/6

G.S.A
349-141

4-28-81
Vol. 46 No. 81
Pages 23737-23912

federal register

Tuesday
April 28, 1981

Highlights

23737 **Memorial Day** Presidential proclamation

23816 **Health** HHS/HSA intends to clarify distinction between designation of an area as a Health Manpower Shortage Area (HMSA) and designation of an area as a Medically Underserved Area (MUA).

23766 **Toxic Shock Syndrome** HHS/FDA reopens comment period on proposed regulation to require a statement in labeling menstrual tampons to warn users.

23906 **Grant Programs—Native Americans** HHS/HDSO announces availability of fiscal year 1981 financial assistance for a Tribal Environmental Protection Program. (Part V of this issue)

23837 **Grant Programs—Criminal Justice** Justice/NIJ has interest in sponsoring studies which will widen scope of criminal justice evaluation activities. The range of funding for each award will be from $50,000 to $250,000, for research of up to two years duration.

23739 **Occupational Safety and Health** Labor/OSHA publishes administrative stay and request for comments and information concerning access to employee exposure and medical records with respect to the construction industry.

CONTINUED INSIDE

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $75.00 per year, or $45.00 for six months, payable in advance. The charge for individual copies is $1.00 for each issue, or $1.00 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register.**

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Highlights

23755 **Crude Oil** DOE/ERA intends to adopt a rule that will provide mechanism for adjusting entitlement purchase and sale obligations.

23742 **Procurement** GSA/TPUS publishes temporary regulation regarding use of cash to procure emergency passenger transportation services costing more than $100.

23866 **Securities** Treasury/Sec'y announces 14½ percent interest rate on notes of series Q-1983.

23755 **Imports** Commerce/ITA amends regulations for the purpose of improving the public's understanding of requirements for duty-free entry of instruments and apparatus for educational and scientific institutions.

23765 **Biological Products** HHS/FDA proposes to amend regulations to increase permissible level of aluminum in biological products.

Regulatory Agendas

23884 Labor/Sec'y
23751 OPM
23872 USDA/Sec'y

23867 **Sunshine Act Meetings**

Separate Parts of This Issue

23872 **Part II, USDA/Sec'y**
23884 **Part III, Labor/Sec'y**
23903 **Part IV, USDA/EQOA**
23906 **Part V, HHS/HDSO**
23910 **Part VI, PBGC**

Contents

Federal Register
Vol. 46, No. 81
Tuesday, April 28, 1981

The President
PROCLAMATIONS
23737 Memorial Day, May 25, 1981 (Proc. 4842)

Executive Agencies

Agricultural Marketing Service
PROPOSED RULES
Regulatory agenda. See entry under Agriculture Department

Agricultural Stabilization and Conservation Service
PROPOSED RULES
Regulatory agenda. See entry under Agriculture Department

Agriculture Department
See also Animal and Plant Health Inspection Service; Environmental Quality Office, Agriculture Department; Federal Grain Inspection Service; Food Safety and Quality Service; Forest Service; Soil Conservation Service.
PROPOSED RULES
23872 Regulatory agenda

Animal and Plant Health Inspection Service
PROPOSED RULES
Livestock and poultry guarantine:
23754 Texas (splenetic) fever in cattle
Regulatory agenda. See entry under Agriculture Department
NOTICES
Environmental statements; availability, etc.:
23777 Gypsy moth cooperative suppression and regulatory program

Bonneville Power Administration
NOTICES
Environmental statements; availability, etc.:
23786 Garrison-Spokane 500-kV transmission line, originally Hot Springs-Bell 500-kV transmission line; proposed
23787 San Juan Islands Service Project; San Juan County, Wash.

Civil Aeronautics Board
NOTICES
23780 Docket Section procedures
Hearings, etc.:
23781 Texas International Airlines, Inc.; acquisition of control of Continental Air Lines, Inc.

Commerce Department
See International Trade Administration; Maritime Administration.

Customs Service
PROPOSED RULES
23755 Scientific institutions; imports of instruments and apparatus

Defense Department
See Engineers Corps.

Drug Enforcement Administration
NOTICES
Registration applications, etc.; controlled substances:
23837 Eli Lilly & Co., Inc.

Economic Regulatory Administration
PROPOSED RULES
Petroleum allocation and price regulations:
23755 Entitlements adjustments for periods prior to decontrol of crude oil; intent to issue final rule establishing mechanism

Education Department
NOTICES
Meetings:
23784 Intergovernmental Advisory Council on Education

Employment and Training Administration
PROPOSED RULES
Regulatory agenda. See entry under Labor Department
NOTICES
23837 Employment transfer and business competition determinations; financial assistance

Employment Standards Administration
RULES
Final rules; deferral of effective dates. See entry under Labor Department
PROPOSED RULES
Regulatory agenda. See entry under Labor Department

Energy Department
See also Bonneville Power Administration; Economic Regulatory Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department.
NOTICES
International atomic energy agreements; civil uses; subsequent arrangements:
23784 European Atomic Energy Community
23784 Japan
23784 Japan; correction
Meetings:
23784-23786 National Petroleum Council (5 documents)

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
23783 Jordan Creek Pumped Storage Project, Wash.; feasibility-level study

Environmental Protection Agency
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
23768 Massachusetts
23770, 23772 Oregon (2 documents)
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
23773 Ethephon; correction
NOTICES
Air quality criteria:
23795 Particulate matter and sulfur oxides; external review drafts; availability, etc.; extension of time
Confidential data:
23799 Pesticide formulas; release to EPA contractors
Environmental statements; availability, etc.:
23799 Agency statements; review and comment; report availability
Meetings:
23800 Science Advisory Board
Toxic and hazardous substances control:
23796 Premanufacture notices receipts
23800 Toxics integration information series; availability

Environmental Quality Office, Agriculture Department
NOTICES
23903 Categorical exculsions under National Environmental Policy Act; final determinations

Equal Employment Opportunity Commission
NOTICES
23867 Meetings; Sunshine Act

Farmers Home Administration
PROPOSED RULES
Regulatory agenda. See entry under Agriculture Department

Federal Communications Commission
RULES
Frequency allocations and radio treaty matters:
23746 Army Department doppler velocity attitude projectile system; allocations removed for government radio stations in support
Organization, functions, and authority delegations:
23745 Executive Director Office; reorganization
Radio stations; table of assignments:
23748 California
23747 North Carolina and Virginia
Television stations; table of assignments:
23748 Texas
PROPOSED RULES
Radio stations; table of assignments:
23774 California
NOTICES
Hearings, etc.:
23801 Doxa, Inc., et al.
23801 MCI Telecommunications Corp. et al.
23804 Q. Communications, Inc., et al.
23805 Triangle Broadcasting Co. et al.
23867 Meetings; Sunshine Act (2 documents)

Federal Contract Compliance Programs Office
RULES
23742 Affirmative action requirements for government contractors; deferral of effective date

Federal Deposit Insurance Corporation
NOTICES
23867 Meetings; Sunshine Act

Federal Emergency Management Agency
RULES
Flood insurance; communities eligible for sale:
23743 Alabama et al.
PROPOSED RULES
Flood elevation determinations:
23773 New York

Federal Energy Regulatory Commission
NOTICES
Hearings, etc.:
23787 Pataya Storage Co.

Federal Grain Inspection Service
PROPOSED RULES
Regulatory agenda. See entry under Agriculture Department

Federal Maritime Commission
NOTICES
23806 Agreements filed, etc.
Complaints filed:
23807 Boston Shipping Association, Inc. (2 documents)

Federal Reserve System
NOTICES
Applications, etc.:
23808 Champaign Bancorp, Inc.
23808 Continental Illinois Corp.
Bank holding companies; proposed de novo nonbank activities:
23807 Citicorp et al.

Federal Trade Commission
PROPOSED RULES
Prohibited trade practices:
23763 Miles Laboratories, Inc.

Fish and Wildlife Service
NOTICES
Environmental statements; availability, etc.:
23817 Canyon Power Project, Calif.; Tuolumne River flow schedule revision

Food and Drug Administration
RULES
Drug labeling:
23739 Prescription drug products; patient package inserts requirements; stay of effective date
PROPOSED RULES
Biological products:
23765 Aluminum standard for licensed products
Medical devices:
23766 Menstrual tampons; toxic shock syndrome and user labeling; reopening of comment period
NOTICES
Drug labeling:
23815 Prescription drug use; patient package inserts for ampicillin, cimetidine, clofibrate, phenytoin, and propoxyphene, final guideline; effective dates stayed
Food additives, petitions filed or withdrawn:
23809 American Cyanamid Co.
23810 Hercules, Inc.

23811 Unitech Chemical, Inc.
Human drugs:
23811 Brandenfels Scalp and Hair Applications and Massage; approval withdrawn
Medical devices:
23809 API 3600S Standardized Antimicrobic Susceptibility System; premarket approval
Meetings:
23810 Consumer participation information exchange
Radiological health:
23810 Caloric Corp.; variance approval for microwave ovens used in combination microwave ranges

Food Safety and Quality Service
PROPOSED RULES
23751 Gladiolus Corms (bulbs); grade standards
Regulatory agenda. See entry under Agriculture Department

Foreign Agricultural Service
PROPOSED RULES
Regulatory agenda. See entry under Agriculture Department

Forest Service
PROPOSED RULES
Regulatory agenda. See entry under Agriculture Department
NOTICES
Environmental statements; availability, etc.:
23777 Gypsy moth cooperative suppression and regulatory program

General Services Administration
RULES
Property management:
23742 Transportation, emergency passenger; use of cash for services costing more than $100; temporary

Health and Human Services Department
See Food and Drug Administration; Health Services Administration; Human Development Services Office; Social Security Administration.

Health Services Administration
NOTICES
23816 Medically underserved areas, designation procedures clarification
Meetings; advisory committees:
23816 June

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exception:
23789–23793 Cases filed (3 documents)
23795 Decisions and orders

Heritage Conservation and Recreation Service
NOTICES
Historic Places National Register; pending nominations:
23818 Connecticut et al.

Human Development Services Office
NOTICES
Grants applications and proposals; closing dates:
23906 Native American programs; tribal environmental protection program

Interior Department
See Fish and Wildlife Service; Heritage Conservation and Recreation Service; Land Management Bureau; National Park Service; Water and Power Resources Service.

International Trade Administration
PROPOSED RULES
23755 Scientific institutions; imports of instruments and apparatus
NOTICES
Antidumping:
23781 Diamond tips for phonograph needles from United Kingdom
Countervailing duty petitions and preliminary determinations:
23782 Steel units for electrical transmission towers from Italy

Interstate Commerce Commission
NOTICES
Agreements under sections 5a and b, applications for approval, etc.:
23829 Western Railroads et al.
23829 Long and short haul applications for relief
Motor carriers:
23821 Finance applications
23830 Permanent authority applications
23822 Permanent authority applications; restriction removals
23834 Temporary authority applications; correction

Justice Department
See Drug Enforcement Administration; National Institute of Justice; Parole Commission.

Labor Department
See also Employment and Training Administration; Federal Contract Compliance Programs Office; Occupational Safety and Health Administration; Pension and Welfare Benefit Programs Office.
RULES
23739 Final rules; deferral of effective dates
PROPOSED RULES
23884 Regulatory agenda
NOTICES
Adjustment assistance:
23840 Alma Products Co.
23841 Ambroson Gloves, Inc.
23841 Anderson-Bolling Manufacturing Co.
23842 Cotton Plant Apparel Co., Inc.
23842 Gould, Inc.
23843 Mississippi Valley Structural Steel Co.
23844 Peerless Gage, Inc.

Labor-Management Services Administration
PROPOSED RULES
Regulatory agenda. See entry under Labor Department

Land Management Bureau
NOTICES
Applications, etc.:
23818 Wyoming

Classification of lands:
23819 Wyoming
Meetings:
23818 Canon City District Advisory Council
23818 Helicopter use to gather wild horses; Battle Mountain District, Nev.

Maritime Administration
NOTICES
Applications, etc.:
23783 Ogden Marine, Inc.

Mine Safety and Health Administration
PROPOSED RULES
Regulatory agenda. See entry under Labor Department

National Institute of Justice
NOTICES
Grants solicitation, competitive research:
23837 Criminal justice evaluation program

National Park Service
NOTICES
Environmental statements; availability, and management and development plan:
23819 Redwood National Park, Calif.

National Science Foundation
NOTICES
Meetings:
23844 Mathematical and Computer Sciences Advisory Committee
23844 Social and Economic Science Advisory Committee

National Transportation Safety Board
NOTICES
23868 Meetings; Sunshine Act

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
23845 Arkansas Power & Light Co.
23846-23848 Florida Power & Light Co. (3 documents)
23849 Florida Power Corp. et al.
23849 Northern States Power Co.
23851, 23852 Virginia Electric & Power Co. (2 documents)
23853 Wisconsin Electric Power Co.
23854 Wisconsin Public Service Corp. et al.
23868 Meetings; Sunshine Act

Occupational Safety and Health Administration
RULES
Health and safety standards:
23740 Employee exposure and medical records, access; administrative stay of regulations
23741 Lead; occupational exposure standards; deferral of effective dates
PROPOSED RULES
Regulatory agenda. See entry under Labor Department

Occupational Safety and Health Review Commission
NOTICES
23868 Meetings; Sunshine Act (3 documents)

Parole Commission
NOTICES
23869 Meetings; Sunshine Act

Pension Benefit Guaranty Corporation
RULES
Plant benefits valuation:
23910 Non-multiemployer plans; final and interim rule, with request for comments; correction

Pension and Welfare Benefit Programs Office
PROPOSED RULES
Regulatory agenda. See entry under Labor Department
NOTICES
Employee benefit plans; prohibited transaction exemptions:
23838 Evergreen Industries, Inc. Profit Sharing Trust
23839 Filtrex, Inc. Employees' Money Purchase Pension Plan and Profit Sharing Plan
23839 Merrill Lynch Realty Management, Inc.

Personnel Management Office
PROPOSED RULES
23751 Regulatory agenda; publication delay

Postal Rate Commission
NOTICES
23856 Visit to review computer mail transmission system

Rural Electrification Administration
PROPOSED RULES
Regulatory agenda. See entry under Agriculture Department

Securities and Exchange Commission
NOTICES
Hearings, etc.:
23856 American Stock Exchange, Inc., et al.; implementation of automated interface
23869 Meetings; Sunshine Act

Social Security Administration
PROPOSED RULES
Social security benefits, etc.:
23765 Reduction of retroactive benefits; correction

Soil Conservation Service
PROPOSED RULES
Regulatory agenda. See entry under Agriculture Department
NOTICES
Environmental statements, availability, etc.:
23778 Bass Lake Outlet Critical Area Treatment RC&D Measure, Mich.
23780 Bloxom Elementary School Drainage RC&D Measure, Va.
23778 Little Black River RC&D Measure, Mich.
23779 Napoleon Flood Prevention RC&D Measure, N. Dak.
23779 New Boston Park RC&D Measure, Ohio
23780 North Platte River Water-Based Recreation and Fish and Wildlife Development RC&D Measure, Wyo.
23777 Stephens County Roadbanks Critical Area Treatment RC&D Measure, Ga.
23778 West Juliand Hill Flood Prevention RC&D Measure, N.Y.

Treasury Department
See also Customs Service.
NOTICES
Notes, Treasury:
23866 Q-1983 series

Wage and Hour Division
RULES
Final rules; deferral of effective dates. See entry under Labor Department

Water and Power Resources Service
NOTICES
Environmental statements; availability, etc.:
23821 Polecat Bench Area, Shoshone Extensions Unit, Pick-Sloan Missouri Basin Project, Wyo.; water development plan

MEETINGS ANNOUNCED IN THIS ISSUE

EDUCATION DEPARTMENT
23784 Intergovernmental Advisory Council on Education, Search Committee, Washington, D.C. (closed), 5-13-81

ENERGY DEPARTMENT
23785 National Petroleum Council, Arctic Oil and Gas Resources Committee, Environmental Protection Task Group, Los Angeles, Calif. (open), 5-18-81
23785 National Petroleum Council, Arctic Oil and Gas Resources Committee, Jurisdictional Issues Task Group, Annapolis, Md. (open), 5-12-81
23786 National Petroleum Council, Arctic Oil and Gas Resources Committee, Resource Assessment Task Group, Denver, Colo. (open), 5-11-81
23786 National Petroleum Council, Arctic Oil and Gas Resources Committee, Transportation Task Group, Los Angeles, Calif. (open), 5-14-81
23784 National Petroleum Council, Environmental Conservation Committee, Synthetic Fuels Task Group, Denver, Colo. (open), 5-13-81
Federal Energy Regulatory Commission—
23787 Pataya Storage Co., informal technical conference, Washington, D.C. (open), 4-30-81

ENVIRONMENTAL PROTECTION AGENCY
23800 Science Advisory Board, Executive Committee, Washington, D.C. (open), 5-14 and 5-15-81

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration—
23810 Consumer Exchange Meeting, Washington, D.C. (open), 5-5-81
Health Services Administration—
23816 Genetic Diseases Review and Advisory Committee, Rockville, Md. (partially open), 6-15, 6-16, and 6-17-81

INTERIOR DEPARTMENT
Land Management Bureau—
23818 Canon City District Advisory Council, Alamosa, Colo. (open), 5-28 and 5-29-81
23818 Use of helicopters to gather wild horses, Battle Mountain, Nev. (open), 6-3-81

NATIONAL SCIENCE FOUNDATION
23844 Mathematical and Computer Sciences, Advisory Committee, Computer Science Subcommittee, Washington, D.C. (partially open), 5-27, 5-28, and 5-29-81
23844 Social and Economic Science Advisory Committee, Geography and Regional Science Subcommittee, Washington, D.C. (closed), 5-18-81

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Proclamations:

4842.......... 23737

5 CFR

Proposed Rules:

Ch. I.......... 23751

7 CFR

Proposed Rules:

Ch. I-VII.......... 23872
Ch. IX-XII.......... 23872
Ch. XIV-XVIII.......... 23872
Ch. XXI.......... 23872
Ch. XXIV-XXIX.......... 23872
2851.......... 23751

9 CFR

Proposed Rules:

Ch. I-IV.......... 23872
72.......... 23754

10 CFR

Proposed Rules:

211.......... 23755

15 CFR

Proposed Rules:

301.......... 23755

16 CFR

Proposed Rules:

13.......... 23763

20 CFR

Proposed Rules:

Ch. I.......... 23884
Ch. IV.......... 23884
Ch. V.......... 23884
Ch. VI.......... 23884
Ch. VII.......... 23884
404.......... 23765
416.......... 23765

21 CFR

203.......... 23739

Proposed Rules:

610.......... 23765
801.......... 23766

29 CFR

1.......... 23739
4.......... 23739
5.......... 23739
6.......... 23739
1910 (2 documents).......... 23740, 23741
2610.......... 23910

Proposed Rules:

Subtitle A.......... 23884
Ch. II.......... 23884
Ch. IV.......... 23884
Ch. V.......... 23884
Ch. XVII.......... 23884
Ch. XXV.......... 23884

30 CFR

Proposed Rules:

Ch. I.......... 23884

36 CFR

Proposed Rules:

Ch. II.......... 23872

40 CFR

Proposed Rules:

52 (3 documents).......... 23768-23772
180.......... 23773

41 CFR

Ch. 101.......... 23742
60-1.......... 23742
60-2.......... 23742
60-4.......... 23742
60-20.......... 23742
60-30.......... 23742
60-50.......... 23742
60-60.......... 23742
60-250.......... 23742
60-741.......... 23742

Proposed Rules:

Ch. 4.......... 23872
Ch. 29.......... 23884
Ch. 60.......... 23884

44 CFR

64.......... 23743

Proposed Rules:

67.......... 23773

47 CFR

0.......... 23745
2.......... 23746
73 (3 documents).......... 23747-23749

Proposed Rules:

73.......... 23774

Federal Register
Vol. 46, No. 81
Tuesday, April 28, 1981

Presidential Documents

Title 3—

The President

Proclamation 4842 of April 24, 1981

Memorial Day, May 25, 1981

By the President of the United States of America

A Proclamation

Over one hundred years ago, Memorial Day was established to commemorate those who died in the defense of our national ideals. Our ideals of freedom, justice, and equal rights for all have been challenged many times since then, and thousands of Americans have given their lives in many parts of the world to secure those same ideals and insure for their children a lasting peace. Their sacrifice demands that we, the living, continue to promote the cause of peace and the ideals for which they so valiantly gave of themselves.

Today, the United States stands as a beacon of liberty and democratic strength before the community of nations. We are resolved to stand firm against those who would destroy the freedoms we cherish. We are determined to achieve an enduring peace—a peace with liberty and with honor. This determination, this resolve, is the highest tribute we can pay to the many who have fallen in the service of our Nation.

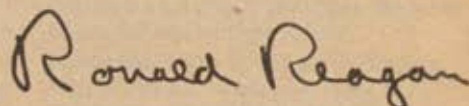
In recognition of those Americans whom we honor today, the Congress, by joint resolution of May 11, 1950 (64 Stat. 158), has requested the President to issue a proclamation calling upon the people of the United States to observe each Memorial Day as a day of prayer for permanent peace and a period during such day when the people of the United States might unite in prayer.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate Memorial Day, Monday, May 25, 1981, as a day of prayer for permanent peace, and I designate the hour beginning in each locality at 11 o'clock in the morning of that day as a time to unite in prayer.

I urge the press, radio, television, and all other information media to cooperate in this observance.

I also request the Governors of the United States and the Commonwealth of Puerto Rico and the appropriate officials of all local units of Government to direct that the flag be flown at half-staff during this Memorial Day on all buildings, grounds, and naval vessels throughout the United States and in all areas under its jurisdiction and control, and I request the people of the United States to display the flag at half-staff from their homes for the customary forenoon period.

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



[FR Doc. 81-12953
Filed 4-27-81; 10:59 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 46, No. 81
Tuesday, April 28, 1981

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 203

[Docket No. 79N-0186]

Prescription Drug Products That Require Patient Package Inserts; Temporary Stay of Effective Dates

AGENCY: Food and Drug Administration.

ACTION: Temporary stay of effective dates of final rules.

SUMMARY: The Food and Drug Administration (FDA) is staying the effective dates of final regulations amending the patient package insert regulations to list ampicillin, amoxicillin, hetacillin, cimetidine, clofibrate, phenytoin, and propoxyphene as drugs that must be dispensed with patient package inserts. Elsewhere in this issue of the Federal Register, FDA is staying the effective dates of notices announcing the availability of final guideline patient package inserts for ampicillin and related drugs, cimetidine, clofibrate, phenytoin, and propoxyphene and applying the agency's patient package insert regulations to those drugs.

EFFECTIVE DATE: This stay is effective as of April 23, 1981.

FOR FURTHER INFORMATION CONTACT: Michael C. McGrane, Bureau of Drugs (HFD-30), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5220

SUPPLEMENTARY INFORMATION: In the Federal Register of September 12, 1980 (45 FR 60754), FDA adopted final regulations establishing requirements and procedures for the preparation and distribution of patient package inserts for prescription drugs for human use. Although the regulations were effective October 14, 1980, they do not apply to particular drugs or drug classes until 180 days after publication of a separate notice in the **Federal Register** specifically applying the regulations to a drug or drug class.

In a notice published in the **Federal Register** of November 25, 1980 (45 FR 78516), the agency announced the applicability of the regulations to cimetidine, clofibrate, and propoxyphene effective May 25, 1981, and published final guideline patient package inserts for those drugs. In a notice published in the **Federal Register** of January 2, 1981 (46 FR 160), the agency announced the applicability of the regulations to ampicillin and related drugs and phenytoin effective July 1, 1981, and published final guideline patient package inserts for those drugs.

In both cases with FDA published a notice applying the regulations to particular drug products, the agency also amended § 203.31 (21 CFR 203.31) of the patient package insert regulations to list the drugs and provide a permanent inventory in the Code of Federal Regulations to help persons determine to which drugs and drug classes the regulations apply. Section 203.31 was amended to list cimetidine, clofibrate, and propoxyphene in the **Federal Register** of November 25, 1980 (45 FR 78514), and amended to list ampicillin and related drugs and phenytoin in the **Federal Register** of January 2, 1981 (46 FR 28). The amendments were to be effective May 25, 1981 and July 1, 1981, respectively.

The agency is now staying those effective dates. This stay does not affect requirements for patient package inserts for the oral contraceptive estrogen, and progestational drug products codified at §§ 310.501, 310.515, and 310.516, (21 CFR 310.501, 310.515, and 310.516), respectively.

The action is taken under § 10.35(a) of FDA's procedural regulations (21 CFR 10.35(a)), which authorize the agency to stay at any time the effective date of a pending action or following a decision on any matter. Important questions continue to be raised regarding the cost, necessity, and utility of FDA's patient package insert program. These questions merit further review before final implementation of any requirements. FDA also believes additional review of these requirements to be consistent with the spirit of the provisions of Executive Order 12291 (46 FR 13193; February 19, 1981).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 503, 505, 507, 701, 52 Stat. 1041 as amended, 1050-1053 as amended, 1055-1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 321, 352, 353, 355, 357, 371)) and the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), the effective dates of the amendments to § 203.31 published in the Federal Register of November 25, 1980 (45 FR 78514) and January 2, 1981 (46 FR 28) are stayed until further notice.

Dated: April 23, 1981.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 81-12671 Filed 4-23-81; 2:36 pm]
BILLING CODE 4110-03-M

DEPARTMENT OF LABOR

Employment Standards Administration

Office of the Secretary

29 CFR Parts 1, 4, 5, and 6

Further Deferral of Effective Dates of Regulations

AGENCY: Wage and Hour Division, ESA, and Office of the Secretary, Labor.

ACTION: Notice of further deferral of effective dates of final rules.

SUMMARY: This notice further defers the effective dates of certain Labor Department regulations from May 1, 1981 until July 1, 1981. This action is taken in order to permit consultation with interested groups on the issues as part of the reconsideration of these rules in accordance with Executive Order 12291.

EFFECTIVE DATE: The effective dates are deferred until July 1, 1981. See the table below for more information.

ADDRESS: Henry T. White, Jr., Deputy Administrator, Wage and Hour Division, Employment Standards Administration, Frances Perkins Department of Labor Building, Room S-3502, 200 Constitution Avenue, NW, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Henry T. White, Jr., telephone: (202) 523-8305.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 6, 1981 (46 FR 11253–11254) the Department of Labor published a notice deferring the effective dates of Parts 1, 5, and 6 of Title 29 of the Code of Federal Regulations (29 CFR Parts 1, 5, and 6) until March 30, 1981. This action was taken in response to a January 29, 1981 Memorandum from President Reagan in order to allow for a full and appropriate review of these rules. In the **Federal Register** of February 12, 1981 (46 FR 11971) this Department published a notice deferring (staying) the effective date of Part 4 (including § 4.133) of Title 29 of the Code of Federal Regulations (29 CFR Part 4) until April 17, 1981 to permit further review of the rule. In the **Federal Register** of March 27, 1981 (46 FR 18973) the Department of Labor published a notice further deferring the effective dates of Parts 1, 4, 5, and 6 of Title 29 of the Code of Federal Regulations (29 CFR Parts 1, 4, 5, and 6) until May 1, 1981 in order to permit reconsideration of these regulations in accordance with Executive Order 12291.

This document will further defer the effective dates of all of these regulations until July 1, 1981. This action is necessary in order to permit consultation with interested groups concerning the numerous issues as part of the reconsideration of these regulations pursuant to Executive Order 12291. The time required for such consultation constitutes good cause for this deferral. For this reason and because these rules are scheduled to become effective very shortly, additional notice and public procedure on this change of effective dates is impracticable, unnecessary and contrary to the public interest and good cause exists for making these postponements effective immediately. This finding is made pursuant to 5 U.S.C. 553(b)3(B).

The following chart contains a description of each of the rules being deferred by this notice:

Rule	Subject	Original publication of rule in final form	Previously scheduled effective date
1. 29 CFR Part 1	Procedure for Predetermination of Wage Rates	Jan. 16, 1981 (46 FR 4306)	May 1, 1981.
2. 29 CFR Part 4	Service Contract Act; Labor Standards for Federal Service Contract	Jan. 16, 1981 (46 FR 4320) and Jan. 19, 1981 (46 FR 4866).	May 1, 1981.
3. 29 CFR Part 5	Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act).	Jan. 16, 1981 (46 FR 4380)	May 1, 1981.
4. 29 CFR Part 6	Rules of Practice for Administrative Proceedings Enforcing Labor Standards in Federal and Federally Assisted Construction Contracts and Federal Service Contracts.	Jan. 16, 1981 (46 FR 4398)	May 1, 1981.

Authority

The statutory authority for this action is as follows:

1. As to 29 CFR Part 1: 5 U.S.C. 301; R.S. 161, 64 Stat. 1267; Reorganization Plan No. 14 of 1950, 5 U.S.C. Appendix; 29 U.S.C. 259; 40 U.S.C. 276a–276a–7; 40 U.S.C. 276c; and the laws listed in Appendix A of Part 1.

2. As to 29 CFR Part 4: 41 U.S.C. 351, *et seq.*, 79 Stat. 1034, as amended in 86 Stat. 789, 90 Stat. 2358; 41 U.S.C. 38 and 39; and 5 U.S.C. 301.

3. As to 29 CFR Part 5: 40 U.S.C. 276a–276a–7; 40 U.S.C. 276c; 40 U.S.C. 327–332; Reorganization Plan No. 14 of 1950, 5 U.S.C. Appendix; 5 U.S.C. 301; and the statutes listed in section 5.1(a) of Part 5.

4. As to 29 CFR Part 6: Sections 4 and 5, 79 Stat. 1034, 1035 as amended by 86 Stat. 789, 790, 41 U.S.C. 353 and 354; 5 U.S.C. 301; Reorg. Plan No. 14 of 1950, 64 Stat. 1267, 5 U.S.C. Appendix; 46 Stat. 1494, as amended by 49 Stat. 1011, 78 Stat. 238, 40 U.S.C. 276a–276a–7; 76 Stat. 357–359, 40 U.S.C. 327–332; 48 Stat. 948, as amended by 63 Stat. 108, 72 Stat. 967, 40 U.S.C. 276c.

Signed at Washington, D.C. this 22d day of April 1981.

Raymond J. Donovan,

Secretary of Labor.

Craig A Berrington,

Deputy Assistant Secretary of Labor for Employment Standards.

[FR Doc. 81–12882 Filed 4-27-81; 8:45 am]

BILLING CODE 4510-27-M

Occupational Safety and Health Administration

29 CFR Part 1910

Access to Employee Exposure and Medical Records; Construction Industry; Administrative Stay

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Administrative stay; request for comments and information.

SUMMARY: The Occupational Safety and Health Administration (OSHA) has decided to stay § 1910.20 of 29 CFR concerning access to employee exposure and medical records with respect to the construction industry, except that employers in the industry will: (1) continue to preserve exposure and medical records and make them available to OSHA, and (2) make employee medical records available to employees. Notice is hereby given of this stay, which is effective immediately, and comments are solicited on whether this stay should be continued pending consideration by the Construction Advisory Committee of the appropriateness of the access standard for the construction industry.

DATES: The administrative stay is effective April 28, 1981.

Comments on continuance of the stay must be received on or before, June 12, 1981.

ADDRESS: Written comments should be submitted, in quadruplicate, to the Docket Officer, Docket No. H–112C, Room S–6212, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, N.W., Washington, D.C. 20210 (202–523–7894).

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, Department of Labor, OSHA, Office of Public Affairs, 200 Constitution Avenue, N.W., Washington, D.C. 20210 (202–523–8151).

SUPPLEMENTARY INFORMATION: On May 21, 1980, the Occupational Safety and Health Administration (OSHA) promulgated an occupational health standard on Access to Employee Exposure and Medical Records (29 CFR 1910.20; 45 FR 35212 *et seq.*). This standard applied to employers in general industry, maritime, and construction. By this notice, OSHA announces its intention to submit the entire issue of records access in the contract construction industry to the Advisory Committee on Construction Safety and Health ("the Construction Advisory Committee"), which was not consulted during the original development of the records access standard. This notice also serves to immediately stay § 1910.20 with respect to the contract construction industry, and solicits public comment on whether the standard should continue to be stayed pending the Construction Advisory Committee's deliberations and the outcome of any rulemaking process which the Secretary may determine is warranted.

The terms of the stay require that employers in the construction industry must preserve exposure and medical records, and make them available, upon request, to the Assistant Secretary for Occupational Safety and Health or his designees. The employer must also make employee medical records available, upon request, to employees and to individuals acting with the specific written consent of an employee. Such access includes access to medical records made or maintained by contract physicians to the extent that the records are available to the employer. Access is to be provided within a reasonable amount of time and at a reasonable place. For the purposes of this stay, "employee exposure record" means a record of monitoring or measuring which contains qualitative or quantitative information indicative of employee exposures to toxic materials or harmful physical agents, but does not include research and development studies performed on an experimental basis solely for the purpose of advancing employee safety and health in the contract construction industry. The terms "access," "employee medical record," and "specific written consent" shall have the same meaning as the definitions provided in the final standard (29 CFR 1910.20 (c)(1), (c)(6) and (c)(10), respectively).

This action stems from a challenge to the records access standard which was brought by the National Constructors Association (NCA), a trade association of firms engaged in the engineering, design and construction of industrial facilities on a contract basis. On June 17, 1980, NCA petitioned OSHA for an administrative stay of the standard as it applied to the contract construction industry on the grounds that: (1) OSHA had failed to consult with the construction Advisory Committee, and (2) the standard posed certain practical compliance difficulties for their industry. On July 18, 1980, NCA filed a petition to review the standard, pursuant to section 6(f) of the Occupational Safety and Health Act, 29 U.S.C. 655(f), in the U.S. Court of Appeals for the District of Columbia. On August 19, 1980, OSHA administratively stayed a portion of the standard (paragraphs (e)(2) and (g)) for the construction industry until October 1, 1980, to permit discussions concerning possible settlement of this matter. When those discussions proved unsuccessful, the stay lapsed and the entire standard went into effect for the contract construction industry on October 1.

After further consideration, OSHA has decided that the Construction Advisory Committee should now have the opportunity to consider the entire records access issue and make recommendations on whether the standard should be modified to meet the contract construction industry's particular needs and conditions. If necessary, OSHA will undertake a new rulemaking for the purpose of promulgating a modified records access standard unique to the contract construction industry. This determination reflects OSHA's basic belief that while the regulatory goals of providing employees and their designated representatives with access to information concerning toxic exposures and worker health should not vary from industry to industry, implementation of those goals may appropriately be tailored to fit unique circumstances in particular industries.

