 50, 58, and 66; Sub-118, p. 86, lines 6 and 10; Sub-232, p. 108, line 63; and Sub-232, p. 111, line 32; and MC 2998, lead certificate, sheet 4; and Sub-15 and 26; (2) by removing restrictions limiting service to transportation of traffic moving in containers or described vehicles in MC 31389, lead certificate, Rt. 300, p. 28, line 54–55 (sealed containers); Rt. 300, p. 28, line 68–69 (in same truck as pipe); Sub-100, p. 71, line 56 (in hogsheads, etc.); and Sub-232, p. 108, line 63 (in bags, except tank vehicles); (3) by removing restrictions against the transportation of specified commodities, in MC 31389, lead certificate, Rt. 702, p. 63, lines 67–69 (dressed poultry, boxes); Sub-100 (seafood); Sub-116, p. 85, lines 45–46 (liquified petroleum gas); Sub-317, p. 123, lines 17–18 and 26–27 (size and weight commodities); and Sub-232, p. 109, lines 37–38 and p. 110, lines 9–10 (livestock); and in MC 71459 Sub-72, Rt. 136 (size and weight commodities); Rt. 216 (assembled autos); and Rt. 256 (petroleum, livestock, etc.); (4) by broadening the commodity description in MC 31389 lead certificate Rt. 300, p. 29, lines 4–5, to "iron and steel products and materials, equipment, and supplies used in the manufacture and distribution of iron and steel products" from its authority to transport iron and steel articles as described in Appendix V (Groups 2 and 3) in the *Descriptions* case; and (5) by broadening the commodity description in MC 31389, lead, Rt. 300, p. 29, lines 11–12, to "road construction machinery and equipment and materials, supplies and equipment used in the manufacture and distribution of road construction equipment" from road construction equipment as described in Appendix VIII of the *Descriptions* case. Applicant also seeks to remove tacking, interchange, and interline restrictions in MC 31389, (Sub-232), p. 106, lines 21–22; and Sub-232, p. 111, lines 61–67; Sub-273; and Sub-323, sheets 2 and 4; and MC 2998, Sub-22; and MC 71459, Sub-72, Rts. 21, 240, and 262. Applicants seeks to remove restrictions limiting service at named points to pickup or delivery only in MC 31389, lead, Rt. 238, p. 23, lines 48–49; and Sub-232, p. 106, lines 34–36 and 44–46; and MC 71459, Sub-72, Routes 51, 60, 67, 68, 70, and 256; and to remove restrictions against service at named intermediate points in MC 31389, lead certificate, Rt. 238, p. 24, line 32 (Brandenburg, KY); Sub-116, p. 77, lines 38–41 (Corsicana, TX); and Sub-323, sheet 8 (Memphis, TN). Applicant also seeks to remove the following restrictions (1) facilities restrictions in MC 31389, lead certificate, Rt. 350 (Swift and Company); and Rts. 696–697 (E.I. du Pont de Nemours & Co.); (2) seasonal restrictions in MC 71459 (Sub-72), Routes 67–68; (3) restriction against service wholly within Colorado in MC 71459, (Sub-72, Route 181; (4) restrictions limiting service to or against transportation of traffic having a prior or subsequent movement by water, air, or freight forwarder in MC 31389, lead certificate, route 300, p. 29, lines 8–9; and MC 22987, lead certificate and Sub-6; (5) restriction against service at stations on the Boston rail line in MC 31389 (Sub-142–146); (6) to remove the exclusions to the exceptions appearing in the "note" in MC 31389, lead certificate, Route 682, Part V, page 61, lines 7–18 prohibiting transportation of certain traffic; (7) to broaden its territorial authority to county-wide authority in MC 31389, lead certificate, Rt. 419, p. 42, line 56 (Nash County, NC for Rocky Mount, NC); and (8) to broaden its territorial description to "between points in the United States under continuing contract(s) with a named shipper" in permit MC 3582.

Note.—Appliant's ability to tack its authorities will be governed by rules set forth at 49 CFR § 1042.

MC 46054 (Sub-83)X, filed March 13, 1981. Applicant: BROWN EXPRESS, INC., P.O. Box 9244, San Antonio, TX 78204. Representative: Jack Dawson (same as applicant). Applicant seeks to remove restrictions in its Sub-79F certificate to (a) broaden the commodity description from general commodities (with usual exceptions) to "general commodities (except classes A and B explosives)", (b) remove restrictions against service at intermediate points (1) between Dallas, TX, and Oklahoma City, OK; (2) between Dallas, TX, and Indianapolis, IN; (3) between Louisville, KY, and Detroit, MI, in Route (4) between Houston, TX, and junction Interstate Hwy 30 and U.S. Hwy 59, and in Route and (5) between Memphis, TN, and St. Louis, MO, and, (c) remove restrictions that limit service for the purposes of joinder only at the junction Interstate Hwy 30 and U.S. Hwy 59 in (2) and (3); and at Memphis, TN in (5).

MC 57697 (Sub-24)X, filed March 9, 1981. Applicant: LESTER SMITH TRUCKING, INC., 2645 East 51st Avenue, Denver, CO 80216. Representative: David J. Lister, P.O. Box 17039, Portland, OR 97217. Applicant seeks to remove restrictions in its Sub-13 certificate to (1) broaden the commodity description from irrigation and sprinkling systems, and parts and accessories to "machinery and metal products"; (2) authorize radial service in place of existing one-way authority and replace Denver, CO with counties in Colorado which are included within the Denver commercial zone: Between Jefferson, Boulder, Adams, Arapahoe, and Douglas Counties, CO, and points in AR, ID, IL, IN, IA, KS, MN, MO, MT, NE, ND, OK, SD, WI, WY, and points in TX in and north of Palmer, Castro, Swisher, Briscoe, Hall, and Childress Counties, TX.

MC 59583 (Sub-183)X, filed February 26, 1981. Applicant: THE MASON AND DIXON LINES, INC., P.O. Box 969, Kingsport, TX 37662. Representative: Kim D. Mann, 7101 Wisconsin Avenue, Suite 1010, Washington, DC 20014. Applicant seeks to remove restrictions in its Sub-107, 111, 134, 139, 171F and 179 certificates to (1) broaden its commodity description (a) from general commodities (with usual exceptions, those injurious or contaminating to other lading, and livestock) to "general commodities (except classes A and B explosives)," in all certificates, (b) from coffee, tea and meats to "food and related products" in Sub-179, (c) from petroleum products to "petroleum, natural gas and their products", in Sub-134; (2) remove territorial restrictions which limit service to some intermediate points or no intermediate point service, to authorize service at all intermediate points on its described regular routes in the midwest and east; (3) expand the off-route plantsite authority to Scottsboro, AL in Sub-111 and remove the facilities limitation at Seaford, DE and points within 5 miles thereof in Sub-107; (4) eliminate the restriction limiting or prohibiting service at specified points to the transportation of shipments moving from, to and between specified points in Sub-107, 134 and 171F; (5) remove the restriction against the transportation of shipments originating at or destined to points in MI in Sub-171F; (6) eliminate restriction which limits traffic to Baltimore, MD, and Washington, DC, for purpose of joinder only in Sub-107; (7) remove a restriction specifying the commodities of which may be transported from and to Bayonne, Bayway, and North Bergen, NJ, in Sub-134; (8) broaden existing city-wide authority with county-wide authority in the irregular route portion of Sub-179: Washington, Kent, Providence and Newport Counties, RI, for Westerly, North Kingston, South Kingston, West Warwick, Johnston and Newport, RI; New London County, CT, for Stonington, CT; and Middlesex County, MA, for Cambridge, MA; and (9) authorize radial service in lieu of existing one-way

service between various combinations of the following: Points in Washington and Kent Counties, RI, New London County, CT, Boston and Cambridge, MA, and points and counties in RI, CT, MA and NY, under the irregular route authority in Sub-179.

MC 67408 (Sub-6)X, filed March 9, 1981. Applicant: STOKDYK TRUCK LINES, INC., P.O. Box 82, Port Washington, WI 53074. Representative: Richard C. Alexander, 710 North Plankinton Avenue, Milwaukee, WI 53203. Applicant seeks to remove restrictions from its lead and Sub-1 certificates to (1) broaden the commodity description from general commodities, with exceptions to "general commodities (except classes A and B explosives)" in each certificate; and (2) authorize service to all intermediate points between: Oostburg and Milwaukee, WI in the lead; and junction US Hwy 141 and Wisconsin Hwy 57; and junction Wisconsin Hwy 144 and US Hwy 141 in Sub-1.

No. 85530 (Sub-11)X, filed March 2, 1981. Applicant: BLALOCK TRUCK LINE, INC., P.O. Box 734, Charleston, SC 29402. Representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. Applicant seeks to remove restrictions in its (Sub-3, 4, and 7F) certificates and (Sub-5F, 6F, and 8F) acquired in MC–F–13654F and MC–F–14298F, certificates not yet issued, to (1) broaden the commodity description from (a) general commodities, with exceptions, to "general commodities (except classes A and B explosives)" in (Sub-3, 5F, 7F, and 9F); (b) paper and film to "pulp, paper and related products and rubber and plastic products" in (Sub-4); (c) fertilizer to "chemicals and related products" in (Sub-6F); (d) agricultural products and cotton seed meal to "farm products and food and related products" in (Sub6F and 8F); (e) bottles to "such commodities as are dealt in or used by manufacturers or distributors of bottles" in (Sub-6F and 8F); (f) wooden telephone, telegraph, and electric power poles to "lumber and wood products" in (Sub-6F and 8F); and (g) cotton and cotton yarn to "textile mill products" in (Sub-6F and 8F); (2) change city-wide to county-wide authority from Charleston to Charleston County, SC, in (Sub-4 and 7F); Laurens to Laurens County, SC, in (Sub-6); Charlotte to Mecklenburg Counties, NC, in (Sub-6F and 8F); Jacksonville to Duval County, FL, in (Sub-7); Savannah to Chatham County, GA, in (Sub-7F and 9F); and Wilmington to New Hanover County, NC, in (Sub-7F); (3) expand one-way authority to radial autority between (a) Transylvania and Henderson Counties, NC, and Charleston, SC, in (Sub-4); (b) Barnwell and Bamberg Counties, SC, and Gastonia, NC, and points within 15 miles of Gastonia; Laurens County, SC, and Mechlenberg County, NC; and Spartanburg County, SC, and points in Gaston, Cleveland, Mecklenburg, Rowan, Lincoln, and Catawba Counties, NC, in (Sub-6F); (c) Charleston County, SC, and Gastonia, NC, and points within 15 miles of Gastonia; Charleston County, SC, and Mecklenburg County, NC; Charleston County, SC, and points in Gaston, Cleveland, Mecklenburg, Rowan, Lincoln, and Catawba Counties, NC, in (Sub-8F); and (4) remove the ex-water restriction from (Sub-4 and 7F).

MC 111231 (Sub-348)X, filed March 6, 1981. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, AR 72764. Representative: James H. Berry (same as applicant). Applicant seeks to remove restrictions in its (Sub-247, 248F, and 249F) certificates to (1) broaden its commodity descriptions (a) in the regular route portion of each of the above sub-numbers, and the irregular route portion, in (Sub-247), part (1), from general commodities (with exceptions) to "general commodities, except classes A and B explosives", and (b) in (Sub-247), irregular route portion, from malt beverages, canned goods, and dairy products, dressed poultry and eggs, to "food and related products"; (2) authorize service at all intermediate points where service is limited to specified intermediate points or no intermediate point service in its regular route authority (a) in (Sub-247), between Chicago, IL, and Lincoln, NE, (b) in (Sub-248F), between Oklahoma City, OK, and Texarkana, AR, and (c) in (Sub-249F), between St. Louis, MO, and Denver, CO; (3) change its one-way authority to radial authority in the irregular portion of (Sub-247), between Mankato and St. Paul, MN, and points in 3 cities in NE, between Lincoln, Beatrice and Grand Island, NE, and points in the specified regular-routes, between IL, MN, and IA, and 6 cities in NE, and between points in IL and 2 cities in IA, between Fremont, Grand Island, Hastings, Wahoo, and Lincoln, NE, and 5 cities in IL, between Geneva, Hartington, Wakefield, Fairmont, and Tecumseh, NE, and Chicago, IL; between Hastings, Grand Island, Fremont, Lincoln, Beatrice, and Omaha, NE, and 2 cities in IL, and between 8 cities in IL, and 2 cities in IA, and Omaha and Lincoln, NE; and (4) eliminate the joinder only restriction in (Sub-248F).

MC 111231 (Sub-350)X, filed March 9, 1981. Applicant: JONES TRUCK LINES, INC., 610-East Emma Avenue, Springdale, AR 72764. Representative: James H. Berry (same as above). Applicant seeks to remove restrictions in its (Sub-1, 3, 9, 23, 32, 42, 43, 188, 199, 212 and 293F) certificates to broaden the commodity description from general commodities (with exceptions) to "general commodities (except classes A and B explosives)".

MC 117344 (Sub-288)X, filed February 3, 1981, previously noticed in the Federal Register of February 20, 1981, republished as corrected this issue. Applicant: THE MAXWELL CO., 10300 Evendale Drive, Cincinnati, OH 45241. Representative: James R. Stiverson, 1396 West Fifth Avenue, Columbus, OH 43212. Applicant seeks to remove restrictions in its (Sub-26, 60, 61, 65, 67, 82, 85, 90, 141, 178, 189, 199, 207 and 211) certificates to (1) broaden the commodity description from paints, varnishes, fertilizer, dry chemicals, lacquers, and various other items in bulk, to "commodities in bulk" in all referenced Sub-Nos., (2) authorize radial service in lieu of existing one-way authority in all referenced Sub-Nos. which authorize service from Cincinnati, OH, to points in numerous named States, and (3) eliminate the "in tank vehicle" restriction in (Sub-26, 60, 61, 65, 67, 82, 85, 178, 207 and 211); (4) expand the territorial description in all referenced sub-numbers from Cincinnati, OH to authorize county-wide service at Dearborn County, IN; Boone, Campbell and Kenton Counties, KY, and Butler, Clermont, Hamilton and Warren Counties, OH. The purpose of this republication is to add Part (4), allowing for the territorial expansion of Cincinnati; OH and its commercial zone to county-wide authority.

MC 119702 (Sub-84)X, filed March 4, 1981. Applicant: STAHLY CARTAGE CO., P.O. Box 486, Edwardsville, IL 62025. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh Street, N.W., Washington, DC 20001. Applicant seeks to remove restrictions in its (Sub-5, -18, -24, -46, -47, -49, and -52) certificates to (1) broaden the commodity descriptions to "commodities in bulk" from anhydrous ammonia, in bulk, in tank vehicles and liquid fertilizer solutions, in bulk, in tank vehicles in (Sub-5), from anhydrous ammonia, in bulk in (Sub-18), from anhydrous ammonia and liquid fertilizer materials, in bulk, in tank vehicles in (Sub-24), from liquid fertilizer solutions, in bulk, in tank vehicles in (Sub-46), from liquid calcium chloride, in bulk, in

tank vehicles, in (Subs-47 and -52), and from liquid and dry fertilizer, in bulk in (Sub-49); (2) replace authority to serve named plantsites or cities with county or commercial zone authority and change one-way authority to radial authority, as follows: between Tazewell County, IL (Pekin, IL), and points in MO, IA, WI, IN, MI, and KY (deleting the restriction against the transportation of anhydrous ammonia, from the plantsite of a named shipper to points in MO, IA, WI, and IN in (Sub-5); between Peoria County, IL (Peoria, IL), and points in IN, MI, MN, MO, OH, SD, and WI and between Des Moines County, IA (Burlington, IA), and points in IL, IN, MI, MN, MO, NE, SD, and WI in (Sub-18); between Morgan County, IL (Meredosia, IL) and points in AR, IL, IN, IA, KS, KY, MI, MN, MO, NE, OH, OK, TN, and WI in (Sub-24); between Peoria County, IL (Peoria, IL) and points in IN (except those on and north of U.S. Highway 40), IA, KY, MI, and OH in (Sub-46); between points in St. Louis, MO, and Morgan County, IL (Meredosia, IL) and points in IL, IA, and MO in (Sub-47); between Whiteside County, IL (Fulton, IL) and points in IA, WI, MN, and IL, and MO (except the St. Louis commercial zone) and between Tazewell County, IL (Pekin, IL) and points in IA, WI, MN, and IL, and MO (except those in the St. Louis commercial zone), in (Sub-49); and between Morgan County, IL (Meredosia, IL) and points in AR, IN, KS, KY, MI, MN, NE, OK, TN, TX, and WI, in (Sub-52); (3) delete the originating at and destined to restrictions in (Sub-24 and 49); and (4) delete the restriction against interlining in (Sub-18).

MC 120737 (Sub-81)X, filed March 12, 1981. Applicant: STAR DELIVERY & TRANSFER, INC., P.O. Box 39, Canton, IL 61520. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. Applicant seeks to remove restrictions from its (Sub-66F and 70F) certificates to (1) change the commodity description from pre-cut log buildings or homes to "lumber and wood products"; (2) delete the named facilities limitations; (3) expand Plymouth, WI, to Sheboygan County, WI, in (Sub-66F); (4) authorize radial authority between specified WI and NC Counties, and, points in the U.S. or described portions thereof and (5) remove the AK and HI exception.

MC 123615 (Sub-9)X, filed March 9, 1981. Applicant: TRANSPET, INC., 700 South Fourth Street, Harrison, NJ 07029. Representative: Edward L. Nehez, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. Applicant seeks to remove restrictions in its (Sub-8) permit to (1) broaden its commodity descriptions from floor and floor covering conditioning machines, and materials, supplies, and equipment used in the manufacture and operations of the commodities (except commodities in bulk), to "miscellaneous products of manufacturing, machinery and materials, equipment and supplies used in the manufacture and operations of machinery; and (2) broaden its territorial authority to between points in the U.S. under continuing contract(s) with a named shipper.

MC 124306 (Sub-88)X, filed March 2, 1981. Applicant: KENAN TRANSPORT COMPANY, INCORPORATED, P.O. Box 2729, Chapel Hill, NC 27514. Representative: Francis W. McInerny, 1000 16th Street, N.W. Suite 502, Washington, D.C. 20036. Applicant seeks to remove restrictions in its (Sub-7, 13, 20, 28, 29, 30, 35, 38, 43F, 46F, 49F, 53F, 56, 57, 58F, 62F, 68F, 79F, 80F and 84F) to (A) to broaden the commodity description (1) in (Sub-7) (sheet 1) from petroleum and petroleum products to "petroleum, natural gas and their products" and on sheet 2 from nitrogen fertilizer solutions to "chemicals and related products", (2) in (Sub-13 and 28) from liquefied petroleum gas to "petroleum, natural gas and their products", (3) in (Sub-20) (sheet 2, first item) from dry sodium carbonate, dry sodium chromate, dry sodium bichromate, and dry sodium sulphate to "chemicals and related products," and on sheet 4 (first item) from fertilizer and fertilizer materials to "chemicals and related products", (4) in (Sub-29) from vegetable oils and vegetable oil products (except chemicals) to "food and related products", (5) in (Sub-30, 38, and 80F) from synthetic plastic granules to "chemicals and related products", (6) in (Sub-35) from fertilizer, fertilizer materials, and soda ash to "chemicals and related products", (7) in (Sub-43F and 58F) from dry plastic (other than expanded) and dry polyester resin, respectively to "chemicals and related products", (8) in (Sub-46F and 62F) from chemicals to "chemicals and related products", (9) in (Sub-49F and 56) from terephthalic acid and terephthalic acid and liquid chemicals, respectively to "chemicals and related products", (10) in (Sub-53F and 57) from dimethyl terephthalate to "chemicals and related products", (11) in (Sub-68F and 84F) from petroleum products to "petroleum, natural gas, and their products", and (12) in (Sub-49F) from antifreeze and cleaning compounds to "chemicals and related products", (B) remove in "in bulk, in tank vehicles" restriction in (Sub-7, sheet 1 and sheet 2 (last item), 28, 30, 38, 53F, 58F, 62F, 79F, 80F and 84F), (C) remove the "in bulk" restrictions in (Sub-20 (sheet 2, first item), 29, 49F, 56, and 68F), (D) remove the "in bulk, in tank or hopper vehicles, or dump trucks" restrictions in (Sub-35, 43F, and 46F); (E) remove in (Sub-20) (sheet 4, first item) a restriction reading "restricted against the transportation of liquid fertilizer and liquid fertilizer materials to points in Kanawha and Pleasants Counties, WV"; (F) remove the prior rail removement restrictions in (Sub-20), sheet 3 (last item) and on sheet 5 (fourth item); (G) remove all the commodity restrictions except classes A and B explosives in its general commodities authority in (Sub-20), sheet 5 (fourth item); (H) remove the restriction against service to Alaska and Hawaii in (Sub-79F (part 1) and 80F), (I) change one-way authority to authorize radial authority and in some instances substitute specific counties for named plantsities or cities: (Sub-7) (sheet 1) between Norfolk, VA and points in NC; (sheet 2) between Chesapeake, VA and points in Delaware and 14 named counties in MD; (Sub-13), between Chesapeake, VA and points in GA, AL, KY, TN, WV, NJ, and PA; (Sub-2), (sheet 2, first item) between New Hanover County (Diamond Shamrock Chemical Company at or near Castle Hayne, NC) and points in AL, CT, DE, FL, IN, KY, MD, MA, MS, NH, NJ, NY, OH, PA, RI, TN (with certain exceptions), WV, WI, and DC; (sheet 3, last item) between Wilmington, NC and points in New Hanover County, NC and points in NC and SC; (sheet 4, first item) between Hertford County, NC, and points in DE, GA, MD, NJ, PA, SC, VA, and WV; (Sub-28), between Wake County, NC (Dixie Pipeline Company, near Apex, NC) and points in VA (except Portsmouth and points in its commercial zone); (Sub-29), between Charlotte, NC, and points in AL, AR, CT, DE, FL, GA, IL, IN, KY, LA, ME, MD, MA, MI, MS, MN, MO, NH, NJ, NY, OH, OK, PA, RI, SC, TN, TX, VA, WV, WI, and DC; (Sub-30), between Rowan County, NC (Fiber Industries, Inc., at or near Fiberton, NC) and those ports of entry on the International Boundary Line between the United States and Canada which are located in New York; (Sub-35), between Richmond County, GA and points in SC, NC, VA, WV, KY, and TN; (Sub-38), between Cleveland County, NC and Darlington County, SC (Fiber Industries, Inc., at or near Earl, NC, and Darlington County, SC) and those ports of entry on the United States–Canada Boundary Line which are located in New York; (Sub-43F), between Spartanburg County, SC, and points in DE, PA, NY, NJ, CT, RI, MA, GA; (Sub-46F) (part 2) between GA,

NC, and SC, and points in AL, FL, MD, TN, WV, and DC; (Sub-49F), between Berkeley County, SC, and points in the U.S. in and east of TX, OK, KS, NE, SD, and ND (except SC); (Sub-53), between Davidson County, TN (E.I. du Pont de Nemours & Co., at Old Hickory, TN) and points in NC and SC; (Sub-56), between Morgan County, AL (Decatur, AL) and points in the U.S. in and east of TX, OK, KS, NE, SD, and ND (except AL); (Sub-57), between Davidson County, TN (E. I. du Pont de Nemours & Co., Inc., at Old Hickory, TN) and points in IN and OH; (Sub-58F), between Cumberland County, NC (Rohm and Haas Company at or near Fayetteville, NC) and points in OH, PA, DE, NH, TN, GA, FL, TX, and SC; (Sub-62F), between Kershaw and Orangeburg Counties, SC (Elgin and Orangeburg, SC) and points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, MC, OH, OK, PA, RI, SC TN, TX, VT, VA, NV, and WI; (Sub-68F), between Guilford and Johnston Counties, NC (Friendship and Selma, NC) and points in VA; (Sub-79F) (part 2) between Boyd County, KY (Ashland and Catlettsburg, KY) and points in VA; (Sub-80F), between Darlington County, SC (Darlington, SC) and points in the U.S.; and (Sub-84F), between Richmond, VA and points in NC; and (J) allow for service at ports of entry on the United States-Canada Boundary Line (from those ports of entry on or near the Niagara and St. Lawrence Rivers) which are located in New York, in (Sub-30 and 38).

MC 129226 (Sub-10)X, filed March 12, 1981. Applicant: TO-JON TRUCKING, INC., 480 Brown Court, Oceanside, NY 11572. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. Applicant seeks to remove restrictions in its (Sub-1, 2, 3, 4, 5, 6F, 7F, 8F, and 9F) permits to (1) broaden the commodity description from stationery to "pulp, paper and related products," in (Sub-1) and from stationery, and filing materials, supplies, and equipment (except commodities in bulk) to "pulp, paper and related products, metal products, rubber and plastic products, lumber and wood products, machinery, and furniture and fixtures" in (Sub-2), (2) remove "except in bulk" restriction in (Sub-2, 5, 6F, and 8F), (3) remove plantsite limitation in (Sub-1), (40 broaden the territorial description to "between points in the U.S." under continuing contract(s) with named shippers in all Subs.

MC 133490 (Sub-16)X, filed March 10, 1981. Applicant: LEES TRUCKING, INC., Route 2, Box 463, North Branch, MN 55056. Representative: Samuel Rubenstein, Post Office Box 5, Minneapolis, MN 55440. Applicant seeks to remove restrictions from its (Sub-1, 3, 6, 8, 12F and 13F) permits to (1) broaden the commodity descriptions (a) from glassware, earthenware and glass, metal and plastic containers to "clay, concrete, glass and stone products, metal products, and rubber and plastic products" in (Sub-12F); (b) from glassware to "clay, concrete, glass and stone products" in (Sub-3); and (c) from pre-cut houses, knocked down, to "lumber and wood products" in (Sub-1, 6, 8, and 13F); and (2) broaden the territorial descriptions in each of its above permits to "between points in the U.S. under continuing contract(s) with named shippers."

MC 133591 (Sub-142)X, filed March 13, 1981. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mount Vernon, MO 65712. Representative: Harry Ross, Jr., 58 South Main St., Winchester, KY 40391. Applicant seeks to remove restrictions from its (Sub-101) certificate to (1) broaden the commodity description from prepared foodstuffs (except in bulk) to "foods and related products"; (2) replace county-wide authority for city-wide authority: Grayson County, TX for Denison; and (3) to change its one-way authority to radial authority between points in Grayson County, TX, and points in WA, OR, CA, NV, ID, MT, UT, AZ, CO, NM, SD, NE, KS, OK, LA, TX, AR and MO.

MC 134637 (Sub-5)X, filed March 9, 1981. Applicant: SILICA TRANSPORT, INC., P.O. Box 232, West Market Street, Guion, AR 72540. Representative: Jack A. Knight (same as applicant). Applicant seeks to remove restrictions in its (Sub-1) permit and (Sub-2F) certificate to (1) broaden the commodity description (a) from silica sand, silica flour, and resin-coated sand to "commodities in bulk and in bags" in (Sub-1) permit and (b) from dry fertilizer; granulated boiler slag, in bulk, in tank vehicles; river sand; fly ash; ferric sulfate, in bulk, in tank vehicles; fly ash, in bulk and poultry meal, in bulk to "commodities in bulk and in bags," in (Sub-2F) certificate, (2) broaden the territorial description to between points in the U.S., under continuing contract(s) with a named shipper in (Sub-1) permit, (3) remove the facilities limitations in (Sub-2F) certificate, (4) replace city-wide authority with county-wide authority: Memphis, TN with Shelby County, TN and Copperhill, TN with Polk County, TN, in (Sub-2F) certificate and (5) replace one-way authority with racial authority between points in AR, Henry County, MO, Polk and Shelby Counties, TN and points in 16 States, in (Sub-2F) certificate.

MC 134817 (Sub-4)X, filed March 12, 1981. Applicant: OWENTON EXPRESS, INC., P.O. Box 328, Carrollton, KY 41008. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. Applicant seeks to remove restrictions from its lead and (Sub-1, 2 and 3F) certificates to (1) remove all exceptions to its general commodity authority, except classes A and B explosives in each certificate; (2) authorize service at all intermediate points between Owenton and Louisville, KY; and (3) delete the "originating at and destined to" restrictions in the lead and (Sub-3F).

MC 135812 (Sub-2)X, filed March 5, 1981. Applicant: PROFESSIONAL DRIVER SERVICES, 1631 Lebanon Road, Nashville, TN 37210. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. Applicant seeks to remove restrictions in its (Sub-1F) certificate to (1) broaden the commodity description from new trucks and new truck chassis to "transportation equipment" and remove the restrictions "in initial movements, in driveaway service, and in secondary movements"; and (2) eliminate the facilities limitation at Toronto, Ontario, CN, and expand the one-way authority to radial authority between (a) Hayward, CA, Allentown, PA, and points in AL, FL, GA, IN, KY, LA, ME, MA, MO, NH, NY, NC, OH, PA, SC, TN, TX, and VA; (b) Chino, CA, Seattle, WA, Indianapolis, IN, Portland, OR and Nashville and Knoxville, TN; (c) Nashville and Knoxville, TN, and those points in the U.S. in and east of WI, IL, MO, AR, and LA; and (d) Buffalo, NY, and points in AL, FL, GA, IN, KY, LA, ME, MA, MO, NH, NY, NC, OH, PA, SC, TN, TX, and VA.

MC 136087 (Sub-8)X, filed March 8, 1981. Applicant: J.C. TRUCKING, INC., 5085 Harlan St., Denver, CO 80212. Representative: Leslie R. Kehl, 1660 Lincoln St., Suite 1600, Denver, CO 80264. Applicant seeks to remove restrictions in its (Sub-6) permit to (1) broaden its commodity description from construction equipment, to "machinery"; (2) broaden its territorial authority to between points in the U.S. under continuing contract(s) with a named shipper; (3) remove the restriction against transportation of traffic between points in a single State.

MC 136989 (Sub-22)X, filed March 9, 1981. Applicant: R.F. BOX, INC., 1110 South Reservoir Street, Pomona, CA 91766. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. Applicant seeks to remove restrictions

in its (Subs-8, 9, 11, 12F, 14, 16, 20F), permits to (1) broaden the territorial description to serve between all points in the U.S., under continuing contract(s) with named shipper's in all above authority; (2) remove commodity exceptions in (Subs-8, 9, 11, 12F, 14, and 20); (3) broaden the commodity description from (a) plastic, plastic film and floor coverings "rubber and plastic products" in (Subs-8, 9, 11, 12, 14), (b) synthetic fiber yarn and floor coverings to "textile mill products" in (Subs-8, 9, 11, 12, 14), (c) drugs, pharmaceuticals, paints, wood stain, wood preservatives, caulking compound to "chemicals and related products" in (Subs-16 and 20); and (4) remove are in tank vehicle exception in (Sub-20F).

MC 138627 (Sub-111)X, filed February 5, 1981, previously noticed in the **Federal Register** of February 24, 1981, republished as corrected this issue. Applicant: SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Fort Dodge, IA 50501. Representative: Arlyn L. Westergren, Suite 201, 9202 West Dodge Rd., Omaha, NE 68114. Applicant seeks to remove restrictions in its (Subs-16 and 49) certificates to (1) broaden its commodity description from grain storage equipment, and grain handling equipment, parts and accessories, metal buildings, materials, equipment and supplies, to "machinery and metal products" in (Sub-49); (2) expand its one way authority to radial authority between named points in several southern and midwestern States; (3) to replace specified plantsites and cities with either the city or county-wide authority: a named plantsite at or near Pine Bluff, AR, with Jefferson County, AR; a named plantsite at Sheridan and Pine Bluff, AR with Grant County, AR; and a named facility at West Memphis, AR, with West Memphis, AR, in (Sub-16), and Grand Island, NE, with Hall County, NE; York, NE, with York County, NE; Elm Creek, NE, with Buffalo County, NE; Bluffton, IN, with Wells County, IN; Crawfordsville, IN, with Montgomery County, IN; Webster City, IA, with Hamilton County, IA; Greenville, MS, with Washington County, MS; Middletown, PA, with Dauphin and Westmoreland Counties, PA; Saginaw, MI, with Saginaw County, MI; and Oklahoma City, OK, with Oklahoma County, OK, in (Sub-49); and (4) eliminate the restrictions (a) against service to AK and HI; (b) prohibiting transportation of shipments originating at or destined to a named facility, and (c) against the transportation of commodities in bulk, in tank vehicles, in (Sub-49). The purpose of this republication is to replace, in part (3), a named facility, at West Memphis, AR, with West Memphis, AR (Sub-16), instead of with Crittenden County, AR, as was previously noticed.

MC 138741 (Sub-126)X, filed March 6, 1981. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 North Broadway, Joliet, IL 60435. Representative: Tom B. Kretsinger, P.O. Box 258, 20 East Franklin, Liberty, MO 64068. Applicant seeks to remove restrictions in its (Sub-78F, 80F, 83F, and 87F) certificates to (1) broaden its commodity descriptions from iron and steel articles, to "metal and metal articles, in (Sub-78F and 83F); (2) replace named facilities located at or near Granite City, and Madison, IL with Madison County, IL, in (Sub-78F and 83F), and remove the facilities limitation at Kansas City, MO–KS and (3) change its one-way authority to radial authority between Madison County, IL, and points in AR, IN, KY, MO, KS, TN, and IA in (Subs-78F and 83F), and between Kansas City, KS and points in AR, MO, and OK in (Sub-80F).

MC 140859 (Sub-14)X, filed March 9, 1981. Applicant: WESTERN KENTUCKY TRUCKING, INC., 1245 Center Street, Henderson, KY 42420. Representative: William L. Willis, Suite 708, McClure Building, Frankfort, KY 40601. Applicant seeks to remove restrictions from its Certificate No. MC 140859 (Sub-2, 3F, 6F, and 7F), and its Permit No. MC 110825 (Sub-1) to (1) delete the limitations on the commodity descriptions: in (Sub-2), "restricted against commodities in bulk"; in (Sub-3F), "in bulk"; in (Sub-6F), "in bulk, in tank vehicles"; and in (Sub-7F), "except frozen and in bulk, in tank vehicles"; (2) remove the "originating at and destined to" restrictions in (Sub-2 and 3F); (3) eliminate the facilities limitations in (Sub-2, 3F, 6F, and 7F); (4) expand specified points to county-wide authority: in (Sub-2 and 7F), Owensboro and Henderson to Daviess and Henderson Counties, KY; in (Sub-3F), Melbourne to Campbell County, KY; (5) reduce one-way authority with two-way authority (a) in (Sub-3F and 6F), between specified counties or portions in KY and IL, and, points in IL, IN, MI, OH, VA, and WV, or specified portions thereof; and (6) in MC 110825 (Sub-1), expand the territorial authority to between points in the U.S. under contract(s) with a named shipper.

MC 141832 (Sub-2)X, filed March 5, 1981. Applicant: K.I.T. MOTOR EXPRESS, INC., P.O. Box 4004, Louisville, KY 40204. Representative: Edward J. Kiley, 1730 M Street NW., Washington, DC 20036. Applicant seeks to remove restrictions in its lead permit to (1) broaden the commodity description from transformers, transformer parts, materials and supplies used in the manufacture of transformers of transformers and transformer parts, office and plant equipment, and material handling equipment and supplies (except classes A and B explosives and commodities in bulk) to "machinery, metal products, furniture and fixtures and material handling equipment and supplies"; (2) broaden the territorial scope to between all points in the U.S., under continuing contract(s) with a named shipper; and (3) remove the exception of service to HI.

MC 142703 (Sub-32)X, filed March 9, 1981. Applicant: INTERMODAL TRANSPORTATION SERVICES, INC., P.O. Box 14072, Cincinnati, OH 45214. Representative: Michael Spurlock, 275 E. State Street, Columbus, OH 43215. Applicant seeks to remove restrictions in its lead and (Sub-1, 3F, 6F, 7F, 12F, 15F, 17F, 23F, 24F, 27F, 29F, and 30) certificates to (1) broaden its commodity descriptions (a) from general commodities (with exceptions), to "general commodities (except classes A and B explosives)", in the lead and (Sub-1, 3F, 6F, 7F, 15F, 17F, 23F, 24F, 27F, and 29F), and (b) from scrap metal (except in dump vehicles), to "metal products", in (Sub-30); (2) change its one-way authority to radial authority between Cincinnati, OH, and points in PA, in (Sub-12F); (3) remove the commodities in bulk exception in (Sub-12F); and (4) eliminate the restrictions against traffic having an immediately prior or subsequent movement by rail or water, in each certificate except (Sub-12F and 30).

MC 142994 (Sub-11)X, filed March 11, 1981. Applicant: VIRGINIA COURIER SERVICE, INC., P.O. Box 287, Harrisonburg, VA 22801. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth St. NW., Washington, DC 20005. Applicant seeks to remove restrictions from its (Sub-6F) certificate to (1) delete "those requiring special equipment" from its general commodities description; and (2) remove the restriction "against the transportation of articles weighing in the aggregate more than 500 pounds, moving from one consignor at one location to one consignee on any one day."

MC 143209 (Sub-12)X, filed March 9, 1981. Applicant: HOUSTON FREIGHTWAYS, INC., 10010 Clinton Drive, Galena Park, TX 77015. Representative: C. W. Ferebee, 720 N. Post Oak, Suite 230, Houston, TX 77024. Applicant seeks to remove restrictions in MC 63792 (Sub-17) acquired in MC–F–

14320 (issuance of certificate pending) to (1) broaden the commodity description from plastic pipe and plastic tubing to "rubber and plastic products"; and (2) remove the plantsite limitation at Houston, TX and expand the one-way authority to radial authority between Houston, TX and points in AR, AL, CO, TX, OK, KS, LA, NM, FL, MO, WY, UT, GA, and MS.

MC 144144 (Sub-6)X, filed March 13, 1981. Applicant: RAINS TRUCKING SERVICE, INC., P.O. Box 73, DuQuoin, IL 62832. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Applicant seeks to remove restrictions in its lead and Sub-No. 1F permits (1) to broaden its commodity descriptions to "machinery, equipment or supplies and miscellaneous products of manufacturing" from inert gas cylinders, playground equipment, gas grills, and gymnasium apparatus in the lead and Sub-No. 1F permits, and (2) to broaden the territorial description to between points in the United States, under continuing contract(s) with a named shipper in its lead and Sub-No. 1F permits.

MC 145088 (Sub-10)X, filed March 9, 1981. Applicant: S & T TRUCKLOAD, INC., P.O. Box 4408, Fort Worth, TX 76106. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. Applicant seeks to remove restrictions in its Sub-Nos. 2F, 4F and 5F certificates: in Sub-No. 2 to broaden both the commodity and territorial authority to authorize (a) "waterproofing compounds and materials, and oils and greases "from asphalt waterproofing compounds and materials and from lubricating oils and greases; and (b) radial service "between Tarrant County, TX, (Fort Worth, TX) on and, points in the U.S." (c) remove the exceptions of AK and HI (d) delete an except in bulk, in tank vehicle restriction; Sub-No. 4, to broaden the commodity and territorial authority and remove a plantsite restriction to authorize (a) "rubber and plastic products" from rubber and plastic articles and materials"; and (b) radial service "between Dallas County, TX, (for Irving, TX) and, points in the U.S." (c) remove the exception of AK and HI (d) delete an in bulk restriction; Sub-No. 5, to broaden the commodity and territorial authority to authorize (a) "fire control systems and devices, and chemicals, and materials, equipment and supplies used in the manufacture, distribution, installation and operations of such commodities" from fire extinguishers and dry powdered chemicals for fire extinguishers, and materials, equipment and supplies used in the manufacture and distribution of such commodities; and (b) radial service "between Tarrant County, TX, (for Fort Worth, TX), and, points in the U.S." (c) remove the exceptions of AK and HI (d) remove in bulk restrictions.

MC 145108 (Sub-41)X, filed March 9, 1981. Applicant: BULLET EXPRESS, INC., P.O. Box 289, Bay Ridge Station, Brooklyn, NY 11220. Representative: Terrence D. Jones, 2033 K Street, N.W., Washington, DC 20006. Applicant seeks to remove restrictions in its Sub-No. 13F permit to remove the "except commodities in bulk" and "originating at or destined to" restrictions to authorize service between points in the U.S. under a continuing contract(s) with a named shipper.

MC 145180 (Sub-2)X, filed February 17, 1981, previously noticed in the FR of March 2, 1981, republished as corrected in this issue. Applicant: THREE TRANSPORTATION, INC., P.O. Box 1580, Bartow, FL 33830. Representative: Herbert Alan Dubin, 818 Connecticut Ave., NW., Washington, DC 20006. Applicant seeks to remove restrictions in its Sub-No. 1F Certificate to (1) broaden the commodity description from fiberglass and plastic gasoline storage tanks, preconditioners, ducts, and industrial ventilating commodities to "rubber and plastic products, metal products, and building materials", (2) remove the plantsite restriction at Bartow, FL and replace it with county-wide authority to serve Polk County, FL, and (3) change the one-way authority to radial authority between Polk County, FL and points in AL, AR, GA, KY, LA, MS, NC, SC, TN, and VA. The purpose of this republication is to include metal products in the new commodity description.

MC 145468 (Sub-44)X, filed March 9, 1981. Applicant: KSS TRANSPORTATION CORP., Route 1 & Adams Station, P.O. Box 3052, North Brunswick, NJ 08902. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114. Applicant seeks to remove restrictions in its Sub-Nos. 14F, 15F, 22F, and 31F certificates to (1) broaden its commodity descriptions from frozen foods, meat products, meat by-products, and articles distributed by meat-packing houses (except hides and commodities in bulk), to "food and related products", in Sub-Nos. 14F, 15F, and 31F, (2) replace its facilities and cities with county-wide authority (a) named facilities at Carrollton, Marshall, and Macon, MO, with Carroll, Saline, and Macon Counties, MO, in Sub-No. 14F, (b) named facilities at Fairmont, MN, Omaha, NE, and Postville, IA, with Martin County, MN, Allamakee County, IA, and Omaha, NE, in Sub-No. 15F, part (a); and Storm Lake and Cherokee, IA, with Buena Vista and Cherokee Counties, IA, in part (b), (c) Mason City, IA, and Independence, MO, with Cerro Gordo County, IA, and Jackson County, MO, in Sub-No. 22F, and (d) named facilities at or near Sioux Falls, SD, with Minnehaha County, SD; (3) change its one-way authority to radial authority between the above named cities and counties and points in various specified eastern and central states, in each sub-number; (4) remove the commodities in bulk exception, in Sub-No. 22F; and (5) eliminate the restriction against traffic originating at named facilities, in Sub-Nos. 15F and 31F.

MC 146309 (Sub-7)X, filed March 13, 1981. Applicant: IRVIN D. BLAIR, d.b.a. D & T TRUCKING CO., 4300 Curtis Avenue, Baltimore, MD 21226. Representative: Walter T. Evans, 7961 Eastern Avenue, Silver Spring, MD 20910. Applicant seeks to remove restrictions in its Sub-Nos. 1F and 5F permits (1) to broaden the territorial scope of its authority to between points in the United States under continuing contract(s) with named shippers in both permits, and (2) to broaden its commodity description from steel pipe and steel billets in Sub-No. 1F and steel articles in Sub-No. 5F to "metal products" in both Sub-Nos. 1F and 5F.

MC 147039 (Sub-4)X, filed March 6, 1981. Applicant: TRANSPORTATION SERVICES, INC., 21055 West Road, Trenton, MI 48133. Representative: H. Neil Garson, Suite 400, 3251 Old Lee Highway, Fairfax, VA 22030. Applicant seeks to remove restrictions in its Sub-No. 3F certificate to broaden the commodity description from automotive parts, materials, accessories, and supplies used in the manufacture of automotive vehicles and parts to "transportation equipment, machinery, metal products, and rubber and plastic products."

MC 147096 (Sub-8)X, filed March 6, 1981. Applicant: MADISON BROTHERS DELIVERY SERVICE, INC., 101 Indiana Avenue, Toledo, OH 43602. Representative: Floyd Madison (same as applicant). Applicant seeks to remove restrictions in its MC–150974F permit and in its MC–147096 (Sub-No. 6F) certificates to (1) broaden the territorial description of the lead permit to "between points in the United States," under continuing contract(s) with a named shipper, (2) broaden the commodity description of Sub-No. 6F certificate by including "aluminum allied products" in addition to aluminum and aluminum products, and (3) broaden

the territorial description in Sub-No. 6F by replacing the named shipper facilities near Jones Mill and Gum Springs, AR with county-wide authority, to serve between Memphis, TN, and points in Hot Spring and Clark Counties, AR, and points in the United States.

MC 149195 (Sub-13)X, filed March 9, 1981. Applicant: ARCADIAN MOTORS CARRIERS, 1100 Sierra Street, P.O. Box 427, Kingsburg, CA 93631. Representative: Lavern R. Holdeman, P.O. Box 81849, Lincoln, NE 68501. Applicant seeks to remove restrictions from its No. MC–143477 (Sub-No. 3F) permit to (1) broaden the commodity description from institutional and industrial maintenance supplies and such commodities as are dealt in by drug, grocery and good businesshouses to "such commodities as are used or dealt in by (a) manufacturers and distributors of institutional and industrial maintenance supplies and (b) drug, grocery and food businesshouses;" (2) eliminating the restriction against commodities in bulk; and (3) broadening the territorial description between points in the United States under continuing contract(s) with the named shipper.

[FR Doc. 81-8903 Filed 3-23-81; 8:45 am]
BILLING CODE 7035-01-M

Finance Applications

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 11343 (formerly Section 5(2)) or 11349 (formerly Section 210a(b)) of the Interstate Commerce Act.

An original and one copy of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this **Federal Register** notice. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's *General Rules of Practice* (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC–F–14133, filed August 4, 1979. Ralph A. Posnik, Sr., 3601 Wyoming Avenue, Dearborn, MI 48120—Control—Michigan Transportation Company, 3601 Wyoming Avenue, Dearborn, MI 48120 and R & S Transport, Inc., 3601 Wyoming Avenue, Dearborn, MI 48120. Representative: David A. Turano, 100 East Broad Street, Columbus, Ohio 43215. Ralph A. Posnik, the sole stockholder of Michigan Transportation Company and R & S Transport, Inc., seeks Commission authorization for common control of said carriers. Michigan Transportation Company is a motor common carrier pursuant to the certificate issued in No. MC–85934 and subs thereunder. This application is filed pursuant to the condition as set forth in the common carrier application of R & S Transport, Inc. at MC–145747 Sub 2F as published in the **Federal Register** of March 1, 1979 at page 11653.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-8901 Filed 3-23-81; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. 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 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative 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 opposition 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. OPY–3–015

Decided: March 12, 1981.

By the Commission Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 9914 (Sub-17), filed February 19, 1981. Applicant: WARREN TRUCKING COMPANY, INC., P.O. Box 2038, Martinsville, VA 24112. Representative: D.R. Beeler, 1261 Columbia Ave., Franklin, TN 37064, (615)–790–2510. Transporting *furniture and fixtures*, between points in NC and VA, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 85934 (Sub-139), filed March 3, 1981. Applicant: MICHIGAN TRANSPORTATION COMPANY, 3601 Wyoming Ave., P.O. Box 248, Dearborn, MI 48120. Representative: Martin J. Leavitt, 22375 Haggerty Rd., P.O. Box 400, Northville, MI 48167, (313) 349–3980. Transporting *commodities in bulk*, between points in the U.S. on and east of Interstate Hwy. 35.

MC 94265 (Sub-374), filed February 26, 1981. Applicant: BONNEY MOTOR

EXPRESS, INC., P.O Box 305, Windsor, VA 23487. Representative: John J. Capo, P.O. Box 720434, Atlanta, GA 30328, (404)–256–4320. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Swift Independent Packing Company, of Chicago, IL.

MC 113855 (Sub-526), filed March 2, 1981. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd., SE., Rochester, MN 55901. Representative: Michael E. Miller, 502 First National Bank Bldg., Fargo, ND 58126, (701) 235–4487. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Westward Shippers Association, of Renton, WA.

MC 118865 (Sub-14), filed February 17, 1981. Applicant: CEMENT EXPRESS, INC., Hokes Mill Rd and Lemon St., York, PA 17404. Representative: Jerome M. Mulroy, (same address as applicant), (717) 843–1308. Transporting *cement*, between points in York County, PA, on the one hand, and, on the other, those points in the U.S. in and east of WI, IL, KY, TN, and MS. CONDITION: Issuance of a certificate is subject to prior or coincidental cancellation, at applicant's written request, of Certificate No. MC 118865 and subs thereunder.

MC 120364 (Sub-31), filed February 25, 1981. Applicant: A & B FREIGHT LINE, INC., 4805 Sandy Hollow Rd., Rockford, IL 61109. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Rd., Madison, WI 53719, (608)–273–1003. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Turner Corp., Division of Cleanweld Products, of Sycamore, IL.

MC 120364 (Sub-34), filed March 2, 1981. Applicant: A & B FREIGHT LINE, INC., 4805 Sandy Hollow Rd., Rockford, IL 61109. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Rd., Madison, WI 53719, (608) 273–1003. Transporting *metal products, lumber and wood products*, and *furniture and fixtures* between points in the U.S., under continuing contract(s) with Central Quality Industries, Inc., of Polo, Il.

MC 123255 (Sub-230), filed March 2, 1981. Applicant: B & L MOTOR FREIGHT, INC., 1984 Coffman Rd., Newark, OH 43055. Representative: Phillip D. Patterson (same address as applicant), (614) 522–8111.Transporting *building materials*, between points in the U.S.

Note.—Applicant is relying upon traffic studies and past operations in lieu to shipper's support to support this grant of authority

MC 126305 (Sub-155), filed February 10, 1981. Applicant: BOYD BROTHERS TRANSPORTATION CO., INC., RFD, Box 18, Clayton, AL 36016. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 234–0301. Transporting *buildings*, between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 126305 (Sub-156), filed February 23, 1981. Applicant: BOYD BROTHERS TRANSPORTATION CO., INC., RFD 1, Box 18, Clayton, AL 36016. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201)–234–0301. Transporting *clay, concrete, glass or stone products*, between Chesapeake, VA, on the one hand, and, on the other, points in the U.S.

MC 133154 (Sub-12), filed February 17, 1981. Applicant: BELL TRANSPORT COMPANY, 14000 E. 183rd St., La Palma, CA 90623. Representative: Robert C. Rodgers (same address as applicant), (714) 522–4805. Transporting (1) *clay, concrete, glass or stone products*, and (2) *mineral wool, mineral wool products, air ducts, insulating products*, and *air distributing, ventilating and exhaust systems*, between points in the U.S., under continuing contract(s) with CertainTeed Corporation.

MC 138215 (Sub-1), filed March 2, 1981. Applicant: SERVICE AIR CARGO, 6003 Telegraph Rd., Commerce, CA 90040. Representative: Mark A. Berman (same address as applicant), (213) 722–7215. Transporting *general commodities* (except classes A and B explosives), between points in the U.S. under continuing contract(s) with International Telephone and Telegraph Corporation, of New York, NY.

MC 138505 (Sub-15), filed February 17, 1981. Applicant: METROPOLITAN CONTRACT SERVICES, INC., 6000 South Ulster, Suite 206, Englewood, CO 80111. Representative: Ralph F. Fox (same address as applicant), (303) 773–8883. Transporting *office products*, between Cincinnati, OH, on the one hand, and, on the other, points in KY and WV, under continuing contract(s) with Boise Cascade Office Products Division, of Cincinnati, OH.

MC 141865 (Sub-9), filed March 2, 1981. Applicant: ACTION DELIVERY SERVICE, INC., 2401 West Marshall Dr., Grand Prairie, TX 75051. Representative: A. William Brackett, 1108 Continental Life Bldg., Fort Worth, TX 76102, (817) 332–4415. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Champion International Corporation, of Hamilton, OH.

MC 144115 (Sub-17), filed February 24, 1981. Applicant: DIVERSIFIED CARRIERS, INC., 903 6th St. NW., Rochester, MN 55901. Representative: Charles E. Dye, P.O. Box 971, West Bend, WI 53095, (414)–677–2586. Transporting *food and related products*, between the facilities of Globe Products Company, Inc., at points in the U.S. on the one hand, and, on the other, points in the U.S.

MC 144994, filed March 2, 1981. Applicant: ED NEAL TRUCKING, 17756 Orchid Street, P.O. Box 786, Fontana, CA 92335. Representative: Edward Michael Neal, Jr. (same address as applicant), (714) 822–9700. Transporting *lumber and wood products*, and *building materials*, between points in CA, NV, AZ, and OR.

MC 145095 (Sub-4), filed February 27, 1981. Applicant: POWER FUELS, INC., P.O. Box 1369, Minot, ND 58701. Representative: F. J. Smith, Suite 307, 420 North 4th St., Bismarck, ND 58501, (701)–255–3071. Transporting (1) *chemicals and related products*, between points in ND, SD, MT, MN and WI, and (2) *petroleum, natural gas and their products*, between points in MT and ND.

MC 147015 (Sub-2), filed March 2, 1981. Applicant: JAMES P. TAYLOR d.b.a. JAMES TAYLOR TRUCKING, 3718 Cass Lake Rd., Manitowoc, WI 54220. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703, (608) 256–7444. Transporting *cement*, between points in York County, PA, on the one hand, and, on the other, points in IL, IN, MI, and WI.

MC 149215, filed February 26, 1981. Applicant: RAYMOND SNELL d.b.a. SNELL & SONS, 5025 Ursula, Denver, CO 80239. Representative: Raymond Snell (same address as applicant). Transporting *telephone equipment*, between points in the U.S.

MC 150054 (Sub-2), filed February 26, 1981. Applicant: J. W. CROWLEY & SONS, INC., P.O. Box 533, Dove Creek, CO 81364. Representative: Steven K. Kuhlmann, 717–17th St., Ste. 2600, Denver, CO 80202, (803) 892–6700. Transporting *salt and salt products*, between points in Grand County, UT, on the one hand, and, on the other, points in AZ, CA, CO, IN, NV, NM, TX and WY.

MC 150954 (Sub-17), filed February 17, 1981. Applicant: TRAVIS TRANSPORTATION, INC., 123 Coulter Ave., Ardmore, PA 19003. Representative: William E. Collier, 8918 Tersoro Drive, Suite 515, San Antonio,

TX 78217, (512)–826–6496. Transporting *containers*, between points in the U.S., under continuing contract(s) with American Can Company, of Oak Brook, IL.

MC 150954 (Sub-19), filed February 27, 1981. Applicant: TRAVIS TRANSPORTATION, INC., 123 Coulter Ave., Ardmore, PA 19003. Representative: William E. Collier, 8918 Tesoro Drive, Suite 515, San Antonio, TX 78217, (512) 826–6496. Transporting *rubber and plastic products*, between points in Smith County, TX, on the one hand, and, on the other, points in Yuba County, CA, Cook County, IL, Manistee County, MI, Wayne County, OH, Buncombe County, NC, Chester County, PA, and Suffolk, VA.

MC 151374 (Sub-1), filed February 23, 1981. Applicant: D. B. WATSON, d.b.a. DOT-LINE TRANSPORTATION, 8023 E. Slauson Blvd., Montebello, CA 90640. Representative: Richard C. Celio, 2300 Camino Del Sol, Fullerton, CA 92633, (714) 738–3889. Transporting *such commodities as are dealt in or used by retail stores and wholesale distributors*, between points in CA, OR, WA, and AZ, on the one hand, and, on the other, points in CA, WA, OR, AZ, NV, NM, UT, CO, ID, NE, KS, MN, LA, MO, OK, TX, LA, AR, MS, AL, GA, SC, FL, TN, NC, KY, VA, WV, OH, IN, IL, WI, MI, PA, NJ, DE, and NY.

MC 153514 (Sub-2), filed March 2, 1981. Applicant: BRUCE MATTILA, d.b.a. BRUCE MATTILA TRUCKING, 5601 E. Glenmoor Rd., Minnetonka, MN 55343. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118, (612) 457–6889. Transporting *metal products*, between points in Dakota County, MN, on the one hand, and, on the other, points in the U.S.

MC 153704 (Sub-1), filed February 26, 1981. Applicant: AMERICAN TRANSPORT SERVICE, 8759 Meadowbrook Dr., Pensacola, FL 32504. Representative: Edgar O. McCall (same address as applicant), (904) 476–7578. Transporting *lumber and wood products*, between points in the U.S., under continuing contract(s) with American Wood Company, of Hattiesburg, MS.

MC 153914 (Sub-1), filed February 23, 1981. Applicant: NEWMAN BROTHERS TRUCKING, INC., Highway 96, Belk, AL 35455. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203. Transporting (1) *lumber and wood products*, between points in AL, GA, and MS, on the one hand, and, on the other, points in the U.S., and (2) *clay, concrete, glass or stone products*, between points in Fayette County, AL, on the one hand, and, on the other, points in the U.S.

MC 154094 (Sub-1), filed February 19, 1981. Applicant: CONTRACT TRANSPORT, INC., P.O. Box 698, Hartville, OH 44632. Representative: David A. Turano, 100 East Broad, Columbus, OH 43215, (614) 228–1541. Transporting *building supplies*, between points in the U.S., under continuing contract(s) with Forest City Dillon Precast System, Inc. of Stow, OH.

MC 154455, filed March 2, 1981. Applicant: AUTUMN AGE WANDERERS, LTD., 546 92nd St., Brooklyn, NY 11209. Representative: Sidney J. Leshin, 575 Madison Ave., New York, NY 10022, (212) 759–3700. As a *broker*, in arranging for the transportation of *passenger and their baggage*, beginning and ending at New York, NY, and extending to points in the U.S.

MC 154485, filed March 2, 1981. Applicant: BILLY JOE ALLISON, 2959 Knightway Drive, Memphis, TN 38118. Representative: Dale Woodall, 900 Memphis Bank Building, Memphis, TN 38116. Transporting *sand and gravel*, between points in DeSoto County, MS, on the one hand, and, on the other, points in Shelby, Fayette, Hardeman, McNairy and Hardin Counties, TN.

MC 154534, filed March 2, 1981. Applicant: MUSTANG TRUCKING COMPANY, INC., 1907 West Cedar Ridge Dr., Mustang, OK 73064. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112, (405) 848–7946. Transporting *Mercer commodities*, between points in the U.S., under continuing contract(s) with Aztec Specialty Company, Inc. and Aztec Specialty Leasing Co., Inc., both of Oklahoma City, OK.

Volume No. OPY–3–016

Decided: March 12, 1981

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 26825 (Sub-58), filed February 17, 1981. Applicant: ANDREWS VAN LINES, INC., P.O. Box 1609, Norfolk, NE 68701. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. Transporting *rubber and plastic products*, between points in Hennepin County, MN, on the one hand, and, on the other, points in the U.S.

MC 111274 (Sub-66), filed February 25, 1981. Applicant: SCHMIDGALL TRANSFER INC., P.O. Box 351, Morton, IL 61550. Representative: Frederick C. Schmidgall (same address as applicant), (309) 266–9773. Transporting *pipe*, between points in the U.S., under continuing contract(s) with West Tube Co., Ltd., of Coquitlam, B.C., Canada.

MC 117765 (Sub-311), filed March 2, 1981. Applicant: HAHN TRUCK LINE, INC., 1100 S. MacArthur, P.O. Box 75218, Oklahoma City, OK 73147. Representative: R. E. Hagan (same address as applicant), (405)–943–8533. Transporting *building materials*, (1) between points in Columbia County, AR, Bowie, Dallas, Ellis, Hill, Potter, Tarrant and Wichita Counties, TX and those in KS, MO and OK; and (2) between points in Harvey, Shawnee and Wyandotte Counties, KS, and those in AR, MO and OK.

MC 121805 (Sub-14), filed February 10, 1981. Applicant: ARKANSAS EXPRESS, INC., 1200 Arkansas Ave., North Little Rock, AR 72114. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902, (501) 782–1001. Over regular routes, transporting *general commodities* (except classes A and B explosives), (1) Between Strong, AR and Texarkana, TX, over U.S. Hwy 82, serving all intermediate points, (2) Between El Dorado, AR and Magnolia, AR: From El Dorado over AR Hwy 7 to junction AR Hwy 4, then over AR Hwy 4 to East Camden, then over AR Hwy 4 to junction U.S. Hwy 79, and then over U.S. Hwy 79 to Magnolia, and return over the same route, serving all intermediate points, (3) Between Gum Springs, AR and Texarkana, TX, over U.S. Hwy 67, serving all intermediate points, and (4) Between Fort Smith, AR and Texarkana, TX, over U.S. Hwy 71, serving all intermediate points.

MC 128934 (Sub-3), filed February 17, 1981. Applicant: WILLIAM D. REPKO, d.b.a. WILLIAM REPKO TRUCKING, 4 Colonial Ave., Natalie, PA 17851. Representative: William D. Repko (same address as applicant), (717) 339–4172. Transporting (1) *plastic containers and closures*, and (2) *plastic film and sheeting*, between points in the U.S., under continuing contract(s) with Universal Packaging, Division of Kraft, Inc., of Mt. Carmel, PA.

MC 134035 (Sub-48), filed February 20, 1981. Applicant: DOUGLAS TRUCKING COMPANY, a corporation, P.O. Box 698, Highway 75 South, Corsicana, TX 75110. Representative: Jack K. Williams, P.O. Box 698, Corsicana, TX 75110, (214) 872–3017. Transporting *steel pipe, conduit and nails*, between points in New Hanover County, NC, Harris and Navarro Counties, TX, Los Angeles and Orange Counties, CA, on the one hand, and, on the other points in the U.S.

MC 136774 (Sub-17), filed March 2, 1981. Applicant: MC-MOR-HAN

TRUCKING CO., INC., P.O. Box 368, Schullsburg, WI 53586. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603, (312)–236–9375. Transporting *food and related products*, between points in Allegheny County, PA, Ottawa County, MI, Muscatine County, IA, Mecklenburg County, NC, Sandusky County, OH, and Frederick County, VA.

MC 144115 (Sub-16), filed March 2, 1981. Applicant: DIVERSIFIED CARRIERS, INC., 903 6th St., NW., Rochester, MN 55901. Representative: Charles E. Dye, P.O. Box 971, West Bend, WI 53095, (414) 677–2586. Transporting *food and related products*, between the facilities of Leaf Confectionery, Inc., at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 145695 (Sub-5), filed February 20, 1981. Applicant: MAZCO SYSTEMS, INC., 200 Route 17 South, Mahwah, NJ 07430. Representative: Roy A. Jacobs, 550 Mamaroneck Ave., Harrison, NY 10528, (914) 835–4411. Transporting *pipe fittings, connections, and joints*, between points in the U.S., under continuing contract(s) with Elkhart Products Corporation, of Elkhart, IN.

MC 145974 (Sub-11), filed March 2, 1981. Applicant: HIDATCO, INC., P.O. Box 356, New Town, ND 58763. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58116, (701) 235–4487. Transporting *lumber and wood products*, between points in the U.S., under continuing contract(s) with Frank E. Villaume Lumber Company, of St. Paul, MN.

MC 147075 (Sub-2), filed February 17, 1981. Applicant: P.R.D. TRUCKING CO., a Corporation, 122 E. Wabash, Forrest, IL 61741. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting *iron and steel articles*, between points in the U.S., under continuing contract(s) with Portable Elevator Division, Dynamics Corporation of America, of Bloomington, IL.

MC 148714 (Sub-4), filed March 3, 1981. Applicant: JAMES BROWN TRUCKING COMPANY, 6850 Chapman Rd., Lithonia, GA 30048. Representative: Mark S. Gray, P.O. Box 872, Atlanta, GA 30301, (404) 522–2322. Transporting *general commodities* (except classes A and B explosives), between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 153204 (Sub-1), filed February 18, 1981. Applicant: MANCHESTER SECURITY SERVICE, INC., P.O. Box 4916, 600 Harvey Rd., Manchester, NH 03108. Representative: L. John Osborn, 1660 L St., NW., Suite 1100, Washington, D.C. 20036, (202) 452–1692. Transporting *banking commodities, currency, coin, gold, silver, negotiable and non-negotiable instruments, safety deposit boxes, diamonds, and other valuables, and bank documents and bank memoranda*, between points in NH, ME and MA.

MC 154504, filed February 27, 1981. Applicant: ROBERT E. & CAROL TAYLOR, d.b.a. ROBERT E. TAYLOR, 5227 S.E. Holgate Blvd., Portland, OR 97206. Representative: Carol Taylor, 5227 S.E. Holgate Blvd., Portland, OR 97206, (503) 775–9075. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Bar Supply Brokerage, Inc., of Portland, OR.

Volume No. OPY–3–021

Decided: March 17, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 14215 (Sub-92), filed March 9, 1981. Applicant: SMITH TRUCK SERVICE, INC., 1118 Commercial, Mingo Junction, OH 43938. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of mine roof support systems, between points in Hancock County, WV, on the one hand, and, on the other, points in the U.S.

MC 107295 (Sub-1022), filed March 9, 1981. Applicant: PRE–FAB TRANSIT CO., a Corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Duane Zehr (same address as applicant), (309) 928–2141. Transporting *concrete additives, conditioners and forming materials, and grout*, between the facilities of Superior Concrete Accessories, Inc., in Harris County, TX, on the one hand, and, on the other, points in the U.S.

MC 107295 (Sub-1023), filed March 9, 1981. Applicant: PRE–FAB TRANSIT CO., a Corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Duane Zehr (same address as applicant), (309) 928–2141. Transporting *lumber and wood products*, between points in ID, MT and WY, on the one hand, and, on the other, points in the U.S.

MC 133384 (Sub-5), filed March 9, 1981. Applicant: BARBERTON RECON CENTER, INC., 5075 Wooster Rd., Barberton, OH 44203. Representative: E. H. van Deusen, P.O. Box 97, Dublin, OH 43017, (614)–889–2531. Transporting *transportation equipment*, between points in the U.S., under continuing contract(s) with Model A and Model T Car Reproduction Corporation, of Battle Creek, MI.

MC 152115 (Sub-1), filed March 6, 1981. Applicant: GEORGE KUIPHOF d.b.a. G. K. DISTRIBUTING CO., 13924 Maryton, Santa Fe Springs, CA 90670. Representative: (same address as applicant), (213) 921–3030. Transporting *waterheaters, solar collectors, steel pipe, and pipe fittings*, between Los Angeles, CA, points in AZ and NV.

FF 535, filed March 6, 1981. Applicant: UNITED FORWARDING, INC., 7000 Bldg., Suite 445, 7000 West Center Rd., Omaha, NE 68106. Representative: William T. Runyan (same address as applicant), (402) 393–5612. As a *freight forwarder*, transporting *general commodities* (except household goods), between points in the U.S.

Volume No. OPY–3–019

Decided: March 17, 1981.

By the Commission, Review Board No. 2, members Carleton, Fisher, and Williams.

MC 106074 (Sub-173), filed March 3, 1981. Applicant: B AND P MOTOR LINES, INC., Shiloh Rd. and U.S. Hwy 221 S., Forest City, NC 28043. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328, (404)–256–4320. Transporting *food and related products*, between points in Webb, Cameron, Hidalgo, and Bexar Counties, TX, on the one hand, and, on the other, points in AL, AR, FL, GA, IA, KS, LA, MN, MI, NE, NC, OK, SC and TN.

MC 140334 (Sub-7), filed March 5, 1981. Applicant: AM–CAN TRANSPORT SERVICE, INC., P.O. Box 859, Anderson, SC 29621. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202, (303) 892–6700. Transporting *such commodities* as are dealt in or used by manufacturing and distributors of woven fiber glass and synthetic fabrics, between points in the U.S., under continuing contract(s) with Clark-Schwebel Fiber Glass Corp., of Anderson, SC.

MC 141865 (Sub-10), filed March 6, 1981. Applicant: ACTION DELIVERY SERVICE, INC., 2401 West Marshall Drive, Grand Prairie, TX 75051. Representative: A. William Brackett, 1108 Continental Life Bldg., Fort Worth, TX 76102, (817) 332–4415. Transporting *pulp, paper, and related products*, between points in the U.S., under continuing contract(s) with Manville Forest Products Corporation, of West Monroe, LA.

MC 152754 (Sub-1), filed March 6, 1981. Applicant: CARL SHERMER, d.b.a.

C. L. SHERMER TRUCK LINES, 3282 Independence St., Grove City, OH 43123. Representative: Larry R. McDowell, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107, (215) 735–3090. Transporting *general commodities* (except classes A and B explosives), betwen points in the U.S., under continuing contracts with Johnson & Tower, Inc., of Mt. Laurel, NJ, and Stonhard, Inc., of Maple Shade, NJ.

MC 154524, filed March 5, 1981. Applicant: LIESFELD LUMBER CO., INC., P.O. Box 129, Laurel, VA 23060. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229. Transporting *metal products*, between points in Camden County, NJ, on the one hand, and, on the other, points in DE, MD, VA and DC.

Volume No. OPY–4–33

Decided: March 18, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 91306 (Sub-39), filed February 18, 1981 previously published in the **Federal Register** issue of March 12, 1981, and republished this issue. Applicant: JOHNSON BROTHERS TRUCKERS, INC., 1858 9th Avenue N.E., Hickory, NC 28601. Representative: Eric Meierhoefer, Suite 423, 1511 K Street NW, Washington, DC 20005, (202) 347–9332. Transporting *such commodities* as are dealt in or used by the manufacturers and distributors of health-care products, between points in Union County, NJ, on the one hand, and, on the other, points in Cobb and Newton Counties, GA.

Note.—The purpose of this republication is to identify Cobb and Newton as counties in GA in lieu of CA.

MC 129296 (Sub-5), filed March 5, 1981. Applicant: M & D HAULING, INC., 260 Jordon Avenue, Montoursville, PA 17754. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108, (717) 233–5731. Transporting (1) *salt and salt products*, and (2) *materials* used in the agricultural, water treatment, food processing, grocery and institutional supply industries, between points in CT, DE, IN, ME, MD, MA, MI, NH, IL, NC, NJ, NY, OH, PA, RI, VT, VA, WV, and DC.

MC 147066 (Sub-3), filed March 9, 1981. Applicant: LUCKY THIRTEEN TRANSPORTATION CO., INC., 15200 Hesperian Blvd., San Leandro, CA 94578. Representative: William D. Taylor, 100 Pine St., Suite 2550, San Francisco, CA 94111, (415) 986–1414. Transporting *pulp, paper and related products*, between points in the U.S., under continuing contract(s) with H. S. Crocker Co., Inc., of San Bruno, CA.

MC 149406 (Sub-10), filed March 5, 1981. Applicant: E. W. WYLIE CORPORATION, P.O. Box 1188, 222 40th St., S.W., Fargo, ND 58107. Representative: Robert D. Gisvold, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402, (612) 333–1341. Transporting *such commodities* as are dealt in or used by agricultural and industrial equipment manufacturers, between points in Racine and Marathon Counties, WI, Vigo County, IN, Des Moines and Scott Counties, IA and Sedgwick County, KS, on the one hand, and, on the other, points in ID, MT, NE, ND, OR, SD, WA and WY.

Volume No. OP1–085

Decided: March 17, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Taylor.

MC 2860 (Sub-217), filed March 3, 1981. Applicant: NATIONAL FREIGHT, INC., 71 West Park Ave., Vineland, NJ 08360. Representative: Richard M. Parnicky (same address as applicant). Transporting *rubber and plastic products*, between the facilities of Mobil Chemical Company in the U.S., on the one hand, and, on the other, points in the U.S.

MC 98830 (Sub-2), filed February 26, 1981. Applicant: CABCO, INC., d.b.a. C & D CARTAGE, 21 Walpole St., Norwood, MA 02062. Representative: John F. O'Donnell, P.O. Box 238, Milton, MA 02187, (617) 696–7610. Transporting *general commodities* (except classes A and B explosives), between points in CT, MA, ME, NH, and RI. Condition: Issuance of a certificate in this proceeding is subject to the coincidental cancellation, at applicant's written request, of its Certificate of Registration in MC–98830 Sub 1.

MC 106920 (Sub-127), filed March 5, 1981. Applicant: RIGGS FOOD EXPRESS, INC., P.O. Box 26, New Bremen, OH 45869. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, DC 20001, (419) 629–2861. Transporting *food and related products*, between points in Erie County, NY, on the one hand, and, on the other, those points in the U.S. in and east of MT, WY, CO, and NM.

MC 104430 (Sub-66), filed March 9, 1981. Applicant: CAPITAL TRANSPORT COMPANY, INC., P.O. Box 408, McComb, MS 39648. Representative: Robert L. McArty, P.O. Box 22628, Jackson, MS 39205, (601) 948–8820. Transporting *chemicals and related products*, between points in Jones County, MS, on the one hand, and, on the other, points in AL, FL, GA, LA, and TN.

MC 111401 (Sub-713), filed March 9, 1981. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant), (405) 234–4663. Transporting *chemicals and related products*, between points in Hidalgo County, NM, on the one hand, and, on the other, points in TX.

MC 121060 (Sub-135), filed February 26, 1981. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, Birmingham, AL 35201. Representative: Ronald F. Harris (same address as applicant) (205) 324–4525. Transporting *pulp, paper and related products, lumber and wood products, rubber and plastic products, metal articles, and construction materials*, between points in AR, TX, LA, MS, TN, AL, GA, FL, NC, and SC, 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 121060 (Sub-136), filed March 3, 1981. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, Birmingham, AL 35201. Representative: Ronald F. Harris (same address as applicant) (205) 324–4525. Transporting *clay, concrete, glass or stone products*, between points in Tuscarawas County, OH, on the one hand, and, on the other, points in the U.S.

MC 123880 (Sub-1), filed March 5, 1981. Applicant: BROWN GOBBLE, d.b.a. GOBBLE TRUCKING COMPANY, 706 High St., Lawrenceburg, TN 38464. Representative: B. E. Bryant, 336 Pulaski St., Lawrenceburg, TN 38464, (615) 762–2242. Transporting *chemicals and related products*, between points in the U.S., under continuing contract(s) with Kaiser Aluminum & Chemical Corporation, Kaiser Agricultural Chemicals Division, of Savannah, GA.

MC 125951 (Sub-71), filed February 18, 1981. Applicant: SILVEY REFRIGERATED CARRIERS, INC., 7000 West Center Road, Suite 325, Omaha, NE 68106. Representative: Robert M. Cimino (same address as applicant), (402) 393–5005. Transporting (1) *food and related products*, and (2) *such commodities* as are dealt in by grocery and food stores, and retail department stores, between points in NE and IA, on the one hand, and, on the other, points in CA, NV, AZ, and those points in the U.S. in and east of SD, SD, NE, KS, OK, and TX.

MC 133221 (Sub-41), filed March 2, 1981. Applicant: OVERLAND CO., INC., 1991 Buford Hwy., Lawrenceville, GA 30245. Representative: W. D. Beaver (same address as applicant), (404) 963–6212. Transporting *rubber and plastic*

products, between points in Butler county, OH, on the one hand, and, on the other, those points in the U.S. on and east of U.S. Hwy 85.

MC 133221 (Sub-43), filed March 9, 1981. Applicant: OVERLAND CO., INC., 1991 Buford Hwy., Lawrenceville, GA 30245. Representative: W. D. Beaver (same address as applicant), (404) 963–6212. Transporting (1)(a) *rubber and plastic products*, and (b) *waste or scrap materials* not identified by industry producing, between Trenton, NJ, and points in Harris County, TX, on the one hand, and, on the other, points in the U.S., and (2) *rubber and plastic products*, between Parkersburg, WV, on the one hand, and, on the other, points in the U.S.

MC 135692 (Sub-53), filed March 6, 1981. Applicant: DALLAS CARRIERS CORP., 12661 Perimeter Drive, Dallas, TX 75228. Representative: J. Max Harding, 4211 South 33rd Street, P.O. Box 6645, Lincoln, NE 68506 (402) 489–3585. Transporting *Materials, equipment and supplies* used in the manufacture of furniture, between points in Broward County, FL, on the one hand, and, on the other, points in TX.

MC 143091 (Sub-3), filed March 9, 1981. Applicant: R AND R TRUCKING, INC., 1257 E. Reno, Oklahoma City, OK 73117. Representative: G. Timothy Armstrong, 200 N. Choctaw, P.O. Box 1124, El Reno, OK 73036, (405) 262–1322. *Over regular routes*, transporting *general commodities* (except classes A and B explosives), (1) between Oklahoma City and Durant, OK, from Oklahoma City over U.S. Hwy 77 to junction OK Hwy 39, then over OK Hwy 39 to junction OK Hwy 3, then over OK Hwy 3 to junction OK Hwy 99, then over OK Hwy 99 to junction U.S. Hwy 70, then over U.S. Hwy 70 to Durant, and return over the same route, (2) between Durant and Broken Arrow, OK, over U.S. Hwy 70, (3) between Caddo, OK and the OK-TX State line, over U.S. Hwy 75, between Oklahoma City and Broken Bow, OK from Oklahoma City over Interstate Hwy 40 to junction U.S. Hwy 177, then over U.S. Hwy 177 to junction OK Hwy 3, then over OK Hwy 3 to Broken Bow, and return over the same route, serving the off-route point of Wright City, OK, (5) between Tupelo and Durant, OK, over OK Hwy 48, (6) between Clayton and Hugo, OK over U.S. Hwy 271, serving all intermediate points in connection with routes (1) through (6) above. Condition: Issuance of a certificate in this proceeding is conditioned upon coincidental cancellation, at applicant's written request, of its certificate of registration in No. MC–143091 Sub-No. 1.

Note.—The purpose of this application is to convert applicant's certificate of registration into a certificate of public convenience and necessity.

MC 144740 (Sub-32), filed March 2, 1981. Applicant: L. G. DEWITT, INC., PO Box 70, Ellerbe, NC 28338. Representative: Fred Daugherty (same address as applicant). Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Borck's Country Home Bakeries, Inc., of Atlanta, GA.

MC 146481 (Sub-4), filed March 2, 1981. Applicant: WOLF LEASING CO., INC., P.O. Box 13297, Eightmile, AL 36613. Representative: Mark S. Gray, P.O. Box 872, Atlanta, GA 30301, (404) 522–2322. Transporting *general Commodities* (except classes A and B explosives), between points in the U.S., under continuing conract(s) with (a) Armco, Inc., of Middletown, OH, and (b) Bittner Industries, Inc., of Prichard, AL.

MC 149170 (Sub-22), filed March 5, 1981. Applicant: ACTION CARRIER, INC., 1000 East 41st St., Sioux Falls, SD 57105. Representative: Carl L. Steiner, 39 South LaSalle St., Chicago, IL 60603, (312) 236–9375. Transporting *general commodities* (except classes A and B explosives), between points in IA, MN, NE, and SD, on the one hand, and, on the other those points in the U.S. east of MT, WY, UT, and NM. Condition: The person or persons engaged in common control of applicant and another regulated carrier must file an application for approval under 49 U.S.C. 11343, or submit an affidavit indicating why such approval in unnecessary.

MC 150231 (Sub-10), filed March 3, 1981. Applicant: MAVERICK TRANSPORTATION, INC., 1803 E. Broad St., Texarkana, AR 75502. Representative: Lawrence Leahy (same address as applicant), (501) 773–7638. Transporting *metal products*, between points in Johnson and Wyandotte Counties, KS, and those in Clay and Jackson Counties, Mo, on the one hand, and, on the other, points in AL, AR, CO, IA, IL, IN, KS, KY, LA, MI, MN, MO, MS, ND, NE, OH, OK, SD, TN, TX, and WI.

MC 152621 (Sub-3), filed March 2, 1981. Applicant: RUSH TRANSPORT, INC., 172 Chestnut St., Springfield, MA 01105. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103, (413) 781–8205. Transporting *general commodities* (except classes A and B explosives), betwen points in CT, MA, NJ, NY, and RI, on the one hand, and, on the other, points in the U.S. Condition: The person or persons who appear to be in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary.

MC 154031 (Sub-1), filed March 6, 1981. Applicant: GREEN LINE EQUIPMENT, INC., 2223 Old Hwy. 45 North, Columbus, MS 39701. Representative: David F. Perkins (same address as applicant), (601) 328–4665. Transporting *lumber and wood products*, between points in Marion County, AL, on the one hand, and, on the other, points in MO, IL, IA, NE, WI, and MN.

MC 154461, filed March 3, 1981. Applicant: VILLAGE CHARTERS, INC., Suite 404, Colorado Derby Bldg., 202 W. First, Wichita, KS 67202. Representative: Mark S. Marney (same address as applicant), (316) 264–3543. Transporting *passengers and their baggage*, in special and charter operations, between points in Sedgwick County, KS, on the one hand, and, on the other, points in the U.S. (including AK but excluding HI).

MC 154481, filed March 2, 1981. Applicant: N.W. HAYMAN TRUCKING, INC., Route 1, Box 19, Ridgely, MD 21660. Representative: Gerald I. Street, 304 S. State Street, P.O. Box 1299, Dover, DE 19901, (302) 674–5925. Transporting *food and related products*, between points in MA, those in Mobile County, AL, Dade County, FL, Kane County, IL, Cumberland County, NJ, and Cuyahoga County, OH, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, CO, OK, and TX.

MC 154561, filed March 6, 1981. Applicant: EATON DISTRIBUTING COMPANY, INC., 2951 Coors Court, Santa Rosa, CA 95401. Representative: Thomas P. Kelly, Jr., P.O. Box 1566, Santa Rosa, CA 95402, (707) 542–5050. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with (a) Rocky Mountain Mercantile Company of Denver, CO, and (b) Baker Beverage, Inc., of Ukiah, CA.

Volume No. OP5–12

Decided: March 16, 1981.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 19778 (Sub-116), filed March 3, 1981. Applicant: THE MILWAUKEE MOTOR TRANSPORTATION COMPANY, a corporation, 10800 Franklin Ave., Franklin Park, IL 60131. Representative: Mr Robert F. Munsell, (same address as applicant), (312) 860–4878. Transporting *building materials*, between points in Minnehaha County, SD, and points in ND.

MC 46518 (Sub-15), filed February 23, 1981. Applicant: R.F.C. TRANSPORT, INC., 7200 Fly Rd., P.O. Box 208, East Syracuse, NY 13057. Representative: Herbert M. Canter, 305 Montgomery St., Syracuse, NY 13202, (315) 472–8845. Transporting *general commodities* (except classes A and B explosives) between points in CT, MA, ME, NH, RI, VT, and those in NY north of Sullivan, Ulster, and Dutchess Counties. Condition: Issuance of a certificate in this proceeding is conditioned upon coincidental cancellation of Certificate No. MC–46518 lead and Sub Nos. 13 and 14, and also coincidental cancellation of Certificates held by applicant's commonly controlled affiliate, in No. MC–52437 lead and Sub Nos. 3, 4, 5, 6, 9, and 11.

MC 102478 (Sub-2), filed February 26, 1981. Applicant: BRIGHT BELT MOTOR LINES, INC., P.O Box 237, Grifton, NC 28530. Representative: Ralph McDonald P.O. Box 2246, Raleigh, NC 27602, (919) 828–0731. Transporting *lumber and wood products*, between points in NC, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, IL, IN, KY, MD, ME, MA, NH, NJ, NY, PA, OH, RI, SC, TN, VA, VT, WI, WV, and DC.

MC 109028 (Sub-16), filed February 10, 1981. Applicant: S & W TRANSFER, INC., 312 E. Wisconsin Ave., Milwaukee, WI 53202. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542–1121. Transporting (1) *chemicals and related products*, (2) *petroleum or coal products*, and (3) *rubber and plastic products*, between points in the U.S., under continuing contract(s) with Mobil Oil Corporation, of Dallas, TX.

MC 113059 (Sub-13), filed February 27, 1981. Applicant: KELLER TRANSPORT, INC., Route 9 Katy Lane, Billings, MT 59101. Representative: F.E. Keller (same address as applicant), (406) 656–1403. Transporting *petroleum, natural gas, and their products*, between points in Missoula County, MO, on the one hand, and, on the other, those points in ID in and north of Washington, Adams, Valley, Custer, and Lemhi Counties.

MC 113499 (Sub-9), filed March 2, 1981. Applicant: EDWARD M. RUDE CARRIER CORP., R.F.D. #1, Falling Waters, WV 25419. Representative: Francis J. Ortman, 7101 Wisconsin Ave., Suite 605, Washington, DC 20014, (301) 986–9030. Transporting *general commodities*, between points in the U.S., under continuing contract(s) with E.I. du Pont de Nemours & Company, of Wilmington, DE. Condition: Any permit issued in this proceeding to the extent authority is granted to transport classes A and B explosives, shall be limited in point of time to a period expiring 5 years from the date of issuance of the permit.

MC 117169 (Sub-6), filed March 3, 1981. Applicant: DAWN ENTERPRISES, INC, d.b.a. DAWN TRUCKING CO., P.O. Box 204, Farmington, NM 87401. Representative: Richard S. Mandelson, Suite 1600 Lincoln Center, 1660 Lincoln St., Denver, CO 80264, (303) 861–4028. Transporting (1) *machinery and equipment*, and (2) *mercer commodities*, between points in AZ, CA, CO, ID, KS, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, and WY.

MC 119619 (Sub-149), filed February 23, 1981. Applicant: DISTRIBUTORS SERVICE CO., a corporation, 2000 West 43rd St., Chicago, IL 60609. Representative: Arthur J. Piken, Queens Office Tower, 95–25 Queens Blvd., Rego Park, NY 11374, (212) 275–1000. Transporting *food and related products*, between points in Hancock County, OH, on the one hand, and, on the other, points in CT, DE, IN, IL, IA, ME, MD, MA, MI, MN, NH, NJ, OH, PA, RI, VA, VT, WV, and WI.

MC 121568 (Sub-81), filed February 20, 1981. Applicant: HUMBOLDT EXPRESS, INC., 345 Hill Ave., Nashville, TN 37210. Representative: James D. Caldwell (same address as applicant), (615) 242–5552. Transporting *general commodities* (except classes A and B explosives), between the facilities used by General Tire and Rubber Company at points in the U.S. on the one hand, and, on the other, points in the U.S.

Note.—Applicant intends to tack with its existing authority.

MC 127939 (Sub-6), filed March 2, 1981. Applicant: BROWN FREIGHT LINE, INC., 122 Tredco Drive, Nashville, TN 37211. Representative: J. T. Whitehead (same address as applicant), 615–255–8523. Over regular routes, transporting *general commodities*, (except classes A and B explosives), (1) between Memphis and Chattanooga, TN: from Memphis over Interstate Hwy 40 to junction Interstate Hwy 24, then over Interstate Hwy 24 to junction TN Hwy 28, then over TN Hwy 28 to junction U.S. Hwy 41, then over U.S. Hwy 41 to junction Interstate Hwy 24, then over Interstate Hwy 24 to Chattanooga, and return over the same route; (2) between Monteagle and Nashville, TN, serving all points within 10 miles of Tullahoma, TN: from Monteagle over U.S. Hwy 64 to junction U.S. Hwy 41A, then over U.S. Hwy 41A to Nashville and return over the same route; (3) between Nashville and Memphis, TN: from Nashville over U.S. Hwy 31 to junction U.S. Hwy 431, then over U.S. Hwy 431 to junction U.S. Hwy 31A, then over U.S. Hwy 31A to U.S. Hwy 64, then over U.S. Hwy 64 to Memphis and return over the same route; (4) between Nashville and Lewisburg, TN: over U.S. Hwy 31A; (5) between Lewisburg, TN, and junction U.S. Hwy 41A and TN Hwy 64: from Lewisburg over U.S. Hwy 31A to junction TN Hwy 64, then over TN Hwy 64 to junction U.S. Hwy 41A and return over the same route, serving all intermediate points on routes (1) through (4). Condition: Any certificate issued in this proceeding is subject to the prior or coincidental cancellation, at applicant's written request, of all existing certificates of registration.

MC 135658 (Sub-9), filed February 20, 1981. Applicant: ROCK RIVER CARTAGE, INC., R.R. #2, Box 430, Rock Falls, IL 61071. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting *chemicals and related products*, between points in IA, IL, IN, MN, MO, OH, and WI.

MC 135989 (Sub-22), filed February 20, 1981. Applicant: COAST EXPRESS, INC., 14280 Monte Vista Ave., Chino, CA 91710. Representative: William J. Lippman, Steele Park, Suite 330, 50 South Steele St., Denver, CO 80209, (303) 320–6100. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Sterling Colorado Beef Co., of Sterling, CO, and Circle C Beef Co., a wholly-owned subsidiary of Sterling Colorado Beef Co., of Denver, CO.

MC 138438 (Sub-105), filed February 23, 1981. Applicant: D. M. BOWMAN, INC., Route 2, Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740, (301) 739–4860. Transporting *aluminum and aluminum products*, between points in Frederick County, MD, 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 138469 (Sub-267), filed March 2, 1981. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068, (312) 692–3020. Transporting *such commodities* as are dealt in or used by distillers of alcoholic beverages, (a) between Oklahoma City, OK and points in MN, and (b) between points in IL, on the one hand, and, on the other, points in the U.S.

MC 142559 (Sub-166), filed February 27, 1981. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Ave., Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad St., Columbus, OH 43215,

(614) 228–1541. Transporting *pulp, paper and related products,* between points in the U.S.

MC 143059 (Sub-166), filed March 2, 1981. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, KY 40232. Representative: Kenneth W. Kilgore (same address as applicant), (502) 584–2301. Transporting (1) *metal products,* and (2) *machinery,* between points in Clark County, NV, and points in CA, IL, OR, PA, and TX, on the one hand, and, on the other, those points in the U.S. in and west of ND, SD, NE, KS, OK, and TX.

MC 145018 (Sub-22), filed February 27, 1981. Applicant: NORTHEAST DELIVERY, INC., P.O. Box 127, Taylor, PA 18517. Representative: Edward F. V. Pietrowski, 3300 Birney Ave., Moosic, PA 18507, (717) 343–2126. Transporting *building materials,* between points in IN, IL, NJ, PA, and MD, on the one hand, and, on the other, points in LA, TX, and those in the U.S. in and east of WI, IL, KY, TN, and MS.

MC 145018 (Sub-23), filed March 2, 1981. Applicant: NORTHEAST DELIVERY, INC., P.O. Box 127, Taylor, PA 18517. Representative: Edward F. V. Pietrowski, 3300 Birney Ave., Moosic, PA 18507, (717) 343–2126. Transporting *rubber and plastic products,* between Pottsville, PA, on the one hand, and, on the other, points in AL, KY, GA, FL, IN, IL, NC, OH, SC, and TN.

MC 145829 (Sub-28), filed February 9, 1981. Applicant: ETI CORP., P.O. Box 1, Keasbey, NJ 08832. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 435–7140. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with ABC-TNT/ Acme Fast Freight, Inc., of Los Angeles, CA.

Volume No. OPY–5–13

Decided March 16, 1981.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

MC 143059 (Sub-165), filed March 3, 1981. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, KY 40232. Representative: Kenneth W. Kilgore, (same as applicant), (502) 584–2301. Transporting *metal products* between points in the U.S.

MC 145018 (Sub-21), filed February 17, 1981. Applicant: NORTHWEST DELIVERY, INC., P.O. Box 127, Taylor, PA 18517. Representative: Edward F. V. Pietrowski, 3300 Birney Ave., Moosic, PA 18507, (717) 343–2126. Transporting *general commodities* (except classes A and B explosives) between points in the U.S.

MC 145848 (Sub-3), filed February 17, 1981. Applicant: CROSLAND TRUCKING, INC., 3170 Broadway, Ville Brossard, Quebec, Canada J4Z 2p5. Representative: Chandler L. van Orman, 1729 H. Street, NW., Washington, DC 20006, (202) 337–6500. Transporting *lumber and wood products* between points in the U.S., under continuing contract(s) with Northland Forest Products, Inc., of Kingston, NH.

MC 146479 (Sub-12), filed March 2, 1981. Applicant: HARRISON CARRIERS, INC., P.O. Box 367, Harrison, NY 10528. Representative: David M. Marshall, 101 State St., Suite 304, Springfield, MA 01103, (413) 732–1136. Transporting *general commodities* (except classes A and B explosives), between points in St. Louis County, MO, on the one hand, and, on the other, points in the U.S.

MC 147318 (Sub-4), filed March 2, 1981. Applicant: DEEP SOUTH TRUCKING, INC., Hwy. 11 North, P.O. Box 304, Purvis, MS 39475. Representative: Kent F. Hudson, 202 Main St., P.O. Box 606, Purvis, MS 39475, (601) 794–8003. Transporting *welding wire and electrodes,* between points in the U.S., under continuing contract(s) with Dealers Wholesale Welding Supply, Inc., of Dallas, TX.

MC 148308 (Sub-2), filed February 23, 1981. Applicant: ROTRANSCO, INC., 6516 W. 74th, Bedford Park, IL 60638. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603, (312) 236–9375.Transporting *general commodities* (except classes A and B explosives) between points in the U.S., under continuing contract(s) with Toyota Motor Distributors U.S.A., Inc., of Carol Stream, IL.

MC 148319 (Sub-3), filed March 4, 1981. Applicant: ELLIS B. STOFLE, d.b.a., Stofle Trucking, P.O. Box 42, Tioga, TX 76271. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103, (817) 332–4718. Transporting *alcoholic beverages,* between points in NY, NJ, and MD, on the one hand, and, on the other, points in TX and LA.

MC 148958 (Sub-1), filed February 9, 1981. Applicant: EVCCO TRANSPORTATION, INC., Route 22, Box 535, Lebanon, NJ 98833. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07944, 201–435–7140. Transporting (1) *pulp, paper and related products,* (2) *rubber and plastic products,* and (3) *health care products,* between Chicago, IL, Los Angeles, CA, points in Middlesex County, NJ, and Cobb County, GA, and facilities of Georgia-Pacific Corporation in the U.S., on the one hand, and, on the other, points in the U.S., and (4) *furniture and fixtures* between New York and points in Monroe County, NY, and points in New Haven County, CN, and Lehigh County, PA, on the one hand, and, on the other, points in the U.S.

MC 149179 (Sub-3), filed February 20, 1981. Applicant: MAYLAND ENTERPRISES, INC., Withrow Rd., Forest City, NC 28043. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328, (404) 256–4320. Transporting *rubber and plastic products,* between Baltimore, MD, Baton Rouge, LA, and points in Grant County, WV, on the one hand, and, on the other, those points in the U.S., in and east of ND, SD, NE, KS, OK, and TX.

MC 150538 (Sub-1), filed February 10, 1981. Applicant: T. C. TRANSPORTATION, INC., 4710 Squaw Creek Rd., Crystal Lake, IL 60014. Representative: Albert A. Andrin, 180 North La Salle St., Chicago, IL 60601, 312–332–5106. Transporting *metal products* between points in the U.S.

MC 150578 (Sub-12), filed February 20, 1981. Applicant: STEVENS TRANSPORT, a division of STEVENS FOODS, INC., 2944 Motley Drive, Suite 302, Mesquite, TX 75150. Representative: E. Lewis Coffey (same address as applicant), (214) 681–0454. Transporting *general commodities* (except classes A and B explosives) between Portland, OR, Spartanburg, SC, and points in Westmoreland County, PA, on the one hand, and, on the other, points in the U.S.

MC 152309 (Sub-1), filed February 19, 1981. Applicant: CRYSTAL FREIGHT LINES, a corporation, 3928 Montclair Rd., Suite 218, Mountain Brook, AL 35213. Representative: D. R. Beeler, 1261 Columbia Ave., Franklin, TN 37064, 615–790–2510. Transporting *chemicals and related products* between Memphis, TN, on the one hand, and, on the other, points in AL, AR, GA, TX, MS, LA, MO, KS, and FL.

MC 152368 (Sub-1), filed February 9, 1981. Applicant: D. L. WILLIAMS TRUCKING, INC., P.O. Drawer 818, Hillsboro, TX 76645. Representative: James W. Hightower, 5801 Marvin D. Love Freeway, No. 301, Dallas, TX 75237, 214–339–4108. Transporting *metal products* between points in Cross County, AR, and Hill County, TX, on the one hand, and, on the other, points in AR, AZ, CA, IN, IL, OK, NJ, NY, MI, and TX.

MC 152599 (Sub-1), filed March 2, 1981. Applicant: SOUTHERN

CARRIERS, INC., P.O. Box 631, Galena Park, TX 77547. Representative: Clayte Binion, 1108 Continental Life Bldg., Fort Worth, TX 76102, (817) 332–4415. Transporting *general commodities* (except classes A and B explosives) between points in TX and OK.

MC 152899 (Sub-1), filed March 3, 1981. Applicant: SPECIALIZED DELIVERY SERVICE, P.O. Box 8037, Albuquerque, NM 87198. Representative: John P. Barbara (same address as applicant), (505) 293–7176. Transporting *general commodities* (except classes A and B explosives), between Albuquerque, NM, on the one hand, and, on the other, points in CO south of U.S. Hwy 50, and points in NM.

MC 154259, filed February 18, 1981. Applicant: LOOKABAUGH TRUCKING, INC., 4865 Botkin Rd., London, OH 43140. Representative: James M. Burtch, 100 East Broad St., Columbus, OH 43215, 614–228–1541. Transporting *food and related products* between points in Clark County, OH, on the one hand, and, on the other, points in CT, DE, FL, IL, IN, KY, MA, MD, MI, NC, NJ, NY, PA, SC, TN, VA, and WV.

MC 154479, filed March 3, 1981. Applicant: AMERICAN DELIVERY SERVICE COMPANY, 1990 North California Blvd., Walnut Creek, CA 94596. Representative: James O. Corley, (same address as applicant), (415) 943–6210. Transporting *such commodities* as are dealt in or used by retail department stores, wholesale mercantile stores, and mail order houses, between points in the U.S., under continuing contract(s) with Montgomery Ward & Co., Incorporated, of Chicago, IL, and its subsidiaries.

MC 154528, filed March 4, 1981. Applicant: LENTZ MILLING COMPANY, INC., 2045 North 11th St., Reading, PA 19604. Representative: Harris T. Bock, 1915 Three Penn Center Plaza, Philadelphia, PA 19102; (215) 563–4800. Transporting *food and related products*, between points in IA, IL, IN, MA, MI, NJ, NY, OH, PA, on the one hand, and, on the other, points in IL, IN, MD, MI, NJ, NY, OH, PA, WI, and WV.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-8904 Filed 3-23-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special Rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539. 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). 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. OP4–72

Decided: March 17, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 37896 (Sub-41) filed February 6, 1981. Applicant: YOUNGBLOOD TRUCK LINES, INC., P.O. Box 1048, Fletcher, NC 28732. Representative: Henry B. Stockinger (same address as applicant). Transporting *general commodities* (except classes A and B explosives), (1) between points in NC, SC and TN, and (2) between points in (1) above, on the one hand, and, on the other, points in the U.S.

MC 117686 (Sub-294) filed November 12, 1980, previously published in the **Federal Register** issue of February 3, 1981, and republished this issue. Applicant: HIRSCHBACH MOTOR LINES, INC., 920 West 21st St., P.O. Box 155, South Sioux City, NE 68776. Representative: George L. Hirschbach (same address as applicant). Transporting *bananas*, from Galveston, TX and Gulfport, MS, to points in OK and WI.

Note.—The purpose of this republication is to correct the commodity and territorial descriptions, and the filing date of the application, previously noticed as October 14, 1980.

MC 143636 (Sub-12F) filed November 5, 1981, and previously noticed in the **Federal Register** issue of December 2, 1980. Applicant: RON SMITH TRUCKING, INC., R.R. No. 1, Box 59, Arcola, IL 61910. Representative: Douglas G. Brown, The INB Center, Suite 555, One North Old State Capitol Plaza, Springfield, IL 62701. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *feed ingredients and feed byproducts*, between points in IL, on the one hand, and, on the other, points in IN, IA, KY, MO and WI.

Note.—The purpose of this republication is to correctly reflect the territorial description.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-8906 Filed 3-23-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the

Federal Register of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, 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 the 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. OP3-202

Decided: March 13, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 134105 (Sub-85), filed December 8, 1981. Applicant: CELERYVALE TRANSPORT, INC., 1706 Rossville Ave., Chattanooga, TN 37408. Representative: James E. Elgin (same address as applicant). Transporting *meats, meat products and meat byproducts,* and *articles distributed by meat-packing houses* (except commodities in bulk), from the facilities of Vernon Calhoun Packing Co., at or near Palestine, TX, to points in the U.S.

MC 154105 (Sub-1), filed February 6, 1981. Applicant: CARDINAL CONTRACT CARRIERS, INC., North Carolina Hwy 150, P.O. Box 471, Cherryville, NC 28021. Representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave. and 13th St., NW., Washington, DC 20004. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Celanese Corporation and its subsidiaries and division, including Celanese Fibers Company, Celanese Fibers Marketing Company, Fiber Industries, Inc., Moultrie Products Company, Amcel Company, Pan Amcel Company and Pama Manufacturing, Inc., all of Charlotte, NC. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary.

MC 154424, filed February 5, 1981. Applicant: GREATER WILDWOOD GOLDEN AGE FESTIVAL, INC., 5501 Ocean Ave., Wildwood Crest, NJ 08260. Representative: Michael DiAntonio, 311E Trenton Ave., Wildwood Crest, NJ 08260. As a *broker,* in arranging for the transportation of *passenger and their baggage,* between those points in the U.S. in and east of MI, IN, KY, KY, TN, and MI.

MC 154465, filed February 4, 1981. Applicant: ALL-AMERICA DRIVEAWAY COMPANY, INC., 1018 Commonwealth Ave., Boston, MA 02215. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108. Transporting *transportation equipment,* between points in the U.S.

MC 154555, filed February 4, 1981. Applicant: RAYMOND M. MYLET, d.b.a. RAY MYLET TRUCKING, 628 Landmesser St., West Hazleton, PA 18201. Representative: Keith W. Karchner, P.O. Box 22, Rock Glen, PA 18246. Transporting *stone,* between points in VT, on the one hand, and, on the other, those points in PA on and east of U.S. Hwy 15.

MC 154564, filed February 6, 1981. Applicant: W. J. BARRY HOUSE TRANSPORTATION, INC., 4 Delaware Ave., Norwalk, CT 06851. Representative: Gerald A. Joseloff, P.O. Box 3258, Hartford, CT 06103. Transporting (1) *livestock,* other than ordinary, (2) *stable supplies and equipment,* and (3) *attendants and personal effects* of attendants, between points in ME, VT, NH, CT, MA, RI, NY, NJ, PA, OH, MD, WV, DE, VA, KY, TN, NC, SC, GA, FL, and DC, on the one hand, and, on the other, points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-8605 Filed 3-23-81; 8:45 am]

BILLING CODE 7035-01-M

[Vol. No. OP1-083]

Motor Carriers; Permanent Authority Decision; Decision-Notice

Decided: March 16, 1981.

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR § 1100.240). See Ex Parte 55 (Sub-44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. §§ 11344 and 11349,* 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of an application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 1, Parker, Chandler and Taylor.

Agatha L. Mergenovich,

Secretary.

MC-F-14572, filed February 6, 1981. TOLBERT F. KERR (C.D. RIPPY AND WARD DEWITT, JR.-Trustees)(Kerr) (P.O. Box 8, Lascassas, TN 37130)—CONTINUANCE IN CONTROL—QUICK-WAY CARRIERS, INC. (Quick)(P O Box 8, Lascassas, TN 37130). Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004. Kerr seeks to continue in control of Quick upon the institution by Quick of operations, in interstate or foreign commerce, as a motor common carrier. Kerr, an individual controls Murfreesboro Freight Line Co., a common carrier pursuant to certificates issued in MC 36448. Condition: To eliminate the holding of duplicating authority by commonly controlled carriers, approval and authorization of this transaction is conditioned upon the prior cancellation of MC 36448 (Sub-7). (Hearing site: Nashville, TN)

Note.—Quick has filed as a directly related application its initial common carrier application, docketed MC 151190 (Sub-1), published in this same **Federal Register** issue.

[FR Doc. 81-8902 Filed 3-23-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule 251 of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. 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 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative 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 service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. 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 opposition 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. OPY5-14

Decided: March 16, 1981

By the Commission Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 96878 (Sub-6), filed February 24, 1981. Applicant: CONSOLIDATED TRANSFER AND WAREHOUSE CO., INC., 1251 Taney Road, North Kansas City, MO 64116. Representative: Alfred L. King (same address as applicant), (816) 221-3411. 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 103798 (Sub-53), filed March 2, 1981. Applicant: MARTEN TRANSPORT, LTD., Route 3, Mondovi, WI 54755. Representative: Robert S. Lee, 1600 TCF Tower, Minneapolis, MN 55402, (612) 333-1341. 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 143559 (Sub-1), filed February 18, 1981. Applicant: MODERN TRANSPORTATION SERVICE, INC., 8192 Newington Rd., Newington, VA 22122. Representative: Joan Pascavage, (same address as applicant), (703) 550-7344. 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 148018 (Sub-4), filed February 17, 1981. Applicant: JAMES S. BATT, d.b.a. BATT TRUCKING, P.O. Box 921, Caldwell, ID 83605. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 343-3071. 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 148899 (Sub-2), filed February 20, 1981. Applicant: BARTLOW TRUCK LINES, INC., P.O. Box 224, Faucett, MO 64448. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068, 816-781-6000. Transporting, for and on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 154468, filed March 2, 1981. Applicant: PRIORITY DISPATCH OF KENTUCKY, INC., 731-B Allendale Drive, P.O. Box 336, Lexington, KY 40584. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602, (502) 227-2254. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

Volume No. OPY-3-017

Decided: March 17, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 125844 (Sub-27), filed March 2, 1981. Applicant: BIO-MED-HU, INC., 1901 Outer Loop, Louisville, KY 40219. Representative: Mark R. Feather, 1600 Ciltizens Plaza, Louisville, KY 40202, (502) 589-5400. Transporting, for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 148554 (Sub-1), filed March 10, 1981. Applicant: WALD TRANSFER & STORAGE CO., P.O. Box 344, Houston, TX 77001. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459, (713) 437-1768. Transporting, for or on behalf of the U.S. Govenment, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 154395, filed February 19, 1981. Applicant: DIAMOND STATE RUCK BROKERS, INC., P.O. Box 280, Milford, DE 19963. Representative: R. Emery Clark, 366 Executive Bldg., 1030 Fifteenth St., NW., Washington, DC 20005, (202) 296-3555.As a broker of *general commodities* (except household goods), between points in the U.S.

MC 154464, filed February 20, 1981. Applicant: BOB HIMES, INC., 8611 New Benton Hwy., Little Rock, AR 72209. Representative: Robert H. Himes (same address as applicant), (501) 224-0153. Transporting *general commodities* (except classes A and B explosives), between Bridgetown, Cheviot, Coverdale, Dent, Miami, and Willeys, OH, and Alum Rock, Blair's, Dudley, Jefferson, Ritts, St. Petersburg, Turkey, and Worthington, PA, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor carrier for abandoned rail carrier service.

MC 154494, filed March 3, 1981. Applicant: MIDWEST CONTINENTAL, INC., 5200 Highway 75 North, Sioux City, IA 51102. Representative: Richard D. Frank (same address as applicant), (712) 239-1613. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and materials), between points in the U.S.

MC 154535, filed March 5, 1981. Applicant: JAN PACKAGING, INC., P.O. Box 448, Harrison St., Dover, NJ 07801. Representative: Michael R. Werner, 167 Fairfield Rd., P.O. Box 1409, Fairfield, NJ 07006, (201) 575-7700. Transporting, for or on behalf of the U.S. Government, *general commodities* (except household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 154565, filed March 6, 1981. Applicant: WILLIAM E. COX, d.b.a. BORDER EXPRESS, 711 Fifth St., Apt. 4, Coronado, CA 92118. Representative: William H. Shawn, Suite 501, 1730 M St., NW, Washington, DC 20036 (202) 296-2900. Transporting, for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

Volume OPY-3-022

Decided March 17, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher and Williams.

MC 59135 (Sub-42), filed March 9, 1981. Applicant: RED STAR EXPRESS LINES OF AUBURN, INC., 24-50 Wright Ave., Auburn, NY 13021. Representative: Edward J. Kiley, 1730 M St., NW, Washington, DC 20036 (202) 296-2900. Transporting (1) for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), and (2) *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 126625 (Sub-16), filed March 9, 1981. Applicant: MURPHY SURF-AIR TRUCKING COMPANY, INC., Administration Building, Bluegrass Field, Lexington, KY 40504. Representative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankford, KY 40602 (502) 223-8244. Transporting (1) for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous of secret materials, and sensitive weapons and munitions), between points in the U.S., and (2) *shipments weighing 100 lbs. or less,* if transported in a motor vehicle in which no one package exceeds 100 lbs., between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-8907 Filed 3-23-81; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Consent Decree in Action To Enforce Compliance With Clean Air Act; Growmark, Inc.

In accordance with Departmental Policy, 28 C.F.R. § 50.7, 38 Fed. Reg. 19029, notice is hereby given that a consent decree in *United States* v. *Growmark, Inc.*, was lodged with the United States District Court for the Central District of Illinois. The decree requires Growmark to comply with the applicable portion of the federally-approved Illinois state implementation

plan at three gasoline loading terminals it operates in Illinois and provides that Growmark will pay a civil penalty in the amount of $5,000.

The Department of Justice will receive for a period of thirty (30) days from the date of the notice, written comments relating to the proposed consent decree. Comments should be addressed to the Deputy Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *United States* v. *Growmark, Inc.*, D.J. Ref. 90-5-2-1-344.

The consent decree may be examined at the office of the United States Attorney, Central District of Illinois, Room 312, U.S. Post Office and Federal Building, 600 East Monroe Street, Springfield, Illinois 62705, at the Region V office of the Environmental Protection Agency, Enforcement Division, 230 South Dearborn Street, Chicago, Illinois 60604, and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1254, Tenth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

Angus MacBeth,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 81-8849 Filed 3-23-81; 8:45 am]

BILLING CODE 4110-01-M

Consent Decree in Action To Enforce Compliance With Clean Air Act; Rookwood Oil Terminals, Inc.

In accordance with Departmental Policy, 28 C.F.R. § 50.7, 38 FR 19029, notice is hereby given that a consent decree in *United States* v. *Rookwood Oil Terminals, Inc.*, was lodged with the United States District Court for the Southern District of Ohio. The decree requires Rookwood to comply with the applicable portion of the federally-approved Ohio state implementation plan and provides that Rookwood will pay a civil penalty of $2,500.

The Department of Justice will receive for a period of thirty (30) days from the date of the notice, written comments relating to the proposed consent decree. Comments should be addressed to the Deputy Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *United States* v. *Rookwood Oil Terminals, Inc.*, D.J. Ref. 90-5-2-1-268.

The consent decree may be examined at the office of the United States Attorney, Southern District of Ohio, 722 U.S. Post Office and Courthouse, 5th and Walnut Streets, Cincinnati, Ohio 43215, at the Region V office of the Environmental Protection Agency, Enforcement Division, 230 South Dearborn Street, Chicago, Illinois 60604, and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1254, Tenth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

Angus MacBeth,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 81-8850 Filed 3-23-81; 8:45 am]

BILLING CODE 4410-01-M

Office of Juvenile Justice and Delinquency Prevention

Prevention of Juvenile Delinquency Through Capacity Building—Cycle II; Cancellation of Proposed Guideline

Notice is hereby given that the Office of Juvenile Justice and Delinquency Prevention is canceling the proposed Guideline entitled Prevention of Juvenile Delinquency Through Capacity Building—Cycle II published for comment in the **Federal Register** on January 23, 1981. (Vol. 46, No. 15, P. 7509-7510).

This cancellation is based on the following: (1) the Administration's budget request to Congress for FY 1982 eliminates funding for the Office of Juvenile Justice and Delinquency Prevention thereby necessitating that plans for new programs be canceled and that phase out procedures be initiated; (2) an examination of the costs related to the review, selection and processing of concept papers/applications indicate that the Capacity Building Cycle II Initiative would not be cost-effective in relation to the funds available for award, and; (3) the initiative must be reassessed in terms of competing priorities for OJJDP funds.

Charles A. Lauer,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 81-8877 Filed 3-23-81; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M-81-11-M]

Armstrong and Armstrong; Petition for Modification of Application of Mandatory Safety Standard

Armstrong and Armstrong, P.O. Box 1873, Roswell, New Mexico 88201 has filed a petition to modify the application of 30 CFR 56.4-27 (fire extinguishers on self-propelled mining equipment) to its Chaves County Gravel Pit located in Chaves County, New Mexico. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that self-propelled mobile equipment be provided with a suitable fire extinguisher readily accessible to the equipment operator.

2. Petitioner is experiencing problems with the theft of fire extinguishers from its mobile equipment. Locks on the fire extinguishers have not proven to be a satisfactory solution.

3. Because the crusher site is above ground, petitioner states that in the event of a mobile equipment fire, the operator can stop and abandon the machine.

4. As an alternate method, petitioner proposes to keep the fire extinguishers at the control trailer. In the event of a fire, an extinguisher will be readily accessible to every person on the site to extinguish the fire.

5. Petitioner states that the proposed alternate method will at all times provide the same degree of safety to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 23, 1981. Copies of the petition are available for inspection at that address.

Dated: March 17, 1981.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-8890 Filed 3-23-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-24-C]

Cordero Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Cordero Mining Company, P.O. Box 1449, Gillette, Wyoming 82716 has filed

a petition to modify the application of 30 CFR 77.403a (mobile equipment; rollover protective structures (ROPS)) to its mine located in Campbell County, Wyoming. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that mobile equipment be equipped with rollover protective structures (ROPS).

2. Petitioner is seeking a modification to allow the use of a farm tractor without ROPS for preparation and seeding of mined land provided the surface does not exceed a 10 percent slope on areas in which this equipment would be subject to work.

3. In support of this request, petitioner states that:

a. Farm type tractors can safely work ten percent grades or less without the possibility of rolling over;

b. Farm tractors normally are factory constructed with roll-over protection, although not according to MSHA's standard for ROPS; and

c. Subcontracting reclamation work is of short duration on an annual basis (2-3 weeks).

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before (insert date 30 days from publication in the **Federal Register**). Copies of the petition are available for inspection at that address.

Dated: March 17, 1981.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-8897 Filed 3-23-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-10-M]

Multi Mineral Corp.; Petition for Modification of Application of Mandatory Safety Standard

Multi Mineral Corporation, 715 Horizon Drive, Suite 380, Grand Junction, Colorado 81501 has filed a petition to modify the application of 30 CFR 57.21-22 (main intake and return air currents; requirements) to its U.S.B.M. No. 1 Shaft located in Rio Blanco County, Colorado. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statement follows:

1. The petition concerns the requirement that the main intake and return air currents in mines be in separate shafts, slopes, or drifts.

2. As an alternate method, petitioner proposes to exhaust return air by means of vent tubing located in the shaft.

3. In support of the proposed alternate method, petitioner states that:

a. Exhaust ventilation is maintained at a velocity of approximately 65 miles per hour through 30-inch galvanized sheet metal ventilation ducts installed in the shaft;

b. The ventilation ducts are built of 40-foot lengths of 20-gauge spun pipe connected by neoprene joints, with damper controls at each level to adjust air flow;

c. The ventilation system is surveyed weekly for leaks and is carefully maintained.

4. Petitioner states that the proposed alternate method will provide at all times the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before (insert date 30 days from publication in the **Federal Register**). Copies of the petition are available for inspection at that address.

Dated: March 17, 1981.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-8896 Filed 3-23-81; 8:45 am]

BILLING CODE 4510-43-M

Summary of Decisions Granting in Whole or in Part Petitions for Modification

AGENCY: Mine Safety and Health Administration (MSHA), Department of Labor.

ACTION: Notice of affirmative decisions issued by the Administrators for Coal Mine Safety and Health and Metal and Nonmetal Mine Safety and Health on petitions for modification of the application of mandatory safety standards.

SUMMARY: Under section 101(c) of the Federal Mine Safety and Health Act of 1977, the Secretary of Labor may modify the application of a mandatory safety standard to a mine if the Secretary determines either or both of the following: that an alternative method exists at the petitioner's mine that will guarantee no less protection for the miners affected than that provided by the standard, or that the application of the standard to the petitioner's mine will result in a diminution of safety to the affected miners.

Summaries of petitions received by the Secretary appear periodically in the **Federal Register.** Final decisions on these petitions are based upon the petitioner's statement, comments and information submitted by interested persons and a field investigation of the conditions at the petitioner's mine. The Secretary has granted or partially granted the requests for modification submitted by the petitioners listed below. In some instances the decisions are conditioned upon the petitioner's compliance with stipulations stated in the decision.

FOR FURTHER INFORMATION CONTACT: The petitions and copies of the final decisions are available for examination by the public in the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203.

Dated: March 17, 1981.

Frank A. White,

Director Office of Standards, Regulations and Variances.

Affirmative Decisions on Petitions for Modification

Docket No.	Federal Register Notice	Petitioner	Regulations affected	Summary of findings
M-79-66-C	44 FR 32307	Webster County Coal Corp	30 CFR 75.803	Proposed visual inspection of the power line on a weekly basis along with the electrical installation inspection considered acceptable alternate method. Granted with conditions.
M-79-86-C	44 FR 34654	Garden Creek Pocahontas Co.	30 CFR 75.1103-4	Proposed installation of carbon monoxide monitor with sensors and point heat sensors considered acceptable alternate method of compliance. Granted with conditions.

Affirmative Decisions on Petitions for Modification—Continued

Docket No.	Federal Register Notice	Petitioner	Regulations affected	Summary of findings
M-79-91-C	44 FR 45790	Eelro Coal Corp	30 CFR 75.305	Due to adverse roof conditions, petitioner's proposal to establish air monitoring checkpoints on specified return airways considered acceptable alternative to making weekly inspections of the weekly inspections of the airways. Granted with conditions.
M-79-156-C	44 FR 65219	Island Creek Coal Company	30 CFR 75.1710	Use of cabs or canopies on roof bolting machines in heights of 48" or less would result in a diminution of safety. Granted with conditions.
M-79-179-C	44 FR 75741	Dopuble Q Corp	30 CFR 75.605	Proposed use of junction boxes constructed of 1/8 inch steel and equipped with insulated strain clamps considered acceptable alternate method. Granted with conditions.
M-79-218-C	44 FR 75742	Leeco, Inc	30 CFR 75.1405	Proposed method to connect haulage equipment with a metal tongue and coupling pins considered acceptable alternative to automatic couplers. Granted with conditions.
M-79-226-C	45 FR 10041	The New River Co for Ohio-Atlas Construction Co.	30 CFR 75.1400	Proposed examination of the wire rope and hoist during each shift and removal from service damaged or worn wire rope considered acceptable alternate method. Granted with conditions.
M-79-230-C	45 FR 2915	The New River Co	30 CFR 75.1710	Use of cabs or canopies on petitioner's continuous miners, shuttle cars and roof bolting machines would result in a diminution of safety in specified low mining heights. Granted with conditions.
M-79-233-C	45 FR 2915	Preston Energy, Inc	30 CFR 75.1710	Use of cabs or canopies on shuttle cars in heights of 46" or less would result in a diminution of safety. Granted with conditions.
M-79-278-C	45 FR 10478	Kaiser Steel Corp	30 CFR 75.1100-3	Due to freezing winter conditions which would render waterline ineffective, proposed draining of waterline, closing of main valve, tagging of main valve for identification and locating responsible person on surface at all times considered acceptable method of fire control from October through April. Granted with conditions.
M-79-285-C	45 FR 6190	Bishop Coal Co	30 CFR 75.326	Due to high rate of methane liberation, petitioner's proposal to use belt entry as an intake airway and to install a carbon monoxide detection system along the belt entry considered acceptable alternate method of compliance. Granted with conditions.
M-79-292-C	45 FR 20587	M.S.W. Coal Co	30 CFR 75.1400	Proposed operation of man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope above the main connecting device considered acceptable alternative method. Granted with conditions.
M-79-297-C	45 FR 7321	Clinchfield Coal Co	30 CFR 75.326	Due to high rate of methane liberation, petitioner's proposed installation of carbon monoxide detection system in the belt entries considered acceptable alternate method of compliance. Granted with conditions.
M-80-5-C	45 FR 20587	Mountain Top Coal Co	30 CFR 75.1400	Proposed operation of man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope above the main connecting device considered acceptable alternative method. Granted with conditions.
M-80-7-C	45 FR 28005	Eastover Mining Co	30 CFR 75.1405	Proposal to have lever arm moved up to raise the coupling pin to uncouple equipment without requiring persons to go between the cars and coupling from outside by lowering the lever arm by means of a light rod considered acceptable alternate method. Granted with conditions.
M-80-8-C	45 FR 20587	Star Coal Company	30 CFR 75.1400	Proposed operation of man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope above the main connecting device considered acceptable alternative method. Granted with conditions.
M-80-10-C	45 FR 20580	Republic Steel Corp	30 CFR 75.305	Due to adverse roof conditions, petitioner's proposal to establish air monitoring checkpoints on specified return airways considered acceptable alternative to making weekly inspections of the airways. Granted with conditions.
M-80-32-C	45 FR 38169	John Bohm Co	30 CFR 75.301	Proposed airflow reduction in petitioner's mine, which would maintain a safe and healthful atmosphere considering acceptable alternate method of compliance. Granted with conditions.
M-80-51-C	45 FR 20579	Consolidation Coal Co	30 CFR 75.1105	Proposed housing of pump station in a fireproof building equipped with an automatic fire suppression system considered acceptable alternate method of compliance. Granted with conditions.
M-80-55-C	45 FR 30734	Consolidation Coal Co	30 CFR 75.1105	Proposed housing of pump station in a fireproof building equipped with an automatic fire suppression system considered acceptable alternate method of compliance. Granted with conditions.
M-80-58-C	45 FR 28426	Eastern Associated Coal Corp.	30 CFR 75.305	Due to poor roof conditions resulting from a previous fire, petitioner's proposal to establish and maintain air monitoring checkpoints on specified return airways considered acceptable method of compliance. Granted with conditions.
M-80-66-C	45 FR 32440	Jones & Laughlin Steel Corp	30 CFR 75.305	Due to adverse roof conditions, petitioner's proposal to establish air monitoring checkpoints on specified return airways considered acceptable alternative to making weekly examinations of the airways. Granted with conditions.
M-80-69-C	45 FR 35032	Cannelton Industries, Inc	30 CFR 75.305	Due to adverse roof conditions, petitioner's proposal to establish air monitoring checkpoints on specified return airways considered acceptable alternative to making weekly inspections of the airways. Granted with conditions.
M-80-70-C	45 FR 31549	Island Creek Coal Co	30 CFR 75.1100-2(c)(1)	Proposed extension of the waterline to the surface and connection through a cutoff valve to the main waterline considered acceptable alternate method of compliance. Granted with conditions.
M-80-87-C	45 FR 46920	United Castle Coal Co	30 CFR 75.1701	Petitioner's proposed method of drilling boreholes considered acceptable alternate method of compliance. Granted with conditions.
M-80-95-C	45 FR 42426	Consolidation Coal Co	30 CFR 75.1105	Proposed housing of pump station in a fireproof building equipped with an automatic fire suppression system considered acceptable alternate method of compliance. Granted with conditions.