The decision to submit the records access standard to the Construction Advisory Committee raises the question of whether the standard should be stayed for the contract construction industry pending completion of that process, including any ensuing rulemaking.

OSHA has decided that an immediate stay, subject to the conditions stated above, is appropriate. Since this immediate stay will be of very brief duration, we find that notice and comment thereon is unnecessary and impractical within the meaning of 5 U.S.C. 553. However, since the standard was issued in May 1980 and has applied to contract construction since October 1, 1980, it is also appropriate to submit for public comment the question of whether this brief stay or any other stay should continue in effect pending the Advisory Committee's consideration and any subsequent rulemaking. Accordingly, written comment is invited on the stay issue, with particular regard to the following:

1. What has been the experience in the construction industry with the standard since October 1?

2. What are the unique aspects of the construction industry which would render the existing access standard inappropriate?

3. What have been the benefits and costs, if any, of the standard's being in effect?

4. Are there alternatives to total effectiveness or total stay of the employee access provisions of the standard which would maximize the benefits or minimize the costs of the standard to the contract construction industry and its employees?

All interested persons are therefore invited to submit information and views on the issue of the stay of the records access standard for the contract construction industry. All comments must be received by (insert date 45 days after publication in the **Federal Register**) to be assured of consideration by the agency. Written comments should be submitted in quadruplicate, to the OSHA Docket Office, Docket No. H-112C, Room S6212, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, telephone (202) 523-7894. The requests and comments will be available for inspection and copying at the Docket Office.

(Sec. 6 (84 Stat. 1593; 29 U.S.C. 655); 5 U.S.C. 553; Secretary of Labor's Order No. 8-76 (41 FR 25059))

Signed at Washington, D.C., this 23rd day of April, 1981.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 81-12811 Filed 4-27-81; 8:45 am]

BILLING CODE 4510-26-M

---

29 CFR Part 1910

[Docket No. H-004E]

Occupational Exposure to Lead; Supplemental Statement of Reasons and Amendment of Standard; Notice of Deferral of Effective Date

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of further deferral of effective date of final rule.

SUMMARY: This notice defers the effective date of the Supplemental Statement of Reasons and Amendment of the Lead Standard until June 30, 1981. The action is necessary to allow additional time to consider the appropriateness of the lengthy and complex document in light of the numerous petitions for administrative review which have been received, and to allow time for final disposition of complicated issues before the Supreme Court.

DATE: The effective date is deferred until June 30, 1981.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Beliles, Occupational Safety and Health Administration, Room N3617, U.S. Department of Labor, Washington, D.C. 20210 (202) 523-7081.

SUPPLEMENTARY INFORMATION: On January 21, 1981, OSHA published in the **Federal Register** (46 FR 6134) a supplemental statement of reasons assessing the technological and economic feasibility of meeting the permissible exposure level for lead contained in the lead standard (29 CFR 1910.1025), in 46 industries. The document was prepared in response to a

remand order from the U.S. Court of Appeals for the D.C. Circuit, in the "United Steelworkers of America v. Marshall," No. 79-1048 (August 15, 1980). The supplemental statement of reasons covered nearly 100 pages in the **Federal Register**, and was originally scheduled to be effective on February 20, 1981. On February 6, 1981, the effective dates of several final regulations were deferred until March 30, 1981 pursuant to a Presidential Memorandum to the Secretary of Labor and other cabinet officials (46 FR 11253). On March 27, 1981, (46 FR 18973) OSHA further deferred the effective date, for a period of 30 days, so that it might have additional time to consider the numerous petitions for administrative review of the supplemental statement of reasons—a very lengthy and complex document.

In response to the D.C. Circuit's opinion on the lead standard several petitions for certiorari were filed with the Supreme Court. The agency responded on April 17, 1981, stating that the petitions for certiorari should be granted, that the judgment of the court of appeals should be vacated, that the case should be remanded with directions to return the record to the agency for further administrative proceedings, and that the standard that is currently effective should be left undisturbed. On the same day, OSHA filed with the **Federal Register** an advance notice of proposed rulemaking, published on April 21, 1981 (46 FR 22764), which stated the agency's intention to review the technological and economic feasibility of the lead standard, to assess the practicality of relying on cost-benefit analysis in setting occupational health standards, and to reevaluate several other important issues concerning the lead standard. Interested parties were invited to comment on the advance notice by June 1, 1981.

In light of the above, and since the Supreme Court has yet to dispose of the petitions before it dealing with the reevaluation of the lead standard, additional time is needed to make an appropriate and coordinated decision on the supplemental statement of reasons. Therefore, the effective date of the supplemental statement and amendment to 29 CFR § 1910.1025(e) is hereby deferred until June 30, 1981. Due to the short deferral period, notice and opportunity for public comment on the deferral is impractical and unnecessary under 5 U.S.C. 533 and 29 U.S.C. 655(b).

Signed at Washington, D.C. this 23d day of April, 1981.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 81-12810 Filed 4-27-81; 8:45 am]

BILLING CODE 4510-26-M

Office of Federal Contract Compliance Programs

41 CFR Parts, 60-1, 60-2, 60-4, 60-20, 60-30, 60-50, 60-60, 60-250, and 60-741

Government Contractors; Affirmative Action Requirements; Further Deferral of Effective Date of Regulations

AGENCY: Office of Federal Contract Compliance Programs, Labor.

ACTION: Notice of further deferral of effective date of final rule.

SUMMARY: This notice further defers the effective date of certain OFCCP regulations regarding affirmative action requirements for Government Contractors from April 29, 1981, until June 29, 1981. This action is taken in order to permit consultation with interested groups on the issues as part of the reconsideration of these rules in accordance with Executive Order 12291.

DATES: The effective date is deferred until June 29, 1981.

FOR FURTHER INFORMATION CONTACT: James W. Cisco, Acting Director, Division of Program Policy, Office of Federal Contract Compliance Programs, Room C-3324, U.S. Department of Labor, Washington, D.C. 20210, Telephone (202) 523-9426.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 28, 1981 (46 FR 9084), the Department of Labor published a notice deferring the effective date of amendments published on December 30, 1980 (45 FR 86216) and corrected on January 23, 1981 (46 FR 7332) to Parts 60-1, 60-2, 60-4, 60-20, 60-30, 60-50, 60-60, 60-250 and 60-741 of Title 41 of the Code of Federal Regulations until April 29, 1981. This action was taken in response to a request from President Reagan in order to allow for a full and appropriate review of these rules.

This document will further defer the effective date of these regulations until June 29, 1981. This action is necessary in order to permit consultation with interested groups concerning the numerous issues as part of the reconsideration of these regulations in accordance with Executive Order 12291. The time required for such consultation constitutes good cause for this deferral. For this reason and because these rules are scheduled to become effective very shortly, additional notice and public procedure on this change of effective dates is impracticable, unnecessary and contrary to the public interest and good cause exists for making this postponement effective immediately. This finding is made pursuant to 5 U.S.C. 553(b)(3)(B).

Authority: E.O. 11246 (30 F.R. 12319), as amended by E.O. 11375 (32 F.R. 14303) and by E.O. 12086 (43 F.R. 46501); Section 402 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 2012); Section 503 of the Rehabilitation Act of 1973 (29 U.S.C. 793), as amended by Section 111 (a), Pub. L. 93-516, 88 Stat. 1619 (29 U.S.C. 706), and by Sections 119 and 122 of the Rehabilitation Comprehensive Services and Development Disabilities Amendment of 1978, Pub. L. 95-602, 92 Stat. 2955, and E.O. 11758.

Signed at Washington, D.C. this 22nd day of April 1981.

Raymond J. Donovan,

Secretary of Labor.

Craig A. Berrington,

Deputy Assistant Secretary of Labor for Employment Standards.

[FR Doc. 81-12083 Filed 4-27-81; 8:45 am]

BILLING CODE 4510-27-M

GENERAL SERVICES ADMINISTRATION

Transportation and Public Utilities Service

41 CFR Ch. 101

[FPMR Temp. Reg. G-45]

Use of Cash To Procure Emergency Passenger Transportation Services Costing More Than $100

AGENCY: Transportation and Public Utilities Service, GSA.

ACTION: Temporary regulation.

SUMMARY: This regulation replaces FPMR Temporary Regulation G-43 (45 FR 56807, August 26, 1980) and permits Federal agency heads to delegate their authority to approve the use of cash for the purchase of emergency transportation services exceeding $100 instead of using Standard Form 1169, U.S. Government Transportation Request (GTR). Currently, agency heads are not permitted to delegate such authority and this limitation is not practicable for those agencies with large numbers of employees spread throughout the United States. Removing this restriction will reduce the administrative burden on Federal agency heads.

DATES: Effective date: April 28, 1981. Expiration date: April 1, 1982.

FOR FURTHER INFORMATION CONTACT: John W. Sandfort, Chief, Reports and

Procedures Branch, Office of Transportation Audits, (202-275-0664).

SUPPLEMENTARY INFORMATION: FPMR Temporary Regulation G-43 (45 FR 56807, August 26, 1980) is canceled and deleted from the appendix at the end of Subchapter G in 41 CFR Chapter 101.

(31 U.S.C. 244)

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter G to read as follows:

April 3, 1981.

Federal Property Management Regulations—Temporary Regulation G-45

To: Heads of Federal agencies.

Subject: Use of cash to procure emergency passenger transportation services costing more than $100.

1. *Purpose.* This regulation provides policy and procedures revising § 101-41.203-2 to allow the use of cash for the procurement of emergency transportation services costing more than $100 instead of using Standard Form 1169, U.S. Government Transportation Request (GTR).

2. *Effective date.* This regulation is effective upon publication in the **Federal Register.**

3. *Expiration date.* This regulation expires on April 1, 1982, unless sooner revised or superseded.

4. *Applicability.* This regulation applies to heads of all Government agencies that are subject to the audit authority of GSA under 31 U.S.C. 244.

5. *Background.* The General Services Administration has authority for the audit and adjustment of payments to carriers and forwarders furnishing transportation for the account of the United States and for prescribing uniform procedures and transportation-related forms governing the accounting of these payments. SF 1169, U.S. Government Transportation Request (GTR), is used for the procurement of passenger transportation services. However, § 101-41.203-2 grants to agencies the option of requiring travelers to use cash instead of GTR's where the passenger transportation services cost more than $10 but do not exceed $100 for each authorized trip.

6. *Revised policy and procedures.*

a. The policy and procedures in § 101-41.203-2(a) are amended by adding, after the last sentence, the following:

"Under emergency circumstances, where the use of GTR's is not possible, heads of agencies, or their designated representatives, may authorize travelers to exceed the $100 limitation when procuring passenger transportation services. To justify the use of cash in excess of $100 instead of GTR's when procuring passenger transportation services, both the Government agency head, or his or her designated representative, and the traveler shall certify on the travel voucher the reasons for this use. In the absence of specific authorization or approval, the traveler shall be responsible for all additional costs involved for this travel, such as the use of foreign-flag carriers, first-class travel, or more costly modes. The traveler should bear in mind the fact that currently there are many Government discount fares and contract fares, only obtainable through the use of a GTR.

"(1) Delegation of authority for authorizing and approving the use of cash in excess of $100 for the procurement of emergency transportation services shall be held to as high an administrative level as practicable to ensure adequate consideration and review of the circumstances. These delegations of authority shall be made in writing and copies retained to permit monitoring of the system. These records of delegations of authority shall be available for examination by GSA auditors."

"(2) Authorization for the use of cash in excess of $100 for procurement of passenger transportation services shall be made before the actual travel unless emergency situations make advance authorization impossible. If advance authorization cannot be obtained, the traveler shall obtain written approval from the agency head, or his or her designee, at the earliest practicable time."

b. Section 101-41.203-2(c) is amended by adding, after the last sentence, the following:

"Travel vouchers shall be maintained in the agency to be available for site audit by GSA auditors. General Records Schedule 9, Travel and Transportation Records (see § 101-11.404-2), provides instructions for the disposal of these travel vouchers."

7. *Effect on other directives.* When the provisions of this regulation are in conflict with other regulations and related directives, the provisions of this regulation will govern. FPMR Temporary Regulation G-43 (45 FR 56807, Aug. 26, 1980) is canceled and deleted from the appendix at the end of Subchapter G in 41 CFR Chapter 101.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 81-12735 Filed 4-27-81; 8:45 am]

BILLING CODE 6820-35-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6034]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034. Phone: (800) 638-6620.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Johnson, National Flood Insurance Program, (202) 755-5581 or EDS Toll Free Line 800-638-6620 for Continental U.S. (except Maryland); 800-638-6831 for Alaska, Hawaii, Puerto Rico, and the Virgin Islands; and 800-492-6605 for Maryland. Room 5270, 451 Seventh Street, SW. Washington, DC. 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition of construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A-95.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Alabama: Jefferson	Homewood, city of	015006C	Apr. 1, 1981, suspension withdrawn	Mar. 30, 1973 and July 1, 1974, and Aug. 6, 1976.
Arkansas: Jefferson	Grubbs, city of	050101B	do	Aug. 9, 1974 and July 2, 1976.
Connecticut: New London	Ledyard, town of	090157B	do	May 27, 1977.
Maine:				
Oxford	Brownfield, town of	230089B	do	Sept. 13, 1974 and Jan. 14, 1977.
Cumberland	Sebago, town of	230206B	do	Jan. 17, 1975 and Mar. 11, 1977
Michigan:				
Lenawee	Deerfield, village of	260438A	do	Sept. 12, 1975
Monroe	Whiteford, township of	260157B	do	June 28, 1974 and June 25, 1976
Minnesota:				
Dakota	Unincorporated areas	270101B	do	Oct. 18, 1974 and Aug. 12, 1977.
Ramsey	Shoreview, city of	270384B	do	June 14, 1974 and Oct. 10, 1975.
Missouri: St. Louis	Town and Country, city of	290389B	do	Dec. 28, 1973 and June 11, 1976.
Montana: Lewis and Clark	Unincorporated areas	300038B	do	Dec. 27, 1974 and Sept. 13, 1977.
New Hampshire:				
Hillsborough	Antrim, town of	330082B	do	Apr. 12, 1974 and Aug. 27, 1976.
Coos	Gorham, town of	330032B	do	Mar. 1, 1974 and July 30, 1976.
New Jersey:				
Hunterdon	Alexandria, township of	340230B	do	Feb. 1, 1974 and June 10, 1977.
Do	Lambertville, city of	340237B	do	Feb. 11, 1977.
Do	West Amwell, township of	340243C	do	May 11, 1973 and June 10, 1977.
New York:				
Ontario	Canandaigua, city of	360597B	do	June 28, 1974 and Jan. 2, 1976.
Schuyler	Montour Falls, village of	361018B	do	May 3, 1974 and Jan. 16, 1976.
Orange	Washingtonville, village of	360638B	do	Dec. 28, 1973 and Dec. 19, 1975.
North Carolina: Halifax	Weldon, town of	370119B	do	Mar. 1, 1974 and June 25, 1976.
Oklahoma: Garfield	North Enid, town of	400425B	do	Jan. 24, 1975 and Nov. 14, 1975.
Oregon:				
Morrow	Heppner, city of	410175B	do	Nov. 23, 1973 and Dec. 19, 1975.
Do	Ione, city of	410176A	do	Nov. 22, 1974.
Morrow	Unincorporated areas	410173B	do	Jan. 24, 1975, and July 19, 1977.
Pennsylvania:				
Berks	Alsace, township of	421376A	do	Jan. 24, 1975.
Lancaster	Brecknock, township of	421762B	do	May 10, 1974 and July 30, 1976.
Do	Ephrata, borough of	420551C	do	Mar. 22, 1974, and May 17, 1974 and Dec. 23, 1977.
Luzerne	Fairmont, township of	421827B	do	Jan. 17, 1975, and Mar. 21, 1980.
York	Felton, borough of	420922B	do	Mar. 4, 1977.
Do	Fawn, township of	422219A	do	Dec. 27, 1974.
Do	North Hopewell, township of	422228A	do	Dec. 20, 1974.
Bradford	North Towanda, township of	421067B	do	July 26, 1974, and July 23, 1976.
York	Springfield, township of	422231A	do	Dec. 27, 1974.
South Carolina: Charleston	Ravenel, town of	450043B	do	June. 14, 1974, and Apr. 2, 1976.
Tennessee: Cheatham	Ashland, town of	470027B	do	Aug. 16, 1974, and July 2, 1976.
Texas: Dallas and Ellis	Cedar Hill, city of	480168B	do	Mar. 1, 1974, and June. 18, 1976.
Vermont:				
Chittenden	Bolton, town of	500306A	do	Feb. 21, 1975.
Franklin	Sheldon, town of	500059B	do	Apr. 22, 1974, and Oct. 29, 1976.
Virginia: Independent City	Martinsville, city of	510095B	do	May 31, 1974, and June. 4, 1976.
Washington: King	Kent, city of	530080B	do	June. 7, 1974, and Apr. 22, 1977.
Wisconsin:				
Sheboygan	Random Lake, village of	550429C	do	June. 28, 1974, and Aug. 6, 1976, and Aug. 12, 1977.
Jefferson and Dodge	Watertown, city of	550107B	do	May 31, 1974, and June. 11, 1976.
Illinois: McHenry	McHenry, city of	170483B	Jan. 17, 1974, emergency, Nov. 19, 1980, regular, Nov. 19, 1980, suspended, Apr. 1, 1981, reinstated.	Mar. 9, 1974, Sept. 24, 1976 and Feb. 24, 1978.
Indiana: Delaware	Muncie, city of	180053B	Apr. 4, 1975, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended, Apr. 1, 1981, reinstated.	Jan. 18, 1974 and June 4, 1976.
Pennsylvania: York	Carroll, township of	422216A	Sept. 16, 1974, emergency, Mar. 2, 1981, regular Mar. 2, 1981, suspended, Apr. 1, 1981, reinstated.	Jan. 3, 1975.
Louisiana: Natchitoches	Goldonna, village of	220290	Apr. 2, 1981, emergency	Sept. 19, 1975.
New York: St. Lawrence	Piercefield, town of	361428	do	Jan. 31, 1975.
Massachusetts: Bristol	Acushnet, town of	250048A	Apr. 3, 1981, emergency	Sept. 6, 1974 and Oct. 15, 1976.
Texas:				
Rusk	New London, city of	481113	do	Nov. 5, 1976.
Fort Bend	Fulshear, town of	481488	do	
Hill	Hubbard, city of	480859	do	Oct. 29, 1976.
Henderson	Murchison, city of	480330	do	Do.
Minnesota:				
Morrison	Randall, city of	270302B	Mar. 19, 1975, emergency, Mar. 2, 1981, regular, Mar. 2, 1981, suspended, Apr. 3, 1981, reinstated.	June 7, 1974 and July 23, 1976.
Hennepin	Medina, city of	270171B	July 18, 1975, emergency, Sept. 3, 1980, regular, Sept. 3, 1980, suspended, Apr. 3, 1981, reinstated.	June 28, 1974 and Sept. 26, 1975.
California: San Diego	Poway, city of	060702-New	Apr. 8, 1981, emergency	
Pennsylvania:				
Somerset	New Baltimore, borough of	420799	do	Nov. 8, 1974.
Green	Wayne, township of	421679	do	Dec. 27, 1974.
Bradford	Stevens, township of	421407B	do	Dec. 1, 1974, June 25, 1976 and Aug. 8, 1980.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Minnesota: Wabasha	Hammond, city of	270485B	Sept. 18, 1974, emergency, Nov. 19, 1980, regular, Nov. 19, 1980, suspended, Apr. 8, 1981, reinstated.	Aug. 2, 1974, Oct. 10, 1976 and Mar. 9, 1979.
Florida: Jefferson	Monticello, city of	120365	Apr. 9, 1981, emergency	July 23, 1976.
Pennsylvania: Luzerne	Hazle, township of	421830A	Apr. 7, 1975, emergency, Apr. 1, 1975, regular, Apr. 1, 1981, suspended, Apr. 9, 1981, reinstated.	Nov. 8, 1974.
New York: Cattaraugus	Humphrey, town of	360078A	Apr. 13, 1981, emergency	July 16, 1976 and Aug. 30, 1974.
Texas: Gregg	Warren City, city of	480840	do	Aug. 13, 1976.
Arkansas: Crawford	Mountainburg, city of	050051A	Apr. 15, 1981, emergency	July 3, 1974 and Nov. 28, 1975.
Kansas: Kiowa	Greensburg, city of	200501	do	July 30, 1976.
California: Contra Costa	Lafayette, city of	065037B	Feb. 12, 1971, emergency, Mar. 16, 1981, regular, Mar. 16, 1981, suspended, Apr. 15, 1981, reinstated.	July 26, 1974 and Dec. 5, 1975.
Minnesota: McLeod	Unincorporated areas	260816B	Mar. 4, 1974, emergency, Feb. 4, 1981, regular, Feb. 4, 1981, suspended, Apr. 15, 1981, reinstated.	June 3, 1977.
Arizona: Santa Cruz	Nogales, city of	040091B	April 15, 1981, suspension withdrawn	May 24, 1974 and Nov. 14, 1975.
Illinois:				
Dupage	Bloomingdale, village of	170201B	do	Mar. 1, 1974 and May 21, 1976.
Cook	Unincorporated areas	170054B	do	May 27, 1977.
Dupage	Dowers Grove, village of	170204B	do	Mar. 15, 1974 and Feb. 27, 1976.
Louisiana: Jefferson and Davis Parish.	Jennings, city of	220096B	do	Feb. 1, 1974 and Mar. 5, 1976.
Minnesota: Hennepin	Greenfield, city of	270673B	do	Dec. 7, 1973 and Apr. 16, 1976.
Missouri: Barry and Lawrence	Monett, city of	290023B	do	May 24, 1974 and Jan. 9, 1976.
Montana: Powell	Deer Lodge, city of	300060B	do	Jan. 9, 1974 and Apr. 30, 1976
Nebraska: Lancaster	Firth, village of	310135A	do	Nov. 8, 1974.
New Hampshire:				
Rockingham	Brentwood, town of	330125B	do	June 28, 1974 and Dec. 10, 1976.
do	Derry, town of	330128B	do	Mar. 4, 1977
Cheshire	Gilsum, town of	330021B	do	May 31, 1974 and Mar. 4, 1977
Grafton	Holderness, town of	330059B	do	Mar. 22, 1974 and Dec. 10, 1976.
Cheshire	Walpole, town of	330027A	do	May 24, 1974
Rockingham	Plaistow, town of	330138B	do	Oct. 18, 1974 and Aug. 27, 1976.
New Jersey: Bergen	Harrington Park, borough of	340040B	do	June 28, 1974 and Sept. 24, 1976.
Ohio:				
Clermont	Unincorporated areas	390065B	do	Dec. 2, 1977.
Preble	Eaton, city of	390462B	do	May 31, 1974 and Dec. 20, 1974.
do	New Paris, village of	390463B	do	Feb. 8, 1974 and May 7, 1976.
Summit	Tallmadge, city of	390533B	do	Aug. 15, 1975
Warren	Unincorporated areas	390757B	do	Jan. 6, 1978.
Oklahoma: Oklahoma	Choctaw, city of	400357B	do	Jan. 21, 1977.
Oregon: Jackson	Medford, city of	410096B	do	June 21, 1974 and Mar. 12, 1976.
Pennsylvania:				
Chester	Birmingham, township of	421474A	do	Nov. 22, 1974
Lancaster	Christiana, borough of	420542B	do	June 28, 1974 and July 16, 1976.
Luzerne	Huntington, township of	421832A	do	Jan. 3, 1975
Dauphin	Lower Paxton, township of	420384B	do	Jan. 9, 1974 and Feb. 11, 1977.
Lancaster	Little Britain, township of	421775B	do	Sept. 20, 1974 and July 2, 1976.
Perry	Miller, township of	421954A	do	Jan. 17, 1975.
Fayette	Newell, borough of	420465B	do	June 28, 1974 and April 23, 1976.
Lancaster	Salisbury, township of	421783B	do	Sept. 20, 1974 and July 16, 1976.
Lehigh	Washington, township of	421816A	do	Nov. 15, 1974.
Tioga	Wellsboro, borough of	420829C	do	Mar. 22, 1974 and Aug. 20, 1976 and Mar. 25, 1977.
Texas:				
Tarrant	Crowley, city of	480591C	do	June 28, 1974 and July 2, 1976 and May 15, 1979.
San Patricio	Gregory, city of	480565B	do	May 7, 1974 and Dec. 5, 1975.
Washington: Clark	Battle Ground, township of	530025B	do	May 24, 1974 and Dec. 26, 1975.
Wisconsin: Milwaukee	West Allis, city of	550285C	do	April 12, 1974 and July 23, 1976 and May 20, 1977.

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

Issued: April 20, 1981.

Richard W. Krimm,

Acting Administrator, Federal Insurance Administration.

[FR Doc. 81-12592 Filed 4-27-81; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

Commission Organization; Amendment of Part 0 of the Commission's Rules.

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This amendment updates the Commission's Rules to incorporate the reorganization of the Office of Executive Director. These amendments are necessary because the functions of the Office have been amended and titles and responsibilities have changed.

EFFECTIVE DATE: April 27, 1981.

FOR FURTHER INFORMATION CONTACT: Charles Marietta, Jr., Office of Executive Director: (202) 632-7513.

SUPPLEMENTARY INFORMATION:

In the matter of Amendment of Part 0 of the Commission's rules.

Order

Adopted: April 13, 1981.

Released: April 16, 1981.

1. In September, 1979, the Commission reorganized the Office of Executive Director. As a result, the functions of the Office have been amended and the titles and responsibilities of divisions within the Office changed. Part 0 is being revised to reflect the new Office functions and division titles.

2. The Office of Executive Director has been structured to align closely-related functions in two major areas: 1) information management and 2) operations. Other divisions continue as before.

3. The amendment adopted herein is editorial and pertains to agency procedure and practice. The prior notice and effective date provisions of Section 4 of the Administrative Procedure Act, 5 U.S.C. 533, are therefore inapplicable. Authority for the amendment adopted herein is contained in Sections 4(i) and 5(b) of the Communications Act of 1934, as amended.

4. In view of the foregoing, it is ordered, effective April 27, 1981, that Part 0 of the Rules and Regulations is amended as set forth in the Appendix hereto.

(Secs. 2, 3, 4, 5, 301, 303, 307, 308, 309, 315, 317, 48 Stat., as amended, 1064, 1065, 1066, 1068, 1081, 1082, 1083, 1084, 1085, 1088, 1089; 47 U.S.C. 152, 153, 154, 155, 301, 303, 307, 308, 309, 315, 317)

R. D. Lichtwardt,

Executive Director.

Appendix

47 CFR Part O is amended by revising §§ 0.11 and 0.12 to read as follows:

§ 0.11 Functions of the Office.

The Executive Director is appointed by the Commission and is directly responsible to the Commission under the supervision of the Chairman. The Executive Director has the following duties and responsibilities:

(a) To provide sustained administrative leadership and coordination of staff activities in carrying out the policies of the Commission, through overall supervision and coordination, but not control, of such staff activities. Coordinate the activities of policy making staff officers to assure that adequate information and recommendations on important policy areas are expeditiously considered by the staff and brought promptly to the attention of the Commission.

(b) To review with the Commission and with heads of the Bureaus and Offices, the programs and procedures of the Commission. Make recommendations thereon as may be necessary to administer the Communications Act most effectively in the public interest. Plan and coordinate program evaluation activities throughout the Commission. Monitor or conduct such evaluations and assure that evaluation results are utilized in Commission decision-making and priority-setting activities.

(c) To assist the Chairman in carrying out the administrative and executive responsibilities delegated to the Chairman as the administrative head of the agency and, in connection therewith, plan, direct, coordinate and manage the administrative affairs of the Commission with respect to the functions of personnel management, budget and financial management, information management and processing, management analysis and improvement, international telecommunications settlements, procurement, office services, supply and property management, records management, security and internal auditing, and emergency communications.

(d) To give general direction to the Secretary of the Commission.

(e) To serve as the principal operating official on *ex parte* matters involving restricted proceedings. Review and dispose of all *ex parte* communications received from the public and others. In consultation with the General Counsel, approve waivers of the applicability of the conflict of interest statutes pursuant to 18 U.S.C. 205 and 208, or initiate necessary actions where other resolutions of conflicts of interest are called for.

(f) To coordinate, under the general direction of the Defense Commissioner, the defense activities of the Commission, including recommendation of national emergency plans and preparedness programs covering Commission licensees and planning for continuity of essential Commission functions during national emergency conditions. Act as alternate Commission representative to emergency planning groups of other agencies.

(g) To interpret rules and regulations pertaining to fees with the concurrence of the General Counsel.

§ 0.12 Units in the Office.

(a) Immediate Office of the Executive Director.

(b) Computer Applications Division.

(c) Information Processing Division.

(d) Planning and Analysis Division.

(e) Financial Management Division.

(f) Operations Support Division.

(g) Personnel Management Division.

(h) Emergency Communications Division.

(i) Internal Review and Security Division.

(j) The Secretary.

[FR Doc. 81-12836 Filed 4-27-81; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 2

[FCC 81-119]

Amendment of the Commission's Rules To Revise Footnote US116 to the National Table of Frequency Allocations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its table of frequency allocations found in § 2.106 to delete the allocations for government radio stations in support of the Department of the Army's doppler velocity attitude projectile system. This action is being taken in response to notification from the Department of the Army that it had ceased operating the doppler system. This change to the rules will result in increased spectrum availability to the primary non-government users of frequency bands.

EFFECTIVE DATE: April 14, 1981.

ADDRESS: Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Maureen Cesaitis, Office of Science and Technology, Washington, D.C. 20554, (202) 653-8164, Room 7310.

SUPPLEMENTARY INFORMATION:

In the Matter of Amendment of Part 2 of the Commission's rules and regulations to revise footnote US116 to the National Table of Frequency Allocations.

Order

Adopted: March 26, 1981.

Released: April 1, 1981.

By the Commission: Chairman Ferris not participating.

1. Footnote US116 to the National Table of Frequency Allocations, Section 2.106 of the Commission's rules and regulations, specifies conditions under which Government assignments to radio stations may be made in the frequency bands 890-902 MHz and 928-942 MHz. These conditions include but are not limited to stations in support of the

Army's doppler velocity attitude projectile (DOVAP) system. The Department of the Army has discontinued this system and has recommended to the IRAC that the FCC modify US116 to reflect this cancellation. This change can be accomplished by deleting from US116 that portion which applies to the DOVAP system. (The full text of the revised footnote appears in the attached Appendix.) Because this amendment will not affect any FCC licensee and reflects an increase in spectrum availability to the remaining users of these frequency bands, compliance with the prior notice and effective date provisions of the Administrative Procedure Act (5 U.S.C. 553) is unnecessary.

2. Accordingly, it is ordered that, effective April 14, 1981, Section 2.106 of the rules is amended as set forth in the Appendix. Authority for this action is contained in Section 4(i) and 303 of the Communications Act of 1934, as amended.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Part 2 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. Section 2.106 is amended by revising footnote US116 to read as follows:

§ 2.106 Table of frequency allocations.

* * * * *

US116 In the bands 890–902 and 928–942 MHz, no new assignments are to be made to Government radio stations after July 10, 1970, except, on a case-by-case basis, to experimental stations and to additional stations of existing networks in Alaska. Government assignments, existing prior to July 10, 1970, to stations in Alaska may be continued. All other existing Government assignments shall be on a secondary basis to stations in the non-Government land mobile service and shall be subject to adjustment or removal from the bands 890–902 and 928–942 MHz at the request of the FCC.

[FR Doc. 81–12865 Filed 4–27–81; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-505; RM-3393]

Radio Broadcast Services; FM Broadcast Station in Jacksonsville, Lumberton, Roanoke Rapids, and Rockingham, North Carolina; Farmville and Kenbridge, Virginia; Changes Made in Table of Assignments

AGENCY: Federal Communication Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns noncommercial educational television Channel *31 to Lumberton, Channel *36 to Roanoke Rapids, and Channel *53 to Rockingham, North Carolina, reserves Channel *19 at Jacksonville, North Carolina, for noncommercial educational use; and reassigns Channel *31 from Kenbridge, Virginia to Farmville, Virginia, in response to a petition filed by the University of North Carolina. These assignments will provide the first noncommercial Television service to a substantial number of people and improved service to others.

DATE: Effective June 9, 1981.

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

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

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Jacksonville, Lumberton, Roanoke Rapids, and Rockingham, North Carolina; Farmville and Kenbridge, Virginia).

Report and Order

(Proceeding Terminated)

Adopted: April 10, 1981.

Released: April 16, 1981.

By the Chief, Policy and Rules Division:

1. Before the Commission is a *Notice of Proposed Rule Making*, 45 Fed. Reg. 55244, published August 19, 1980, proposing the assignment of noncommercial educational television Channel *31 to Lumberton, Channel *36 to Roanoke Rapids, and Channel *53 to Rockingham, North Carolina, the reservation of Channel *19 at Jacksonville, North Carolina, for noncommercial educational use, and the reassignment, of Channel *31 from Kenbridge, Virginia to Farmville, Virginia. The *Notice* was issued in response to a petition filed by the University of North Carolina ("petitioner").[1] Petitioner filed comments in support of the proposal, and restated its intent to apply for the channels, if assigned.

2. As stated in the *Notice*, the assignment of Channel *36 to Roanoke Rapids (pop. 13,508)[2] would provide a first noncommercial television service to 48,000 persons, and improved service to others in the north central portion of North Carolina. The Channel *19 assignment at Jacksonville (pop. 16, 289) would reflect the intended use of the channel by petitioner which was recently granted a Construction Permit (BPET-790606KG). In addition, Channel *31 at Lumberton (pop. 16,961) and Channel *53 at Rockingham (pop. 5,852) would serve the south central portion of the state, providing service to 137,000 persons and improved service to the underserved areas. Petitioner claims that the proposed assignments would assist in the continued development of an effective statewide educational television service in North Carolina. The Lumberton assignment requires assigning Channel *31 from Kenbridge to Farmville, Virginia. The Virginia Public Telecommunications Council has not objected to the reassignment.

3. The Commission believes that the public interest would be served by the proposed assignments, since it could provide a first noncommercial television service to a substantial population and improved service to others. The assignments can be made in compliance with the minimum distance separation requirements and other technical requirements. As proposed, Channel *31 will be reassigned from Kenbridge to Farmville.

4. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(i), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules, it is ordered, That effective June 9, 1981, the Television Table of Assignments (Section 73.606(b) of the Rules) is amended with respect to the communities listed below:

City	Channel No.
Jacksonville, North Carolina	*19
Lumberton, North Carolina	*31
Roanoke Rapids, North Carolina	*36—

[1] Licensee of eight public television stations in North Carolina: WUNC-TV, Chapel Hill (CH *4), WUND-TV, Columbia (CH *2), WUNE-TV, Linville (CH *17), WUNF-TV, Asheville (CH *33), WUNG-TV, Concord (CH *58), WUNJ-TV, Wilmington (CH *39), WUNK-TV, Greenville (CH *26), and WUNL-TV, Winston-Salem (CH *25); additionally it has five translator stations in the state.

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

City	Channel No.
Rockingham, North Carolina	*53
Farmville, Virginia	*31—
Kenbridge, Virginia	

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

6. 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. 81-12637 Filed 4-27-81; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[BC Docket No. 80-524; RM-3400, RM-3516]

Radio Broadcast Services; FM Broadcast Stations in Sanger, Clovis, Visalia, and Fresno, California; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns UHF television Channels 43 and 59 to Fresno, California, and substitutes reserved UHF television Channel *49 for reserved Channel *43 in Visalia, California. In taking this action, the Commission denies requests by Golden-Door Properties, Ltd. and Sanger Telecasters for television assignments to Clovis, California and Sanger, California, respectively. This action is in response to petitions filed by both Golden Door Properties, Ltd., and Sanger Telecasters.

DATE: Effective June 9, 1981.

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

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

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Sanger, Clovis, Visalia, and Fresno, California).

Report and Order

(Proceeding Terminated)

Adopted: April 10, 1981.

Released: April 23, 1981.

By the Chief, Policy and Rules Division:

1. Before the Commission is a *Notice of Proposed Rule Making,* 45 Fed. Reg. 58627, published September 4, 1980, proposing four alternative television assignment plans for the above-captioned communities. Option I proposes the assignment of Channel 43 to Clovis, California, Channel 59 to Sanger, California, and the substitution of Channel *49 for Channel*43 in Visalia, California.[1] Option II proposes the assignment of Channel 69 to Clovis, and Channel 59 to Sanger. Option III proposes the assignment of Channels 43 and 59 to Fresno, California, and the substitution of Channel *49 for Channel *43 in Visalia. Option IV proposes the assignment of Channels 59 and 69 to Fresno. The assignment plans were proposed in response to petitions filed by Golden-Door Properties, Ltd. ("Golden-Door"), for the Clovis assignment, and by Sanger Telecasters ("Telecasters"), for the Sanger assignment. Because Clovis and Sanger are both very close to the much larger city of Fresno, the Commission, on its own motion, proposed Options III and IV which would assign the two additional channels to Fresno, but make the channels available for application to Sanger and to Clovis under the Commission's "15-mile rule," Section 73.607(b). Comments supporting the assignments to Sanger and Clovis were filed by Telecasters and Golden-Door, respectively. An opposition to the assignments was filed by Pappas Telecasting Inc. ("Pappas"), licensee of Station KMPH(TV), Visalia, California. Reply comments were submitted by Telecasters, Golden-Door, and Pappas. Additional comments were filed by the Tulare County Board of Education which requests that a noncommercial educational channel be retained at Visalia for future use.

2. Telecasters, in its comments, supports the adoption of either Plan I or Plan II, both of which propose the assignment of Channel 59 to Sanger. Telecasters states that if Channel 59 is assigned to Sanger, it will apply for the channel. In response to the Commission's stated concern regarding the economic dependence of the proposed Sanger station on the larger city of Fresno, Telecasters presents further information about the needs of Sanger for its own station. Telecasters admits that it would seek revenues from other portions of the Fresno television market, but asserts that Sanger can provide the core of the economic support required for a new television station. Telecasters argues that the assignment should be made to Sanger, and not Fresno, because Sanger is a fast growing community and is independent and separate from Fresno in both government and other municipal services.

3. Golden-Door states in its comments that it supports the adoption of Option I, which, as it relates to Clovis, would assign Channel 43 to Clovis, and substitute Channel *49 for Channel *43 in Visalia. Golden-Door supports this option because it states that it already has an ownership interest in a Channel 43 antenna, and has an option to purchase additional Channel 43 equipment. Golden-Door states, however, that should the Commission decide to adopt Option II and thereby assign Channel 69 to Clovis, it would apply for that channel as well. Golden-Door responds to the Commission's questions about the ability of Clovis to support its own station by reaffirming that the station's primary emphasis and obligation will be service to Clovis. Golden-Door admits that it will accept advertising from the entire Fresno area, however. Like Telecasters, Golden-Door opposes making the new assignments to Fresno. Golden-Door avers that Clovis is an independent community and a first local assignment to Clovis will help meet the city's unmet needs for local news, public affairs and entertainment programming.

4. Pappas, in its opposition to the proposed assignments, states that it has a direct interest in the proposals because any new stations in the Fresno area would be in direct competition for audience and revenues with its station in Visalia. Pappas contends that the proponents of the new assignments propose to serve substantially the same areas and populations that are served by existing stations. Pappas also asserts that the proponents have not demonstrated that Sanger and Clovis are independent communities or that they have distinctive programming needs not being met by the stations serving the Fresno television market. According to Pappas, the Fresno market is currently served by seven television stations and a plethora of cable television services. Pappas avers that the addition of two stations to the market may destroy the ability of existing stations to serve the public interest. For these reasons, Pappas urges the Commission to deny the proposed assignments.

5. In their reply comments, Telecasters and Golden-Door suggest that Pappas' objections to the proposed assignments are clearly based solely on the fear of increased economic competition. The proponents argue in response, that competitive impact is relevant at the

---

[1] Channel *43 at Visalia is currently unused and unapplied for.

application stage of the proceeding, but has no relevance in making television assignments. Pappas, in its reply, addresses only the comments of Golden-Door and the propriety of making an assignment to Clovis. Pappas reiterates its claim that Golden-Door has not demonstrated that its proposed operation would or could differ from the existing stations that serve the Fresno area. Citing *Baytown, Texas*, 11 F.C.C. 2d 941 (1968), Pappas argues that the Commission has consistently rejected requests to assign television channels to suburban communities such as Clovis. According to Pappas, the assignment of a channel to Clovis would in fact be an assignment to Fresno, and since no party has expressed any interest in a new station at Fresno, the assignment should not be adopted.

6. Clovis (pop. 13,856),[2] in Fresno County (pop. 413,329), is located approximately 320 kilometers (200 miles) north of Los Angeles and 16 kilometers (10 miles) northeast of Fresno. There is no local television broadcast service in Clovis. Sanger (pop. 10,088), also in Fresno County, is located 21 kilometers (13 miles) east of Fresno. There is no local television service in Sanger. Fresno (pop. 165,972) currently has five television stations licensed to it.

7. Telecasters and Golden-Door have, in our opinion, presented convincing evidence that a demand exists for additional television stations in the greater Fresno area. However, we are not persuaded that the communities of Sanger and Clovis are sufficiently independent from Fresno to justify assignments to those communities. Indeed, both petitioners admit that advertising revenues from Fresno would be solicited if the Sanger and Clovis assignments were made. In this situation, the Commission's policy has been to assign the television channels to the larger community and allow interested parties to apply for the channel at suburban communities under the "15-mile rule." See, *e.g., Oklahoma City, Oklahoma*, 44 Fed. Reg. 67664, published November 27, 1979. At the application stage of the proceeding, the applicants can make a more detailed showing with regard to the separateness of Sanger and Clovis from Fresno and their independent needs for service.[3] In this way, the suburban community issue could be explored more fully in a hearing if necessary, where, in addition, the economic impact on other stations could also be analyzed. As an allocations matter, however, the more appropriate place for the assignment of additional television channels in this area is to the major focus of the market—Fresno. The fact that neither petitioner has stated an interest in applying for the channel at Fresno is beside the point. By assigning the channels to Fresno, both parties can apply for the channels for those cities which they choose to serve or an interest in a Fresno station can be entertained. Regarding Pappas' contention that the new stations in the Fresno area will dilute the area's limited revenue base, it is settled Commission policy that such issues are better considered during the application process rather than in an assignment proceeding. *Grand Junction, Colorado*, 28 RR 2d 513 (1973): *Hay Springs, Nebraska*, 42 RR 2d 1673 (1978).

8. The final issue for resolution concerns whether to assign Channel 43 (and make a channel substitution in Visalia) or simply assign Channel 69 to Fresno. Golden-Door states that it currently has rights to a Channel 43 antenna and an option on other Channel 43 equipment. The Board of Education, which had originally objected to the channel substitution in Visalia, now states only that a reserved channel should be retained in Visalia for future use. Because there are no objections to the channel substitution in Visalia, we shall assign Channel 43 to Fresno, and substitute Channel *49 for Channel *43 in Visalia. Accordingly, we are adopting assignment Option III.

9. In view of the foregoing, IT IS ORDERED, That effective June 9, 1981, the Television Table of Assignments, Section 73.606(b) of the Commission's Rules, is amended to read as follows:

City	Channel No.
Fresno, California	*18+, 24, 30+, 43, 47, 53, 59
Visalia, California	*49

10. 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 Section 0.281 of the Commission's Rules.

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

12. For further information concerning this proceeding, contact Michael A McGregor, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-12835 Filed 4-27-81; 8:45 am]

BILLING CODE 6712-01-M

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

[3] This showing could include proposed transmitter sites demonstrating coverage areas or other information which would serve to diminish our doubts about these channels being used primarily to serve Fresno. See *Communications Investment Corp. v. FCC*, (D.C. Cir. Nos. 78-1715, 1724, 1885) decided January 21, 1981.

47 CFR Part 73

[BC Docket No. 80-657; RM-3670]

TV Broadcast Station in Victoria, Texas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns UHF television Channel 31 to Victoria, Texas, as that community's third commercial television channel, at the request of Community Television of Victoria.

DATES: Effective June 9, 1981.

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

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

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.606(b), *Table of Assignments*, Television Broadcast Stations. (Victoria, Texas), BC Docket No. 80-657, RM-3670.

Report and Order—Proceeding Terminated

Adopted: April 10, 1981.

Released: April 20, 1981.

1. Before the Commission is a *Notice of Proposed Rule Making*, 45 FR 70920, published October 27, 1980, proposing the assignment of UHF Television Channel 31 to Victoria, Texas, as its third commercial television assignment. The *Notice* was issued in response to a petition filed by Community Television of Victoria ("CTV"). Comments supporting the assignment were filed by CTV, the South Texas Educational Broadcasting Council ("STEBC") and Community Broadcasting of Coastal Bend, Inc., ("Community"). No oppositions to the proposal were received.

2. Victoria (pop. 41,349),[1] seat of Victoria County (pop. 53,766), is located in south-central Texas, approximately 195 kilometers (120 miles) southwest of Houston, Texas. Currently assigned to Victoria are UHF Channel 19 (Station

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

KXIX), and Channel 25. Two applications are now pending for the use of Channel 25 in Victoria. The applications have been submitted by CTV (File No. BPCT800625KG), and by Community (File No. BPCT801208KH). Also, STEBC is the permittee of an educational television translator on Channel 25 (BPTT800313II).[2]

3. CTV states in its comments that if it is not successful in securing a construction permit for Channel 25, it will then apply for Channel 31. CTV reasons that the assignment of Channel 31 is logical because there are two applicants for Channel 25, and the loser on that channel can then apply for the new channel. STEBC states in its comments that it will shortly file a petition with the Commission seeking a non-commercial reservation for Channel 25, the channel for which it currently has a translator permit. If the reservation is adopted, STEBC asserts that the additional Channel 31 assignment will be necessary to meet the demand of commercial interests. Community, in its comments, simply restates the status of the three interests in Victoria and concludes that the existence of these three interests justifies the assignment of an additional television channel.

4. As a general matter, a television assignment will not be made without an expression by an interested party that it will apply for the channel if assigned. In this instance, none of the commenters has stated unequivocally that such an application will be made. However, CTV states that it will apply for Channel 31 if its application for Channel 25 is rejected. Presumably, Community would do the same. Furthermore, if a construction permit for Channel 25 is granted to CTV or Community, STEBC will be forced to terminate its translator operation on that channel, and it too, might then seek authorization to transmit on Channel 31. Therefore, it appears that under any of the anticipated occurrences an interest in the assignment of Channel 31 will arise. We feel that this is a sufficient expression of interest in the channel to justify its assignment.

5. In view of the foregoing, the Commission believes that the public interest would be served by assigning UHF Channel 31 to Victoria. The commenters have shown that there is an apparent need for a third local television service to the community. The assignment can be made in compliance with the minimum distance separation requirements.

6. Mexican concurrence in the assignment has been obtained.

7. Accordingly, 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 June 9, 1981, the Television Table of Assignments, § 73.606(b) of the Commission's rules, is amended as follows:

City	Channel No.
Victoria, Texas	19+, 25, 31

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

9. For further information concerning this proceeding, contact Michael A. McGregor, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303))

Federal Communications Commission

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-12064 Filed 4-27-81; 8:45 am]

BILLING CODE 6712-01-M

[2] According to the Commission's rules (§ 74.702) translator operation on an assigned channel will be terminated when a full-service television station goes on the air.

Proposed Rules

Federal Register
Vol. 46, No. 81
Tuesday, April 28, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Ch. I

Semiannual Agenda of Regulations

AGENCY: Office of Personnel Management.

ACTION: Notice of delay in publication date of regulatory agenda.

SUMMARY: E.O. 12291, Federal Regulation, and the Regulatory Flexibility Act require publication of semiannual agenda in April and October of each year. Because of the need for additional time to apply the new criteria to OPM regulations under review or development, the Office of Personnel Management's (OPM) first semiannual agenda under the new requirements will be published in May 1981. Thereafter, agenda will be published in October and April of each year.

FOR FURTHER INFORMATION CONTACT: Beverly McCain Jones, Issuance System Manager, (202) 254-7086.

SUPPLEMENTARY INFORMATION: OPM published a semiannual agenda on December 2, 1980 (45 FR 79846). OPM's Office of Planning and Evaluation has compiled a status report of regulations listed on this semiannual agenda. Interested parties may obtain a copy of this update by contacting the Issuance System Office, Room 3509, Office of Personnel Management, 1900 E St., N.W., Washington, D.C. 20415, or by calling (202) 254-7086.

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

[FR Doc. 81-12663 Filed 4-27-81; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

7 CFR Part 2851

[Docket No. 79-752P]

United States Standards for Grades of Gladiolus Corms (Bulbs)[1]

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Proposed rule.

SUMMARY: The purpose of this proposed rule would be to issue new voluntary grade standards for Gladiolus Corms (Bulbs). This proposed rule is submitted by the Department at the request of the North American Gladiolus Council. The proposed rule would establish quality and size requirements consistent with current industry marketing practices and encourage uniformity and consistency in commercial trading, while assisting in the orderly marketing process.

DATE: Comments must be received on or before: June 29, 1981.

ADDRESS: Written comments should be sent to: Regulations Coordination Division, ATTN: Annie Johnson, Food Safety and Quality Service, U.S. Department of Agriculture, Room 2637, South Building, Washington, D.C. 20250. (For additional information on comments, see Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Mr. Francis J. O'Sullivan, Fresh Products Branch, Fruit and Vegetable Quality Division, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-2188.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

Donald L. Houston, Administrator, Food Safety and Quality Service, has determined that no new costs are being imposed on the affected industry. The proposal merely reflects current industry marketing practices. Consequently, it will not result in an annual effect on the economy of $100 million or more; a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Effect on Small Entities

Donald L. Houston, Administrator, Food Safety and Quality Service, has determined this proposed rule would not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601, because this reflects current marketing practices.

Comments

Interested persons are invited to submit written comments concerning this proposal. Written comments must be sent in duplicate to the office of the Regulations Coordination Division and should bear a reference to the date and page number of this issue of the **Federal Register.** All comments submitted pursuant to this notice will be made available for public inspection in the office of Regulations Coordination Division during regular business hours (7 CFR 1.27(b)).

Background

In July 1974 the North American Gladiolus Council (NAGC) formally requested the development of U.S. Standards for Grades of Gladiolus Corms (Bulbs). Staff members of USDA's Fruit and Vegetable Division of the Agricultural Marketing Service met with the Standards Committee of the Council in February 1975.

A study draft was developed which included quality and size factors recommended by the Committee. This draft, with a comment period ending December 31, 1975, was widely distributed to interested persons. Three letters of comment were received supporting the development of the standards with recommendations for a few minor changes in the proposed text of the standards.

[1] Compliance with the provisions of these standards shall not excuse failure to comply with provisions of applicable Federal and State laws.

In January 1976 at the request of the NAGC, a representative of the Department met with the Standards Committee, Board of Directors and the general membership for discussions of the study draft. At that time the general membership voted to request the Department to delay development of the standards until such time as they conducted further studies. The request for delay was granted for an indefinite period of time.

The Federal Trade Commission (FTC) was at this time considering rescinding their rules covering the gladiolus bulb industry trading practices that had been in effect since January 1952. Although the rules had not been extensively used by the industry, the NAGC requested FTC not to rescind these rules until the industry had time to develop grade standards to replace them. The request for delay was granted. However, on August 5, 1977, the FTC declared obsolete its rules covering gladiolus bulbs.

The Standards Committee in January 1978, after conducting further studies in relation to development of grade standards, requested that the Department develop a revised study draft incorporating changes for certain requirements as outlined in the original study draft. On May 9, 1978, an Advanced Notice of Proposed Rulemaking was published in the **Federal Register** (43 FR 19857) noting the availability of the revised study draft with a comment period ending November 30, 1978. The study draft was widely distributed to interested persons on an international as well as national basis. Five letters of comment received generally supported the proposed standards as set forth in the revised study draft. A few minor changes based on these comments have been incorporated in this proposed rule.

In the revised study draft, at the recommendation of the Standards Committee, all of the circumference measurements of the corms shown in the text of the proposed standards were in the metric system of measurement. This system is widely used throughout the industry. However, due to opposition from certain segments of industry to this concept, this proposed rule has been drawn using a dual system for circumference and diameter measurements.

This proposed new standard would provide industry with a uniform basis for trading which would be in line with current quality and size specifications for use in the promotion of efficient and orderly marketing practices.

Accordingly, a new subpart—United States Standards for Grades of Gladiolus Corms (Bulbs) (7 CFR 2851), §§ 2851.4240 through 2851.4247, are proposed as follows:

PART 2851—FRESH FRUITS, VEGETABLES, AND OTHER PRODUCTS (INSPECTION, CERTIFICATION, AND STANDARDS)

* * * * *

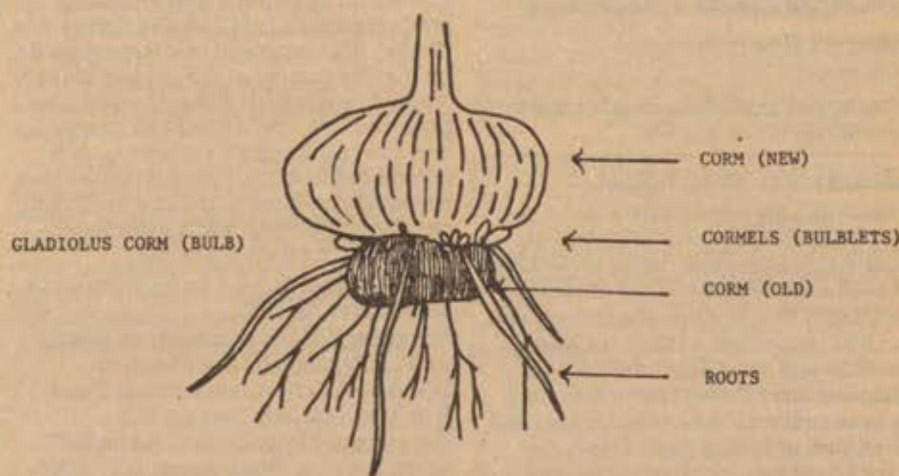
Subpart—United States Standards for Grades of Gladiolus Corms (Bulbs)

Sec.
2851.4240 General.
2851.4241 Grades.
2851.4242 Size.
2851.4243 Tolerances.
2851.4244 Application of tolerances.
2851.4245 Sample for grade and size determination.
2851.4246 Definitions.
2851.4247 Classification of Defects.

Subpart—United States Standards for Grades of Gladiolus Corms (Bulbs)

§ 2851.4240 General.

These standards apply to corms (bulbs) of the genus *Gladiolus* characteristically flattened in shape, consisting of solid corms (bulbs) propagated by the new corm which grows on top of the old corm (bulb) or by cormels (bulblets) which form between the old and new corms. (See Figure I)



(Figure I)

§ 2851.4241 Grades.

"U.S. Fancy" consists of gladiolus corms which meet the following requirements:

(a) Basic Requirements:
(1) Mature and well cured;
(2) Well filled;
(3) Clean; and,
(4) Well trimmed.
(b) Free From:
(1) Mold;
(2) Shattered corms;
(3) Thrips;
(4) Freezing;
(5) Nut sedge;
(6) Grass roots;
(7) Rogues; and,
(8) Decay.
(c) Free from damage by any means.
(d) Size. See § 2851.4242
(e) Tolerances. See § 2851.4243

"U.S. Fancy Mixture" consists of gladiolus corms which meet the requirements of U.S. Fancy, except for rogues.

"U.S. No. 1" consists of gladiolus corms which meet the requirements of U.S. Fancy, except for increased tolerances specified in § 2851.4243.

"U.S. No. 1 Mixture" consists of gladiolus corms which meet the requirements of U.S. No. 1, except for rogues.

§ 2851.4242 Size.

(a) The size of corms may be specified in connection with the grade in terms of minimum circumference, maximum circumference, minimum diameter, maximum diameter, or in accordance with one of the size designations given in Table I.

(b) Circumference or diameter means the greatest dimension of the corm at right angles to a line running from the stem to the center of the basal portion.

Table I

Size designation	Diameter				Circumference			
	Minimum		Maximum		Minimum		Maximum	
	Inches	Centimeters	Inches	Centimeters	Inches	Centimeters	Inches	Centimeters
Jumbo	[1] 1 12/16	[1] 4.4			[1] 5 8/16	[1] 14		
1	1 8/16	3.8	1 12/16	4.4	4 12/16	12	5 8/16	14
2	1 4/16	3.2	1 8/16	3.8	4	10	4 12/16	12
3	1	2.5	1 4/16	3.2	3 2/16	8	4	10
4	12/16	1.9	1	2.5	2 6/16	6	3 2/16	8
5	8/16	1.3	12/16	1.9	1 9/16	4	2 6/16	6
6	4/16	.6	8/16	1.3	13/16	2	1 9/16	4
7			[2] 4/16	[2] .6			[2] 13/16	[2] 2
Large	1 4/16	3.2	1 12/16	4.4	4	10	5 8/16	14
Medium	12/16	1.9	1 4/16	3.2	2 6/16	6	4 12/16	12
Small	4/16	.6	12/16	1.9	13/16	2	4	10

[1] Over.
[2] Under.

§ 2851.4243 Tolerances.

In order to allow for variations incident to proper grading and handling the following tolerances, by count, shall be permitted in any lot.

Table II

	Percent	
	U.S. Fancy	U.S. No. 1
A. Total defects included in "A"	8	10
Internal defects	2	3
Rogues	2	4
Thrips	1	1
Nut sedge, grass roots, freezing and decay	½ of 1	½ of 1

B. Size: Not more than 10 percent of the corms in any lot may fail to meet a specified size, including therein not more than 5 percent for corms which fail to meet the specified minimum circumference or diameter.

§ 2851.4244 Application of tolerances.

The contents of individual packages in the lot, based on sample inspection, are subject to the following limitations: Provided, That the averages for the entire lot are within the tolerances specified for the grade:

(a) Individual samples may contain not more than double the tolerance specified.

(b) One defective and one off-size specimen may be permitted in any package.

(c) Packages containing 10 specimens or less are not restricted as to the percentage of defects, except not more than one specimen which is affected by decay or otherwise seriously damaged and one off-size specimen may be permitted in any package.

§ 2851.4245 Sample for grade and size determination.

Each sample shall consist of 50 corms, except when individual packages contain less than 50 corms the sample shall be the individual package.

§ 2851.4246 Definitions.

(a) "Mature and well cured" means corm is firm with a well-healed base scar and dry neck.

(b) "Well filled" means compact and plump.

(c) "Clean" means practically free from dirt and other foreign material.

(d) "Fairly clean" means not materially caked with dirt or materially stained.

(e) "Well trimmed" means tops are not more than 1 inch (2.5 cm) in length. New stem growth is not considered when determining trim.

(f) "Fairly well trimmed" means tops are not more than 2 inches (5.1 cm) in length. New stem growth is not considered when determining trim.

(g) "Rogues" means a distinctly different cultivar from that labeled for the entire lot. Corms of different cultivars usually vary in conformation and color.

(h) "Shriveled" means a marked change in form, such as being shrunken, drawn or wrinkled.

(i) "Soft" means gives readily to moderate pressure.

(j) "Damage" means any specific defect described in § 2851.4247—Table III; or any equally objectionable variation of any one of these defects, any other defect, or any combination of defects which materially detracts from the marketing quality of the corm.

(k) "Serious damage" means any specific defect described in § 2851.4247—Table III; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects which seriously detracts from the marketing quality of the corm.

(l) "Permanent defects" means defects which are not subject to change during shipment or storage, such as: cleanness, shape, trim.

(m) "Condition defects" means defects which are subject to change during shipment or storage, such as: shriveling, softness, decay.

§ 2851.4247 Classification of defects.

Table III

Defects	Damage	Serious damage
Bacterial spot.	Aggregating more than ⅜ inch in diameter (.9 cm) on a corm 1 inch in diameter (2.5 cm), and correspondingly lesser or greater areas on smaller or larger corms.	
Discoloration.	Aggregating more than ⅜ inch in diameter (.9 cm) on a corm 1 inch in diameter (2.5 cm), and correspondingly lesser or greater areas on smaller or larger corms.	
Cuts	Aggregating more than ½ inch in length (1.3 cm) and ⅛ inch in depth (.3 cm) on a corm 1 inch (2.5 cm) in diameter, and correspondingly lesser or greater areas on smaller or larger corms.	
Bruises	Aggregating more than ¾ inch in diameter (1.9 cm) and the area being soft or indented on a corm 1 inch in diameter (2.5 cm), and correspondingly lesser or greater areas on smaller or larger corms.	
Thrips		When any feeding on the corm is evident or when thrips are present.
Nut sedge		When present or penetrates the corm surface.
Grass roots		When penetrating the corm surface.
Mold		When affecting the incipient root system (living tissue) or which penetrates below the epidermis.
Shattered		When corms are cracked, crushed or split.
Freezing		When corm is frozen or shows any amount of brown discoloration or is soft following freezing.
Decay		Soft, mushy or mummified condition or disintegration or breakdown of the tissue of the corm.

(Agricultural Marketing Act of 1946, secs. 203, 205, 60 Stat. 1087, as amended, 1090 as amended; 7 U.S.C. 1622, 1624)

Done at Washington, D.C., on: April 14, 1981.

Donald L. Houston,

Administrator, Food Safety and Quality Service.

[FR Doc. 81-12733 Filed 4-27-81; 8:45 am]

BILLING CODE 3410-DM-M

Animal and Plant Health Inspection Service

9 CFR Part 72

Texas (Splenetic) Fever in Cattle

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the regulations concerning the approval of dips permitted by the Department in official dipping for interstate movement of livestock affected with ticks. This action is necessary to provide information on a pesticide which the Department believes is safe and effective for such treatment of livestock. The effect of this action would be to identify in the regulations an additional "permitted dip" as effective for the treatment of animals affected with ticks and to prescribe the concentrations of such dip to be used.

DATE: Comments on or before June 29, 1981.

ADDRESS: Written comments should be submitted to the Deputy Administrator, Veterinary Services, APHIS, VS, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Dr. R. L. Rissler, USDA, APHIS, VS, Sheep, Goat, Equine, and Ectoparasites Staff, Room 734, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8321.

In accordance with the National Environmental Policy Act the Department is preparing an environmental impact statement regarding the use of pesticides used in the Department's cattle tick program. When completed, a notice of the availability of the environmental impact statement will be published in the **Federal Register.**

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed in conformance with Executive Order 12291 and has been classified not a "major rule".

Based on information compiled by the Department, it has been determined that this rule will have no appreciable effect on the economy; that this rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and that this rule will not have a significant adverse effect 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.

Additionally, Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because this action only provides for the use of an additional "permitted dip" as an option for treatment of animals affected with ticks.

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that pursuant to Section 2 of the Act of February 2, 1903, as amended, 32 Stat. 792, Secs. 4-7 of the Act of May 29, 1884; 23 Stat. 791, Sec. 1 of the Act of February 2, 1903; 32 Stat. 791; Secs. 1 through 4 of the Act of March 3, 1905, 33 Stat. 1264 (21 U.S.C. 111-113, 115, 117, 120, 121, 123-126), the Animal and Plant Health Inspection Service (APHIS) is considering amending Part 72, Title 9, Code of Federal Regulations.

Part 72 regulates the interstate movement of animals infested with ticks or exposed to tick infestation. Existing § 72.13(b) of the regulations provides notice of the approved brands of pesticides permitted by the Department for the treatment of livestock affected with ticks. The "permitted dips" are approved proprietary brands of specific pesticides at prescribed concentrations. Proprietary brands of "permitted dips" in existing § 72.13(b) are permitted to be used for purposes of this part under § 72.13(c) only when approved in specific cases by the Deputy Administrator, Veterinary Services. Before a "permitted dip" is specifically approved for such use, Veterinary Services requires that, among other things, the product be registered for such use under the provisions of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) as amended (7 U.S.C. 135 et seq.).

In addition, before a dip will be specifically approved as a "permitted dip," its efficacy and stability must have been demonstrated and trials must have been conducted to determine that its concentration can be maintained and that under actual field conditions the dipping of cattle in a bath of definite strength will effectively eradicate ticks without injury to the animals dipped.

Veterinary Services of APHIS has been requested to grant "permitted dip" status to approved proprietary brands of organophosphorous insecticides (Prolate®), which have been registered under the provisions of FIFRA.

Since September 11, 1975, Prolate® has been permitted by APHIS in the treatment of cattle for scabies mites (40 FR 42179). Prolate® is an organophosphorous product which is biodegradable and has been registered by the Environmental Protection Agency (EPA) for some time for use against grubs, lice, hornflies, cattle ticks, and southern cattle ticks.

The efficacy and stability of Prolate® has been demonstrated. Trials were conducted in connection with its proposed approval by the Department to determine that its concentration can be maintained. In addition, extensive field trials have been conducted to demonstrate that the dipping of cattle in a bath of 0.15 to 0.25 percent concentration will effectively eradicate ticks without injury to the animals dipped. Such trials demonstrated the efficacy of Prolate® against ticks at the specified concentrations.

Therefore, the Department is proposing to amend § 72.13(b) to specify that the approved proprietary brands of organophosphorous insecticide (Prolate®), which are determined to be effective in the treatment of ticks by EPA, will be permitted by the Department in official dipping for the interstate movement of livestock affected with ticks.

The dips permitted by the Department for the treatment of livestock for ticks in § 72.13(b) would, therefore, include approved proprietary brands of organophosphorous insecticides (Prolate®) which are registered by EPA under FIFRA, in a concentration of 0.15 to 0.25 percent.

For reasons set out in the preamble, Part 72, Title 9, Code of Federal Regulations, is proposed to be amended as follows:

In § 72.13, a new paragraph (b)(4) would be added to read as follows:

§ 72.13 Permitted dips and procedures.

* * * * *

(b) * * *

(4) Approved proprietary brands of organophosphorous insecticides (Prolate®) used at a concentration of 0.15 to 0.25 percent.

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 733, Hyattsville, Maryland, during regular hours of business (8 a.m. to 4:30 p.m., Monday through Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

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

Done at Washington, D.C., this 22d day of April.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 81-12745 Filed 4-27-81; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 211

[Docket No. ERA-R-81-01]

Entitlements Adjustment Mechanism

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of intent to issue a final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) intends to adopt a rule that will provide a mechanism for adjusting entitlements purchase and sale obligations under the domestic crude oil allocation program for periods prior to the decontrol of crude oil on January 28, 1981. The rule will be issued as soon as ERA can fully address and respond to the public comments received and make necessary revisions to the proposal.

FOR FURTHER INFORMATION CONTACT:

Jack Vandenberg (Office of Public Information), Economic Regulatory Administration, Room-B-110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653-4055.

William Funk or Peter Schaumberg, Office of General Counsel, U.S. Department of Energy, Room 6A-127, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-6736 (Funk); 252-6754 (Schaumberg).

SUPPLEMENTARY INFORMATION: In accordance with Section 3 of Executive Order No. 12287 (46 FR 9909, January 30, 1981), which on January 28, 1981, exempted crude oil and refined petroleum products from the price and allocation regulations adopted pursuant to the Emergency Petroleum Allocation Act of 1973, as amended (Pub. L. 93-159), the ERA issued a notice of proposed rulemaking (46 FR 15112, March 3, 1981) to amend the domestic crude oil allocation ("entitlements") program set forth at 10 CFR 211.67. The NOPR proposed procedures for permitting firms to file for and receive adjustments to their entitlements purchase and sales obligations for periods prior to decontrol on January 28, 1981. Such procedures, or "clean up" mechanism, would be available for DOE to make adjustments after the issuance of the last regular entitlements notice which had been scheduled to be issued in March 1981, but has been enjoined from issuance, by court orders.

DOE is currently reviewing the many public comments we have received, and we have concluded that a final rule will be adopted to provide an entitlements adjustment mechanism. We are currently addressing and responding to the numerous comments that were received. Revisions are being made to account for the meritorious suggestions that were included. We will issue a rule as soon as this process is complete, but, because of the importance of this rule and the need to assure that the clean-up mechanism adopted is correct in all respects, this process is taking longer than expected.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. 751 *et seq.*, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, 15 U.S.C. 787 *et seq.*, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, 42 U.S.C. 6201 *et seq.*, Pub. L. 94-163, as amended, Pub. L. 94-385, and Pub. L. 95-70, Pub. L. 95-619, and Pub. L. 96-30; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95-91, Pub. L. 95-509, Pub. L. 95-619, Pub. L. 95-620, and Pub. L. 95-621; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267; E.O. 12287, 46 FR 9909)

Issued in Washington, D.C., April 22, 1981.

T. Wendell Butler,

Acting Deputy Administrator, Economic Regulatory Administration.