Affirmative Decisions on Petitions for Modification—Continued

Docket No.	Federal Register Notice	Petitioner	Regulations affected	Summary of findings
M-80-96-C	45 FR 42427	Jim Walter Resources, Inc	30 CFR 75.902	Proposed use of a bare (noninsulated) copper conductor as a safety ground conductor considered acceptable alternate method of compliance. Granted with conditions.
M-80-100-C	45 FR 46921	Jim Walter Resources, Inc	30 CFR 75.326	Due to high rate of methane liberation, petitioner's proposal to use belt entries as intake entries and install a carbon monoxide detection system along the belt entry considered acceptable alternate method of compliance. Granted with conditions.
M-80-101-C	45 FR 46921	Jim Walter Resources, Inc	30 CFR 75.326	Due to high rate of methane liberation, petitioner's proposal to use belt entries as intake entries and install a carbon monoxide detection system along the belt entry considered acceptable alternate method of compliance. Granted with conditions.
M-79-24-M	45 FR 52364	American Gilsonite Company	30 CFR 57.19-65	Petitioner's proposal to lower conveyances by brakes considered acceptable alternate method of compliance. Granted with conditions.
M-79-25-M	45 FR 52364	Boren Mines	30 CFR 57.19-65	Petitioner's proposal to lower conveyances by brakes considered acceptable alternate method of compliance. Granted with conditions.
M-79-33-M	45 FR 10478	International Salt Co	30 CFR 57.19-11	Due to structural configuration of petitioner's hoist, extension of the hoist's drum flanges would result in a diminution of safety. Granted with conditions.
M-79-35-M	45 FR 9397	Kerr-McGee Chemical Corporation	30 CFR 57.12-13	Proposed use of an infrared thermometer to periodically check integrity of splices considered acceptable alternate method of compliance. Granted with conditions.
M-80-22-M	45 FR 25546	Rio Blanco Oil Shale Co	30 CFR 57.21-24	Proposed use of a permissable fan powered by a standby generator or diesel generator in the event the main fan stops considered acceptable alternate to shutting down pumps in the mine in case of loss of power to main fan. Granted with conditions.
M-80-23-M	45 FR 25546	Rio Blanco Oil Shale Co	30 CFR 57.6-142	Proposed use of a wire bailer cannister considered acceptable alternate method to complying with the standard. Granted with conditions.
M-80-24-M	45 FR 26486	Rio Blanco Oil Shale Co	30 CFR 57.21-46	Proposed crosscut intervals of 150 feet considered acceptable alternate method of compliance. Granted with conditions.
M-80-36-M	45 FR 30735	Latrobe Construction Company.	30 CFR 57.6-220	Use of a bulk loading vehicle to fill a "Powder Monkey" (closed pressure vessel) with an ammonium nitrate-fuel oil mixture at the face area being loaded considered acceptable alternate method. Granted with conditions.
M-80-47-M	45 FR 38169	FMC Corporation	30 CFR 57.21-46	Petitioner's proposal to drive a single-entry, 1,045 foot decline with twenty-two feet stub drifts cut in the right rib at 200 foot intervals considered acceptable alternate method of compliance. Granted with conditions.
M-80-48-M	45 FR 35034	AMAX Chemical Corp	30 CFR 57.12-13	Proposed use of an infrared thermometer to periodically check integrity of splices considered acceptable alternate method of compliance. Granted with conditions.
M-80-57-M	45 FR 46920	Occidental Oil Shale	30 CFR 57.4-58	petitioner's proposed method of burning underground oil shale retorts in place considered acceptable alternate method of compliance. Granted with conditions.

[FR Doc. 81-8899 Filed 3-23-81; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Vermont State Standards; Approval

Background

Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with Section 18(e) of the Act and 29 CFR Part 1902. On October 16, 1973, notice was published in the **Federal Register** (38 FR 28658) of the approval of the Vermont plan and the adoption of Subpart U to Part 1952 containing the decision.

The Vermont plan provides for the adoption of Federal standards as State standards after public hearing. Section 1953.41 of 29 CFR provides that "Where any alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to the State plan shall be required." By letter dated April 8, 1980, from Joel R. Cherington, Commissioner, Vermont Department of Labor and Industry, to Edwin J. Riley, Jr., Assistant Regional Administrator, and incorporated as part of the plan, the State submitted the following as State standards comparable to Federal standards:

(a) 29 CFR Part 1910—Occupational Safety and Health Standards for General Industry, published by Commerce Clearinghouse, Inc., March 1, 1979, except for:

(i) 29 CFR 1910.1028, Benzene (not adopted because Federal benzene standard was vacated by the Supreme Court in "I.U.D. v. American Petroleum Institute," 100 S. Ct. 2884 (1980);

(ii) 29 CFR 1910.1029, Coke Oven Emissions (not proposed because there is no coke oven exposure or available supply of raw material within the State);

(iii) 29 CFR 1910.1043, Cotton Dust (not proposed because recent survey indicates no presence or use of unwashed cotton within the State);

(iv) 29 CFR 1910.1044, 1,2-dibromo-3-chloropropane (DBCP) (not adopted because there are no known manufacturers or users in the State);

(v) 29 CFR 1910.1046, Exposure to Cotton Dust in Cotton Gins (not adopted because investigation has shown that cotton ginning is not performed in the State);

(vi) 29 CFR 1910.19(d), Benzene and (f), Cotton Dust, Special Provisions for Air Contaminants (not adopted because Federal benzene standard was vacated by the Supreme Court in "I.U.D. v. American Petroleum Institute," 100 S. Ct. 2884 (1980), and there is no known exposure to cotton dust in the State);

Adoption of the above excepted standards will be considered if the current status changes.

(b) 29 CFR 1910.1025, Lead

In addition to and in place of the standard for lead as it appears in the Commerce Clearinghouse publication (29 CFR 1910.1025) the standard for exposure to lead, as amended and revised including all pending judicial stays by the U.S. Court of Appeals for the District of Columbia as they appeared in the **Federal Register** at:

i) 43 FR 52952, November 14, 1978;
ii) 44 FR 5446, January 26, 1979;
iii) 44 FR 14554, March 13, 1979;
iv) 44 FR 20680, April 6, 1979;
v) 44 FR 50338, August 28, 1979; and
vi) 44 FR 60981, October 23, 1979.

(c) 29 CFR Parts 1915, 1916, 1917, 1918, and 1919—Safety and Health Regulations for Maritime Employment as they appeared at 39 FR 22001, June 19, 1974 and amended at 42 FR 37673, July 22, 1977.

(d) 29 CFR Part 1928—Safety and Health Standards for Agriculture, except for 29 CFR 1928.113, Exposure to Cotton Dust in Cotton Gins (due to inapplicability in the State, as they appeared at 40 FR 18254, April 25, 1975; 41 FR 10195, March 9, 1976; 41 FR 22265, June 2, 1976; 41 FR 46598, October 22, 1976; and amended at 42 FR 37674, July 22, 1977 and at 42 FR 38568, July 29, 1977).

Whenever the terms "secretary" or "assistant secretary" are used in a rule adopted above, the terms shall mean the Commissioner of Labor and Industry.

To ensure that the Vermont job safety and health regulations coincided with Federal OSHA regulations, all previously existing Vermont Occupational Safety and Health regulations were repealed and the new ones (listed above) adopted. The new standards were first proposed on November 27, 1979 and public hearings were held on December 20 and 27, 1979. No adverse comments, either verbal or written, were filed. Consequently, the final package was filed for adoption with the Secretary of State on January 30, 1980 and the regulations took effect on February 4, 1980. The Vermont Legislative Review Committee completed its review and approval of the proposed rules during January and approved the adopted rules on February 11, 1980. The adoption of the above standards was completed pursuant to provisions of the Vermont Occupational Safety and Health Act (29 V.S.A. Sections 201(c)(2) and 224).

Decision

Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are identical to or as effective as the Federal standards.

With regard to standards relating to: Coke Oven Emissions, Cotton Dust, and (DBCP) which were excepted from adoption in this notice, there currently are no worksites in the State where employees are exposed to the hazards covered by these standards. In the event of further activity in the State which would be covered, enforcement of the standard will be the responsibility of Federal OSHA, until such time as the State adopts the standards.

The State standards are hereby approved.

Location of Supplement for Inspection and Copying

A copy of the standards supplement along with the approved plan may be inspected and copied during normal business hours at the following locations: Vermont Department of Labor and Industry, Division of Occupational Safety, 118 State Street, Montpelier, Vermont 05602; U.S. Department of Labor—OSHA, 16-18 North Street, 1 Dock Square Building, 4th Floor, Boston, Massachusetts 02109; and Director of Federal Compliance and State Programs, U.S. Department of Labor—OSHA, 200 Constitution Avenue, N.W., Room N3619, Washington, D.C. 20210.

Public Participation

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Vermont Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

a. The standards are essentially identical to the comparable Federal standards and are deemed to be at least as effective.

b. The standards were adopted in accordance with procedural requirements of State law and further participation would be unnecessary.

This decision is effective March 24, 1981.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Boston, Massachusetts, this 15th day of December, 1980.

Donald E. MacKenzie,

Regional Administrator.

[FR Doc. 81-8900 Filed 3-23-81; 8:45 am]

BILLING CODE 4510-26-M

Office of Pension and Welfare Benefit Programs

[Application Nos. D-1649, D-1650, and D-2107]

Proposed Exemption for Certain Transactions Involving R & L Grell, Inc., Money Purchase Pension Plan, R & L Grell, Inc., Profit Sharing Plan, and R & L Grell, Inc., Defined Benefit Pension Plan, Located in Richvale, Calif.

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the following transactions: (1) the assignment of an option to purchase a parcel of land (the Land) to the R & L Grell, Inc. Money Purchase Pension Plan (Money Purchase Plan) and the R & L Grell, Inc. Profit Sharing Plan (Profit Sharing Plan), by Larry Grell, vice president of R & L Grell, Inc. (R & L), on behalf of Heather Farms, a partnership owned one-third by Larry Grell and two-thirds by R & L; (2) the offer of an interest in the Land by the Money Purchase Plan to the R & L Grell, Inc. Defined Benefit Plan (Defined Benefit Plan) and the acceptance of the offer by the Defined Benefit Plan; and (3) the proposed lease of the Land by the Money Purchase Plan and the Defined Benefit Plan (collectively, the Plans) to R & L; and (4) the proposed guarantee of I10R & L's lease payments by three principal shareholders of R & L. The proposed exemption, if granted, would affect the trustees, participants and beneficiaries of the Plans, R & L and other persons involved in the proposed transactions.

EFFECTIVE DATES: The exemption, if granted, would be effective September 12, 1978 for transaction one, March 28, 1980 for transaction two and the date the exemption grant is published in the **Federal Register** for transactions three and four.

DATES: Written comments and requests for a public hearing must be received by the Department on or before May 11, 1981.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of

Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Ave., N.W., Washington, D.C. 20216. Attention: Application Nos. D-1649, D-1650 and D-2107. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. Robert N. Sandler of the Department, telephone (202) 523-8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of three applications for exemption from the restrictions of sections 406(a), 406 (b)(1) and (b)(2) and 407(a) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in applications filed by the trustees of the Plans pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). The applications were originally filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The applications contain representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the applications on file with the Department for the complete representations of the applicants.

1. The Money Purchase Plan and the Defined Benefit Plan each have five participants. As of February 29, 1980, the Money Purchase Plan had assets of approximately $144,000 and the Defined Benefit Plan had assets of approximately $321,000. The trustees of the Plans are Roy Grell, president of R & L, Lawrence Grell, secretary of R & L, and Larry Grell.

2. R & L is engaged in the farming business in California. The Land, comprised of 124.45 acres and located in Richvale, California, was offered for sale by an independent third party seller (Seller) at a price of $285,200. On September 12, 1980, Larry Grell executed an option at a cost of $42,780 to purchase the Land. The cost of the option was to be credited against the $285,200 purchase price. The option was immediately assigned on behalf of Heather Farms, for no consideration, to the Profit Sharing Plan and the Money Purchase Plan. Each Plan paid the Seller one-half of the option price. The Profit Sharing Plan was terminated effective February 28, 1979 and its assets were rolled over into the Money Purchase Plan.

3. In letters dated December 26, 1978 and August 3, 1979, Mr. Michael L. Evans, an independent appraiser, stated that the option purchase price of the Land was lower, on a per acre basis, than the prices for which comparable properties in the area had recently been sold. He also stated that the Land was a particularly good investment for the Plans in that demand for this type of land is very high and that rental and resale prospects are excellent. Furthermore, Tri County Bank (Tri County), an independent bank, was given sole authority to decide whether the Plans should exercise the option and lease the Land to R & L. By letter dated March 27, 1980, Tri County approved both transactions and stated that the purchase of the Land and the lease to R & L were good investments, both of which would be beneficial to the Plans. Tri County also stated that the terms of the purchase and lease were better than arm's length for the Plans. R & L represents that the amount by which the rental exceeds fair market rental value will not cause the annual additions to the accounts of the Money Purchase Plan participants to exceed the limitations of section 415 of the Code.

4. The Money Purchase Plan exercised the option, offered a one-third interest in the Land to the Defined Benefit Plan and on March 28, 1980, the Plans purchased the Land from the Seller at the option purchase price of $285,200. The Money Purchase Plan purchased an undivided two-thirds interest which represented approximately 39 percent of its assets and the Defined Benefit Plan purchased the remaining undivided one-third which represented approximately 43 percent of its assets. The Plans made a total down payment of $80,200 which included the $42,780 already paid for the option.

5. The balance of $205,000 is to be paid by the Plans in the form of a purchase money mortgage at an annual interest rate of 10 percent with a term of 14 years. There will be annual payments of principal and interest until the principal balance is fully amortized. From 1981 through 1989 there will be annual principal payments of $10,000. From 1990 through 1994, the principal payments will be $23,000.

6. The initial term of the proposed lease of the Land to R & L is for five years and the Plans have the sole discretion to renew the lease for two additional five-year terms. The lease would be triple net and the annual rental would be the greater of: (1) 40 percent of the gross income from the crops grown on the land, or (2) 15 percent of the annually and independently appraised fair market value of the land. In the August 3, 1979 letter mentioned above, Mr. Evans stated that the rental terms of the proposed lease were favorable compared to rental terms for similar farm property in the area. Mr. Evans stated that similar rents in the area vary from 25 percent to 33 ⅓ percent of gross income. It is represented that the rental payments will fully amortize the annual principal and interest payments and all other expenses of the land. In fact, a net positive cash flow is projected in each year of the mortgage.

7. The net worth of R & L is currently in excess of $2 million. There are personal guarantees by the three trustees of the Plans, who collectively hold 61 percent of the outstanding stock of R & L, to ensure full compliance with all terms and conditions of the lease. More specifically, upon default by R & L, the three trustees guarantee that the lease payments due will be made to the Plans until such time as the property is sold or leased to another tenant. The current collective net worth of the three trustees is $2.75 million.

8. Furthermore, upon default by R & L, Tri County, on the Plans' behalf, could, in its sole discretion, either (a) sell the Land and pay off the purchase obligation, or (b) relet the Land and continue amortization of the purchase obligation.

9. Tri County has agreed to monitor the lease on an annual basis to ensure compliance with all terms and conditions of the exemption and to assume sole responsibility for any decisions to be made regarding the lease on the Plans' behalf.

10. In summary, the trustees of the Plans represent that the criteria of section 408(a) of the Act have been satisfied due to the following:

a. The transactions are in the best interests of the Plans' participants and beneficiaries;

b. An independent farm property manager, Tri County, approved the exercise of the option and the proposed

lease and will also monitor the lease on an on-going basis;

c. R & L has a net worth in excess of $2 million and there also are personal guarantees of R & L's lease obligations by three principal shareholders of R & L who have a collective net worth of $2.75 million;

d. The lease payments will fully amortize all principal and interest payments and all other expenses relating to the Land;

e. The rental payments are to be annually adjusted to reflect the higher of 15% of the appraised value of the Land or 40% of gross income from the crops the Land yields;

f. An independent appraiser states that the subject Land is in high demand and would be readiiy saleable or leaseable; and

g. The offer of an interest in the Land by the Money Purchase Plan to the Defined Benefit Plan and the acceptance of the offer by the Defined Benefit Plan was in the interests of both Plans because it facilitated the purchase of the Land. It also enabled the Defined Benefit Plan to participate in the transactions discussed herein, which was to its benefit for the above-stated reasons.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value, such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Internal Revenue Code, including sections 401(a)(4), 404 and 415.

Notice to Interested Persons

Notice of the proposed exemption will be provided to all interested persons including all participants and beneficiaries of the Plans by first class mail within 15 days of the publication of the proposed exemption in the **Federal Register**. The notice will include a copy of the proposed exemption and will specifically inform each recipient of his/her right to comment on and/or request a hearing with regard to the proposed exemption within the period set forth above.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement to section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a), 406 (b)(1) and (b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply: (1) effective September 12, 1978, to the assignment of the option to purchase the Land by Larry Grell on behalf of Heather Farms to the Money Purchase Plan and the Profit Sharing Plan; (2) effective March 28, 1980, to the offer of an interest in the Land by the Money Purchase Plan to the Defined Benefit Plan and the acceptance of the offer by the Defined Benefit Plan; (3) to the proposed lease of the Land by the Plans to R & L, provided that the terms and conditions of the proposed lease are at least as favorable to the Plans as those they could obtain from an unrelated third party; and (4) to the personal guarantees of R & L's lease payments by Larry Grell, Lawrence Grell and Roy Grell.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions that are the subject of the exemption.

Signed at Washington, D.C., this 17th day of March, 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Mangement Services Administration, U.S. Department of Labor.

[FR Doc. 81-8929 Filed 3-23-81; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-2233]

Proposed Exemption for Certain Transactions Involving the Parker-Hannafin Corporation Pension and Retirement Income Plans, Located in Cleveland, Ohio

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the sale of two undivided one-half interests in a 31.4 acre parcel of real property located in Irvine, California

(the Property) by the Parker-Hannafin Corporation (the Employer) to the Ameritrust Company (Ameritrust), as Trustee for the Parker-Hannafin Corporation Pension and Retirement Income Plans (the Plans), if the Property is rezoned for commercial use. The proposed exemption, if granted would affect the Employer, the Plans, Ameritrust and other persons participating in the transactions.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before May 25, 1981.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-2233. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Hamilton of the Department of Labor, telephone (202) 523-7462. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) and 406(b) (1) and (2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Plans, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plans are defined benefit plans with an estimated 13,982 participants. As of June 30, 1980, the Plans had assets with an aggregate market value in excess of $63,000,000.

2. The trustees of the Plans (the Trustees) are Ameritrust, trustee of the trust maintained in conjunction with the retirement plans for salaried employees of the Employer; and Central National Bank of Cleveland, the trustee of the trust maintained in conjunction with the hourly pension plans of the employer. Ameritrust is also the trustee of the Real Estate Collective Trust, which was established to invest in real estate for the Plans.

3. No officers of the Employer serve as directors of the Trustees, nor do any officers of the Trustees serve as directors of the Employer. Both Trustees have loan commitments to the Employer. Ameritrust has a $16,260,000 loan outstanding with the Employer, which may be increased to a maximum of $27,000,000. Central National Bank of Cleveland has a $6,000,000 loan outstanding with the Employer, which may be increased to a maximum of $9,000,000. These loan commitments to the Employer represent less than 1% of the total loan commitments of each of the Trustees.

4. The Employer, a worldwide, full-line manufacturer of fluid power systems and related components, was incorporated in Ohio in 1938.

5. The Applicants request that an exemption be granted to permit the sale of the Property by the Employer to Ameritrust, as trustee of the Real Estate Collective Trust. If the Property is rezoned to enable it to be used for commercial purposes, the Employer proposes to sell, as soon as reasonably possible, an undivided one-half interest in the Property to Ameritrust. In the fiscal year subsequent to the granting of the proposed exemption, the Employer will sell the remaining undivided one-half interest in the Property to Ameritrust. The Employer's fiscal year commences on July 1 and ends on June 30. The proposed purchase price is $13,670,000, the fair market value of the Property as determined by an independent appraisal submitted by Coldwell Banker Real Estate Appraisal Service on October 28, 1980.

6. The Property, which is now owned by the Employer, is subject to a 75 year ground lease (the Lease) with the Koll Company (Koll), an unrelated party. Koll is a major real estate development firm in California. Under the terms of the Lease, Koll has sought to have the Property rezoned from a research and light industry classification to a commercial classification. Koll may, until May 1, 1981, terminate the Lease if such rezoning is not obtained. Ameritrust, as the lessor of the Property, may until September 1, 1981, terminate the Lease if such rezoning cannot be obtained. However, the Employer and Ameritrust will engage in the proposed transaction only if the rezoning takes place.

7. Koll will pay a monthly base rent of $113,898.51. Moreover, an additional rent equal to 20% of the net cash flow from the Property will be paid by Koll to Ameritrust. Under the terms of the Lease, Koll has the option to purchase the Property, at an amount equal to its fair market value, at any time during the first six months of the 31st year of the Lease.

8. The applicant represents that the Lease is a sound investment vehicle for the Plans in that it allows diversification into real estate development with a minimum of time expended to properly monitor the investment. The Plans will not have to commit time and resources to the task of day-to-day property management. Also, based upon the Plans' investment in the Property ($13,670,000), the 31-year cash flow generated from the leasehold improvements, and the reversionary value of the sale of the land to Koll in the 31st year (if Koll exercises its option to purchase the Property), the Property will yield an internal rate of return of 22%.

9. The weighted annualized rate of return of the Plans for the four year period ending June 30, 1980 was 6.3%. The base rental which would be realized from the proposed transaction would be 10%, with additional substantial rental payments to be received from participations by the Plans in any net cash flow realized from the Property.

10. The applicants state that the Property will represent 17.8% of the total assets of the Plans, in 1981, 14% of the assets of the Plans in 1985, and less than 11% in 1990. These estimates were furninshed to the Employer by the Wyatt Company, an actuarial and consulting firm in Cleveland, Ohio.

11. When the rezoning application is approved, Koll will develop the Property. The proposed development will consist of approximately 670,000 square feet of office space, a 500-room hotel and support commercial facilities.

12. Coldwell Banker Real Estate Consultation Services (Coldwell Banker), an independent real estate consulting firm, prepared a market and financial analysis of the proposed development of the Property by Koll. Coldwell Banker concluded that the proposed sale of the Property to

Ameritrust represents an exceptional investment opportunity for the Plans. Their report states that the proposed transaction will provide the Plans with a high quality secure investment. In addition, the report states that the investment combines a guaranteed return with excellent potential for appreciation and increased yield with minimum risk. Ameritrust would have complete unrestricted investment responsibility with respect to the Property and would be able to dispose of the Property at any time.

13. The Trustees recommend the proposed transaction. They agree that the acquisition of the Property by Ameritrust is a high quality, prudent, and secure investment. The Trustees also state they will critically review the proposed transaction as of the dates of the sales of the Property if the exemption is granted.

In summary, the applicant represents that the proposed transaction meets the statutory criteria of section 408(a) of the Act because:

(1) no continued monitoring of the transaction by the Department will be required because it will not involve any ongoing business relationship between the Plans and the Employer;

(2) the proposed transaction represents an excellent investment opportunity for the Plans because the expected 10% rate of return along with potential for appreciation and increased yield will exceed the rate of return of the Plan's current investments;

(3) Coldwell Banker's market and financial analysis concludes that the proposed transaction represents an exceptional investment opportunity for the Plans; and

(4) the Trustees of the Plans have determined that the proposed transaction is in the interests of and protective of the Plans and their Participants and beneficiaries.

Notice to Interested Persons

The interested persons who will receive notice of the proposed transaction are: (1) all employees who are or may become eligible for a benefit under any one of the Plans; (2) all retired participants and former participants in receipt of benefit payments, or who have a vested deferred right to receive such payments at a later date, under any of the Plans; and (3) all collective bargaining agents under any of the Plans. Employees will be notified by posting the Notice of Pendency on the bulletin boards of the Employer, and copies of the Notice of Pendency will be mailed to the affected collective bargaining agents and to retired or terminated vested participants. The notices will be posted or mailed, as applicable, within 25 days after publication of the Notice of Pendency in the **Federal Register** and will contain a copy of the Notice of Pendency as published, and will inform the interested persons of their right to comments and/or to request a hearing within the period set forth in the Notice of Pendency.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the cash sale of two undivided one-half interests in the Property (located at the northeast corner of Von Karmen Avenue and Michelson Drive in Irvine, California) by the Employer to Ameritrust as Trustee for the Plans, for a total of $13,670,000 provided this amount is no greater than the fair market value of the Property at the time of the sale.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 18th day of March 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 81-8928 Filed 3-23-81, 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-1752]

Proposed Exemption for Certain Transactions Involving Everett Clinic, Inc. Employees' Profit Sharing Trust Agreement Located in Everett, Wash.

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income

Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt: (1) the proposed lease (Proposed Lease) of real property by the Everett Clinic, Inc. Employees' Profit Sharing Trust Agreement (the Plan) to the Everett Clinic, Inc. (the Clinic), the Plan sponsor; and (2) the agreement by the Clinic to indemnify and hold the Plan harmless regarding the Proposed Lease. The proposed exemption, if granted, would affect the Plan, the Clinic and Plan participants and beneficaries.

DATES: Written comments and requests for a public hearing must be received by the Department on or before May 11, 1981.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–1752. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. Robert N. Sandler of the Department, telephone (202) 523–8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a), 406(b)(1), 406(b)(2) and 407(a) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by the trustees of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975).

Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Plan is a profit sharing plan with approximately 125 participants and assets of approximately $4.9 million as of September 30, 1980. The Clinic is a multi-specialty medical clinic which was founded in 1922. It employs 34 physicians, 123 nurses and administrative personnel and 14 supervisory personnel.

2. An unrelated party, Olympic Bank of Everett, Washington (Olympic), was appointed named fiduciary for the Plan effective October 22, 1980 and given exclusive authority and discretion to manage and control the assets of the Plan. Prior to Olympic's appointment, the three Plan trustees, who are Clinic physician-shareholders, possessed investment authority.

3. In 1962, the Plan constructed a medical clinic at 39th and Colby Avenue in Everett, Washington and leased it to the Clinic. On June 28, 1974, a revised lease agreement (the 1974 Lease) was entered into by the Plan and the Clinic.

4. The Plan proposes to enter into a new lease, the Proposed Lease, to supersede and void the 1974 Lease as of the date an exemption grant is published in the **Federal Register**. The initial term of the Proposed Lease would be 15 years. The rental for the first five years would be $305,000 per year on a triple net basis, which was calculated by an independent appraiser, Macaulay & Associates, Ltd. (Macaulay), to be the property's fair market rental value as of Novermber 30, 1979, provided that this amount is not less than the fair market rental value on the date the exemption is granted. At the fifth and tenth anniversaries of the Proposed Lease, the rental will be adjusted to reflect then current fair market rental value as determined by an independent appraiser, provided that such rental is not less than the rental in the initial five years. The Employer represents that rental paid to the Plan by the Employer in excess of fair market rental value will not cause the annual additions to participants' accounts to exceed the limitations of section 415 of the Code.

5. The Proposed Lease provides for expansion, improvements or renovation to be made only by the Clinic, solely at the Clinic's expense, with any improvements belonging to the Plan at the termination of the Proposed Lease.

6. The Clinic has agreed to indemnify and hold the Plan harmless regarding any loss or damages to the leased premises. The Clinic's net worth as of October 31, 1980 was approximately $2.3 million.

7. Olympic has reviewed the Proposed Lease and has stated that it would be in the best interests of the Plan to enter into the Proposed Lease. Olympic has also agreed to monitor the Proposed Lease to ensure compliance with its terms and conditions.

8. In summary, it is represented that the proposed transactions satisfy the statutory criteria of section 408(a) due to the following:

a. Olympic, an independent Plan fiduciary, has reviewed the Proposed Lease and has stated that it would be in the Plan's best interests to enter into the Proposed Lease;

b. Olympic has exclusive authority and discretion to manage and control Plan assets and would monitor the Proposed Lease to ensure compliance with its terms and conditions;

c. The rental, which would be triple net, would be the fair market rental value as determined by an independent appraiser;

d. If the Proposed Lease is renewed, the rental could be no less than the rental in the initial five years of the Proposed Lease; and

e. The Clinic has agreed to indemnify and hold the Plan harmless regarding any loss or damages to the leased premises.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value, such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Internal Revenue Code, including sections 401(a)(4), 404 and 415.

Notice to Interested Persons

Notice of the pending exemption will be given to all interested persons including Plan participants, beneficiaries and terminated participants with vested interests within 15 days of the date the pending exemption is published in the **Federal Register**. Such notice will include a copy of the pending exemption and will inform each recipient of his right to comment on or request a hearing regarding the pending exemption. The notice will be posted on appropriate employee bulletin boards and will be mailed to all terminated participants with vested interests.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1), 406(b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to: (1) the Proposed Lease by the Plan to the Clinic, provided that the terms and conditions of the Proposed Lease are and will remain at least as favorable to the Plan as those it could obtain from an unrelated third party; and (2) the Clinic's agreement to indemnify and hold the Plan harmless regarding the Proposed Lease.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 17th day of March, 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 81-8962 Filed 3-23-81; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-2192]

Proposed Exemption for Certain Transactions Involving the Profit Sharing Plan for the Employees of McKenney's Inc., and Affiliated Companies Located in Atlanta, Ga.

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the code). The proposed exemption would exempt: (1) the proposed sale of 100% of the common Stock (McKeps Stock) of McKeps Inc. (McKeps) by the Profit Sharing Plan for the Employees of McKenney's Inc., and Affiliated Companies (the Plan) to McKenney's Inc., (the Employer), the sponsor of the Plan and (2) the extension of credit in such sale by the Plan to the Employer. The proposed exemption, if granted, would affect the Employer, the participants and beneficiaries of the Plan and other persons participating in the transaction.

DATES: Written comments and requests for a public hearing must be received by the Department on or before May 4, 1981.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-2192. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Department, telephone (202) 523-88881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a profit sharing plan and as of October 31, 1979, had 46 participants and assets of $223,634. The trustee of the Plan is the Trust Company Bank of Georgia (the Trustee). The Trustee is completely independent of the Employer and has the exclusive responsibility for the investment of the assets of the Plan.

2. On December 20, 1963, the Plan subscribed to the McKeps Stock. Upon incorporation, and continuing to the present date, McKeps has been wholly owned by the Plan. On July 26, 1965, the Plan authorized McKeps to construct a building (the Sylvan Road Building) at 2366 Sylvan Road, East Point, Georgia. The Sylvan Road Building so Constructed was leased by McKeps to the Employer for the period beginning March 1, 1966 and extending until February 28, 1981. The construction of the Sylvan Road Building was permanently financed by a $145,000, 15 year, 6 percent loan (the Sylvan Mortgage) from Northwestern National Life Insurance Company, through their agent, Scott Hudgens Realty and Mortgage, Inc. In connection with the construction of the Sylvan Road Building, it was necessary for McKeps to borrow $65,089.78 from the Plan. The $65,089.78 loan (the 1976 Loan) was entered into between McKeps and the Plan on November 20, 1967, at an annual rate of interest of 6 percent with annual payments extending for 17 years, or through November 20, 1984. The 17 year term and 6 percent rate of interest applicable to the 1967 Loan were substantially the same as the term and interest rate on the Mortgage. On May 9, 1972, McKeps borrowed an additional $40,000 from the Plan (the 1972 Loan). The terms of the 1972 Loan were 7 percent annual interest and a 15 year payment period from May 9, 1972, through May 31, 1987. The purpose of the 1972 Loan was to enable McKeps to pay a "boot" balance in connection with a like-kind exchange transaction on April 21, 1972 in which McKeps exchanged with an unrelated party, the Aircond-Atlanta Corp., the Sylvan Road Building for the land and building located at 1056 Moreland Industrial Boulevard, S.E. (the Moreland Property). At the time of this like-kind exchange the Sylvan Mortgage was also exchanged for the mortgage on the Moreland Property. Furthermore, at that time, the lease between the Employer and McKeps of the Sylvan Road Property was cancelled and a new lease between McKeps and the Employer for the Moreland Property was entered into on May 9, 1972, effective for a term of 15 years and one month from May 1, 1972, to May 31, 1987, with an option in favor of the Employer to renew the lease for an additional 10 years until May 31, 1997. The Moreland Property constitutes the only asset of McKeps.

3. The Trustee anticipates that in the near future several participants in the Plan having accounts in the Plan that exceed the value of the Plan's assets other than the McKeps Stock will retire. In this regard, the Trustee represents that the best interests of the participants and beneficiaries of the Plan would not be served if the Plan was forced to distribute benefits in the form of McKeps Stock, since the recipients would become minority shareholders in a privately held corporation, with no ready market for the sale of its stock and which historically has not paid dividends. The Employer is requesting an exemption which would permit it to purchase (the Purchase) the McKeps Stock and thus give the Plan the liquidity necessary to pay anticipated benefits.

4. Prior to the Trustee negotiating the terms of the Purchase, it obtained an independent appraisal of the Moreland Property performed by Kirkland & Company (Kirkland) located in Atlanta, Georgia. Kirkland represented that as of April 1, 1980, the Moreland Property had a market value of $320,000. The terms of the Purchase have been negotiated at arm's length between the Trustee and the Employer. The sale price of the McKeps Stock will be $376,633. The cash to the Plan at settlement will be $163,495 which has been adjusted for a $3,351 addition for cash owned by McKeps and a deletion of $5,047 for accrued expenses and income taxes due of McKeps.

At settlement on the Purchase, the Employer will assume the Moreland Property mortgage ($161,482) and the payments thereon. The Employer will also assume the 1967 Loan and the 1972 Loan (together, totalling $49,960) with the payments thereon with the exception that on June 30, 1984 the Employer will pay off the remaining principal balance on such loans.

5. Prior to the Trustee negotiating for the sale of the McKeps Stock to the Employer, the Trustee attempted to sell the Moreland Property to an independent third party. The Moreland Property was listed with the Hailey Realty Company in the spring of 1975 through the fall of 1977. No offers were made for the purchase of the Moreland Property. The Trustee represents that the difficulty encountered in the effort to sell the Moreland Property was due, in part, to a decline in property values generally in the area in which the Moreland Property is located. In this regard, the Trustee represents that the following events, occurring subsequent to the 1972 acquisition of the Moreland Property by McKeps, have contributed to the decrease in property values in this area: (1) uncertainty over whether proposed Georgia State Highways 485 and 166 will be constructed through the area (if constructed, substantial business disruption would occur); (2) recent major highway reconstruction on Moreland Industrial Boulevard has caused a substantial number of local businesses to close or relocate; and (3) recent construction of a large low income housing project in the proximity of the Moreland Property has also had a depressing impact on land values.

6. In summary, the applicant represents that the proposed transactions meet the statutory criteria for an exemption under section 408(a) of the Act as follows: (1) an independent Trustee approved and negotiated the terms of the Purchase; (2) an independent appraiser valued the Moreland Property; (3) the Purchase is necessary for the Plan to meet the obligations due to its participants; (4) the Moreland Property is in an area of declining property values; and (5) the Trustee was unable to sell the Moreland Property to an independent party.

Notice to Interested Persons

Within ten days of its publication in the **Federal Register** a copy of the notice of pendency and a statement informing participants and beneficiaries of the Plan of their right to comment or request a hearing within the prescribed time period will be provided to all participants and beneficiaries of the Plan.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Internal Revenue Code, including sections 401(a)(4), 404 and 415.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person

from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to: (1) the proposed sale of the McKeps Stock by the Plan to the Employer for $376,633 subject to the conditions as described herein and provided that this is at least the fair market value of the McKeps Stock at the time of the sale; and (2) the extension of credit in such sale by the Plan to the Employer provided that the Plan will receive terms and conditions on the extension of credit at least equal to that which it would receive from an unrelated party in a similar transaction.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 17th day of March, 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 81-8827 Filed 3-23-81; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-2371]

Proposed Exemption for Certain Transactions Involving Taylor Enterprises, Inc., Profit Sharing Plan Located in Mechanicsburg, Pennsylvania

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed cash sale of a parcel of real property (the Property) located in Ocean City, Maryland by the Taylor Enterprises, Inc. Profit Sharing Plan (the Plan) to Taylor Enterprises, Inc. (the Employer,) a party in interest to the Plan. The proposed exemption, if granted, would affect the Plan fiduciaries, participants and beneficiaries and the Employer.

DATES: Written comments and requests for a public hearing must be received by the Department on or before May 11, 1981.

ADDRESSES: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–2371. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sandler of the Department, telephone (202) 523–8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a profit sharing plan with eight participants and total assets of approximately $165,000 as of December 19, 1980. The Plan fiduciaires are the trustee, Commonwealth National Bank (the Bank), which is otherwise unrelated to the Plan and the Employer, and Charles Taylor, president and principal shareholder of the Employer.

2. On August 15, 1980, the Plan purchased the Property which is a two-bedroom condominium townhouse, from an unrelated third party for $78,900 with closing costs of $2688.18 for a total cost of $81,588.18. The Plan expended an additional $11,956.49 to furnish the Property and $695 for an extended deck. The Plan has therefore expended a total of $94,239.67 on the Property.

3. The Plan purchased the Property for its income and appreciation potential. However, the Property was placed with a rental agent on September 15, 1980 and has not as yet been rented. Furthermore, the applicant states it does not believe the Property's appreciation in value will be as great as originally anticipated. The applicant also states that Plan assets currently invested in the Property (currently reprsenting approximately 57% of Plan assets) could be more productively invested elsewhere.

4. Therefore, the Plan proposes to sell the Property to the Employer for use in the Employer's business. An independent appraiser, Robert L. Jester, has appraised the Property and concluded that the fair market value was $82,900 as of December 10, 1980. This represents an increase in fair market value of $4,000 over the Plan's original purchase price. The purchase price will be the greater of (1) $98,239.67 ($94,239.67 in Plan expenditures plus the $4,000 appreciation in the Property) or (2) the sum of the fair market value at the time of sale plus all Plan expenditures from the time of purchase to the time of sale. The Employer represents that if the amount paid to the Plan by the Employer is in excess of the fair market value plus expenditures relating to the Property, such excess amount will not cause the annual additions to participants' accounts to exceed the limitations of section 415 of the Code. The purchase price will be paid to the Plan entirely in cash and their will be no sales commission.

5. In summary, the applicant represents that the proposed transaction satisfies the statutory criteria of section 408(a) of the Act due to the following:

a. the Property has been appraised by an independent appraiser;

b. the purchase price will be paid in cash;

c. the Plan fiduciaries represent that the Plan will be able to invest the sale proceeds in more productive investments;

d. the Plan will be reimbursed for all expenditures it has made regarding the Property; and

e. the Property will be sold at a profit.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Internal Revenue Code, including sections 401(a)(4), 404 and 415.

Notice to Interested Persons

Notice of the proposed exemption will be given to all interested persons including the participants and beneficiaries of the Plan, on or before April 8, 1981. The notice will contain a copy of the **Federal Register** Notice of Proposed Exemption and will inform each recipient of his right to comment on or request a hearing with regard to the proposed exemption. The notice will be hand-delivered or sent by first class mail to all interested persons.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusion benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Futhermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the sale of the Property by the Plan to the Employer for a cash purchase price of the greater of (1) $98,239.67 or (2) the sum of the fair market value of the Property at the time of sale plus all Plan expenditures relating to the Property from the time of purchase to the time of sale.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 17th day of March, 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 81-8930 Filed 3-23-81; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-1268]

Proposed Exemption for Certain Transactions Involving the Thompson Steel Company, Inc., Pension Trust A Located in Canton, Massachusetts

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the sale of corporate bonds by the Thompson Steel Company, Inc. Pension Trust A (the Trust) to the Paul Revere Life Insurance Company (PRL), a party in interest as defined in section 3(14) of the Act. The proposed exemption, if granted, would affect Trust participants and beneficiaries, the trustees of the Trust (the Trustees), PRL, Thompson Steel Company, Inc. (Thompson Steel) and certain of their affiliates.

DATES: Written comments and requests for a public hearing must be received by the Department on or before May 4, 1981.

EFFECTIVE DATE: If the proposed exemption is granted, the exemption will be effective August 8, 1977.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-1268. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. Robert N. Sandler of the Department, telephone (202) 523-8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the sanctions resulting from the application of section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Trust, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Trust is the investment vehicle for five pension plans—Steelworkers Pension Plans Locals 773, 5211, 7659, 3234 and 3705.

2. In July of 1977, the Trustees (Robert Dearing, George Ryan and Fred Giles, all of whom were officers of Thompson Steel) decided to liquidate the Trust's holdings in stocks and bonds and to invest Trust funds in a minimum guarantee annuity. Consequently, the Trustees ordered the Trust's investment advisor, Paul Revere Equity Management Company (PREMCO) to liquidate the Trust's portfolio prior to December 31, 1977 in order to accomplish this changeover. At this time, PREMCO was wholly owned by Paul Revere Equity Sales Co. which was in turn wholly owned by PRL, thus making PRL a party in interest with respect to the Plan.

3. PREMCO offered all of the assets of the Trust for sale to PRL in order to save brokerage commissions for the Trust and PRL. PRL chose two bond issues from the Trust's portfolio. The first bonds sold, on August 8, 1977, were Montgomery Ward Credit 8¼ percent bonds due June 30, 2002. Their face value was $100,000 and they were sold for $99,375 cash, which was their market value on the date of sale, as determined by Salomon Brothers, an independent stockbroker. The second sale, on October 20, 1977, involved Diamond International Corp. 8.35 percent bonds due September 1, 2006. Their face amount was $100,000 and they were sold for $101,350 cash, which was their market value on the date of sale, as determined by Smith Barney, Harris Upham & Co., an independent stockbroker.

4. The market value determination utilized was based on a round lot transaction even though the issues involved were odd lots. Because of the round lot valuation and the absence of brokerage commissions, the Trust's proceeds from the sales, exceeded what would have been secured from any other purchaser.

5. The Trust's portfolio was liquidated as ordered by the Trustees, and the annuity contracts were purchased from Mutual of New York and Occidental Life Insurance Company. Neither of these companies is related to any of the parties involved in the transactions described herein.

6. It is represented that none of the parties involved in the subject transactions had any knowledge that these transactions were prohibited by the Act. Only July 31, 1978, PRL was notified by the Plan's outside counsel that the bond sales were prohbited transactions. The applicants emphasize that as soon as they were made aware that the bond sales were prohibited transactions, they immediately and voluntarily decided to correct the prohibited transactions by rescinding the bond sales. Accordingly, immediately after being notifed, PRL set into action the process by which PRL voluntarily corrected the prohibited transactions by rescinding the original bond sales on December 28, 1978. It is represented that the rescission satisfied the requirements for a "correction" pursuant to Foundation Excise Tax Regulation section 53.4941(e)-1(c).[1] Shortly after the correction, the applicants applied for the exemption described herein.

[1] Foundation Excise Tax Regulation section 53.4941(e)-1(c) applies to section 4975 prohibited transactions by reason of Temporary Pension Excise Tax Regulation section 141.4975-13. Under section 53.4941(e)-1(c)(1) of the Foundation Excise Tax Regulations, any correct pursuant to Code section 4941 is not an act of self-dealing and therefore not a prohibited transaction under section 4975 by reason of the section 141.4975-13 temporary regulation.

Similarly, the Department has determined that a correction of a prohibited transaction is not itself a prohibited transaction under section 406 of the act, provided that the correction complies with the section 141.4975-13 temporary regulation. Therefore, no exemption is being proposed for the resale of the bonds.

7. In summary, it is represented by the applicants that the bond sales satisfed the criteria of section 408(a) due to the following:

(1) they were on time occurrences for cash;

(2) no broker's commission was paid by the Trust

(3) they were made at a round lot valuation that was independently determined; and

(4) they were made as part of the liquidation of all Trust assets, and were corrected voluntarily as soon as it was learned they were prohibited transactions.

Notice to Interested Persons

Notice of the proposed exemption will be provided to all interested persons, including Thompson Steel, the Trustees, PREMCO, PRL and Trust participants and beneficiaries. This notice will contain a copy of the notice of pendency of the exemption was pubished in the **Federal Register**, as well as information on the right of interested persons to request a hearing or comment regarding the proposed exemption within the specified time period. The notice will be provided to Trust participants currently employed by Thompson Steel, within ten days after the publication of the notice of pendency, by posting it in all locations customarily used for employee communications. The notice will be mailed within the same ten day period to Trust participants who are not currently employed by Thompson Steel, beneficiaries, the Trustees of the Trust, PREMCO and PRL.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which, among other things require a fiduciary to discharge his duties respecting the plan, solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must cooperate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1) (E) and (F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the above described sale by the Trust to PRL, of Montgomery Ward Credit 8¼ percent bonds due June 30, 2002 and Diamond International Corp. 8.35 percent bonds due September 1, 2006, provided that the amount the Trust received for each sale of bonds was not less than their fair market value on the date of sale.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in this application are true and complete, and that the application accurately describes all material terms of the transactions which are the subject of the exemption.

Signed at Washington, D.C. this 17th day of March 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 81-8931 Filed 3-23-81; 8:45 am]

BILLING CODE 4510-29-M

[Exemption Applicant No. D-2219]

Withdrawal of Proposed Exemption for Certain Transactions Involving the United Cotton Goods Company, Inc.

In 45 FR 85847 of the **Federal Register**, dated December 30, 1980, the Department of Labor (the Department) published a notice of pendency of a proposed exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 and from certain taxes imposed by the Internal Revenue Code of 1954. The notice of pendency concerned an application filed by counsel on behalf of United Cotton Goods Company, Inc.

By letter dated February 26, 1981, the applicant's representative notified the Department that the applicant no longer sought an exemption for the transaction described in the above cited notice. Accordingly, the representative requested that the application for exemption be withdrawn from consideration by the Department.

Signed at Washington, D.C., this 18th day of March 1981.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 81-8932 Filed 3-23-81; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-2152]

Proposed Exemption for Certain Transations Involving the Utah Carpenters and Cement Masons Vacation Trust Fund Located in Salt Lake City, Utah

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act). The proposed exemption would exempt the transfer of certain forfeited funds from the Utah Carpenters and Cement Masons' Vacation Trust Fund (the Vacation Plan) to the Utah Carpenters and Cement Masons' Health and Welfare Trust Fund (the Welfare Plan). The proposed exemption, if granted, would affect the trustees, participants and beneficiaries of the Vacation Plan and of the Welfare Plan, and other persons participating in the transaction.

DATES: Written comments and request for a public hearing must be received by the Department of Labor on or before May 8, 1981.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-2152. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Kathleen A. Bauer of the Department of Labor, telephone (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(b) (2) of the Act. The proposed exemption was requested in an application filed on behalf of the Vacation Plan, pursuant to section 408(a) of the Act and in accordane with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Vacation Plan and the Welfare Plan are welfare plans established in accordance with section 302 of the Labor-Management Relations Act of 1947, as amended. The participants of both Plans are the same, i.e., certain employees covered by collective bargaining agreements between the Utah District Council of Carpenters and affiliated local unions (all of which are affiliated with the International Brotherhood of Carpenters, the Building and Construction Trade Council of Utah and with the AFL-CIO having jurisdiction over work performed in the State of Utah) and the Associated General Contractors of America, Utah Chapter, Utah Builders Bargaining Unit, and the Masonry Contractors' Association of Utah.

2. The Vacation Plan was established on or about December 1, 1966 to receive employer contributions commencing in approximately May, 1967. In accordance with collective bargaining agreements, employer contributions to the Vacation Plan terminated as of July 1975. The Vacation Plan is administered by a Board of Trustees consisting of five union representatives and five employer representatives. The same individuals who serve as Trustees of the Vacation Plan also serve as the Trustees of the Welfare Plan.

3. Under the terms of the Agreement and Declaration of Trust establishing the Vacation Plan (the Agreement), the sums credited to each participant's vacation account for work performed during the calendar year are distributed to participants on or about April 1 of the following year. The benefits are distributed in the form of checks mailed to the participants. According to the Agreement, any participant who fails to apply for his benefits within the time prescribed or who fails to cash his vacation check within 90 days following its date of issuance is deemed to have elected to contribute the amount of his benefit to the maintenance of the Vacation Plan. The check which was issued to the participant becomes void and any amounts so contributed are transferred to the administrative account of the Vacation Plan for legal utilization or disbursement as determined by the Trustees of the Vacation Plan.

4. Many vacation checks mailed to participants have been returned to the Vacation Plan because the participant has moved without leaving a forwarding address. When such checks are returned, the Vacation Plan furnishes to the Utah Carpenters and Cement Masons District Council and various affiliated local unions a list of participants whose checks were returned. The local unions review their records and also post the list for the membership to review in order to generate current address information for the listed participants. In addition, the employer who last submitted contributions on behalf of the missing participant is contacted to determine if the employer has a more current address for the participant. If the participant cannot be located the amount of the vacation check is deemed contributed to the maintenance of the Vacation Plan as outlined above.

5. The Trustees have administered the forfeiture provisions liberally, permitting a participant to apply for and receive vacation benefits after the 90-day period formally prescribed in the Agreement. At the time the Vacation Plan was terminated, the Trustees determined that no action would be taken with respect to the distribution of the forfeited funds until such time as all claims against the Vacation Plan had been presented. The Trustees further determined that four years from the termination was a reasonably sufficient period within which such claims would be presented. The Vacation Plan holds $77,477.17 which represents forfeitures for fiscal years 1973, 1974 and 1975. (All forfeitures accumulated up to 1973 were disbursed to participants in the form of a dividend.) The Trustees now propose to transfer that amount to the Welfare Plan. The proposed transfer of the forfeited funds has been approved by a vote of the various affiliated local unions as well as by a vote of the labor and management trustees of both Plans.

6. The Trustees have also determined that the Welfare Plan will indemnify the Vacation Plan against any and all claims, rights and interests that a prior plan participant could enforce against the Vacation Plan if any adverse consequences result from the transfer of the forfeited funds to the Welfare Plan.

7. It is represented that the proposed transaction will satisfy the statutory criteria of section 408(a) of the Act because: (1) it is a one-time transfer of assets between the Plans; (2) it will enhance the level of benefits currently being received by participants of the Welfare Plan; (3) it will eliminate the administrative costs which would otherwise be incurred by the Vacation Plan in distributing the forfeited funds to its remaining participants on a pro-rata basis; and (4) the rights of participants of the Vacation Plan are protected by means of the indemnification by the Welfare Plan for any future claims for forfeited benefits or other liabilities which may arise as a result of the transfer of the funds to the Welfare Plan.

Notice to Interested Persons

On or before April, 8, 1981, notice of the proposed exemption will be: (1) published in the monthly newsletter and mailed to members of Local 184 International Brotherhood of Carpenters and Joiners of America; (2) mailed to all affiliated local unions to be included in any monthly mailings of such locals, posted at all hiring halls frequented by members of such locals and generally made available at all meeting places; (3) mailed to all contributing and participating employers to be posted conspicuously in working places; and (4) posted at the offices of the Utah Carpenters' and Cement Masons' Health and Welfare Administrative Offices in Salt Lake City. The notice will include a copy of this notice of pendency and will inform interested persons of their right to comment and/or request a hearing with respect to the proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(a) and 406(b) (1) and (3) of the Act;

(3) Before an exemption may be granted under section 408(a) of the Act the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(b)(2) of the Act shall not apply to the transfer by the Vacation Plan to the Welfare Plan of uncommitted reserves in the amount of approximately $77,000, together with any additional forfeitures which may accrue to the Vacation Plan due to the termination of the Plan.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C. this 17th day of March 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 81-8903 Filed 3-23-81; 8:45 am]

BILLING CODE 4510-29-M

Office of the Secretary

[TA-W-12,060]

Carmet Co., Materials Division, Madison Heights, Mich., Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was inititated on January 12, 1981 in response to a petition received on January 6, 1981 which was filed by the United Steel Workers of America on behalf of workers at the Carmet Company, Materials Division, Madison Heights, Michigan.

The petitioning group of workers are subject to an ongoing investigation for which a determination has not yet been issued (TA–W–10,585). Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed in Washington, D.C. this 17th day of March 1981.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-8887 Filed 3-23-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-12,129]

Dana Corp., Ecorse, Mich.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on January 26, 1981 in response to a petition received on January 16, 1981 which was filed on behalf of workers at the Ecorse, Michigan plant of the Parish Division of Dana Corporation.

A negative determination applicable to the petitioning group of workers was issued on June 19, 1980 (TA–W–7665). The Department issued a negative determination regarding application for reconsideration on October 8, 1980. No new information is evident which would result in a reversal of the Department's previous determination. Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed in Washington, D.C. this 17th day of March 1981.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-8888 Filed 3-23-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-11,509]

GAF Corp., Building Materials Group, Joliet, Ill.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on October 31, 1980 in response to a petition received on October 24, 1980 which was filed by the United Steelworkers of America on behalf of workers at the GAF Corporation, Building Materials Group, Joliet, Illinois.

The petitioning group of workers are subject to an ongoing investigation for which a determination has not yet been issued (TA–W–9782). Consequently further investigation in this case would

serve no purpose; and the investigation has been terminated.

Signed in Washington, D.C. this 17th day of March 1981.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-8889 Filed 3-23-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-11,997]

Nicholson Machine Products, Inc., Trenton, Mich., Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on December 31, 1980 in response to a petition received on December 23, 1980 which was filed on behalf of workers at the Nicholson Machine Products, Inc., Trenton, Michigan.

The petitioning group of workers are subject to an ongoing investigation for which a determination has not yet been issued (TA-W-8856). Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed in Washington, D.C. this 17th day of March 1981.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc 81-8890 Filed 3-23-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-11,730]

Reynolds Machine Co., Alpena, Mich.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on November 24, 1980 in response to a petition received on November 17, 1980 which was filed on behalf of workers at the Reynolds Machine Company, Alpena, Michigan.

The petitioner has requested that the petition be withdrawn. Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed in Washington, D.C. this 17th day of March 1981.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-8891 Filed 3-23-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-10,995]

Rockwell International, Inc., Auto Mechanical Devices Division; Logansport, Ind., Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 22, 1980 in response to a worker petition received on September 15, 1980 which was filed on behalf of workers at Rockwell International, Incorporated, Auto Mechanical Devices Division, Logansport, Indiana.

A determination applicable to the petitioning group of workers was issued on December 15, 1980 (TA-W-9055). Workers engaged in employment related to the production of mechanical springs were denied eligibility to apply for adjustment assistance. Workers engaged in employment related to the production of suspension springs were certified eligible to apply for adjustment assistance. The expiration date of the certification is December 15, 1982.

No new information is evident which would result in a reversal of the Department's previous determination. Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C. this 17th day of March 1981.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-8892 Filed 3-23-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-11,646]

Stalwart Rubber Co., Bedford, Ohio; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on November 10, 1980 in response to a petition received on November 3, 1980 which was filed on behalf of workers at the Bedford, Ohio plant of Stalwart Rubber Company.

The petitioning group of workers are subject to an ongoing investigation for which a determination has not yet been issued (TA-W-9778). Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed in Washington, D.C. this 17th day of March 1981.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-8893 Filed 3-23-81; 8:35 am]

BILLING CODE 4510-28-M

[TA-W-10,705]

Weinman Pump Manufacturing Co., Columbus, Ohio; Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely.

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The investigation was initiated on September 15, 1980 in response to a petition which was filed by the United Steelworkers of America, Local 3970 on behalf of workers at Weinman Pump Manufacturing Company, Columbus, Ohio, a subsidiary of L.F.E. Corporation. Prior to July 11, 1980, workers at Weinman Pump produced and machined raw iron castings and assembled these castings into centrifugal pumps; since July 11, 1980 the workers have machined iron castings and assembled them into centrifugal pumps, but have not produced raw foundry castings.

With respect to all hourly workers, except those in the assembly, fabrication, and file bench/deburring departments, and with respect to all salaried workers engaged in employment related to the production of raw or machined pump castings at Weinman Pump Manufacturing Company, the investigation revealed that all of the requirements have been met.

L.F.E. Corporation is currently in the process of transferring all production of raw and machined pump castings from its Weinman Pump plant to a new company facility in Belfast, Northern Ireland. This process began when the Weinman foundry closed in July 1980 and will be completed between March and June 1981.

L.F.E. Corporation began importing raw castings from its Belfast facility in the second quarter of 1980, and machined castings in the fourth quarter of 1980. Total company imports of raw and machined pump castings increased steadily from the second through the fourth quarters of 1980, and are projected to increase further in the first quarter of 1981. The Belfast plant is scheduled to be supplying the Weinman Pump plant with most of its requirements for raw and machined pump castings by the second quarter of 1981.

With respect to hourly workers in the assembly (#3240), fabrication (#3347), and file bench/deburring (#3348) departments and salaried workers who are not engaged in employment related to the production of either raw or machined pump castings at Weinman Pump Manufacturing Company, the investigation revealed that criterion (3) has not been met.

Hourly workers assigned to the assembly, fabrication, and file bench/deburring departments at Weinman Pump Manufacturing Company are engaged in employment related to the assembly of centrifugal pumps and/or to the manufacture of non-foundry pump components. Workers in these departments and most salaried workers at Weinman Pump have not been engaged directly or indirectly in foundry or machine shop operations, and therefore have not been affected by the shutdown of the Weinman foundry or by increased company imports of pump castings.

U.S. imports of centrifugal pumps decreased in value terms in the period January-November 1980 compared to the period January-November 1979. U.S. exports greatly exceeded U.S. imports of centrifugal pumps throughout the 1975–1979 period. Sales of centrifugal pumps at Weinman Pump Manufacturing Company increased from 1978 to 1979 and in the first half of 1980 compared to the first half of 1979. Subsequent declines in plant sales took place during a period in which U.S. imports of centrifugal pumps declined.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with raw and machined pump castings produced at Weinman Pump Manufacturing Company, Columbus, Ohio, contributed importantly to the decline in production of pump castings and to the total or partial separation of all hourly workers, except those in the assembly, fabrication, and file bench/deburring departments, and of all salaried workers engaged in employment related to the production of raw or machined pump castings at that firm. In accordance with the provisions of the Act, I make the following certification:

All hourly workers of Weinman Pump Manufacturing Company, Columbus, Ohio, except those in the assembly, fabrication, and file bench/deburring departments, who became totally or partially separated from employment on or after July 1, 1980 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974; and

All salaried workers of Weinman Pump Manufacturing Company, Columbus, Ohio, who are engaged in employment related to the production of raw or machined pump castings, and who became totally or partially separated from employment on or after July 1, 1980 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

After careful review, I further determine that all hourly workers in the assembly (#3240), fabrication (#3347), and file bench/deburring (#3348) department, and all salaried workers who are not engaged in employment related to the production of raw or machined pump castings at Weinman Pump Manufacturing Company, Columbus, Ohio, are denied eligibility to apply for adjustment assistance under Section 233 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th of March 1981.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 81-8894 Filed 3-23-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-12,220]

Van Wormer Industries, St. Clair Shores, Mich.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on February 9, 1981 in response to a petition received on February 30, 1981 which was filed on behalf of workers at the Van Wormer Industries, St. Clair Shores, Michigan.

The petitioning group of workers are subject to an ongoing investigation for which a determination has not yet been issued (TA–W–9129). Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed in Washington, D.C. this 17th day of March 1981.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-8895 Filed 3-23-81; 8:45 am]

BILLING CODE 4510-28-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee on Safety Philosophy, Technology and Criteria; Notice of Meeting

The ACRS Subcommittee on Safety Philosophy, Technology and Criteria will hold a meeting on April 8, 1981, in Room 1046, 1717 H Street, NW., Washington, DC to discuss matters related to the development of safety criteria for new (beyond NTCP) LWRs.

In accordance with the procedures outlined in the **Federal Register** on October 7, 1980, (45 FR 66535), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Wednesday, April 8, 1981—11:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Dr. Richard Savio (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EST.

Dated: March 17, 1981.

John C. Hoyle,

Advisory Committee Management Office

[FR Doc. 81-8783 Filed 3-23-81; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Reactor Operations

The ACRS Subcommittee on Reactor Operations will hold a meeting on Wednesday, April 8, 1981 in Room 1167 at 1717 H Street, N.W., Washington, DC. The Subcommittee will review Congressman Udall's inquiries on ATWS which were prompted by the June 28, 1980 Browns Ferry 3 partial failure to scram.

In accordance with the procedures outlined in the **Federal Register** on October 7, 1980, (45 FR 66535), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss proprietary and Industrial Security Information. One or more closed sessions may be necessary to discuss such information. (Sunshine Act Exemption 4). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Wednesday, April 8, 1981—1:00 p.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Richard K. Major (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., EST.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting to protect proprietary and Industrial Security information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: March 17, 1981.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 81-8782 Filed 3-23-81; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on NRC Safety Research Program; Meeting

The ACRS Subcommittee on the NRC Safety Research Program will hold a meeting on April 8, 1981 in Room 1046, 1717 H Street, N.W., Washington, DC.

The Subcommittee will be considering predecisional budget information associated with the NRC's Long-Range Research Program Plan as requested by the Nuclear Regulatory Commission. In order to perform this review, the ACRS must be able to engage in frank discussion with members of the NRC Staff. For the reason just stated, such a discussion would not be possible if held in public session.

I have determined, therefore, that it is necessary to close this meeting to prevent frustration of this aspect of the ACRS' statutory responsibilities. The authority for such closure is Exemption 9(B) to the Government in the Sunshine Act (522b(c)(9)(B)).

Further information can be obtained by a prepaid telephone call to the Designated Federal Employee, Mr. Sam Duraiswamy (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., est.

Date: March 19, 1981.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 81-8824 Filed 3-23-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-272]

Public Service Electric & Gas Co. et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 34 to Facility Operating License No. DPR-70, issued to Public Service Electric and Gas Company, Philadelphia Electric Company, Delmarva Power and Light Company and Atlantic City Electic Company (the licensees), which revised Technical Specifications for operation of the Salem Nuclear Generating Station, Unit No. 1 (the facility) located in Salem County, New Jersey. The amendment is effective as of the date of issuance.

The amendment revises the Radiological Technical Specifications to incorporate new requirements related to reactor decay heat removal capability.

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 15, 1980, (2) Amendment No. 34 to License No. DPR-70, 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 Salem Free Public Library, 112 West Broadway, Salem, New Jersey. 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 6th day of March, 1981.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 81-8825 Filed 3-23-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-305]

Wisconsin Public Service Corp. et al.; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory

Commission (the Commission) has issued Amendment No. 31 to Facility Operating License No. DPR-43, issued to Wisconsin Public Service Corporation, Wisconsin Power and Light Company, and Madison Gas and Electric Company (the licensees), which revised Technical Specifications for operation of the Kewaunee Nuclear Plant (the facility) located in Kewaunee, Wisconsin. The amendment was effective January 30, 1981.

The amendment was authorized by phone on January 30, 1981 and was confirmed by letter on the same date. The amendment revises the one-time extension of the test frequency interval for turbine stop and governor valves from monthly to a period of four months, said extended period to end April 30, 1981. After April 30, 1981, monthly tests will again be required. The amendment was authorized on an expedited basis to maintain the plant at a steady-state condition and avoid a shutdown transient shown by our evaluation to be unnecessary but required by Technical Specifications unless amended.

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 this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the request for amendment dated January 29, 1981, (2) the Commission's letter to the licensee dated January 30, 1981, (3) Amendment No. 31 to License No. DPR-43 and (4) 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 Kewaunee Public Library, 314 Milwaukee Street, Kewaunee, Wisconsin 54216. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 9th day of March 1981.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 81-8826 Filed 3-23-81; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Federal Employees Health Benefits Program; Termination of Los Padres Group Health Plan's Participation in the Program

AGENCY: Office of Personnel Management.

ACTION: Notice of health plan termination.

SUMMARY: Pursuant to the authority contained in section 8902 of title 5, United States Code, the Office of Personnel Management hereby announces that the participation of the Los Padres Group Health Plan, San Luis Obispo, California, in the Federal Employees Health Benefits (FEHB) Program has been terminated.

EFFECTIVE DATE: March 1, 1981.

FOR FURTHER INFORMATION CONTACT: Karen J. Liebach, Compensation Group, Comprehensive Plans Division, Washington, D.C. 20415, 202-632-6178.

SUPPLEMENTARY INFORMATION: Due to the termination of the Los Padres Group Health Plan effective March 1, 1981, each Federal employee or annuitant enrolled in the plan who wishes to continue coverage under the FEHB Program must change to another plan offered in the area. The effective date of the change will be the first day of the first pay period beginning on or after March 1, 1981. To effect this change in health plans, the employee or annuitant should submit a completed Standard Form 2809 to his or her personnel office or retirement system. Benefits under the Los Padres plan will continue to be provided up to the date coverage under the new plan begins.

Office of Personnel Management.

Beverly McCain Jones,

Issuance System Manager.

[FR Doc. 81-8844 Filed 3-23-81; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-4192]

Canadian Javelin Limited, Common Stock, no par Value; Application To Withdraw From Listing and Registration

March 16, 1981.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 (the "Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. The common stock of Canadian Javelin Limited (the "Company") has been listed and registered on the Amex since 1959. Trading in the Company's stock on the Amex has been suspended since April 1975. The Company has registered its common stock with the National Association of Securities Dealers Automated Quotation System and feels that the dual listing would not be in the best interest of the Company or the holders of its common stock.

Any interested person may, on or before April 6, 1981, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-8816 Filed 3-23-81; 8:45 am]

BILLING CODE 8010-01-M

Cincinnati Stock Exchange; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

The above named national securities exchange has filed applications with the Securities and Exchange Commission

pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Central Telephone & Utilities Corp., Common Stock, $2.50 Par Value (File No. 7-5882)
New York State Electric & Gas Corp., Common Stock, $6⅔ Par Value (File No. 7-5883)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before April 6, 1981 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-8917 Filed 3-23-81; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-10971]

Jersey Central Power & Light Co.; Application and Opportunity for Hearing

March 17, 1981.

Notice is hereby given that Jersey Central Power & Light Company ("JCP&L") has filed an application pursuant to Section 310(b)(1)(ii) of the Trust Indenture Act of 1939 (the "Act") for a finding that the trusteeship of J. Henry Schroder Bank & Trust Company ("Schroder") under two existing indentures of JCP&L is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Schroder from acting as trustee under both of such indentures.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in that Section), it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such Section provides, in effect, with certain exceptions, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that its trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under both of such indentures.

JCP&L alleges that:

(1) Effective July 31, 1973, New Jersey Power & Light Company ("NJP"), a New Jersey corporation, was merged into JCP&L, a New Jersey corporation, the applicant herein, pursuant to a Certificate of Merger filed July 30, 1973 to become effective July 31, 1973.

(2) An aggregate of $760,316,000 principal amount of First Mortgage Bonds are currently outstanding under the JCP&L indenture, dated as of March 1, 1946, as supplemented by 37 Supplemental Indentures thereto (the "JCP&L Indenture"). J. Henry Schroder Bank & Trust Company is acting as Successor Trustee under the JCP&L Indenture, which is qualified under the Act.

(3) An aggregate of $39,200,000 principal amount of First Mortgage Bonds are currently outstanding under the Mortgage and Deed of Trust, dated as of March 1, 1944, to Guaranty Trust Company of New York (now Morgan Guaranty Trust Company of New York), Trustee, as amended by 20 Supplemental Indentures thereto (the "NJP Indenture"). The NJP Indenture is qualified under the Act.

(4) Upon the effectiveness of the merger of NJP into JCP&L, JCP&L assumed all of NJP's obligations under the JCP&L Indenture.

(5) Morgan Guaranty Trust Company of New York, Trustee, under the NJP Indenture, has indicated to JCP&L that it desires to resign as Trustee, and Schroder has indicated its willingness to assume the role of Successor Trustee under the NJP Indenture.

(6) The First Mortgage Bonds issued under the JCP&L Indenture and the First Mortgage Bonds issued under the NJP Indenture are of equal rank and without priority or preference of either one over the other.

(7) While there are minor differences, the default provisions of JCP&L and NJP Indentures are substantially similar.

(8) The mortgage property that JCP&L acquired from NJP as a result of the merger and additions thereto is subject only to the first lien of the NJP Indenture, and JCP&L's mortgaged property and additions thereto is subject to the first lien of the JCP&L Indenture.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to such application which is a public document on file in the office of the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C.

Notice is further given that any interested person may, not later than April 10, 1981 request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon.

Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-8918 Filed 3-23-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21964 (70-6561)]

Middle South Utilities, Inc.; Proposal To Issue and Sell Common Stock Pursuant To a Dividend Reinvestment and Stock Purchase Plan; Amendment of Plan To Include Employee Participation

March 16, 1981.

Notice is hereby given that Middle South Utilities, Inc. ("Middle South"), 225 Baronne Street, New Orleans, Louisiana 70112, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935

("Act") designating Sections 6(a) and 7 of the Act and Rules 50(a)(5) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

By orders dated May 20, 1976, April 3, 1978, April 4, 1979 and May 12, 1980 (HCAR Nos. 19538, 20480, 20993 and 21566) Middle South was authorized to issue and sell from time to time through June 30, 1981, a maximum of 4,500,000 shares of its authorized but unissued common stock, $5 par value, pursuant to a Dividend Reinvestment and Stock Purchase Plan ("Plan"). Middle South has issued and sold 3,448,273 of the 4,500,000 so authorized and expects to sell the balance in the near future.

Middle South now proposes to issue and sell an additional authorized but unissued 8,000,000 shares of common stock ("Additional Common Stock") under the terms of the Plan. These additional shares should be sufficient to provide for the requirements of the Plan through December 31, 1982. Middle South intends to apply the proceeds from the sale of the Additional Common Stock toward the payment of short-term bank debt outstanding from time to time and for other corporate purposes.

Middle South also proposes to amend the Plan to permit employees of Middle South and its subsidiaries who are beneficial owners of Common Stock of Middle South through participation in the Employee Stock Ownership Plan of Middle South Utilities, Inc. and Subsidiaries and/or the Middle South Utilities System Savings Plan to participate in the Plan. These employees would join the Plan by making an initial cash payment. Thereafter, they would have cash dividends on shares in their Plan account, as well as any optional cash payments, invested in the purchase of additional shares of Common Stock of Middle South.

Middle South requests an exception from the competitive bidding requirements of Rule 50 pursuant to subparagraph (a)(5) for the issue and sale of the common stock pursuant to the Plan.

No state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

The fees, commissions and expenses to be incurred in connection with the proposed transaction in the first year are estimated to be $340,000 including $230,000 for bank fees and service charges, $25,000 for listing fees of stock exchanges, $25,000 for printing and engraving costs, and $20,000 for legal fees.

Notice is further given that any interested person may, not later than April 9, 1981, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated address and proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-8019 Filed 3-23-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21966; (70-6564)]

Middle South Utilities, Inc.; Proposed Issuance and Sale of Common Stock at Competitive Bidding

March 17, 1981.

Notice is hereby given that Middle South Utilities, Inc. ("Middle South"), 225 Baronne Street, New Orleans, Louisiana 70112, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 6(a) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Middle South proposes to issue and sell at competitive bidding up to 10,000,000 authorized shares of common stock with $5 par value to underwriters or investment bankers who will promptly make a public offering of such shares. Middle South estimates that sale of 10,000,000 shares at a sale price of $12.50 per share would generate proceeds of $125,000,000; Middle South reserves the right to reduce the number of shares which shall constitute the additional common stock to less than 10,000,000 shares. In the event the company exercise this right, it will give appropriate notice of such reduction on a business day and not later than 28 hours prior to the time fixed for the presentation and opening of bids.

The net proceeds to be derived from the sale of the additional common stock will be applied toward the reduction of the then outstanding bank loans, presently estimted to be $154,000,000, made by various commercial banks to Middle South pursuant to a Credit Agreement, dated as of June 27, 1980, and approved by this Commission (HCAR No. 21628).

a statement of the fees and expenses incurred in connection with the proposed transaction will be provided by amendment.

It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than April 10, 1981, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act or the Commission may grant exemption from such rules as provided in Rule 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in

this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-8920 Filed 3-23-81; 8:45 am]

BILLING CODE 8010-01-M

[812-4672]

Mutual of Omaha Cash Reserve Fund, Inc.; Notice of Filing of Application for Order Pursuant to Section 6(c) of the Act Exempting Applicant From the Provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 Thereunder

March 18, 1981.

Notice is hereby given that Mutual of Omaha Cash Reserve Fund, Inc. ("Applicant"), 3102 Farnam Street, Omaha, Nebraska 68131, an open-end, diversified, management company registered under the Investment Company Act of 1940 ("Act"), filed an application on April 28, 1980, and an amendment thereto on March 9, 1981, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit Applicant to value its assets 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 was organized as a Nebraska corporation on March 21, 1980, and its investment adviser is Mutual of Omaha Fund Management Company ("Adviser"). Applicant represents that its investment objective is to provide as high a level of current income as is consistent with preservation of capital and maintenance of liquidity by investing in a variety of money market instruments maturing in one year or less. Applicant states that it intends to invest in securities issued by the United States Treasury or guaranteed by the United States Government or its agencies, authorities or instrumentalities; certificates of deposit and bankers' acceptances issued by domestic banks and savings and loan institutions; corporate obligations rated Aa or better by Moody's Investors Service ("Moody's") or AA or better by Standard & Poor's Corporation ("S&P") at time of purchase; commercial paper rated Prime-1 by Moody's or A-1 by S&P at time of purchase; and repurchase agreements with respect to the foregoing obligations.

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 with over 60-day maturities on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Applicant requests an exemption from the provisions of Section 2(a)(41) of the Act, and Rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit it to value its portfolio securities using the amortized cost method of valuation. In support of its request, Applicant represents that its board of directors, has determined that, absent unusual circumstances, amortized cost value represents that fair value of its portfolio securities and that the amortized cost method of valuation will benefit both the Applicant and its shareholders. Applicant states that by using the amortized cost method of valuing its shares, investors would have the convenience of being able to value their holdings simply by knowing the number of shares which they own. Furthermore, Applicant maintains that by using the amortized cost method of valuation its net asset value per share would not vary as a result of realized and unrealized capital gains and losses.

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, 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 asserts that its application meets the standards of Section 6(c) of the Act in light of its management policies, and consents to the imposition of the following conditions to any order granting the requested relief:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, the board of directors of Applicant undertakes—as a particular responsibility within the overall duty of care owned to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Include within the procedures to be adopted by the board of directors of the Applicant shall be the following:

(a) Review by the board of directors, 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 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]

[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 directors in the exercise of its discretion to be appropriate indicators of value which may

Continued

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of directors will promptly consider what action, if any, should be initiated by it.

(c) Where the board of directors believes the extent of any deviation from the $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 average maturity of portfolio instruments; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant 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 its board of directors' considerations and actions taken in connection with the discharge of their responsibilities, as set forth above, to be included in the minutes of the boards of directors' 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 its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which its board of directors determines 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 its board of directors.

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 April 13, 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 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. 81-8921 Filed 3-23-81; 8:45 am]

BILLING CODE 8010-01-M

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, Applicant will invest available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

Pacific Stock Exchange, Inc.; Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

March 16, 1981.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the common stock of:

Seagull Pipeline Corporation, Common Stock, $.10 Par Value (File No. 7–5881)

This security is listed and registered on one or more other national securities exchanges and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before April 6, 1981 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-8922 Filed 3-23-81; 8:45 am]

BILLING CODE 8010-01-M

[SR-Phlx-80-28]

Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change

March 16, 1981.

On December 23, 1981, the Philadelphia Stock Exchange, Inc. ("Phlx"), 17th Street and Stock Exchange Place, Philadelphia, PA 19103, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b–4 thereunder, copies of a proposed rule change which would amend its listing fee schedule for stocks and warrants and for bonds and similar securities listed on the Phlx by

increasing the annual maintenance fee from $750 to $1,000 for one such listing by an issuer and by increasing from $150 to $250 the fee for each additional issue of securities listed by the same issuer. The proposed increase in listing fees would not apply to options.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 17435, January 9, 1981) and by publication in the **Federal Register** (46 FR 13623, February 23, 1981). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-8923 Filed 3-23-81; 8:45 am]

BILLING CODE 8010-01-M

[File No. 500-1]

Troy Gold Industries Ltd.; Order of Trading Suspension

March 19, 1981.

It appearing to the Securities and Exchange Commission that there is a lack of current and accurate financial information relating to the securities of Troy Gold Industries Ltd., and that questions have been raised about the adequacy and accuracy of publicly disseminated information concerning its ore reserves and other matters, the Commission is of the opinion that the public interest and the protection of investors require a summary suspension of trading in the securities of Troy Gold Industries Ltd.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that over-the-counter trading in the securities of Troy Gold Industries Ltd. is suspended, for the period from 9:30 a.m. on March 19, 1981, and terminating at midnight (EST) on March 28, 1981.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-8924 Filed 3-23-81; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 81-58]

Importation and Exportation of Coffee Under the International Coffee Agreement of 1976

AGENCY: Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This notice advises the importing and exporting community that import and export quotas for coffee have been established. Customs will administer these quotas through (1) limitation of importation of certain coffee, (2) prohibition of entry of other coffee without valid documentation, and (3) requirement of valid documentation of coffee exported or reexported from the United States. Accordingly, the text of the Customs operational guidelines and instructions to implement the above actions is reproduced below.

EFFECTIVE DATE: The Customs operational guidelines and instructions described in this document are effective on March 24, 1981.

FOR FURTHER INFORMATION CONTACT: David O. Ramsay, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-2957).

SUPPLEMENTARY INFORMATION:

Background

International Coffee Agreement of 1976

The United States is a Contracting Party to the International Coffee Agreement of 1976 (ICA), signed at New York on February 27, 1976, and which entered into force for the United States provisionally on October 1, 1976, and on August 1, 1977, definitively. Under Article 70 of the ICA, that Agreement shall be considered as a continuation of the International Coffee Agreement of 1968 as Extended by Protocol. The ICA, unless extended, shall remain in force for a period of six years, until September 30, 1982.

The International Coffee Organization (Organization), established under the International Coffee Agreement of 1962, administers the provisions and supervises the operation of the ICA. Each Contracting Party to the ICA is a Member of the Organization (Member). The Organization functions through the International Coffee Council, the Executive Board, and the Executive Director and staff. The highest authority of the Organization is the International Coffee Council which consists of all the Members.

The United States joined the 1962, 1968, and 1976 International Coffee Agreements to help stabilize prices and export income of the developing producing countries. The United States also joined to help secure for consumers an adequate coffee supply at reasonable and stable prices.

The ICA, a treaty of the United States (28 UST 6401), was ratified by the Senate on August 23, 1976.

Among other things, the treaty requires Member importing countries, including the United States, to take specific actions to limit imports of coffee under conditions of low price. The treaty was not self-executing and the President had no authority at that time to impose such limitations.

Export quotas are the economic instrument under the ICA used to maintain prices. These quotas are tightened—thus reducing the available world supply of coffee—as prices fall through a "price band." At the lower end of the band, the most restrictive quota is in effect, and if prices exceed the upper end of the band, the quotas are removed.

When invoked, a world quota is divided among various producers, and basically is enforced by the Member importing countries, which require that all imported coffee bear a coffee stamp indicating the country of origin. Statistical information on coffee shipments is forwarded to the Organization in London, thus providing data on various nations' levels of export.

Enabling Legislation

Pub. L. 96-599, the "International Coffee Agreement Act of 1980" (the Act), was approved on December 24, 1980, to implement the treaty and to carry out the obligations of the United States under the ICA. The Act generally provides that the President may limit entry, and withdrawal from warehouse, of coffee exported from non-Members, and prohibit entry of coffee exported from Members when the coffee is not accompanied by appropriate documentation. In addition, the President may require that every export or reexport of coffee from the United States shall be accompanied by appropriate documentation. The President's authority is to be exercised in such a way as to protect American consumers against unwarranted price

increases as a result of actions taken under the ICA, or by two or more Members. If there is coffee price manipulation by two or more Members, the President shall request that the situation be remedied, either through relaxation of coffee export quotas or other actions. If the Members involved in price-increasing market manipulation fail "to remedy the situation within a reasonable time after a request for remedy," the President must suspend his authorities provided in the Act to implement the treaty until "effective market manipulation activities have ceased."

The Act also requires reports on the operation of the ICA and on international trade in coffee.

The authority provided in the Act will expire on September 30, 1982, so that the Congress will have an opportunity to review this matter in the near future.

Specifically, Section 2 of the Act provides that the President is authorized, in order to carry out and enforce the provisions of the ICA:

1. To regulate the entry of coffee for consumption, or withdrawal of coffee from warehouse for consumption, or any other form of entry or withdrawal of coffee such as for transportation or exportation, including, whenever quotas are in effect pursuant to the ICA, (i) the limitation of entry, or withdrawal from warehouse, of coffee imported from countries which are not members of the Organization, and (ii) the prohibition of entry of any shipment from any member of the Organization of coffee which is not accompanied either by a valid certificate of origin, a valid certificate of reexport, a valid certificate of reshipment, or a valid certificate of transit, issued by a qualified agency in such form as required under the ICA;

2. To require that every export or reexport of coffee from the United States shall be accompanied by a valid certificate of origin or a valid certificate of reexport, issued by a qualified agency of the United States designated by him, in such form as required under the ICA;

3. To require the keeping of such records, statistics, and other information, and the rendering of such reports, relating to the importation, distribution, prices, and consumption of coffee as he may from time to time prescribe; and

4. To take such other action, and issue and enforce such rules and regulations, as he may consider necessary or appropriate in order to implement the obligations of the United States under the ICA.

Delegation of Authority

As provided in section 4 of the Act, the President may exercise any powers and duties conferred on him by the Act through such agency or officer as he shall direct. Pursuant to Executive Order 12297 of March 12, 1981 (46 FR 16877), the President has delegated to the United States Trade Representative the functions vested in him by the Act. The Executive Order further provides that the United States Trade Representative may redelegate some or all of those functions to the head of another Executive agency.

By letters dated March 16, 1981, the United States Trade Representative has directed the Acting Commissioner of Customs to issue, and publish in the Federal Register, any necessary internal directives or operational procedures to implement the control provisions of the Act.

Decision Under ICA To Impose Quotas

Because of relevant price conditions, in a decision of the International Coffee Council (Council) concerning the entry into force of quotas, rendered in accordance with the provisions of paragraph (1) of Article 33 of the ICA, import and export quotas became effective from October 1, 1980. The initial global annual quota, in accordance with the provisions of Article 34 of the ICA, was set at 57.37 million "bags" (as defined in Article 3 of the ICA). In that decision, it was stated that importing Members shall implement on November 1, 1980, the Controls System of Certificates of Origin when Member Export Quotas Are in Effect.

For U.S. Customs Service purposes, the effective date of implementation of the quotas and controls system established by the Council decision is (upon date of publication in the **Federal Register**).

Drafting Information

The principal authors of this document were Charles D. Ressin and Todd J. Schneider, Regulations and Information Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices and the Treasury Department participated in its development.

Customs Actions When Quotas Are in Effect

Pursuant to section 4 of the Act, the U.S. Customs Service will (1) limit the entry, or withdrawal from warehouse, of coffee imported from non-Members, (2) prohibit entry of any shipment from any Member which is not accompanied by valid documentation, and (3) require that every export or reexport of coffee from the United States shall be accompanied by valid documentation.

Dated: March 18, 1981.

William T. Archey,

Acting Commissioner of Customs.

John P. Simpson,

Acting Assistant Secretary (Enforcement and Operations).

Customs Guidelines and Instructions

To administer the quota system established by the ICA and implemented by Pub. L. 96-599, the Duty Assessment Division, Office of Trade Operations, U.S. Customs Service, has formulated and distributed to Customs field personnel operational guidelines and instructions, the text of which is reproduced below:

Telex

To: All Regional Commissioners, Area, District and Port Directors of Customs.
Subject: Special procedures for the importation and exportation of coffee.
Reference: International Coffee Agreement, 1976 (treaties and other International Acts series 8683; 28 UST 6401).

On December 24, 1980, the President signed Pub. L. 96-599, authorizing full implementation of the procedures specified under the International coffee Agreement (ICA). Consequently, on March 24, 1981, Customs shall deny entry into the United States of any shipment of Coffee which does not comply with the following instructions.

A. Imports and Exports of Coffee From ICA Member Countries

1. Effective March 24, 1981, Customs officers shall require a valid certificate of orgin (form O), re-export (form R), re-shipment (form RS), or transit (form T), to be furnished on entry, of all shipments of coffee classified under item numbers 160.10, 160.20, and 160.21, Tariff Schedules of the United States (TSUS) which were exported from ICA member countries on or after November 1, 1980, except for those provided for in part F and shipments (a) proceeding through the U.S. on a through bill of lading; (b) entered for consumption in Puerto Rico; or (c) of green coffee from Hawaii shipped to the Continental United States. (A listing of ICA member countries is furnished as attachment 1.)

2. Coffee exported from a member country prior to November 1, 1980, may be permitted entry if: (a) box 16 of approximate ICA form has been properly completed and is dated prior to November 1; or (b) the bill of lading is dated prior to November 1.

3. Samples of International Coffee Organization (ICO) forms O, R and RS, along with instructions for completion, were recently sent to your ports. Please pass to proper Customs officers.

4. Forms O, R, RS, and T are valid only if: (a) the certificate is marked "original" (duplicate or photostat copies are

unacceptable); (b) no more than nine months have elasped since the end of the quarter in which the certificate was issued; (c) the certificate covers only the coffee described at the time it was issued; and (d) the certificate has not previously been completed in Part B.

5. In addition, forms O, R, and RS must bear the stamp of the Customs Service of the member from which the coffee described has been imported, re-exported, or re-shipped, respectively.

6. The proper number of either ICO export or transit stamps with the code corresponding to the country of issue printed on the right half (e.g., 16 for Mexico) must be affixed to the reverse side of form O or T respectively. (See attachment I for special instructions applicable to OAMCAF countries.)

7. Additionally, ICO export stamps used on form O must have the coffee year overprinted in a circle on the left half of the stamp, e.g., (1) for 1980/81 coffee year.

8. ICO export stamps each a different color in kilogram denominations from 25 kg. up to 300,000 kg. differ from transit stamps which are overprinted with letter "T" and range from 5 kg. to 30,000 kg. They cannot be attached to separate sheet. The net weight of the green coffee or green coffee equivalent governs the amount of stamps required. Example, a consignment of 399 kg. requires export stamps to the value of 375 kg. or 395 kg. transit stamps, as appropriate. To find green equivalents apply the following conversion factors:

Dried coffee cherry—multiply net weight of dried coffee cherry by 0.50

Parchment coffee—multiply net weight of parchment coffee by 0.80

Roasted coffee—multiply the net weight of the roasted coffee by 1.19

Soluble coffee—multiply the net weight of the soluble or dried coffee solids contained in the soluble coffee by 3.00

Decaffeinated coffee—multiply the net weight of the decaffeinated coffee in green, roasted or soluble form by 1.00, 1.19 or 3.00 respectively

9. Importation of coffee is permitted if the number of the bags is equal to or less than number shown on the certificate provided the difference in net weight does not exceed one percent more than the net weight noted in the certificate. Example: certificate lists 20 bags at a net weight of 1200 kilograms and the Customs Officer finds 19 bags at a net weight of 1210 kilograms. Consequently, the coffee is permitted entry because the number of bags is less and the net weight does not exceed one percent more than the net weight on the certificate.

10. Customs Officers shall note in box 18 Part B of the respective certificates any differences between the certificate description of the coffee as to quantity, weight, marks and numbers and the actual shipment. If the information on the respective certificate concerning the country of destination is missing or is not accurate, the Customs Officer shall insert the correct information in the relevant box in Part A of the certificate before signing, dating and applying the customs stamp.

11. Valid certificates, completed in accordance with the foregoing instructions, shall be forwarded by Customs to the ICO within 30 days of the month of collection in securely packed batches of not more than 100.

B. Coffee Afloat and Re-Exports

1. If the holder of a valid certificate; form O, R, RS, or T, covering a parcel of coffee afloat wishes to split the shipment, the holder may, on surrending the certificate to a Customs Officer request the issue of form R.

(A) The Customs Officer should indicate in box 18 of form O, R, RS, or T (as appropriate) the exact quantity of coffee being entered at that port.

(B) Enter in box 15 of the form R being issued the following words: "shipment of coffee split while afloat. This certificate is in partial replacement of form (O, T, R, or RS, as appropriate) reference number———covering a parcel of———kgs/lbs."

(C) The original of the form R is issued to the applicant.

(D) The first copy of the form R should be attached to the relevant original form O, R, RS, or T and both forwarded to the ICO.

2. The form R is also issued by U.S. Customs for coffee re-exported after having been imported into the United States.

C. Imports of Coffee From Nonmember Countries

1. During the period March 24, 1981, and through September 30, 1981, not more than 7,936,260 pounds of coffee classifiable under items 160.10, 160.20 and 160.21 from countries other than member countries may be entered, or withdrawn from warehouse for consumption.

2. Coffee from nonmember countries shall be reported and released via the quota CRT. Reports shall indicate the actual quantity (in pounds, not converted) of coffee by TSUSA number. For items 160.1040, 160.2000, and 160.2100, the kind (roasted, souluble, dries, parchment, or liquid) shall be reflected in the remarks data field by using the first four letters, i.e., SOLU. If the country of exportation differs from the country of growth, the country of exportation shall also be stated in the remarks/data field. Coffee exported from a nonmember country will be considered the growth of that country unless proof is submitted that it is the growth of another country.

3. Additionally, all importations of coffee from nonmember countries will continue to be reported to the ICO on ICO import return form I, which shall be completed in accordance with the instructions on the reverse side thereof. Importers or agents may reproduce additional copies of this form for their own use if so desired.

D. Hawaiian Coffee

1. For the exportation of coffee grown in Hawaii to member countries, a Customs Officer shall sign, date and stamp with a customs stamp boxes 16 and 17 on the original and both copies of the ICO certificate of origin form O, and verify that ICO export stamps equal to the net weight of the coffee are affixed to the reverse side of the original certificate. The Customs Officer shall then cancel the ICO stamps without obliterating them, fill in the reference number of the certificate, consisting of the U.S. country code number (69), the port code number; the consecutive number of the certificate (a new series of which shall begin on October 1 of each year); and the expiration date (nine months from the end of the quarter in which the certificate is issued). The original certificate shall be returned to the exporter; one copy (green) shall be sent to the ICO; and the remaining copy shall be retained in Customs files for four years.

2. In the case of exports of Hawaiian coffee to non-member countries, the above procedure shall apply, except: (a) coffee export stamps shall not be affixed to the original certificate of origin Form X; (b) the original and copies of the certificate shall be marked in bold print "shipment to non-members"; (c) the original shall not be returned to the exporter but shall be sent along with one copy (green) to the ICO.

3. Exporters of coffee grown in Hawaii can obtain ICO export stamps and ICO certificate of origin from the State Board of Agriculture. Correspondence in this regard should be addressed to Chairman, Board of Agriculture, State of Hawaii, P.O. Box 22159, Honolulu, Hawaii 96822.

E. Missing, Invalid, or Otherwise Unacceptable Documents

1. Upon entry, a bond on Customs form 7551, 7553 or 7595, equal to 10% of the value of the coffee but not exceeding $250,000 shall be posted for production of any missing ICO documentation. The bond liability assumed is in addition to any other bond liability required as a condition for entry of the commodity. If valid documentation is not produced within 60 days of the date of entry, liquidated damages in the full amount of the bond in the case of a single entry bond, or the amount determined necessary to accept entry in the case of a term-entry bond, shall be assessed, except that, upon written application to the District Director of Customs concerned, the period for producing the missing documentation may be extended for an additional 30 days. In the event of non-compliance, the procedures in Part 172, C.R. relating to liquidated damages, shall apply.

2. If the period of validity (nine months after end of the quarter of issuance) has lapsed prior to the surrender of forms O, R, RS, or T to Customs, the holder shall forward the certificate directly to the Executive Director of the ICO, with an application for the extension of the form's period of validity. In his application the holder shall state the reasons for the failure to use or exchange the certificate before its expiration and shall specify the present location of the coffee. If the coffee is held in a warehouse, the holder shall provide a written declaration by the manager of the warehouse identifying the coffee and confirming the period of storage.

3. Application for replacement of lost certificates should also be made by the holder directly to the Executive Director of the ICO.

F. Exemptions

1. The foregoing provisions do not apply to: the importation of samples and parcels up to a maximum net weight of 60 kg. of green coffee or the equivalent thereof namely: (a) 120 kg. of dried coffee cherry; or (b) 75 kg. of

parchment coffee: or (c) 50.4 kg. of roasted coffee: or (d) 20 kg. of soluble or liquid coffee.

G. General Guidance

(1) The address of the ICO is 22 Berners St., London W1P 4DD, England.

(2) A coffee year runs from 1 October to 30 September.

(3) For further information relative to these instructions, please call Coffee Program Manager at (FTS) 566-2957.

H. Superseded Material

Effective March 24, 1981, the following circulars and instructions are superseded: SPE -2-0:D:S dated September 21, 1976; manual supplement number 36B-01 dated January 25, 1979; and CIE 51/80 dated November 24, 1980.

Richard R. Rosettie,

Acting Director, Duty Assessment Division.

Attachment 1.—*List Members and Their Code Numbers*

Exporting Members

Angola	158
Benin	22
Bolivia	1
Brazil	2
Burundi	27
Cameroon	19
Central African Republic	20
Colombia	3
Congo	21
Costa Rica	5
Dominican Republic	7
Ecuador	8
El Salvador	9
Ethiopia	10
Gabon	23
Ghana	38
Guatemala	11
Guinea	92
Haiti	12
Honduras	13
India	14
Indonesia	15
Ivory Coast	24
Jamaica	100
Kenya	37
Liberia	107
Madagascar	25
Malawi	109
Mexico	16
Nicaragua	17
Panama	29
Papua New Guinea	166
Paraguay	122
Peru	30
Philippines	
Rwanda	23
Sierra Leona	32
Tanzania	33
Togo	26
Trinidad and Tobago	34
Uganda	35
Venezuela	36
Zimbabwe	39

Importing Members

Australia	51
Austria	52
Belgium/Luxembourg	53
Canada	54
Cyprus	86
Denmark[1]	55
Federal Republic of Germany	57
Finland	71
France[2]	53
Hong Kong	93
Hungary	94
Ireland	98
Israel	99
Italy	59
Japan	60
Netherlands	61
New Zealand[3]	70
Norway	62
Portugal[4]	31
Spain	63
Sweden	64
Switzerland	65
United Kingdom	68
United States of America	69
Yugoslavia	148

[1] Includes Greenland
[2] Includes French West Indies
[3] Includes Niue
[4] Includes Azores.

Note.—Members of the Organization African Malagassy Coffee Producers (OAMCAF) are *italic*. Coffee export stamps issued to members of OAMCAF will bear the code number 155.

[FR Doc. 81-8838 Filed 3-23-81; 8:45 am]

BILLING CODE 4810-22-M

Internal Revenue Service

[Delegation Order No. 67 (Rev. 15)]

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: The specific authorization to sign the name of, or on behalf of, Roscoe L. Egger, Jr., Commissioner of Internal Revenue. The text of the Delegation Order appears below.

EFFECTIVE DATE: March 14, 1981.

FOR FURTHER INFORMATION CONTACT: Martha M. Seeman, PR:I, 1111 Constitution Ave., N.W., Room 3528, Washington, DC 20224 (202) 566-4273 (not a toll-free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

Albert C. Shuckra,

Director, Internal Management Documents Division.

Delegation Order

Date of issue: March 14, 1981.

Effective date: March 14, 1981.

Subject: Signing the Commissioner's Name or on His Behalf.

Effective 12:01 A.M., March 14, 1981, all outstanding authorizations to sign the name of, or on behalf of, W. E. Williams, Acting Commissioner of Internal Revenue, are hereby amended to authorize the signing of the name of, or on behalf of, Roscoe L. Egger, Jr., Commissioner of Internal Revenue.

This Order supersedes Delegation Order No. 67 (Rev. 14), issued October 31, 1980.

Roscoe L. Egger, Jr.,

Commissioner.

[FR Doc. 81-8906 Filed 3-23-81; 8:45 am]

BILLING CODE 4830-01-M

Office of the Secretary

[Department Circular, Public Debt Series—No. 9-81]

Treasury Bonds of 2001; Invitation for Tenders

Washington, March 18, 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 $1,750,000,000 of United States securities, designated Treasury Bonds of 2001 (CUSIP No. 912810 CU 0). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated April 2, 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, 2001, 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 or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations

and of coupon, registered, and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. 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, March 26, 1981. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, March 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 95.000. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of 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 securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.5., must be made or completed on or before Thursday, April 2, 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 30, 1981. When payment has been submitted with the tender and the purchace price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the

same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6.1. 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.

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.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 81-8821 Filed 3-19-81; 10:49 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 56
Tuesday, March 24, 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

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: Monday, March 23, 1981, 4 p.m.

PLACE: 1700 G Street N.W., board room, sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202–377–6679).

CHANGES IN THE MEETING: The following items have been added to the open portion of the Bank Board meeting scheduled for Monday, March 23, 1981 at 4 p.m.

Amendment Regarding Supervisory Branch Office Acquisitions

Merger, Maintenance of Branch Offices; Cancellation of Membership and Insurance and Transfer of Stock—Eastern-Liberty Federal Savings and Loan Association, Washington, D.C. INTO National Permanent Federal Savings and Loan Association, Washington, D.C.

No. 463, March 23, 1981.

[S-469-81 Filed 3-20-81; 2:25 pm]

BILLING CODE 6720-01-M

federal register

Tuesday
March 24, 1981

Part II

Department of Commerce

National Oceanic and Atmospheric Administration

Deep Seabed Mining; Regulations for Exploration Licenses

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 970

Deep Seabed Mining Regulations for Exploration Licenses

AGENCY: National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Proposed rules.

SUMMARY: Pub. L. 96–283, the Deep Seabed Hard Mineral Resources Act (the Act), establishes a program pursuant to which the Administrator of the National Oceanic and Atmospheric Administration (NOAA) is authorized to issue to eligible United States citizens licenses for exploration for deep seabed hard mineral resources and permits for the commercial recovery of such resources. The Act calls for NOAA to issue such regulations as are required by or are necessary and appropriate to implement this program. These proposed rules set forth the procedures and substantive requirements according to the terms of the Act pursuant to which U.S. citizens may apply for and NOAA will issue exploration licenses. NOAA seeks comments from interested persons on these proposed rules.

DATES: 1. Comments on these proposed rules must be submitted in writing on or before May 29, 1981.

2. Public hearings concerning these regulations will be held as follows:

a. April 24, 1981—Honolulu, Hawaii.

b. April 28, 1981—San Francisco, California.

c. May 8, 1981—Washington, D.C.

ADDRESSES: Comments should be mailed to: Office of Ocean Minerals and Energy, National Oceanic and Atmospheric Administration, Page Building 1, Suite 410, 2001 Wisconsin Avenue, N.W., Washington, D.C. 20235.

The public hearings will be held at the following locations:

a. Honolulu: Courtroom 4, U.S. Courthouse, 300 Ala Moana Boulevard (1:30 and 7:30 p.m.)

b. San Francisco: Coral Sea Room, Holiday Inn, Fishermen's Wharf, 1300 Columbus Avenue (1:30 and 7:30 p.m.)

c. Washington, D.C.: Room 4830, Commerce Department, 14th St. and Constitution Ave. (9:00 a.m.)

FOR FURTHER INFORMATION CONTACT: James P. Lawless, Office of Ocean Minerals and Energy, National Oceanic and Atmospheric Administration, Page Building 1, Suite 410, 2001 Wisconsin Avenue, N.W., Washington, D.C. 20235 Telephone: (202) 653–8257.

SUPPLEMENTARY INFORMATION: The Act was signed into law on June 28, 1980. It establishes a legal structure pursuant to which United States citizens may proceed with the exploration for and commercial recovery of deep seabed hard minerals (commonly referred to as "manganese nodules"), pending conclusion of an acceptable Law of the Sea Treaty which would address the same issue. The Act authorizes the Administrator of NOAA to issue to eligible U.S. citizens licenses for the exploration for deep seabed hard minerals (which licenses may not be issued before July 1, 1981) and permits for the commercial recovery of such minerals (which permits may not authorize commercial recovery to commence before January 1, 1988). The Act also authorizes NOAA, in consultation with the Secretary of State and the heads of other appropriate departments and agencies, to designate as reciprocating states those other nations which establish seabed mining programs which are compatible with and recognize the U.S. program. These reciprocal arrangements will provide a mechanism whereby each nation will recognize the rights of the others' miners.

These proposed regulations for the issuance of exploration licenses have been developed, consistent with the purposes of the Act, to establish a legal framework to facilitate the development of the new seabed mining industry in the United States, while assuring that such efforts proceed in a responsible and environmentally sensitive manner. The regulations are intended to provide the necessary degree of certainty to the industry, while also recognizing the need for flexibility in order to promote the development of deep seabed mining technology, and the usefulness of allowing initiative on behalf of miners to develop mining techniques and systems in a manner compatible with the requirements of the Act and these regulations. In this regard the regulations reflect an approach, pursuant to the Act, whereby the issues discussed ultimately will be addressed and evaluated on the basis of the application and exploration plan submitted by each applicant.

Earlier public comment. In developing these regulations, NOAA has pursued a continuing effort to provide for and encourage public participation. On July 28, 1980, NOAA published in the **Federal Register** and distributed an advance notice of proposed rulemaking (45 FR 49953), seeking comments and information for use in this rulemaking. In November 1980, after considering the responses received on the advance notice, NOAA issued a discussion paper on the major issues to be addressed in regulations. This paper was sent to interested persons and organizations, and a notice published in the **Federal Register** (45 FR 79089, November 28, 1980), seeking comments. Also, a public hearing was held on December 17, 1980, to receive comments. The proposed rules have been prepared after considering this series of comments.

Exploration licenses. The proposed regulations deal only with the requirements and procedures pertaining to exploration licenses. NOAA determined that it was neither necessary nor desirable to propose regulations at this time for commercial recovery permits. This conclusion was based substantially on comments from interested persons that it would be premature to do so. The Act prohibits commercial recovery until January 1, 1988, and current explorers have indicated an intent not to file commercial recovery permit applications until at least 1984. NOAA's decision also was based on the agency's own realization that the deep seabed mining industry is still evolving and that more information must be developed to form a rational basis for future decisions by industry and by NOAA in its implementation of the Act. Therefore, any attempt at this time to promulgate commercial recovery regulations would likely be counterproductive for both NOAA and the industry. During the interim, NOAA and the industry will develop the more extensive information base necessary for a reasoned approach to commercial recovery regulations. Meanwhile, these proposed regulations will allow miners to establish needed priorities of right in selected seabed areas and to continue necessary exploration activities in accordance with the Act.

Structure of the regulations. The proposed regulations are structured to present procedures and requirements in the approximate chronological order they will be encountered in the application process. They begin by setting out their underlying purpose and the basic legal premises established by the Act, as well as the definitions applicable to the rules. Next, the steps that the applicant and NOAA will follow are set forth mostly in Subparts B through E, while the more substantive discussion of major issues that arise during the course of issuing and operating under a license are found primarily in Subparts F, G, and H. Miscellaneous provisions, plus the primary procedural subparts, follow.

The reader also will note that a major portion of the regulations is devoted to procedures rather than to substantive requirements. Most of these procedural requirements are found in the Act. While the regulations could have been greatly shortened and their provisions much simpler by excluding the procedures and relying on reference to the Act for such provisions, NOAA has included them in the regulations for the convenience of the reader and the efficiency of being able to refer to one document for all relevant requirements and procedures. The regulations also include detailed provisions on uniform procedures for resolving conflicts among pre-enactment explorers, for formal hearings if requested, and for enforcement actions if such situations should arise. While these provisions are somewhat lengthy, they have been prepared and included primarily to assure due process for applicants and licensees.

Interagency cooperation. The Act provides for consultation and cooperation between NOAA and other Federal agencies in the issuance of exploration licenses, and urges the reduction in separate agency actions where possible. NOAA believes it can provide a useful role in this regard through the application review process. To this end, NOAA has identified for inclusion in applications the information needs of those agencies with review or permitting roles specifically identified in the Act. These are the Environmental Protection Agency (for National Pollutant Discharge Elimination System permits), the Coast Guard (for safety of life and property at sea) and the Attorney General and Federal Trade Commission (for antitrust review). NOAA also will be able to facilitate the needs of other agencies and the overall Federal review process for licenses by functioning as lead agency for the environmental impact statement on the issuance of each license.

Major issues. Many issues are addressed in the proposed regulations, and NOAA seeks comment on any of these. However, the major issues concerning which NOAA has discretion in implementing the Act are as follows (applicable sections are noted in parentheses):

1. The extent of information needed to determine the applicant's financial responsibility to engage in the proposed exploration. (§§ 970.201 and 970.401)

2. The extent of information needed to determine the applicant's technological capability to undertake the proposed exploration. (§§ 970.202 and 970.402)

3. The information specified for an applicant to include in its exploration plan. (§§ 970.203 and 970.404)

4. The extent of information or analysis to require on, and basis for evaluating potential environmental effects from, exploration activities. (§§ 970.203, 970.204, 970.506, and Subpart G)

5. Criteria and procedures for resolving overlapping applications by pre-enactment explorers. (§§ 970.302)

6. Criteria for evaluating the proposed size and location of an exploration area. (§§ 970.405 and 970.601)

7. Criteria for resolving potential conflicts on uses of the high seas and other international conflicts. (§§ 970.503, 970.504 and 970.505)

8. Criteria for determining whether there are undue threats to the safety of life and property at sea. (§§ 970.205 and Subpart H)

9. Criteria for terms, conditions and restrictions to be included in a license for the purpose of ensuring diligent exploration. (§§ 970.517 and 970.602)

10. Requirements in the form of license terms, conditions and restrictions relative to environmental impact monitoring and mitigation measures. (§§ 970.518, 970.522 and 970.702)

11. Provisions for terms, conditions and restrictions in licenses to avoid waste during mining and to allow the opportunity for future recovery of the unrecovered balance of nodules. (§§ 970.519 and 970.603)

In addition to the above major issues, NOAA especially invites comment on the following specific provisions.

Information on exploration. As part of an application, § 970.204(a) requires information for use by NOAA in preparing the mandated environmental impact statement (EIS) on the issuance of each license. It distinguishes between information needed for the period of exploration prior to equipment testing and that needed for addressing the impacts of such testing. For each of these two categories, the proposed rule also calls for information both on the surrounding environment and on the nature of proposed operations. Applicants may elect to submit the information either entirely with the application or in two stages, but they may not undertake equipment testing until at least 365 days after the second category of information is submitted to NOAA. This will be necessary to allow NOAA review and concurrence with the testing, and the filing of a final supplement to the EIS.

NOAA will develop a technical guidance document which will provide assistance for the agency and the applicant, in consultation, to identify the details on information needed for making the necessary environmental and other determinations required by the Act.

NOAA solicits comments on this approach.

Conflict resolution. In § 970.302, NOAA proposes procedures and criteria for resolving site conflicts among license applications filed by preenactment explorers. NOAA's general approach in these provisions is to encourage the quick resolution of conflicts and to discourage the continued creation of new conflicts. Comments are invited on these provisions, including the following specific issues.

—NOAA believes that applications filed by pre-enactment explorers must be in substantial compliance with the requirements for an application. However, in order to expedite the resolution of conflicts, the rules do not require a separate time period for NOAA's substantial compliance review before the 30-day amendment period allowed for applicants to remove initial conflicts (§ 970.302(a)(2) and (3)).

—The proposed rules preclude the knowing creation of conflicts among pre-enactment explorers (see the last sentence of § 970.302(a)(3)). This is intended to encourage the earliest identification of primary exploration areas and to prevent an indefinite series of new conflicts. Toward this end, NOAA also could specify in § 970.302(a)(4) the opening and announcing of amended applications immediately upon their filing. NOAA then would disallow conflicts, if any, created by subsequently filed amended applications.

—The proposed regulations state that the equities to be considered for purposes of determining the superior priority of right are those "pertaining to investment and programs related to development of the area in conflict" (§ 970.302(c)). While this allows NOAA to look beyond the area in conflict when considering equities, it so provides only if the applicant can show the relationship of the equities to such area.

—NOAA seeks to balance preserving the interests of pre-enactment explorers in the conflict resolution process with the national interest in not creating undue delay into deep seabed mining by new entrants. Generally, this can be accomplished by providing a time period for pre-enactment explorers to apply for areas they have explored. After this time period closes, such miners would not be deemed to have special priority as against new entrants (see § 970.302(f)). Alternatively, NOAA could

provide, during the time period when pre-enactment explorers are still entitled to special priority, a mechanism for pre-enactment explorers to respond to or rebut applications by new entrants for given areas. This would protect temporarily the pre-enactment explorer's special priority of right to an area for which a new entrant wished to apply.

—Administrative necessity and the need to protect the interests of U.S. miners will require the correlation of certain dates and procedures in both the U.S. domestic and reciprocating states conflict resolution procedures (e.g., the "opening date" for initial applications and procedures to allow notification to reciprocating states of the coordinates for each site). Thus, NOAA will consider procedures developed among reciprocating states as well as comments on these proposed rules in developing final domestic rules for conflict resolution.

Exempted activities. Proposed § 970.103(a)(2) reiterates the language of the Act relative to the types of activities for which no exploration license is required. NOAA believes that a definitive and useful expansion on this list could not be provided, and that the incentive for a person to file for a license and thus obtain priority of right to a certain exploration area probably is sufficient to discourage extensive effort without a license. NOAA seeks comments on if or how this list should be further explained or expanded in the regulations.

Fee. The Act provides that an applicant must pay a fee to reflect the reasonable administrative costs incurred in reviewing and processing the license application. NOAA is unable to predict with precision the amount of such costs, including those for possible formal hearings and related costs, which will be required during the approximately 15 month review period. However, after some analysis NOAA determined that $100,000 is a reasonable amount. This fee, which would be nonrefundable, will not include the cost of preparing an EIS on the license. Proposed § 970.209 provides that, if NOAA incurs any significant costs over this amount, the agency may make subsequent adjustment, yet avoid the need for frequent interim accounting or computations. NOAA seeks comments as to whether this is a reasonable approach to the administrative fee requirement.

Review of denial of certification. The proposed rules in § 970.407 allow the applicant to seek administrative review of the denial of certification by the Administrator, which review includes a formal hearing. This has been included for the benefit of applicants, although it is not required by the Act. NOAA seeks comments as to the usefulness or desirability of such optional administrative review.

Transfer of a license. The Act authorizes the transfer of a license if the Administrator determines the proposed transferee and his proposed activities meet the requirements of the Act, and if the transfer is in the public interest. NOAA was unable to identify any additional factors, beyond the requirements for issuance, which were appropriate to specify as a requirement for transfer. Thus the proposed rules in § 970.517 include the presumption that a transfer is in the public interest if it meets the requirements of the Act and these regulations. NOAA seeks comments as to what additional factors, if any, should be specified in the rules for this public interest determination.

Delineation methods. NOAA believes a uniform method must be used by applicants in delineating their exploration areas. In § 970.601(c), the proposed rules specify use of the 1866 Clarke Spheroid. NOAA solicits comments on whether this or another spheroid, or some other method, should be used.

Effects from benthic plumes. NOAA's programmatic EIS identifies for commercial recovery four types of effects which for long-term operations have the potential for creating significant effects—two relate to effects on benthic organisms from bottom disturbances and two relate to effects from a surface discharge. One of the effects may also be significant during the exploration phase—that is, the blanketing of benthic fauna and/or dilution of their food supply many kilometers away from the site of tests of scale-model mining equipment, which simulates commercial recovery, by fine sediments disturbed during the tests. Because it is currently unknown whether restricting tests to only part of the exploration area would be beneficial in limiting the affected area or if such an approach could be deterimental because of heavier blanketings, NOAA proposes to focus on this concern in research and monitoring activities and then implement mitigation measures if a significant adverse effect is detected. NOAA solicits comment on this approach to the above uncertainty.

Public participation funds. In its advance notice of proposed rulemaking, referenced above, NOAA made available $5,000 for the cost of certain public participation in these proceedings. The agency received applications for these funds, and all such funds have been used.

Environmental impact statement. Pursuant to section 109(c) of the Act, NOAA has prepared a draft programmatic environmental impact statement assessing the environmental impacts of exploration and commercial recovery in the area of the oceans in which such activities by any United States citizen will likely first occur under the authority of the Act. Public comment is welcome on that statement as well. Copies are available from the Office of Ocean Minerals and Energy (see the "ADDRESSES" section of this preamble.)

Alternative regulatory approaches. In order to benefit the decision making process and promote more informed public participation in developing the regulations, NOAA had identified and considered three alternative regulatory approaches. These are:

1. Fixed regulations;
2. Flexible regulations preceding license issuance; and
3. Flexible regulations both preceding and following license issuance.

NOAA has concluded that the fixed approach would provide the benefit of maximum certainty, but in most cases this benefit would be outweighed by the resulting lack of flexibility which is needed for this evolving industry. The specificity and certainty of this alternative can be provided and is appropriate, for instance, with respect to major issue number 8 above (safety of life and property at sea). In addition, a fixed approach has been selected for the procedural provisions referenced above, to conform to the Act where applicable and also to provide the certainty for which procedures are intended.

The second alternative approach has been selected for those issues which must be addressed by the time a license is issued. It is appropriate for such issues in that it provides the opportunity for innovation by potential miners and allows NOAA to take account of their individual approaches and circumstances, while allowing the certainty of resolving the issue by the time the license is issued. This approach has been selected for major issues number 1, 2, 3, 5, and 6 above.

The third alternative approach has been selected for those issues for which the Act allows NOAA to continue its review and consideration after a license is issued. This approach provides the benefit of flexible guidance to applicants for the issuance of a license, like the second alternative, yet allows the additional benefit of not imposing undue requirements on an applicant and

NOAA when such requirements are unnecessary for agency determinations prior to the issuance of a license. This approach has been selected for major issues number 4, 7, 9, 10 and 11 above, which also is consistent with the requirements of the Act.

Reciprocating states agreements. Before the Administrator of NOAA may designate a nation as a reciprocating state, the Act directs the Secretary of State to judge such a nation's seabed mining program on the basis of, among other criteria, compatibility with the Act and implementing regulations. NOAA proposes that these functions be addressed in two ways. First, NOAA in cooperation with the State Department will shortly publish for public information and comment a set of broad criteria which will guide decisions relating to designations of reciprocating states. While these criteria will not take the place of NOAA's future commercial recovery regulations, they will supplement these exploration regulations by outlining the factors which will be considered. Second, NOAA will incorporate in reciprocating state agreements the requirement for later consultations to assure development of compatible commercial recovery regulations.

Regulatory flexibility analysis. NOAA has conducted an analysis of the economic impact of the proposed rules on small entities, pursuant to Pub. L. 96-354. Because the persons subject to these proposed rules are, insofar as known, major corporations or subsidiaries and affiliates thereof or groups of such, NOAA does not anticipate any but incidental effects on small entities.

Executive Order 12291. NOAA has determined to publish these regulations as major rules under the new Executive Order 12291. However, section 308(a) of the Act requires NOAA to publish these proposed rules in the **Federal Register** not later than March 24, 1981, and therefore it was impracticable to follow the full procedures in the Executive Order for major rules prior to publishing them in proposed form. Although NOAA has proceeded to issue these rules according to the above schedule, under the exemption in Section 8(a)(2) of the Executive Order, the agency has requested consultation with the Office of Management and Budget to enable adherence to the requirements of the Executive Order to the maximum extent practicable. In this regard, NOAA is proceeding with the regulatory impact analysis specified in the Executive Order.

Accordingly, new subparts A-K are proposed to be added to Part 970. The text of these subparts read as follows:

Dated: March 18, 1981.,

Samuel A. Lawrence,

Assistant Administrator for Management and Budget.

PART 970—DEEP SEABED MINING REGULATIONS FOR EXPLORATION LICENSES

Subpart A—General

Subpart B—Applications

Contents

Procedures

Subpart C—Procedures for Applications Based on Exploration Commenced Before June 28, 1980

Subpart D—Certification of Applications

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Issuance/Transfer; Modification/Revision; Suspension/Revocation

Terms, Conditions and Restrictions

Subpart F—Resource Development Concepts

Subpart G—Environmental Effects

Subpart H—Safety of Life and Property at Sea

Subpart I—Miscellaneous

Subpart J—Uniform Procedures

Subpart K—Enforcement

Authority: 30 U.S.C. 1401 *et seq.*

Subpart A—General

§ 970.100 Purpose.

(a) *General.* The purpose of this part is to implement those responsibilities and authorities of the National Oceanic and Atmospheric Administration (NOAA), pursuant to Pub. L. 96–283, the Deep Seabed Hard Mineral Resources Act (the Act), to issue to eligible United States citizens licenses for the exploration for deep seabed hard minerals.

(b) *Purposes of the Act.* In preparing these regulations NOAA has been mindful of the purposes of the Act, as set forth in section 2(b) thereof. These include—

(1) Encouraging the successful conclusion of a comprehensive Law of the Sea Treaty, which will give legal definition to the principle that the hard mineral resources of the deep seabed are the common heritage of mankind and which will assure, among other things, nondiscriminatory access to such resources for all nations;

(2) Establishing, pending the ratification by, and entering into force with respect to, the United States of such a treaty, an interim program to regulate the exploration for and commercial recovery of hard mineral resources of the deep seabed by United States citizens;

(3) Accelerating the program of environmental assessment of exploration for and commercial recovery of hard mineral resources of the deep seabed and assuring that such exploration and recovery activities are conducted in a manner which will encourage the conservation of such resources, protect the quality of the environment, and promote the safety of life and property at sea;

(4) Encouraging the continued development of technology necessary to recover the hard mineral resources of the deep seabed; and

(5) Pending the ratification by, and entry into force with respect to, the United States of a Law of the Sea Treaty, providing for the establishment of an international revenue-sharing fund the proceeds of which will be used for sharing with the international community pursuant to such treaty.

(c) *Regulatory approach.* (1) These regulations incorparate NOAA's recognition that the deep seabed mining industry is still evolving and that more information must be developed to form the basis for future decisions by industry and by NOAA in its implementation of the Act. They also recognize the need for flexibility in order to promote the development of deep seabed mining technology, and the usefulness of allowing initiative by miners to develop mining techniques and systems in a manner compatible with the requirements of the Act and regulations. In this regard, the regulations reflect an approach, pursuant to the Act, whereby their provisions ultimately will be addressed and evaluated on the basis of exploration plans submitted by applicants.

(2) In addition, these regulations reflect NOAA's recognition that the difference in scale and effects between exploration for and commercial recovery of hard mineral resources normally requires that they be distinguished and addressed separately. This distinction is also based upon the evolutionary stage of the seabed mining industry referenced above. Thus, NOAA will issue separate regulations pertaining to commercial recovery, in Part 971 of this chapter.

§ 970.101 Definitions.

For purposes of this part, the term:

(a) "Act" means the Deep Seabed Hard Mineral Resources Act (Pub. L. 96–283; 94 Stat. 553; 30 U.S.C. 1401 *et seq.*);

(b) "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration, or a designee;

(c) "Applicant" means an applicant for an exploration license pursuant to the Act and this part;

(d) "Affiliate" means any person—

(1) In which the applicant or licensee owns or controls more than 5% interest;

(2) Which owns or controls more than 5% interest in the applicant or licensee; or

(3) Which is under common ownership or control with the applicant or licensee.