[FR Doc. 81-12732 Filed 4-27-81; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

DEPARTMENT OF THE TREASURY

Customs Service

15 CFR Part 301

Instruments and Apparatus for Educational and Scientific Institutions

AGENCY: Import Administration, International Trade Administration, Commerce; Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: The Departments of Commerce and the Treasury are proposing to amend Part 301, Chapter III of Title 15 of the Code of Federal Regulations relating to their responsibilities under the Educational, Scientific, and Cultural Materials Importation Act of 1966 (the "Act"; Pub. L. 89-651; 80 Stat. 897). The amendments are being proposed for the purposes of (i) improving the public's understanding of the requirements for duty-free entry of instruments and apparatus for educational and scientific institutions by placing both the Commerce and the Treasury regulations in a single part; and (ii) updating and clarifying the existing provisions in the light of program experience.

DATE: Written comments must be received at the address shown below not later than 5:00 p.m., July 27, 1981.

ADDRESS: Comments should be filed in duplicate and addressed to: Statutory Import Programs Staff, Import Administration, International Trade Administration, Room 3109, U.S. Department of Commerce, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Dr. Stanley P. Kramer, who can be reached by telephone on 202-377-4216.

SUPPLEMENTARY INFORMATION: Substantive changes of the Florence Agreement Regulations were last made on October 6, 1969 (34 FR 15787 (1969)). Certain procedural and editorial changes were made on February 24, 1972 (37 FR 3892 (1972)) and on March 18, 1975 (40 FR 12253 (1975)).

In the existing regulations, provisions governing the receipt and processing of applications, exclusion of certain

articles from duty-free entry, entry and liquidation, disposition of articles entered duty free, and other matters within the responsibility of the U.S. Customs Service are incorporated in separate Customs regulations (19 CFR 10.114–10.119). The proposed amendments would consolidate in this part those Customs provisions of most interest to applicant institutions at the time of application.

With regard to the Department of Commerce determinations of scientific equivalency and domestic availability, a number of procedural and definitional improvements are being proposed, based on the Department's accumulated experience in making such determinations. Most significant are the changes proposed in the definitions of "instrument," "specifications" (both "pertinent" and "guaranteed") and in the application of "scientific equivalency" and "excessive delivery time" criteria.

In accordance with Executive Order No. 12291, February 17, 1981 (46 FR 13493), the Commerce Department has determined that these proposed amendments of existing regulations do not constitute a "major rule" as defined by section (1)(b). These regulations implement section 6(c) of Pub. L. 89–651, the "Act', which allows the Secretary of Commerce only very limited regulatory discretion. The proposed amendments would place in a single part of the Code of Federal Regulations those Customs and Commerce provisions of most interest to institutions wishing to import items free of duty under the Florence Agreement. They would also clarify certain procedures, definitions and criteria governing the submission, receipt and processing of the institutions' applications. In both respects the proposed changes are intended and expected to have beneficial effects on the affected public. Consequently, these regulations are not likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; or

(3) 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.

Publication of the proposed regulations will have no adverse impact on small business entities for reasons presented in (2) and (3) above. The applicants, under the proposed regulations, will be able to locate the necessary application information in one set of regulations rather than two, and U.S. instrument making firms (small and large) are protected by the provisions of the statute that these regulations implement.

Finally, the Departments have determined that these regulations, if adopted, will not enlarge paperwork requirements for applicants for duty-free entry of scientific instruments. Accordingly, publication of these rules is consistent with the Departments' responsibilities under the Paperwork Reduction Act of 1980.

The Departments propose to revise 15 CFR Part 301 to read as set forth below.

PART 301—INSTRUMENTS AND APPARATUS FOR EDUCATIONAL AND SCIENTIFIC INSTITUTIONS

Sec.
301.1 General provisions.
301.2 Definitions.
301.3 Application for duty-free entry of scientific instruments.
301.4 Processing of applications by the Department of the Treasury (U.S. Customs Service).
301.5 Processing of applications by the Department of Commerce.
301.6 Appeals.
301.7 Final disposition of an application.
301.8 Instructions for entering instruments through U.S. Customs under Tariff Item 851.60.
301.9 Uses and disposition of instruments entered under Item 851.60, TSUS.
301.10 Importation of repair components under Item 851.65 for article previously entered under 851.60.

Authority: Subsection 6(c), Pub. L. 89–651, 80 Stat. 897 (19 U.S.C. 1202).

§ 301.1 General provisions.

(a) *Purpose.* This part sets forth the regulations of the Department of Commerce and the Department of the Treasury applicable to the duty-free importation of scientific instruments and apparatus by public or private nonprofit institutions.

(b) *Background.* (1) The Agreement on the Importation of Educational, Scientific and Cultural Materials (Florence Agreement; "the Agreement") is a multinational treaty, contracted to by approximately 70 countries, which seeks to further the cause of peace through the freer exchange of ideas and knowledge across national boundaries, primarily by eliminating tariffs on certain educational, scientific and cultural materials.

(2) Annex D of the Agreement provides that scientific instruments and apparatus intended exclusively for educational purposes or pure scientific research use by qualified nonprofit institutions shall enjoy duty-free entry if instruments or apparatus of equivalent scientific value are not being manufactured in the country of importation.

(3) Public Law 89–651, the Educational, Scientific, and Cultural Materials Importation Act of 1966 (19 U.S.C. 1202; "the Act"), implements the Agreement in the United States. Section 6(c) of the Act gives effect to Annex D of the Agreement. This section added tariff item 851.60 to the Tariff Schedules of the United States (TSUS) to provide for the duty-free importation of instruments and apparatus "entered for the use of any nonprofit institution, whether public or private, established for educational or scientific purposes * * * if no instrument or apparatus of equivalent scientific value for the purposes for which the instrument or apparatus is intended to be used is being manufactured in the United States." Headnote 1 to Schedule 8, Part 4, TSUS, was amended by Pub. L. 89–651 and provides for the use, disposition and transfer of articles and their repair components accorded duty-free entry under tariff items 851.60 and 851.65, respectively, and Headnote 6, added by Pub. L. 89–651, sets forth the duty-free entry procedures and responsibilities.

(c) *Summary of statutory procedures and requirements.* (1) Headnote 1 provides, among other things, that articles covered by tariff items 851.60 (scientific instruments and apparatus) and 851.65 (repair components therefor) must be exclusively for the use of the institutions involved and not for distribution, sale or other commercial use within five years after being entered. These articles may be transferred by a qualified nonprofit institution to another such institution without duty liability being incurred. However, if such article is transferred other than as provided by the preceding sentence, or is used for commercial purposes within five years after having been entered, duty shall be assessed in accordance with the procedures established in Headnote 1.

(2) Pursuant to Headnote 6 an institution desiring to enter an instrument or apparatus under tariff item 851.60 TSUS must file an application with the Secretary of the Treasury (U.S. Customs Service) in accordance with these regulations. If the application is made in accordance with the regulations, notice of the application is published in the Federal Register to provide an opportunity for interested persons and government agencies to present views. The application is reviewed by the Secretary of Commerce (Director, Statutory Import Programs

Staff) whose decision as to whether or not duty-free entry may be accorded the instrument is published in the **Federal Register.** An appeal of the final decision may be filed with the United States Court of Customs and Patent Appeals, on questions of law only, within 20 days after publication of the decision in the **Federal Register.**

(3) Repair components for instruments or apparatus admitted duty-free under tariff item 851.60 require no application and may be entered duty-free in accordance with the procedures prescribed in § 301.10.

(d) *Authority and delegations.* The Act authorizes the Secretaries of Commerce and the Treasury to prescribe joint regulations to carry out their functions under headnote 6, TSUS. The Secretary of the Treasury has delegated authority to the Assistant Secretary for Enforcement and Operations, who has retained rulemaking authority and further delegated administration of the regulations to the Commissioner of the U.S. Customs Service. The authority of the Secretary of Commerce has been delegated to the Deputy Assistant Secretary for Import Administration, who has retained rulemaking authority and further delegated administration of the regulations to the Director of the Statutory Import Programs Staff.

§ 301.2 Definitions.

For the purposes of these regulations and the forms used to do implement them:

(a) "Director" means the Director of the Statutory Import Programs Staff, International Trade Administration, U.S. Department of Commerce.

(b) "Customs" means the U.S. Customs Service and "The Commissioner" means Commissioner of the U.S. Customs Service, or the official(s) designated to act on the Commissioner's behalf.

(c) "Customs Port" or "the Port" means the port where a particular claim has been or will be made for duty-free entry of a scientific instrument or apparatus under tariff item 851.60.

(d) "Entry" means entry of an instrument into the Customs territory of the United States for consumption or withdrawal of an instrument from a Customs bonded warehouse for consumption.

(e) "United States" includes only the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

(f) "Instrument" means only instruments and apparatus classifiable under the tariff items specified in headnote 6(a) of part 4 of Schedule 8. A combination of a basic instrument or apparatus and accompanying accessories shall be treated as a single instrument provided that, under normal commercial practice, such combination is considered to be a single instrument and provided further that the applicant has ordered or, upon favorable action on its application, firmly intends to order the combination as a unit. Unless the context indicates otherwise, instrument or apparatus shall mean a foreign "instrument or apparatus" for which duty-free entry is sought under tariff item 851.60. Spare parts typically ordered and delivered with an instrument are also considered part of an instrument for purposes of these regulations. The term "instruments" shall *not* include:

(1) Materials or supplies used in the operation of instruments and apparatus, such as paper, cards, tapes, ink, recording materials, expendable laboratory materials, apparatus that loses identity or is consumed by usage or other materials or supplies.

(2) Ordinary equipment for use in building construction or maintenance; or equipment for use in supporting activities of the institution, such as its administrative offices, machine shops, libraries, centralized computer facilities, eating facilities, or religious facilities; or support equipment such as copying machines, glass working apparatus and film processors.

(3) General purpose equipment such as air conditioners, electric typewriters, electric drills, refrigerators.

(4) General-purpose computers. Accessories to computers which are not eligible for duty-free treatment are also ineligible. Scientific instruments containing embedded computers which are to be used in a dedicated process or in instrument control, as opposed to general data processing or computation, are, however, eligible for duty-free consideration.

(5) Instruments initially imported solely for testing or review purposes which were entered under bond under tariff item 864.30, subject to the provisions of Headnote 1(a) of Subpart C, Part 5, Schedule 8 TSUS and must be exported or destroyed within the time period specified in that headnote.

(g) "Domestic instrument" means an instrument which is manufactured in the United States. A domestic instrument need not be made exclusively of domestic components or accessories.

(h) "Accessory" has the meaning which it has under normal commerical usage. An accessory, whether part of an instrument or an attachment to an instrument, adds to the capability of an instrument. An accessory for which duty-free entry is sought under item 851.60 shall be the subject of a separate application when it is not an accompanying accessory.

(i) "Accompanying accessory" means an accessory for an instrument that is listed as an item in the same purchase order and that is necessary for accomplishment of the purposes for which the instrument is intended to be used.

(j) "Ancillary equipment" means an instrument which may be functionally related to the foreign instrument but is not operationally linked to it. Examples of ancillary equipment are vacuum evaporators or ultramicrotomes, which can be used to prepare specimens for electron microscopy. Further, equipment which is compatible with the foreign instrument, but is also clearly compatible with similar domestic instruments, such as automatic sampling equipment sold for use with a variety of mass spectrometers, will be treated as ancillary equipment. A separate application will be required for ancillary equipment even if ordered with the basic instrument.

(k) "Components" of an instrument means parts or assemblies of parts which are substantially less than the instrument to which they related. A component enables an instrument to function at a specified minimum level, while an accessory adds to the capability of an instrument. Applications shall not be accepted for components of instruments that did not enter duty free under tariff item 851.60 or for components of instruments being manufactured or assembled by a commercial firm or entity in the U.S. However, applications shall be considered for components or novel instruments being built or assembled by qualified nonprofit institutions as part of the institution's scientific research or science related educational program.

(l) "Produced for stock" means an instrument which is manufactured, on sale and available from a stock.

(m) "Produced on order" means an instrument which a manufacturer lists in current catalog literature and is able and willing to produce and have available without unreasonable delay to the applicant.

(n) "Custom-made" means an instrument which a manufacturer is willing and able to make to purchaser's specifications. Instruments resulting from a development effort are treated as custom-made for the purposes of these regulations. Also, a special-order variant of a produced on order instrument, with significant modifications specified by the applicant, may be treated as custom-made.

(o) "Same general category" means the category in which an instrument is customarily classified in trade directories and product-source lists, e.g., scanning electron microscope, mass spectrometer, light microscope, x-ray spectrometer.

(p) "Comparable domestic instrument" means a domestic instrument capable or potentially capable of fulfilling the applicant's technical requirements or intended uses, whether or not in the same general category as the foreign instrument.

(q) "Specifications" means the particulars of the structural, operational and performance characteristics or capabilities of a scientific instrument.

(r) "Guaranteed" specifications are those specifications which are an explicit part of the contractual agreement between the buyer and the seller (or which would become part of the agreement if the buyer accepted the seller's offer), and refer only to the minimum and routinely achievable performance levels of the instrument under specified conditions. If a capability is listed or quoted as a range (e.g., "5 to 10 angstroms") or as a minimum that may be exceeded (e.g., "5 angstroms or better"), only the inferior capability may be considered the guaranteed specification. Evidence that specifications are "guaranteed" will normally consist of their being printed in a brochure or other descriptive literature of the manufacturer; being listed in a purchase agreement upon which the purchase is conditioned; or appearing in a manufacturer's formal response to a request for quote. If, however, no opportunity to submit a bid was afforded the domestic manufacturer or if, for any other reason, comparable guaranteed specifications of the foreign and domestic instruments do not appear on the record, other evidence relating to a manufacturer's ability to provide an instrument with comparable specifications may, at the discretion of the Director, be considered in the comparison of the foreign and domestic instruments' capabilities.

(s) "Pertinent" specifications are those specifications necessary for the accomplishment of the specific scientific research and/or science-related educational purposes described by the applicant. Specifications or features (even if guaranteed) which afford greater convenience, satisfy personal preferences, accommodate institutional commitments or limitations, or assure lower costs of acquisition, installation, operation, servicing or maintenance are not pertinent. For example, a design feature, such as a small number of knobs or controls on an instrument primarily designed for research purposes, would be a convenience. The ability to fit an instrument into a small room, when the required operations could be performed in a larger room, would be either a cost consideration or a matter of convenience and not a pertinent specification. In addition, mere differences in design (which would, for example, broaden the educational experience of students but not provide superior scientific capability) would not be pertinent. Also, unless the applicant demonstrates it is necessary for the accomplishment of its specific scientific purposes, the term does not extend to such characteristics as size, weight, appearance, durability, reliability, complexity (or simplicity), ease of operation, ease of maintenance, productivity, versatility, "state of the art" design, specific design, or other such characteristics.

§ 301.3 Application for duty-free entry of scientific instruments.

(a) *Who may apply.* An applicant for duty-free entry of an instrument under tariff item 851.60 must be a public or private nonprofit institution which is established for educational or scientific purposes and which has placed a *bona fide* order or has a firm intention to place a *bona fide* order for a foreign instrument within 60 days following a favorable decision on the institution's application.

(b) *Application forms.* Applications must be made on Form ITA-338P which may be obtained from the Statutory Import Programs Staff, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, or from the various District Offices of the U.S. Department of Commerce.

(c) *Where to apply.* Applications must be filed with the U.S. Customs Service, Department of the Treasury, at the address specified on page 1 of the form.

(d) Six copies of the form, including relevant supporting documents, must be submitted to the U.S. Customs Service. Two copies of the form shall be signed in the original by the person in the applicant institution under whose direction and control the foreign instrument will be used and who is familiar with the intended uses of the instrument. The remaining four copies of the form may be copies of the originals. Attachments should be fully identified and referenced to the question(s) on the form to which they relate.

(e) A single application (in the requisite number of copies) may be submitted for any quantity of the same type or model of foreign instrument provided that the entire quantity is intended to be used for the same purposes and provided that all units are included on a single purchase order. A separate application shall be submitted for each different type of model or variation in type or model of instrument for which duty-free entry is sought even if covered by a single purchase order. Orders calling for multiple deliveries of the same type or model of instrument over a substantial period of time may, at the discretion of the Director, require multiple applications.

(f) Failure to answer completely all questions on the form in accordance with the instructions on the form or to supply the requisite number of copies of the form and supporting documents (six) may result in return of the application without processing, delays in processing of the application while the deficiencies are remedied, or denial of the application. Any questions on these regulations or the application form should be addressed to the Director.

§301.4 Processing of applications by the Department of the Treasury (U.S. Customs Service).

(a) *Review and determination.* The Commissioner shall date each application when received by Customs. If the application appears to be complete, the Commissioner shall determine:

(1) Whether the institution is a nonprofit private or public institution established for research and educational purposes and therefore authorized to import instruments into the U.S. under tariff 851.60. In making this determination the Commissioner will generally review the application to determine if the applicant has attached a copy of the letter from the Internal Revenue Service (IRS) granting the institution nonprofit status (exemption from Federal income tax) under Section 501(c)(3) of the IRS Code or will determine if the institution is listed in a current edition of "Cumulative List of Exempt Organizations";

(2) Whether the instrument falls within the classes of instruments eligible for duty-free entry consideration under tariff item 851.60 (For eligible classes see Headnote 6(a), Part 4, Schedule 8, TSUS); and

(3) Whether the instrument which is the subject of the application is intended for the exculsive use of the applicant institution and is not intended to be used for commercial purposes. For the purposes of this section, commercial uses would include, but not necessarily be limited to: Distribution or sale of the instrument by the applicant institution; any use by, or for the primary benefit of, a commercial entity; or use of the

instrument for demonstration purposes in return for a fee or other valuable consideration. In making the above determination, the Commissioner may consider, among other things, whether the results of any research to be performed with the instrument will be fully and timely made available to the public. For the purposes of this section, use of an instrument for the treatment of patients is considered noncommercial. If any of the Commissioner's determinations is in the negative, the application shall be found to be outside the scope of the Act and shall be returned to the applicant with a statement of the reason(s) for such findings.

(b) *Forwarding of applications to the Department of Commerce.* If the Commissioner finds the application to be within the scope of the Act and these regulations, the Commissioner shall (1) assign a number to the application and (2) forward one copy to the Secretary of the Department of Health and Human Services (HHS), and three copies, including one that has been signed in the original, to the Director. The Commissioner shall retain one copy signed in the original, and return the remaining copy to the applicant stamped "Accepted For Transmittal to the Department of Commerce". The applicant shall file the stamped copy of the form with the Port when formal entry of the article is made. If entry has already occurred under a claim of tariff item 851.60, the applicant (directly or through his/her agent) shall at the earliest possible date supply the stamped copy to the Port. Further instructions for entering instruments are contained in § 301.8 of the regulations.

§ 301.5 Processing of applications by the Department of Commerce.

(a) *Public notice and opportunity to present views.* (1) Within 10 days of receipt of an application from the Commissioner, the Director shall make a copy available for public inspection during ordinary business hours of the Department of Commerce. Unless the Director determines that an application has deficiencies which preclude consideration on its merits (e.g., insufficient description of intended purposes to rule on the scientific equivalency of the foreign instrument and potential domestic equivalents), he shall publish in the **Federal Register** a notice of the receipt of the application to afford all interested persons a reasonable opportunity to present their views with respect to the question "whether an instrument or apparatus of equivalent scientific value for the purpose for which the article is intended to be used is being manufactured in the United States." The notice will include the application number, the name and address of the applicant, a description of the instrument(s) for which duty-free entry is requested, the name of the foreign manufacturer and a brief summary of the applicant's intended purposes extracted from the applicant's answer to question 7 of the application. In addition, the notice shall specify the date the application was accepted by the Commissioner for transmittal to the Department of Commerce.

(2) If the Director determines that an application is incomplete or is otherwise deficient, he may request the applicant to supplement the application, as appropriate, prior to publishing the notice of application in the **Federal Register**. Supplemental information/ material requested under this provision shall be supplied to the Director in three copies within 20 days of the date of the request and shall be subject to the certification contained in Question 11 of the form. Failure to provide timely the requested information shall result in a denial of the application without prejudice to resubmission.

(3) *Requirement for presentation of views (comments) by interested persons.* Any interested person or government agency may make written comments to the Director with respect to the question whether an instrument of equivalent scientific value, for the purposes for which the foreign instrument is intended to be used, is being manufactured in the United States. Except for comments specified in paragraph (a)(4) of this section, comments should be in the form of supplementary answers to the applicable questions on the application form. Comments must be postmarked no later than 20 days from the date on which the notice of application is published in the **Federal Register**. In order to be considered, comments and related attachments must be submitted to the Director in triplicate; shall state the name, affiliation and address of the person submitting the comment; and shall specify the application to which the comment applies. In order to preserve the right to appeal the Director's decision on a particular application pursuant to § 301.6 of these regulations, a domestic manufacturer or other interested person must make timely comments on the application. Separate comments should be supplies on each application in which a person has an interest. However, brochures, pamphlets, printed specifications and the like, included with previous comments, if properly identified, may be incorporated by reference in subsequent comments. If the Director knows of the availability of a domestic instrument which may be comparable to the foreign instrument, he may: (i) Require the applicant to compare the domestic instrument with the foreign instrument; or (ii) compare the two instruments whether or not comments are received from a domestic manufacturer on the specific application.

(4) *Comments by domestic manufacturers.* Comments of domestic manufacturers opposing the granting of an application should:

(i) Specify the domestic instrument considered to be scientifically equivalent to the foreign article for the applicant's specific intended purposes and include documentation of the domestic instrument's guaranteed specifications and date of availability.

(ii) Show that the specifications claimed by the applicant in response to question 8 to be pertinent to the intended purpose can be equalled or exceeded by those of the listed domestic instrument(s) or that the applicant's alleged pertinent specifications should not be considered pertinent within the meaning of § 301.2(s) of the regulations for the intended purposes of the instrument described in response to question 7 of the application.

(iii) Where the comments regarding paragraphs (a)(4)(i) and (a)(4)(ii) of this section relate to a particular accessory or optional device offered by a domestic manufacturer, cite the type, model or other catalog designation of the accessory or device and include the specification therefor in the comments.

(iv) Where the justification for duty-free entry is based on excessive delivery time, show whether—

(A) The domestic instrument is as a general rule either produced for stock, produced on order, or custom-made and;

(B) An instrument or apparatus of equivalent scientific value to the article, for the purposes described in response to question 7, could have been produced and delivered to the applicant within a reasonable time following the receipt of the order.

(v) Indicate whether the applicant afforded the domestic manufacturer an opportunity to furnish an instrument or apparatus of equivalent scientific value to the article for the purposes described in response to question 7 and, if such be the case, whether the applicant submitted a formal invitation to bid that included the technical requirements of the applicant.

(5) *Untimely comments.* Comments must be made on a timely basis to ensure their consideration by the

Director and the technical consultants, and to preserve the commenting person's right to appeal the Director's decision on an application. The Director, in his discretion, may entertain comments filed untimely to the extent that they contain factual information, as opposed to arguments, explanations or recommendations.

(6) *Provision of general comments.* A domestic manufacturer who does not wish to oppose duty-free entry of a particular application, but who desires to apprise the Director of the availability and capabilities of its instrument(s), may at any time supply documentation to the Director without reference to a particular application. Such documentation shall be routinely taken into account by the Director when applications involving comparable foreign instruments are received. The provision of general comments does not preserve the commentor's right to appeal the Director's decision on a particular application.

(7) *Provision of application to domestic manufacturers.* To facilitate timely comments, the Director may furnish copies of certain applications to domestic manufacturers who intend to comment on applications, provided:

(i) The manufacturer requests the service in writing;

(ii) The manufacturer provides copies of current company literature regarding the domestic instrument and its guaranteed capabilities; and

(iii) The manufacturer identifies the specific models or types of comparable foreign instrument(s) that it proposes to comment on. The Director may furnish for comment copies of the appropriate applications to the domestic manufacturer until the firm requests that the service be discontinued, provided the firm utilizes the service to supply written comments on applications. If the recipient of the service fails to avail itself of the opportunity to comment on appropriate applications for a period of one year, the Director may at his discretion discontinue the service. For reasons of cost and administrative burden, the service may be discontinued at the discretion of the Director. In such case the Director shall notify all recipients of the service in writing of such discontinuance.

(b) *Additions to the record.* The Director may solicit from the applicant or from foreign or domestic manufacturers, and agents thereof, or any other person or Government agency considered by the Director to have competence on any issue pertaining to an application, any additional information the Director deems necessary to the rendering of a decision. The Director may attach such conditions and time limitations deemed appropriate upon the provision of such information and may draw appropriate inferences from a person's failure to provide the requested information.

(c) *Advice from technical consultants.* (1) The Director shall consider any written advice from the Secretary of HHS, or his delegate, on the question whether a domestic instrument of equivalent scientific value to the foreign instrument, for the pruposes for which the instrument is intended to be used, is being manufactured in the United States.

(2) After the comment period has ended (§ 301.5(a)(3)), the complete application and any comments received and related information are forwarded to the appropriate technical consultants for their written advice.

(3) The technical consultants are requested to provide their written recommendation within 30 days of the date of transmittal. The technical consultants relied upon for advice may include, but are not limited to, the National Institutes of Health (delegated the function by the Secretary of HHS), the National Bureau of Standards and the National Oceanographic and Atmospheric Administration.

(d) *Criteria for the determinations of the Department of Commerce*—(1) *Scientific Equivalency.* (i) The determination of scientific equivalency shall be based on a comparison of the pertinent specifications of the foreign instrument with similar pertinent specifications of comparable domestic instruments (see § 301.2(s) for the definition of pertinent specification). Ordinarily, the Director will consider only those performance characteristics which are "guaranteed specifications" within the meaning of § 301.2(r), above. In no event, however, shall the Director consider performance capabilities superior to the manufacturer's guaranteed specifications or their equivalent. In making the comparison the Director may consider a reasonable combination of domestic instruments that combines two or more functions into an integrated unit if the combination of domestic instruments is capable of accomplishing the purposes for which the foreign instrument is intended to be used. If the Director finds that a domestic instrument possesses all of the pertinent specifications of the foreign instrument, he shall find that there is being manufactured in the United States an instrument of equivalent scientific value for such purposes as the foreign instrument is intended to be used. If the Director finds that the foreign instrument possesses one or more pertinent specifications not possessed by the comparable domestic instrument(s), the Director shall find that there is not being manufactured in the United States an instrument of equivalent scientific value to the foreign instrument for such purposes as the foreign instrument is intended to be used.

(ii) Programs that may be undertaken at some unspecified future date shall not be considered in the Director's comparison. In making the comparison, the Director shall consider only the instrument and accompanying accessories described in the application and determined eligible by the U.S. Customs Service. The Director shall not consider the planned purchase of additional accessories or the planned conversion of the article at some unspecified future time for such programs.

(iii) In order for the Director to make a determination with respect to the "scientific equivalency" of the foreign and domestic instruments, the applicant's intended purposes must include either scientific research or science-related educational programs. Instruments used exclusively for nonscientific purposes have no scientific value, thereby precluding the requisite finding by the Director with respect to "whether an instrument or apparatus of equivalent scientific value to such article, for the purposes for which the article is intended to be used, is being manufactured in the United States." In such cases the Director shall deny the application for the reason that the instrument has no scientific value for the purposes for which it is intended to be used. Examples of nonscientific purposes would be the use of an instrument in a hospital for routine diagnosis or patient care (as opposed to clinical research); use of an instrument in the teaching of a nonscientific trade (e.g., printing, shoemaking, metalworking or other types of vocational training); use of an instrument in the teaching of nonscientific courses (e.g., music, home economics, journalism, drama); and use of an instrument to convey cultural information to the public (e.g., a planetarium in the Smithsonian Institution).

(2) *Manufactured in the United States.* An instrument shall be considered as being manufactured in the United States if it is customarily "produced for stock," "produced on order" or "custom-made" within the United States. In determining whether a U.S. manufacturer is able and willing to produce an instrument, and have it available without unreasonable

delay, the normal commercial practices applicable to the production and delivery of instruments of the same general category shall be taken into account, as well as other factors which in the Director's judgment are reasonable to take into account under the circumstances of a particular case. For example, in determining whether a domestic manufacturer is able to produce a custom-made instrument, the Director may take into account the production experience of the domestic manufacturer including (i) the types, complexity and capabilities of instruments the manufacturer has produced (ii) the extent of the technological gap between the instrument to which the application relates and the manufacturer's customary products, (iii) the manufacturer's technical skills, (iv) the degree of saturation of the manufacturer's production capacity, and (v) the time required by the domestic manufacturer to produce the instrument to the purchaser's specification. Whether or not the domestic manufacturer has field tested or demonstrated the instrument will not, in itself, enter into the decision regarding the manufacturer's ability to manufacture an instrument. Similarly, in determining whether a domestic manufacturer is willing to produce an instrument, the Director may take into account the nature of the bid process, the manufacturer's policy toward manufacture of the product(s) in question, the minimum size of the manufacturer's production runs, whether the manufacturer has bid similar instruments in the past, etc. Also, if a domestic manufacturer was formally requested to bid an instrument, without reference to cost limitations and within a leadtime considered reasonable for the category of instrument involved, and the domestic manufacturer failed formally to respond to the bid, for the purposes of this section the domestic manufacturer would not be considered willing to have supplied the instrument.

(3) *Burden of proof.* The burden of proof shall be on the applicant to demonstrate that no instrument of equivalent scientific value for the purposes for which the foreign instrument is to be used is being manufactured in the United States.

(4) *Excessive delivery time.* Duty-free entry of the instrument shall be considered justified without regard to whether there is being manufactured in the United States an instrument of equivalent scientific value for the intended purposes if excessive delivery time for the domestic instrument would seriously impair the accomplishment of the applicant's intended purposes. For purposes of this section, (i) except when objective and convincing evidence is presented that, at the time of order, the actual delivery time would significantly exceed quoted delivery time, no claim of excessive delivery time may be made unless the applicant has afforded the domestic manufacturer an opportunity to quote, and the delivery time for the domestic instrument exceeds that for the foreign instrument; and (ii) failure by the domestic manufacturer to quote a specific delivery time shall be considered a non-responsive bid (see § 301.5(d)(2)). In determining whether the difference in delivery times cited by the applicant justifies duty-free entry on the basis of excessive delivery time, the Director shall take into account (A) the normal commercial practice applicable to the production of the general category of instrument involved; (B) the efforts made by the applicant to secure delivery of the instruments (both foreign and domestic) in the shortest possible time; and (C) such other factors as the Director finds relevant under the circumstances of a particualr case.

(e) *Denial without prejudice to resubmission (DWOP).* The Director may, at any stage in the processing of an application by the Department of Commerce, DWOP an application if the application contains any deficiency which, in the Director's judgment, prevents a determination on its merits. The Director shall state the deficiencies of the application in a letter to the applicant in making the provisional denial.

(1) The applicant has 60 days from the date of the DWOP to correct the cited deficiencies in the application, unless a request for an extension of time for submission of the supplemental information has been received by the Director prior to the expiration of the 60-day period and is approved.

(2) The written request (letter of telegram) for an extension should indicate the reasons for the request and the amount of additional time needed. If granted, extensions of time will generally be limited to 30 days.

(3) Resubmissions must reference the application number of the earlier application. The resubmission shall be made by letter and filed in triplicate with the Director. The record of a resubmitted application shall include the original submission. Any new material or information contained in a resubmission should be clearly labeled and referenced to the applicable question(s) on the application form. The resubmission should be signed and dated by the individual in the applicant institution who signed the original application and must be for the instrument covered by the original application unless the DWOP letter specifies to the contrary. The resubmission shall be subject to the certification in the original application.

(4) If the applicant fails to resubmit within the applicable time period, the prior DWOP shall, irrespective of the merits of the case, have the effect of a final decision.

(5) The Director shall use the postmark date of the fully completed resubmission in determining whether the resubmission was made within the allowable time period. Certified or registered mail, or some other means which can unequivocally establish the date of mailing, is recommended.

(6) The applicant may, at any time prior to the end of the resubmission period, notify the Director in writing that it does not intend to resubmit the application. Upon such notification, the application will be deemed to have been withdrawn. (See § 301.5(g).)

(7) Information provided in a resubmission that, in the judgment of the Director contradicts or conflicts with information provided in a prior submission, or is not a reasonable extension of the information contained in the prior submission, shall not be considered in making the decision on an application that has been resubmitted. Accordingly, an applicant may elect to reinforce an original submission by elaborating in the resubmission on the description of the purposes contained in a prior submission and may supply additional examples, documentation and/or other clarifying detail, but the applicant shall not introduce new purposes or other material *changes* in the nature of the original application. The resubmission should address the specific deficiencies cited in the DWOP. The Director may draw appropriate inferences from the failure of an applicant to attempt to provide the information requested in the DWOP.

(8) In the event an applicant fails to address the noted deficiencies in the response to the DWOP, the Director may deny the application.

(9) Upon receipt of a responsive resubmission the Director shall publish a notice in the **Federal Register** citing the number of the earlier application, the name and address of the applicant institution, the instrument(s) involved, and any other information the Director deems relevant. The notice will also include the **Federal Register** citation for the original notice of application. Procedures applicable to comments on

the processing of original applications shall thereafter apply.

(f) *Decisions on applications.* The Director shall prepare a written decision granting or denying each application. However, when he deems appropriate, the Director may issue a consolidated decision on two or more applications. The Director shall promptly forward a copy of the decision to each applicant institution and to the **Federal Register** for publication.

(g) *Withdrawal of applications.* The Director shall discontinue processing an application withdrawn by the applicant and shall publish notice of such withdrawal in the **Federal Register.**

(h) Nothing in this subsection shall be construed as limiting the Director's discretion at any stage of processing to insert into the record and consider in making his decision any information in the public domain which he deems relevant.

§ 301.6 Appeals.

(a) An appeal from any decision made pursuant to 301.5(f) may be taken, in accordance with headnote 6(e) to part 4 of Schedule 8, only to the U.S. Court of Customs and Patent Appeals and only on a question or questions of law, within 20 days after publication of the decision in the **Federal Register.** If at any time while its application is under consideration by the Director or by the Court of Customs and Patent Appeals on an appeal from a finding by him, an institution cancels an order for the instrument or apparatus to which the application relates or ceases to have a firm intention to order such instrument or apparatus, the institution shall promptly notify the Director or such court, as the case may be.

(b) An appeal may be taken by:

(1) The institution which makes the application;

(2) A person who, in the proceeding which led to the decision, timely represented to the Secretary of Commerce in writing that he/she manufactures in the United States an instrument of equivalent scientific value for the purposes for which the instrument to which the application relates is intended to be used;

(3) The importer of the instrument, if the instrument to which the application relates has been entered at the time the appeal is taken; or

(4) An agent of any of the foregoing.

(c) Questions regarding appeal procedures should be addressed directly to the U.S. Court of Customs and Patent Appeals, Clerk's Office—Room 401, 717 Madison Place NW., Washington, D.C. 20439.