(e) "Commercial recovery" means—

(1) Any activity engaged in at sea to recover any hard mineral resource at a substantial rate for the primary purpose of marketing or commercially using such resource to earn a net profit, whether or not such net profit is actually earned;

(2) If such recovered hard mineral resource will be processed at sea, such processing; and

(3) If the waste of such activity to recover any hard mineral resource, or of such processing at sea, will be disposed of at sea, such disposal;

(f) "Continental Shelf" means—

(1) The seabed and subsoil of the submarine areas adjacent to the coast, but outside the area of the territorial sea, to a depth of 200 meters or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of such submarine area; and

(2) The seabed and subsoil of similar submarine areas adjacent to the coast of islands;

(g) "Controlling interest", for purposes of paragraph (t)(3) of this section, means a direct or indirect legal or beneficial interest in or influence over another person arising through ownership of capital stock, interlocking directorates or officers, contractual relations, or other similar means, which substantially affect the independent business behavior of such person;

(h) "Deep seabed" means the seabed, and the subsoil thereof to a depth of ten meters, lying seaward of and outside—

(1) The Continental Shelf of any nation; and

(2) Any area of national resource jurisdiction of any foreign nation, if such area extends beyond the Continental Shelf of such nation and such jurisdiction is recognized by the United States;

(i) "Exploration" means—

(1) Any at-sea observation and evaluation activity which has, as its objective, the establishment and documentation of—

(i) The nature, shape, concentration, location, and tenor of a hard mineral resource; and

(ii) The environmental, technical, and other appropriate factors which must be taken into account to achieve commercial recovery; and

(2) The taking from the deep seabed of such quantities, of any hard mineral resource as are necessary for the design, fabrication, and testing of equipment which is intended to be used in the commercial recovery and processing of such resource;

(j) "Hard mineral resource" means any deposit or accretion on, or just below, the surface of the deep seabed of nodules which include one or more minerals, at least one of which contains manganese, nickel, cobalt, or copper;

(k) "International agreement" means a comprehensive agreement concluded through negotiations at the Third United Nations Conference on the Law of the Sea, relating to (among other matters) the exploration for and commercial recovery of hard mineral resources and the establishment of an international regime for the regulation thereof;

(l) "Licensee" means the holder of a license issued under this part to engage in exploration;

(m) "New entrant" means a person who was not engaged in exploration prior to the date of enactment of the Act (June 28, 1980);

(n) "NOAA" means the National Oceanic and Atmospheric Administration;

(o) "Permittee" means the holder of permit issued under NOAA regulations to engage in commercial recovery;

(p) "Person" means any United States citizen, any individual, and any corporation, partnership, joint venture, association, or other entity organized or existing under the laws of any nation;

(q) "Pre-enactment explorer" means a person who was engaged in exploration prior to the date of enactment of the Act (June 28, 1980);

(r) "Reciprocating state" means any foreign nation designated as such by the Administrator under section 118 of the Act;

(s) "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the United States Virgin Islands, Guam, and any other Commonwealth, territory, or possession of the United States; and

(t) "United States citizen" means

(1) Any individual who is a citizen of the United States;

(2) Any corporation, partnership, joint venture, association, or other entity organized or existing under the laws of any of the United States; and

(3) Any corporation, partnership, joint venture, association, or other entity (whether organized or existing under the laws of any of the United States or a foreign nation) if the controlling interest in such entity is held by an individual or entity described in paragraph (t)(1) or (t)(2).

§ 970.102 Nature of licenses.

(a) A license issued under this part will authorize the holder thereof to engage in exploration within a specific portion of the sea floor consistent with the provisions of the Act, this part, and the specific terms, conditions and restrictions applied to the license by the Administrator.

(b) Any license issued under this part will be exclusive with respect to the holder thereof as against any other United States citizen or any citizen, national or governmental agency of, or any legal entity organized or existing under the laws of, any reciprocating state.

(c) A valid existing license will entitle the holder, if otherwise eligible under the provisions of the Act and implementing regulations, to a permit for commercial recovery from an area selected within the same area of the sea floor. Such a permit will recognize the right of the holder to recover hard mineral resources, and to own, transport, use, and sell hard mineral resources recovered, under the permit and in accordance with the requirements of the Act.

§ 970.103 Prohibited activities and restrictions.

(a) *Prohibited activities and exceptions.*

(1) Except as authorized under Subpart C of this part, no United States citizen may engage in any exploration or commercial recovery unless authorized to do so under—

(i) A license or a permit issued pursuant to the Act and implementing regulations;

(ii) A license, permit, or equivalent authorization issued by a reciprocating state; or

(iii) An international agreement which is in force with respect to the United States.

(2) The prohibitions of paragraph (a)(1) of this section will not apply to any of the following activities:

(i) Scientific research, including that concerning hard mineral resources;

(ii) Mapping, or the taking of any geophysical, geochemical, oceanographic, or atmospheric measurements or random bottom samplings of the deep seabed, if such taking does not significantly alter the surface or subsurface of the deep seabed or significantly affect the environment;

(iii) The design, construction, or testing of equipment and facilities which will or may be used for exploration or commercial recovery, if such design, construction or testing is conducted on shore, or does not involve the recovery of any but incidental hard mineral resources;

(iv) The furnishing of machinery, products, supplies, services, or materials for any exploration or commercial recovery conducted under a license or permit issued under the Act and implementing regulations, a license or permit or equivalent authorization issued by a reciprocating state, or under an international agreement; and

(v) Activities, other than exploration or commercial recovery activities, of the Federal Government.

(3) No United States citizen may interfere or participate in interference with any activity conducted by any licensee or permittee which is authorized to be undertaken under a license or permit issued by the Administrator to a licensee or permittee under the Act or with any activity conducted by the holder of, and authorized to be undertaken under, a license or permit or equivalent authorization issued by a reciprocating state for the exploration or commercial recovery of hard mineral resources. For purposes of this section, interference includes physical interference with activities authorized by the Act, this part, and a license issued pursuant thereto; the filing of specious claims in the United States or any other nation; and any other activity designed to harass deep seabed mining activities authorized by law. Interference does not include the exercise of any rights granted to United States citizens by the Constitution of the United States, any Federal or State law, treaty, or agreement or regulation promulgated pursuant thereto.

(4) United States citizens must exercise their rights on the high seas with reasonable regard for the interests of other states in their exercise of the freedoms of the high seas.

(b) *Restrictions on issuance of licenses or permits.* The Administrator will not issue—

(1) Any license or permit after the date on which an international agreement is ratified by and enters into force with respect to the United States, except to the extent that issuance of such license or permit is not inconsistent with such agreement;

(2) Any license or permit the exploration plan or recovery plan of which, submitted pursuant to the Act and implementing regulations, would apply to an area to which applies, or would conflict with:

(i) Any exploration plan or recovery plan submitted with any pending application to which priority of right for issuance applies under this part;

(ii) Any exploration plan or recovery plan associated with any existing license or permit; or

(iii) Any equivalent authorization which has been issued, or for which formal notice of application has been submitted, by a reciprocating state prior to the filing date of any relevant application for licenses or permits pursuant to the Act and implementing regulations;

(3) A permit authorizing commercial recovery within any area of the deep seabed in which exploration is authorized under a valid existing license if such permit is issued to a person other than the licensee for such area;

(4) Any exploration license before July 1, 1981, or any permit which authorizes

commercial recovery to commence before January 1, 1988;

(5) Any license or permit the exploration plan or recovery plan for which applies to any area of the deep seabed if, within the 3-year period before the date of application for such license or permit:

(i) The applicant therefor surrendered or relinquished such area under an exploration plan or recovery plan associated with a previous license or permit issued to such applicant; or

(ii) A license or permit previously issued to the applicant had an exploration plan or recovery plan which applied to such area and such license or permit was revoked under section 106 of the Act; or

(6) A license or permit, or approve the transfer of a license or permit, except to a United States citizen.

Subpart B—Applications

§ 970.200 General.

(a) *Who may apply; how.* Any United States citizen may apply to the Administrator for issuance or transfer of an exploration license. Applications must be submitted in the form and manner prescribed in this subpart.

(b) *Place, form and copies.* Applications for the issuance or transfer of exploration licenses must be submitted in writing, verified and signed by an authorized officer or other authorized representative of the applicant, in 25 copies, to the following address: Office of Ocean Minerals and Energy, National Oceanic and Atmospheric Administration, Suite 410, Page 1 Building, 2001 Wisconsin Avenue, N.W., Washington, D.C. 20235.

(c) *Use of application information.* The contents of an application, as set forth below, must provide NOAA with the information necessary to make determinations required by the Act and this part pertaining to the issuance or transfer of an exploration license. Thus, each portion of the application should identify the requirement in this part to which it responds. In addition, the information will be used by NOAA in its function under the Act of consultation and cooperation with other Federal agencies or departments in relation to their programs and authorities, in order to reduce the number of separate actions required to satisfy Federal agencies' responsibilities.

(d) *Pre-application consultation.* To assist in the development of adequate applications and assure that applicants understand how to respond to the provisions of this subpart, NOAA will be available for pre-application consultations with potential applicants.

(e) *Priority of right.*

(1) Priority of right for issuance of licenses to pre-enactment explorers will be established pursuant to Subpart C of this part.

(2) Priority of right for issuance of licenses to new entrants will be established on the basis of the chronological order in which license applications, which are in substantial compliance with the requirements established under this subpart, pursuant to § 970.210, are filed with the Administrator.

(3) Applications must be received by the Office of Ocean Minerals and Energy on behalf of the Administrator before a priority can be established.

(f) *Request for confidential treatment of information.* If an applicant wishes to have any information in his application treated as confidential, he must so indicate pursuant to § 970.902.

Contents

§ 970.201 Statement of financial resources.

(a) *General.* The application must contain information sufficient to demonstrate to the Administrator the financial resources of the applicant to carry out, in accordance with this part, the exploration program set forth in the applicant's exploration plan. The information must show that the applicant possesses the funds necessary to cover the estimated costs of the exploration program or that the applicant has reasonable assurance of obtaining the necessary funds, or a combination of the two. The information must be sufficient for the Administrator to make a determination on the applicant's financial responsibility pursuant to § 970.401.

(b) *Contents.* In particular, the information on financial resources must include:

(1) A description of how the applicant intends to finance the exploration program;

(2) The estimated cost of the exploration program;

(3) A financial statement, income statement and a balance sheet for the applicant for the two preceding years, accompanied by an opinion of a certified public accountant;

(4) If the applicant is affiliated with another company or other companies, the affiliate companies' most recent financial statements, including an income statement and a balance sheet, accompanied by an opinion of a certified public accountant; and

(5) The credit rating and bond rating of the applicant, and affiliates.

§ 970.202 Statement of technological experience and capabilities.

(a) *General.* The application must contain information sufficient to demonstrate to the Administrator the technological capability of the applicant to carry out, in accordance with the regulations contained in this part, the exploration program set out in the applicant's exploration plan. It must contain sufficient information for the Administrator to make a determination on the applicant's technological capability pursuant to § 970.402.

(b) *Contents.* In particular, the information on technological experience and capabilities must include:

(1) A description of the exploration equipment to be used by the applicant in carrying out the exploration program;

(2) A description of the environmental monitoring equipment to be used by the applicant in monitoring the environmental effects of the exploration program; and

(3) The experience of the applicant in using this or similar equipment.

§ 970.203 Exploration plan.

(a) *General.* Each application must include an exploration plan which describes the applicant's projected exploration activities during the period to be covered by the proposed license. Generally, the exploration plan must demonstrate to a reasonable extent that the applicant's efforts will lead to commercial recovery by the end of the 10-year license period. In particular, the plan must include sufficient information for the Administrator, pursuant to this part, to make the necessary determinations pertaining to the certification and issuance or transfer of a license and to the development and enforcement of the terms, conditions and restrictions for a license.

(b) *Contents.* The exploration plan must contain:

(1) The activities proposed to be carried out during the period of the license;

(2) A description of the area to be explored, including its delineation according to § 970.601;

(3) The intended exploration schedule; which must be responsive to the diligence requirements in § 970.602. The schedule should include an approximate projection for the exploration activities planned, such as the following:

(i) Conducting survey cruises to determine the location and abundance of nodules as well as the sea floor configuration, ocean currents and other physical characteristics of potential commercial recovery sites;

(ii) Assaying nodules to determine their metal contents;

(iii) Designing and testing system components onshore and at sea;

(iv) Designing and testing scale-model mining systems which simulate commercial recovery;

(v) Designing and testing scale-model processing systems to prove concepts and designing and testing systems which simulate commercial processing;

(vi) Evaluating the continued feasibility of commercial scale operations based on technical, economic, legal, political and environmental considerations; and

(vii) Applying for permits needed to construct and operate commercial scale facilities;

(4) A description of the methods to be used to determine the location, abundance, and quality (i.e., assay) of nodules, and to measure physical conditions in the area which will affect nodule recovery system design and operations (e.g., seafloor topography, seafloor geotechnic properties, and currents);

(5) A description of research and development activities for components of a nodule recovery system and of the system, or systems, planned to prove commercial recovery system concepts and demonstrate the ability to deliver a continuous flow of nodules to the surface. This description should address such factors as nodule collection technique, seafloor sediment rejection subsystem, mineship nodule separation scheme, pumping method, anticipated equipment test areas, and details on the testing plan;

(6) An estimated schedule of expenditures, which must be responsive to the diligence requirements as discussed in § 970.602; and

(7) Measures to protect the environment and to monitor the effectiveness of environmental safeguards and monitoring systems for commercial recovery. These measures must take into account the provisions in §§ 970.506, 970.518, 970.522 and Subpart G of this part.

§ 970.204 Environmental and use conflict analysis.

(a) *Environmental information.* To enable NOAA to implement better its responsibility under section 109(d) of the Act to develop an environmental impact statement (EIS) on the issuance of an exploration license, the application must include information for use in preparing NOAA's EIS on the environmental impacts of the activities proposed by the applicant. It must present physical, chemical and biological information for the exploration area. This information should include relevant environmental information, if any, obtained during past exploration activities, but need not duplicate information obtained during NOAA's DOMES Project. Planned activities in the area, including equipment and systems to be tested, as well as their environmental implications, also must be described to the best of the applicant's ability. The applicant may include all information with his application, or he may elect to delay submission of detailed and specific information pertaining to system tests and equipment. However, applicants so electing should plan to submit the latter information at least 365 days prior to the test, and if it is submitted subsequent to the original application such tests may not be undertaken in the absence of concurrence by NOAA and the filing of any required final supplement to the EIS. NOAA will develop a technical guidance document which will provide assistance for the agency and the applicant, in consultation, to identify the details on information needed in each case. NOAA may refer to such information for purposes of other determinations under the Act as well. NOAA also will seek to facilitate other Federal decisions on exploration activities by functioning as lead agency for the EIS on the application and related actions by other agencies, including those pertaining to onshore impacts.

(b) *Use conflict information.* To assist the Administrator in making determinations relating to potential use conflicts between the proposed exploration and other activities in the exploration areas, pursuant to §§ 970.503, 970.505, and 970.520, the application must include information known to the applicant with respect to such other activities.

§ 970.205 Vessel safety.

In order to provide a basis for the necessary determinations with respect to the safety of life and property at sea, pursuant to §§ 970.507, 970.521 and Subpart H of this part, the application must contain the following information, except for those vessels under 300 gross tons which are engaged in oceanographic research if they are used in exploration.

(a) *U.S. flag vessel.* The application must contain a demonstration or affirmation that any United States flag vessel utilized in exploration activities will possess a current valid Coast Guard Certificate of Inspection (COI). To the extent that the applicant knows which United States flag vessel he will be using, the application must include a copy of the COI.

(b) *Foreign flag vessel.* The application must also contain information on any foreign flag vessels to be used in exploration activities, which responds to the following requirements. To the extent that the applicant knows which foreign flag vessel he will be using, the application must include evidence of the following:

(1) That any foreign flag vessel whose flag state is party to the International Convention for Safety of Life at Sea, 1974 (SOLAS 74) possesses current valid SOLAS 74 certificates;

(2) That any foreign flag vessel whose flag state is not party to SOLAS 74 but is party to the International Convention for the Safety of Life at Sea, 1960 (SOLAS 60) possesses current valid SOLAS 60 certificates; and

(3) That any foreign flag vessel whose flag state is not a party to either SOLAS 74 or SOLAS 60 meets all applicable structural and safety requirements of a United States flag vessel.

(c) *Supplemental certificates.* If the applicant does not know at the time of submitting an application which vessels he will be using, he must submit the applicable certification for each vessel before the cruise on which it will be used.

§ 970.206 NPDES requirements.

(a) *Applicability.* Section 109(e) of the Act specifically establishes that requirements pertaining to National Pollutant Discharge Elimination System (NPDES) permits pursuant to the Clean Water Act apply to any discharge of a pollutant from a vessel or other floating craft engaged in exploration.

(b) *Information required.* In order to provide sufficient information to accomplish NOAA's role under section 103(e) of the Act of consultation and cooperation and to obtain a determination on an NPDES permit, the application should include the following:

(1) EPA Form 1-General (see the Environmental Protection Agency (EPA) consolidated permit and application form regulations, 33 CFR Parts 122 and 124, at 45 FR 33555, May 19, 1980); and

(2) EPA Form 2C–NPDES (see 45 FR 33567). The information in these forms will be used by EPA to make a determination on a NPDES permit for the proposed exploration activities, including the determination pursuant to the EPA Ocean Discharge Critera under section 403(c) of the Clean Water Act (40 CFR Part 125, Subpart M, at 45 FR 65942, October 3, 1980). To facilitate EPA's determination, NOAA has addressed in the programmatic EIS

relating to this part the ten considerations listed in 40 CFR 125.122, from the perspective of deep seabed mining exploration activities.

§ 970.207 Statement of ownership.

The application must include sufficient information to demonstrate that the applicant is a United States citizen, as required by § 970.103(b)(6), and as defined in § 970.101(t). In particular, the application must include:

(a) Name, address, and telephone number of the United States citizen responsible for exploration operations to whom notices and orders are to be delivered; and

(b) A description of the citizen or citizens engaging in such exploration, including:

(1) Whether the citizen is a natural person, partnership, corporation, joint venture, or other form of association;

(2) The state of incorporation or state in which the partnership or other business entity is registered;

(3) The name of registered agent or equivalent representative and places of business;

(4) Certification of essential and nonproprietary provisions in articles of incorporation, charter or articles of association; and

(5) The name of each member of the association, partnership, or joint venture, including information about the participation of each partner and joint venturer and/or ownership of stock.

§ 970.208 Antitrust information.

(a) *General.* Section 103(d) of the Act specifically provides for antitrust review of applications by the Attorney General of the United States and the Federal Trade Commission.

(b) *Contents.* In order to provide information for this antitrust review, the application must contain the following:

(1) A copy of each agreement between any parties to any joint venture which is applying for a license, provided that said agreement relates to deep seabed hard mineral resource exploration or mining;

(2) The identity of any affiliate of any person applying for a license;

(3) For each applicant and affiliate of an applicant, for the two preceding years:

(i) The annual tons and dollar value of production and purchases in the United States of each of copper, nickel, cobalt, and manganese minerals;

(ii) The annual tons and dollar value of sales to and in the United States of copper, nickel, cobalt, and manganese minerals;

(iii) The annual tons and dollar value of production and sale to and in the United States of each metal refined from minerals containing copper, nickel, cobalt, and manganese;

(iv) Copies of the annual report, balance sheet and income statement;

(v) Copies of each document submitted to the Securities and Exchange Commission; and

(4) All market studies, surveys and other memoranda, in the custody or control of the applicant or affiliate of the applicant, commenting upon the future prospects for deep seabed hard mineral resource mining.

(c) *Supplementary information.* After reviewing the application submitted to NOAA, the Assistant Attorney General in charge of the Antitrust Division, or the Federal Trade Commission, may request such additional information from the applicant or his affiliate as they deem necessary adequately to fulfill their responsibility under section 103(d) of the Act. Such information must be supplied not later than 30 days after requested by the Assistant Attorney General or the Federal Trade Commission.

§ 970.209 Fee.

(a) *General.* Section 104 of the Act provides that no application for the issuance or transfer of an exploration license will be certified unless the applicant pays to NOAA a reasonable administrative fee, which must reflect the reasonable administrative costs incurred in reviewing and processing the application.

(b) *Amount.* In order to meet this requirement, the application must include a nonrefundable fee payment of $100,000, payable to the National Oceanic and Administration, Department of Commerce. If NOAA incurs any significant costs in excess of this amount in reviewing and processing an application, the agency subsequently will determine those costs and the applicant will be required to submit additional payment prior to issuance or transfer of the license.

Procedures

§ 970.210 Substantial compliance with application requirements.

(a) Priority of right for the issuance of licenses to new entrants will be established on the basis of the chronological order in which license applications which are in substantial compliance with the requirements established under this subpart are filed with the Administrator pursuant to § 970.200.

(b) In order for an application to be in substantial compliance with the requirements of this subpart, it must include information specifically identifiable with and materially responsive to each requirement contained in §§ 970.201 through 970.209.

(c) The Administrator will make a determination as to whether the application is in substantial compliance. Within 30 days after receipt of an application, he will issue written notice to the applicant regarding such determination. The notice will identify, if applicable, in what respects the application is not in either full or substantial compliance.

§ 970.211 Reasonable time for full compliance.

Priority of right will not be lost in case of any application filed which is in substantial but not full compliance, as specified in § 970.210, if the Administrator determines that the applicant, within 60 days after issuance to the applicant by the Administrator of written notice that the application is in substantial but not full compliance, has brought the application into full compliance with the requirements of this subpart.

§ 970.212 Consultation and cooperation with Federal agencies.

(a) Promptly after his receipt of an application, the Administrator will distribute a copy of the application to each other Federal agency or department which has programs or activities within its statutory responsibilities which would be affected by the activities proposed in the application. Based on its legal responsibilities and authorities, each such agency or department may, not later than 60 days after it receives a copy of the application which is in full compliance with this subpart, recommend certification of the application, issuance or transfer of the license, or denial of such certification, issuance or transfer. The advice or recommendation by the Attorney General or Federal Trade Commission on antitrust review, pursuant to § 970.208, may be submitted within 90 days after their receipt of a copy of the application which is in full compliance with this subpart. NOAA will use the benefits of this process of consultation and cooperation to facilitate necessary Federal decisions on the proposed exploration activities, pursuant to the mandate of section 103(e) of the Act to reduce the number of separate actions required to satisfy Federal agencies' statutory responsibilities.

(b) In any case in which a Federal agency or department recommends a denial, it will set forth in detail the manner in which the application does

not comply with any law or regulation within its area of responsibility and will indicate how the application may be amended, or how terms, conditions or restrictions might be added to the license to assure compliance with such law or regulation.

(c) A recommendation from another Federal agency or department for denying or amending an application will not affect its having been in substantial compliance with the requirements of this subpart, pursuant to § 970.210, for purposes of establishing priority of right. However, pursuant to section 103(e) of the Act, NOAA will cooperate with such agencies and with the applicant with the goal of resolving the concerns raised and satisfying the statutory responsibilities of these agencies.

§ 970.213 Public notice, hearing and comment.

(a) *Notice and comments.* The Administrator will publish in the Federal Register notice of receipt of each application for an exploration license. Subject to § 970.902, interested persons will be permitted to examine the materials relevant to such application. Interested persons will have at least 60 days after publication of such notice to submit written comments to the Administrator.

(b) *Hearings.* (1) The Administrator will hold a public hearing on the application and the draft EIS prepared on it pursuant to section 109(d) of the Act in an appropriate location, and may employ such additional methods as he deems appropriate to inform interested persons about each application and to invite their comments thereon.

(2) If the Administrator determines there exists one or more specific and material factual issues which require resolution by formal processes, at least one formal hearing will be held in the District of Columbia in accordance with the provisions of Subpart J of this part. The record developed in any such formal hearing will be part of the basis of the Administrator's decisions on an application.

(c) Hearings held pursuant to this section and other procedures will be consolidated insofar as practicable with hearings held and procedures employed by other agencies.

§ 970.214 Amendment to an application.

After an application has been submitted to the Administrator, but before a determination is made on the issuance or transfer of a license, the applicant must submit an amendment to the application if required by a significant change in the circumstances represented in the original application and affecting the requirements of this subpart. Applicants should consult with NOAA to determine if changes in circumstances are sufficiently significant to require submission of an amendment. The application, as amended, would then serve as the basis for determinations by the Administrator under this part. For each amendment judged by the Administrator to be significant, he will provide a copy of such amendment to each other Federal agency and department which received a copy of the original application, and also will provide for public notice, hearing and comment on the amendment pursuant to § 970.213. Such amendment, however, will not affect the priority of right established by the filing of the original application. After the issuance of or transfer of a license, any revision by the licensee will be made pursuant to § 970.513.

Subpart C—Procedures for Applications Based on Exploration Commenced Before June 28, 1980

§ 970.300 General.

Pursuant to section 101(b) of the Act, any United States citizen who was engaged in exploration before the effective date of the Act [June 28, 1980] qualifies as a pre-enactment explorer and may continue to engage in such exploration:

(a) If he applies for a license pursuant to Subpart B of this part with respect to such exploration within the time period specified in section § 970.301; and

(b) Until such license is issued to such applicant or a final administrative or judicial determination is made affirming the denial of certification of the application for, or issuance of, such license.

§ 970.301 Filing period for applications based on pre-enactment exploration.

Any United States citizen who intends to file an application based on preenactment exploration must notify the Administrator of this intent within 20 days after the effective date of this part and must submit information to confirm that he was engaged in pre-enactment exploration. He also must submit any application to be based upon pre-enactment exploration within 90 days after the effective date of this part. Such applications must be in substantial compliance with the requirements of Subpart B of this part, pursuant to § 970.210(b) and (c). Applications not filed within this 90-day period will not be considered to be based upon pre-enactment exploration. During this 90-day period only applications based on pre-enactment exploration will be accepted. The Administrator will not open such applications until a date which in advance will be announced in writing to each applicant and in the Federal Register, such date to be in accordance with agreement with reciprocating states. In no event, however, will they be opened until after the above 90-day period.

§ 970.302 Procedures and criteria for resolving conflict.

(a) *Multiple applications for the same area of the deep seabed.*

(1) *General.* In any case in which two or more applications based upon pre-enactment exploration propose logical mining units referring to all or part of the same area of the deep seabed, the Administrator will apply the procedures and principles of this section to resolve the conflicts. This section applies only to conflicts among applications submitted in the United States. Conflicts between a U.S. application and a foreign application will be resolved according to the measures provided for among reciprocating states.

(2) *Notification of conflicts.* If the Administrator determines that one or more conflicts exist between or among applications, he will send written notice of the conflicts to each applicant concerned. The notice will describe the part or parts of the proposed logical mining units in conflict. Upon receipt of the notice of conflict, the applicants involved in the conflict may elect to resolve the conflict by voluntary amendment, or, if all parties to a conflict agree, may proceed directly to binding dispute settlement.

(3) *Voluntary resolution of conflicts.* Each applicant involved in a conflict may elect to resolve the conflict by amending his application to eliminate all or part of that area of his proposed logical mining unit in conflict. Such applicant may, in amending his application, select one or more alternative locations that, in lieu of his relinquished proposed logical mining unit or in addition to that part of the original proposal not relinquished, will constitute a logical mining unit in accordance with § 970.601. The applicant must submit the amendment to his application within 30 days after receipt of a notice of conflict. The date of filing of the amendment will be deemed to be the date on which the application was originally filed. Alternative locations applied for in the amended application must be limited to areas for which no applications are pending before the Administrator or a reciprocating state.

(4) *Action on amended applications.* (i) The Administrator will open each amended application at the same hour on the first business day following the close of the 30-day amendment period. Immediately after opening the amended applications, the Administrator will announce the names of the applicants submitting amendments and the location of their proposed logical mining units, as amended.

(ii) If the amended application proposes a logical mining unit that is not in conflict with any other logical mining unit proposed by a pre-enactment explorer, the Administrator will initiate processing and review of the application. To the extent practicable, the deadlines for certification and issuance provided in §§ 970.400 and 970.500, respectively, will run from the date of the original filing.

(iii) If conflicts among proposed logical mining units continue to exist after the voluntary amendment under this section, the Administrator:

(A) Will act in accordance with paragraph (b) of this section to resolve the conflict; and

(B) Will, if an applicant so requests, proceed in accordance with this part, with review of that portion of the application that is not in conflict with another application. The Administrator will proceed with such review only if the applicant advises the Administrator in writing that loss of the area in conflict will not materially affect the applicant's ability to perform the exploration program set forth in his application. The request by an applicant for the Administrator to proceed with process and review of the non-conflicting portion of the application, and any fees paid or expenses incurred by an applicant with respect to such processing and review, will not be taken into account when applying the equitable principles described in paragraph (c) of this section.

(b) *Conflict resolution.* (1) If the Administrator finds that a conflict between applications exists after the 30-day period for resolution by voluntary amendment in paragraph (a) expires, he will send written notice of the remaining conflict to each applicant concerned with the conflict, including the location of those portions of the proposed logical mining units in conflict. The applicants will have 45 days from the date of issuance of the notice to:

(i) Agree in writing to a final resolution of the conflict; or

(ii) Agree in writing to submit the conflict to a binding conflict resolution procedure of the applicants' choice. This procedure must be one that is normally capable of making a final determination on the merits of the conflict within one year after submission of the dispute.

(2) If, at the end of the 45-day period specified in paragraph (b)(1) of this section, the applicants have not entered into an agreement as specified in paragraph (b)(1)(i) or (b)(1)(ii) of this section, then the Administrator will notify each applicant in writing that the conflicting applications will be resolved by the Administrator after a formal hearing is held concerning the conflicting applications.

(3) Any formal hearing held pursuant to paragraph (b) (2) will be held in accordance with Subpart J of this part, except that:

(i) The General Counsel of NOAA will not as a matter of right be a party to the hearing; however, the General Counsel may be admitted to the hearing by the administrative law judge as a party or as an interested person pursuant to § 970.1001(f)(2) and (3); and

(ii) The judge will take such actions as he deems necessary and appropriate to conclude the hearing and transmit a recommended decision to the Administrator not later than the 120th day following the date on which the matter was referred to the judge.

(c) *Equitable principles.* In determining the superior priority between or among conflicting applications, the judge and the Administrator will apply principles of equity. The equities considered when determining the superior priority of right to a site the subject of a conflicting application will be only the equities pertaining to investment and programs related to development of the area in conflict.

(1) *Primary principles.* The following principles must be taken into account with respect to each applicant:

(i) The date on which each applicant, or predecessor in interest, or component organization thereof, commenced exploration activities;

(ii) The continuity of such exploration between the date when it was commenced and the date of submission of the application;

(iii) The extent of such exploration, taking into account the intensity of the exploration program and the amount and quality of the data collected; and

(iv) The amount of funds expended with respect to such exploration. An appropriate discount rate may be applied to aid in the equitable comparison of expenditures made in different years.

(2) *Secondary principles.* In addition to the principles of equity listed in paragraph (c)(1) of this section, other principles of equity may be considered, but will be given secondary importance in balancing the equities between or among the applicants.

(d) *Resolution by subunits.* (1) In some cases it may be useful to resolve conflicting applications by comparing the relative equities of the applicants with respect to various portions or subunits of the area of the deep seabed subject to overlapping claims.

(2) If each applicant involved in the conflict agrees to the procedure described in the preceding sentence, the judge or the Administrator may elect to subdivide disputed areas into a number of subunits of equal predetermined size and shape. Subunits immediately inside the perimeter of the area of the deep seabed subject to the overlapping claims may be of a size smaller in area, and of a different shape along one or more sides, than the subunits of equal predetermined size and shape.

(3) The subunits should be small enough to allow a well-focused and specific comparison of exploration activities conducted in, and equities assignable to, each subunit; however, each subunit should be large enough that an efficient and diligent commercial recovery operation would require at least one year to mine the area of the deep seabed represented by the subunit.

(4) The judge or the Administrator will, after determining the relative equities of each applicant with respect to each subunit, grant priority of right to each subunit to the applicant who has the superior equitable position with respect to that subunit. To the extent practicable, the assignment of subunits will be made on the basis of contiguity to each applicant's proposed logical mining unit not in dispute.

(e) *Processing of resolved applications.* After conflicts between or among applications have been resolved pursuant to this subpart, the Administrator will process the resolved applications according to this part.

(f) *Effect on priorities of new entrants.* A pre-enactment explorer is entitled to priority of right, over a new entrant, for any area in which he has engaged in exploration. A pre-enactment explorer will not be deemed to have engaged in exploration within an area if, with respect to that area, he has not filed an application within the time period specified in § 970.301. Such application may include an amendment, which is filed by the end of the 45-day conflict resolution period provided for in paragraph (b)(1) of this section, with respect to another area where exploration has been conducted.

Subpart D—Certification of Applications

§ 970.400 General.

(a) Certification is an intermediate step between receipt of an application for issuance or transfer of a license and its actual issuance or transfer. It is a determination which focuses on the eligibility of the applicant.

(b) Before the Administrator may certify an application for issuance or transfer of a license, he must determine that issuance of the license would not violate any of the restrictions in § 970.103(b). He also must make written determinations with respect to the requirements set forth in § 970.401 through 970.406. This will be done after consultation with other departments and agencies pursuant to § 970.212.

(c) To the maximum extent possible, the Administrator will endeavor to complete certification of an application within 100 days after submission of an application which is in full compliance with Subpart B of this part. If final certification or denial of certification has not occurred within 100 days after such submission of the application, the Administrator will inform the applicant in writing of the pending unresolved issues, the agency's efforts to resolve them, and an estimate of the time required to do so.

§ 970.401 Financial responsibility.

(a) Before the Administrator may certify an application for an exploration license he must find that the applicant has demonstrated that, upon issuance or transfer of the license, the applicant will be financially responsible to meet all obligations which he may require to engage in the exploration proposed in the application.

(b) In order for the Administrator to make this determination, the applicant must show to the Administrator's satisfaction that he possesses the finances or has reasonable assurance of obtaining the finances necessary to carry out, in accordance with the provisions contained in this part, the exploration program set forth in his exploration plan.

§ 970.402 Technological capability.

(a) Before the Administrator may certify an application for an exploration license, he must find that the applicant has demonstrated that, upon issuance or transfer of the license, the applicant will have the technological capability to engage in the proposed exploration.

(b) In order for the Administrator to make this determination, the applicant must demonstrate to the Administrator's satisfaction that the applicant will possess, at the time of issuance or transfer of the license, the technology and expertise, as needed, to carry out the exploration program set forth in his exploration plan.

§ 970.403 Previous license and permit obligations.

In order to certify an application, the Administrator must find that the applicant has satisfactorily fulfilled all obligations under any license or permit previously issued or transferred to the applicant under the Act.

§ 970.404 Adequate exploration plan.

Before he may certify an application, the Administrator must find that the proposed exploration plan of the applicant meets the requirements of § 970.203.

§ 970.405 Appropriate exploration site size and location.

Before the Administrator may certify an application, he must approve the size and location of the exploration area selected by the applicant. The Administrator will approve the size and location of the area unless he determines that the area is not a logical mining unit pursuant to § 970.601.

§ 970.406 Fee payment.

Before the Administrator may certify an application, he must find that the applicant has paid the license fee as specified in § 970.209.

§ 970.407 Denial of certification.

(a) The Administrator may deny certification of an application if he finds that the requirements of this subpart or the requirements for issuance or transfer under §§ 970.503 through 970.507 have not been met.

(b) When the Administrator proposes to deny certification he will send to the applicant, and publish in the **Federal Register**, written notice of intention to deny certification. Such notice will include:

(1) The basis upon which the Administrator proposes to deny certification; and

(2) If the basis for the proposed denial is a deficiency which the Administrator believes the applicant can correct:

(i) The action believed necessary to correct the deficiency; and

(ii) The time within which any correctable deficiency must be corrected (the period of time may not exceed 180 days except as specified by the Administrator for good cause).

(c) The Administrator will deny certification:

(1) On the 30th day after the date the notice is sent to the applicant, under paragraph (b) of this section, unless before such 30th day the applicant files with the Administrator a written request for an administrative review of the proposed denial; or

(2) On the last day of the period established under paragraph (b)(2)(ii) in which the applicant must correct a deficiency, if such deficiency has not been corrected before such day and an administrative review requested pursuant to paragraph (c)(1) is not pending or in progress.

(d) If a timely request for administrative review of the proposed denial is made by the applicant under paragraph (c)(1) of this section, the Administrator will promptly begin a formal hearing in accordance with Subpart J of this part. If the proposed denial is the result of a correctable deficiency, the administrative review will proceed concurrently with any attempts to correct the deficiency, unless the parties agree otherwise or the administrative law judge orders differently.

(e) If the Administrator denies cetification, he will send to the applicant written notice of the denial, including the reasons therefor.

(f) Any final determination by the Administrator granting or denying certification is subject to judicial review as provided in Chapter 7 of Title 5, United States Code.

§ 970.408 Notice of certification.

Upon making a final determination to certify an application for an exploration license, the Administrator will promptly send written notice of his determination to the applicant.

Subpart E—Issuance/Transfer/Terms, Conditions and Restrictions

§ 970.500 General.

(a) *Proposal.* After certification of an application pursuant to Subpart D of this part, the Administrator will proceed with a proposal to issue or transfer a license for the exploration activities described in the application.

(b)(1) *Terms, conditions and restriction.* Within 180 days (or such longer period as the Administrator may establish for good cause shown in writing) after certification, the Administrator will propose terms and conditions for, and restrictions on, the proposed exploration which are consistent with the provisions of the Act and this part as set forth in §§ 970.517 through 970.524. The Administrator will propose these in writing to the applicant. Also, public notice thereof will be provided pursuant to § 970.501, and they will be included with the draft

of the EIS on the issuance of a license which is required by section 109(d) of the Act.

(2) If the Administrator does not propose terms, conditions and restrictions within 180 days after certification, he will notify the applicant in writing of the reasons for the delay and will indicate the approximate date on which the proposed terms, conditions and restrictions will be completed.

(c) *Findings.* Before issuing or transferring an exploration license, the Administrator must make written findings on the requirements in § 970.503 through 970.507. These findings will be made after considering all information submitted with respect to the application and proposed issuance or transfer. He will make a final determination on issuance or transfer of a license, and will publish a final EIS on that action, within 180 days (or such longer period of time as he may establish for good cause shown in writing) following the date on which proposed terms, conditions and restrictions, and the draft EIS, are published.

Issuance/Transfer; Modification/Revision; Suspension/Revocation

§ 970.501 Proposal to issue or transfer and of terms, conditions and restrictions.

(a) *Notice and comment.* The Administrator will publish in the **Federal Register** notice of each proposal to issue or transfer, and of terms and conditions for, and restrictions on, an exploration license. Subject to § 970.902, interested persons will be permitted to examine the materials relevant to such proposals. Interested persons will have at least 60 days after publication of such notice to submit written comments to the Administrator.

(b) *Hearings.*

(1) The Administrator will hold a public hearing in an appropriate location and may employ such additional method as he deems appropriate to inform interested persons about each proposal and to invite their comments thereon.

(2) If the Administrator determines there exists one or more specific and material factual issues which require resolution by formal processes, at least one formal hearing will be held in the District of Columbia in accordance with the provisions of Subpart J of this part. The record developed in any such formal hearing will be part of the basis for the Administrator's decisions on issuance or transfer of, and of terms, conditions and restrictions for, the license.

(c) Hearings held pursuant to this section will be consolidated insofar as practicable with hearings held by other agencies.

§ 970.502 Consultation and cooperation with Federal agencies.

Prior to the issuance or transfer of an exploration license, the Administrator will continue the consultation and cooperation with other Federal agencies which were initated pursuant to § 970.212. He also will consult, prior to any issuance, transfer, modification or renewal of a license, with any affected Regional Fishery Management Council established pursuant to section 302 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1852) if the activities undertaken pursuant to such license could adversely affect any fishery within the Fishery Conservation Zone, or any anadromous species or Continental Shelf fishery resource subject to the exclusive management authority of the United States beyond such zone.

§ 970.503 Freedom of the high seas.

(a) Before issuing or transferring an exploration license, the Administrator must find that the exploration proposed in the application will not unreasonably interfere with the exercise of the freedoms of the high seas by other nations, as recognized under general principles of international law.

(b) In making this finding, the Administrator will recognize that exploration for hard mineral resources of the deep seabed is a freedom of the high seas. In the exercise of this right, each licensee must act with reasonable regard for the interests of other nations in their exercise of the freedoms of the high seas.

(c)(1) In the event of a conflict between the exploration program of an applicant or licensee and a competing use of the high seas by another nation or its nationals, the Administrator, in consultation and cooperation with the Department of State and other interested agencies, will enter into negotiations with that nation to resolve the conflict. To the maximum extent possible the Administrator will endeavor to resolve the conflict in a manner that will allow both uses to take place in a manner in which neither will unreasonably interfere with the other.

(2) If both uses cannot be conducted harmoniously in the area subject to the exploration plan, the Administrator will decide whether to issue or transfer the license, taking into account:

(i) The comparative detriments to the national interests involved;

(ii) The historic uses of the area;

(iii) The comparative injury to the competing uses of locating elsewhere;

(iv) The competing equities between the uses, taking into consideration the duration and continuity of the uses and the amount of funds expended; and

(v) Other factors which the Administrator determines to be relevant.

§ 970.504 International obligations of the United States.

Before issuing or transferring an exploration license, the Administrator must find that the exploration proposed in the application will not conflict with any international obligation of the United States established by any treaty or international convention in force with respect to the United States.

§ 970.505 Breach of international peace and security involving armed conflict.

Before issuing or transferring an exploration license, the Administrator must find that the exploration proposed in the application will not create a situation which may reasonably be expected to lead to a breach of international peace and security involving armed conflict.

§ 970.506 Environmental effects.

Before issuing or transferring an exploration license, the Administrator must find that the exploration proposed in the application cannot reasonably be expected to result in a significant adverse effect on the quality of the environment, taking into account the analyses and information in any applicable EIS prepared pursuant to section 109(c) or 109(d) of the Act. This finding also will be based upon the considerations and approach in § 970.701.

§ 970.507 Safety at sea.

Before issuing or transferring an exploration license, the Administrator must find that the exploration proposed in the application will not pose an inordinate threat to the safety of life and property at sea. This finding will be based on the requirements reflected in §§ 970.205 and 970.801.

§ 970.508 Denial of issuance or transfer.

(a) The Administrator may deny issuance or transfer of a license if he finds that the applicant or the proposed exploration activities do not meet the requirements of this part for the issuance or transfer of a license.

(b) When the Administrator proposes to deny issuance or transfer, he will send to the applicant, and publish in the **Federal Register**, written notice of such intention to deny issuance or transfer. Such notice will include:

(1) The basis upon which the Administrator proposes to deny issuance or transfer; and

(2) If the basis for the proposed denial is a deficiency which the Administrator believes the applicant can correct:

(i) The action believed necessary to correct the deficiency; and

(ii) The time within which any correctable deficiency must be corrected (the period of time may not exceed 180 days except as specified by the Administrator for good cause).

(c) The Administrator will deny issuance or transfer:

(1) On the 30th day after the date the notice is sent to the applicant under paragraph (b) of this section, unless before such 30th day the applicant files with the Administrator a written request for an administrative review of the proposed denial; or

(2) On the last day of the period established under paragraph (b)(2)(ii) in which the applicant must correct a deficiency, if such deficiency has not been corrected before such day and an administrative review requested pursuant to paragraph (c)(1) is not pending or in progress.

(d) If a timely request for administrative review of the proposed denial is made by the applicant under paragraph (c)(1) of this section, the Administrator will promptly begin a formal hearing in accordance with Subpart J of this part. If the proposed denial is the result of a correctable deficiency, the administrative review will proceed concurrently with any attempt to correct the deficiency, unless the parties agree otherwise or the administrative law judge orders differently.

(e) If the Administrator denies issuance or transfer, he will send to the applicant written notice of the denial, including the reasons therefor.

(f) Any final determination by the Administrator granting or denying issuance of a license is subject to judicial review as provided in Chapter 7 of Title 5, United States Code.

§ 970.509 Notice of issuance or transfer.

If the Administrator finds that the requirements of this subpart have been met, he will issue or transfer the license along with the appropriate terms, conditions and restrictions. Notification thereof will be made in writing to the applicant and in the **Federal Register.**

§ 970.510 Objections to terms, conditions and restrictions.

(a) The licensee may file a notice of objection to any term, condition or restriction in the license. The licensee may object on the grounds that any term, condition or restriction is inconsistent with the Act or this part, or on any other grounds which may be raised under applicable provisions of law. If the licensee does not file notice of an objection within the 60-day period immediately following the licensee's receipt of the notice of issuance or transfer under § 970.509, he will be deemed conclusively to have accepted the terms, conditions and restrictions in the license.

(b) Any notice of objection filed under paragraph (a) of this section must be in writing, must contain the precise legal basis for the objection, and must provide information relevant to any underlying factual issues deemed by the licensee as necessary to the Administrator's decision upon the objection.

(c) Within 90 days after receipt of the notice of objection, the Administrator will act on the objection and publish in the **Federal Register**, as well as provide to the licensee, written notice of his decision.

(d) If, after the Administrator takes final action on an objection, the licensee demonstrates that a dispute remains on a material issue of fact, the Administrator will provide for a formal hearing which will proceed in accordance with Subpart J of this part.

(e) Any final determination by the Adminstrator on an objection to terms, conditions or restrictions in a license after the formal hearing provided in paragraph (d) is subject to judicial review as provided in Chapter 7 of Title 5, United States Code.

§ 970.511 Modification of terms, conditions and restrictions.

(a) After issuance or transfer of any license, the Administrator, after consultation with interested agencies and the licensee, may modify any term, condition, or restriction in such license for the following purposes:

(1) To avoid unreasonable interference with the interests of other nations in their exercise of the freedoms of the high seas, as recongnized under general principles of international law. This determination will take into account the considerations listed in § 970.503;

(2) If relevant data and other information (including, but not limited to, data resulting from exploration activities under the license) indicate that modification is required to protect the quality of the environment or to promote the safety of life and property at sea;

(3) To avoid a conflict with any international obligation of the United States, established by any treaty or convention in force with respect to the United States, as determined in writing by the President; or

(4) To avoid any situation which may reasonably be expected to lead to a breach of international peace and security involving armed conflict, as determined in writing by the President.

(b) The procedures for objection to the modification of a term, condition or restriction will be the same as those for objection to an original term, condition or restriction under § 970.510. Public notice of modifications under this section will be made according to § 970.514.

§ 970.512 Suspension or modification of activities; suspension or revocation of licenses.

(a) The Administrator may:

(1) In addition to, or in lieu of, the imposition of any civil penalty under Subpart K of this part, or in addition to the imposition of any fine under Subpart K, suspend or revoke any license issued under this part, or suspend or modify any particular activities under such a license, if the licensee substantially fails to comply with any provision of the Act, this part, or any term, condition or restriction of the license; and

(2) Suspend or modify particular activities under any license, if the President determines that such suspension or modification is necessary:

(i) To avoid any conflict with any international obligation of the United States established by any treaty or convention in force with respect to the United States; or

(ii) To avoid any situation which may reasonably be expected to lead to a breach of international peace and security involving armed conflict.

(b) Any action taken by the Administrator in accordance with paragraph (a)(1) will proceed pursuant to the procedures in § 970.1103. Any action taken in accordance with paragraph (a)(2) will proceed pursuant to paragraphs (c) through (i) of this section.

(c) Prior to taking any action specified in paragraph (a)(2) the Administrator will publish in the **Federal Register**, and send to the licensee, written notice of the proposed action. The notice will include:

(1) The basis of the proposed action; and

(2) If the basis for the proposed action is a deficiency which the Administrator believes the licensee can correct:

(i) The action believed necessary to correct the deficiency; and

(ii) The time within which any correctable deficiency must be corrected (this period of time may not exceed 180

days except as specified by the Administrator for good cause).

(d) The Administrator will take the proposed action:

(1) On the 30th day after the date the notice is sent to the licensee, under paragraph (c) of this section, unless before such 30th day the licensee files with the Administrator a written request for an administrative review of the proposed action; or

(2) On the last day of the period established under paragraph (c)(2)(ii) in which the licensee must correct the deficiency, if such deficiency has not been corrected before such day and an administrative review requested pursuant to paragraph (d)(1) is not pending or in progress.

(e) If a timely request for administrative review of the proposed denial is made by the licensee under paragraph (d)(1) of this section, the Administrator will promptly begin a formal hearing in accordance with Subpart J of this part. If the proposed denial is the result of a correctable deficiency, the administrative review will proceed concurrently with any attempt to correct the deficiency, unless the parties agree otherwise or the administrative law judge orders differently.

(f) The Administrator will serve on the licensee, and publish in the **Federal Register**, written notice of the action taken including the reasons therefor.

(g) Any final determination by the Administrator to take the proposed action is subject to judicial review as provided in Chapter 7 of Title 5, United States Code.

(h) The issuance of any notice of proposed action under this section will not affect the continuation of exploration activities by a licensee, except as provided in paragraph (i).

(i) The provisions of paragraphs (c), (d), (e) and (h) will not apply when:

(1) The President determines by Executive Order that an immediate suspension of a license, or immediate suspension or modification of particular activities under such license, is necessary for the reasons set forth in paragraph (a)(2); or

(2) The Administrator determines that immediate suspension of such a license, or immediate suspension or modification of particular activities under a license, is necessary to prevent a significant adverse effect on the environment or to preserve the safety of life or property at sea, and the Administrator issues an emergency order requiring such immediate suspension. However, the licensee may seek administrative review of such emergency suspension or modification imposed under this paragraph after it has been imposed. The Administrator will determine whether any administrative review granted will be in the form of an informal or formal hearing.

§ 970.513 Revision of a license.

(a) During the term of an exploration license, the licensee may submit to the Administrator an application for a revision of the license or the exploration plan associated with it. NOAA recognizes that changes in circumstances encountered, and in information and technology developed, by the licensee during exploration may require such revisions. In some cases it may even be advisable to recognize at the time of filing the original license application that although the essential information for issuing or transferring a license as specified in §§ 970.201 through 920.208 must be included in such application, some details may have to be provided in the future in the form of a revision. In such instances, the Administrator may issue or transfer a license which would authorize exploration activities and plans only to the extent described in the application.

(b) The Administrator will approve such application for a revision upon a finding in writing that the revision will comply with the requirements of the Act and this part.

(c) A change which would require an application to and approval by the Administrator as a revision is a change in one or more of:

(1) The bases for certifying the original application pursuant to §§ 970.401 through 970.406;

(2) The bases for issuing or transferring the license pursuant to §§ 970.503 through 970.507; or

(3) The terms, conditions and restrictions issued for the license pursuant to §§ 970.517 through 970.524.

§ 970.514 Scale requiring application procedures.

(a) A proposal by the Administrator to modify a term, condition or restriction in a license pursuant to § 970.511, or an application by a licensee for revision of a license or exploration plan pursuant to § 970.513, is significant and must be followed by the full application procedures in this part if it would result in other than an incidental:

(1) Increase in the size of the exploration area; or

(2) Change in the location of the area.

An incidental increase or change is that which equals two percent or less of the original exploration area, so long as such adjustment is contiguous to the licensed area.

(b) All proposed modifications or revisions other than described in paragraph (a) will be acted on after a notice thereof is published by the Administrator in the **Federal Register**, with a 60-day opportunity for public comment. On a case-by-case basis, the Administrator will determine if other procedures, such as a public hearing in a potentially affected area, are warranted.

§ 970.515 Duration of a license.

(a) Each exploration license will be issued for a period of 10 years.

(b) If the licensee has substantially complied with the license and its associated exploration plan and requests an extension of the license, the Administrator will extend the license on terms, conditions and restrictions consistent with the Act and this part for a period of not more than 5 years.

(c) Successive extensions may be requested, and will be granted by the Administrator, based on the criteria, and for the length of time, specified in paragraph (b) of this section.

§ 970.516 Approval of license transfers.

(a) The Administrator may transfer a license after a written request by the licensee. After a licensee submits such a request to the Administrator, the proposed transferee will be deemed an applicant for an exploration license, and will be subject to the requirements and procedures of this part.

(b) The Administrator will transfer a license if the proposed transferee and exploration activities meet the requirements of the Act and this part, and if the proposed transfer is in the public interest. The Administrator will presume that the transfer is in the public interest if it meets the requirements of the Act and this part.

Terms, Conditions, and Restrictions

§ 970.517 Diligence requirements.

The terms, conditions and restrictions in each exploration license must include provisions to assure diligent development. The Administrator will establish these pursuant to § 970.602.

§ 970.518 Environmental protection requirements.

(a) Each exploration license must contain such terms, conditions and restrictions, established by the Administrator, which prescribe actions the licensee must take in the conduct of exploration activities to assure protection of the environment. The Administrator will establish these pursuant to § 970.702.

(b) Before establishing the terms, conditions and restrictions pertaining to

environmental protection, the Administrator will consult with the Administrator of the Environmental Protection Agency, the Secretary of State and the Secretary of the department in which the Coast Guard is operating. He also will take into account and give due consideration to the information contained in the final EIS prepared with respect to that proposed license.

§ 970.519 Resource conservation requirements.

For the purpose of conservation of natural resources, each license issued under this part will contain, as needed, terms, conditions and restrictions which have due regard for the prevention of waste and the future opportunity for the commercial recovery of the unrecovered balance of the hard mineral resources in the license area. The Administrator will establish these pursuant to § 970.603.

§ 970.520 Freedom of the high seas requirements.

Each license issued under this part must include such restrictions as may be necessary and appropriate to ensure that the exploration activities do not unreasonably interfere with the interests of other nations in their exercise of the freedoms of the high seas, as recognized under general principles of international law, such as fishing, navigation, submarine pipeline and cable laying, and scientific research. The Administrator will consider the factors in § 970.503 in establishing these restrictions.

§ 970.521 Safety at sea requirements.

The Secretary of the department in which the Coast Guard is operating, in consultation with the Administrator, will require in any license issued under this part, in conformity with principles of international law, that vessels documented under the laws of the United States and used in activities authorized under the license comply with conditions regarding the design, construction, alteration, repair, equipment, operation, manning and maintenance relating to vessel and crew safety and the promotion of safety of life and property at sea. These requirements will be established with reference to Subpart H of this part.

§ 970.522 Monitoring requirements.

Each exploration license must require the licensee:

(a) To allow the Administrator to place appropriate Federal officers or employees as observers aboard vessels used by the licensee in exploration activities to:

(1) Monitor such activities at such time, and to such extent, as the Administrator deems reasonable and necessary to assess the effectiveness of the terms, conditions, and restrictions of the license; and

(2) Report to the Administrator whenever such officers or employees have reason to believe there is a failure to comply with such terms, conditions, and restrictions;

(b) To cooperate with such officers and employees in the performance of monitoring functions; and

(c) To monitor the environmental effects of the exploration activities in accordance with a monitoring plan developed by NOAA and to submit such information as NOAA finds to be necessary and appropriate to assess environmental impacts and to develop and evaluate possible methods of mitigating adverse environmental effects. This environmental monitoring plan and reporting will respond to the concerns and procedures discussed in Subpart G of this part.

§ 970.523 Special terms, conditions, and restrictions.

Although the general criteria and standards to be used in establishing terms, conditions, and restrictions for a license are set forth in this part, as referenced in §§ 970.517 through 970.522, the Administrator may impose special terms, conditions, and restrictions for the conservation of natural resources, protection of the environment, or the safety of life and property at sea when required by differing physical and environmental conditions.

§ 970.524 Other Federal requirements.

Pursuant to § 970.212, another Federal agency, upon review of an exploration license application submitted under this part, may indicate how terms, conditions, and restrictions might be added to the license, to assure compliance with any law or regulation within that agency's area of responsibility. In response to the intent, reflected in section 103(e) of the Act, to reduce the number of separate actions to satisfy the statutory responsibilities of these agencies, the Administrator may include such terms, conditions, and restrictions in a license.

Subpart F—Resource Development Concepts

§ 970.600 General.

Several provisions in the Act relate to appropriate mining techniques or mining efficiency. These raise what could be characterized as resource development issues. In particular, under section 103(a)(2)(D) of the Act, the applicant will select the size and location of the area of an exploration plan, which will be approved unless the Administrator finds that the area is not a "logical mining unit." Also, pursuant to section 108 of the Act the applicant's exploration plan and the terms, conditions and restrictions of each license must be designed to ensure diligent development. In addition, for the purpose of conservation of natural resources, section 110 of the Act provides that each license is to contain, but only as needed, terms, conditions, and restrictions which have due regard for the prevention of waste and the future opportunity for the commercial recovery of the unrecovered balance of the resources.

§ 970.601 Logical mining unit.

(a) In the case of an exploration license, a logical mining unit is an area of the deep seabed which can be explored under the license, and within the 10-year license period, in an efficient, economical and orderly manner with due regard for conservation and protection of the environment, taking into consideration the resource data, other relevant physical and environmental characteristics, and the state of the technology of the applicant as set forth in the exploration plan. In addition, it must be of sufficient size to allow for intensive exploration.

(b) Approval by the Administrator of a proposed exploration logical mining unit will be based on a case-by-case review of each application. In order to provide a proper basis for this evaluation, the applicant's exploration plan should describe the seabed topography, the location of mineral deposits and the nature of planned equipment and operations. Also, the exploration plan must show the relationship between the area to be explored and the applicant's plans for commercial recovery volume, to the extent projected in the exploration plan. Generally, it will be presumed that the above considerations would result in an exploration area not larger than 80,000 square kilometers; however, a larger area may be approved upon a showing by the applicant that the area will meet the standards set forth in this section.

(c) In delineating an exploration area, the applicant need not include unmineable areas. Thus, the area need not consist of contiguous segments, as long as each segment would be efficiently mineable and the total proposed area constitutes a logical mining unit. In describing the area, the

applicant must present the metes and bounds thereof, using the Universal Transverse Mercator System for the 1866 Clarke Spheroid.

(d) At the applicant's option, for the purpose of satisfying a possible obligation under a future Law of the Sea Treaty, the exploration area proposed may be up to 160,000 square kilometers, which can be divided into two exploration sites of equal estimated commercial value. The application should specify if this option is chosen.

§ 970.602 Diligent exploration.

(a) Each licensee must pursue diligently the activities described in his approved exploration plan. This requirement applies to the full scope of the plan, including environmental safeguards and monitoring systems. To help assure this diligence, terms, conditions and restrictions which the Administrator issues with a license will require such periodic reasonable expenditures for exploration by the licensee as the Administrator may establish, taking into account the size of the area of the deep seabed to which the exploration plan applies and the amount of funds which is estimated by the Administrator to be required during exploration for commercial recovery of hard mineral resources to begin within the time limit established by the Administrator. However, such required expenditures will not be established at a level which would discourage exploration by persons with less costly technology than is prevalently in use.

(b) In order to fulfill the diligence requirement, the applicant first must propose to the Administrator an estimated schedule of activities and expenditures pursuant to § 970.203(b) (3) and (6). The schedule must show, and the Administrator must be able to make a reasonable determination, that the applicant can complete his exploration activities within the term of the license. In this regard, there must be a reasonable relationship between the size of the exploration area and the financial and technological resources reflected in the application. Also, the exploration must clearly point toward developing the mine site and beginning commercial recovery operations before the end of the 10-year license period.

(c) Ultimately, the diligence requirement will involve a retrospective determination by the Administrator, based on the licensee's reasonable conformance to the approved exploration plan. Such determination, however, will take into account the need for some degree of flexibility in an exploration plan. It also will include consideration of the needs and stage of development of each licensee, again based on the approved exploration plan. In addition, the determination will take account of legitimate periods of time when there is no or very low expenditure, and will allow for a certain degree of flexibility for changes encountered by the licensee in such factors as its resource knowledge and financial considerations.

(d) In order for the Administrator to make determinations on a licensee's adherence to the diligence requirements, the licensee must submit a report annually reflecting its conformance to the schedule of activities and expenditures contained in the license. In case of any changes requiring a revision to an approved license and exploration plan, the licensee must advise the Administrator in accordance with § 970.514.

§ 970.603 Conservation of resources.

(a) With respect to the exploration phase of seabed mining, the requirement for the conservation of natural resources, encompassing due regard for the prevention of waste and the future opportunity for the commercial recovery of the unrecovered balance of the hard mineral resources in the area to which the license applies, may not be particularly relevant. Thus, since the Act requires such terms, conditions and restrictions only as needed, exploration licenses will require such provisions only if the Administrator deems necessary. However, mining systems development described in a license application and exploration plan could involve sustained reliability and endurance tests, which could in turn result in more than insignificant recovery. If so, there may be a need to set some guidelines in a license pursuant to § 970.519.

(b) If the Administrator establishes in a license such terms, conditions and restrictions relating to conservation of resources, he will employ a balancing process in the consideration of the state of the technology, the processing system utilized and the value and potential use of any waste, the environmental effects of the exploration activities, economic and resource data, and the national need for hard mineral resources.

(c) Based on the review of each exploration plan, the Administrator may include in a license the requirement for a licensee to submit information during the term of the license period on specified activities which may result in the waste, or affect the future opportunity for recovery, of hard mineral resources.

Subpart G—Environmental Effects

§ 970.700 General.

Congress, in authorizing the exploration for hard mineral resources under the Act, also enacted provisions relating to the protection of the marine environment from the effects of exploration activities. For example, before the Administrator may issue a license, pursuant to section 105(a)(4) of the Act he must find that the exploration proposed in an application cannot reasonably be expected to result in a significant adverse effect on the quality of the environment. Also, the Act requires in section 109(b) that each license issued by the Administrator must contain such terms, conditions and restrictions which prescribe the actions the licensee must take in the conduct of exploration activities to assure protection of the environment. Furthermore, the Act in section 105(c)(1)(B) provides for the modification by the Administrator of any term, condition or restriction if relevant data and other information indicates that modification is required to protect the quality of the environment. In addition, section 114 of the Act specifies that each license issued under the Act must require the licensee to monitor the environmental effects of the exploration activities in accordance with guidelines issued by the Administrator, and to submit such information as the Administrator finds to be necessary and appropriate to assess environmental impacts and to develop and evaluate possible methods of mitigating adverse environmental effects.

§ 970.701 Significant adverse environmental effects.

(a) *Activities with no significant impact.* NOAA believes that the following exploration activities are very similar or identical to activities considered in section 6(c)(3) of NOAA Directives Manual 02–10, and therefore have no potential for significant environmental impact, and will require no further environmental assessment.

(1) Gravity and magnetometric observations and measurements;

(2) Bottom and sub-bottom acoustic profiling or imaging without the use of explosives;

(3) Mineral sampling of a limited nature such as those using either core, grab or basket samplers;

(4) Water and biotic sampling, if the sampling does not adversely affect shellfish beds, marine mammals, or an endangered species, or if permitted by

the National Marine Fisheries Service or another Federal agency;

(5) Meteorological observations and measurements, including the setting of instruments;

(6) Hydrographic and oceanographic observations and measurements, including the setting of instruments;

(7) Sampling by box core, small diameter core or grab sampler, to determine seabed geological or geotechnical properties;

(8) Television and still photographic observation and measurements;

(9) Shipboard mineral assaying and analysis; and

(10) Positioning systems, including bottom transponders and surface and subsurface buoys filed in *Notices to Mariners*.

(b) *Activities with potential impact.* (1) NOAA research has identified at-sea testing of recovery equipment and the operation of processing test facilities as activities which have some potential for significant environmental impacts during exploration. However, the research has revealed that only a limited number of the effects from such activities are expected to have potential for significant adverse environmental impact.

(2) The programmatic EIS documents four at-sea effects of deep seabed mining which cumulatively during commercial recovery have the potential for significant effect. These include the following:

(i) *Destruction of benthos in and near the collector track.* Present information reflects that the impact from this effect during mining tests under exploration licenses will be extremely small.

(ii) *Blanketing of benthic fauna and dilution of food supply away from mine site suboreas.* The settling of fine sediments disturbed by tests under a license of scale-model mining systems which simulate commercial recovery could adversely affect benthic fauna by blanketing, diluation of their food supply, or both. Because of the anticipated slow settling rate of the sediments, the affected area could be quite large. However, research results are insufficient to conclude that this will indeed be a problem. Therefore, pursuant to § 970.702, this potential effect will be analyzed as part of monitoring and research efforts, and mitigation measures will be imposed if a significant adverse effect is detected.

(iii) *Potential entry of trace metals into the food web.* The potential for a significant effect during the exploration period mining tests is expected to be indiscernable and remote.

(iv) *Surface plume effect on fish larvae.* The impact of demonstration-scale mining tests during exploration is expected to be insignificant.

(3) If processing facilities are to be used for testing during exploration, NOAA also will assess their impacts in site-specific EIS's.

(c) *NOAA approach.* In making determinations on significant adverse environmental effects, the Administrator will draw on the above conclusions and other findings in NOAA's programmatic environmental statement and site-specific statements issued in accordance with the Act. He will issue licenses with terms, conditions and restrictions containing, as appropriate, environmental protection or mitigation requirements (pursuant to § 970.518) and monitoring requirements (pursuant to § 970.522). The focus of NOAA's environmental efforts will be on environmental research and on monitoring during mining tests to acquire more information on the environmental effects of deep seabed mining. If these efforts reveal that modification is required to protect the quality of the environment, NOAA then may modify terms, conditions and restrictions pursuant to § 970.511.

§ 970.702 Monitoring and mitigation of environmental effects.

(a) *Monitoring.* If an application is determined to be otherwise acceptable, the Administrator will specify an environmental monitoring plan as part of the terms, conditions and restrictions developed for each license. This monitoring strategy will be devised to insure that the exploration activities do not deviate significantly from the approved exploration plan and to determine if the assessment of the plan's acceptability was sound. The plan, among other things, will include monitoring the effects of the benthic plume, to resolve the uncertainty identified in § 970.701(b)(2)(ii). NOAA also will develop a technical guidance document, to include parameters pertaining to the upper and lower water column and operational aspects, which document will provide assistance in developing monitoring plans in consultation with applicants.

(b) *Mitigation.* Monitoring and continued research may develop information on future needs for mitigating environmental effects. If such needs are identified, terms, conditions and restrictions can be modified appropriately.

Subpart H—Safety of Life and Property at Sea

§ 970.800 General.

The Act contains requirements, in the context of several decisions, that relate to assuring the safety of life and property at sea. For instance, before the Administrator may issue a license, section 105(a)(5) of the Act requires that he find that the proposed exploration will not pose an inordinate threat to the safety of life and property at sea. Also, under section 112(a) of the Act the Coast Guard, in consultation with NOAA, must require in any license or permit issued under the Act, in conformity with principles of international law, that vessels documented in the United States and used in activities authorized under the license comply with conditions regarding the design, construction, alteration, repair, equipment, operation, manning and maintenance relating to vessel and crew safety and the safety of life and property at sea. In addition, under section 105(c)(1)(B) of the Act, the Administrator may modify terms, conditions and restrictions for a license if required to promote the safety of life and property at sea.

§ 970.801 Criteria for safety of life and property at sea.

Response to the safety at sea requirements in essence will involve vessel inspection requirements. These inspection requirements may be identified by reference to present laws and regulations. The primary inspection statutes pertaining to United States flag vessels are: 46 U.S.C. 86 (Loadlines); 46 U.S.C. 395 (Inspection of seagoing barges over 100 gross tons); 46 U.S.C. 367 (Inspection of sea-going motor vessels over 300 gross tons); and 46 U.S.C. 404 (Inspection of vessels above 15 gross tons carrying freight for hire). All United States flag vessels will be required to meet existing regulatory requirements applicable to such vessels. This includes the requirement for a current valid Coast Guard Certificate of Inspection, as specified in § 970.205. Being United States flag, these vessels will be under United States jurisdiction on the high seas and subject to domestic enforcement procedures. With respect to foreign flag vessels, the SOLAS 74 or SOLAS 60 certificate requirements specified in § 970.205 apply.

Subpart I—Miscellaneous

§ 970.900 General.

This subpart contains miscellaneous provisions pursuant to the Act which are relevant to exploration licenses.

§ 970.901 Records to be maintained and information to be submitted by licensees.

(a)(1) In addition to the information specified elsewhere in this part, each licensee must keep such records, consistent with standard accounting principles, as the Administrator may specify with each license. Such records must inlcude information which will fully disclose expenditures for exploration for hard mineral resources in the area under license, and such other information as will facilitate an effective audit of such expenditures.

(2) The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for purposes of audit and examination, to any books, documents, papers, and records of licensees which are necessary and directly pertinent to verify the expenditures referred to in paragraph (a)(1).

(b) In addition to the information specified elsewhere in this part, each applicant or licensee will be required to submit to the Administrator at his request such data or other information as he may reasonably need for purposes of making determinations with respect to the issuance, revocation, modification, or suspension of the license in question; compliance with the biennal Congressional report requirement contained in section 309 of the Act; and evaluation of the exploration activities conducted by the licensee. At a minimum, licensees must submit an annual written report, within 90 days after each anniversary of the license issuance or transfer, of exploration activities and expenditures to address the diligence requirements in § 970.602, and of environmental monitoring to address the requirements of § 970.522(c).

§ 970.902 Public disclosure of documents received by NOAA.

(a) *Purpose.* This section provides a procedure by which persons submitting information pursuant to this part may request that certain information not be subject to public disclosure. The substantiation requested from such persons is intended to assure that NOAA has a complete and proper basis for determining the appropriateness of withholding or releasing the identified information if a public request is received.

(b) *Written requests for confidential treatment.* (1) Any person who submits any information pursuant to this part, which information is considered by him to be a trade secret or commercial or financial information which is privileged or confidential, may request that the information be afforded confidential treatment.

(2) Requests for confidential treatment of information must be in writing and must be submitted at the time of submission of the information. Information subject to the request must be segregated from information for which confidential treatment is not being requested and each page (or segregable portion of each page) subject to the request must be clearly marked with the legend "Confidential Treatment Requested." Where this marking proves impracticable, a cover sheet containing the legend must be securely attached to the compilation of information.

(c) *Substantiation of request for confidential treatment.* (1) Any request for confidential treatment must include a statement of the basis for believing that the information is deserving of confidential treatment which addresses the issues relevant to a determination whether the information is a trade secret or commercial or financial information which is privileged or confidential. Such statement itself will be treated as confidential to the extent permitted by applicable law.

(2) Issues addressed should include:

(i) The commercial or financial nature of the information;

(ii) The nature of the competitive advantage enjoyed as a result of possession of the information;

(iii) The nature of the competitive harm which would result from public disclosure of the information;

(iv) The extent to which the information has been disseminated to employees and contractors of the person submitting the information;

(v) The extent to which persons other than the person submitting the information possess, or have access to, the same information; and

(vi) The nature of the measures taken to protect the information from disclosure.

(3) No determination as to whether confidential treatment is warranted will be made until a request for disclosure of the information is made pursuant to this section.

(d) *Requests for disclosure.* (1) Any request for disclosure of information submitted pursuant to this part must be made in accordance with the requirements of 15 CFR Part 903.

(2) Upon receipt of a request for disclosure, the Administrator will determine, in consultation with the NOAA Office of General Counsel, whether confidential treatment is warranted. If the Administrator determines that confidential treatment is not warranted he will promptly notify the person requesting confidential treatment. Such notice will be given by expeditious means such as telephone, telegraph or express mail. No information subject to the request for confidential treatment will be released until the expiration of 10 calendar days from the date of issuance of such notice. In all other respects, requests for the records containing information submitted pursuant to this part will be handled in accordance with 15 CFR Part 903.

§ 970.903 Relinquishment and surrender of licenses.

(a) Any licensee may at any time, without penalty:

(1) Surrender to the Administrator a license issued to the licensee; or

(2) Relinquish to the Administrator, in whole or in part, any right to conduct any exploration activities authorized by the license.

(b) Any licensee who surrenders a license or relinquishes any such right will remain liable with respect to all violations and penalties incurred, and damage to persons or property caused, by the licensee as a result of activities engaged in by the licensee under such license.

§ 970.904 Amendment to regulations.

The Administrator may at any time amend the regulations in this part as the Administrator determines to be necessary and appropriate in order to provide for the conservation of natural resources, protection of the environment, and the safety of life and property at sea. Such amended regulations will apply to all exploration activities conducted under any license issued or maintained pursuant to this part; except that any such amended regulations which provide for conservation of natural resources will apply to exploration conducted under an existing license during the present term of such license only if the Administrator determines that such amended regulations providing for conservation of natural resources will not impose serious or irreparable economic hardship on the licensee. Any amendment to regulations under this section will be made pursuant to the procedures in Subpart J of this part, except that § 970.1001(f)(1) will not apply. Instead, the parties of right to the hearing will be limited to the Administrator. Other persons may file a request under § 970.1001(f)(2) or (3) to participate in the hearing.

§ 970.905 Computation of time.

Saturdays, Sundays, and Federal Government holidays will be included in

computing the time period allowed for filing any document or paper under this part, but when such time period expires on such a day, such time period will be extended to include the next following Federal Government work day. Also, filing periods expire at the close of business on the day specified, and for the office specified.

Subpart J—Uniform Procedures

§ 970.1000 Applicability.

The regulations of this subpart govern the following proceedings conducted by NOAA under this part.

(a) All adjudicatory hearings required by section 116(b) of the Act to be held on the following actions upon a finding by the Administrator that one or more specific and material issues of fact exist which require resolution by formal process, including but not limited to:

(1) All applications for issuance or transfer of licenses;

(2) All proposed terms, conditions and restrictions on a license; and

(3) All proposals to significantly modify a license;

(b) Hearings conducted under section 105(b)(3) of the Act on objection by a licensee to any term, condition and restriction in a license, or to modification thereto, where the licensee demonstrates, after final action by the Administrator on the objection, that a dispute remains as to a material issue of fact;

(c) Hearings conducted in accordance with section 106(b) of the Act pursuant to a timely request by an applicant or a licensee for review of:

(1) A proposed denial of issuance or transfer of a license; or

(2) A proposed suspension or modification of particular activities under a license after a Presidential determination pursuant to section 106(a)(2)(B) of the Act;

(d) Hearings conducted in accordance with section 308(c) of the Act to amend regulations for the purpose of conservation of natural resources, protection of the environment, and safety of life and property at sea;

(e) Hearings conducted in accordance with § 970.407 on a proposal to deny certification of an application; and

(f) Hearings conducted in accordance with § 970.302 to determine priority of right among pre-enactment explorers.

§ 970.1001 Formal hearing procedures.

(a) *General.* (1) All hearings described in paragraph (a) of § 970.1000 are governed by 5 U.S.C. 554–557 and the procedures contained in this section. section.

(2) Hearings held under this section will be consolidated insofar as practicable with hearings held by other agencies.

(b) *Decision to hold a hearing.* Whenever the Administrator finds that a formal hearing is required by the provision of this part he will provide for a formal hearing.

(c) *Assignment of administrative law judge.* Upon deciding to hold a formal hearing, the Administrator will refer the proceeding to the NOAA Office of Administrative Law Judges for assignment to an Administrative Law Judge to serve as presiding officer for the hearing.

(d) *Notice of formal hearing.*

(1) The Administrator will publish notice of the formal hearing in the **Federal Register** at least 15 days before the beginning of the hearing, and will send written notice by registered or certified mail to any involved applicant or licensee, and to all persons who submitted written comments upon the aciton in question, testified at any prior informal hearing on the action or filed a request for the formal hearing under this part.

(2) Notice of a formal hearing will include, among other things:

(i) Time and place of the hearing;

(ii) The name and address of the person(s) requesting the formal hearing or a statement that the formal hearing is being held by order of the Administrator;

(iii) The issues in dispute which are to be resolved in the formal hearing;

(iv) The due date for filing a written request to participate in the hearing in accordance with paragraphs (f)(2) and (f)(3) of this section; and

(v) Reference to any prior informal hearing from which the issues to be determined arose.

(e) *Powers and duties of the administrative law judge.* Judges have all the powers and duties necessary to preside over the parties and proceedings and to conduct fair and impartial hearings, as specified by 5 U.S.C 554–557 and this section, including the power to:

(1) Regulate the course of the hearing and the conduct of the parties, interested persons and others submitting evidence, including but not limited to the power to require the submission of part or all of the evidence in written form if the judge determines a party will not be prejudiced thereby, and if otherwise in accordance with law;

(2) Rule upon requests submitted in accordance with paragraph (f)(2) of this section to participate as a party, or requests submitted in accordance with paragraph (f)(3) of this section to participate as an interested person in a proceeding, by allowing, denying, or limiting such participation;

(3) Hold conferences in accordance with paragraph (i) of this section for the simplification or, if appropriate, settlement of the issues by consent of the parties or to otherwise expedite the proceedings;

(4) Administer oaths and affirmations;

(5) To the extent authorized by law, rule upon requests for, and issue, subpoenas for the attendance and testimony of witnesses and the production of books, records, and other evidence upon proper application under paragraph (p) of this section;

(6) Rule on discovery requests, establish discovery schedules, and take or cause depositions or interrogatories to be taken;

(7) Rule on requests for protective orders to protect persons in the discovery process from undue burden or expense, or for other good cause;

(8) Require, at or prior to any hearing, the submission and exchange of evidence;

(9) Rule upon offers of proof and evidence and receive, exclude and limit evidence as set forth in paragraph (j)(3) of this section;

(10) Introduce documentary or other evidence into the record;

(11) Examine and cross-examine witnesses;

(12) Consider and rule upon motions, procedural requests, and similar matters;

(13) Take such measures as may be necessary, such as sealing of portions of the hearing record, to protect proprietary and privileged information and information consisting of trade secrets and confidential commercial and financial information;

(14) Schedule the time and place of the hearing, or the hearing conference, continue the hearing from day-to-day, adjourn the hearing to a later date or a different place, and reopen the hearing at any time before issuance of the recommended or initial decision, all in the judge's discretion, having due regard for the covenience and necessity of the parties;

(15) Establish rules, consistent with applicable law, for media coverage of the proceedings and for the closure of the hearing in the interest of justice;

(16) Strike testimony of a witness refusing to answer a question ruled to be proper;

(17) Make and file decisions in conformity with this subpart; and

(18) Take any action authorized by the rules in this section or in conformance with 5 U.S.C. 554–57.

Hearings

(f) *Participation.* (1) Parties to the formal hearing will include:

(i) The NOAA General Counsel;

(ii) Any involved applicant or licensee; and

(iii) Any other person determined by the judge, in accordance with paragraph (f)(2) below, to be eligible to participate as a full party.

(2) Any person desiring to participate as a party in a formal hearing must submit a request to the judge to be admitted as a party. The request must be submitted within 10 days after the date of mailing or publication of notice of a decision to hold a formal hearing, whichever occurs later. Such person will be allowed to participate if the judge finds that the interests of justice and a fair determination of the issues would be served by granting the request. The judge may entertain a request submitted after the expiration of the 10 days, but such a request may only be granted upon an express finding on the record that:

(i) Special circumstances justify granting the request;

(ii) The interests of justice and a fair determination of the issues would be served by granting the request;

(iii) The requestor has consented to be bound by all prior written agreements and stipulations agreed to by the existing parties, and all prior orders entered in the proceedings; and

(iv) Granting the request will not cause undue delay or prejudice the rights of the existing parties.

(3)(i) Any interested person who desires to submit evidence in a formal hearing must submit a request within 10 days after the dates of mailing or publication of notice of a decision to hold a formal hearing, whichever occurs later. The judge may waive the 10 day rule for good cause, such as if the interested person, making this request after the expiration of the 10 days, shows that he lacked prior knowledge of the formal hearing, and the evidence he proposes to submit may significantly affect the outcome of the proceedings.

(ii) The judge may permit an interested person to submit evidence at any formal hearing if the judge determines that such evidence is relevant to facts in dispute concerning the issue(s) being adjudicated. The fact that an interested person may submit evidence under this paragraph at a hearing does not entitle the interested person to participate in other ways in the hearing unless allowed by the judge under paragraph (f)(3)(iii) below.

(iii) The judge may allow an interested person to submit oral testimony, oral arguments or briefs, or to cross-examine witnesses or participate in other ways, if the judge determines:

(A) That the interests of justice would be better served by allowing such participation by the interested person; and

(B) That there are compelling circumstances favoring such participation by the interested person.

(g) *Definition of issues.* Whenever a formal hearing is conducted pursuant to this section the Administrator may certify the issues for decision to the judge, and if the issues are so certified, the formal hearing will be limited to those issues.

(h) *Obligation to submit evidence and raise issues before a formal hearing is held.* Whenever a formal hearing is conducted pursuant to a request by an applicant or licensee for review of a denial of issuance or transfer of a license in accordance with section 106(a)(4) of the Act, or pursuant to an objection to any term, condition, or restriction in a license in accordance with section 105 (b)(3) or (c)(4) of the Act, no party or interested person may submit evidence which was not submitted previously for the administrative record on the action, unless good cause is shown for the failure to submit it. No issues may be raised by any party or interested person that were not submitted to the administrative record on the action unless good cause is shown for the failure to submit them. Good cause includes the case where the party seeking to raise the new issues or introduce new information shows that it could not reasonably have ascertained the issues or made the information available at a prior stage in the administrative process; or that it could not have reasonably anticipated the relevance or materiality of the information sought to be introduced.

(i) *Conferences.* (1) At any time the judge considers appropriate, he may upon his own motion or the motion of any party or interested person, direct the parties and interested persons, or their attorneys, to meet (in person, by telephone conference call, or otherwise) in a conference to consider:

(i) Simplification of the issues;

(ii) Settlements, in appropriate cases;

(iii) Stipulations and admissions of fact, and contents and authenticity of documents;

(iv) Exchange of evidence, witness lists, and summaries of expected testimony;

(v) Limitation of the number of witnesses; and

(vi) Such other matters as may tend to expedite the disposition of the proceedings.

(2) The record will show how the matters were disposed of by order and by agreement in such conferences.

(j) *Appearance and presentation of evidence.* (1) A party or interested person may appear at a hearing under this section in person, by attorney, or by other representative.

(2) Failure of a party to appear at a hearing:

(i) Constitutes waiver of the right to a hearing under this section;

(ii) Constitutes consent of the party to the making of a decision on the record of the hearing; but

(iii) Will not be deemed to be a waiver of the right to be served with a copy of the judge's decision.

(3) *Evidence.* (i) The order of presentation of evidence will be at the judge's discretion.

(ii) The testimony of witnesses will be upon oath or affirmation administered by the judge and will be subject to such cross-examination as may be required for a full and true disclosure of the facts. The formal rules of evidence do not apply, but the judge will exclude evidence which is immaterial, irrelevant, nonprobative, or unduly repetitious. Hearsay evidence is not inadmissable as such.

(iii) If a party objects to the admission or rejection of any evidence or to the limitation of the scope of any examination or cross-examination or the failure to limit such scope, the party must state briefly the grounds for such objections. Rulings on each objection will appear in the record.

(iv) Formal exception to an adverse ruling is not required.

(v) At any time during the proceedings, the judge may require a party or a witness to state his position on any issue, and theory in support of such position.

(vi) Upon the failure of a party or interested person to effect the appearance of a witness or the production of a document or other evidence ruled relevant and necessary to the proceeding, the judge may take appropriate action as authorized by law.

(4) *Authority of judge to expedite adjudication.* To prevent unnecessary delays or an unnecessarily large record, the judge may:

(i) Limit the number of witnesses whose testimony may be cumulative;

(ii) Strike argumentative, repetitious, cumulative, immaterial, nonprobative or irrelevant evidence;

(iii) Take necessary and proper measures to prevent argumentative,

repetitious, or cumulative cross-examination; and

(iv) Impose such time limitations on arguments as the judge determines appropriate, having regard for the volume of the evidence and the importance and complexity of the issues involved.

(5) *Official notice.* Official notice may be taken of any matter not appearing in evidence in the record, which is among the traditional matters of judicial notice, or concerning which the Department of Commerce, by reason of its functions, is deemed to be expert, or of a nonprivileged document required by law to be filed with, or prepared or published by a government body, or of any reasonably available public document. The parties will be given adequate notice, at the hearing or otherwise before the judge's decision, of the matters so noticed, and upon timely request by a party will be given reasonable opportunity to show the contrary.

(6) *Record.* (i) The judge or the Administrator will arrange for a verbatim tape or other record of any oral hearing proceedings. An official transcript will be prepared and copies may be obtained upon written request filed with the reporter and upon payment of the fees at the rate provided in the agreement with the reporter.

(ii) The official transcript, exhibits, briefs, requests, and other documents and papers filed will constitute the exclusive record for the decision on the issues concerning which the hearing was held.

(iii) The record developed in any hearing held pursuant to section 116(b) of the Act will be part of the basis for the Administrator's decision to take any action referred to in section 116(a) of the Act.

(k) *Interlocutory appeals.* (1) At the request of a party or on the judge's own motion, the judge may certify to the Administrator for review a ruling which does not finally dispose of the proceeding if the judge determines that such a ruling involves a controlling question of law and that an immediate appeal therefrom may materially advance the ultimate disposition of the matter.

(2) Upon certification by the judge of an interlocutory ruling for review, the Administrator wil expeditiously decide the matter, taking into account any briefs in this respect filed by the parties within 10 days after certification. The Administrator's order on an interlocutory appeal will not be considered the final decision of the Administrator except by operation of other provisions in this section.

(3) No interlocutory appeal will lie as to any ruling not certified to the Administrator by the judge. Objections to non-certified rulings will be a part of the record and will be subject to review at the same time and in the same manner as the Administrator's review of the judge's initial or recommended decision.

(l) *Decisions.*—(1) *Proposed findings of fact and conclusions of law.* The judge will allow each party to file with the judge proposed findings of fact, and in appropriate cases conclusions of law, together with a supporting brief expressing the reasons for such proposals. Such proposals and briefs must be filed within 10 days after the hearing or within such additional time as the judge may allow. Such proposals and briefs must refer to all portions of the record and to all authorities relied upon in support of each proposal. Reply briefs must be submitted within 10 days after receipt of the proposed findings and conclusions to which they respond, unless the judge allows additional time.

(2) *Recommended decision.* As soon as practicable, but normally not later than 90 days after the conclusion of the formal hearing, the judge will evaluate the record of the formal hearing and prepare and file a recommended decision with the Administrator. The decision will contain findings of fact, when appropriate, conclusions regarding all material issues of law, and a recommendation as to the appropriate action to be taken by the Administrator. The judge will serve a copy of the decision on each party and upon the Administrator.

(3) *Final decision.* (i) As soon as practicable, but normally not later than 60 days after receipt of the recommended decision, the Administrator will issue a final decision. The final decision will include findings of fact and conclusions regarding material issues of law or discretion, as well as reasons therefor. The final decision may accept or reject all or part of the recommended decision.

(ii) With respect to hearings held pursuant to section 116(b), the Administrator may defer announcement of his findings of fact until the time he takes final action with respect to any action described in section 116(a).

(iii) The Administrator will base the final decision upon the record already made except that the Administrator may issue orders:

(A) Specifying the filing of supplemental briefs; or

(B) Remanding the matter to the judge for the receipt of further evidence, or otherwise assisting in the determination of the matter.

Miscellaneous

(m) *Motions and requests.* Motions or requests must be filed in writing with the judge or must be stated orally and made part of the hearing record. Each motion or request must state the particular order, ruling or action desired, and the grounds therefor.

(n) *Witnesses and fees.* Witnesses subpoenaed will be paid the same fees and mileage, and in the same manner, as are paid for like services in the District Court of the United States for the district in which the hearing is located.

(o) *Depositions.* (1) Any party desiring to take the deposition of a witness must make application in writing to the judge, setting forth the reasons why such deposition should be taken; the time when, the place where, and the name and mailing address of the person before whom the deposition is requested to be taken; the name and address of each witness to appear for deposition; and the subject matter concerning which each witness is expected to testify.

(2) Depositions may be taken orally or upon written interrogatories before any person designated by the judge.

(3) Such notice as the judge may order will be given for the taking of a deposition, but this ordinarily will not be less than 5 days' written notice when the deposition is to be taken within the United States and ordinarily will not be less than 20 days' written notice when the deposition is to be taken elsewhere.

(4) Each witness testifying upon deposition will be sworn and any party will have the right to cross-examine. The questions propounded and the answers thereto, together with all objections made, will be reduced to writing, read to the witness, signed by the witness unless waived, and certified by the person presiding. Thereafter, the person presiding will deliver or mail a copy of the document to each party. Subject to such objection to the questions and answers as were noted at the time of taking the deposition which would be valid were the witness personally present and testifying, such deposition may be read and offered in evidence by any party taking it as against any party who was present or represented at the taking of the deposition or who had due notice thereof.

(p) *Subpoenas.* A party may request the judge to issue, or the judge on the judge's own motion may issue, a subpoena for the attendance and testimony of witnesses and for production of documentary or other evidence. Applications for subpoenas must be in writing and must specify the

general relevance and reasonable scope of the evidence sought to be produced.

(q) *Extension of time.* The time for the filing of any document under this section may be extended by the judge if:

(1) The request for the extension of time is made before or on the final date allowed for the filing; and

(2) The judge, after giving written or oral notice to and considering the views of all other parties (when practicable), determines that there is good reason for the extension.

(r) *Filing and service of documents.* (1) Whenever the regulations in this subpart or in an order issued hereunder require a document to be filed within a certain period of time, such document will be considered filed as of the date of the postmark, if mailed, or (if not mailed) as of the date actually delivered to the office where filing is required. Time periods will begin to run on the day following the date of the document, paper, or event which begins the time period.

(2) All submissions must be signed by the person making the submission, or by the person's attorney or other authorized agent or representative.

(3) Service of a document must be made by delivering or mailing a copy of the document to the known address of the person being served.

(4) Whenever the regulations in this subpart require service of a document, such service may effectively be made on the agent for the service of process or on the attorney for the person to be served.

(5) Refusal of service of a document by the person, his agent, or attorney will be deemed effective service of the document as of the date of such refusal.

(6) A certificate of the person serving the document by personal delivery or by mailing, setting forth the manner of the service, will be proof of the service.

§ 970.1002 Ex parte communications.

(a) "Ex parte communication" means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but does not include requests for status reports.

(b) Except to the extent required for disposition of *ex parte* matters as authorized by law, upon assignment of a matter to an administrative law judge and until the final decision of the Administrator is effective under these regulations, no *ex parte* communication relevant to the merits of the proceeding shall be made, or knowingly caused to be made:

(1) By the judge or by an agency employee involved in the decisional process of the proceeding to any interested person outside the Department of Commerce; or

(2) By an interested person outside the Department of Commerce to the judge or to any agency employee involved in the decisional process of the proceeding.

(c) An agency employee or judge who makes or receives a prohibited communication must place in the hearing record the communication and any response thereto and the judge, or Administrator, as appropriate, may take action in this respect consistent with this part, the Act, and 5 U.S.C. 556(d) and 557(d).

(d) This section does not apply to communications to or from the agency representative; however, the agency representative may not participate or advise in the initial or recommended decision of the judge or the Administrator's review thereof except as witness or counsel in the proceeding in accordance with this subpart. In addition, the judge may not consult any person or party on the substance of the matter in issue unless on notice and opportunity for all parties to participate.

(e) This section will not apply to communications concerning national defense or foreign policy matters. Any communications on those subjects to or from an agency employee or from employees of the United States Government involving intergovernmental negotiations are permitted if the communicator's position with respect to those matters cannot otherwise be fairly presented for reasons of foreign policy or national defense. Communications described in this paragraph are not considered part of the record.

Subpart K—Enforcement

§ 970.1100 General.

(a) *Purpose and scope.* (1) Section 302 of the Act authorizes the Administrator to assess a civil penalty, in an amount not to exceed $25,000 for each violation, against any person found to have committed an act prohibited by section 301 of the Act. Each day of a continuing violation is a separate offense.

(2) Section 106 of the Act describes the circumstances under which the Administrator may suspend or revoke a license, or suspend or modify activities under a license, in addition to or in lieu of imposing of a civil penalty, or in addition to imposing a fine.

(3) Section 306 of the Act makes provisions of the customs laws relating to, among other things, the remission or mitigation of forfeitures, applicable to forfeitures of vessels and hard mineral resources. The Administrator is authorized to entertain petitions for administrative settlement of property seizures made under the Act which would otherwise proceed to judicial forfeiture.

(4) Section 114 of the Act authorizes the Administrator to place observers on vessels used by a licensee under the Act to monitor compliance and environmental effects of activities under the license.

(5) Section 117 of the Act describes the circumstances under which a person may bring a civil action against a alleged violator or against the Administrator for failure to perform a nondiscretionary duty, and directs the Administrator to issue regulations governing procedures prerequisite to such a civil action.

(6) The regulations in this subpart provide uniform rules and procedures for the assessment of civil penalties (§§ 970.1101–970.1102), and license sanctions (§ 970.1103); the remission or mitigation of forfeitures (§ 970.1104); observers (§ 970.1105); protection of certain information related to enforcement (§ 970.1106); and procedures requiring persons planning to bring a civil action under section 117 of the Act to give advance notice (§ 970.1107).

(b) *Filing and service of documents.* (1) Filing and service of documents required by this subpart shall be in accordance with § 970.1001(s). The method for computing time periods set forth in § 970.1001(s) also applies to any action or event, such as payment of a civil penalty, required by this subpart to take place within a specified period of time.

(2) If an oral or written request is made to the Administrator within 10 days after the expiration of a time period established in this subpart for the required filing of documents, the Administrator may permit a late filing if the Administrator finds reasonable grounds for an inability or failure to file within the time periods. All extensions will be in writing. Except as provided by this paragraph, by § 970.1101(b) or by order of an administrative law judge, no requests for an extension of time may be granted.

§ 970.1101 Assessment procedure.

(a) *Notice of violation and assessment (NOVA).* (1) A notice of violation and assessment (NOVA) will be issued by the Administrator and served personally or by registered or certified, mail, return receipt requested, upon the person alleged to be subject to a civil penalty (the respondent). A copy of the NOVA will similarly be served upon the affected licensee, and the owner of an

affected vessel (defined in paragraph (f) of this section), if the licensee or owner is not the respondent. Although no specific form is prescribed, the NOVA will contain:

(i) A concise statement of the facts believed to show a violation;

(ii) A specific reference to the provisions of the Act, regulations, license, or order allegedly violated;

(iii) The findings and conclusions upon which the Administrator based the proposed assessment; and

(iv) The amount of penalty proposed to be assessed.

(2) In respect to the amount of civil penalty, the Administrator will take into account information available to the agency concerning the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the respondent, any history of prior offenses, good faith demonstrated in attempting to achieve timely compliance after being cited for the violation, and such other matters as justice may require.

(3) The NOVA may also contain an initial proposal for compromise or settlement of the case. The Administrator may also attach documents which illuminate the facts believed to show a violation. The NOVA will advise the respondent of the respondent's rights at that point in the proceeding, and will be accompanied by a copy of regulations governing civil enforcement procedures, this subpart and the applicable provisions of Subpart J of this part.

(b) *Procedures upon receipt of NOVA.* (1) The respondent shall have 30 days from receipt of the NOVA in which to respond. During this time the respondent may:

(i) Accept the proposed penalty or compromise penalty, if any, by taking the actions specified in the NOVA;

(ii) Seek to have the NOVA amended or modified as prescribed in paragraph (b)(2) of this section;

(iii) Request a hearing, as prescribed in paragraph (b)(5) of this section;

(iv) Take no action, in which case the NOVA becomes final in accordance with paragraph (c) of this section; or

(v) Request an extension of the time allowed to respond to the NOVA under paragraph (b)(3) of this section.

Options, (ii), (iii), (iv) and (v) above may also be exercised by the affected licensee or the owner of an affected vessel.

(2) The respondent, the affected licensee or the owner of an affected vessel may seek amendment or modification of the NOVA to conform to the facts or law as that person sees them by notifying the Administrator at the telephone number or address specified in the NOVA. Where amendment or modification is sought, the Administrator will either amend the NOVA or decline to amend it, and will so notify the respondent, affected licensee or owner, as appropriate.

(3) The respondent, affected licensee or owner of an affected vessel may, within the 30-day period specified in paragraph (b)(1) of this section, request an extension of time to respond. The Administrator may grant an extension of up to 30 days unless the Administrator determines that the requestor could, exercising reasonable diligence, prepare a response within the 30-day period specified in paragraph (b)(1) of this section. If the Administrator does not respond to the request within 48 hours of its receipt by the Administrator, the request will be granted automatically for the extension requested, up to a maximum of 30 days. A telephonic response to the request within the 48-hour period will be considered effective response, and will be followed by written confirmation.

(4) The Administrator may, for good cause, grant an additional extension beyond the 30-day period specified in paragraph (b)(3).

(5) If the respondent, the affected licensee, or the owner of an affected vessel wishes a hearing, a written and dated request shall be served either in person or by certified or registered mail, return receipt requested, at the address specified in the NOVA. The requestor shall either attach a copy of the relevant NOVA or refer to the relevant NOAA case number.

(6) Any denial, in whole or in part, of any request under this section which is based upon untimeliness will be made in writing.

(7) The Administrator may, in the Administrator's discretion, treat any communication from a respondent, an affected licensee, or owner as a request for a hearing pursuant to paragraph (b)(5).

(c) *Final decision.* (1) If no request for a hearing is filed under paragraph (b)(5) of this section, the NOVA becomes effective and constitutes the final decision and order of the Administrator on the 30th calendar day after service of the NOVA, or on the last day of any delay period granted under § 970.1100(b)(2) or paragraph (b)(3) or (b)(4) of this section.

(2) If a request for hearing is filed in accordance with paragraph (b)(5) of this section, the date of the final decision will be as provided in § 970.1102.

(d) *Payment of final assessment.* (1) The respondent shall make full payment of the civil penalty assessed within 30 days after the date upon which the assessment becomes effective as the final decision and order of the Administrator under paragraph (c) of this section or § 970.1102(k); or, if judicial review of the assessment is initiated under section 302(b) of the Act during the 30-day period, within 10 days after the appropriate court has entered final judgment in favor of the Administrator, unless the court's order provides othewise. Payment shall be made by mailing or delivering to the Administrator at the address specified in the NOVA a check or money order made payable in United States currency in the amount of the assessment to the "Treasurer of the United States."

(2) Upon any failure to pay the civil penalty assessed, the Administrator may request the Attorney General of the United States to recover the amount assessed in any appropriate district court of the United States, or may take action under paragraph (e) of this section. In any court action under this paragraph (d)(2), the validity and appropriateness of the final order imposing the civil penalty is not subject to review.

(e) *Compromise of civil penalty.* (1) In his or her sole discretion, the Administrator may compromise, modify, remit, or mitigate, with or without conditions, any civil penalty, imposed under this subpart, or which is subject to imposition, unless a court action, brought either under section 302(b) of the Act to review a civil penalty or under section 302(c) of the Act to recover a civil penalty, is pending in a court of the United States.

(2) The compromise authority of the Administrator under this paragraph (e) is in addition to any similar authority provided in the Act or in this subpart, and may be exercised either upon the initiative of the Administrator or in response to a request by the alleged violator or other interested person.

(3) If the Administrator acts under this paragraph (e) prior to issuing of a NOVA or after a final assessment becomes payable under paragraph (d) of this section, the Administrator will prepare a document indicating the action taken and citing this paragraph (e) and section 302(d) of the Act as authority. Once the case has been assigned for hearing under § 970.1102 (a), the Administrator will, except in unusual circumstances, defer any compromise action under this paragraph (e) until the administrative law judge has rendered an initial decision in the matter. Neither the existence of the compromise authority of the Administrator under this paragraph (e)

nor the Administrator's exerecise thereof at any time changes the date upon which an assessment becomes final or payable.

(4) If compromise action is requested or otherwise becomes appropriate for the Administrator's consideration during the pendency of a petition for relief from forfeiture filed under § 970.1104, the Administrator may consolidate, consistent with the provisions of § 970.1104, consideration of the two matters.

(f) *Application of this section to licensees and vessel owners.* (1) This section applies to affected licensees. "Affected licensee" means the holder of a license issued under the Act which license may be subject to sanctions as a result of civil penalty proceedings under this subpart.

(2) This section also applies to owners of affected vessels. "Affected vessel" means any vessel of the United States that may be liable *in rem* for any civil penalty assessed as a result of civil penalty proceedings under this subpart.

§ 970.1102 Hearing and appeal procedures.

(a) *Beginning of hearing procedures.* Following receipt of a written request for hearing timely filed under § 970.1101(b), the Administrator will begin procedures under this section by forwarding the request, a copy of the NOVA, and any response thereto to the NOAA Office of Administrative Law Judges, which will docket the matter for hearing. Written notice of the referal will promptly be given to the respondent, the affected licensee, and the owner of an affected vessel (if the licensee or owner is not the respondent), with the name and address of the attorney representing the Administrator in the proceedings (the agency representative). Thereafter, all pleadings and other documents shall be filed directly with the NOAA Office of Administrative Law Judges, and a copy shall be served on the opposing party (respondent or agency representative).

(b) *Ex parte communications.* Upon assignment of the case to an administrative law judge and until an assessment or other action on the matter becomes effective under these regulations as the final administrative decision of the Administrator, ex parte communications shall be governed by the regulations set forth in § 970.1002. However, § 970.1002 will not be interpreted to diminish the authority of the Administrator under § 970.1101(e).

(c) *Duties and powers of judge.* To the extent consistent with this subpart, the administrative law judge has all powers and responsibilities enumerated in § 970.1001(e) except that paragraph (e)(2) thereof does not apply. Instead, the judge has the power to rule on a request to participate as a party in the proceedings by allowing, denying, or limiting such participation, except that the respondent, the affected licensee, the owner of an affected vessel, and the agency representative will be parties. The judge will, prior to ruling, ascertain the views of the other parties and base the ruling on whether the request is from a person who could be directly and adversely affected by the final decision and who may contribute materially to the disposition of the proceedings.

(d) *Participation by parties.* (1) The respondent, the affected licensee, the owner of an affected vessel, the agency representative, and, to the extent permitted by the judge, any other party, may appear in person, by counsel, or by other representative, and may examine and cross-examine witnesses to the extent required for a full and true disclosure of the facts, present documentary or other evidence in support of that party's case or defense, and conduct oral argument at the close of testimony. This paragraph shall not be interpreted to diminish the powers and duties of the judge provided in paragraph (c) of this section.

(2) Failure of any party to appear at the hearing will be deemed a waiver of the right to a hearing and consent to the making of a decision on the record of the hearing.

(e) *Appearance and presentation of evidence.* Appearance and the presentation of evidence are governed by in § 970.1001(k).

(f) *Settlements.* An agreement by respondent and the agency representative to settle the matter, if filed before an assessment or other action in the case becomes effective under these regulations as the final decision of the Administrator, will terminate the proceedings, and vacate any initial or administrative appellate decision which has been issued. However, if settlement is reached before the judge submits the initial decision and certifies the record under paragraph (i) of this section, the judge may require submission of a copy of the agreement solely to assure that the judge's consideration of the case is completed and to order the matter dismissed on the basis of the agreement.

(g) *Interlocutory appeals.* Appeals of interlocutory rulings by the judge under this subpart are governed by § 970.1001(k), except that objections to rulings not certified to the Administrator by the judge are subject to review at the same time and in the same manner as the Administrator's review of the initial decision of the judge upon any appeal therefrom under paragraph (j) of this section.

(h) *Proposed findings and conclusions.* Unless a different schedule is established in the discretion of the judge, the parties may file proposed findings of fact and conclusions of law, together with supporting briefs, within 30 days after the judge closes the hearing. Reply briefs may be submitted within 15 days after receipt of the proposed findings and conclusions to which they respond, unless the judge sets a different schedule.

(i) *Initial decision.* (1) After expiration of the period provided in paragaph (h) of this section for filing reply briefs, the judge will render a written initial decision upon the record in the case, setting forth:

(i) Findings and conclusions, and the reasons or basis therefor, on all material issues of fact, law, or discretion presented on the record. In determining the amount of a penalty assessment, the judge is not bound by the amount proposed or assessed in the NOVA, or elsewhere, but will decide the matter *de novo*, stating the reasons in view of the factors as set forth in section 302(a) of the Act and § 970.1101(a)(2);

(ii) Reasons for rejecting fundings and conclusions proposed by the parties;

(iii) A statement of facts officially noticed and relied upon in the decision, if the parties have not previously been advised of such notice; and

(iv) Such other matters as the judge considers appropriate, including recommendations, if any, regarding forfeiture action and license sanctions.

(2) The judge will submit the initial decision to the Administrator, serve copies on the parties, and transmit to the Administrator the record of the proceeding together with a certification to the effect that, to the best of the judge's knowledge and belief, the record is a complete and accurate compilation of all evidence and other documents in the proceeding, except in such particulars as are specified.

(j) *Appeals.* (1) Any party may appeal the initial decision of the judge by filing a notice of appeal with the Administrator, within 45 days after the date of the initial decision. The notice of appeal shall concisely state such exceptions as the appellate takes to the initial decision and shall contain citations to the record or other authority relied upon. The appellant shall serve a copy of the notice of appeal on the other parties.

(2) The Administrator will decide the appeal upon the record already made.

except that the Administrator may issue orders:

(i) Specifying the filing of supplemental briefs; or

(ii) Remanding the matter to the judge for receipt of further evidence other assistance in the determination of the matter. The decision of the Administrator will be in writing and will state the reasons for accepting or rejecting the exceptions taken by the appellant. To the extent the Administrator's decision is silent as to a material issue of fact, law, or discretion presented on the record, the decision will be deemed to adopt the findings and conclusions thereon, and the reasons or basis therefor, contained in the initial decision.

(k) *Final decision.* (1) Unless notice of appeal is timely filed in accordance with paragraph (j) of this section, the initial decision of the judge becomes effective and constitutes the final decision and order of the Administrator on the 45th calendar day after the date it is rendered.

(2) If a notice of appeal is timely filed as provided in paragraph (j) of this section, the Administrator's decision becomes effective and constitutes the final decision and order of the Administrator on the date the decision is issued, or as otherwise specfied by the Administrator in the decision.

(3) Payment of any assessment which becomes final under this paragraph (k) shall be made in accordance with § 970.1101(d).

(l) *Application of this section to affected licensees and vessel owners.* The provisions of this section apply to affected licensees and owners of affected vessels as defined in § 970.1101(f).

§ 970.1103 License sanctions.

(a) *Application of this section.* This section governs the suspension or revocation of any license issued under the Act, or the suspension or modification of any particular activity or activities under a license, which suspension, revocation or modification is undertaken in addition to, or in lieu of, imposing a civil penalty under this subpart, or in addition to imposing a fine.

(b) *Basis for sanctions.* The Administrator may act under this section with respect to a license issued under the Act, or any particular activity or activities under such a license, if the licensee substantially fails to comply with any provision of the Act, any regulation or order issued under the Act, or any term, condition, or restriction in the license.

(c) *Nature of sanctions.* In the Administrator's discretion and subject to the requirements of this section, the Administrator may take any of the following actions or combinations thereof with respect to a license issued under the Act:

(1) Revoke the license;

(2) Suspend the license, either for a specified period of time or until certain stated requirements are met, or both; or

(3) Modify any activity under the license, as by imposing additional requirements or restraints on the activity.

(d) *Notice of sanction.* (1) The Administrator will prepare a notice of sanction (NOS) setting forth the sanction to be imposed and the basis therefor. The NOS will state:

(i) A concise statement of the facts believed to show a violation;

(ii) A specific reference to the provisions of the Act, regulation, license, or order allegedly violated;

(iii) The nature and duration of the proposed sanction;

(iv) The effective date of the sanction, which is 30 days after the date of the notice unless the Administrator establishes a different effective date under paragraph (d)(4) or paragraph (e) of this section;

(v) That the licensee has 30 calendar days from receipt of the notice in which to request or waive a hearing, under paragraph (f) of this section; and

(vi) The determination made by the Administrator under paragraph (e)(1) of this section, and any time period that the Administrator provides the licensee under paragraph (e)(1) to correct a deficiency.

(2) If a hearing is requested in a timely manner, the sanction becomes effective under paragraph (g) of this section, unless the Administrator provides otherwise under paragraph (d)(4) of this section.

(3) The NOS will be served personally or by registered or certified mail, return receipt requested, on the licensee. The Administrator will also publish in the **Federal Register** a notice of his intention to impose a sanction.

(4) The Administrator may make the sanction effective immediately or otherwise no earlier than 30 days after the date of the NOS if the Administrator finds, and issues an emergency order summarizing such finding and the basis therefor, that an earlier date is necessary to:

(i) Prevent a significant adverse effect on the environment; or

(ii) Preserve the safety of life and property at sea.

If the Administrator acts under this paragraph (d)(4), the Administrator will serve the emergency order as provided in paragraph (d)(3) of this section.

(5) The NOS will be accompanied by a copy of regulations governing civil enforcement procedures, this subpart and the applicable provisions of Subpart J of this part.

(e) *Opportunity to correct deficiencies.* (1) Prior to issuing the NOS, the Administrator will determine whether the reason for the proposed sanction is a deficiency which the licensee can correct. Such determination, and the basis therefor, will be set forth in the NOS.

(2) If the Administrator determines that the reason for the proposed sanction is a deficiency which the licensee can correct, the Administrator will allow the licensee a reasonable period of time, up to 180 days from the date of the NOS, to correct the deficiency. The NOS will state the effective date of the sanction, and that the sanction will take effect on that date unless the licensee corrects the deficiency within the time prescribed or unless the Administrator grants an extension of time to correct the deficiency under paragraph (e)(3) of this section.

(3) The licensee may, within the time period prescribed by the Administrator under paragraph (e)(2) of this section, request an extension of time to correct the deficiency. The Administrator may, for good cause shown, grant an extension. If the Administrator does not grant the request, either orally or in writing before the effective date of the sanction, it will be considered denied.

(4) When the licensee believes that the deficiency has been corrected, the licensee shall so advise the Administrator in writing. The Administrator will, as soon as practicable, determine whether or not the deficiency has been corrected and advise the licensee of such determination.

(5) If the Administrator determines that the deficiency has not been corrected by the licensee within the time prescribed under paragraph (e)(2) or (e)(3) of this section, the Administrator may:

(i) Grant the licensee additional time to correct the deficiency, for good cause shown;

(ii) If no hearing has been timely requested under paragraph (f)(1) of this section, notify the licensee that the sanction will take effect as provided in paragraph (e)(2) or (e)(3) of this section; or

(iii) If a request for a hearing has been timely filed under paragraph (f)(1) of this section, and hearing proceedings have

not already begun, or if the Administrator determines under paragraph (f)(3) of this section to hold a hearing, notify the licensee of the Administrator's intention to proceed to a hearing on the matter.

(f) *Opportunity for hearing.* (1) The licensee has 30 days from receipt of the NOS to request a hearing. However, no hearing is required with respect to matters previously adjudicated in an administrative or judicial hearing in which the licensee has had an opportunity to participate.

(2) If the licensee requests a hearing, a written and dated request shall be served either in person or by certified or registered mail, return receipt requested, at the address specified in the NOS. The request shall either attach a copy of the relevant NOS or refer to the relevant NOAA case number.

(3) If no hearing is requested under paragraph (f)(2) of this section, the Administrator may nonetheless order a hearing if the Administrator determines that there are material issues of fact, law, or equity to be further explored.

(g) *Hearing and decision.* (1) If a timely request for a hearing under paragraph (f) of this section is received, or if the Administrator orders a hearing under paragraph (f)(3) of this section, the Administrator will promptly begin proceedings under this section in the manner provided in § 970.1102.

(2) The hearing and appeal procedures in § 970.1102 apply to any hearing held under this section.

(3) If the proposed sanction is the result of a correctable deficiency, the hearing will proceed concurrently with any attempt to correct the deficiency unless the parties agree otherwise or the administrative law judge orders differently.

(4) The Administrator will serve notice of the initial and final decision on the licensee in the manner described by paragraph (d)(3) of this section.

§ 970.1104 Remission of forfeitures.

(a) *Application of subpart.* (1) Authorized enforcement officers are empowered by section 304 of the Act to seize any vessel (together with its gear, furniture, appurtenances, stores, and cargo) which reasonably appears to have been used in violation of the Act, if necessary to prevent evasion of the enforcement of this Act, or of any regulation, order or license issued pursuant to the Act. Enforcement agents may also seize illegally recovered or processed hard mineral resources, as well as other evidence related to a violation. Section 306 of the Act provides for the judicial forfeiture of vessels and hard mineral resources. This section establishes procedures for filing with the Administrator a petition for relief from forfeitures incurred or pending.

(2) For purposes of this subpart, the "remission or mitigation of a forfeiture" or "relief from forfeiture" means action by the Administrator, following coordination as necessary with other Federal agencies and the courts, to release from the custody of the United States property seized and subject to forfeiture under the Act, or part of such property, upon compliance with any terms and conditions set by the Administrator, such as payment of a stated amount in settlement of the forfeiture aspects of a violation. Although the Administrator may properly combine consideration of a petition for relief from forfeiture with other consequences of a violation of the Act, the Administrator's remission or mitigation of a forfeiture is not dispositive of a criminal charge under section 303 of the Act, or a civil penalty or sanction under this subpart, unless the Administrator expressly so states in the decision. Remission or mitigation of a forfeiture is in the nature of executive clemency granted in the sole discretion of the Administrator only when consistent with the purposes of the Act and the provisions of this section.

(b) *Petition for relief from forfeiture.* (1) Any person having an interest in a vessel, hard mineral resource, or other property seized and subject to forfeiture under the Act may file a petition for relief from the forfeiture. The petition shall be addressed to the Administrator and filed, within 60 days after the seizure, by mailing or delivering it to the Director, Office of Ocean Minerals and Energy at the address specified in § 970.200(b).

(2) The petition need not be in any particular form, but shall set forth the following:

(i) A description of the property seized;

(ii) The date and place of the seizure;

(iii) The interest of petitioner in the property, supported as appropriate by bills of sale, contracts, mortgages, or other satisfactory evidence;

(iv) The facts and circumstances relied upon by the petitioner to justify the remission or mitigation;

(v) Any request for release under paragraph (f) of this section of all or part of the seized property pending final decision on the petition, together with any offer of payment to protect the Government's interest that petitioner makes in return for such release, and the facts and circumstances relied upon by petitioner in the request; and

(vi) The signature of petitioner, petitioner's attorney, or other authorized agent.

(3) A false statement in a petition will subject petitioner to prosecution under 18 U.S.C. 1001.

(c) *Investigation.* The Administrator will promptly investigate the facts and circumstances shown by the petition and the seizure, and may appoint an examiner to find the facts, by informal hearing on sworn testimony or otherwise, and to prepare a report with recommendations.

(d) *Decision on petition.* (1) After the investigation specified in paragraph (c) of this section, the Administrator will decide the matter and notify petitioner. The Administrator may remit or mitigate the forfeiture, on such terms and conditions as under the Act and the circumstances the Administrator deems reasonable and just, if the Administrator finds:

(i) That the forfeiture to which the property is subject was incurred without willful negligence and without any intention on the part of the petitioner to violate the Act, regulation, order, or license;

(ii) That other circumstances justify remission or mitigation of the forfeiture.

(2) Unless the Administrator determines no valid purpose would thereby be served, the Administrator will condition a decision to remit or mitigate a forfeiture upon the submission by petitioner of an agreement, in a form satisfactory to the Administrator, to hold the United States and its officers or agents harmless from any claim based on loss of or damage to seized property. If the petitioner is not the beneficial owner of the property, the Administrator may also require petitioner to submit such an agreement executed by the beneficial owner.

(e) *Compliance with decision.* A decision by the Administrator to remit or mitigate the forfeiture upon stated conditions, as upon payment of a specified amount, is effective for 60 days after the date of the decision. If the petitioner does not within such period comply with the stated conditions, in the manner prescribed by the decision, or make arrangements satisfactory to the Administrator for later compliance, the matter will promptly be referred to the Attorney General of the United States to effect judicial forfeiture in full of the seized property to the United States under section 306 of the Act.

(f) *Release of seized property pending decision.* (1) Upon request in the petition for relief from forfeiture, and taking account of any interim report or recommendation of an examiner

appointed under paragraph (c) of this section, the Administrator may order the release, pending final decision on the petition, of all or part of the seized property upon payment by petitioner of the full value of the property to be released or such lesser amount as the Administrator in the Administrator's sole discretion deems sufficient to protect the interests served by the Act.

(2) If the Administrator grants the request, the Administrator will deposit the amount paid by petitioner in a suspense account maintained for that purpose. The amount deposited will for all purposes be considered to represent property seized and subject to forfeiture under the Act, and payment of the amount by petitioner constitutes a waiver of any claim of defective seizure, custody and control, commingling of proceeds, or related defenses. The Administrator will keep records of amounts deposited in the suspense account and will retain the deposits pending the Administrator's further order under section 304 of the Act or a court order under section 306 of the Act.

(3) The provisions of paragraph (d)(2) of this section apply to a release of property made under this paragraph (f).

§ 970.1105 Observers.

(a) Each licensee, upon notification by the Administrator, shall allow an observer duly authorized by the Administrator to board and accompany any vessel used by the licensee on any or all of the licensee's activities for the purpose of observing and reporting on:

(1) The effectiveness of the terms, conditions and restrictions of the license;

(2) Compliance with the Act, regulations and orders issued under the Act and the license terms, conditions and restrictions; and

(3) The environmental and other effects of the licensee's activities under the license.

(b) The Administrator may notify a licensee, by certified or registered mail, return receipt requested, that the Administrator plans to place an observer aboard a vessel used by the licensee in exploration activities.

(c) A licensee who is notified under paragraph (b) of this section that he is required to carry an observer aboard a vessel used for exploration activities shall notify the official specified in the Administrator's letter at least five days in advance of the departure of each exploration voyage to facilitate observer placement. A licensee who fails to comply with this section may not legally engage in exploration activities for which a license is required under the Act.

(d) Each licensee, owner or operator of an exploration vessel aboard which an observer is assigned shall:

(1) Allow the observer to use the vessel's equipment and personnel as necessary for the transmission and receipt of messages;

(2) Allow the observer access to and use of the vessel's navigation equipment and personnel as necessary to determine the vessel's location;

(3) Provide all other reasonable cooperation and assistance to enable the observer to carry out his duties; and

(4) Provide accommodations and food to the observer aboard the vessel which are equivalent to those provided to officers of the vessel.

(e) The Administrator will provide for payment of all reasonable costs directly related to the quartering and maintaining of observers on board exploration vessels.

(f) To the maximum extent practicable, observation duties when aboard the exploration vessel will be carried out in a manner that minimizes interference with the licensee's activities under the license.

(g) Licensees and other persons are reminded that the Act (see, for example, sections 301(3) and 301(4)) makes it unlawful for any person subject to section 301 of the Act to interfere with any observer in the performance of the observer's duties.

§ 970.1106 Proprietary enforcement information.

(a) Proprietary and privileged information seized or maintained under Title III of the Act concerning a person or vessel engaged in exploration will not be made available for general or public use or inspection.

(b) Although presentation of evidence in a proceeding under this subpart is not deemed general or public use of information, the Administrator will, consistent with due process, move to have records sealed, under § 970.1101(e)(13) or other applicable provisions of law, in any administrative or judicial proceeding where the use of proprietary or privileged information is required to serve the purposes of the Act.

§ 970.1107 Advance notice of civil actions.

(a) *Actions against alleged violators.* (1) No civil action may be filed in a United States District Court under section 114 of the Act against any person for alleged violation of the Act, or any regulation, or license term, condition, or restriction issued under the Act, until 60 days after the Administrator and any alleged violator receive written and dated notice of alleged violation.

(2) The notice shall contain:

(i) A concise statement of the facts believed to show a violation;

(ii) A specific reference to the provisions of the Act, regulation or license allegedly violated; and

(iii) Any documentary or other evidence of the alleged violation.

(b) *Actions against the Administrator.* (1) No civil action may be filed in a United States District Court under section 114 of the Act against the Administrator for an alleged failure to perform any act or duty under the Act which is not discretionary until 60 days after receipt by the Administrator of a written and dated notice of intent to file the action.

(2) The notice shall contain:

(i) A specific reference to the provisions of the Act, regulation or license believed to require the Administrator to perform a nondiscretionary act or duty;

(ii) A precise description of the nondiscretionary act or duty believed to be required by such provision;

(iii) A concise statement of the facts believed to show a failure to perform the act or duty; and

(iv) Any documentary or other evidence of the alleged failure to perform the act or duty.

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Tuesday
March 24, 1981

Part III

Office of Management and Budget

Budget Rescission and Deferral; Cumulative Referral

OFFICE OF MANAGEMENT AND BUDGET

Budget Rescission and Deferral; Cumulative Report

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report 33 proposals to rescind a total of $2.8 billion in budget authority previously provided by the Congress, and one new deferral of $8.0 million.

The details of the rescission proposals and the deferral are contained in the attached reports.

Ronald Reagan

THE WHITE HOUSE,
March 19, 1981.