§ 301.7 Final disposition of an application.

(a) Disposition of an application shall be final when 20 days have elapsed after publication of the Director's final decision in the **Federal Register** (See § 301.6(a)) and no appeal has been taken pursuant to § 301.6 of these regulations, or if such appeal has been taken, when final judgment is made and entered by the Court.

(b) The Director shall notify the Customs Port when disposition of an application becomes final. If the Director has not been advised of the port of entry of the instrument, or if entry has not been made when the decision on the application becomes final, the Director shall notify the Commissioner of final disposition of the application.

(c) An instrument, the duty-free entry of which has been finally denied, may not be the subject of a new application from the same institution.

§ 301.8 Instructions for entering instruments through U.S. Customs under Tariff Item 851.60.

Failure to follow the procedures in this section may disqualify an instrument for duty-free entry notwithstanding an approval of an application on its merits by the Department of Commerce.

(a) *Entry procedures.* (1) An applicant desiring duty-free entry of an instrument must make a claim at the time of entry of the instrument into the Customs territory of the United States that the instrument is entitled to duty-free classification under tariff item 851.60.

(2) If no such claim is made the instrument shall be immediately classified without regard to tariff item 851.60, duty will be assessed, and the entry liquidated in the ordinary course.

(3) If a claim is made for duty-free entry under tariff item 851.60, the entry shall be accepted without requiring a deposit of estimated duties provided that a copy of the form, stamped by Customs as accepted for transmittal to the Department of Commerce in accordance with § 301.4(b), is filed simultaneously with the entry.

(4) If a claim for duty-free entry under tariff item 851.60 is made but is not accompanied by a copy of the properly stamped form, a deposit of the estimated duty is required. Liquidation of the entry shall then be suspended for a period of 180 days from the date of entry. On or before the end of this suspension period the applicant must file with the Customs Port a properly stamped copy of the form. In the event that the Customs Port does not receive a copy of the properly stamped form within 180 days the instrument shall be classified and liquidated in the ordinary course, without regard to tariff item 851.60.

(5) Entry of an instrument after the Director's approval of an application. Whenever an institution defers entry until after it receives a favorable final determination on the application for duty-free entry of the instrument, the importer shall file with the entry of the instrument (i) the stamped copy of the form, (ii) the institution's copy and (iii) proof that a *bona fide* order for the merchandise was placed on or before the 60th day after the favorable decision became final pursuant to § 301.7 of these regulations. Liquidation in such case shall be made under tariff item 851.60.

(b) *Normal Customs entry requirements.* In addition to the above entry requirements mentioned in paragraph (a) of this section, the normal Customs entry requirements must be met. In most of the cases, the value of the merchandise will be such that the formal Customs entry requirements, which generally include the filing of a Customs entry bond, must be complied with. (For further information, see 19 CFR 142.3 and 142.4 (TD-221)).

(c) *Late filing.* Notwithstanding the preceding provisions of § 301.8 any document, form, or statement required by regulations in this section to be filed in connection with the entry may be filed at any time before liquidation of the entry becomes final, provided that failure to file at the time of entry or within the period for which a bond was filed for its production was not due to willful negligence or fraudulent intent. Liquidation of any entry becomes conclusive upon all persons if the liquidation is not protested in writing in accordance with 19 CFR Part 174, or the necessary document substantiating duty-free entry is not produced in accordance with 19 CFR 10.112, within 90 days after notice of liquidation. Upon notice of such final and conclusive liquidation, the Department of Commerce will cease the processing of any pending application for duty-free entry of the subject article. In all other respects, the provisions of this section do not apply to Department of Commerce responsibilities and procedures for processing applications pursuant to other sections of these regulations.

(d) *Payment of duties.* The applicant will be billed for payment of duties when Customs determines that such payment is due.

§ 301.9 Uses and disposition of instruments entered under item 851.60, TSUS.

(a) An instrument granted duty-free entry may be transferred from the applicant institution to another eligible institution provided the latter institution agrees not to use the instrument for commercial purposes within 5 years of the date of entry of the instrument. In such cases title to the instrument must be transferred directly between the institutions involved. An institution transferring a foreign instrument entered under item 851.60 within 5 years of its entry shall so inform the Customs Port in writing and shall include the following information:

(1) The name and address of the transferring institution.

(2) The name and address of the transferee.

(3) The date of transfer.

(4) A detailed description of the instrument.

(5) The serial number of the instrument and any accompanying accessories.

(6) The entry number, date of entry, and port of entry of the instrument.

(b) Whenever the circumstances warrant, and occasionally in any event, the fact of continued use for 5 years for noncommercial purposes by the applicant institution shall be verified by Customs.

(c) If an instrument is transferred in a manner other than specified above or is used for commercial purposes within 5 years of entry, the institution for which such instrument was entered shall promptly notify the customs officials at the Port and shall be liable for the payment of duty in an amount determined on the basis of its condition as imported and the rate applicable to it.

§ 301.10 Importation of repair components under item 851.65 for article previously entered under item 851.60.

An institution which owns an instrument entered under tariff item 851.60 and desires to enter repair components for such instrument under tariff item 851.65 may do so without regard to the application procedures applicable to entries under item 851.60 provided the institution certifies to the customs official at the port of entry upon entry of such components that they are needed repair components for an instrument owned by that institution and previously entered and classified under tariff item 851.60.

John D. Greenwald,

Deputy Assistant Secretary for Import Administration, Department of Commerce.

William T. Archey,

Acting Commissioner, Customs Service.

John P. Simpson,

Acting Assistant Secretary (Enforcement & Operations), Treasury Department.

[FR Doc. 81-12515 Filed 4-27-81; 8:45 am]

BILLING CODE 3510-25-M

BILLING CODE 4810-22-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 761-0069]

Miles Laboratories, Inc.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, accepted subject to final Commission approval, would require, among other things, an Elkhart, Indiana manufacturer and seller of various non-prescription health care products to cease failing to make its advertising and promotional allowances available on proportionally equal terms to all customers, both direct and indirect. The order would also require the company to notify all its customers, as specified, of its advertising and promotional programs, and of the availability of usable and economically feasible alternatives. The firm would be further required to distribute a special written notice informing customers of the modification in its promotional programs, and provide its sales personnel with a copy of the order.

DATE: Comments must be received on or before June 29, 1981.

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

FOR FURTHER INFORMATION CONTACT: FTC/C, E. Perry Johnson, Washington, D.C. 20580. (202) 523-3601.

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

United States of America Before Federal Trade Commission

In the Matter of Miles Laboratories, Inc. a corporation; File No. 761-0069, agreement containing consent order to cease and desist.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Miles Laboratories, Inc., a corporation, hereinafter sometimes referred to as proposed respondent, and it now appearing that it is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Miles Laboratories, Inc., by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. Respondent Miles Laboratories, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 1127 Myrtle Street, in the City of Elkhart, State of Indiana.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

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

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

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

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of compalint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

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

Order

I

A. It is ordered that respondent, Miles Laboratories, Inc., a corporation, and its officers, directors, agents, representatives and employees, and its successors and assigns, directly or indirectly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale, or distribution of adult vitamins, pediatric vitamins, antiacid products, topical antiseptics such as Bactine, or other nonprescription health care products, except diagnostics, environmental control products, steriod products, aluminum acetate products, acne treatment products, medicated paste bandages and colloidal bath products (hereinafter referred to as "Respondent's Covered Products") in or affecting commerce, as "commerce" is defined in the Clayton Act, as amended, or the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

Paying or contracting for the payment of anything of value to, or for the benefit of, any customer as compensation or in consideration for any advertising or promotional services or any other service of facility furnished by or through such costomer in connection with the handling, sale or offering for sale of any of Respondent's Covered Products, unless (1) such payment or consideration is made available on proportionally equal terms to all customers, including customers who do not purchase directly from respondent, who compete in the distribution or resale of Respondent's Covered Products; and (2) all customers, including customers who do not purchase directly from respondent, who compete in the distribution or resale of Respondent's Covered Products are informed, in writing, in the manner provided in Paragraph I B, of (a) the terms and conditions of the promotional program or plan under which such payments are made, including the services or facilities to be furnished the methods by which performance will be proved; and (b) the availability of usable and economically feasible alternative services or facilities which competing customers could provide and be paid for on proportionally equal terms if the furnishing of identical services of facilities would not be economically feasible and usable in a practical business sense by all competing customers.

B. It is further ordered that respondent shall inform all customers of the terms and conditions of each of its advertising or promotional programs, the methods by which performance will be proved, and the availability of alternatives, as required by Paragraph I A, in the following manner:

1. Respondent shall cause copies of deal sheets or similar materials explaining the plan or program to be presented or delivered to each direct customer of respondent in sufficient time to enable each such customer to make an informed judgment whether to participate, and

2. At or about the same time respondent shall deliver sufficient copies of deal sheets or similar materials to respondent's wholesalers for presentation or distribution to each customer of such wholesalers that purchases any of Respondent's Covered Products. Respondent shall take steps, which need not include direct mailings, to insure that its indirect purchasing customers are informed of its advertising or promotional programs.

II

It is further ordered that respondent shall within thirty (30) days after service upon it of this order notify each retailer that purchased less than $5,000 of Respondent's Covered Products in 1979 of the availability of alternative methods of participation in respondent's advertising or promotional allowance programs by distributing a written notice in the form attached hereto as Exhibit A[1] in the following manner:

(1) Respondent's sales representatives will hand deliver sufficient copies of such notice to respondent's wholesalers for distribution to each customer of such wholesalers that purchases any of Respondent's Covered Products;

(2) Respondent will send such notice by direct mail to each retailer that buys Respondent's Covered Products directly from respondent and purchased less than $5,000 of such products in 1979; and

(3) Respondent will notify independent pharmacies by placing such notice in PHARMALERT, a national coop mailing service for independent drug stores.

[1] Exhibit A not reproduced here, but submitted with original document and available for inspection at principal office of Commission.

III

It is further ordered that respondent shall deliver a copy of this order to cease and desist to all sales and sales management personnel employed on the date of service of this order in each of respondent's operating divisions that is engaged in the sale of Respondent's Covered Products within the United States.

IV

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

V

It is further ordered that respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

Exhibit A

Letter to Smaller Direct/Non-Direct Retailers

Dear Retailer: Miles has recently revised its promotional trade advertising policy to encourage greater participation in its promotions by smaller direct retailers and non-direct retailers. We are recognizing the fact that some accounts would prefer more flexibility in advertising performance requirements, and for this reason we feel our new trade advertising policy will better serve your needs. We anticipate the ultimate results will be a stronger promotional program for both you and Miles.

Trade Advertising Performance Requirements

To receive promotional advertising payments a qualifying performance must be rendered by a participating account employing their most used medium such as newspapers, radio, television, circulars, handbills, window/wall banners, in-store displays, feature pricing, etc.

Upon completion of the advertising performance, the retailer must submit his invoice (or paid wholesaler invoice) to Miles along with a Miles Certificate of Advertising Performance for advertising other than newspaper, radio and television. This form provides for a discription of the advertising performance rendered by the account with the specific date(s) of performance. (See Attachment 1)

We look forward to your greater participation in Miles' promotions through your own creative advertising performance.

Miles Laboratories, Inc.

Attachment 1

Certificate of Advertising Performance

(Non-Direct Retailers)

This is to certify that advertising performance was rendered on the following Miles Laboratories, Consumer Products Division brands and package sizes:

Brand/ package size(s)	Date(s) of performance	Regular price	Feature price

Performance rendered on the above brands was my normal and most frequently employed form of advertising and price featuring to my customers. (Check form of advertising)

( ) Newspaper (tearsheet attached)
( ) Radio (script/affidavit attached)
( ) Television (script/affidavit attached)
( ) Home delivered Circular/Handbill (attached)
( ) Window/Wall Banner (attached)
( ) In-Store Extra Off-shelf Display (Describe)

( ) Other (describe)

Attached is my original paid wholesaler invoice to verify promotional purchases of the above ad featured Miles Brands.
Retailer's Name
Address
City
State
Zip Code
Authorized Signature for Retailer

(Title)

Send to Miles Laboratories, Inc., Dept. "G", P.O. Box 340, Elkhart, IN 46515.

Miles Laboratories, Inc.

File No. 761-0069

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Miles Laboratories, Inc. The agreement is the product of the Commission's investigation of the advertising and promotional practices of Miles and requires Miles to modify certain of its advertising and promotional practices.

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

Miles is a major manufacturer of health and beauty aids and home care products. The Commission's investigation focused on Miles' advertising and promotional practices in connection with its sales of antacid products, adult vitamins, and pediatric vitamins.

The complaint alleges that Miles paid or contracted for the payment of credits or sums of money in the form of discounts, allowances, rebates or deductions, as compensation or in consideration for promotional services or facilities provided by its customers in connection with the offering for sale or sale of Miles' products. The complaint further alleges that these promotional allowances discriminated against particular customers or classes of customers in that they were not available, in a practical business sense, on proportionally equal terms to all customers competing in the sale and distribution of Miles' products.

The purpose of the proposed order is to ensure that Miles' advertising and promotional programs do not discriminate against certain customers or classes of customers. Section I of the proposed order requires Miles to make its advertising and promotional allowances available on proportionally equal terms to all customers, including those who purchase Miles products from wholesalers, and to notify each of its customers of its advertising and promotional programs and of the availability of usable and economically feasible alternative programs that will enable all customers to participate.

Section I B specifies the steps Miles will take to notify its customers of these promotional programs. In addition, Miles has agreed, under Section II, to distribute a special written notice to inform all of its customers of the modifications in its promotional programs.

Section III requires Miles to distribute a copy of the order to its sale personnel.

Section IV requires that Miles file a report within sixty days after service of the order, setting forth the manner and form in which it has complied with the order.

In Section V, Miles agrees to notify the Commission at least thirty days prior to any organizational change that would affect compliance obligations.

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

Carol M. Thomas,
Secretary.

[FR Doc. 81-12704 Filed 4-27-81; 8:45 am]
BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

Federal Old-Age, Survivors, and Disability Insurance Benefits; Supplemental Security Income for the Aged, Blind, and Disabled; Reduction of Retroactive Social Security Benefits

Correction

In FR Doc. 81-10871, published at page 22609 on Monday, April 20, 1981, on page 22611, in the first column, in § 404.1123(d), in the twenty-third line, "§ 404.408(b))" should be corrected to read "§ 404.408b(b))".

BILLING CODE 1505-01-M

Food and Drug Administration

21 CFR Part 610

[Docket No. 81N-0118]

General Biological Products Standards for Aluminum in Biological Products

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the biologics regulations to increase the permissible level of aluminum in licensed biological products. The agency is proposing this amendment to make the biologics regulations consistent with standards adopted by the World Health Organization (WHO).

DATE: Comments by May 28, 1981.

ADDRESS: Written comments to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Paul K. Hiranaka, Bureau of Biologics (HFB-620), Food and Drug Administration, 800 Rockville Pike, Bethesda, MD 20205, 301-443-1306.

SUPPLEMENTARY INFORMATION: Aluminum in the form of aluminum hydroxide, aluminum phosphate, or alum is commonly used as an adjuvant

in biological products. Products such as Diphtheria and Tetanus Toxoids and Pertussis Vaccine Adsorbed contain aluminum adjuvants to increase their immunogenicity.

The amount of aluminum permitted in the recommended single human dose of a product is governed by § 610.15(a) (21 CFR 610.15(a)), which limits the aluminum to no more than 0.85 milligram/dose if the level is assayed, or 1.14 milligrams (mg) if the level is calculated. These levels are inconsistent with the standard of 1.25 mg of aluminum per single human dose adopted by the WHO. Moreover, based on recent data concerning hepatitis B vaccine, it appears that certain groups such as renal dialysis patients, who are at high risk of contracting hepatitis, may require a higher dosage of the vaccine which would, in turn, require amounts of the aluminum as high as 1.25 mg per single dose. Although as yet unlicensed, the first license for hepatitis B vaccine may be approved by FDA in the near future. To make the biologics regulations consistent with the WHO standard and to ensure that § 610.15(a) does not prohibit the usage of required amounts of hepatitis B vaccine, the agency is proposing to amend § 610.15(a). The proposed amendment would permit the use of up to 1.25 mg of aluminum (determined by assay) per single human dose of a product if data demonstating that the amount of aluminum used is safe and necessary to produce the intended effect, are submitted to and approved by the Director, Bureau of Biologics.

The agency has determined pursuant to 21 CFR 25.24(d)(10) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 502, 701, 52 Stat. 1050–1051 as amended, 1055–1056 as amended (21 U.S.C. 352, 371)) and the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 610 be amended by revising § 610.15(a) to read as follows:

§ 610.15 Constituent materials.

(a) *Ingredients, preservatives, diluents, adjuvants.* All ingredients used in a licensed product, and any diluent provided as an aid in the administration of the product, shall meet generally accepted standards of purity and quality. Any preservative used shall be sufficiently nontoxic so that the amount present in the recommended dose of the product will not be toxic to the recipient, and in the combination used it shall not denature the specific substances in the product to result in a decrease below the minimum acceptable potency within the dating period when stored at the recommended temperature. Products in multiple-dose containers shall contain a preservative, except that a preservative need not be added to Yellow Fever Vaccine, Polio Virus Vaccine Live, Oral, or to viral vaccines labeled for use with the jet injector, or to dried vaccines when the accompanying diluent contains a preservative. An adjuvant shall not be introduced into a product unless there is satisfactory evidence that it does not affect adversely the safety or potency of the product. The amount of aluminum in the recommended individual dose of a biological product shall not exceed:

(1) 0.85 milligram if determined by assay;

(2) 1.14 milligrams if determined by calculation on the basis of the amount of aluminum compound added; or

(3) 1.25 milligrams determined by assay provided that data, demonstrating that the amount of aluminum used is safe and necessary to produce the intended effect, are submitted to and approved by the Director, Bureau of Biologics.

* * * * *

Hepatitis B vaccine is a potentially life-saving vaccine that should be available in the very near future. As discussed above, the current regulation would prohibit the use of the amount of hepatitis B vaccine which may be required for renal dialysis patients. The agency has therefore decided to reduce the comment period from 60 days to 30 days pursuant to 21 CFR 10.40(b)(2).

Interested persons may, on or before May 28, 1981, submit to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Pub. L. 96-354 and Executive Order 12291, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not have a significant impact on a substantial number of small entities and does not involve major economic consequences as defined by Executive Order 12291. The proposal would not place any additional economic burdens on either small or large businesses. A copy of the regulatory flexibility assessment and the regulatory impact assessment supporting these determinations are on file with the Dockets Management Branch, Food and Drug Administration.

Dated: April 13, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-11734 Filed 4-27-81; 8:45 am]

BILLING CODE 4110-03-M

---

21 CFR Part 801

[Docket No. 80N-0425]

Menstrual Tampons; User Labeling; Reopening of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Proposed Rules; Reopening of Comment Period.

SUMMARY: The Food and Drug Administration (FDA) is reopening the comment period on its proposed regulation to require a statement in the labeling of menstrual tampons warning users about toxic shock syndrome (TSS). FDA is taking this action because of new information concerning TSS and in response to two requests to extend the comment period.

DATES: Written comments on or before June 29, 1981. FDA intends that any final regulation issued in this matter would become effective 60 days after the date of publication of the final rule.

ADDRESS: Written comments to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lawrence Kobren, Bureau of Medical Devices (HFK-310), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7222.

Background

SUPPLEMENTARY INFORMATION: In the Federal Register of October 21, 1980 (45 FR 69840), FDA published a proposed rule that would require that tampons be labeled with a warning concerning the dangers of toxic shock syndrome (TSS). Interested persons were given until

November 20, 1980, to comment on the proposed rule.

At the time of publication of the proposal, FDA placed in the administrative record on file in the Dockets Management Branch, two TSS studies conducted by the Centers for Disease Control (CDC) and TSS studies conducted by the Utah and Minnesota State health departments. After the comment period closed, two articles concerning TSS were published in *The New England Journal of Medicine* (Refs. *1* and *2*). Davis et al. (Ref. *1*) presented the results of a study conducted by Wisconsin public health and University of Wisconsin personnel; Shands et al. (Ref. *2*) summarized the most recent CDC study (CDC 2). Also, the health departments of Minnesota, Wisconsin, and Iowa conducted a case-control TSS study (the tri-State study) (Ref. *3*), and the CDC issued a *Morbidity and Mortality Weekly Report* (MMWR) summarizing the incidence of TSS through December 1980 (Ref. *4*).

FDA recognizes that reopening the comment period will result in a delay in issuing any final rule. FDA believes, however, that all interested persons should have an opportunity to comment on the new studies, information, and analysis now available (Ref. *5*). Further, FDA, CDC, and tampon manufacturers have provided considerable information to health professionals and consumers about the danger of TSS and its association with tampons. The news media also have widely publicized TSS (Ref. *6*). For these reasons, FDA believes the delay in final action on the proposal is warranted.

Studies

FDA believes that studies in the record demonstrate that: (1) tampons as a class are associated with TSS; (2) users of Rely® brand of tampon have a higher risk of getting TSS than users of other brands of tampons; and (3) menstruating women of all ages who use tampons are at risk of contracting TSS—there is a higher incidence of TSS among younger women (Ref. *15*). (The Rely® brand tampon was removed from the market by the manufacturer under a consent agreement with FDA.)

CDC 2 and Utah

Given the data available to FDA on TSS and tampons, a possible hypothesis is that use of tampons still on the market is not associated with TSS. To test this hypothesis, FDA analyzed data from the CDC 2 and Utah studies, separately and combined, in each case excluding the Rely® data (Ref. *7*).

The Utah study results, when considered separately from other data, failed to show an increased risk of TSS for users of tampons other than Rely®. The apparent support for the hypothesis presented by analysis of the Utah study was not unexpected. When a study contains so few cases (as in this instance when data concerning Rely® tampons are removed), it has little power to detect other than very large risks. FDA believes, therefore, that the Utah study can neither disprove nor confirm the hypothesis.

The CDC 2 results, when considered separately from other data, do not confirm the hypothesis. Quite the contrary, those results indicate that the hypothesis is wrong and, that tampons other than Rely® *do* contribute to the increased risk of TSS. The CDC 2 results were "borderline" with respect to a statistically significant association between TSS and tampons other than Rely® ($P=0.053$, Fisher's exact). However, as stated in the findings on statistical significance in the Commissioner's decisions on Cyclamate and Benylin, although $P<0.05$ has in the past been used as a standard, this usage is grounded in custom, not science or law (Refs. *8* and *9*). The difference between a confidence level of $P=0.05$ and $P=0.053$ is merely a matter of the degree of certainty. In the former case, one is 95 percent certain that the observed result is not due to chance. In the latter case, one is 94.7 percent certain. There is no valid scientific or legal rationale for concluding that there is a substantial difference between the two confidence levels. For that reason, FDA believes the CDC 2 results show that there is an association between TSS and tampons other than Rely®.

When data from the Utah and CDC 2 studies were pooled and reanalyzed, they showed an increased risk of TSS for users of tampons other than Rely® ($P=0.0072$, Fisher's exact) and no statistically significant difference in risk was found among the other brands ($P=0.269$, Chi-square).

The two studies were pooled to provide a sample size adequate to permit more elaborate statistical analysis. Pooling data from more than one study is a routine procedure used in data analysis and is appropriate whenever the methodologies used to collect the data are sufficiently similar and the data are sufficiently homogeneous. More observations improve the precision of estimates of risk and the power to detect differences of changes in risk. FDA combined the CDC 2 and Utah studies because these studies alone contain data based on exclusive use, data from which conclusions can be drawn relating specific brand use to risk of TSS. Further, the case definitions for Utah and CDC 2 are the same, and the cases and controls are matched in a similar manner. The CDC 2 cases and controls are matched by age, sex, and "best friend." Each case recommended three "best friends" of the same age and sex. The "best friend" method of control selection tends to match cases and controls on several socio-economic variables such as income, race, education, and marital status. When the cases and controls in the CDC 2 study are compared with respect to these variables, no important differences are found. The Utah cases and controls are matched by age, sex, and "neighbor." The "neighbor" method of selection also tends to match cases and controls on such variables as income, race, education, and marital status. When the cases and controls in the Utah study are compared with respect to these variables, no important differences are found.

In summary, FDA believes that the CDC 2 study shows that tampon users as a class are at greater risk than nonusers, even when the tampon users use a tampon other than Rely®. The CDC 2 and Utah studies, when combined, further confirm the increased risk of TSS for users of tampons other than Rely® In addition, in the combined data no statistically significant difference in risk was found among those other brands of tampons.

Tri-State

Beginning on January 12, 1981, Dr. Michael Osterholm, Minnesota Health Department epidemiologist, made public the preliminary findings of the tri-State study, which compared 80 cases of TSS to 160 matched controls. Dr. Osterholm reported, in part, that: (1) Users of each brand of tampons have a greater risk of contracting TSS than non-tampon users; (2) users of high-absorbency tampons have a greater risk of contracting TSS than users of low-absorbency tampons; (3) there is some indication of increased risk associated with Rely® brand tampons beyond that predicted by their absorbency; and (4) 50 percent of the cases in the tri-State study involved women under 19 years of age (Ref. *3*).

At the time tri-State study was announced, FDA informally reviewed the study's preliminary data, design, and the analytical methods applied to the data. Following this informal review, FDA tentatively concluded that the conclusions summarized above were supported by the data. FDA believes that this study provides significant information regarding TSS that confirms

earlier studies on TSS as reported in the October 21, 1980, proposal. For that reason, FDA has requested from the Minnesota Department of Health the study and its underlying data (Refs. *10*, *11*, and *12*). This information has been furnished to FDA to be added to the administrative record (Ref. *17*).

Wisconsin

As stated above, the final results of the Wisconsin study previously reported in the June 27, 1980, MMWR have been published in *The New England Journal of Medicine* (Ref. *1*). Davis et al. concluded that the study showed (1) an association between TSS and tampon use ($P<0.01$); (2) the incidence of TSS in Wisconsin was 6.2 per 100,000 menstruating women per year; and (3) the rate of TSS among women younger than 30 years was 2.4 to 3.3 times the rate among those who were 30 or older. FDA has reviewed the article and believes that the analyses performed and statistical techniques used are appropriate, and that the conclusions drawn are valid. The agency also requested from Dr. Davis the data underlying the Wisconsin study. These data have been received and added to the administrative record (Refs. *13* and *14*).

Morbidity and Mortality Weekly Report

On January 30, 1981, CDC published MMWR Vol. 30, No. 3 summarizing the incidence of TSS in the United States from 1970 to 1980 (Ref. *4*). The MMWR reported that to date 941 cases of TSS have been confirmed to CDC. Of the confirmed cases, 928 (99 percent) were in women; 905 (98 percent) of these women had onset during a menstrual period while using tampons. Eleven cases occurred in the postpartum period. The age range for female patients was 6 to 61 years, with a mean of 23 years. One-third of all cases occurred in women 15 to 19 years old. Seventy-three cases (all women) resulted in death (case fatality ratio=7.8 percent).

The MMWR indicates that there was a rapidly increasing upward trend in reported TSS cases through August 1980, and a sudden decrease in the fourth quarter of 1980. More than 100 cases were reported in August; thereafter there was a decline and in December 1980, fewer than 40 cases were reported. CDC has subsequently advised FDA that through March 2, 1981, 1,024 confirmed cases with 78 deaths have been reported to CDC (Ref. *16*). Although the significance of the sudden decline in the number of reported TSS cases is unknown, the decline may be due to factors such as the removal of Rely3from the market, the lag time in case reporting, diminished interest in the disease due to waning media attention, seasonal variation for the syndrome, a decrease in tampon usage, and a change in the tampon wearing habits of women.

Public Comment

FDA invites comments on all aspects of TSS and its relationship with tampons, but FDA particularly invites comments on the following aspects at this time.

1. Is there a need for a warning statement or has that need been obviated by (a) the widespread dissemination of information concerning TSS at the time the proposal was issued or (b) the apparent decline in the number of cases during the last quarter of 1980? (c) Other factors?

2. Should FDA make changes in the content, format, or location of the proposed warning in light of all the studies, information, and analyses now available? For example, should the warning include a statement directed towards women under the age of 20? 30? Any specific age?

3. Is FDA's rationale and support for combining data from the CDC 2 and Utah studies appropriate?

References

The following information has been placed in the Dockets Management Branch, Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons from 9 a.m. to 4 p.m., Monday through Friday.

1. Davis, J. P., et al., "Toxic-Shock Syndrome," *The New England Journal of Medicine*, 303:1429-1435, December 18, 1980.

2. Shands, K. N., et al., "Toxic-Shock Syndrome in Menstruating Women," *The New England Journal of Medicine*, 303:1436-1442, December 18, 1980.

3. News Release from the Minnesota Department of Health, January 13, 1981.

4. Epidemiologic Notes and Reports: Follow-up on Toxic-Shock Syndrome, International Notes, Toxic-Shock Syndrome-Canada, *Morbidity and Mortality Weekly Report*, Centers for Disease Control, January 30, 1981, Vol. 30, No. 3.

5. FDA News Release P81-3 January 12, 1981.

6. Letter from Jere E. Goyan to Judith Beck and Charlotte Oram, Woman Health International, December 19, 1980.

7. BMD Combined Utah and CDC 2 Data Analysis, February 3, 1981.

8. Cyclamate (Cyclamic Acid, Calcium Cyclamate, and Sodium Cyclamate), Commissioner's Decision 45 FR 61474 at 61479; September 16, 1980.

9. Warner-Lambert/Parke-Davis & Co., Benylin; Final Decision 44 FR 51512 at 51520; August 31, 1979.

10. Letter from Mark Novitch, M.D. to Dr. Michael Osterholm, Minnesota Department of Health, January 27, 1981.

11. Memorandum of telephone conversation, Dr. Michael Osterholm-Ann B. Holt, DVM, February 2, 1981.

12. Letter from Michael T. Osterholm, Ph.D., M.P.H. to Mark Novitch, M.D., February 9, 1981.

13. Letter from Mark Novitch, M.D., to Jeffrey P. Davis, M.D. Wisconsin Division of Health, January 27, 1981.

14. Letter and enclosure from Jeffrey P. Davis, M.D., to Dr. Ann Holt, February 20, 1981.

15. Chart showing distribution of confirmed TSS cases by age—Prepared by the Bureau of Medical Devices on the basis of data provided by CDC, March 10, 1981.

16. Table and chart showing distribution of confirmed TSS cases by date of onset, January 1979 through February 1981—Prepared by the Bureau of Medical Devices on the basis of data provided by CDC, March 10, 1981.

17. Memorandum of telephone conversation, Mark Novitch, M.D.-Dr. Michael Osterholm, April 3, 1981.

Interested persons may, on or before June 29, 1981, submit to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are fo be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 3, 1981.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 81-12474 Filed 4-27-81; 8:45 am]

BILLING CODE 4110-03-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1-FRL 1800-8]

Approval and Promulgation of Implementation Plans; Revision to the Massachusetts State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve a revison to the Massachusetts State Implementation Plan submitted by the Massachusetts Department of Environmental Quality Engineering on 25 November 1980. This revision would relax 310 CMR 7.05(1)(d)2 for a thirty (30) month period to allow unit 7 of

Boston Edison's Mystic Generating Station in Everett, Massachusetts, to burn up to 2.2% sulfur content residual oil.

DATES: Comments must be received on or before May 28, 1981.

ADDRESSES: Copies of the Massachusetts submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M. St., S.W., Washington, D.C. 20460; and Department of Environmental Quality Engineering, 600 Washington Street, Boston, Massachusetts 02111.

Comments should be submitted to Harley Laing, Chief, Air Branch, Region I, Environmental Protection Agency, Room 1903, JFK Federal Building, Boston, Massachusetts 02203.

FOR FURTHER INFORMATION CONTACT: Brian Hennessey, Air Branch, EPA Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203, (617) 223-5609.

SUPPLEMENTARY INFORMATION: On 25 November 1980, the Commissioner of the Massachusetts Department of Environmental Quality Engineering (DEQE) submitted a revision (described below) to the Massachusetts State Implementation Plan (SIP) to EPA for review and approval. This SIP revision is the latest in a series of sulfur dioxide (SO_2) emission limit relaxations applicable to Boston Edison's steam electric generating stations in the Metropolitan Boston area. SIP revisions which EPA has already approved for these plants include:

(1) The initial Massachusetts SIP limitation on fuel sulfur content, which applied throughout the Boston core area and required the use of residual fuel with a sulfur content not over 0.28 pounds of sulfur per million (#S/10 ^{6}) Btu (37 FR 10842). For residual oil this limit corresponds to approximately 0.5% sulfur (S) by weight.

(2) A temporary relaxation of the basic SIP SO_2 limitation which allowed Boston Edison's L Street, New Boston, and Mystic Generating Stations (consisting of units 4, 5, 6, and 7) to burn residual fuels with a sulfur content up to 0.55 #S/10 ^{6} Btu or about 1.0% S by weight for residual oil (40 FR 56889).

(3) A one year extension of the foregoing 0.55 #S/10 ^{6} Btu sulfur limitation (42 FR 42218).

(4) Another one year extension of the 0.55 #S/10 ^{6} Btu limit (43 FR 56040).

(5) A revision permanently allowing use of 0.55 #S/10 ^{6} Btu residual fuel in Boston Edison's L Street, New Boston, and Mystic Generating Stations (44 FR 157380).

The SIP revision EPA is proposing to approve today represents a variance approved by DEQE pursunt to 310 CMR 7.50 of the Regulations for the Control of Air Pollution in the Metropolitan Boston Air Pollution Control District. The variance applies to the 551 MW unit 7 at Boston Edison's Mystic Generating Station in Everett, Massachusetts, and not to units 4, 5, and 6 at Mystic Station or to the Company's L Street and New Boston Generating Stations which must all continue to comply with the 0.55 #S/ 10^6 Btu limit. Further, sulfur-in-fuel requirements remain unchanged for all of the many other major and minor SO_2 point sources throughout the Boston core area. Among the terms DEQE has attached to the variance, and therefore to the SIP revision EPA proposes to approve, are the following:

(1) Regulation 310 CMR 7.05(1)(d)2 would be relaxed from 0.55 #S/10^6 Btu (approximately 1.0% S by weight) to allow the use of fuel with a sulfur content of up to 1.21 #S10^6 Btu (approximately 2.2% S by weight) in unit 7 of Boston Edison's Mystic Generating Station.

(2) Relaxation of 310 CMR 7.05 (1)(d)2 would be effective for a thirty (30) month period commencing on the date of receipt by DEQE of written agreement to the terms of the variance from Boston Edison.