BILLING CODE 3110-01-M

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Rescission #	Item	Budget Authority
	Department of Commerce	
	National Oceanic and Atmospheric Administration	
R81-123	Operations, research, and facilities	36,493
	National Telecommunications and Information Admin.	
R81-124	Public telecommunications facilities, planning and construction	25,717
	Department of Education	
	Office of Elementary and Secondary Education	
R81-125	School assistance in federally affected areas	66,500
R81-126	Elementary and secondary education	982,385
	Office of Vocational and Adult Education	
R81-127	Vocational and adult education	239,777
	Office of Postsecondary Education	
R81-128	Student loan insurance	103,270
R81-129	Higher and continuing education	49,239
	Department of Energy	
	Energy programs	
R81-130	Energy supply, research and development activities - operating expenses	126,609
R81-131	Energy supply, research and development activities - plant and capital equipment	7,967
R81-132	Fossil energy research and development	65,932
R81-133	Energy conservation	306,045
	Department of Health and Human Services	
	Health Services Administration	
R81-134	Health services	11,616
	Centers for Disease Control	
R81-135	Preventive health services	38,520
	National Institutes of Health	
R81-136	National Cancer Institute	17,986
R81-137	National Heart, Lung and Blood Institute	11,120
R81-138	National Institute of Dental Research	700
R81-139	National Institute of Arthritis, Metabolism, and Digestive Diseases	3,943
R81-140	National Institute of Neurological and Communicative Disorders and Stroke	4,388
R81-141	National Institute of Child Health and Human Development	4,119
R81-142	National Eye Institute	3,856
R81-143	National Institute of Environmental Health Sciences	2,179
R81-144	National Institute of Aging	1,593
R81-145	Research Resources	3,714
R81-146	National Library of Medicine	341
R81-147	Office of the Director	360
	Alcohol, Drug Abuse, and Mental Health Administration	
R81-148	Alcohol, drug abuse, and mental health	98,370
	Health Resources Administration	
R81-149	Health resources	131,751
	Human Development Services	
R81-150	Human development services	10,100
	Department of Housing and Urban Development	
	Housing Programs	
R81-151	Congregate services program	10,000
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	Community Services Administration	
R81-152	Community services program	6,000
	Federal Mine Safety and Health Review Commission	
R81-153	Salaries and expenses	186
	Postal Service	
R81-154	Payment to the Postal Service Fund	250,000
	Tennessee Valley Authority	
R81-155	Tennessee Valley Authority Fund	177,000
	Subtotal, rescission proposals	2,796,776

Deferral*	Item	Budget Authority
	Department of Health and Human Services	
	Social Security Administration	
D81-104	Limitation on administrative expenses	8,004
	Subtotal, deferrals	8,004
	Total, rescission proposals and deferrals	2,804,780

NOTE: An errata sheet, accompanied by a substitute for rescission proposal No. R81-102, transmitted to the Congress on March 17, 1981, is appended to this special message.

SUMMARY OF SPECIAL MESSAGES
FOR FY 1981

(in thousands of dollars)

	Rescissions	Deferrals
Eighth special message:		
New items	2,796,776	8,004
Effect of eighth special message	2,796,776	8,004
Previous special messages	11,960,769	8,577,188
Total amount proposed in special messages	14,757,545 a/	8,585,192 b/

a/ This amount represents budget authority except for $751.8 million involving authority to incur obligations for direct loans.
b/ This amount represents budget authority except for $61,756 thousand involving the deferral of outlays only (081-1981).

Rescission Proposal No: R81-123

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Commerce	New budget authority (P.L. 96-506): $ 774,367,00
Bureau: National Oceanic and Atmospheric Administration	Other budgetary resources: 100,250,06
Appropriation title & symbol: Operations, Research, and Facilities 13X1450	Total budgetary resources: 874,617,06
	Amount proposed for rescission: $ 36,493,00
OMB identification code: 13-1450-0-1-306	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act
Grant program: ☐ Yes ☐ No	☐ Other
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: Selected low-priority programs in the National Oceanic and Atmospheric Administration (NOAA) are proposed to be curtailed or terminated in order to reduce Federal spending. The programs and amounts involved are as follows:

* Salmon Tagging with Japan - A study to determine the continent of origin of selected species of salmon would be terminated. The study is not considered essential to the fishery data analysis program. ($800,000)

* Conversion of Pacific Region Headquarters, National Weather Service, to an Administrative Office - The proposed reduction would consolidate managerial and administrative functions. This consolidation would have no impact on the provisions of weather services to the public. ($348,000)

* Oceanographic Instrumentation - These funds would enhance research and development on instruments which may be used for collection of shallow water data. Present base funding for designing, developing, testing, and evaluating oceanographic instrumentation is adequate for continuing support of NOAA's marine programs. ($100,000)

* Pascagoula Fisheries Laboratory Renovation and Expansion - These funds would improve the laboratory facilities and provide additional space. Improvements made to the facility through reprogramming in 1980 are felt to be adequate ($650,000)

* Flood Program - These funds would provide for installation, testing, and evaluation of a prototype flash flood warning system for Appalachian counties, which include the Big Sandy River Basin. Proceeding with installation of equipment in the Big Sandy River Basin is inconsistent with existing NWS plans. The effects of the ongoing program should be evaluated before expanding the effort. Adequate funds are currently available for this purpose. ($325,000)

* Purchase of Local Warning Radars - The proposed action includes deletion of funds to purchase radars for Tupelo, Mississippi; Tucson, Arizona; and Savannah, Georgia. The purchase of these radars is unnecessary since each of these areas is adequately covered by other network radars. ($1,845,000)

* NOAA Undersea Research Program - The proposed action reduces funds for three new regional undersea research programs. The effect of reducing these regional programs in 1981 would not be significant. ($500,000)

* Anadromous Grants - The reduction of $2,000,000 will maintain the program at its 1980 level in 1981. A significant impact on anadromous fish resources is not expected through deletion of these funds. ($2,000,000)

* Campeche Oil Spill - The proposed action would reduce the level of funding for the assessment of the social, environmental, and economic damage resulting from the IXTOC-I oil spill. The impact of the reduced level of funding is minimal due to the length of elapsed time since the spill occurred (1979). ($500,000)

* Striped Bass - The proposed action would reduce the scope of the studies regarding the causes of the decline in striped bass stocks. This reduction would result in the termination of these studies as FY 1980 funds are used up. ($750,000)

* Vessel Buy-Back Program - This new program would help alleviate some of the intense fishing pressure on salmon resources in the Northwest by reducing the number of available vessels/licenses. Implementation of the buy-back program at a reduced level will not have an adverse effect on the overall program due to the likely time required to initiate the program. Additionally, States are expected to provide a 50% matching share reducing the need for Federal funds. ($10,000,000)

* National Oceanic Satellite System (NOSS) - The proposed action will postpone the establishment of the NOSS program which would have been executed jointly by NOAA, National Aeronautics and Space Administration (NASA), and Department of Defense (DOD). All three agencies would participate in all levels of program activity. Much of the data that would have been collected by NOSS is currently collected or can be made available through other means. ($6,000,000)

Additional programs are recommended for rescission from the funding transferred from the Promote and Develop Fishery Products and Research Pertaining to American Fisheries appropriation. This proposed action would delete funds above the January request for the following programs: Marine resources monitoring, assessment and prediction $3,175,000; Commercial fisheries grants to States, $2,500,000; Regional Fishery Management Councils $500,000; Restore and enhance fisheries in the Columbia River $1,100,000; additional base fisheries programs $2,400,000; and Sea Grant increase for marine education $3,000,000. Since these unrequested funds are part of the uncommitted balance in the Promote and Develop appropriation, the rescission of this funding would not affect the funding of continuing fishery programs. Additional funds in these areas are not required to carry out effective programs in 1981.

Estimated Effects: The rescission of these funds would reduce Federal spending for FY 1981 and 1982, without hampering the carrying out of NOAA's overall mission.

Outlay Effects: (in millions of dollars)

1981 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1981	1982	1983	1984
775.1	752.8	22.3	14.2	---	---

R81-123

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Operations, Research, and Facilities

Of the funds provided for "National Oceanic and Atmospheric Administration, Operations, research, and facilities" by P.L 96-536, $36,493,000 are rescinded.

Rescission Proposal No: R81-124

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency Department of Commerce	New budget authority (P.L. 96-536) $ 25,705,000
Bureau National Telecommunications and Information Administration	Other budgetary resources 11,510
Appropriation title & symbol: Public Telecommunications Facilities, Planning and Construction 13x0551	Total budgetary resources 25,716,510
	Amount proposed for rescission $ 25,716,510
OMB identification code: 13-0551-0-1-303	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act
Grant program ☑ Yes ☐ No	☐ Other
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☑ No-year	Type of budget authority: ☑ Appropriation ☐ Contract authority ☐ Other

Justification: The public telecommunications facilities program provides grants for planning and construction of noncommercial telecommunications facilities to help extend and improve the delivery of public telecommunications services. The program has succeeded in establishing and extending the availability of public T.V. and radio to over 90% of the American public and has, therefore, achieved the fundamental objectives of the legislation which created it. This action is an integral part of the President's comprehensive economic plan for achieving overall spending reductions by eliminating low priority programs. The rescission of $25,716,510 will terminate this program in FY 1981.

Estimated Effects: The effects of terminating this program will be that local interest groups will need to further identify and use other sources of funding if they wish to add to or enhance the capabilities of the already substantial public T.V. and radio system. Further, the continued expansion of satellite and cable systems through private sector initiatives will effectively soften the impact of the program's termination on the public.

Outlay Effects: (in millions of dollars)

1981 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1981	1982	1983	1984
21.8	19.2	2.6	3.3	7.7	6.1

R81-124

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Public Telecommunications Facilities, Planning and Construction

The unobligated funds included under this head in H.R. 7584 making appropriations for the Department of Commerce for fiscal year 1981, and appropriated by Public Law 96-536, are rescinded. In addition, such other funds as are now or may become available are rescinded.

Rescission Proposal No: R81-125

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Education	New budget authority (P.L. 96-536): $790,000,000
Bureau: Office of Elementary and Secondary Education	Other budgetary resources: 46,233,878
Appropriation title & symbol: School Assistance in Federally Affected Areas 9110102 910/10102 91X0102	Total budgetary resources: 836,233,878
	Amount proposed for rescission: $ 66,500,000
OMB identification code: 91-0102-0-1-501	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☒ Annual ☒ Multiple-year September 30, 1981 (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification:

The Impact Aid Maintenance and Operations program provides assistance to local education agencies that have been adversely affected by the loss of revenues due to nontaxable lands defined as Federal property within their boundaries. Section 2 of Title I of the Act of September 30, 1950, as amended, provides assistance to school districts that have suffered a partial loss of tax base due to certain U.S. acquisitions of real property. Section 3 of the Act provides payments to assist school districts to finance the cost of educating children who reside and/or whose parents work on Federal property or are in the uniformed services.

Since many school districts receiving aid under this program have been over-compensated for the effects of the Federal burden, a rescission is proposed that will limit payments to school districts under sections 2 and 3 to 90 percent of the amounts otherwise payable in 1981.

Estimated Effects:

The proposed reduced funding level which would result from the rescission will provide payments for all eligible school districts (estimated at [illegible] for [illegible] on behalf of all eligible children (estimated to be 2,233,000 in 1981). By making payments at 90 percent of the amount appropriated for 1981, a savings of $66,500,000 from the Continuing Resolution level of $740 million for the Maintenance and [illegible] account will be realized.

DEPARTMENT OF EDUCATION
Office of Elementary and Secondary Education

School Assistance in Federally Affected Areas

Of the funds provided for "School Assistance in Federally Affected Areas" for fiscal year 1981 in Public Law 96-536, $66,500,000 are rescinded: Provided, That the amounts paid with respect to entitlements under sections 2 and 3 shall be limited to 90 per centum of the amounts otherwise payable under those sections for fiscal year 1981: Provided further, That the last two sentences of section 5(c) of the Act of September 30, 1950, shall not apply to the allocations and payments provided for in this Act.

Rescission Proposal No: 81-126

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Education	New budget authority (P.L. 96-536): $3,838,135,000
Bureau: Office of Elementary and Secondary Education	Other budgetary resources: 30,647,590
Appropriation title & symbol: Elementary and Secondary Education 91100100 911/20100 910/10100	Total budgetary resources: 3,868,782,590
	Amount proposed for rescission: $982,385,000
OMB identification code: 91-0100-0-1-501	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☒ Annual 9/30/81 (30,647,590) ☒ Multiple-year 9/30/82 (3,457,173,000) (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification:

Grants for Disadvantaged, authorized by Title I of the Elementary and Secondary Education Act, support compensatory educational services designed to increase the educational attainment of economically disadvantaged children to a level appropriate for children of their age. Funds to support programs designed and implemented by local educational agencies (LEAs) are provided through two mechanisms. Basic grants are made to school districts according to the number of children from low-income families, and, within districts according to the schools with the greatest number of such children. Additional assistance is provided to districts with high concentrations of children from low-income families. Grants to State educational agencies (SEAs) support special educational services to children of migratory workers; handicapped children in State-operated or State-supported schools and children who have left such schools and are participating in programs conducted by local educational agencies; and neglected and delinquent children in State-operated or State-supported institutions.

Improving Local Educational Practice, authorized by Title IV-C of the Elementary and Secondary Education Act, provides grants to State educational agencies to support local educational agencies' efforts at developing and implementing innovative solutions to a variety of educational problems.

Strengthening State Educational Agency Management, authorized by Title V-B of the Elementary and Secondary Education Act, provides grants to State educational agencies to apply effective management practices to a variety of educational issues and to improve State leadership and services for elementary and secondary education programs, including the coordination of Federal programs.

Bilingual Education, supports grants to school districts, demonstration projects, training awards, material development and other support services intended to assist children of limited English proficiency improve their ability to read, write and speak English while they make progress in subject matter skills.

Territorial Assistance, provides general aid to education in the Virgin Islands and assists teacher training in Guam, American Samoa, the Northern Mariana Islands and Trust Territory of the Pacific Islands.

Ellender Fellowships, provides a grant to the Close-Up Foundation to fund fellowships for economically disadvantaged secondary school youth and their teachers. These students and teachers spend one week in Washington attending seminars on current issues and meeting with leaders from the three branches of government.

As part of the President's overall economic recovery plan, funding for many programs, including these, is proposed for reduction. The purpose of the proposed rescissions is to reduce government spending and, thereby control one source of inflationary pressure. Moreover, neither Improving Local Educational Practice nor Strengthening State Educational Management is, in a time of fiscal restraint, a high priority program. The projects supported by Title IV-C are not necessarily targeted to national needs or national priority populations. Title V-B grants represent additional Federal funds devoted to administration.

In addition, a rescission of the $5,000,000 appropriated for Territorial Assistance is proposed because sufficient funds are available from statutory set-asides in programs such as ESEA Title I, Title IV-C and Education for the Handicapped and from a variety of discretionary programs to meet the general needs addressed by these programs. Also, under the consolidated grant program established by P.L. 95-134, the Insular Areas have enhanced opportunities to target currently available Federal funds on their most urgent needs. A rescission of $750,000 of the amount available for Ellender Fellowship is proposed because local organizations have demonstrated their capacity to support the Close-Up Foundation's activities independent of Federal funding.

Estimated Effects:

Grants for Disadvantaged. Rescinding a total of $878,744,000 of the funds appropriated for Title I programs would reduce the number of disadvantaged children served in local educational agency compensatory education programs to 4,152,000, roughly 1,379,000 fewer than would be served by the original appropriation. Within this decrease, a cut of 66,000 children served would be attributable to reducing the amount available for Concentration Grants by $36,250,000. The number of migratory children receiving services under the State Agency Migrant program would drop to roughly 300,000, 100,000 fewer than the original estimate. The number of children served under the State Agency Handicapped and State Agency Neglected and Delinquent programs may decline as well. It is more likely, however, that the relevant institutions will reduce the quality and extent of services in line with the reduced amount available per child. There would be $522 available per child in the handicapped institutions, down from $696 and $562 available per child in institutions for neglected and delinquent, down from $750.

Comparable reductions in the set-asides for State Administration and Evaluation will provide similar results in the State educational agencies' monitoring activities and the Department of Education evaluation efforts.

Improving Local Educational Practices. Rescinding $41,400,000 from the total available for Title IV-C grants will reduce the number of local educational agency projects by 1,600, leaving a total of 2,600.

Strengthening State Educational Agency Management. A reduction of $12,750,000 in Title V-B funds will reduce the number of State educational agency activities supported from 500 to 380 and the number of State personnel supported from 1,600 to 1,200.

Bilingual Education. The rescission of $43,741,000 proposed for Bilingual Education will reduce the number of capacity-building grants to local educational agencies from 564 to 385, demonstration projects from 60 to 41 and bilingual desegregation grants from 32 to 26. Comparable cutbacks will occur in materials development, coordination and dissemination activities.

Territorial Assistance. Rescinding the funds appropriated for Territorial Assistance would eliminate $5,000,000 of what is essentially general aid.

Ellender Fellowships. Rescinding $750,000 of the funds appropriated for Ellender Fellowships would eliminate approximately 1,300 fellowships.

Outlay Effects: (in millions of dollars)

1981 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1981	1982	1983	1984
3,345.1	3,296.9	48.2	493.8	220.4	---

DEPARTMENT OF EDUCATION
Office of Elementary and Secondary Education

Elementary and Secondary Education

Of the funds provided under this head in Public Law 96-536, $878,744,000 of the amount provided for title I, parts A and B, $41,400,000 of the amount provided for title IV, part C, $12,750,000 of the amount provided for title V, part B, and $43,741,000 of the amount provided for title VII of the Elementary and Secondary Education Act, and $5,000,000 provided for sections 1314 and 1515 of the Education Amendments of 1978, and $750,000 of the amount provided for Public Law 92-506 are rescinded: Provided, That of the amount remaining for title I, parts A and B of the Elementary and Secondary Education Act, $108,750,000 shall be for the purpose of section 117, $216,000,000 shall be for the purposes of subpart 1 of such part B, $123,750,000 shall be for the purposes of subpart 2 of such part B, and $28,312,000 shall be for the purposes of subpart 3 of such part B and any reductions required thereby shall be proportionate among the States: Provided further, That, notwithstanding the provisions of section 157 of the Elementary and Secondary Education Act, a State may receive, pursuant to subpart 1 of title I, part B of such Act, an amount which is less than 100 per centum of the amount that State received in the prior fiscal year under subpart 1 of such part B, but not less than 85 per centum of that amount: Provided further, That, notwithstanding the provisions of section 193(a), the allocation of a local educational agency under subpart 1 of title I, part A of the Elementary and Secondary Education Act may be reduced to less than 85 per centum of its allocation under subpart 1 of such part A for the preceding fiscal year, but not to less than 75 per centum of that amount: Provided further, That, notwithstanding the provisions of sections 404(a)(9) and 523(c), none of the funds provided for title IV, part C of the Elementary and Secondary Education Act may be expended for the purposes of title V, part B of the Elementary and Secondary Education Act.

Rescission Proposal No: R81-127

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency Department of Education	New budget authority (P.L. 96-536 ___) $ 932,658,455
Bureau Office of Vocational and Adult Education	Other budgetary resources 411,327,398
Appropriation title & symbol Vocational and Adult Education 9110400 7130400 910/10400 911/20400	Total budgetary resources 1,343,985,853
	Amount proposed for rescission $ 238,777,000
OMB identification code: 91-0400-0-1-501	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act
Grant program ☒ Yes ☐ No	☐ Other ____
Type of account or fund: ☒ Annual ☒ Multiple-year September 30, 1981 / September 30, 1982 (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

Justification: The Vocational and Adult Education appropriation provides funds for activities designed to provide individuals with the skills, education and training they need to seek and secure gainful employment, to develop linkages between schools and communities, and to enhance individual participation in the nation's social and economic arenas. A rescission of $238,777,000 is requested as part of the President's plan to reduce Federal spending.

The Vocational Education Act of 1963, as amended, primarily provides formula grants to States. The Federal role in vocational education has been to increase the availability of programs through the stimulation of State and local support, provide increased access to vocational training for special populations, encourage males and females to enter vocational areas traditionally dominated by the opposite sex, and support applied research, product dissemination, and evaluation. Each activity funded under the Vocational Education Act will be equitably reduced in order to achieve a total rescission of $194,011,000. In 1981, State and local contributions to the vocational education effort are expected to overmatch Federal funding by 11 to 1. Because of this, the level of participation in vocational education programs during the 1981-82 school year, when the rescinded funds would have been used, will not be seriously affected by this proposal.

The Adult Education Act provides formula grants to support programs that assist adults age 16 and older who do not have a high school diploma or its equivalent. States also use these funds for programs to assist adults of limited English proficiency, for residents of rural and urban areas with high unemployment rates, and for institutionalized adults. The rescission request will reduce funding from $120 million to $90 million.

The Career Education Incentive program provides formula based, matching funds to State education agencies for infusing career awareness and career education into existing educational programs and curricula. Funds are also set aside for aid to Outlying Areas and for discretionary activities. The rescission request will reduce the program from $15 million to $10 million.

The Community Schools program authorizes discretionary and State formula grants to support the use of public school facilities for the coordinated delivery of educational and social services to the community. The 1981 Continuing Resolution provides $10 million to initiate the formula grant program. A rescission is proposed in order to fund only discretionary grants at the level of $3,138,000. Funding the discretionary portion rather than the formula grant portion will target scarce budgetary resources to areas that have, or are prepared to start, community schools programs.

The Consumers' Education program awards grants and contracts to prepare the public for effective participation as informed consumers in the marketplace. The revised 1981 request will result in a decrease in funding from $3,617,000 to $2,713,000.

Estimated Effects:

Because of the State and local overmatch of Federal funds for activities under the Vocational Education Act, the proposed rescission will not seriously hamper the vocational education effort. Nationwide, the Federal contribution for this effort would be reduced from an average rate of $45 per enrollee to $34 per enrollee.

Formula grants in vocational education-- Basic Grants, Program Improvement and Supportive Services, Programs for the Disadvantaged, Consumer and Homemaking, and State Planning Grants -- will continue at about 75 percent of the 1980 level. States and localities have a great deal of flexibility within the law to use these funds to meet their own most pressing needs. Funds will continue to go to all States and Outlying Areas for State advisory councils, but in 1981 awards will be made according to the terms of section 105 of the Vocational Education Act. Activities funded under Programs of National Significance will continue in 1981, but at an equitably reduced level. The National Occupational Information Coordinating Committee will be reduced to $2,243,100 and the National Center for Research in Vocational Education, as well as other contract awards, will be similarly reduced. The reduction in the Bilingual Vocational Training program will cause the elimination of four training projects and a decrease of 20 percent in the number of teachers and students trained.

The decrease of $30 million in the Adult Education State Grant program will result in an estimated 570,000 fewer students out of 2,270,000 being served. Reports indicate that State and local contributions to the adult education effort continue to increase and will help alleviate the effects of the proposed rescission.

The effect of the Federal decrease of $5 million in the Career Education Incentive program will be to reduce formula grants to States and Outlying Areas. A greater number of States (30 compared to 17) will receive the minimum award of $125,000. Although funding for discretionary activities will be reduced by $325,000 and the average award will decrease, the number of discretionary activities will remain the same.

Subsequent to the proposed rescission, the Community Schools program will fund discretionary grants to local education agencies (approximately 25), nonprofit agencies (approximately 6), State education agencies (approximately 25), and institutions of higher education (approximately 6).

The proposed rescission in Consumers' Education will reduce the number of capacity building grants awarded. In 1981, approximately 42 awards, instead of 57, will be made. Grant awards will average $45,000.

Outlay Effect: (In millions of dollars)

1981 Outlay Estimate

Without Rescission	With Rescission	Outlay Savings 1981	1982	1983	1984
919.0	893.3	78.7	119.5	31.3	9.0

R81-127

DEPARTMENT OF EDUCATION
Office of Vocational and Adult Education

Vocational and Adult Education

Of the funds provided for "Vocational and Adult Education" for fiscal year 1981 in Public Law 96-536, $196,011,000 of the amount available for the purpose of carrying out the Vocational Education Act of 1963, as amended, $30,000,000, of the amount available for the purpose of carrying out the Adult Education Act, $5,000,000 of the amount available for the purpose of carrying out the Career Incentive Act, $6,862,000 of the amount available for the purpose of carrying out title VIII, section 804 of the Elementary and Secondary Education Act and $904,000 of the amount available for the purpose of carrying out title III, part E of the Elementary and Secondary Education Act are rescinded: Provided, That not to exceed $93,323,000 shall be for carrying out Part A, subpart 3 of the Vocational Education Act: Provided further, That notwithstanding the provisions of subpart 1, section 103, $2,243,100 shall be made available for the National Occupational Information Coordinating Committee: Provided further, That payments for State Advisory Councils will be made in accordance with section 105: Provided further, That the $3,136,000 remaining for title VIII of the Elementary and Secondary Education Act shall be used for the purpose of carrying out sections 809, 810 and 812 of the Act.

Rescission Proposal No: R81-128

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Education	New budget authority (P.L. 96-536): $1,950,296,000
Bureau: Office of Postsecondary Education	Other budgetary resources: 267,715,825
Appropriation title & symbol: Student Loan Insurance 9130230	Total budgetary resources: 2,218,011,825
	Amount proposed for rescission: $103,270,000
OMB identification code: 91-0230-0-1-502	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification:

This program enables students and parents to borrow from over 17,000 banks and other lenders to help pay the costs of education or training at over 8,000 participating universities, colleges, and vocational schools. In most States, this program is administered through State and private nonprofit "guarantee agencies" which serve as intermediate loan insurers, default collectors, and providers of various services to lenders. In the remaining States, and in certain circumstances, loans are directly insured by the Education Department.

The Federal government pays the interest obligation of student borrowers while they are in school and during certain grace and deferment periods. The borrower's interest obligation is now generally nine percent for new borrowers. In addition to the interest subsidy, a special interest allowance is paid quarterly to lenders based on outstanding student and parent loan volume. By statutory formula, this allowance assures lenders a total yield equal to the quarterly average 91-day Treasury bill rate plus 3 1/2 percent. (This was a total of 18 percent for the first quarter of fiscal year 1981.) The Federal government is liable for costs associated with defaults, death, disability and bankruptcy of borrowers. Non-interest-bearing advances are made to guarantee agencies to support their insurance of student and parent loans, which are generally 100 percent reinsured by the Federal government. The Federal government is also authorized to pay administrative allowances to participating schools, and to guarantee agencies, based on annual volume.

Under the law as now amended, a dependent student may borrow up to $12,500 during his/her undergraduate career and his/her parents may borrow an additional $13,000--all on attractive, Federally subsidized terms, and with no family financial need or income limitation.

The amount of this rescission request results from proposed enactment of several major cost-reducing program modifications (contained in the proposed appropriations language).

The following legislative amendments are proposed in conjunction with both the 1982 budget and this 1981 rescission request:

* Limitation of student loan amounts to "remaining need," i.e., educational costs minus all other financial assistance and also minus a reasonable "expected family contribution" determined using a commonly-used need analysis method.

* Elimination of the "special allowance" subsidy on parent loans, with the interest rate set by the lender up to a Treasury bill indexed level.

* Elimination of the in-school (and deferment and grace period) interest subsidy on student loans.

* Elimination of the educational institution administrative allowance.

These program changes are designed to curtail the recent rapid escalation of program costs, while improving equity in the distribution of Federal subsidies. The current high level of loan subsidies gives Federally guaranteed borrowing an artificial attractiveness which may encourage dangerously high levels of debt, discourage saving, discourage the use of otherwise available family resources, and unnecessarily inflate the level of Federal credit activity in the economy.

The educational institution allowance authorized since 1976 under the Guaranteed Student Loan program has never been funded. In view of the general need for Federal expenditure restraint and the newly increased administrative allowances available to educational institutions under the three "campus-based" Federal student aid programs, an additional institutional allowance is not necessary.

This rescission request assumes that the proposed program changes will be in effect in time to affect new loan volume in the fourth quarter of fiscal year 1981.

Estimated Effects:

This rescission would result in a reduction in 1981 student loan volume from about $6 billion to $4.2 billion, and reduction in student loan recipients from 2.6 to 1.2 million. Parent loan volume would also be reduced from about $1 billion to $900 million, and the number of parent loan recipients would decrease from one billion to 600 million.

Outlay Effects: (in millions of dollars)

1981 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1981	1982	1983	1984
2,026.4	1,943.8	82.6	20.7	--	--

RSI-128

DEPARTMENT OF EDUCATION
Office of Postsecondary Education
Student Loan Insurance

Notwithstanding any other provision of law, $1,847,026,000 shall be available during 1981 for program activities under this head. Notwithstanding provisions of the Higher Education Act, new loans to student borrowers under the Guaranteed Student Loan Program shall be limited to estimated educational costs minus other financial assistance for the loan period and expected family contribution (as determined using a need analysis schedule approved by the Secretary of Education). No Federal interest benefits shall be paid on behalf of borrowers of new loans made under the Guaranteed Student Loan Program, no Federal special allowance shall be paid to lenders on loans to parents under this program, and the interest on loans to parents which are guaranteed under this program shall be set by the lender except that it shall not exceed the level reflecting the interest rates on Treasury securities of comparable maturities plus a percentage established by the Secretary of Education in consultation with the Secretary of the Treasury. Notwithstanding Part B, section 428 (e) of the Higher Education Act, no amounts shall be reserved for, or paid to, educational institutions to meet administrative expenses for academic year 1980-81. Notwithstanding other provisions of law, whenever necessary to protect the financial interests of the United States, the Secretary of Education may take over collection responsibility on any defaulted loan on which a reinsurance claim has been paid.

Rescission Proposal No: R81-129

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Education

Bureau: Office of Postsecondary Education

Appropriation title & symbol:
Higher and Continuing Education
91102O1
910/10201
911/20201
91X0201

New budget authority (P.L. 96-536): $408,063,315

Other budgetary resources: 16,941,872

Permanent indefinite: 2,800,000

Total budgetary resources: 427,805,187

Amount proposed for rescission: $ 49,239,000

CFB identification code:
91-0201-0-1-502

Grant program: ☒ Yes ☐ No

Legal authority (in addition to sec. 1012):
☐ Antideficiency Act
☐ Other

Type of account or fund:
☒ Annual
☒ Multiple-year Sept. 30, 1981 Sept. 30, 1982 (expiration date)
☐ No-year

Type of budget authority:
☒ Appropriation
☐ Contract authority
☐ Other

Justification: Program	Amount Proposed for Rescission
Education Outreach. Title I, Part B of the Higher Education Act, is a new authority designed to increase access to postsecondary education for adults and non-traditional learners. This new authority includes a ten percent setaside for Federal discretionary grants. The remainder of the funds are distributed to the States on a formula basis for comprehensive statewide planning, information services, and continuing education. Funds are also provided to the States for administration of the programs. All funds, except the State administration funds, are proposed for rescission as postsecondary planning, information services and continuing education are viewed as areas of State and institutional responsibility. State administration funds will be used to close out the old University Community Service and Continuing Education program.	$12,800,000
Veterans Cost of Instruction program provides grants to postsecondary institutions to encourage recruitment of, and special services to, eligible veterans. The number of veterans enrolled in postsecondary education has been declining in recent years. The institutions should now be able to provide services to the smaller number of veterans through their traditional counseling, tutoring and other service programs on campus.	12,039,300
Public Service and Mining Fellowships programs support grants to institutions of higher education to provide fellowship assistance respectively for students obtaining advanced training for a career in public service and for students of exceptional ability who are undertaking advanced training in domestic mining and mineral fuel conservation. Funds are proposed for rescission because there already is a substantial number of qualified persons to fill public service jobs and the attractive financial rewards associated with jobs in mining-related fields have served as a significant incentive in encouraging students to enter this field of study.	3,150,000
Law School Clinical Experience program supports demonstrations of training programs in clinical legal experience. Funds are proposed for rescission because the Federal objective of demonstrating the value of clinical experience in the education and training of law students has been met.	$ 3,000,000
Architectural Barrier Removal program provides funds to the States based on a statutory formula. There is a twenty-four percent setaside for public community colleges. Eligible institutions are those whose costs for renovation to comply with Section 504 of the Rehabilitation Act of 1973 exceed 5% of their annual educational and general expenditures or whose renovation costs exceed $500,000. Eligible institutions apply to the States which hold a competition based on criteria established in the State plan approved by the Secretary. The administrative burden in this program is considerable. The program will have only a small impact on the nation's campuses, and given its administrative requirements, it is recommended for rescission.	10,000,000
International Education and Foreign Language Studies: Domestic Programs provide grants to strengthen U. S. institutions' teaching, research and dissemination activities in modern foreign languages and area and international studies; increase the understanding of U. S. citizens about the cultures, actions and policies of other nations; and increase and strengthen the pool of trained international specialists. Funds are proposed for rescission because a substantial amount has already been spent to support these programs. More than $270 million in discretionary funds have been provided since the inception of this program in 1959. The rescission of these funds is a necessary part of the President's plan to reduce government spending. No discernible negative effect on the overall goals of the programs should result from the rescission. The initiation of new projects will merely be deferred until 1982.	4,800,000
International Education and Foreign Language Studies: Overseas Programs provide grants to increase mutual understanding between the people of the United States and the people of other countries by means of educational and cultural exchange, and to increase the number of foreign language and world area specialists in this country. Funds are proposed for rescission because a substantial amount has already been spent to support these programs. More than $45 million in discretionary funds have been provided since the inception of this program in 1964. The rescission of these funds is a necessary part of the President's plan to reduce government spending. No discernible negative effect on the overall goals of the programs should result from the rescission. The initiation of new projects will merely be deferred until 1982.	3,200,000
Law Related Education program provides grants to give persons, as part of basic education, knowledge and skills pertaining to the law, the legal system, and the legal process and to help children, youth and adults become more informed and effective citizens. The purpose of the rescission proposed here is to reduce government spending and thereby control one source of inflationary pressure. The rescission will have negligible effect on the overall goals of the program. In 1982 the purposes of this program will be included in State Education Block Grants.	250,000
Total proposed for rescission	$49,239,000

Estimated Effects:

The rescission of $12,800,000 appropriated for the Educational Outreach programs will eliminate approximately 25 Federal discretionary grants for continuing education as well as formula grants to the 57 States and territories for comprehensive planning, information services, and continuing education.

The rescission of $12,039,000 appropriated for Veterans Cost of Instruction will eliminate grants to approximately 1,025 institutions of higher education to provide services to an estimated 326,000 enrolled veterans.

The rescission of $3,150,000 appropriated for Public Service and Mining Fellowships will eliminate approximately 238 public service fellowships and 137 mining fellowships.

The rescission of $3,000,000 appropriated for the Law School Clinical Experience program will result in termination of the program.

The rescission of $10,000,000 appropriated for the Architectural Barrier Removal Program in 1980 and deferred to 1981 will eliminate grants to the 57 States and outlying areas and to approximately 300 institutions.

The rescission of $4,800,000 appropriated for the International Education and Foreign Language Studies: Domestic Programs will reduce the size of the grant to 80 national centers, eliminate 73 academic year and 56 summer fellowships, 22 undergraduate programs, 8 research grants, and 9 international understanding projects.

The rescission of $3,200,000 appropriated for the International Education and Foreign Language Studies: Overseas Programs will eliminate 14 group projects abroad, 36 faculty research abroad projects, 57 doctoral dissertation research abroad projects, 6 foreign curriculum consultants, and 7 bilateral projects.

The rescission of $250,000 appropriated for the Law-Related Education program will eliminate 5 grants which serve elementary and secondary students, 2 exemplary projects on law-related education for adults, and 1 technical assistance and program development contract.

Outlay Effects: (In millions of dollars)

1981 Outlay Estimate	
Without Rescission	With Rescission
$389.3	$382.1

Outlay Savings			
1981	1982	1983	1984
$7.2	$38.4	$3.6	---

RSI-129

DEPARTMENT OF EDUCATION
Office of Postsecondary Education

Higher and Continuing Education

Of the funds appropriated under this head in Public Law 96-536 for fiscal year 1981, $12,800,000 of the amount appropriated for title I, part B, $4,300,000 of the amount appropriated for title VI, $12,039,000 appropriated for section 420, $3,150,000 of the amount appropriated for title IX, part B, and $3,000,000 appropriated for title IX, part E of the Higher Education Act, $3,200,000 of the amount appropriated for the Mutual Educational and Cultural Exchange Act of 1961, $500,000 of the amount appropriated for title III, part H, and $250,000 of the amount appropriated for title III, part G of the Elementary and Secondary Education Act are rescinded and, of the amount made available under this head in Public Law 96-304 for fiscal year 1981, $10,000,000 available for title VII, part A are rescinded: Provided, that the funds appropriated in Public Law 96-536 for title IX, part B are available notwithstanding the provisions of sections 922(b)(2) and 922(e) of the Higher Education Act: Provided further, That $2,200,000 of the amount appropriated in Public Law 96-536 for title I, part B of the Higher Education Act is available only for section 115(d).

Legislative Proposal R81-130

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Energy	New budget authority (P.L. 96-367, P.L. 96-69, P.L. 96-132) $2,268,754,000
Bureau: Energy Programs	Other budgetary resources 452,740,818
Appropriation title & symbol: Energy Supply, Research and Development Activities - Operating Expenses 8980224	Total budgetary resources 2,721,494,818
	Amount proposed for rescission $ 126,609,000
OMB identification code: 89-0224-0-1-271	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year _____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification:

Solar $57,136,000

This proposed rescission is predicated on the new, healthier environment for commercial solar technologies, brought about by the establishment of sound energy pricing policies, primarily through the decontrol of crude oil prices, and extensive solar tax credits. The inequities and inefficiencies built into previous energy pricing policies have prevented solar energy from achieving its true potential. It is now possible to shift the focus of the Department's solar activities from costly near-term development, demonstration, and commercialization efforts to longer-range research and development projects that are too risky for private firms to undertake. Therefore, funds totalling $57,136,000 for near-term technology development and commercialization activities are proposed for rescission. The Administration believes that these activities should be pursued by the private sector in response to normal market forces. No reduction is proposed for longer-term, high risk (but potentially high payoff) research and development.

Note: Additional FY 1981 funds totalling $34,562,000 are proposed for reprogramming out of the solar energy program and into other Energy Supply, Research and Development Activities, Operating Expenses, Appropriation programs.

Geothermal - $9,500,000

Confirmation of a viable geopressured resource by well drilling along the Gulf Coast will be slightly delayed while better well sites are selected.

Short-term technology research and development will be phased out for industry to pursue.

Commercialization activities, principally reservoir confirmation drilling, will be reduced in FY 1981 in anticipation of full assumption of these activities by the private sector during FY 1982.

Hydropower - $24,546,000

It is proposed to terminate feasibility study loans and demonstration grants for small hydropower projects. The program's objective, revitalization of the small hydropower industry in the U.S., has been largely achieved, as evidenced by the tremendous growth of applications at the Federal Energy Regulatory Commission for preliminary permits and licenses. Additionally, sufficient incentives are provided through a 21 percent investment tax credit and through loan programs in the Department of Agriculture.

The termination of the small hydropower feasibility studies and licensing loans should have no overall effect on the level of small hydro project activity although some individual projects could be delayed until they secure other financing. Rescission is also requested for the construction grant funds for the two Nashua, New Hampshire, projects. There is no justification for 100% Federal financing of these projects because the technology is well proven and economically feasible. The effect of the rescission will be that the city of Nashua will have to arrange a general obligation bond issue for financing.

Electric Energy Systems - $4,115,000

This rescission is requested because the Electric Energy Systems' program is phasing out development and demonstration programs that can and should be supported by the private sector and focusing on longer-term high-risk research.

The estimated effects of this rescission are:

* reduction in Power Delivery activities of $1.5 million which reduces superconducting technology work and cable designs;
* reduction in System Architecture and Integration activities of $2.3 million phasing out New Technology Integration planning methods which can be adopted by utilities; and
* reduction of $0.3 million of carryover funds for program direction which is not needed to support current positions.

Energy Storage Systems - $19,333,000

Due to the establishment of sound energy pricing policies and other Federal incentives, this program can concentrate on the most promising long term, generic technology developments. The private sector can be expected to pursue promising near-term technologies on their own in response to market forces. Hence, funds for near-term technology development efforts totalling $19,333,000 are proposed for rescission.

Environment - $8,979,000

Biological and Environmental Research

Funds in the amount of $3,979,000 are proposed for rescission on the grounds that short-term, site specific chemical characterization and toxicology is an area of applied research more appropriately managed as part of an industrial research, development and commercialization program.

In order to facilitate the commercialization of energy technologies, funds were appropriated for research on the biological and ecological effects of products, effluents, emissions, and wastes from a variety of energy technologies. This research encompasses both longer-term generic investigations and shorter-term, highly-targeted applied research to provide early environmental information for specific processes. New policies being developed to increase the private sector's contribution to technology demonstration dictate that the short-term, focused site specific research activities are an industrial responsibility. The continuing program would emphasize advanced research to understand and define health and environmental impacts of Departmental technology research and development programs. It is estimated that termination of these efforts will not impede near-term commercialization because essential environmental activities to assure regulatory compliance will be required of the industry.

Environmental Assessments

Reduction in funding of $3,000,000 is proposed due to the elimination of ineffective and duplicative efforts addressed adequately by other offices or agencies.

Energy-related environmental areas affected include nuclear radiation, air quality, water quality and availability, energy facility siting and land management, energy transportation, urban and community impacts, and energy technologies being slated for curtailment. For example, DOE-funded water-for-energy assessments performed by the Water Resources Council will be eliminated as these involve a high degree of duplication of similar efforts required to be performed by DOE under the National Environmental Policy Act. Urban and community impact analyses will be performed by the technology offices which propose projects which have potential urban and community impact.

Environmental and Safety Engineering

Funding of $1,000,000 is proposed for rescission for environmental control evaluation studies of energy technologies. This reduction is due to the elimination of environmental control evaluations which are unnecessary to formulate energy-related environmental policy judgments, and other evaluations at specific demonstration sites which no longer will be DOE-supported. It is estimated that this reduction will have no effect on the Department's ability to make judgments of the environmental control technology aspects of new energy technologies.

Program Direction

Funds totaling $1,000,000 are proposed for rescission in Environmental Program Direction as a result of employment reductions related to reductions and redirection of environmental programs. The end-of-year allowable staffing level is being reduced from 234 full-time permanent (FTP) positions to 220 FTP positions. In terms of staff effort, this results in a reduction of 24 staff years from 234 to 210 staff-years. The reduction of $1,000,000 assumes an average salary cost of $41,000.

Technical Assessment Projects - $3,000,000

Funds in the amount of $3,000,000 are proposed for rescission from the Advanced Technology Projects program. This will reduce program funding in FY 1981 from $8,000,000 to $5,000,000 and will result in termination of near-term projects that the private sector can undertake on its own.

Estimated Effects:

Near-term development and commercialization of new energy technologies and low priority environmental research and assessments will be eliminated or reduced by a total of $126,609,000.

Outlay Effects: (in millions of dollars)

1981 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1981	1982	1983	1984
2389.4	2282.2	107.2	19.4	--	--

R81-130

DEPARTMENT OF ENERGY

Operating Expenses

Energy Supply, Research and Development Activities

Of the funds provided under this head in Public Law 96-367, Public Law 96-69 and Public Law 95-481, $126,609,000 are rescinded. No obligations for the principal amount of direct loans for the Hydropower Feasibility Studies Loan Program shall be made during 1981.

PROPOSED RESCISSION OF BUDGET AUTHORITY
Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Energy	New budget authority (P.L. 96-367): $ 393,282,000
Bureau: Energy Programs	Other budgetary resources: 44,582,279
Appropriation title & symbol: Energy Supply, Research and Development Activities - Plant and Capital Equipment 89X0225	Total budgetary resources: 427,869,279
	Amount proposed for rescission: $ 7,967,000
OMB identification code: 89-0225-0-1-271	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification:

Funds were provided for construction of the Fusion Materials Irradiation Test Facility (FMIT) at Richland, Washington. The FMIT facility was proposed to provide the capability to determine the effects of the fusion environment on candidate reactor materials. This facility would provide the information base and confirmation for materials selection for mid- and long-term facilities of the fusion program. This rescission action proposes to terminate the project and rescind $7,967,000. In spite of cost reductions resulting from preliminary redesign efforts, overall resource limitations together with project cost escalations and the requirement to maintain a primarily scientific base program resulted in a decision to terminate this project. Other portions of the program will enhance their research efforts to increase the knowledge base in this area.

Estimated Effects:

The Fusion Materials Irradiation Test Facility, a low priority magnetic fusion project, will not be constructed.

Outlay Effects: (in millions of dollars)

1981 Outlay Estimates		Outlay Savings			
Without Rescission	With Rescission	1981	1982	1983	1984
+27.5	419.5	8.0	--	--	--

Note: Additional FY 1981 funds totalling $16,850,000 are proposed for reprogramming within the various Energy Supply, Research and Development Activities, Plant and Capital Equipment Appropriation programs.

R81-131

DEPARTMENT OF ENERGY

Plant and Capital Equipment

Energy Supply, Research and Development Activities

Of the funds provided under this head in Public Law 96-367, $7,967,000 are rescinded.

Rescission Proposal No: R81-132

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Energy	New budget authority (P.L. 96-41): $ 711,435,000
Bureau: Energy Programs	Other budgetary resources: 31,019,111
Appropriation title & symbol: Fossil Energy Research and Development 89X0211	Total budgetary resources: 742,454,111
	Amount proposed for rescission: $ 66,932,000
OMB identification code: 89-0213-0-1-271	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: 1/

Advanced Environmental Control Technology. Funds totalling $3,000,000 for advanced flue gas desulfurization (FGD) are proposed for reduction. The program has focused on dry scrubbing technologies which are actively being pursued by the private sector. This rescission is proposed because the Administration believes such demonstrations will continue to be funded by private industry.

Coal Liquefaction. A total of $10,000,000 is proposed for reduction in FY 1981. These funds were intended primarily for subsidizing the design of the W.R. Grace Coal to gasoline facility, funding SRC pilot plant activities at Wilsonville, Alabama, and providing technical support for demonstration plants. A reduced level of effort will be needed for catalyst development for Fischer-Tropsch synthesis and in-house support at Pittsburgh Energy Technology Center. These terminations are consistent with the Administration's position that the SPC can more effectively encourage industry involvement in synthetic fuel projects and that industry should be responsible for conducting the necessary technical support work associated with commercializing coal liquefaction processes.

Combustion Systems. Funds in the amount of $3,000,000 for the Riversville [illegible] AFB boiler and $1,400,000 for coal-oil mixtures are proposed for reduction. The Riversville boiler has served its purpose by identifying problem areas in fluidized bed technology.

Coal-oil mixtures substitute coal for a portion of the oil used in utility and industrial boilers. Funds are proposed for rescission because successful application of this technology has been demonstrated in past and current DOE and industry projects.

Heat Engines and Heat Recovery. Reductions are proposed of $3,000,000 in the directly fired and $2,000,000 in the low grade heat recovery project. The directly fired heat cycles activity was originally initiated to address technical problems anticipated in the use of coal derived liquid fuels in stationary diesels and gas turbines. The low grade heat recovery project will develop technology to utilize waste heat primarily at federal facilities. The proposed rescissions allow the program to focus on the High Temperature Turbine Technology project.

MHD* No funds have been requested in FY 1982 for MHD. In order to facilitate the phase out of DOE efforts, a reduction of $6,000,000 is proposed in FY 1981 for engineering development and supporting research. Efforts in engineering development which will not be conducted include combustor development and the Advanced Power Train Program. In addition, supporting research diagnostic efforts will not be conducted and reductions will be made in the Coal Fired Flow Facility, and Component Development Integration Facility. Consistent with Administration policy, continued responsibility for development and demonstration of MHD will become the responsibility of private industry.

Mining R&D. Reductions are proposed in the amount of $8,000,000 in the areas of coal preparation, underground coal mining and surface coal mining. The refocusing of the Mining R&D program will be committed to developing a technology base that encompasses longer range, higher risk projects.

Surface Coal Gasification. FY 1981 funds of $5,000,000 are proposed for reduction related to the Hygas and peat activities. Modification to the Hygas pilot plant to prepare it for operation with peat feedstock was planned for FY 1981. Proceeding would not be useful, given the Administration's position to cease efforts in support of the peat program in FY 1982. In addition, $5,000,000 in Hygas conceptual design funds are proposed for reduction. These funds were intended to finance an unsolicited proposal submitted by the Texas Gas Transmission Corporation and the Commonwealth of Kentucky for a phase zero design study for a Federally Supported Coal Demonstration Project using Hygas technology.

Enhanced Oil Recovery. A reduction of $2,000,000 is proposed to align the FY 1981 program with the refocused FY 1982 program, supporting critical in-house, long-range research activities not requiring significantly higher levels of government support.

Enhanced Gas Recovery. Funds are proposed for reduction in the amount of $3,000,000 based on the expectation that gas exploration activities will continue to increase in response to the pricing effects of the natural gas policy act. Because industry has both the technical and financial resources to continue with the development of these resources, maintaining continued government research and development support at past levels is unnecessary.

1/ Program reductions shown in the justification section totalling $67,400,000 include the effects of withdrawing a $1,510,000 supplemental request for increased pay costs.

* Magneto Hydro Dynamics

Estimate Effects:

Advanced Environmental Control Technology. Industry progress in the development of scrubbers which produce a dry disposable waste product has been excellent; hence a reduction in federal involvement in this area will not significantly effect development of this technology.

Coal Liquefaction. It is the Administration's position that industry should be responsible for conducting demonstrations and commercializing liquefaction technologies with the assistance of the SFC. Ongoing projects which could be supported by the Synthetic Fuels Corporation (SFC) are recommended for SFC funding rather than continued DOE support.

Heat Engines and Heat Recovery. The proposed rescissions impact minimally upon ongoing programs while yielding maximum cost savings for FY 1981. Specifically, Phase II implementation of the low NO_x combustor and material efforts will be delayed; Paducah and Portsmouth waste heat recovery projects will cancel design activities; and there will be a delay in issuance of a Program Opportunity Notice (PON) for the Oak Ridge design.

Combustion Systems. Impact is minimal since more modern designs now exist which obviate the need for further data from the Rivesville facility. In the coal-oil mixtures area, successful application of CCM technology has already been demonstrated in past and current DOE and industry projects.

MHD. Facilities will be closed out and other ongoing efforts will be brought to an orderly conclusion. As a result MHD will become the responsibility of industry with support from the SFC as necessary.

Mining R&D. Certain hardware development and demonstration and near term technology development will be terminated and an orderly phase out of cost-shared field testing and demonstration will begin. It will be left to industry to demonstrate the feasibility of near term technologies.

Surface Coal Gasification. Since there is considerable private sector interest in developing peat resources and since much of the required technology is already in use in other countries, a rescission is proposed for the FY 1981 test programs. The technologic problems in this technology are not judged to be so severe as to warrant continued federal support for near term activities. In addition, funding of a phase zero design study for the Hygas coal gasification demonstration will be proposed for a rescission. Plants using advanced technology can be supported by the SFC.

Enhanced Oil Recovery. The proposed rescission is judged to have little effect on the development of technologies in this area. Industry will continue to perform research and development. The immediate effects of the rescission will be to delay engineering and site preparation for DOE proposed field tests on thermal recovery methods from tar sands and reduce tests on steam drive efficiency for heavy oil. Both of these areas are currently being pursued by the industry.

Enhanced Gas Recovery. The proposed rescission will reduce activities for resource assessment work and DOE research on reservior properties. Minor impacts will also occur in direct drilling research, stress tool use, and diagnostic instrumentation on multi-well test experiments.

Outlay Effects: (in millions of dollars)

1981 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1981	1982	1983	1984
60.5	0	60.5	5.4	0	0

R81-132

DEPARTMENT OF ENERGY
Fossil Energy Research and Development

Of the funds appropriated under this heading for Fiscal Year 1981 in Public Law 96-514, $65,932,000 are rescinded.

Rescission Proposal No: R81-133

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Energy	New budget authority (P.L.96-514 and 96-126): $862,107,000
Bureau: Energy Programs	Other budgetary resources: 83,405,000
Appropriation title & symbol: Energy Conservation 89X0215	Total budgetary resources: 945,512,000
	Amount proposed for rescission: $306,045,000
OMB identification code: 89-0215-0-1-999	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act
Grant program: ☒ Yes ☐ No	☐ Other
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification:

Rescissions are proposed for Building and Community Systems, including Residential/Commercial Retrofit and Conservation Service ($51.77 million); Industrial Energy Conservation ($46.7 million); Transportation Energy Conservation ($38.65 million); State and Local Programs ($116.925 million); and Energy Impact Assistance ($52 million). These Federal conservation programs are no longer necessary and, in some instances, impede private initiative by imposing too great a regulatory burden. Motivated by rising energy costs and substantial Federal tax credits, individuals, businesses and other institutions are undertaking major conservation efforts on their own. This rescission proposal is an integral component of President Reagan's comprehensive economic plan for spending reductions, tax reductions, and actions to remove unnecessary regulatory burdens.

Estimated Effects:

Buildings and Community Systems:

* Building Systems - The Buildings Energy Performance Standards project will be phased out and the number of auditors trained in energy conservation measures will be reduced.

* Community Systems - The District Heating and Cooling Systems projects will be phased out. Efforts to support business community participation in conservation activities will be phased out.

* Consumer Products - The technological development of energy-conserving equipment, such as heat pumps, and the certification and enforcement of the appliance standards program will be phased out.

* Federal Programs - The transfer of technology between the Department of Energy and private sector audiences will be phased out.

* Residential/ Commercial Retrofit - The number of innovative energy conservation delivery demonstrations will be reduced.

* Residential/Commercial Conservation Service - Training for approximately 6,000 energy conservation auditors will be eliminated. Technical assistance to States and utilities to facilitate the planning process for the Commercial and Apartments Conservation Service will be eliminated.

Industrial Energy Conservation: Various ongoing research and development activities will be phased out and terminated. Examples of such activities include two industrial heat pump projects, a recuperator system project, an oxygen enrichment development project, a waste lube oil refining project, three advanced cogeneration systems projects, three aluminum process development projects, and two food process improvement projects. The rescission would also cause stretchout of projects on an externally-fired Brayton cogeneration system, computer control applications, and conversion of waste to liquid fuels.

Transportation Energy Conservation: Reductions will be made to advanced heat engine research and development, electric and hybrid vehicle development and public information outreach activities. Research and development on alternative fuels will be delayed.

State and Local Programs: There will be weatherization of about 7,000 fewer low-income dwelling units and retrofit of about 2,700 fewer public and nonprofit school and hospital buildings with energy conservation measures. All further grants to States for emergency planning will be stopped.

Energy Impact Assistance: $52.0 million in grants to States for public facilities planning and site acquisition required by communities as a result of new energy resource development will be eliminated.

Outlay Effects: (In millions of dollars)

1981 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1981	1982	1983	1984
752.5	693.0	59.5	246.5	---	---

R81-133

DEPARTMENT OF ENERGY

Energy Conservation

Of the funds provided under this head in Public Law 96-514, $306,045,000 are rescinded.

Rescission Proposal No: R81-134

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency Department of Health and Human Services	New budget authority (P.L. 96-536) $ 1,063,909,000
Bureau Health Services Administration	Other budgetary resources 72,223,194
Appropriation title & symbol: Health Services 7510350	Total budgetary resources 1,136,122,194
	Amount proposed for rescission $ 11,616,000
OMB identification code: 75-0350-0-1-551	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act
Grant program ☒ Yes ☐ No	☐ Other
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification:

The programs covered by this rescission proposal are the primary care research demonstration program, the Title X family planning program, the home health services grant program, the Maternal and Child Health (MCH) training program, the MCH research program, and the Public Health Service hospital and clinic system.

The primary care research and demonstration program--formerly the health underserved rural area (HURA) program--has been in existence for more than five years and has funded over 100 projects designed to demonstrate innovative ways of delivering health services. After this extended period of funding, the process of delivering primary health care services in various settings has been adequately demonstrated. This proposal would rescind $2.172 million in funds provided under the Continuing Resolution to begin phase out of the program by the end of FY 1981.

The Title X family planning program funds over 5,000 family planning clinics throughout the United States, yet it is only a part of an over $1 billion Federal family planning effort which includes at least five other programs--maternal and child health, community health centers, Title XX social services, Medicaid, and the adolescent health services program. The need for additional family planning services--particularly considering an investment of this size--has not been demonstrated, especially since the eligibility limit for subsidized services has been raised to 250% of national poverty guidelines.

The Administration is proposing to phase out the home health agency start-up grant program. This proposal requires rescission of $4 million. There are already over 3,000 home health agencies operating in the U.S. today. Continued support of the small, marginal program is no longer justified. Moreover, Medicare and Medicaid home health reimbursement--$947 million in 1980--is much more important to the maintenance of home health agencies than this small grant program.

In lieu of proposing funding for primary care R&D, Title X family planning and home health programs in 1982, the President has proposed two consolidated grants to States for health services and preventive health services. Under this proposal, States will have the flexibility to fund programs which they consider high-priority.

The MCH training and research programs rescission of $4.057 million represents the first phase of a transfer of these responsibilities to the Health Resources Administration and the National Center for Health Services Research, respectively, where they can be more effectively performed.

The 8 hospital and 27 clinic system of the Public Health Service is proposed for closure or transfer to community use. This proposal is based primarily on the following grounds:

-- a special, free, medical services benefit for merchant seamen, the primary beneficiary group, is inequitable;

-- the system is generally underused with less than half of its services provided for the primary beneficiary, merchant seamen;

-- the hospitals aggravate currently overbedded conditions in the eight cities in which they are located; and

-- the largest secondary beneficiary, Department of Defense active duty personnel, can be served in currently underutilized hospitals located in all 8 affected areas.

Reductions are proposed for hospital renovation totalling $1.387 million.

This rescission proposal is an integral component of President Reagan's comprehensive economic plan for spending reductions, tax reductions, and actions to remove unnecessary regulatory burdens.

Estimated Effects:

Primary Care Research Demonstration. This rescission will reduce the number of projects from 33 to 24. All 33 projects proposed for funding in 1981 are continuations of ongoing projects which are nearing completion. The essential research and demonstration activities have been completed and the projects are principally engaged in further data analysis. Tentative conclusions can be drawn from the findings to date and little more is to be gained by continuing these analytical efforts.

Title X Family Planning. This rescission is not a reduction of the $162 million base and all 5,125 clinics funded by Title X will be maintained so that the impact on services will be minimal.

Home health. The phase-out of the $4 million home health agency grant program will eliminate support for 45 service grants and 21 training grants. These grants were designed strictly for start-up costs with the bulk of Federal support for operating costs scheduled to come from Medicare and Medicaid. The small amount lost per project--$63,000--should be easily recouped from other sources.

MCH training and research. The partial rescission of the MCH training and research programs--$4 million out of the $25.5 million available for these programs under the Continuing Resolution--will reduce training slots from 6,956 to 6,250 and research grants from 50 to 33.

PBS hospitals. This phase-out plan would eliminate the medical benefit for merchant seamen and require the other large beneficiary groups--DOD and the Coast Guard--to seek services in existing underutilized DOD facilities. Funds will be used to provide services, under contract, for medically indigent community residents receiving care in PBS hospitals through 1982.

Outlay Effects: (in millions of dollars)

1981 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1981	1982	1983	1984
1,296.8	1,293.4	3.4	6.3	1.9	--

1 An additional amount is planned to be proposed for rescission if additional 1981 funding is provided for health services after the present Continuing Resolution expires on June 5, 1981, as follows:

Primary Care Research Demonstration	$ 4,352,000
Family Planning	4,000,000
MCH Training and Research	1,900,000
PBS Hospitals and Clinics	34,768,000
Operating Costs	(34,086,000)
Renovation Costs	(682,000)
Total	$45,020,000

R81-134

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Services Administration
Health Services

Of the funds provided for "Health Services" for fiscal year 1981 in P.L. 96-536, $11,816,000 are rescinded.

Rescission Proposal No: R81-135

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency Department of Health and Human Services	New budget authority (P.L. 96-536) $ 259,427,000
Bureau Centers for Disease Control	Other budgetary resources 20,000,000
Appropriation title & symbol Preventive Health Services 7510943	Total budgetary resources 279,427,000
	Amount proposed for rescission $ 38,520,000 1/
OMB identification code: 75-0943-0-1-550	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act
Grant program ☒ Yes ☐ No	☐ Other
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification:

The proposed rescission includes $27,000,000 in health incentive 314(d) grants provided to State health authorities for public health services. These categorical grants constitute a relatively small share of total State and local expenditures for public health. In lieu of proposing funding for this program in 1982, the President has proposed two consolidated block grants to States for health services. Under this proposal, States will have the flexibility to fund programs such as health incentive grants if such grants are considered a high priority.

Rescissions totalling $11,520,000 are also proposed for low priority activities in the following Centers for Disease Control programs: chronic diseases, $200,000; other environmental hazards, $648,000; occupational safety and health (OSH) research, $3,320,000; OSH training, $6,991,000; technology development and application, $169,000; and program management, $192,000. Essential activities under these programs will be continued.

1/ An additional $11,498,000 for risk reduction and health education ($1,976,000), chronic diseases ($294,000), other environmental hazards ($700,000), occupational safety and health research ($3,087,000), training ($4,552,000) and scientific and technical services ($467,000), technology development and application ($200,000), and program management ($222,000) are planned to be proposed for rescission if additional 1981 funding is provided for these programs after the present continuing resolution expires on June 5, 1981.

This rescission proposal is an integral component of President Reagan's comprehensive economic plan for spending reductions, tax reductions, and actions to remove unnecessary regulatory burdens.