(3) DEQE will require particulate stack tests on the higher sulfur fuel to demonstrate compliance with the 0.05 #10^6 Btu particulate emission limit of 310 CMR 7.02(8). Failure to comply with this emission limit will result in a return to use of 0.55 #S/10^6 Btu residual fuel in unit 7.

(4) By March 1982 Boston Edison must submit to DEQE a plan and schedule for system wide SO_2 reductions to pre-variance levels.

(5) Unit 7 must burn low sulfur fuel under adverse meterological conditions when directed by DEQE.

Assuming 1978 fuel consumption and the 0.55 #S/10^6 Btu fuel sulfur limitation, the Mystic Generating Station emits approximately 22600 tons per year (TPY) of SO_2. If units 4, 5, and 6 continue to burn 0.55 #S/10^6 But fuel and use of 1.21#S/10^6 Btu fuel is approved for unit 7, annual SO_2 emissions from the Mystic Generating Station will increase by 19500 TPY SO_2 to total 42100 TPY SO_2.

EPA must approve SIP revisions such as this one if it is shown that neither Prevention of Significant Deterioration (PSD) air quality increments nor national ambient air quality standards (NAAQS) will be violated. It is EPA's judgment, base on a review of dispersion modelling submitted by Boston Edison To DEQE, that approval of 1.21 #S/10^6 Btu fuel use in Mystic Station unit 7 will violate neither the NAAQS for SO_2 nor the Class II SO_2 air quality increments. The modelling reviewed by EPA consisted of five year Industrial Source Complex Model runs for four Boston Edison Plants contemplating SO_2 emission relaxations and two increment-consuming SO_2 sources in the Boston area. In the NAAQS analysis, the interaction of all other sources (i.e. major, minor, and area SO_2 sources within 20 km) with the Edison plants was investigated using ambient monitoring data and screening models exclusively. These analyses predicted SO_2 concentrations, or levels in units of micrograms per cubic meter (μg/m3) as follows:

NAAQS analysis	Standard level	Highest level-predicted
3 hour	1,300	821.4
24 hour	365	303.1
Annual	80	75.7

PSD increment analysis	Class II increment level	Highest level predicted
3 hour	512	411.3
24 hour	91	*136.4
Annual	20	9.7

While the highest 24 hour incremental impact (marked with an asterisk) exceeds the corresponding Class II SO_2 PSD increment, the highest second high predicted impact, which was 87.3 μg/m^3, does not. Since highest second high concentration predictions are the ultimate test of compliance with short term standards and increments, unit 7 of Mystic Station can burn higher sulfur fuel and meet all applicable ambient SO_2 air quality requirements. Last, it should be noted that the foregoing model estimates may be conservative because high sulfur fuel use at maximum load was assumed for the entire Mystic Generating Station.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regualtory Impact Analysis. This regulation is not major because it only approves state actions. It imposes no new 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 these comments are available for public

inspection at EPA Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203.

Pursuant to the provisions of 5 U.S.C. Section 605(b) the Administrator has certified that SIP approvals under Sections 110 and 172 of the Clean Air Act will not have a significant impact on a substantial number of small entities 46 FR 8709 (January 27, 1981). This action, if promulgated, constitutes a SIP approval under Sections 110 and 172 within the terms of the January 27 certification. This action only approves state actions. It imposes no new requirements. Moreover, due to the nature of the federal-state relationship, federal inquiry into the economic reasonableness of the state actions would serve no practical purpose and could well be improper. In addition, the action applies to only one facility.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of Sections 110(a)(2)(A)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51. This revision is being proposed pursuant to Section 110(a) and 301 of the Clean Air Act, as amended (42 U.S.C. 7401 and 7601).

Dated: February 20, 1981.

Leslie Carothers,

Acting Regional Administrator, Region I.

[FR Doc. 81-12741 Filed 4-27-81; 8:45 am]

BILLING CODE 6560-38-M

---

40 CFR Part 52

[A10 FRL 1804-1]

State of Oregon; State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rulemaking.

SUMMARY: EPA proposes to approve several actions that Oregon Department of Environmental Quality (DEQ) has taken to satisfy EPA's conditions of approval on the State Implementation Plan (SIP). This is the initial step toward full unconditional approval of the Oregon SIP. Public comment is sought on EPA's proposed action.

DATE: Comments must be received on or before May 28, 1981.

ADDRESSES: Copies of materials submitted to EPA may be examined during normal business hours at:

Central Docket Section (10A–80–9), West Tower Lobby, Gallery I, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460

Air Programs Branch, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101

State of Oregon, Department of Environmental Quality, 522 S.W. Fifth, Yeon Bldg., Portland, Oregon 97207

Comments should be addressed to: Laurie M. Kral, Air Programs Branch, M/S 629, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101

FOR FURTHER INFORMATION CONTACT: Michael F. Gearheard, Air Programs Branch, M/S 625 Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101 Telephone No. (206) 442–1226 (FTS) 399–1226.

SUPPLEMENTARY INFORMATION:

I. Background

On June 24, 1980 (45 FR 42265) EPA published final action on the Oregon Part D SIP by approving some portions and conditionally approving other portions. As part of that actions, EPA described the conditional approval process and its effect on the rulemaking action.

For all but one of the conditionally approved portions of the SIP, Oregon was required to submit material to satisfy the conditions by December 24, 1980. One condition required Oregon to submit their vehicle inspection and maintenance program operating rules by July 15, 1980. This condition was satisfied, and EPA published approval of Oregon's submittal on January 2, 1981 (46 FR 35).

DEQ submitted material to satisfy the remaining approval conditions on September 8, 1980, October 16, 1980, December 5, 1980, and December 19, 1980. EPA announced receipt of these materials on January 21, 1981 (46 FR 6021), and accepted comments on the information until February 20, 1981. Public comment is now sought on EPA's proposed approval of these materials as adequate to satisfy the conditions of approval placed on the Oregon Part D SIP.

II. Analysis of Submitted Material and Proposed EPA Action

The analysis of the material submitted by Oregon to satisfy the approval conditions in EPA's June 24, 1980 **Federal Register** action is presented below. Each condition is stated in the order it appeared in the **Federal Register**. State action to satisfy the condition and EPA's proposed action(s) are described for each condition.

40 CFR 52.1982(a) Control Strategy: Ozone. June 24, 1980 (45 FR 42279):

1. *Condition*—The rules governing volatile organic compounds (VOC) sources in the Salem nonattainment area are made equivalent to reasonably available control technology (RACT).

State Action—On October 16, 1980, Oregon submitted revised rules (OAR 340–22–100 through 340–22–220) governing VOC sources. These rules are judged to be RACT.

EPA Proposed Action—Approve, the condition is satisfied.

2. *Condition*—DEQ submits approvable source test procedures for VOC sources in the Salem nonattainment area.

State Action—On December 19, 1980, Oregon submitted their source test manual for VOC sources.

EPA Proposed Action—Although EPA has not completed final review of DEQ's submitted source test procedures manual, EPA is proposing approval at this time based on EPA's preliminary assessment that the procedures manual is substantially approvable.

3. *Condition*—DEQ submits formally adopted compliance schedules for the VOC sources in the Salem nonattainment area.

State Action—On October 16, 1980, DEQ submitted revised rules governing VOC sources. These rules include compliance schedules for VOC sources in nonattainment areas.

EPA Proposed Action—Approve, the condition is satisfied.

4. *Condition*—The rules governing VOC sources in the Portland and Medford-Ashland nonattainment areas are made equivalent to RACT.

State Action—As stated under Condition #1 above, Rules OAR 340–22–100 through 340–22–220, submitted by DEQ on October 16, 1980, are judged to be RACT. Also on September 8, 1980, DEQ submitted documentation that requirements placed on one VOC source in the Medford-Ashland area are equivalent to RACT.

EPA Proposed Action—Approve, the condition is satisfied with the understanding described below under Condition #15 regarding paper coating processes.

5. *Condition*—DEQ submits approvable source test procedures for VOC sources in the Portland and the Medford-Ashland nonattainment areas.

State Action—Same as for Condition #2 above.

EPA Proposed Action—Approve, as described for Condition #2 above.

6. *Condition*—DEQ submits formally adopted compliance schedules for VOC sources in the Portland and Medford-Ashland nonattainment areas.

State Action—Same as for Condition #3 above.

EPA Proposed Action—Approve, the condition is satisfied.

40 CFR 52.1985(a) Rules and Regulations. June 24, 1980 (as FR 42279):

7. *Condition*—The Oregon new source review regulations (OAR 340-20-190 through 340-20-197) are modified to include an adopted emission offset program.

State Action—On December 17, 1980, DEQ submitted draft revised new source review regulations scheduled for public hearing in March and adopted in April or May 1981. The draft regulations include an emission offset program.

EPA Proposed Action—Approve, with the understanding that the draft new source review regulations will be adopted, substantially unchanged, before EPA takes final action on this condition.

8. *Condition*—The Oregon new source review regulation (OAR 340-20-192(3)) governing multiple sources under single ownership is modified to require that other sources owned by the company applying for the permit be in compliance "with all applicable emission limitations and standards under the Act."

State Action—The draft revised Oregon new source review regulations noted above under Condition #7 appear to satisfy this condition.

EPA Proposed Action—Approve, as described for Condition #7 above.

9. *Condition*—For gasoline marketing VOC sources the definition of "delivery vessel" is changed to require vapor capture in the transfer of gasoline from terminals to bulk plants.

State Action—The revised VOC rules submitted by DEQ on October 16, 1980 include the modification specified in the EPA approval conditions at OAR 340-22-102(11).

EPA Proposed Action—Approve, the condition is satsified.

10. *Condition*—For gasoline marketing VOC sources the conflicting vapor capture exemptions in the Oregon rules at OAR 340-20-110(2)(c) and OAR 340-20-115(5) are removed by deleting OAR 340-20-110(2)(c) from the rules.

State Action—The revised VOC rules submitted by DEQ on October 16, 1980 include the modification specified in the EPA approval conditions at OAR 340-22-110.

EPA Proposed Action—Approve, the condition is satisfied.

11. *Condition*—For gasoline marketing VOC sources the exemption of delivery vessels and storage tanks at gasoline dispensing facilities from vapor capture requirements, where the source (gasoline dispensing facility) receives 250,000 gallons of gasoline or less per year from a bulk plant, is changed to an exemption of no greater than 10,000 gallons per month.

State Action—The revised VOC rules submitted by DEQ on October 16, 1980 include the modification specified in the EPA approval conditions at OAR 340-22-120.

EPA Proposed Action—Approve, the condition is satisfied.

12. *Condition*—For gasoline marketing VOC sources the vapor capture rules for (1) "Small Storage Tanks" and (2) "Bulk Gasoline Plants and Delivery Vessels" are revised to require vapor-tight capture systems.

State Action—The revised VOC rules submitted by DEQ on October 16, 1980 include the modification specified in the EPA approval conditions at OAR 340-22-110.

EPA Proposed Action—Approve, the condition is satisfied.

13. *Condition*—The rules for asphalt VOC sources are revised to contain limits, consistent with EPA guidance, on the amount of solvent which is permitted in emulsified asphalts.

State Action—The revised VOC rules submitted by DEQ on October 16, 1980 include the modification specified in the EPA approval conditions at OAR 340-22-140.

EPA Proposed Action—Approve, the condition is satisfied.

14. *Condition*—The rules for surface coating VOC sources are revised so that the term "coating line" is defined to include the coater, flash-off area, and dryer.

State Action—The revised VOC rules submitted by DEQ on October 16, 1980 include the modification specified in the EPA approval conditions at OAR 340-22-170.

EPA Proposed Action—Approve, the condition is satisfied.

15. *Condition*—For paper coating VOC sources documentation is to be provided to show that the "inert gas process paper coating" rule is in fact reasonably available control technology.

State Action—On September 8, 1980, DEQ provided documentation that the emission control requirements applicable to inert gas process paper coating is RACT. DEQ's revised rule governing surface coating (OAR 340-22-170) specifies an emission limitation of 2.9 pounds per gallon for all paper coating processes.

EPA Proposed Action—While EPA agrees that Oregon's RACT documentation satisifies this condition, clarification of OAR 340-22-170 paragraph five, concerning compliance determination, is currently sought from DEQ.

The last sentence of OAR 340-22-170 paragraph five states:

> Compliance determination of surface coated product(s) pursuant to the requirements of Table 1 may be based upon an equivalency determination (See EPA May 5, 1980 memo "Procedure to Calculate Equivalency with the CTG Recommendations for Surface Coating" on file with the Department) of the mass of VOC per volume of solids applied including transfer efficiency as applicable, on a plant site or a process basis."

EPA believes that inclusion of this sentence in the surface coating rule jeopardizes the enforceability of the rule. The inert gas process is located at a large paper coating facility in the Medford-Ashland ozone nonattainment area. EPA is currently asking DEQ to: (a) specify the emission level, calculated according to OAR 340-22-170 paragraph five, above which a source would be considered to be in violation of the 2.9 pound per gallon emission limitation; (b) define the SIP-required source test procedures used to determine compliance with this calculated emission level; and (c) specify the exact portions of the inert gas process subject to this emission level. EPA approval of this condition is with the understanding that Oregon will modify the SIP accordingly, before EPA takes final approval action.

As an alternative to items (a), (b), and (c) above, DEQ may delete the last sentence of OAR-22-170 paragrpah five. If DEQ intends to grant relief from the 2.9 pound per gallon limit in OAR 340-22-170, then they must submit as a SIP revision the operating permits for the affected sources.

Therefore, EPA is proposing to approve OAR 340-22-170, except for the last sentence of paragraph five.

16. *Condition*—The rules applicable to degreasers are revised to include specific requirement for agitated solvents, heated solvents, and solvents with higher vapor pressures.

State Action—The revised VOC rules submitted by DEQ on October 16, 1980 include the modification specified in the EPA approval conditions at OAR 340-22-180.

EPA Proposed Action—Approve, the condition is satisfied.

17. *Condition*—The rules applicable to open top vapor degreasers are revised to require both a powered cover and a specific freeboard ratio.

State Action—The revised VOC rules submitted by DEQ on October 16, 1980 include the modification specified in the EPA approval conditions at OAR 340-22-183.

EPA Proposed Action—Approve, the condition is satisfied.

18. *Condition*—The rules for vaporized degreasers with an air/vapor interface greater than two square meters are revised to require a major control device.

State Action—The revised VOC rules submitted by DEQ on October 16, 1980 include the modification specified in the EPA approval conditions at OAR 340-22-186.

EPA Proposed Action—Approve, the condition is satisfied.

19. *Condition*—DEQ submits approval source test procedures for VOC souces.

State Action—Same as for Condition #2 above.

EPA Proposed Action—Approve, the condition is satisfied.

20. *Condition*—DEQ submits adopted compliance schedules for VOC sources.

State Action—Same as for Condition #3 above.

EPA Proposed Action—Approve, the condition is satisfied.

21. *Condition*—DEQ submits the operating regulations by July 15, 1980 for the Portland vehicle inspection and maintenance program.

State Action—DEQ submitted the subject regulations (OAR 340-24-300 through 300-24-350) to EPA on July 26, 1980.

EPA Action—EPA approved these regulations for the Portland vehicle inspection and maintenance program on January 2, 1981 (46 FR 35).

EPA's June 24, 1980 conditional approval of the Oregon Part D SIP included two additional items under 40 CFR 52.1985(a)(3):

(i) Specific conditions are submitted under which the Director may lift the prohibition on wigwam waste burner operation.

(ii) A visable emission rule for hogged fuel boilers that restricts plume opacity to twenty percent (20%) or less is adopted and submitted.

These two items were included in the June 24, 1980 **Federal Register** as "suggested improvements" for the Medford-Ashland TSP plan, not conditions of approval. They were deleted from the **Federal Register** by EPA action on August 20, 1980 (45 Fr 55422).

EPA finds that good cause exists for providing a 30-day comment period for the following reasons: (1) the public has had adequate notice of the guidelines for preparation of State Implementation Plans and has had several opportunities to comment on those guidelines, (2) the **Federal Register** notice of receipt and request for public comments was published on January 21, 1981 and (3) the impact of this rulemaking is limited only to the State of Oregon. Therefore, EPA is soliciting public comments for 30 days on its proposed approval of various Oregon SIP revisons.

Interested parties are invited to comment on all aspects of this proposed approval of the Oregon SIP. Comments should be submitted, preferable in triplicate, to the address listed in the front of this Notice. Public comment postmarked by May 28, 1981, will be considered in any final action EPA takes on this proposal.

Pursuant to the provisions of 5 U.S.C. Section 605(b) the Administrator has certified that SIP approvals under Sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities 46 FR 8709 (January 27, 1981). This action, if promulgated, constitutes a SIP approval under Sections 110 and 172 within the terms of January 27 certification. This action only approves state actions. It imposes no new requirements. Moreover, due to the nature of the federal-state relationship, federal inquiry into the economic reasonableness of the state actions would serve no practical purpose and could well be improper.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of regulatory impact analysis. This regulation is not judged to be major because it only approves State actions. It imposes no new regulatory requirements.

This regulation was submitted to the Office of Management and Budget (OMB) 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 the locations listed in the "Addresses" section.

(Section 110 and 172 of the Clean Air Act (42 U.S.C. 7410(a) and 7502))

Dated: February 25, 1981.

Donald P. Dubois,

Regional Administrator.

[FR Doc. 81-12740 Filed 4-27-81; 8:45 am]

BILLING CODE 6560-38-M

---

40 CFR Part 52

[A-10-FRL 1794-1]

Oregon State Implementation Plan; Volatile Organic Compound Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: The purpose of this notice is to describe proposed approval action on revised operating permits and a consent order affecting three sources of volatile organic compound emissions for inclusion in the State of Oregon's State Implementation Plan. The permits and the consent order were submitted to meet the requirements for new source emission offsets under EPA's Emission Offset Interpretive Ruling. The public is invited to comment on this action.

DATE: Comments must be received on or before May 28, 1981.

ADDRESSES: Copies of the materials submitted to EPA may be examined during normal business hours at:

Central Docket Section (10A-81-3), West Tower Lobby, Gallery I, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

Air Programs Branch, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

State of Oregon, Department of Environmental Quality, 522 S.W. Fifth, Yeon Bldg., Portland, Oregon 97207.

COMMENTS SHOULD BE ADDRESSED TO: Laurie M. Kral, Air Programs Branch, M/S 629, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Michael F. Gearheard, Air Programs Branch, M/S 625, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone No. (206) 442-1226, (FTS) 399-1226.

SUPPLEMENTARY INFORMATION: On December 31, 1980 the Oregon Department of Environmental Quality (DEQ) submitted a request to EPA to revise the Oregon State Implementation Plan (SIP) to include revised operating permits and a consent order affecting three sources of volatile organic compound (VOC) emissions. The permits and the consent order were submitted to meet the requirements for new source emission offsets under EPA's Emission Offset Interpretive Ruling (found at 40 CFR Part 51, Appendix S). This notice describes the subject new source activity, identifies the obtained emission offsets, and proposes approval of a SIP revision to incorporate the revised permits and the consent order.

On March 29, 1979 Spaulding Pulp and Paper Company, a subsidiary of Publishers Paper Company, applied for a permit under Oregon Administrative Rules (OAR) Chapter 340, Sections 14 and 20, to construct a new wood fired boiler at the Publishers Paper Company plant in Newberg, Oregon. Although the new boiler is not in an ozone nonattainment area, emission offsets are required for this new source because

VOC emissions from the boiler will impact the Portland and Salem ozone nonattainment areas. Therefore, under the Emission Offset Interpretive Ruling, the source is required to obtain one-for-one emission offsets. DEQ granted the permit on January 3, 1980. As a prerequisite to beginning operation of the new boiler, the DEQ permit required the permittee to obtain and have in effect emission reductions (offsets) in an amount adequate to offset 100 percent of the expected VOC emissions from the new boiler.

Since Newberg, Oregon is located in an area currently designated as "attainment/unclassifiable" for the National Ambient Air Quality Standards for ozone, EPA's Prevention of Significant Deterioration (PSD) regulations apply to all major new VOC emission sources in the area. The new wood-fired boiler meets the criteria for a major new VOC source; therefore, Publishers Paper Company was required to obtain a PSD permit for the new boiler. EPA received a complete PSD permit application on September 6, 1979 and EPA issued a PSD permit (PSD-X80-03) to Publishers Paper Company for the new facility on February 5, 1980. This permit required the Company to obtain and have in effect emission reductions adequate to offset the new VOC emissions before beginning operation of the boiler.

Publishers Paper Company obtained offsets to satisfy the requirements of the DEQ permit and the PSD permit as described below:

1. Vamply, Inc. has agreed to provide 97 tons/year of offset credit from the shutdown of the D.G. Shelter Products facility in Beaverton which is now owned by Vanply.

2. Industrial Laundry and Drycleaning has agreed to provide 51.5 tons/year of offset credit by installing controls on a dry cleaning plant in Southeast Portland.

3. Publishers has provided an offset of 29 tons/year by shutting down the sawmill facilities at their Portland division.

4. Publishers has de-rated an existing boiler at the Newberg Mill (Boiler #9) to provide an additional 12 tons/year of VOC.

The total VOC emission offset required in the DEQ and PSD permits, 189 tons/year, is exceeded by the offsets listed above. Therefore, EPA today is proposing to revise the Oregon SIP to incorporate the following Oregon Air Contaminant Discharge Permits and Stipulation and Cońsent Final Order, submitted to EPA on December 31, 1980:

1. Oregon Air Contaminant Discharge Permit No. 36-6041 Addendum No. 1, issued to Spaulding Pulp and Paper Company on December 11, 1980.

2. Oregon Air Contaminant Discharge Permit No. 26-3025, issued to Industrial Laundry Dry Cleaners, Inc. on December 9, 1980.

3. Oregon Environmental Quality Commission Stipulation and Consent Final Order concerning Vanply, Inc, dated December 30, 1980.

EPA finds that good cause exists for providing a 30-day comment period for the following reasons: (1) the public has had adequate notice of the guidelines for preparation of State Implementation Plans and has had several opportunities to comment on those guidelines, and (2) the impact of this rulemaking is limited only to the State of Oregon. Therefore, EPA is soliciting public comments for 30 days on its proposed approval of these Oregon SIP revisions.

Interested parties are invited to comment on all aspects of this proposed approval of revisions to the Oregon SIP. Comments should be submitted, preferably in triplicate, to the address listed in the front of this Notice. Public comments postmarked by May 28, 1981, will be considered in any final action EPA takes on this proposal.

Purusant to the provisions of 5 U.S.C. Section 605(b) the Administrator has certified that SIP approvals under Sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities 46 FR 8709 (January 27, 1981). This action, is promulgated, constitutes a SIP approval under Sections 110 and 172 within the terms of the January 27 certification. This action only approves state actions. It imposes no new requirements. Moreover, due to the nature of the federal-state relationship, federal inquiry into the economic reasonableness of the state actions would serve no practical purpose and could well be improper.

Under Executive Order 12291, EPA must judge whether or not a regulation is "major" and therefore subject to the requirement of regulatory impact analysis. This regulation is not judged to be major, since it merely proposes approval of an action taken by the State and does not establish any new requirements.

This regulation was submitted to the Office of Management and Budget (OMB) 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 the locations listed in the "Addresses" section.

(Section 110 and 172 of the Clean Air Act (42 USC 7410(a) and 7502))

Dated: March 18, 1981.

Donald P. Dubois,

Regional Administrator.

[FR Doc. 81-12734 Filed 4-27-81; 8:45 am]

BILLING CODE 6560-38-M

---

40 CFR Part 180

[PP 9E2225/P168; PH FRL 1769-8]

Ethephon; Proposed Tolerance

Correction

In FR DOC. 81-6936 appearing at page 15182 in the issue of Wednesday, March 4, 1981, make the following change:

On page 15183, first column, under § *180.000 Ethephon; tolerance for residues.*" second sentence, "regulatory" should read "regulator".

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-5973]

National Flood Insurance Program; Revision of Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of New Haven, Oswego County, New York.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in the Federal Register at 46 FR 8039 on January 26, 1981, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in each community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Town Assessor's Office, Stone Road, New Haven, New York.

SEND COMMENTS TO: Honorable Gordon Schipper, New Haven Town Supervisor, R.D. 2, Mexico, New York 13114.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Federal Emergency Management Agency, Federal Insurance Administration, National Flood Insurance Program (202) 755-5585, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the Town of New Haven, Oswego County, New York, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

State	City-town-county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New York	New Haven, Town, Oswego County	Catfish Creek	Confluence with Lake Ontario	*249
			2,150' upstream of confluence with Lake Ontario	*250
			1,330' downstream of the Dam	*260
			540' downstream of the Dam	*270
			80' downstream of the Dam	*280
			10' upstream of the Dam	*292
			10' upstream of County Road 6	*293
			1,220' upstream of County Road 6	*295
			1,700' upstream of County Road 6	*296
		Otter Branch	Confluence with Lake Ontario	*249
			900' upstream of confluence with Lake Ontario	*250
			2,500' upstream of confluence with Lake Ontario	*260
			2,400' downstream of North Road	*270
			1,570' downstream of North Road	*280
			700' downstream of North Road	*290
			Downstream side of North Road	*297
		Lake Ontario	Entire coastline within community	*249

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

Issued: April 13, 1981.

Richard W. Krimm,

Acting Administrator, Federal Insurance Administrator.

[FR Doc. 81-12601 Filed 4-27-81; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 81-249; RM-3698]

FM Broadcast Station Weed, California; Proposed Change in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: This action proposes the substitution of Class C Channel 274 for Channel 265A at Weed, California, in response to a petition for rule making filed by Jeanne M. and Robert C. Crabb. Petitioner states that the present FM facility operating in Weed can not provide service beyond the immediate vicinity of the city. A class C channel would provide a first FM service to a substantial portion of the area.

DATES: Comments must be filed on or before June 9, 1981; reply comments must be filed on or before June 29, 1981.

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

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

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Weed, California); Notice of proposed rule making.

Adopted: April 10, 1981.

Released: April 23, 1981.

By the Chief, Policy and Rules Division:

1. A petition for rule making [1] was filed by Jeanne M. and Robert C. Crabb ("petitioner"), seeking the substitution of Class C FM Channel 274 for Channel 265A at Weed, California. The channel can be assigned to Weed in compliance with the minimum distance separation requirements. No timely oppositions have been submitted.[2]

2. Weed (population 2,983)[3], in Siskiyou County (population 33,225), is located approximately 400 kilometers (250 miles) north of San Francisco, California. Weed currently has no local aural service, although there is an application pending for unused FM Channel 265A at Weed.

3. In support of its proposal, petitioner states that a Class A facility operating at Weed connot provide service beyond the immediate vicinity of the city to the

[1] *Public Notice* of the petition was given July 7, 1980. Report No. 1238.

[2] Valley FM Radio, applicant for Channel 265A at Weed (File No. 800305AD), submitted an opposition to the petition almost two months after the comment filing deadline. Petitioner responded in a letter by opposing our acceptance of the opposition as untimely. We agree and shall, instead, consider the pleading in response to this *Notice*. Valley FM Radio may, of course, submit additional comments to this *Notice*.

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

surrounding unserved or underserved rural areas. In this regard, petitioner asserts that a Class C channel at Weed would provide a first FM service to an area of 7,066 square kilometers (2,728 square miles) and 5,690 people, and a second FM service to an area of 12,218 square kilometers (4,773 square miles) and 18,300 people. By contrast, petitioner asserts that a Class A facility would cover little, if any, of the white area and only a small portion of the grey area that a Class C facility would serve. With regard to the pending application on file for Channel 265A at Weed (see footnote 2, *supra*), petitioner states that a mere expectancy interest in an application and the Commission's cut-off rules must yield to the public interest benefits which would result from the requested channel substitution.

4. *Preclusion Study*—Petitioner did not submit a preclusion study although it did state that several other channels appear to be available for assignment in the area. Before making a Class C assignment to Weed, we will require that petitioner submit a preclusion study showing the communities with a population over 1,000 persons which will be precluded by the assignment of Channel 274 to Weed. For those affected communities which currently have no FM assignments, petitioiner should list alternative channels which could be assigned to those cities.

5. The Commission does not normally assign high-power Class C channels to communities as small as Weed unless the proponent of the assignment makes convincing showing that a Class C channel would serve a large unserved or underserved area. Petitioner indicates that the Class C channel at Weed would provide significant FM white and grey area service. However, our review of petitioner's figures shows them to be in error. Petitioner did not take into account several unused assignments and did not use "reasonable facilities" as required in calculating the areas currently with little or no FM service. Consequently, the figures stated by petitioner are greatly exaggerated. Because the submission of first and second service data is essential in making a Class C assignment to such a small community, we request petitioner to provide in its comments more accurate data on this issue.

6. In order to give further consideration to the proposal, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Weed, California	265A	274

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before June 9, 1981, and reply comments on or before June 29, 1981.

9. It Is ordered, That the Secretary of the Commission shall send a copy of this *Notice* by certified mail, return receipt requested, to Steven Fuss, President, Valley FM Radio, Inc., 2300 Nottingham Avenue, Los Angeles, California 90027, the applicant for Channel 265A at Weed.

10. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. *See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

11. For further information concerning this proceeding, contact Michael A McGregor, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

(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.

Appendix

1. Pursuant to authority found 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(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 81-12855 Filed 4-27-81; 8:45 am]
BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 46, No. 81
Tuesday, April 28, 1981

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

Forest Service

Availability of the Final Programmatic Environmental Impact Statement on the Cooperative Gypsy Moth Suppression and Regulatory Program

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

ACTION: Notice of availability of the final programmatic environmental impact statement (PEIS) on the Cooperative Gypsy Moth Suppression and Regulatory Program.

SUMMARY: The final PEIS (USDA FS-FEIS 81-01) was sent to the Environmental Protection Agency (EPA) on February 27,1981, pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, by the USDA. On March 6, 1981, a notice was published in the Federal Register by EPA that a final PEIS on the Cooperative Gypsy Moth Suppression and Regulatory Program had been prepared.

ADDRESS: Requests for a copy of the PEIS should be addressed to: Pest Programs Development Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, Room 630, Hyattsville, MD 20782; or Northeastern Area, State and Private Forestry, Forest Service, U.S. Department of Agriculture, 370 Reed Road, Broomall, PA 19008.

Copies are available for public inspection at the following locations:

Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 302-E, Administration Building, 14th and Independence Avenue, Washington, DC 20250

Plant Protection and Quarantine, Animal and Plant Healthe Inspection Service, U.S. Department of Agriculture, Room 630, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782

Northeastern Area, State and Private Forestry, Forest Service, U.S. Department of Agriculture, 370 Reed Road, Broomall, PA 19008

Northeastern Area, State and Private Forestry, Forest Service, U.S. Department of Agriculture, 180 Canfield Street, Morgantown, WV 26505

FOR FURTHER INFORMATION CONTACT: Gary Moorehead, Staff Officer, Pest Program Development Staff, Plant Protection and Quarantine, APHIS, USDA, Federal Building, Room 630, Hyattsville, MD 20782, (301) 436-8745. Peter Orr, Staff Director, Insect and Disease Management Staff, Northeastern Area, State and Private Forestry, Forest Service, U.S. Department of Agriculture, 370 Reed Road, Broomall, PA 19008, (215) 461-3158.

SUPLEMENTARY INFORMATION: The Animal and Plant health Inspection Service and the Forest Service of the United States Department of Agriculture Cooperated in the preparation of a Programmatic Environmental Impact Statement (PEIS) on the Cooperative Gypsy Moth Suppression and Regulatory Program. While both of these agencies conduct separate programs related to gypsy moth, the Department believed that a joint PEIS would represent, from an economic and resources viewpoint, the best approach to conducting an environmental review of the separate programs.

A notice that the draft PEIS on the Department's gypsy moth programs was available for review was published in the Federal Register on December 5, 1980, by EPA. Comments were due January 25, 1981. All comments received pursuant to the draft PEIS were considered in the preparation of the final PEIS. The final PEIS was furnished to the Environmental Protection Agency. Copies are available at the above noted addresses upon request.

Done at Washington, D.C., this 23rd day of April 1981.

Harvey L. Ford,

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

Done at Washington, D.C., this 23rd day of April 1981.

J. Lamar Beasley,

Acting Chief, Forest Service.

April 21, 1981.

[FR Doc. 81-12722 Filed 4-27-81; 8:45 am]
BILLING CODE 3410-34-M

Soil Conservation Service

Stephens County Roadbanks Critical Area Treatment RC&D Measure, Georgia; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Dwight M. Treadway, State Conservationist, Soil Conservation Service, Federal Building, 355 East Hancock Avenue, Athens, Georgia 30613, telephone 404-546-2273.

Notice

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Stephens County Roadbanks Critical Area Treatment RC&D Measure, Stephens County, Georgia.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Dwight M. Treadway, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan to stabilize 88 acres of eroding roadbanks through the establishment of erosion control vegetation.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Dwight M. Treadway. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until May 28, 1981.

(Catalog of Federal Domestic Assistance Progam No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A-95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: April 10, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-12714 Filed 4-27-81; 8:45 am]

BILLING CODE 3410-16-M

Bass Lake Outlet, Critical Area Treatment RC&D Measure, Michigan; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Homer R. Hilner, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, telephone 517-337-6702.

Notice

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines, (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Bass Lake Outlet, Critical Area Treatment, RC&D Measure, Mason County, Michigan.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Homer R. Hilner, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

This measure concerns a plan for the installation of practices for critical area treatment. The planned works of improvement include the following items: planting about 50,000 beachgrass plants on about 2 acres, and placement of about 300 feet of snow fence. Total construction cost is estimated to be $4,500; $2,000 RC&D funds, and $2,500 local funds.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Homer R. Hilner. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until May 28, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: April 10, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-12712 Filed 4-27-81; 8:45 am]

BILLING CODE 3410-16-M

Little Black River RC&D Measure, Michigan; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Homer R. Hilner, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, telephone 517-337-6702.

Notice

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines, (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Little Black River RC&D Measure, Cheboygan County, Michigan.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Homer R. Hilner, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

This measure concerns a plan for the installation of practices for critical area treatment. The planned works of improvement include the following items: Shape and seed streambank, place rock riprap, remove sediment, replace fill material around structures, and install fence to keep cattle out of the channel. Total construction cost is estimated to be $30,200; $22,650 RC&D funds, and $7,000 local funds.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Homer R. Hilner. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until May 28, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: April 10, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-12713 Filed 4-27-81; 8:45 am]

BILLING CODE 3410-16-M

West Julland Hill Flood Prevention RC&D Measure, New York; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Paul A. Dodd, State Conservationist, Soil Conservation Service, Room 771, 100 South Clinton Street, Syracuse, New York 13260, telephone 315-423-5076.

Notice

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department

of Agriculture, gives notice that an environmental impact statement is not being prepared for the West Juliand Hill Flood Prevention RC&D Measure, Chenango County, New York.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Paul A. Dodd, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for flood control in the village of Greene, New York. The planned works of improvement include the installation of a trash rack at the upstream end of a culvert. The trash rack will prevent the culvert from clogging, thereby relieving flood problems.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Paul A. Dodd. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until May 28, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A-95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: April 10, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-12715 Filed 4-27-81; 8:45 am]

BILLING CODE 3410-16-M

Napoleon Flood Prevention RC&D Measure, North Dakota; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. J. Michael Nethery, State Conservationist, Soil Conservation Service, Federal Building, Rosser Avenue and Third Street, P.O. Box 1458, Bismarck, North Dakota 58502, telephone 701-255-4011.

Notice

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines, (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Napoleon Flood Prevention RC&D Measure, Logan County, North Dakota.

The environmental evaluation of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. J. Michael Nethery, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure plan will be a floodway constructed from a proposed new highway bridge on North Dakota State Highway 3 south of Napoleon flowing westerly until it reenters McKenna Coulee. The floodway will be approximately 3,150 feet in length. Depth of excavation will range from 0 to 14 feet. It will have a uniform 70-foot bottom width, 3:1 side slope and 0.0003 grade. The new highway bridge on North Dakota State Highway 3 will consist of 3 (10'x10') box culverts with 8-foot weir drop.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. J. Michael Nethery. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until May 28, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A-95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-12717 Filed 4-27-81; 8:45 am]

BILLING CODE 3410-16-M

New Boston Park RC&D Measure, Ohio; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Robert R. Shaw, State Conservationist, Soil Conservation Service, Room 522, 200 North High Street, Columbus, Ohio 43215, telephone 614-469-6962.

Notice

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the New Boston Park RC&D Measure, Scioto County, Ohio.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Robert R. Shaw, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for drainage improvement on an open space recreation area. Conservation practices planned include subsurface drains and reseeding of areas disturbed by construction.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Robert R. Shaw. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until May 28, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: April 9, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-12718 Filed 4-27-81; 8:45 am]

BILLING CODE 3410-16-M

Bloxom Elementary School Drainage RC&D Measure, Virginia; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Manly S. Wilder, State Conservationist, Soil Conservation Service, 400 North 8th Street, P.O. Box 10026, Richmond, Virginia 23240, telephone (804) 771-2455.

Notice

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Bloxom Elementary School Drainage RC&D Measure, Accomack County, Virginia.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Manly S. Wilder, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the installation of subsurface drainage, water control structures, grading and shallow swale for the baseball field and play area on the Bloxom Elementary School grounds. The drainage work involves filling, grading, shaping, installation of tile, and reestablishment of the baseball field and play area turf.

The Notice of Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Manly S. Wilder. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until May 28, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: April 9, 1981.

Joseph W. Hass,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-12716 Filed 4-27-81; 8:45 am]

BILLING CODE 3410-16-M

North Platte River Water-Based Recreation and Fish and Wildlife Development RC&D Measure, Wyoming; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Frank S. Dickson, Jr., State Conservationist, Soil Conservation Service, Room 3209, Federal Building, 100 East "B" Street, P.O. Box 2440, Casper, Wyoming 82602, telephone 307-265-5550.

Notice

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the water-based recreation and fish and wildlife development RC&D measure, Laramie County, Wyoming.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Frank S. Dickson, Jr., State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the installation of an 8-foot wide asphalt bikeway-walkway along 5,000 feet of the west bank of the North Platte River. The measure includes about 2 acres of disturbed area seeding. The project area will be open to the public, and includes 11 acres of dryland and 36 acres of land under the North Platte River.

Fish and wildlife development will be in the form of fish habitat structures placed in the North Platte River. Structures will be constructed of large rocks and boulders (2-4 feet in diameter) to provide cover areas for trout. Construction of the fish habitat structures will be under the guidance of the Wyoming Game and Fish Department.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Frank S. Dickson, Jr. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until May 28, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A-95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: April 10, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-12719 Filed 4-27-81; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

Change in Docket Section Procedure

April 22, 1981.

Because of diminishing staff and increased sunset activities, it is necessary to discontinue or cut back certain services previously offered by the Civil Aeronautics Board. Effective May 1, 1981, therefore, the following will become standard practice in the Board's Docket Section:

Change in Filing Time Hours

The hours for acceptance of pleadings filed with the Board will be changed to *8:30 a.m. to 4:30 p.m.* No filings will be docketed or stamped in after the 4:30 p.m. deadline. All documents presented after 4:30 p.m. will be returned to sender for filing the next day or at some other time. These hours will be strictly enforced and no exceptions made.

Improperly Filed Documents

All pleadings improperly or incorrectly filed will be rejected by the Docket Section and returned with a preprinted explanatory rejection slip.

The Section will no longer make corrections on the pleadings. It will be the responsibility of the filing parties to make all necessary changes or corrections before filing with the Docket Section and at the same time to pay any necessary filing fees. If there are questions as to filing procedures, they should be taken up with Docket Section staff before preparation of the document and presentation for filing. Adherence to Board Rules and Regulations will ensure acceptance of documents at time of presentation.

Cressworth Lander,

Managing Director.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-12675 Filed 4-27-81 8:45 am]

BILLING CODE 6320-01-M

[Docket 39285]

Texas International-Continental; Acquisition Case

Notive is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument on the petition of Texas International Airlines, Inc, filed on April 20, 1981, for modification of Board Order 81-3-30 and other relief, and the petition of Continental Air Lines, Inc. filed on April 21, 1981 to withdraw approval of voting trust and order divestiture will be held before the Board on Wednesday, April 29, 1981, at 10:00 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C.[1]

With respect to the petition of Texas International, parties should focus on its request for modification of the voting trust plan which we approved in Order 81-3-30 rather than its request for approval of a "reverse voting trust." Texas International should be prepared to identify and describe precisely the minimum authority it needs as a shareholder to protect its investment in Continental and to discuss the effects of a grant by the Board of some but not all of the requested modifications to the previously approved voting trust. All other parties should likewise be prepared to address the implications of a partial grant of the relief sought.

In addition, Continental and Texas International are requested to file all proxy materials relating to Continental's annual meeting by 5:00 p.m. Monday, April 27, 1981.

Dated at Washington, D.C. on April 22, 1981.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-12676 Filed 4-27-81; 8:45 am]

BILLING CODE 6320-01-M

[1] All persons interested in participating should notify the Board's Secretary by 5:00 p.m. Friday, April 24, 1981.

DEPARTMENT OF COMMERCE

International Trade Administration

Diamond Tips for Phonograph Needles From the United Kingdom; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On March 20, 1981, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on diamond tips for phonograph needles from the United Kingdom. The review covered two of the three known exporters of this merchandise to the United States. The review covered separate time periods up to March 31, 1980 for each exporter. Interested parties were given an opportunity to submit written comments or request a hearing on these preliminary results. The Department received no comments or requests for a hearing.

EFFECTIVE DATE: April 28, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Philip S. Gallas, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-4023).

SUPPLEMENTARY INFORMATION:

Procedural Background

On April 1, 1972, an antidumping finding with respect to diamond tips for phonograph needles from the United Kingdom was published in the **Federal Register** as Treasury Decision 72-91 (37 FR 6665). On March 20, 1981, the Department of Commerce ("the Department") published in the **Federal Register** the preliminary results of its administrative review of the finding (46 FR 17821-22). The Department has now completed its administrative review of that anti-dumping finding.

Scope of the Review

The imports covered by this review are diamond tips for phonograph needles, consisting of an almost microscopic chip of diamond bonded to steel and shaped to fit into the grooves of a phonograph record. Diamond tips for phonograph needles are currently classifiable under item 685.3400 of the Tariff Schedules of the United States Annotated (TSUSA).

The Department knows of a total of three exporters to the United States of diamond tips for phonograph needles from the United Kingdom. This review covers two of them, Bauden Precision Diamonds Ltd. ("Bauden") and Diamond Stylus Company Ltd. ("Diamond Stylus"), for separate time periods up to March 31, 1980 for each company. The Department is currently conducting a review of the third company, Fidelitone International Ltd., and will publish the results in a subsequent notice.

Final Results of the Review

The Department received no written comments or requests for a hearing. Therefore, the final results of our review are the same as those presented in the preliminary results of review.

The Department shall determine, and the U.S. Customs Service shall assess, duties on all entries made with purchase dates or export dates, as appropriate, during the time periods involved. Individual differences between purchase price or exporter's sales price and foreign market value may vary from the percentages presented in the preliminary results of review. The Department will issue appraisement instructions separately on each exporter directly to the Customs Service.

As required by § 353.48(b) of the Commerce Regulations, a cash deposit shall be required on all shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results, based upon the most recent of the margins in the preliminary results, that is:

Company	Cash deposit
Diamond Stylus/Phono Stylus	.79 (percent).
Diamond Stylus	0.
Bauden	0.

This requirement shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of April, 1982.

(Section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and section 353.53 of the Commerce Regulations (19 CFR 353.53))

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

April 23, 1981.

[FR Doc. 81-10678 Filed 4-27-81; 8:45 am]

BILLING CODE 3510-25-M

Steel Units for Electrical Transmission Towers From Italy; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of countervailing duty order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on steel units for electrical transmission towers from Italy. The review covers the period January 1, 1980, through December 31, 1980. As a result of this review, the Department has preliminarily determined the net amount of the subsidy to be the full value of the rebate for this product under Italian law 639. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: April 28, 1981.

FOR FURTHER INFORMATION CONTACT: Paul J. McGarr, Office of Compliance, Room 1126, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-1167).

SUPPLEMENTARY INFORMATION:

Procedural Background

On April 21, 1967, a final contervailing duty determination on steel units for electrical transmission towers from Italy, T.D. 67-102, was published in the **Federal Register** (32 FR 6274). The notice stated that the Department of the Treasury had determined that exports of steel units for electrical transmission towers from Italy benefitted from bounties or grants within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303) ("the Tariff Act"). Accordingly, imports of this merchandise were subject to countervailing duties.

On January 1, 1980, the provisions of title I of the Trade Agreements Act of 1979 ("the TAA") became effective. On January 2, 1980, the authority for administering the countervailing duty law was transferred from the Department of the Treasury to the Department of Commerce ("the Department"). On April 3, 1980, the International Trade Commission ("the ITC") notified the Department that an injury determination for this order had been requested under section 104(b) of the TAA. Therefore, following the requirements of that section, liquidation was suspended on April 3, 1980, on all shipments of such merchandise entered, or withdrawn from warehouse, for consumption on or after that date. The Department published in the **Federal Register** of May 13, 1980 (45 FR 31455) a notice of intent to conduct administrative reviews of all outstanding countervailing duty orders. As required by section 751 of the Tariff Act, the Department has conducted an administrative review of the order on steel units for electrical transmission towers from Italy.

Scope of the Review

Imports covered by this review are galvanized fabricated structural steel units for the erection of electrical transmission towers imported directly or indirectly from Italy. These imports are currently classifiable under items 652.94 and 652.96, Tariff Schedules of the United States.

The review covers the period January 1, 1980, through December 31, 1980, and is limited to rebates granted under Italian Law 639 of July 5, 1964, which was the only program found countervailable in the Final Determination.

Preliminary Results of the Review

Under Italian Law 639, exporters receive rebates of customs duties and certain indirect taxes on the export of specified products containing iron and steel. The rates differ for particular types of products. For steel units for electrical transmission towers the rebate is 18 lire per kilogram.

The Government of Italy provided no substantive response to our questionnair of June 26, 1980, nor were our follow-up requests for information answered. Our independent investigation has confirmed that the rate legislated in Law 639 still applies in full for exports of this merchandise to the United States.

Because we have received no information to indicate that any part of the rebate is not countervailable, we preliminarily determine that the rate of net subsidy conferred upon producers exporting to the United States is 18 lire per kilogram.

The Department intends to instruct the Customs Service to assess countervailing duties of 18 lire per kilogram on all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after January 1, 1980, and prior to April 3, 1980. The provisions of section 303(a)(5) of the Tariff Act, prior to the enactment of the TAA, apply to all entries prior to January 1, 1980. Accordingly, the Department also intends to instruct the Customs Service to assess countervailing duties of 13.67 lire per kilogram, the amount set forth in T.D. 67-102, on all unliquidated entries of this merchandise which were entered, or withdrawn from warehouse, for consumption prior to January 1, 1980. (The lower rate is due to allowable offsets reported on during the initial investigation but not reported during this review.) In addition, should the ITC find that there is injury or likelihood of injury to an industry in the United States, the Department intends to instruct the Customs Service to assess countervailing duties of 18 lire per kilogram on all unliquidated entries of steel units for electrical transmission towers entered, or withdrawn from warehouse, for consumption on or after April 3, 1980, and exported on or before December 31, 1980. Further, as required by § 355.36(c) of the Commerce Regulations, a cash deposit of estimated countervailing duties of 18 lire per kilogram 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.

Pending publication of the final results of the present review, the existing deposit of estimated duties of 13.67 lire per kilogram shall continue to be required on each entry, or withdrawal from warehouse, for consumption of this merchandise, and liquidation shall continue to be suspended on entries made on or after April 3, 1980 until the Department is notified of a determination by the ITC.

Interested parties may submit written comments on these preliminary results on or before May 28, 1981 and may request disclosure and/or a hearing within 15 days of the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of any such comments or hearing.

(Section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and section 355.41 of the Commerce Regulations (19 CFR 355.41))

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

April 23, 1981.

[FR Doc. 81-12680 Filed 4-27-81; 8:45 am]

BILLING CODE 3510-25-M

Maritime Administration

[Docket No. S-688]

Application for Section 804 Waiver

Notice is hereby given that Ogden Marine, Inc. (Ogden), by application dated September 10, 1980, as amended, for a long-term (20 year) Operating-Differential Subsidy Agreement to aid in the operation of two dry bulk cargo vessels with an optional one or two additional vessels, has requested a waiver under section 804 of the Merchant Marine Act, 1936, as amended (the Act), for the continued ownership and operation of foreign-flag vessels by affiliated companies.

Subsidiaries of Universal Bulk Carriers, Inc., which is a subsidiary of Ogden (the ODS applicant), currently own and operate a total of 17 foreign-flag tankers and other bulk vessels which compete with U.S.-flag vessels on a worldwide basis in an essential service under section 211 of the Act. Two additional foreign-flag tankers are presently on order.

Interested parties may inspect this application in the Office of the Secretary, Maritime Subsidy Board, Room 3099-B, Department of Commerce Building, 14th and E Streets, N.W., Washington, D.C. 20230.

Any person, firm or corporation having an interest in such section 804 waiver application, and who desires to offer views and comments thereon for consideration by the Maritime Subsidy Board, should submit such views and comments in writing, in triplicate, to the Secretary, Maritime Subsidy Board, by the close of business on May 22, 1981. This notice of Ogden's application is published as a matter of discretion. The Maritime Subsidy Board will consider such views and comments and take such actions with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance, Program No. 11.504 Operating-Differential Subsidies (ODS))

By Order of the Maritime Subsidy Board.

Dated: April 14, 1981.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 81-12607 Filed 4-27-81; 8:45 am]

BILLING CODE 3510-15-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Jordan Creek Pumped Storage Study; Intent To Prepare Environmental Impact Statement

AGENCY: Army Corps of Engineers, Department of Defense.

ACTION: Notice of intent to prepare a draft environmental impact statement (EIS) for a feasibility-level study called the Jordan Creek Pumped Storage Study.

SUMMARY: a. *Proposed Action.* The Seattle District's tentatively selected plan of action involves the construction of a pumped storage project in northcentral Washington close to the city of Bridgeport and Chief Joseph Dam. This alternative would consist of an upper reservoir, a lower reservoir, and an underground powerhouse with penstocks. During periods of low electricity demand, the upper reservoir would be filled by pumping water from the lower reservoir through the penstocks to the upper reservoir. During periods of peak electricity demand, water would be released from the upper reservoir, through the penstocks and powerhouse, to the lower reservoir, generating electricity. The upper reservoir would be created by a dam near the headwaters of Jordan Creek, and Rufus Woods Lake (the reservoir created by Chief Joseph Dam) would be used as the lower reservoir. Two powerhouses are presently being studied: a 1,500-megawatt (MW) powerhouse and a 3,000-MW powerhouse. The most serious project-related adverse impacts would be the entrainment of fish from Rufus Woods Lake during the pumping cycle, the inundation of 600 to 900 acres of land (primarily used for agriculture) from the creation of the upper reservoir, and socio-economic impacts to the city of Bridgeport during project construction.

b. *Alternative.* Alternatives under consideration are other methods which could be used to achieve peaking power or methods to reduce the demand for peak electrical power. The most likely alternatives (other than the tentatively selected plan) which will be considered in detail in the draft EIS are: combustion turbines, the addition of power units at existing dams, other pumped storage sites, load management, conservation, and the no-Federal-action plan. As studies progress, some of these alternatives may be dropped from consideration and others added.

c. *Public Involvement and Review.* The Corps of Engineers conducted a Pacific Northwest regional pumped storage study throughout much of the 1970's. This study investigated over 500 potential pumped storage sites in the Pacific Northwest and, after evaluating these sites, recommended eight sites for futher investigation. Jordan Creek was one of the recommended sites. The regional study had a comprehensive public and agency involvement program which included coordination with the affected states, Federal and local agencies, and a series of nine public workshops held throughout the Pacific Northwest. Public and agency comments were an important consideration in the selection of final eight sites.

In October 1980, members of the Corps of Engineers met with local landowners in a workshop to discuss the Jordan Creek Pumped Storage Study. In March 1981, a public meeting was held in Bridgeport to discuss the outcome of our completed engineering and design studies. A final public meeting is scheduled for the winter of 1981-1982. To date the majority of comments received have been in favor of pumped storage at the Jordan Creek site.

d. *Significant Issues.* The following will be among the issues evaluated during planning and will be presented in the draft EIS: (1) How much peaking capacity is needed in the Pacific Northwest, and when would pumped storage be needed? (2) Is the Corps of Engineers' selected plan the best method for producing future peaking power? (3) What impact would the selected plan and the other alternatives have on significant resources? (4) What impact would the selected plan have on the local communities during construction? These and other issues will be addressed in the draft EIS.

e. *Other Environmental Review and Consultation Requirements.* Should the recommended plan involve the placement of dredged or fill material in waters of the United States and/or their adjacent wetlands, the draft EIS will contain a section 404(b) evaluation.

The study is being coordinated with the U.S. Fish and Wildlife Service (FWS) and will satisfy requirements of section 7(C) of the Endangered Species Act of 1973.

f. *Availability of Draft EIS:* The draft EIS is presently scheduled to become available to the public in early 1982.

g. *Address:* Information about the proposed action and draft EIS can be obtained by contacting: Mr. Paul Cooke, Environmental Resources Section, U.S. Army Corps of Engineers, Post Office Box C-3755, Seattle, Washington 98124, Telephone: (206) 764-3626.

William B. Willard, Jr.,

LTC., Acting District Engineer.

[FR Doc. 81-12545 Filed 4-27-81; 8:45 am]

BILLING CODE 3710-GB-M

DEPARTMENT OF EDUCATION

Search Committee of the Intergovernmental Advisory Council on Education; Closed Meeting

AGENCY: Search Committee of the Intergovernmental Advisory Council on Education.

ACTION: Notice of Closed Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of the Search Committee of the Intergovernmental Advisory Council on Education. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATE: May 13, 1981.

ADDRESS: Department of Education 400 Maryland Avenue SW., Rm. 3181 Washington, D.C. 20202

FOR FURTHER INFORMATION CONTACT: Donna Rhodes, Office of the Deputy Under Secretary for Intergovernmental and Interagency Affairs, Department of Education, 400 Maryland Avenue SW., Washington, D.C. 20202, (202) 245-9248.

SUPPLEMENTARY INFORMATION: The Search Committee meeting will be closed to the public to interview applicants for the position of Executive Director of the Council. 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 (2) and (6) contained in the Government in the Sunshine Act (Pub. L. 94-409; 5 U.S.C. 552b (c)(2) and (6)). Discussion will include consideration of the qualifications and fitness of the candidates 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. 552(c) will be available to the public within 14 days of the meeting.

Signed at Washington, D.C. on April 23, 1981.

William L. Smith,

Acting Deputy Under Secretary.

[FR Doc. 81-12681 Filed 4-27-81; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangement; United States and Europe

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for shipment of enriched uranium/aluminum alloy fuel from the location below to the DOE Savannah River facility for reprocessing and storage of recovered uranium.

Reactor and location	Kilograms of contained uranium
Orphee, France	35

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security. This arrangement for returning U.S. origin highly enriched uranium (HEU) to the U.S. is consistent with U.S. non-proliferation policy in that it serves to reduce the amount of HEU abroad.

This subsequent arrangement will take effect no sooner than May 13, 1981.

Dated: April 22, 1981.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 81-12650 Filed 4-27-81; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Civil Uses; European Atomic Energy Community and Japan; Correction

In 46 FR page 18581, published March 25, 1981, in the table headed Reactor and location, the line reading JMTR, Japan should read JMTR, JRR-2, and JRR-4, Japan.

Since this correction does not alter the proposed transaction in any significant way, the date upon which the subsequent arrangement was scheduled to take effect (April 9, 1981 or thereafter) is not hereby changed.

Dated: April 22, 1981

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 81-12648 Filed 4-27-81; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangement; United States and Japan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the transfer of 16.2 milligrams of uranium-238 contained in a dosimeter to Japan for irradiation in the JOYO reactor and subsequent return to the United States.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of this nuclear material under Contract Number WC-JA-28 will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than May 13, 1981.

Dated: April 22, 1981.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 81-12649 Filed 4-27-81; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council, Synthetic Fuels Task Group of the Committee on Environmental Conservation; Meeting

Notice is hereby given that the Synthetic Fuels Task Group of the Committee on Environmental Conservation has changed the location of its meeting for May 1981. The

National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Environmental Conservation will analyze the environmental problems of the oil and gas industries and the impact of current environmental control regulations on the availability and costs of petroleum products and natural gas. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Synthetic Fuels Task Group meeting follows:

The Synthetic Fuels Task Group meeting scheduled for Wednesday, May 13, 1981, at 9:00 a.m., has changed the location of its sixth meeting from the Fairmont Hotel, Denver, Colorado, to the Aspen Room, Sheraton-Denver-Airport Hotel, 3535 Quebec Street, Denver, Colorado.

The tentative agenda for the meeting follows:

1. Review preliminary draft of the Task Group Report.

2. Discuss any other matters pertinent to the overall assignment of the Synthetic Fuels Task Group.

The meeting is open to the public. The Chairman of the Synthetic Fuels Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the pubic who wishes to file a written statement with the Synthetic Fuels Task Group will be permitted to do so, either before of after the meeting. Members of the public who wish to make oral statements should inform G. J. Parker, Office of Oil and Natural Gas, Fossil Energy, 202/633–8383, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room IE–190, DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on April 21, 1981.

Carl W. Guidice,

Acting Assistant Secretary for Fossil Energy.

April 21, 1981.

[FR Doc. 81–12047 Filed 4–27–81; 8:45 am]

BILLING CODE 6450–01–M

National Petroleum Council, Environmental Protection Task Group of the Committee on Arctic Oil and Gas Resources; Meeting

Notice is hereby given that the Environmental Protection Task Group of the Committee on Arctic Oil and Gas Resources will meet in May 1981. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Arctic Oil and Gas Resources will analyze the various issues bearing on expeditious resource development of this promising frontier area. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Environmental Protection Task Group meeting follows:

The fourth meeting of the Environmental Protection Task Group will be held on Monday, May 18, 1981, starting at 8:30 a.m., in the Seventy-Six Room, Union Oil Center, 461 South Boylston Street, Los Angeles, California.

The tentative agenda for the meeting follows:

1. Introductory remarks by the Chairman and Government Co-chairman.

2. Review progress of individual assignments.

3. Discussion of the timetable of the Task Group.

4. Discussion of any other matters pertinent to the overall assignment from the Secretary.

The meeting is open to the public. The Chairman of the Environmental Protection Task Group is empowered to conduct the meeting in a fashion that will, in his judgement, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Environmental Protection Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform G. J. Parker, Office of Oil and Natural Gas, Fossil Energy, 202/633–8383, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E–190, DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on April 21, 1981.

Carl W. Guidice,

Acting Assistant Secretary for Fossil Energy.

April 21, 1981.

[FR Doc. 81–12043 Filed 4–27–81; 8:45 am]

BILLING CODE 6450–01–M

National Petroleum Council, Jurisdictional Issues Task Group of the Committee on Arctic Oil and Gas Resources; Meeting

Notice is hereby given that the Jurisdictional Issues Task Group of the Committee on Arctic Oil and Gas Resources will meet in May 1981. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Arctic Oil and Gas Resources will analyze the various issues bearing on expeditious resource development of this promising frontier area. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Jurisdictional Issues Task Group meeting follows:

The third meeting of the Jurisdictional Issues Task Group will be held on Tuesday, May 12, 1981, starting at 10:00 a.m., in Room 530, Annapolis Hilton Inn, Compromise at St. Mary's Streets, Annapolis, Maryland.

The tentative agenda for the meeting follows:

1. Introductory remarks by the Chairman and Government Cochairman.

2. Review drafts of individual assignments.

3. Discussion of the timetable of the Task Group.

4. Discussion of any other matters pertinent to the overall assignment from the Secretary.

The meeting is open to the public. The Chairman of the Jurisdictional Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Jurisdictional Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform G. J. Parker, Office of Oil and Natural Gas, Fossil Energy, 202/633–8383, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the

Freedom of Information Public Reading Room, Room 1E-190, DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on April 21, 1981.

Carl W. Guidice,

Acting Assistant Secretary for Fossil Energy.

April 21, 1981.

[FR Doc. 81-12644 Filed 4-27-81; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council, Resource Assessment Task Group of the Committee on Arctic Oil and Gas Resources; Meeting

Notice is hereby given that the Resource Assessment Task Group of the Committee on Arctic Oil and Gas Resources will meet in May 1981. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Arctic Oil and Gas Resources will analyze the various issues bearing on expeditious resource development of this promising frontier area. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Resource Assessment Task Group meeting follows:

The fifth meeting of the Resource Assessment Task Group will be held on Monday, May 11, 1981, starting at 9:00 a.m., in Room 202, Anaconda Tower, 555 Seventeenth Street, Denver, Colorado.

The tentative agenda for the meeting follows:

1. Introductory remarks by the Chairman and Government Cochairman.
2. Review drafts of individual assignments.
3. Review the timetable of the Task Group.
4. Discussion of any other matters pertinent to the overall assignment from the Secretary.

The meeting is open to the public. The Chairman of the Resource Assessment Task Group is empowered to conduct the meeting in a fashion that will, in his judgement, facilitiate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Resource Assessment Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform G. J. Parker, Office of Oil and Natural Gas, Fossil Energy, 202/633-8383, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on April 21, 1981.

Carl W. Guidice,

Acting Assistant Secretary for Fossil Energy.

April 21, 1981.

[FR Doc. 81-12645 Filed 4-27-81; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council, Transportation Task Group of the Committee on Arctic Oil and Gas Resources; Meeting

Notice is hereby given that the Transportation Task Group of the Committee on Arctic Oil and Gas Resources will meet in May 1981. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Arctic Oil and Gas Resources will analyze the various issues bearing on expeditious resource development of this promising frontier area. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Transportation Task Group meeting follows:

The fifth meeting of the Transportation Task Group will be held on Thursday, May 14, 1981, starting at 9:00 a.m., in the Yukon/Pacific Room, Atlantic Richfield Company, 515 South Flower Street, Los Angeles, California.

The tentative agenda for the meeting follows:

1. Introductory remarks by the Chairman and Government Cochairman.
2. Review drafts of individual assignments.
3. Review and discuss the overall time schedule of the Task Group.
4. Discussion of any other matters pertinent to the overall assignment from the Secretary.

The meeting is open to the public. The Chairman of the Transportation Task Group is empowered to conduct the meeting in a fashion that will, in his judgement, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Transportation Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform G. J. Parker, Office of Oil and Natural Gas, Fossil Energy, 202/633-8383, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on April 21, 1981.

Carl W. Guidice,

Acting Assistant Secretary for Fossil Energy.

April 21, 1981.

[FR Doc. 81-12646 Filed 4-27-81; 8:45 am]

BILLING CODE 6450-01-M

Bonneville Power Administration

Garrison-Spokane Proposed 500-kV Transmission Line; Amended Notice of Intent To Revise and Reissue a Draft Environmental Impact Statement

The Bonneville Power Administration (BPA) hereby amends the public notice of its intent to revise and reissue its draft environmental impact statement (EIS) on the proposed Hot Springs-Bell 500-kV transmission line. The original notice of intent was published in the **Federal Register**, August 6, 1979 (44 FR 45987). This amendment is necessary because BPA has expanded the scope of the EIS to consider the impacts and alternative locations associated with interconnecting the Federal Columbia River Transmission System to the Colstrip Transmission System at a point east of Missoula, Montana, rather than west of Missoula as originally proposed. To reflect this expanded scope, the title of the proposed action that is the subject of the EIS is now "Garrison-Spokane 500-kV Transmission Project."

This proposed action involves constructing a 500-kV double-circuit transmission line from a substation near Garrison, Montana (selection of the substation site is pending completion of a supplement to the final Colstrip Project EIS), to an existing substation that would be expanded or to a new substation that BPA would construct in western Montana, and constructing a

500-kV single-circuit transmission line from there to Glenn H. Bell Substation near Spokane, Washington. Possible alternative sites for the proposed new substation in western Montana are near Plains and Taft; an alternative site would be the existing Hot Springs Substation, which would be expanded. Several transmission route location alternatives are possible east toward Garrison as well as west toward Spokane from each of these new substation sites. A connected action is The Washington Water Power Company's proposed reinforcement of electrical service to their loads in northern Idaho.

Scoping for the EIS has already proceeded. Included in this process were a direct mailing of notices requesting public and agency comment and several public scoping meetings held in the project area. BPA will hold additional scoping meetings soon, probably in the towns of Drummond, Potomac, Clinton, Lolo, Frenchtown, and Missoula, Montana. Times and addresses will be announced in the **Federal Register**, in local media, and by direct-mail notification to affected and interested parties. Consultation has taken place with The Washington Water Power Company to plan for reinforcing electrical service to northern Idaho mining areas. Additional consultations will take place with (1) the Montana Power Company and the State of Montana, to identfy long-term service needs and plans for the Missoula area; (2) with the U.S. Forest Service and the Bureau of Land Management, the principal Federal permit-granting authorities and cooperating agencies; and (3) other involved local, regional, State, and Federal agencies as well as environmental organizations.

BPA welcomes comments so that issues and concerns can be identified early and fully considered in the preparation of the draft EIS. Any suggestions or questions regarding the proposed action and EIS should be directed to John E. Kiley, Environmental Manager, Bonneville Power Administration, P.O. Box 3621—SJ, Portland, Oregon 97208; telephone (503) 234-3361, extension 5137.

Dated at Portland, Oregon, this 21st day of April, 1981.

Earl Gjelde,

Acting Administrator.

[FR Doc. 81-12730 Filed 4-27-81; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP80-581]

Pataya Storage Co.; Informal Technical Conference

April 22, 1981.

Take notice that on April 30, 1981, at 9:00 a.m. an informal technical conference will be held at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

The purpose of the conference is to enable Staff to acquire information from Transcontinental Gas Pipe Line Corporation relative to its experiences with the design, engineering, construction, operation, and cost aspects of its Eminence Storage Project. It is hoped that the conference will give Staff insight with respect to Pataya's proposal in Docket No. CP80-581 to solution-mine two underground cavities in a salt formation for the storage of natural gas.

The informal technical conference is open to the public; however, attendance or participation at the conference will not serve to make the attendees parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the applicant's filings are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-12634 Filed 4-27-81; 8:45 am]

BILLING CODE 6450-85-M

Bonneville Power Administration

Record of Decision for the San Juan Islands Service Project, San Juan County, Wash.

Decision Summary

The Bonneville Power Administration (Bonneville) has decided to build the proposed 115-kV submarine transmission cable from Fidalgo Substation, located near Anacortes, Washington, to Lopez Substation, on Lopez Island, Washington, along proposed Route 1. This project was described in the San Juan Islands Service Final Location Supplement EIS (DOE/EIS-0005-FS) filed with EPA and issued to the public February 2, 1981. Bonneville has also decided to route the cable outside the existing right-of-way for a short distance on Decatur Island to avoid a large rock outcropping and to replace about 1,600 feet of existing overhead line on the east side of Decatur Island with underground cable.

Alternatives

Two routing alternatives were evaluated in the Supplement. Alternative 1 consisted of: (1) a 115-kV submarine cable from Fidalgo Substation across Rosario Strait to the eastern shore of Decatur Island and from the western shore of Decatur Island across Lopez Sound to Lopez Substation; (2) a 115-kV underground cable across Decatur Island; and (3) replacement of about 1,600 feet of existing overhead lines with an underground cable on the eastern side of Decatur Island. All but 1,400 feet of the project was within existing right-of-way.

Alternative Route 2 consisted of a submarine cable from Fidalgo Substation to Lopez Substation. The route crossed Rosario Strait and Lopez Sound south of Decatur and Ram Islands.

In addition to interisland transmission, several other alternatives were previously evaluated in the Final Planning Supplement (DOE/EIS-0005), issued April 1978. These included energy conservation, combustion generation on the islands, an alternative transmission route from the mainland via Lummi Island to Orcas Island, and no action. At that time, the decision was made to build an interisland submarine cable system from Fidalgo Substation to Lopez Substation because the plan had long-term usefulness, was economically feasible, had lower system losses, made better use of existing substation and transmission facilities, and met reliability criteria. The interislaned submarine cable system also avoided adverse economic and social impacts associated with no-action and energy conservation alternatives.

Impacts of Route 1 include increased soil erosion on Decatur Island and at Fidalgo Substation, low martality to shellfish as a result of trenching sedimentation, disruption of a previously excavated shell midden on Decatur Island, and disturbance of island residents and recreationists by construction noise and dust. These impacts will be mitigated to a great degree, with only minor short-term residual impacts. Visual impacts normally associated with overhead lines are avoided because the line across Decatur Island is buried. While Route 2 would have lower impacts to those resources discussed above, it would have several long-term impacts to resources which could not reasonably mitigated. New right-of-way through a subdivided area on Lopez Island would be needed; drag-net fishing south of Decatur and Ram Islands would be

restricted; more underground and some underwater blasting would be necessary; and collection of marine specimens necessary for ongoing physiology research at Friday Harbor Laboratories would be severely limited. As Route 2 crosses rough marine topography and is longer, the risk of cable failure and possible oil spills would be higher. Because impacts of Route 1 are relatively minor and can be mitigated to a great degree, it is environmentally preferred to Route 2, which has long-term impacts that cannot reasonably be mitigated.