Estimated Effects:

Health incentive grants -$27,000,000. The effect of this rescission is to eliminate a Federal share in the cost of public health programs for which State and local health agencies have the primary authority.

The proposed rescission would eliminate funding for health incentive grants used primarily for non-institutional personal health services.

Chronic diseases - $200,000. The proposed rescission would reduce programs designed to identify cadaveric kidneys available for transplantation and reduce epidemiologic and laboratory studies on arthritis.

Other environmental hazards - $648,000. This proposed rescission would reduce activities on the human aspects of exposures to toxic chemicals.

Occupational safety and health research - $3,320,000. Occupational safety and health training - $8,991,000. The proposed rescission would reduce funding for low priority research and training grants for occupational safety and health, including energy control technologies and funding for Educational Resource Centers.

Technology development and application - $169,000. The proposed rescission would reduce funding for low priority hospital acquired infections activities.

Program management - $192,000. Under the proposed rescission, low priority administrative management support services would be reduced.

Outlays Effects: (in millions of dollars)

1981 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1981	1982	1983	1984
299.3	282.1	17.2	18.7	2.6	--

R81-135

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control
Preventive Health Services

Of the funds provided for "Preventive Health Services" for fiscal year 1981 in P.L. 96-536, $38,520,000 are rescinded.

Rescission Proposal No: R81-136

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency Department of Health and Human Services	New budget authority (P.L. 96-536) $724,755,000
Bureau National Institutes of Health	Other budgetary resources 100,000
Appropriation title & symbol: National Cancer Institute 7510849	Total budgetary resources 724,855,000
	Amount proposed for rescission $ 17,986,000
CFS identification code: 75-0849-0-1-550	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act
Grant program ☒ Yes ☐ No	☐ Other
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification:
The Administration is committed to Federal support of biomedical research activities, but as part of a general effort to achieve economies and reduce lower priority activities, a rescission of $17,986,000 is proposed for this appropriation from the 1981 Continuing Resolution through June 5, 1981. If the Continuing Resolution is enacted for the full fiscal year, an additional $7,400,000 will be proposed for rescission.

This rescission proposal is an integral component of President Reagan's comprehensive economic plan for spending reductions, tax reductions, and actions to remove unnecessary regulatory burdens.

Estimated Effects:
The amount proposed for rescission is composed of program decreases totalling $18,146,000, partially offset by a program increase of $160,000. The details are discussed below.

Research Grants. Research projects grants will be reduced by 20 awards and $2,439,000. Research programs to be effected include: carcinogenesis by three awards and $301,000; biological carcinogenesis by two awards and $97,000; tumor biology research by five awards and $580,000; immunological research by one award and $164,000; preclinical treatment by nine awards and $1,031,000; and clinical treatment which will maintain the same numbers of awards, but will be reduced by $266,000. The total revised 1981 funding for research grants will be $347.4 million. This compares with a level of $321.3 million in 1980.

Research Career Program. This program will be increased by four awards and $160,000 in order to stimulate the number of researchers who eventually enter the research professions. This adjustment is necessary to achieve program balance.

Task Forces and Clinical Cooperative Groups. Reductions include decreases in Cancer Task Forces and Clinical Cooperative Groups totalling $1,388,000. The Cancer Task Forces, which fund the organ site program, will be reduced by four awards and $500,000.Cancer Task Forces support a planned and integrated research effort oriented toward cancer at a specific site. The clinical cooperative groups will be reduced by 19 awards and $888,000. Clinical cooperative groups support clinical trials and evaluations of the efficacy of the various forms of cancer therapy.

Cancer Centers. Support for Cancer Centers will be reduced by $1,596,000. At this level, all existing centers will continue to receive support. These centers serve as focal points for basic and clinical research activities, and for education, training and community outreach.

Research Training. The Administration is proposing to eliminate the indirect costs and institutional allowances paid under the National Research Service Awards program. This would reduce research training by $7,228,000. Additionally, the number of trainees planned under the Continuing Resolution will be reduced by 47 full time equivalents (FTEs), for a revised level of 1,394 trainees. In total, this area will be reduced by $8,369,000 in FY 1981.

Research and Development Contracts. Contracts will be reduced by $2,654,000, or eight contracts. This reduction includes a decrease in support available for chemo-prevention activities, involving studies of retinoids, analogues of vitamin A, which appear to have the ability to prevent the development of certain forms of invasive cancer. Also affected are certain carcinogenic efforts. It will be necessary to curtail research efforts to characterize and evaluate new biological response modifiers as they are identified.

Intramural Research. The intramural research program, which gives research scientists the opportunity for basic and applied research and clinical investigation to solve major health problems, will be reduced by $700,000 through reduced purchases of equipment and biological and chemical resources for research.

Cancer Control. The Cancer Control Program will be reduced by $1,000,000 precluding new project starts and reducing some ongoing projects. This program is concerned with the entire health care continuum, and includes prevention, screening, diagnosis, pretreatment evaluation, treatment, rehabilitation and continuing care activities.

Outlay Effects: (in millions of dollars)

1981 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1981	1982	1983	1984
994.7	986.4	8.3	9.7	---	---

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute

Of the funds provided for "National Cancer Institute" for fiscal year 1981 in P.L. 96-536, $17,986,000 are rescinded, and funds under this head may be expended without regard to the provisions of section 472(b)(5) of the Public Health Service Act.

Recission Proposal No: R81-137

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency Department of Health and Human Services	New budget authority (P.L. 96-536) $406,281,000
Bureau National Institutes of Health	Other budgetary resources 100,000
Appropriation title & symbol: National Heart, Lung and Blood Institute 7510872	Total budgetary resources 406,381,000
	Amount proposed for recission $11,120,000
OMB identification code: 75-0872-0-1-550	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act
Grant program ☒ Yes ☐ No	☐ Other
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The Administration is committed to Federal support of biomedical research activities, but as part of a general effort to achieve economies and reduce lower priority activities, a rescission of $11,120,000 is proposed for this appropriation from the 1981 Continuing Resolution through June 5, 1981. If the Continuing Resolution is extended for the full fiscal year, an additional $12,748,000 will be proposed for rescission.

This rescission proposal is an integral component of President Reagan's comprehensive economic plan for spending reductions, tax reductions, and actions to remove unnecessary regulatory burdens.

Estimated Effects. The proposed rescission of $11,120,000 would affect the following under the Continuing Resolution.

Research Projects. Competing projects would be reduced by 18 grants and $2,174,000. The revised program level would be 464 competing projects and $58.1 million. This compares with $66.5 million in 1980.

Research Centers. Research centers would be individually negotiated downward to achieve an overall centers' reduction of 5 percent, or a savings of $3,000,000. The revised funding level would be $62.0 million.

Research Career Awards. This program would be reduced by $281,000. The revised program would support an estimated 223 investigators at a level of $9.0 million.

Research Training. The Administration is proposing to eliminate the indirect cost and institutional allowances paid under the National Research Service Awards program. This would reduce research training by $3,297,000. Additionally, the proposal will reduce the number of trainees planned under the Continuing Resolution by 32 full time equivalent (FTE) for a revised level of 500 trainees and a savings of $496,000.

Intramural Research. A reduction of $1,656,000, or 5 percent, would result in reducing the purchase of scientific equipment. The revised funding level would be $31.4 million.

Direct Operations. A reduction of $216,000 is proposed. The revised funding level would be $19.9 million.

Outlay Effects: (in millions of dollars)

1981 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1981	1982	1983	1984
516.6	512.4	4.2	6.9	---	---

R81-137

DEPARTMENT OF HEALTH AND HUMAN SERVICES
National Institutes of Health
National Heart, Lung and Blood Institute

Of the funds provided for "National Heart, Lung, and Blood Institute" for fiscal year 1981 in P.L. 96-536, $11,120,000 are rescinded, and funds under this head may be expended without regard to the provisions of section 472(b)(5) of the Public Health Service Act.

Rescission Proposal No: R81-138

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency Department of Health and Human Services	New budget authority (P.L. 96-536) $51,353,000
Bureau National Institutes of Health	Other budgetary resources 125,000
Appropriation title & symbol	Total budgetary resources 51,478,000
National Institute of Dental Research 7510873	Amount proposed for rescission $ 700,000
OMB identification code: 75-0873-0-1-550	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act
Grant program ☒ Yes ☐ No	☐ Other
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The Administration is committed to Federal support of biomedical research activities, but as part of a general effort to achieve economies and reduce lower priority activities, a rescission of $700,000 is proposed for this appropriation from the 1981 Continuing Resolution through June 5, 1981. If the Continuing Resolution is extended for the full fiscal year, an additional $1,285,000 will be proposed for rescission.

This rescission proposal is an integral component of President Reagan's comprehensive economic plan for spending reductions, tax reductions, and actions to remove unnecessary regulatory burdens.

Estimated Effects:

Research Training. The Administration is proposing to eliminate the indirect cost and institutional allowances paid under the National Research Service Awards program. This would reduce research training by $607,000. Additionally, the number of trainees planned under the Continuing Resolution will be reduced by six for a revised level of 201 and a savings of $93,000.

Outlay Effects: (in millions of dollars)

1981 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1981	1982	1983	1984
64.3	63.9	0.4	0.3	---	---

R81-138

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental Research

Of the funds provided for "National Institute of Dental Research" for fiscal year 1981 in P.L. 96-536, $700,000 are rescinded, and funds under this head may be expended without regard to the provisions of section 472(b)(5) of the Public Health Service Act.

Rescission Proposal No: R81-139

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency Department of Health and Human Services	New budget authority (P.L. 96-536) $268,740,000
Bureau National Institutes of Health	Other budgetary resources —
Appropriation title & symbol: National Institute of Arthritis, Metabolism, and Digestive Diseases 7510884	Total budgetary resources 268,740,000
	Amount proposed for rescission $ 3,943,000
OMB identification code: 75-0884-0-1-550	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act
Grant program ☐ Yes ☐ No	☐ Other
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification:

The Administration is committed to Federal support of biomedical research activities, but as part of a general effort to achieve economies and reduce lower priority activities, a rescission of $3,943,000 is proposed for this appropriation from the 1981 Continuing Resolution through June 5, 1981. If the Continuing Resolution is extended for the full fiscal year an additional $7,236,000 will be proposed for rescission.

This rescission proposal is an integral component of President Reagan's comprehensive economic plan for spending reductions, tax reductions, and actions to remove unnecessary regulatory burdens.

Estimated Effects:

Research Project Grants. The reduction of $2,572,000 will reduce the number of grants funded by 33. These reductions will include 12 fewer grants for Diabetes Endocrinology and Metabolism, seven fewer grants for Arthritis, Musculoskeletal and Skin Diseases, seven fewer grants for Digestive Diseases and Nutrition and seven fewer grants for Kidney Disease, Urology and Hematology. The revised funding level is $247.0 million to support 2,558 grants. This compares to a level of $219.7 million in 1980.

Research Training:

The Administration is proposing to eliminate the indirect cost and institutional allowances paid under the National Research Service Awards program. This would reduce research training by $1,371,000. The level of trainees will remain at 779 during the Continuing Resolution. The total revised funding level is $14.6 million.

Outlay Effects: (in millions of dollars)

1981 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1981	1982	1983	1984
334.5	332.9	1.6	2.3	—	—

R81-139

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis, Metabolism, and Digestive Diseases

Of the funds provided for "National Institute of Arthritis, Metabolism, and Digestive Diseases" for fiscal year 1981 in P.L. 96-536, $3,943,000 are rescinded, and funds under this head may be expended without regard to the provisions of section 472(b)(5) of the Public Health Service Act.

Rescission Proposal No: R81-140

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency Department of Health and Human Services	New budget authority (P.L. 96-536) $ 195,564,000
Bureau: National Institutes of Health	Other budgetary resources 69,000
Appropriation title & symbol: National Institute of Neurological and Communicative Disorders and Stroke 7510656	Total budgetary resources 195,633,000
	Amount proposed for rescission $ 4,388,000
OMB identification code: 75-0886-0-1-550	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☒ Annual ☐ Multiple-year _____ (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The Administration is committed to Federal support of biomedical research activities, but as part of a general effort to achieve economies and reduce lower priority activities, a rescission of $4,388,000 is proposed for this appropriation from the 1981 Continuing Resolution through June 5, 1981. If the Continuing Resolution is extended for the full fiscal year, an additional $2,096,000 will be proposed for rescission.

This rescission proposal is an integral component of President Reagan's comprehensive economic plan for spending reductions, tax reductions, and actions to remove unnecessary regulatory burdens.

Estimated Effects:

Research Training: The Administration is proposing to eliminate the indirect cost and institutional allowances paid under the National Research Service Awards program. This would reduce research training by $2,357,000. Additionally, the proposal will maintain 488 trainees, the same number of trainees planned under the Continuing Resolution. The revised funding level is $6.6 million.

Intramural Research. The reduction of $944,000 will delay the full implementation of the Positron Emission Tomography (PETT) initiative including purchase of peripheral equipment. Development of the planned communicative disorders clinical branch will be delayed or postponed. Further development of brain tumor research would be delayed, including development of tumor models and the evaluation of long-term effects of brain tumors and rehabilitation of patients. The revised funding level would be $34.3 million.

Direct Operations. The reduction of $200,000 will defer completion of the microfilming of case records for the collaborative perinatal study. Support of workshops and conferences on hearing, speech, and language disorders would be delayed or postponed. The revised funding level would be $12.9 million.

Program Management. The reduction of $125,000 would delay the final phase of computer programming and data entry for the Institute's newly developed program information system. This system would provide data for budget and program planning, and for inquiries regarding support of the Institute's research programs. The revised funding level would be $2.2 million.

Research and Development Contracts: The reduction of $762,000 would eliminate a study of the endocrinological parameters (hormone production) in experimental anticonvulsant drugs. A new stroke clinical research program would not be initiated. A clinical trial on the pharmacologic prevention of post-traumatic epilepsy would be reduced or not funded at all. The revised funding level for research and development contracts would be $15.8 million.

Outlay Effects: (in millions of dollars)

1981 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1981	1982	1983	1984
234.8	232.7	2.1	2.3	—	—

R81-140

DEPARTMENT OF HEALTH AND HUMAN SERVICES
National Institutes of Health
National Institute of Neurological and Communicative Disorders and Stroke

Of the funds provided for "National Institute of Neurological and Communicative Disorders and Stroke" for fiscal year 1981 in P.L. 96-536, $4,388,000 are rescinded, and funds under this head may be expended without regard to the provisions of section 472(b)(5) of the Public Health Service Act.

Rescission Proposal No: R81-141

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Health and Human Services
Bureau: National Institutes of Health
Appropriation title & symbol:
National Institute of Child Health and Human Development
7510844

New budget authority (P.L. 96-536): $ 161,887,000
Other budgetary resources: 10,000
Total budgetary resources: 161,897,000
Amount proposed for rescission: $ 4,119,000

OMB identification code: 75-0844-0-1-550
Grant program: ☒ Yes ☐ No

Legal authority (in addition to sec. 1012):
☐ Antideficiency Act
☐ Other

Type of account or fund:
☒ Annual
☐ Multiple-year _____ (expiration date)
☐ No-year

Type of budget authority:
☒ Appropriation
☐ Contract authority
☐ Other

Justification: The Administration is committed to Federal support of biomedical research activities, but as part of a general effort to achieve economies and reduce lower priority activities, a rescission of $4,119,000 is proposed for this appropriation from the 1981 Continuing Resolution through June 5, 1981. If the Continuing Resolution is extended for the full fiscal year, an additional $3,629,000 will be proposed for rescission.

This rescission proposal is an integral component of President Reagan's comprehensive economic plan for spending reductions, tax reductions, and actions to remove unnecessary regulatory burdens.

Estimated Effects:
Research Training. The Administration is proposing to eliminate the indirect cost and institutional allowances paid under the National Research Service Awards program. This would reduce research training by $1,260,000. Additionally, the proposal will reduce the number of trainees by 13 for a revised level of 791 and a savings of $140,000.

Research Project Grants. This program would be reduced by 10 competing grants and $1,100,000 which would result in the funding of 265 competing grants for $28,300,000. These grants support investigations principally in reproductive and developmental biology.

Research Center Grants. The reduction of $500,000 would decrease the level of support for several centers. The number of centers which are planned to be funded under the Continuing Resolution would remain at 33. Other research would be reduced by one Research Career Development Award for $19,000.

Research and Development Contracts. Research and Development Contracts would be reduced by 10 contracts and $800,000 to a level of 95 contracts for $15,200,000.

Intramural Research. The proposed reduction would eliminate equipment purchases and other services by $300,000 for a new level of $16,900,000.

Outlay Effects: (In millions of dollars)

1981 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1981	1982	1983	1984
233.6	231.9	1.7	2.4	---	---

R81-141

DEPARTMENT OF HEALTH AND HUMAN SERVICES
National Institutes of Health
National Institute of Child Health and Human Development

Of the funds provided for "National Institute of Child Health and Human Development" for fiscal year 1981 in P.L. 96-536, $4,119,000 are rescinded, and funds under this head may be expended without regard to the provisions of section 472(b)(5) of the Public Health Service Act.

Rescission Proposal No: R81-142

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Health and Human Services	New budget authority (P.L. 96-536): $87,242,000
Bureau: National Institutes of Health	Other budgetary resources: 60,000
Appropriation title & symbol: National Eye Institute 7510887	Total budgetary resources: 87,302,000
	Amount proposed for rescission: $ 3,856,000
CFS identification code: 75-0887-0 1-452	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act
Grant program: ☑ Yes ☐ No	☐ Other
Type of account or fund: ☑ Annual ☐ Multiple-year (Expiration date) ☐ No-year	Type of budget authority: ☑ Appropriation ☐ Contract authority ☐ Other

Justification: The Administration is committed to Federal support of biomedical research activities, but as part of a general effort to achieve economies and reduce lower priority activities, a rescission of $3,856,000 is proposed for this appropriation from the 1981 Continuing Resolution through June 5, 1981. If the Continuing Resolution is extended for the full fiscal year, an additional $840,000 will be proposed for rescission.

This rescission proposal is an integral component of President Reagan's comprehensive economic plan for spending reductions, tax reductions, and actions to remove unnecessary regulatory burdens.

Estimated Effects: The amount proposed for rescission is composed of program decreases totalling $4,016,000, partially offset by a program increase of $160,000. The details are discussed below.

Research Training: The Administration is proposing to eliminate the indirect cost and institutional allowances paid under the National Research Service Awards Program. This would reduce research training by $594,000. Additionally, the proposal will reduce the number of trainees planned under the Continuing Resolution by 13 for a revised level of 114 and a savings of $245,000.

Research Projects: The proposed rescission will result in decreasing competing research projects grants by 12 grants for a level of $84,996,000. The reductions by program are as follows: Retinal and Choroidal Diseases, 6 grants, $518,000; Corneal Diseases, 2 grants, $169,000; Cataract, 2 grants, $140,000; Glaucoma, 1 grant, $120,000; Sensory and Motor Disorders of Vision, 1 grant, $159,000. The revised funding level is an increase of $8.9 million over 1980.

Research Career Awards: To refine program balance in the context of the overall budget reduction, this activity is being increased by four awards and $160,000.

Contracts: Under the rescission, the amount available for research and development contracts would be $4,301,000, $1,500,000 less than originally proposed in the budget. As a result, ongoing contracts would be supported at a reduced level.

Intramural Laboratory and Clinical Research: The purchase of equipment ($205,000) for the Ambulatory Care Research Facility will be delayed.

Direct Operations: Information Transfer initiatives will not be funded which will result in the delay of information dissemination initiatives ($210,000).

Program Management: Brochures designed specifically for the lay person will not be prepared in FY 1981. ($134,000) Plans to expand information dissemination will be postponed.

Outlay Effect: (in millions of dollars)

1981 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1981	1982	1983	1984
103.8	102.5	1.3	2.5	---	---

R81-142

DEPARTMENT OF HEALTH AND HUMAN SERVICES
National Institutes of Health
National Eye Institute

Of the funds provided for "National Eye Institute" for fiscal year 1981 in P.L. 96-536, $3,856,000 are rescinded, and funds under this head may be expended without regard to the provisions of section 472(b)(5) of the Public Health Service Act.

Rescission Proposal No: 981-143

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency Department of Health and Human Services	New budget authority (P.L. 96-536) $ 70,946,000
Bureau National Institutes of Health	Other budgetary resources 5,613,000
Appropriation title & symbol	Total budgetary resources 76,559,000
National Institute of Environmental Health Sciences 7510862	Amount proposed for rescission $ 2,179,000
CFS Identification code: 75-0862-0-1-550	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act
Grant program ☒ Yes ☐ No	☐ Other
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The Administration is committed to Federal support of biomedical research activities, but as part of a general effort to achieve economies and reduce lower priority activities, a rescission of $2,179,000 is proposed for this appropriation from the 1981 Continuing Resolution through June 5, 1981. If the Continuing Resolution is extended for the full fiscal year, an additional $3,877,000 will be proposed for rescission.

This rescission proposal is an integral component of President Reagan's comprehensive economic plan for spending reductions, tax reductions, and actions to remove unnecessary regulatory burdens.

Estimated Effects:

Research Training. The Administration is proposing to eliminate the indirect cost and institutional allowances paid under the National Research Service Awards program. This would reduce training by $69,000. The level of trainees will remain at 467 during the Continuing Resolution.

Research Grants. Research grants will be reduced by 3 competing grants totalling $390,000. Total revised funding is $32.7 million, an increase of $4.3 million over 1980.

R&D Contracts. A decrease of $700,000 will maintain the commitment base but will cut out new contracts in toxicity test development and validation.

Intramural. A decrease of $1,112,000 will reduce funding for laboratory supplies and materials and large scientific equipment.

Outlay Effects: (in millions of dollars)

1981 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1981	1982	1983	1984
99.5	88.4	1.1	1.1	---	---

R81-143

DEPARTMENT OF HEALTH AND HUMAN SERVICES
National Institutes of Health
National Institute of Environmental Health Sciences

Of the funds provided for "National Institute of Environmental Health Sciences" for fiscal year 1981 in P.L. 96-536, $2,179,000 are rescinded, and funds under this head may be expended without regard to the provisions of section 472(b)(5) of the Public Health Service Act.

Rescission Proposal No: R81-144

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Health and Human Services
Bureau: National Institutes of Health
Appropriation title & symbol:
National Institute of Aging
7510843

New budget authority (P.L. 96-536): $54,950,000
Other budgetary resources: 100,000
Total budgetary resources: 55,050,000
Amount proposed for rescission: $1,593,000

GAS identification code:
75-0843-0-1-550

Grant program: ☒ Yes ☐ No

Legal authority (in addition to sec. 1012):
☐ Antideficiency Act
☐ Other

Type of account or fund:
☒ Annual
☐ Multiple-year _____ (expiration date)
☐ No-year

Type of budget authority:
☒ Appropriation
☐ Contract authority
☐ Other

Justification: The Administration is committed to Federal support of biomedical research activities, but as part of a general effort to achieve economies and reduce lower priority activities, a rescission of $1,593,000 is proposed for this appropriation from the 1981 Continuing Resolution through June 5, 1981. If the Continuing Resolution is extended for the full fiscal year, an additional $620,000 will be proposed for rescission.

This rescission proposal is an integral component of President Reagan's comprehensive economic plan for spending reductions, tax reductions, and actions to remove unnecessary regulatory burdens.

Estimated Effects:
Research Grants: The proposed rescission will reduce research project grants by 3 grants and $371,000, and other research grants by 5 grants and $284,000. Total revised funding is $43.2 million to support 403 grants.

Research Training: The Administration is proposing to eliminate the indirect cost and institutional allowances paid under the National Research Service Awards program. This would reduce research training by $463,000. Additionally, the proposal will reduce the number of trainees planned under the Continuing Resolution by 15 full-time equivalent trainees and a savings of $171,000. The level for trainees will be 183 with a revised funding level of $2,312,000.

Intramural Research: A reduction of $304,000 is proposed for intramural research. This would result in reducing the rate women are added to the research cohort in the Baltimore Longitudinal Study.

Outlay Effects: (in millions of dollars)

1981 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1981	1982	1983	1984
68.8	68.3	0.5	1.1	---	---

Outlay Effects: (in million of dollars)

1981 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1981	1982	1983	1984
932.4	872.5	59.9	6.3	0.3	---

R81-144

DEPARTMENT OF HEALTH AND HUMAN SERVICES
National Institutes of Health
National Institute on Aging

Of the funds provided for "National Institute on Aging" for fiscal year 1981 in P.L. 96-536, $1,593,000 are rescinded, and funds under this head may be expended without regard to the provisions of section 472(b)(5) of the Public Health Service Act.

Rescission Proposal No: R81-145

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency Department of Health and Human Services	New budget authority (P.L. 96-536) $ 170,779,000
Bureau National Institutes of Health	Other budgetary resources 7,390,000
Appropriation title & symbol	Total budgetary resources 178,169,000
Research Resources 7510848	Amount proposed for rescission $ 3,714,000
CFS identification code: 75-0848-0-1-550	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act
Grant program ☒ Yes ☐ No	☐ Other
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The Research Resources appropriation supports the development and maintenance of resources - advanced tools, materials, specialized environments for research, expanded capability for ethnic minority faculty and students, and improved quality for biomedical science.

The Administration is committed to Federal support of biomedical research activities, but as part of a general effort to achieve economies and reduce lower priority activities, a rescission of $3,714,000 is proposed for this appropriation from the 1981 Continuing Resolution through June 5, 1981. If the Continuing Resolution is extended for the full fiscal year, an additional $7,031,000 will be proposed for rescission.

This rescission proposal is an integral component of President Reagan's comprehensive economic plan for spending reductions, tax reductions, and actions to remove unnecessary regulatory burdens.

Estimated Effects:
Research Training: The Administration is proposing to eliminate the indirect cost and institutional allowances paid under the National Research Service Awards program. This would reduce training by $184,000.

Research Centers: A reduction of $1,836,000 is proposed for support of research centers. This would result in four fewer general clinical research centers.

Biomedical Research Support: A reduction of $1,694,000 is proposed. Since the funds are distributed to all eligible institutions on a formula basis, the decrease would result in slight reductions among all recipients.

Outlay Effects: (in millions of dollars)

1981 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1981	1982	1983	1984
158.7	157.1	1.6	2.1	---	---

R81-145

DEPARTMENT OF HEALTH AND HUMAN SERVICES
National Institutes of Health
Research Resources

Of the funds provided for "Research Resources" for fiscal year 1981 in P.L. 96-536, $3,714,000 are rescinded, and funds under this head may be expended without regard to the provisions of section 472(b)(5) of the Public Health Service Act.

Rescission Proposal No: R81-146

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency Department of Health and Human Services

Bureau National Institutes of Health

Appropriation title & symbol
National Library of Medicine
7510807

New budget authority (P.L. 96-536) $ 32,301,000
Other budgetary resources 2,400,000
Total budgetary resources 34,701,000

Amount proposed for rescission $ 341,000

OMB identification code:
75-0807-0-1-550

Grant program ☐ Yes ☐ No

Type of account or fund:
☒ Annual
☐ Multiple-year _____ (expiration date)
☐ No-year

Legal authority (in addition to sec. 1012):
☐ Antideficiency Act
☐ Other _____

Type of budget authority:
☒ Appropriation
☐ Contract authority
☐ Other _____

Justification:

Funds provided by the Congress in excess of the January budget request totalling $341,000 are proposed for rescission.

This rescission proposal is an integral component of President's Reagan's comprehensive economic plan for spending reductions, tax reductions, and actions to remove unnecessary regulatory burdens.

Estimated Effects:

As a result of the rescission, the development of two components of the Chemical Substances Information Network, the Chemical Base Directory, and the Chemical Structure and Nomenclature System in the Toxicology Information Program will be spread over several years. The end products will be completed at a later date than originally planned.

Outlay Effects: (in millions of dollars)

1981 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1981	1982	1983	1984
46.8	46.6	0.2	0.1	--	--

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine

Of the funds provided for "National Library of Medicine" for fiscal year 1981 in P.L. 96-536, $341,000 are rescinded.

Rescission Proposal No: R81-147

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency Department of Health and Human Services	New budget authority (P.L. 96-536) $16,336,000
Bureau National Institutes of Health	Other budgetary resources 8,169,000
Appropriation title & symbol Office of the Director 7510846	Total budgetary resources 24,505,000
	Amount proposed for rescission $ 360,000
OMB identification code: 75-0846-0-1-550	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act
Grant program ☐ Yes ☒ No	☐ Other
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification:

The Administration is committed to Federal support of biomedical research activities but as part of a general effort to achieve economies and reduce lower priority activities, a rescission of $360,000 is proposed for this appropriation from the 1981 Continuing Resolution through June 5, 1981.

This rescission proposal is an integral component of President Reagan's comprehensive economic plan or spending reductions, tax reductions, and actions to remove unnecessary regulatory burdens.

Estimated Effects:

The proposed rescission will affect, to varying degrees, the funds available to the organizational components of the Office of the Director for personnel services. Fewer tempocaries will be hired and there will be a $45,000 reduction in contract funds.

Outlay Effects: (in millions of dollars)

1981 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1981	1982	1983	1984
20.6	20.3	0.3	0.1	--	--

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director

Of the funds provided for "Office of the Director" for fiscal year 1981 in P.L. 96-536, $360,000 are rescinded.

Rescission Proposal No: R81-148

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency Department of Health and Human Services	New budget authority (P.L. 96-536) $ 766,957,000
Bureau Alcohol, Drug Abuse, and Mental Health Administration	Other budgetary resources 1,113,134
Appropriation title & symbol Alcohol, Drug Abuse, and Mental Health 7511351	Total budgetary resources 768,070,134
	Amount proposed for rescission $ 98,370,000
OMB identification code: 75-1361-0-1-550	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act
Grant program ☒ Yes ☐ No	☐ Other
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification:

(In thousands of dollars)

Program Activity	New a/ Budget Authority	Proposed Rescissions Under P.L. 96-536	Proposed Rescissions Remainder a/ of FY 1981	Revised a/ 1981 Funding
Mental Health				
Research	$ 151,058	$ 3,766	$ 4,602	$142,690
Training	93,854	6,664	14,244	72,946
Services	324,272	17,344	21,198	285,730
Subtotal	$ 569,184	$ 27,774	$ 40,044	$501,366
Drug Abuse				
Research	46,000	545	666	44,789
Training	7,644	--	192	7,452
Project Grants/Contracts	161,000	340	415	160,245
Grants to States	30,000	21,262	8,738	--
Subtotal	$ 244,644	$ 22,147	$ 10,011	$212,486

(In thousands of dollars)

Program Activity	New a/ Budget Authority	Proposed Rescissions Under P.L. 96-536	Proposed Rescissions Remainder a/ of FY 1981	Revised a/ 1981 Funding
Alcoholism				
Research	22,251	243	297	21,711
Training	5,821	--	374	5,447
Project Grants/Contracts	73,000	1,018	1,244	70,738
Grants to States	50,000	47,188	2,812	--
Subtotal	$ 151,072	$ 48,449	$ 4,727	$ 97,896
Program Support/ Management	77,482	--	-- b/	77,482
Total	$1,042,382	$ 98,370	$ 54,782 b/	$889,230

a/ Assumes funding level provided by P.L. 96-536 is extended for the remainder of FY 1981.

b/ In addition, the supplemental of $4,518,000 included in the January budget to cover 1981 pay raises has been reduced by $1,732,000 to a new supplemental request of $2,876,000.

Research. 1981 reductions are proposed to slow the rate of growth of funding for ADAMHA biomedical research and to reduce the level of funding for social sciences research below current levels. Across the board restraints in Federal spending--including biomedical research--are necessary for economic recovery; social sciences research has been reduced substantially because this research has been less productive.

Research Training. The level of support for trainees in social science areas has been reduced. In addition, institutional overhead has been eliminated from the National Research Service Act research training awards because the Federal Government should not pay higher costs to support a research trainee than are normally charged for a non-federally supported student at the same institution.

Clinical Training. The supply of mental health professionals, who have good earnings prospects, is now generally adequate and Federal subsidies for such training are no longer necessary. As a result, no funding for new starts will be requested in 1981 and 1982. Federal support for ADAMHA clinical training will be phased out by the end of 1982.

Services. In view of the Administration's intent that the States should play an increased role in the funding and management of public service programs supported within their jurisdictions, this rescission would eliminate all new and competing service project grant and contract funds not awarded to date and terminate support for the alcohol and drug abuse formula grant programs.

A total of $98,370,000 is proposed for rescission under the current continuing resolution. If the Continuing Resolution is enacted for the full fiscal year, an additional $54,782,000 will be proposed for rescission.

This rescission proposal is an integral component of President Reagan's comprehensive economic plan for spending reductions, tax reductions, and action to remove unnecessary regulatory burdens.

Estimated Effects:

This rescission would reduce increases in funding for ADAMHA research, provide for reductions in ADAMHA training and service project grants, and terminate funding for State formula grants for alcohol and drug abuse. This rescission will also reduce funding for new or competing project grants and contracts below the level proposed under the continuing resolution but will still allow about $40 million for new awards in research and research training. It is expected that the States will continue to support service programs in alcohol, drug abuse, and mental health which are of high State priority.

Outlay Effects: (in millions of dollars)

1981 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1981	1982	1983	1984
1,042.5	1,026.1	16.4	77.7	4.3	--

R81-148

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration
Alcohol, Drug Abuse, and Mental Health

Of the funds provided for "Alcohol, Drug Abuse, and Mental Health" for fiscal year 1981 in P.L. 96-536, $98,370,000 are rescinded, and the funds remaining in this account may be expended without regard to the provisions of section 472(b)(5) of the Public Health Service Act.

Rescission Proposal No: 81I-149

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency Department of Health and Human Services	New budget authority (P.L. 96-536) $ 491,634,000
Bureau Health Resources Administration	Other budgetary resources 2,741,000
Appropriation title & symbol: Health Resources 7510712	Total budgetary resources 494,375,000
	Amount proposed for rescission $ 131,751,000 1/
OMB identification code: 75-0712-0-1-550	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program ☒ Yes ☐ No	
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification:

The programs for which rescissions are proposed are included within the Health Resources appropriation and are administered by the Health Resources Administration's Bureau of Health Planning and Resources Development and the Bureau of Health Professions Education.

The primary purpose of the Bureau of Health Planning programs is to control health care cost through a network of 213 local health systems agencies and 57 State health planning and development agencies. Because the planning program and its regulatory process have not proved effective in controlling costs on a national basis and inhibits market forces needed to strengthen competition and provide less costly services, the Administration is proposing a phase-out of the entire program by fiscal 1983. The proposed rescission for local planning reflects the first step of this phase-out.

Programs of the Bureau of Health Professions Education have as their primary purpose expanding the supply of health professionals in the United States. During the 1960's and 1970's, the supply of health professionals has increased dramatically, primarily as a result of Federal subsidies to expand numbers of health professions students and training programs. The current supply of health professionals is adequate and an oversupply for most specialties is now predicted prior to 1990. The proposed rescission for health professions training programs reflects a shift in emphasis from general institutional support to more targeted Federal assistance directed toward those programs which have the greatest potential for addressing the following major objectives:

- maintaining a sufficient supply of primary care providers;
- promoting equity of opportunity for minority and disadvantaged students;
- improving geographic and specialty distribution; and
- encouraging more efficient utilization of health personnel.

This rescission proposal is an integral component of President Reagan's comprehensive economic plan for spending reductions, tax reductions, and actions to remove unnecessary regulatory burdens.

A rescission of $131.8 million is proposed in 1981 through June 5, 1981, from funds available under P.L. 96-536 for health planning and health professions distributed as follows.

Estimated Effects:

Local Planning Agencies - ($13,568,000) 1/. This program provides grants for Local Health Systems Agencies which are primarily responsible for developing comprehensive, long-range health systems plans for their local communities, along with action strategies for implementing these plans. Agencies then attempt to implement the plans either through independent negotiation or by using one of several mechanisms authorized by the statute.

Health Professions Education--Start-up - ($1,790,000). The purpose of Start-up grants is to provide support to new schools of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy or podiatry so that they may accelerate the beginning date of instruction or substantially increase enrollments. Because of a current and growing oversupply of physicians and other health professionals, increasing the capacity of health professions institutions is no longer a desirable objective.

The remaining $.9 million has been approved for reprogramming to the financial distress program to provide additional support to Meharry Medical College. The rescission would result in the elimination of support for 4 projects which would have received continuation grants in 1981.

Allied Health - Special Projects Grants and Contracts - ($4,200,000). This program provides grants and contracts to assist eligible entities in meeting costs of projects to establish regional or State systems for improved coordination, training and credentialing of allied health personnel. The revised funding level of $1.0 million would support 13 continuation awards, 1 contract and 12 cooperative agreements (MEDHIC) at a reduced rate. This represents a reduction of 9 continuation projects and 47 new awards from the number which could be supported by the amount currently available in 1981.

Allied Health - Advanced Traineeships - ($1,500,000). This program provides grants to public or non-profit institutions, organizations, or agencies for the support of both long and short-term advanced traineeship programs at the post professional level. Support for 42 projects and 175 long-term and 1,513 short-term training slots would be eliminated as a result of the rescission.

Dental Extenders - ($1,900,000). This program provides additional training to dental hygienists and dental assistants to qualify them to perform newly-delegated functions formerly performed by dentists. The amount proposed for rescission would have supported 7 continuation and 17 new projects assisting approximately 1,121 students and faculty.

Dental Team Practice - ($1,000,000). The Dental Team Practice Training program teaches dental students to organize and manage multiple auxiliary dental team practices in lieu of traditional solo practices. Future dentists are taught how to conduct dental practices through the utilization of dental extenders, dental hygienists and other auxiliaries. The $1 million proposed for rescission will eliminate the funding of 8 continuation projects benefitting 420 dental students.

Public Health Special Projects - ($2,200,000). This program provides grants to accredited schools of public health and to other public or nonprofit private educational entities to support the improvement and expansions of existing programs in biostatistics or epidemiology, health administration, health planning, health policy analysis and planning, environmental or occupational health, nutrition, and maternal and child health. The $2,200,000 proposed for rescission will eliminate new starts in 1981 by reducing 40 new projects, assisting 1,000 public health students.

Health Administration Grants - ($3,000,000). Grants are awarded to public or nonprofit private educational entities, including schools of social work but excluding schools of public health, in order to support the expansion and improvement of graduate programs in health administration, hospital administration and health planning. The $3,000,000 proposed for rescission will eliminate 25 formula grants benefitting 1,645 students in 1981.

Public Health Traineeships - ($3,300,000). Traineeships are awarded to train students enrolled in schools of public health and other public or nonprofit institutions which provide graduate or specialized training in public health. These grants provide financial support to students for tuition and living expenses. This program supports graduate or specialized training of health professional personnel in public health fields such as biostatistics, epidemiology, nutrition, environmental health, occupational health, health administration, health planning, health policy analysis, preventive medicine or dentistry, and maternal and child health. The proposed rescission would eliminate support to 1,100 students in public health training.

Health Administration Traineeships - ($1,500,000). Grants are awarded to public or nonprofit educational institutions, including graduate schools of social work but excluding schools of public health to support traineeships for graduate study in accredited programs in health administration, hospital administration, or health policy analysis and planning. The proposed rescission would reduce the formula funding amount to 25 public or nonprofit educational institutions, eliminating support for 300 students in health administration training.

Student Assistance - Health Professions Student Loans - ($16,500,000). The purpose of the student loans program is to provide long-term, seven percent interest loans up to $2,500 per year, plus tuition, to health professions students (MOD/VOPP). These loan funds are given to schools who then make awards to students. The total reduction of $16.5 million from the Health Professions Student Loan program would eliminate support to 311 schools which would have provided loans to 11,000 additional students.

Special Education Program - Health Professions Educational Improvement and Development Projects - ($4,500,000)1/. This program provides funds for the planning, development, demonstration, and evaluation of targeted health manpower activities such as those emphasizing humanistic medicine, environmental and occupational health, health manpower development, special problems of aging, human nutrition, and development of regional systems of continuing education and preventive medicine. Support for 35 projects in these areas would be eliminated.

Special Educational Programs--Emergency Medical Training - ($3,000,000). The program provides grants and contracts for the training of physicians and other health professionals in life-saving techniques under emergency situations. The training is of short duration and is provided essentially to meet local needs. Support for 22 projects, 2 contracts and for training for 6,468 emergency medical services personnel would be eliminated as a result of the proposed rescission.

Nursing Capitation Grants (-$24,000,000), Nurse Practitioner ($500,000, Special Projects ($1,000,000) and Advanced Nurse Training ($8,243,000)1/. A rescission of $33.7 million is proposed for institutional support for nursing schools. Nursing supply problems that may exist in certain geographic and specialty areas are not directly related to the existing capacity of nursing schools, which is adequate to meet overall needs. Consequently, these funds are not necessary for addressing national priorities with respect to nursing. This reduction would result in 1,130 schools not receiving support through formula funding (406 Baccalaureate, 582 Associate Degree and 142 Diploma), reduce 3 new nurse practitioner projects; reduce 10 new special project grants/contracts and eliminate 20 current Advanced Nurse Training awards.

Health Professions Education - Nurse Traineeships - ($13,000,000). The purpose of this program is to provide support to eligible public or non-profit institutions who then make traineeships awards to individual professional nurses who are pursuing advanced educational preparation. The rescission would eliminate support for 125 grants.

General Dentistry Residencies and Training - ($4,050,000). This program provides grants to plan, develop, and implement programs to provide dental residents with advanced skills in the general practice of dentistry. The rescission would eliminate funding in 1981 for 14 continuation and 28 new projects assisting 240 students. Both this and the following 2 rescission proposals specifically reflect the Administration's assessment that the current supply of dental health professionals is adequate.

Family Medicine Residencies and Training - ($16,000,000). This rescission is designed to eliminate all new starts under this program. This program supports grants and contracts to hospitals, schools of medicine, osteopathy, and other public or private nonprofit entities to provide a combination of allopathic and predoctoral training. This program also authorizes assistance in meeting the cost of supporting trainees in such programs, who plan to specialize or work in the practice of family medicine. This level will still support nearly 4,000 faculty and trainees.

General Internal Medicine and Pediatrics - ($6,000,000). This rescission is designed to eliminate all new starts under this program. These grant and contract programs assist medical and osteopathic schools with projects to plan, develop, and operate approved residency programs in internal medicine or pediatrics. These programs emphasize training for the practice of general internal medicine or general pediatrics and provide financial assistance (in the form of traineeships and fellowships) to residents who are participating in these programs and who plan to practice general internal medicine or general pediatrics. The programs supported under this authority must emphasize ambulatory care, comprehensive health care and non-clinical areas relevant to the practitioner of general internal medicine and general pediatrics. This rescission will reduce the number of projects supported by 32. The first year residency positions and total residency positions supported by these projects will be reduced by 234 and 739 respectively.

Physician Assistants - ($1,000,000). This rescission is designed to eliminate all new starts under this program. This program, through grants or contracts to schools of medicine and osteopathy, and other public or nonprofit private entities, supports costs to plan, develop, operate, or maintain physician assistant training programs and the training of physician assistant faculty. Programs supported must develop and use (1) methods designed to encourage graduates of the program to work in health personnel shortage areas; and (2) methods for placing graduates in positions for which they have been trained. The proposed rescission would reduce the number of projects supported by 3, thus reducing the number of trainees by 266 and reducing the number of faculty members trained by 14.

Outlay Effects: (in millions of dollars)

1981 Outlay Estimate 1/		Outlay Savings			
Without Rescission	With Rescission	1981	1982	1983	1984
641.8	610.0	31.8	100.0	--	--

1/ An additional amount is planned to be proposed for rescission if additional 1981 funding is provided for Health Resources after the present continuing resolution expires on June 5, 1981, as follows:

Local Planning Agencies	$ 10,432,000
Health Planning Program Support	215,000
Educational Improvement and Development Projects	4,000,000
Advanced Nurse Training	3,000,000
Nursing Scholarships	9,000,000
Health Professions Capitation	71,878,000
Nurse Practitioners	2,500,000
Nursing Special Projects	2,000,000
Health Profession Program Support	740,000
National Health Service Corps Scholarships	15,100,000
Program Management	126,000
Total	$119,991,000

RSI-149

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources Administration
Health Resources

Of the funds provided for "Health Resources" for fiscal year 1981 in P.L. 96-536, $131,751,000 are rescinded: Provided, that the funds appropriated under this head in P.L. 96-536 shall be available notwithstanding the limitations of sections 786(c) and 1516(c) of the Public Health Service Act.

Rescission Proposal No: R81-150

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency Department of Health and Human Services	New budget authority (P.L. 96-536) $ 1,263,134,440
Bureau Human Development Services	Other budgetary resources 3,181,000
Appropriation title & symbol: Human Development Services 7511636	Total budgetary resources 1,266,315,440
	Amount proposed for rescission $ 10,100,000
CMS identification code: 75-1636-0-1-999	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program ☒ Yes ☐ No	
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification:

The amount available in the Continuing Resolution (P.L. 96-536) for Social Services and Senior Centers is $257,000,000 (on an annualized basis). This amount includes $10,000,000 more than the 1981 Budget request to help States assume the additional costs of transferring responsibilities from nutrition to social services as required by the Older Americans Act Amendments of 1978. The amendments, however, required that this transfer be completed by the end of fiscal year 1980. No evidence is available which indicates that States will require the additional resources to complete the transfer in fiscal year 1981. Therefore, a rescission of $10 million is proposed.

In addition, the amount available in the Continuing Resolution for the Federal Council on Aging is $561,000 (on an annualized basis). Since the functions of the Council could be assumed by the Administration on Aging or other agencies concerned with the well-being of the elderly, a rescission of $.1 million is proposed.

This rescission proposal is an integral component of President Reagan's comprehensive economic plan for spending reductions, tax reductions, and actions to remove unnecessary regulatory burdens.

Estimated Effects:

This proposal would save $10 million which is no longer needed by States to accomplish the transfer of responsibilities under the Older Americans Act Amendments. The proposed rescission for the Federal Council on Aging will reduce ongoing activities in the area of improvements in long term care policies, participation in and follow-up plans, and the comprehensive study of programs operated under the Older Americans Act.

Outlay Effects: (in millions of dollars)

1981 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1981	1982	1983	1984
1,818.5	1,812.9	5.6	4.5	—	—
—			—		

R81-150

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Human Development Services

Of the funds provided for "Human Development Services" for fiscal year 1981 in P.L. 96-536, making further continuing appropriations for the fiscal year 1981, $10,100,000 are rescinded.

Rescission Proposal No: R81-151

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Housing and Urban Development	New budget authority (P.L. 96-526): $10,000,000
Bureau: Housing Programs	Other budgetary resources: 13,334,395
Appropriation title & symbol: Congregate Services Program 869/40178 860/40178 861/40178	Total budgetary resources: 23,334,395
	Amount proposed for rescission: $10,000,000
CMB identification code: 86-0178-1-604	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☐ Annual ☒ Multiple-year September 30, 1984 (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: This program is currently being operated as a demonstration program out of funds appropriated for fiscal years 1979 and 1980. This demonstration program is testing whether providing contracts directly with local public housing agencies to supply congregate services is more effective than alternative Health and Human Services (HHS) and other social service programs. Funds appropriated for 1981 are not required to carry out the evaluation of this program. Thus, providing continued funding for the program is premature and would suggest that the Federal Government is committed to operating this type of social service program in the Department of Housing and Urban Development when this is not the case.

Estimated Effects: The 1981 appropriation now proposed for rescission would have provided meal services and supportive services to an estimated 700 elderly residents of public housing and housing for the elderly or handicapped. However, such services are also available through other Federal social service programs as well as social service agencies of State and local governments. The proposed rescission will have no effect on the evaluation of this program now being conducted by the Office of Policy Development and Research of the Department of Housing and Urban Development.

Outlay Effects: (in millions of dollars)

1981 Outlay Estimate		Outlay Savings			
Without Rescission	Rescission	1981	1982	1983	1984
5.0	5.0	--	1.8	1.9	2.0

R81-151

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Programs
Congregate Services Program

Of the funds appropriated under this head in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1981, $10,000,000 are rescinded.

Rescission Proposal No: 81-152

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency: Community Services Administration	New budget authority (P.L. 96-536): $541,500,000
Bureau:	Other budgetary resources: -0-
Appropriation title & symbol: Community Services Program 8110500	Total budgetary resources: 541,500,000
	Amount proposed for rescission: $6,000,000
OMB identification code: 81-0500-0-1-999	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: This rescission proposes to eliminate the National Youth Sports Program. There is no evidence that this program contributes to Community Services Administration's objective of assisting low-income families achieve economic self-sufficiency. Further, it duplicates activities and programs sponsored by other Federal, State and local government agencies. The program had already been scheduled for discontinuation in 1982. The proposal to advance this date is an integral part of President Reagan's policy of reducing Federal spending by eliminating ineffective and duplicative programs.

Estimated Effects: This rescission proposal would result in cancellation of this program in 1981.

Outlay Effects: (in millions of dollars)

1981 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1981	1982	1983	1984
556.8	554.8	4.0	2.0	—	—

COMMUNITY SERVICES ADMINISTRATION

Community Services Program

Of the funds provided for the "National Youth Sports Program" for fiscal year 1981 in P.L. 96-536, making further continuing appropriations for the fiscal year 1981, $6,000,000 are rescinded.

Rescission Proposal No: 81-153

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency: Federal Mine Safety and Health Review Commission	New budget authority (P.L. 96-536): $3,139,000
Bureau:	Other budgetary resources: ---
Appropriation title & symbol: Salaries and Expenses 9512800	Total budgetary resources: 3,139,000
	Amount proposed for rescission: $186,000
OMB identification code: 95-2800-0-1-554	Legal authority (in addition to sec. 1012): ☒ Antideficiency Act ☐ Other
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: This appropriation provides for adjudication of contested Labor Department enforcement actions under the Federal Mine Safety and Health Amendments Act of 1977.

This rescission proposal reflects reestimates of the Commission's personnel and other resources requirements, as well as reductions in travel and equipment procurement. The savings from these actions are part of the President's comprehensive economic plan for reduced Federal spending. This rescission is proposed as a reserve for savings in accordance with the Antideficiency Act (31 U.S.C. 665).

Estimated Effects: The rescission will have minimal impact on the Commission since most of the funds proposed for rescission would not be obligated before lapsing at the end of the fiscal year. Hearings and decisions on contested cases may be slightly delayed as a result of travel reductions, but no major programmatic effects are anticipated.

Outlay Effects: (in thousands of dollars)

1981 Outlay Effects		Outlay Savings			
Without Rescission	With Rescission	1981	1982	1983	1984
2,931	2,911	20	2	—	—

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Salaries and Expenses

Of the funds provided for the Federal Mine Safety and Health Review Commission, "Salaries and expenses," for fiscal year 1981 in P.L. 96-536, $186,000 are rescinded.

Rescission Proposal No: RSI-154

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency: Postal Service	New budget authority (P.L. 96-536): $1,593,217,000
Bureau:	Other budgetary resources: ---
Appropriation title & symbol: Payment to the Postal Service Fund 18X1001	Total budgetary resources: $1,593,217,000
	Amount proposed for rescission: $250,000,000
OMB identification code: 18-1001-0-1-372	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The President has stated that he believes the Postal Service has been unable to live within its means. The Administration believes that Federal subsidies act as disincentives for the Postal Service to realize operational efficiencies, thus slowing its progress toward financial independence.

The public service subsidy, $250,000,000 of which is proposed for rescission, compensates the Postal Service for the costs incurred by maintaining services that are not self-sustaining.

Estimated Effects: The Administration believes that this rescission will encourage the Postal Service to take additional measures to manage the national mail system more effectively. The Postmaster General has stated that the Postal Service will, when faced with reduced subsidies, realize economies through increased productivity rather than reductions in service.

Outlay Effect: (in millions of dollars)

1981 Outlay Estimates		Outlay Savings			
Without Rescission	With Rescission	1981	1982	1983	1984
1,593	1,343	250	--	--	--

POSTAL SERVICE

Payment to the Postal Service Fund

Of the amounts in the Postal Service Fund, $250,000,000 shall be transferred to the account entitled "Payment to the Postal Service Fund" and, when transferred, are rescinded.

Rescission Proposal No: RSI-155

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency: Tennessee Valley Authority	New budget authority (P.L. 96-367): $287,563,000
Bureau:	Other budgetary resources: 87,394,000
Appropriation title & symbol: Tennessee Valley Authority Fund 64X4110	Total budgetary resources: 374,957,000
	Amount proposed for rescission: $177,000,000
OMB identification code: 64-4110-0-3-999	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: Funds totalling $177,000,000 of the $210,000,000 provided in fiscal years 1980-1981 for the Coal Gasification Demonstration Project are proposed for rescission. The rescission is proposed primarily because of the project's limited technological benefit and high cost.

- The project, from a technology standpoint, is unnecessary. Current plans are to utilize a proven technology which is already in use throughout the world.
- The plant and estimated operational costs, including environmental requirements, are quite high (estimates are now up to $4 billion for construction alone) and appear to be uneconomic from the viewpoint of product marketability.
- Operation of the plant is predicated on construction of a pipeline to connect with an existing gas system. This cost has not been factored into the project nor has TVA sponsored any planning for this aspect of the project.
- The project overlaps responsibilities of the Synthetic Fuels Corporation which was established by Congress to fund projects like this. The information benefits from this project are not large enough to justify the substantial project costs. These benefits would also be available from SFC sponsored projects.

Estimated Effects: The effect of this rescission would be to terminate this project. Preliminary work on the project would be halted. The effect on the demonstration of coal gasification technology would not be adversely affected because of the SFC's and Department of Energy's activities in this area.

Outlay Effects: (in millions of dollars)

1981 Outlay Estimates		Outlay Savings			
Without Rescission	With Rescission	1981	1982	1983	1984
2,227.0	2,178.5	48.5	50.0	50.0	28.5

881-155

TENNESSEE VALLEY AUTHORITY

Tennessee Valley Authority Fund

Of the funds appropriated under this head in P.L. 96-367 making appropriations for Energy and Water Development and in P.L. 96-304 making supplemental appropriations for Energy and Water Development, $177,000,000 are rescinded.

Deferral No: D81-10A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Health and Human Services	New budget authority (P.L. 96-536) $ 13,500,000
Bureau Social Security Administration	Other budgetary resources 31,100,364
Appropriation title & symbol: Limitation on Administrative Expenses 75X8704 (Construction) 1/	Total budgetary resources 44,600,364
	Amount to be deferred: Part of year $ ____ Entire year 8,003,808
OMB identification code: 75-8007-0-7-601	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other ____
Grant program ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

Justification:

The Continuing Resolution (P.L. 96-536) provided $13.5 million for the Limitation on Administrative Expenses (Construction) of the Social Security Administration. These amounts remain available until expended in recognition of the long leadtime between the provision of funds and their use in carrying out authorized construction projects. SSA does not expect to need $8,003,808 of these funds during FY 1981. These funds are deferred for the remainder of this fiscal year and will be used for program requirements in FY 1982 or later years. This deferral action is taken pursuant to the Antideficiency Act (31 U.S.C. 665).

Estimated Effects:

Funds remaining available in FY 1981 will permit SSA to carry out its construction program in an orderly manner. No currently planned construction would be delayed by this deferral.

Outlay Effect:

This deferral action has no effect on outlays.

1/ This account was subject to a similar deferral during 1980 (D80-47)

ERRATA

The attached rescission proposal (R81-102) substitutes for the version of R81-102 that was transmitted to the Congress on Tuesday, March 17, 1981. The version of this proposal transmitted on March 17 was inadvertently prepared using a deferral report form rather than a rescission proposal form. The attached proposal has been prepared using the correct form.

[FR Doc. 81-8969 Filed 3-23-81; 8:45 am]

BILLING CODE 3110-01-C

Rescission Proposal No: R81-102

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency: Veterans Administration	New budget authority (P.L. 96-526): $ 423,774,000
Bureau:	Other budgetary resources: 853,523,000
Appropriation title & symbol: Construction, Major Projects 36X0110	Total budgetary resources: 1,277,297,000
	Amount proposed for rescission: $ 162,160,000
OMB identification code: 36-0110-0-1-703	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification:

This account provides funds for constructing, altering and improving the facilities under the jurisdiction of the Veterans Administration. This rescission proposes the cancellation of construction plans for VA hospitals in Baltimore, Maryland and Camden, New Jersey. These two areas are heavily overbedded and well-served by community and private hospitals. In each instance, there are three other VA hospitals within commuting distance which are underutilized at present.

Estimated Effects:

Two proposed VA hospitals will not be built. However, adequate health care for eligible veterans will continue to be available.

Outlay Effect: (in millions of dollars)

1981 Outlay Estimate		Outlays Savings			
Without Rescission	With Rescission	1981	1982	1983	1984
277	261	16	41	32	58

VETERANS ADMINISTRATION

Construction, Major Projects

Of the funds appropriated under this head in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1981, $162,160,000 are rescinded.

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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.)

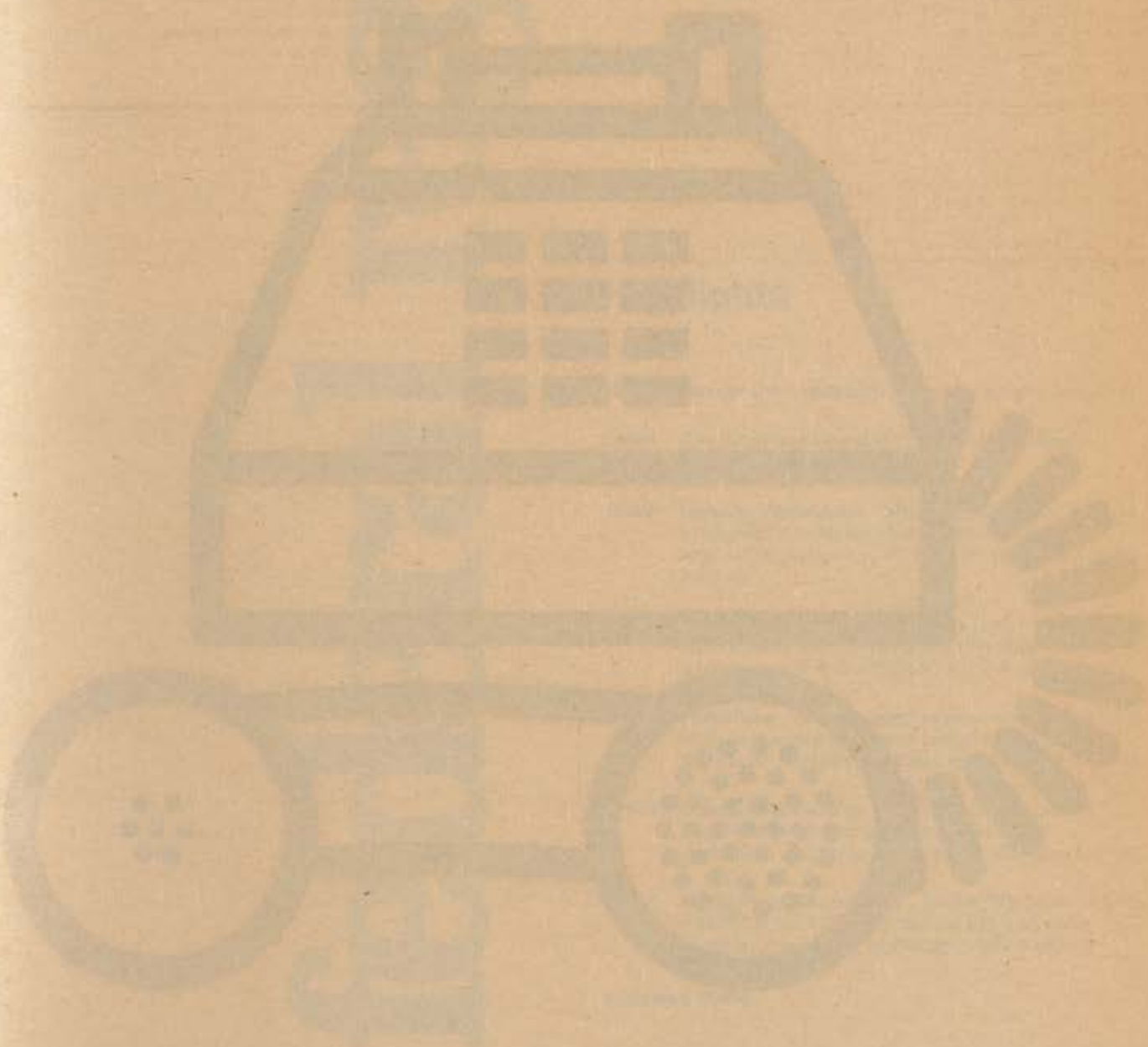
Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		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.

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 March 18, 1981; last cumulative listing for the 96th Congress (1980), January 7, 1981.



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