Factors Used in Making Decisions

Major decision factors in the route selection were environmental concerns, design and installation feasibility, reliability, and economics. A minor decision factor was Bonneville's policy to parallel existing routes where possible. Route 1 was the environmentally preferable alternative. It avoided rugged and rocky marine topography which would make design and installation of the cable quite difficult as well as increase the risk of cable failure. Construction along Route 1 would not require extensive blasting and would be less costly. In addition, no new marine right-of-way would be required. For these reasons, BPA has selected Route 1.

Factors used to make the decision of whether to reroute the cable on Decatur Island were economics and environmental concerns. The reroute would eliminate costly trench excavation through solid rock and erosion problems associated with a backfilled trench in solid rock. By following an existing logging road around the rock, clearance of vegetation and other disruption created by a new right-of-way as well as the cost of clearance would be minimized.

Design feasibility, compliance with State land use plans, and public concerns were the factors weighed in the decision to replace a portion of existing overhead lines on Decatur Island with an underground cable. Relocation of the terminal of the two existing lines would comply with a 1975 landowners' petition, meet requirements of the San Juan County Shorelines Master Program, provide room for the new cable at the shoreline, and minimize concern about appearance of the facility expressed by the most impacted property owner.

Mitigation

The following practicable means of mitigating environmental impacts resulting from the construction of Alternative 1 have been adopted:

1. Insulating oil pressurization equipment on Decatur Island will be designed so insulating oil cannot leak from the immediate area of the equipment.

2. On Decatur Island, Oil pressurization equipment will be in underground concrete vaults or, if surface mounted, will be screened from view to minimize visual impacts.

3. Any slash burning will be timed to minimize air pollution and done in a manner prescribed by Washington Department of Ecology.

4. Roadbed mats will be used where specified by the Bonneville access road committee to protect soils that ponding or high water table make highly susceptible to erosion.

5. The marine cable will be jacketed in a lead alloy sheath and coated with thermoplastic polyethylene. A cathodic protection system will also be used to protect the cable.

6. To protect the cable, a 4-inch thick slab of weak concrete (1 part cement to 10 parts sand) cement will be placed in the trench over the underground cables at all road crossings and crossings of other utility service lines.

7. Cable will be laid in Rosario Strait and Lopez Sound only between July 15 and October 25 to minimize impacts to shellfish during reproductive periods or marine fishes in larval or juvenile stages of growth.

8. To avoid violating the Endangered Species Act (as amended) 16 U.S.C. 1531, no work will be performed within 330 feet of trees containing raptor nests until a Bonneville wildlife biologist approves such action, and no such trees will be felled or disturbed.

9. Off-road vehicles used for construction and maintenance activities will normally be confined to the construction zone and the right-of-way to minimize disturbance of wildlife and wildlife habitat.

10. If archeological materials are uncovered during construction, work will halt until mitigation and/or excavation actions are undertaken (according to 36 CFR Part 800) under guidance of the Washington State Historic Preservation Officer.

11. Disturbed areas in Washington Park will be regraded to original contours and reseeded following construction.

12. Workers staying in Washington Park will camp only in designated camping areas.

13. Bonneville will notify the U.S. Coast Guard 4 to 6 weeks in advance of anticipated cable installation, so they may submit the information to "Notice to Mariners."

14. The cable-laying vessels will maintain radio contact with the Puget Sound Vessel Traffic Service when laying cable in Rosario Strait and Lopez Sound.

15. All construction in Washington Park will be coordinated with the City of Anacortes Parks and Recreation Department to minimize impacts to recreationists.

16. The trench across Washington Park will be closed as soon as possible after the cable is installed. During nonworking hours, the trench will be barricaded with snow fences.

17. No construction equipment will be stored on Washington Park property during nonconstruction hours to minimize impacts to park visitors.

18. Large rocks and logs in the right-of-way will not be removed unless they clearly impede construction or emergency maintenance of the cable or overhead lines, as they provide highly specilized habitat for prey species.

19. Bonneville will comply with all applicable Federal and State floodplain protection standards.

20. The trench surface and adjacent disturbed areas will be contoured and seeded with a grass/clover mix prior to October 31.

21. A Bonneville-designated archeologist will be present when trenches are dug across known archeological sites on Decatur Island.

22. Bonneville will comply with the standards of the Washington State Shorelines Master Program with regard to site restoration, reduced clearing, runoff control, and utility line burial.

23. Bonneville will prepare an oil-spill contingency plan to detail: (a) estimated rate of flow and total potential quantity of oil spill; (b) preventative systems to be installed both on shore and underwater, i.e. cathodic protection, cable armor, etc.; (c) commitment of resources to be made for control and cleanup of any spill that occurs; (d) any necessary reports; and (e) compliance with any applicable state rules, regulations, and guidelines. This plan will be completed and approved by all involved divisions within Bonneville prior to installation of the cable.

24. All fixed structures will be analyzed dynamically to see that they meet the established seismic criteria for the San Juan Islands area.

25. Bonneville will locate the cable to avoid interference with use of the Washington Park boat ramp during low tide.

26. Following identification of an insulating oil leak in the cable, Bonneville will reduce oil pressure in the system as much as possible to

minimize oil release while still protecting the cable system.

27. For safety, trenches on Decatur, Fidalgo, and Lopez Islands will be left open only through actual laying of the cable.

28. If they meet U.S. Coast Guard safety regulations (33 CFR 64, 14 USC 86, 33 USC 1225) Bonneville will replace the three existing cable-crossing signs to mitigate visual impacts at the shorelines. Bonneville will submit drawings, specifications, and location details to U.S. Coast Guard for review and approval.

The only practicable mitigation measure not adopted by Bonneville was:

An oil pressurization system which was simple, with very few moving parts and no pumps, would be used to reduce risk of equipment falure.

Although a pressurization system with no pumps is anticipated, the preliminary project specifications allowed for design innovation and did not state pumps would not be allowed. A system using pumps will be considered by Bonneville if it is economically advantageous, all pumps are confined to the terminal substations, and there is no pressurization equipment on Decatur Island.

Monitoring and Enforcement

Bonneville has adopted the following program to monitor and enforce the mitigation measures.

Mitigation Measures 1 through 22 will be monitored and enforced through:

1. Participation in review of contract documents by the Environmental Analysis Branch to ensure all items are included.

2. Identification in monthly report from the construction inspector of each mitigation measure that has been initiated and/or completed as specified in the project contract.

The following will also be adopted by Bonneville where indicated to ensure implementation:

1. Items 1, 2, 5, 6, 24, and 25—Memorandum from the project manager to the Director of the Division of Transmission Engineering stating plan and/or proposal compliance checks have been made.

2. Item 20—Inspection 6 months following seeding to ensure adequate cover has been established.

3. Item 21—Notification to Bonneville one week prior to excavation of areas of concern (shown on map to be provided to contractor).

4. Item 23—Memorandum from approving official to the Chief Engineer, with an information copy to the Environmental Analysis Branch, when signed.

5. Item 26—Inclusion in the oil spill contingency plan.

6. Item 27—Self-enforcing mitigation monitored through inspection.

7. Item 28—Memorandum from project manager to Chief Engineer, with an information copy to Environmental Analysis Branch, upon approval from U.S. Coast Guard and from Line Construction Branch to Chief Engineer when installed.

Integration With Other Records

1. Under Office of Management and Budget (OMB) Circular No. A-95, Bonneville has notified the Washington State A-95 Clearinghouse of its proposed actions through the draft and final environmental impact statements sent to it. Bonneville feels the San Juan Islands project is consistent and compatible with State, area, and local development plans. This ROD will be sent to A-95 clearinghouses to notify them of actions Bonneville will take.

2. Because the project crosses the coastal floodplain, Bonneville has prepared and published a Statement of Findings according to Executive Order 11988—Floodplain Management and Department of Energy's Compliance with Floodplain/Wetlands Environmental Review requirements (10 CFR 1022.15). Bonneville has concluded there is no practicable alternative to crossing the coastal floodplains of Fidalgo, Decatur, and Lopez Islands if loads in the San Juan Islands are to be served.

3. No memorandum of agreement as outlined in the Advisory Council on Historic Preservation regulations (36 CFR 800.5(c) and 800.6(c)(3)) is required for this project as no National Register properties will be adversely affected.

4. Bonneville has provided Washington State agencies with consistency information on the National Oceanic and Atmospheric Administration coastal management program through the draft location supplement issued June 9, 1980.

5. No biological opinions were required on this project by the Fish and Wildlife Service or the National Marine Fisheries Service under the Endangered Species Act. Both agencies concurred with the biological assessments prepared on endangered species known to occur in the San Juan Islands area.

Dated: March 12, 1981.

Earl Gjelde,

Acting Administrator.

[FR Doc. 81-12731 Filed 4-27-81; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Cases Filed; Week of March 6 Through March 13, 1981

During the week of March 6 through March 13, 1981, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

April 22, 1981.

List of Cases Received by the Office of Hearings and Appeals

[Week of Mar. 6 through Mar. 13, 1981]

Date	Name and location of applicant	Case No.	Type of submission
Mar. 6, 1981	Ephraim and Flint (Bogue), Washington, D.C.	BFA-0623	Appeal of Information Request Denial. If granted: The February 4, 1981 Information Request Denial issued by the Office of Procurement Operations would be rescinded, and Emphraim and Flint would receive access to the names of "key personnel" contained in contract No. DE-AC01-80EI10413 (King Research, Inc.).
Mar. 6, 1981	Jordan Gas Company, Centre, Alabama	BEE-1642	Price Exception. If granted: The Jordan Gas Company would receive a retroactive exception from the provisions of 10 C.F.R. Part 212 which would modify its base price for liquified petroleum gas.
Mar. 6, 1981	Tulsa Daily World, Tulsa, Oklahoma	BER-0105	Request for Modification/Recission. If granted: The January 9, 1981 Decision and Order (Case No. BFA-0530) issued to Tulsa Daily World by the Office of Hearings and Appeals would be modified regarding the release of a cost proposal submitted by Fulton Energy Corp. to the DOE.
Mar. 9, 1981	Cougar Oil Marketers, Inc., Washington, D.C.	BEG-0045, BES-0147, BET-0147.	Petition for Special Redress, Request for Stay/Temporary Stay. If granted: The Office of Hearings and Appeals would review the decision of the Audit Director of the Houston Crude Oil Reseller Division not to review a denial of Cougar Oil Marketers, Inc.'s Application to Quash Subpoenas. The firm would receive a stay pending a final determination on its Petition for Special Redress.
Mar. 9, 1981	J. M. Reeves Chevron, Decatur, Georgia	BEE-1643	Price Exception. If granted: J. M. Reeves Chevron would receive a retroactive exception from the provisions of 10 C.F.R. Part 212 which would modify the historical ceiling prices applicable to the motor gasoline sold by the firm.
Mar. 9, 1981	Office of Special Counsel/Continential Oil Company, Washington, D.C.	BRZ-0088	Interlocutory Order. If granted: The Office of Hearings and Appeals would issue an Order to the Office of Special Counsel (OSC) with respect to Continental Oil Company's Motion for Discovery in connection with Continental's Statement of Objections to a Proposed Order of Disallowance issued by OSC (Case No. BRO-1153).
Mar. 9, 1981	Texaco, Inc./Office of Special Counsel, Washington, D.C.	BRJ-0194	Motion for Protective Order. If granted: Texaco, Inc. would enter into a Protective Order with the Office of Special Counsel (OSC) regarding the release of proprietary information to OSC in connection with Texaco's Statement of Objections to a Proposed Remedial Order (Case No. DRO-0199).
Mar. 10, 1981	Golden Gate Petroleum Company, Emeryville, California	BEE-1644, BES-1644	Exception from Reporting Requirements; Request for Stay. If granted: Golden Gate Petroleum Company would not be required to file form EIA-9A ("No. 2 Distillate Price Monitoring Report.") The firm would receive a stay pending a final determination on its Application for Exception.
Mar. 10, 1981	Sheila Kast, Washington, D.C.	BFA-0624	Appeal of Information Request Denial. If granted: The February 4, 1981 Information Request Denial issued by the Office of General Counsel would be rescinded, and Sheila Kast would receive access to all Transition Team reports regarding the DOE.
Mar. 10, 1981	Standard Oil Company of Indiana, Chicago, Illinois	BER-0106	Request for Modification/Rescission. If granted: The January 15, 1981 Decision and Order (Case No BES-0126) issued to Standard Oil Company of Indiana by the Office of Hearings and Appeals with respect to the 341 Tract Unit of the Citronelle Field would be modified.
Mar. 10, 1981	Stephen M. Shaw, La Jolla, California	BFA-0628	Appeal of Information Request Denial. If granted: The January 8, 1981 Information Request Denial issued by the Freedom of Information Officer would be rescinded, and Stephen M. Shaw would receive access to certain DOE materials.
Mar. 10, 1981	Stephen M. Shaw, La Jolla, California	BFA-0625	Appeal of Information Request Denial. If granted: The December 23, 1980 Information Request Denial issued by the Division of FOIA and Privacy Acts Activities would be rescinded and Stephen M. Shaw would receive access to records referring to silicon, silicon tetrachloride, dichlorosilane, silane, amorphous silicon, and polycrystalline silicon.
Mar. 10, 1981	Stephen M. Shaw, La Jolla, California	BFA-0627	Appeal of Information Request Denial. If granted: The December 17, 1980 Information Request Denial issued by the Office of Hearings and Appeals would be rescinded, and Stephen M. Shaw would receive access to certain DOE materials.
Mar. 10, 1981	Stephen M. Shaw, La Jolla, California	BFA-0626	Appeal of Information Request Denial. If granted: Stephen M. Shaw would receive access to certain DOE information.
Mar. 11, 1981	Alabama River Pulp Company, Claiborne, Alabama	BEA-0629	Appeal of ERA Decision and Order. If granted: The February 28, 1980 Decision and Order issued by the Economic Regulatory Administration to Alabama River Pulp Company would be rescinded, and the firm would be permitted to earn entitlements as a producer of petroleum substitutes.
Mar. 11, 1981	Gulf States Oil & Refining Company, Washington, D.C.	BEN-1616	Interim Order. If granted: Gulf States Oil & Refining Company would receive an exception from the provisions of 10 C.F.R. 211.67 on an interim basis pending a final determination on its Application for Exception (Case No. BEE-1616).
Mar. 12, 1981	Caribou Four Corners, Inc., Washington, D.C	BEX-0177	Supplemental Order. If granted: Caribou Four Corners, Inc. would receive an Exception from the provisions of 10 C.F.R. 211.67 which would modify its entitlement purchase obligations for the period December 1980 through March 1981.
Mar. 12, 1981	Congleton Oil Company, Inc., Richmond, Kentucky	BEE-1645	Exception from Reporting Requirements. If granted: Congleton Oil Company, Inc. would not be required to file form EIA-9A ("No. 2 Distillate Price Monitoring Report").

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Mar. 6 through Mar. 13, 1981]

Date	Name and location of applicant	Case No.	Type of submission
Mar. 12, 1981	Mobil Oil Corporation, Washington, D.C.	BEA-0630	Appeal of Entitlements Notice. If granted: The December 1980 Entitlements Notice would be modified with respect to Mobil Oil Corporation's entitlement purchase obligations.
Mar. 12, 1981	Navajo Refining Company, Dallas, Texas	BEX-0178	Supplemental Order. If granted: The January 27, 1981 Decision and Order (Case No. BXE-1356) issued to Navajo Refining Company by the Office of Hearings and Appeals would be modified with respect to the firm's reporting requirements.
Mar. 12, 1981	Plateau, Inc., Washington, D.C.	BEX-0175	Supplemental Order. If granted: Plateau, Inc. would receive and exception from the provisions of 10 C.F.R. § 211.67 which would modify its entitlement purchase obligations for the period December 1980 through March 1981.
Mar. 12, 1981	Tenneco Oil Company/Kern County Refinery, Inc., Washington, D.C./Los Angeles, California.	BRJ-0195	Motion for Protective Order. If granted: Tenneco Oil Company would enter into a Protective Order with Kern County Refinery, Inc. regarding the exchange of proprietary information between the two firms in connection with Tenneco Oil Company's Statement of Objections to a Proposed Remedial Order (Case No. BRO-1280).
Mar. 12, 1981	Warrior Asphalt Company of Alabama, Washington, D.C.	BEX-0174	Supplemental Order. If granted: Warrior Asphalt Company of Alabama would receive an exception from the provisions of 10 C.F.R. § 211.67 which would modify its entitlement purchase obligations for the period December 1980 through March 1981.
Mar. 12, 1981	Young Refining Corporation, Washington, D.C.	BEX-0176	Supplemental Order. If granted: Young Refining Corporation would receive an exception from the provisions of 10 C.F.R. § 211.67 which would modify its entitlement purchase obligations for the period December 1980 through March 1981.
Mar. 13, 1981	Office of Enforcement (Coline Gasoline Corp.)	BEF-0036	Implementation of Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 C.F.R. Part 205, in connection with the November 19, 1979 Consent Order issued to Coline Gasoline Corporation.
Mar. 13, 1981	Westland Oil Development Corporation, Washington, D.C.	BRR-0107	Request for Modification/Rescission. If granted: The June 23, 1980 Consent Order entered into between the Office of Enforcement and Westland Oil Development Corporation would be rescinded.

Notices of Objection Received

[Week of Mar. 6 through Mar. 13, 1981]

Date	Name and location of applicant	Case No.
Mar. 10, 1981	Consumers Power Company, Washington, D.C.	DPI-0001
Mar. 13, 1981	Beacon Oil Company, Washington, D.C.	BEE-1382.

Dismissed Cases Reopened

[Week of Mar. 9, 1981 through Mar. 13, 1981]

Date	Case name	Case No.	Location city/State
Mar. 09, 1981	Welsh Oil Company	BXE-1583	Morrillville, Indiana.
Mar. 10, 1981	Southern Colorado Agri-Fuel	DEE-7079	Pueblo, Colorado.
Mar. 10, 1981	Augusta Mall Gulf Service	DEE-6481	Augusta, Georgia.
Mar. 11, 1981	South Florida Gasohol, Inc.	BEE-0932	Washington, D.C.

[FR Doc. 81-12728 Filed 4-27-81; 8:45 am]

BILLING CODE 6450-85-M

Cases Filed; Week of March 13 through March 20, 1981

During the week of March 13 through March 20, 1981, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

April 22, 1981.

George B. Breznay,

Director, Office of Hearings and Appeals.

List of Cases Received by the Office of Hearings and Appeals

[Week of Mar. 13 through Mar. 20, 1981]

Date	Name and location of applicant	Case No.	Type of submission
Mar. 13, 1981	Husky Oil Company of Delaware, Washington, D.C.	BEX-0179	Supplemental Order. If granted: Husky Oil Company of Delaware would receive an exception from the provisions of 10 C.F.R. § 211.67 (the Entitlements Program) for the period January 1977 through March 1978 pursuant to an Order issued by the U.S. District Court for the District of Wyoming on September 20, 1978.
Mar. 16, 1981	Gulf Oil Corporation, Houston, Tex.	BEX-0180	Supplemental Order. If granted: The March 6, 1981 Decision and Order (Case No. BEX-0173) concerning the 341 Tract Unit of the Citronelle Field would be modified.
Mar. 16, 1981	Office of Enforcement (Natomas), Washington, D.C.	BEF-0037	Implementation of Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 C.F.R. Part 205, in connection with the July 29, 1980 Consent Order issued to Natomas North America, Inc.
Mar. 16, 1981	Office of Enforcement (Triton Oil), Washington, D.C.	BEF-0038	Implementation of Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 C.F.R. Part 205, in connection with the June 27, 1979 Consent Order issued to Triton Oil & Gas Corporation.
Mar. 16, 1981	Ralph E. Moore, Inc., Livingston, Mont.	BEE-1646	Exception from Reporting Requirements. If granted: Ralph E. Moore, Inc. would not be permitted to file Form EIA-9A ("No. 2 Distillate Price Monitoring Report").
Mar. 17, 1981	Beacon Oil Company, Hanford, Calif.	BEE-1647	Exception from the Entitlements Program. If granted: Beacon Oil Company would receive an exception from the provisions of 10 C.F.R. § 211.67 which would modify its entitlement purchase obligations.
Mar. 17, 1981	Gary Energy Corporation, Washington, D.C.	BEE-1648	Exception from the Entitlements Program. If granted: Gary Energy Corporation would receive an exception from the provisions of 10 C.F.R. § 211.67 which would modify the level of its entitlement sales benefits.
Mar. 17, 1981	Hawthorne Oil & Gas Corporation, Lafayette, La.	BRR-0106	Request for Modification/Rescission. If granted: The February 17, 1981 Decision and Order regarding Hawthorne Oil & Gas Corporation's requests for discovery and an evidentiary hearing (Case Nos. DRH-0206 and DRD-0206) would be rescinded.
Mar. 17, 1981	Indian Wells Oil Company, Inc., Kansas City, Mo.	BFA-0631	Appeal of Information Request Denial. If granted: The February 12, 1981 Information Request Denial issued by the Central Enforcement District Manager, Economic Regulatory Administration, would be rescinded and Indian Wells Oil Company, Inc. would receive access to materials relating to a Notice of Probable Violation issued on September 26, 1980 to Indian Wells Oil Company, Inc.; Indian Wells Operating Company, Inc.; Kathol Petroleum, Inc.; Tomlinson Oil Company, Inc.; and Crockett Gas Processing Company.
Mar. 18, 1981	341 Tract Unit of the Citronelle Field, Mobile, Ala.	BEX-0181	Supplemental Order. If granted: A special trustee would be appointed to assist the Department of Energy in monitoring the tertiary recovery project to be undertaken on the 341 Tract Unit of the Citronelle Field.
Mar. 18, 1981	Intercontinental Oil Company, Washington, D.C.	BER-0109	Request for Modification/Rescission. If granted: The May 13, 1980 Decision and Order (Case No. BFA-0323) issued by the Office of Hearings and Appeals to Intercontinental Oil Company would be modified to order the release by the Houston Crude Oil Reseller Division of the Office of Enforcement of documents previously withheld.
Mar. 19, 1981	Austral Oil Company, Washington, D.C.	BRD-0107	Motion for Discovery. If granted: Discovery would be granted to Austral Oil Company in connection with the Statement of Objections submitted in response to the February 9, 1981 Proposed Remedial Order (Case No. DRO-0141) issued to the firm.
Mar. 19, 1981	Englehard Minerals & Chemical Corp., Washington, D.C.	BFA-0633	Appeal of Information Request Denial. If granted: The January 28, 1981 Information Request Denial issued by the Economic Regulatory Administration would be rescinded, and Engelhard Minerals & Chemicals Corp. would receive access to documents relating to the November 26, 1980 Notice of Probable Violation issued to the firm by the Office of Enforcement.
Mar. 20, 1981	Ernest E. Allerkamp, Denver, Colo.	BES-0148	Request for Stay. If granted: Ernest E. Allerkamp would receive a stay of its obligation to file a Statement of Objections in response to the Proposed Remedial Order (Case No. DRO-0020) issued to the firm on September 21, 1979.
Mar. 20, 1981	Crown Central Petroleum Corporation, Baltimore, Md.	BRD-0108	Motion for Discovery. If granted: Discovery would be granted to Crown Central Petroleum Corporation in connection with the Statement of Objections submitted in response to the August 31, 1978 Proposed Remedial Order (Case No. DRO-0111) issued to the firm.
Mar. 20, 1981	Larkin, Hoffman, Daly & Lindgren, Ltd. (Hennessey), Minneapolis, Minn.	BFA-0634	Appeal of Information Request Denial. If granted: The February 13, 1981 Information Request Denial issued by the Office of Special Counsel for Compliance would be rescinded, and Larkin, Hoffman, Daly & Lindgren, Ltd. would receive access to materials related to the investigation and audit of Standard Oil Company of Indiana (Amoco).
Mar. 20, 1981	Office of Enforcement (John H. Hendrix Corporation), Washington, D.C.	BEF-0040	Implementation of Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 C.F.R. Part 205, in connection with the January 2, 1980 Consent Order issued to the John H. Hendrix Corporation.

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Mar. 13 through Mar. 20, 1981]

Date	Name and location of applicant	Case No.	Type of submission
Mar. 20, 1981	Office of Enforcement (Shawnee), Washington, D.C.	BEF-0039	Implementation of Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 C.F.R. Part 205, in connection with the August 27, 1979 Consent Order issued to Shawnee Oil and Gas Corporation.

Notices of Objection Received

[Week of Mar. 13 through Mar. 20, 1981]

Date	Name and location of applicant	Case No.
03/16/81	Somerset Refining, Inc., Washington, D.C.	BEE-1500
03/17/81	Southwestern Refining Company, Inc., Washington, D.C.	BEE-1567
03/17/81	Tom Brown, Inc., Midland, Tex.	BEE-1300

Dismissed Cases Reopened

[Week of Mar. 13 through Mar. 20, 1981]

Date	Case name	Case No.	Location city/state
03/16/81	Bud Antle, Inc	DEO-0462	Salinas, California.
03/16/81	Arnold's Arco & Rental	BEO-0560	Olympia, Washington.
03/16/81	Chevy Chase Exxon	BEE-0346	Chevy Chase, Maryland.
03/16/81	Gugino's Amoco Service	BEO-0774	Kenmore, New York.
03/19/81	Crystal Oil Company	BEG-0042	Washington, D.C.
03/19/81	Grisez Oil Company	BEO-1068	Tulsa, Oklahoma.

[FR Doc. 81-12727 Filed 4-27-81; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed; Week of March 20 Through March 27, 1981

During the week of March 20 through March 27, 1981, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulation, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

April 21, 1981.

Submission of Cases Received by the Office of Hearings and Appeals

[Week of Mar. 20 through Mar. 27, 1981]

Date	Name and location of applicant	Case No.	Type of submission
Mar. 20, 1981	Argo Petroleum Corporation, Washington, D.C.	BRD-0104	Motion for Discovery. If granted: Discovery would be granted to Argo Petroleum Corporation in connection with the Statement of Objections submitted in response to the November 2, 1978, Proposed Remedial Order (Case No. DRO-0146) issued to Argo Petroleum Corporation by the Office of Enforcement.
Mar. 20, 1981	Tiger Petroleum Products, Lebanon, Illinois	BFA-0635	Appeal of Information Request Denial. If granted: The February 18, 1981, Information Request Denial issued by the Central Enforcement District, Economic Regulatory Administration, would be rescinded and Tiger Petroleum Products would receive access to certain DOE information.
Mar. 23, 1981	Borton, Petrini & Conron, Bakersfield, California	BFA-0636	Appeal of Information Request Denial. If granted: The January 30, 1981, Information Request Denial issued by Energy Data Operations, Energy Information Administration, would be rescinded and Borton, Petrini & Conron would receive access to data from forms FEA-P302-M-1, FEA-P314-M-O, EIA-14, and FEO-96.
Mar. 23, 1981	Chevron U.S.A. Inc., San Francisco, CA.	BEX-0185	Supplemental Order. If granted: The January 19, 1981, Decision and Order issued to Chevron U.S.A. Inc. (Case No. DEA-0323) would be modified regarding the firm's entitlements purchase obligations.
Mar. 23, 1981	Southland Corporation, Washington, D.C.	DEG-0046	Petition to Special Redress. If granted: Southland Corporation would receive relief pursuant to 10 CFR Part 205, Subpart R, in connection with an ongoing audit by the Region IV Office of the Economic Regulatory Administration.
Mar. 24, 1981	Asamera Oil (U.S.), Inc., Washington, D.C.	BED-0110	Motion for Discovery. If granted: Discovery would be granted to Asamera Oil (U.S.), Inc. in connection with the Statement of Objections submitted in response to the January 15, 1981, Proposed Decision and Order (Case No. BEE-1491) issued to Asamera.
Mar. 24, 1981	Navajo Refining Company, Artesia, New Mexico	BEX-0184	Supplemental Order. If granted: The March 9, 1981, Decision and Order (Case No. BER-0103) issued to Navajo Refining Company would be modified regarding the firm's entitlements purchase obligations.
Mar. 24, 1981	Taverna Fuel Company, New York, New York	BRD, BRH-1406	Motion for Discovery and Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted in response to the Proposed Remedial Order (Case No. BRO-1406) issued to Taverna Fuel Company.
Mar. 25, 1981	Ashland Oil, Inc., Washington, D.C.	BEA-0637	Appeal of Entitlements Notice. If granted: The February 21, 1981, Entitlements Notice would be modified with respect to Ashland Oil, Inc.'s entitlements purchase obligations.

Submission of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Mar. 20 through Mar. 27, 1981]

Date	Name and location of applicant	Case No.	Type of submission
Mar. 25, 1981	Damours Service Station, Washington, D.C.	BRR-0110	Request for Modification/Rescission. If granted: The Proposed Remedial Order issued to Damours Service Station (Case No. BRW-0066) by The Office of Enforcement would be modified regarding implementation of special refund procedures.
Mar. 26, 1981	Frank's Marina, Freeport, New York	BRW-0084	Proposed Remedial Order Finalization. If granted: A Proposed Remedial Order issued to Frank's Marina on October 28, 1980, would be issued as a final Remedial Order.
Mar. 26, 1981	Goodhope Sunoco, Washington, D.C.	BRW-0086	Proposed Remedial Order Finalization. If granted: A Proposed Remedial Order to Goodhope Sunoco on October 3, 1980, would be issued as a final Remedial Order.
Mar. 26, 1981	Jamison's Sunoco, Washington, D.C.	BRW-0083	Proposed Remedial Order Finalization. If granted: A Proposed Remedial Order issued to Jamison's Sunoco on October 3, 1980, would be issued as a final Remedial Order.
Mar. 26, 1981	Lakeside Refining Co., Inc., Washington, D.C.	BEG-0047	Petition for Special Redress. If granted: Lakeside Refining Company, Inc., would receive a stay of proceedings regarding the March 17, 1980, Notice of Probable Violation pending conclusion of a Department of Justice investigation.
Mar. 26, 1981	Matty's Service Station, Yonkers, New York	BRW-0079	Proposed Remedial Order Finalization. If granted: A Proposed Remedial Order issued to Matty's Service Station on March 25, 1980, would be issued as a final Remedial Order.
Mar. 26, 1981	Placid Refining Company, Washington, D.C.	BES-1649	Request for Stay. If granted: Placid Refining Company would receive a stay of provisions of 10 C.F.R. 211.67 pending a final determination on its Applications for Exception (Case No. BEE-1649 and 1650).
Mar. 26, 1981	Placid Refining Company, Washington, D.C.	BEE-1649	Request for Exception from the Entitlements Program. If granted: Placid Refining Company would receive an exception from the provisions of 10 CFR 211.67 which would modify its entitlements purchase obligations.
Mar. 26, 1981	Riggs Road Sunoco, Washington, D.C.	BRW-0087	Remedial Order Finalization. If granted: A Proposed Remedial Order issued to Riggs Road Sunoco on October 3, 1980, would be issued as a final Remedial Order.
Mar. 26, 1981	Rodriquez Standard, Tucker, Ga.	BRW-0088	Proposed Remedial Order Finalization. If granted: A Proposed Remedial Order issued to Rodriquez Standard on May 8, 1980, would be issued as a final Remedial Order.
Mar. 26, 1981	Roger's Standard, Arlington Heights, Ill.	BRW-0080	Proposed Remedial Order Finalization. If granted: A proposed Remedial Order issued to Roger's Standard on November 11, 1980, would be issued as a final Remedial Order.
Mar. 26, 1981	Steven Frank Arco, Spring Valley, NY	BRW-0085	Proposed Remedial Order Finalization. If granted: A Proposed Remedial Order issued to Steven Frank Arco on October 28, 1980, would be issued as a final Remedial Order.
Mar. 26, 1981	Texas City Refining, Inc., Texas City, Texas	BEN-1419	Request for Interim Order. If granted: Texas City Refining, Inc. would receive exception relief on an interim basis pending a final determination on its Application for Exception (Case No. DEE-1419).
Mar. 26, 1981	Tresler Oil Co. and Transit Oil Co., Washington, D.C.	BER-0111	Request for Modification/Rescission. If granted: The February 27, 1981, Decision and Order (Case No BED-0373) issued to Atlantic Richfield Company would be rescinded regarding the response to certain interrogatories by Tresler Oil Co., and Transit Oil Co.
Mar. 26, 1981	Twin Parks Service Station, Bronx, N.Y.	BRW-0078	Proposed Remedial Order Finalization. If granted: A Proposed Remedial Order issued to Twin Parks Service Station on February 29, 1980, would be issued as a final Remedial Order.
Mar. 26, 1981	Mt. Olivet Sunoco, Washington, D.C.	BRW-0081	Proposed Remedial Order Finalization. If granted: A Proposed Remedial Order issued to Mt. Olivet Sunoco on October 2, 1980, would be issued as a final Remedial Order.
Mar. 26, 1981	New York Ave. Sunoco, Washington, D.C.	BRW-0082	Proposed Remedial Order Finalization. If granted: A Proposed Remedial Order issued to New York Avenue Sunoco on October 2, 1980, would be issued as a final Remedial Order.
Mar. 26, 1981	Office of Enforcement/James M. Forgotson et al.	BER-0112 to BER-0117	Request for Modification/Recission. If granted: The Decisions and Orders which were previously issued by the Office of Hearings and Appeals in Case Nos. DFF-0005, BRF-0001, BRF-0002, BFF-0003, BFF-0004, and BFF-0006, would be modified regarding the implementation of special refund procedures under 10 CFR Part 205, Subpart V.
Mar. 27, 1981	Asamera Oil/Chevron U.S.A., Washington, D.C.	BEJ-0196	Motion for Protective Order. If granted: Asamera Oil (U.S.) Inc. would enter into a protective order with Chevron U.S.A. regarding the exchange of proprietary information in connection with Asamera Oil (U.S.) Inc.'s Application for Exception (Case No. BEE-1491).
Mar. 27, 1981	Mt. Airy Refining Company, et al., Washington, D.C.	BES-1651 and BET-1651	Request for Stay and Temporary Stay. If granted: Mt. Airy Refining Company, Peerless Petrochemicals, Shepherd Oil, Inc. and Vicksburg Refining, Inc. would receive a stay and temporary stay of the implementation of the tertiary incentive program rules in the entitlements notice for January 1981.
Mar. 27, 1981	Oil, Chemical & Atomic Workers, International Union	BFA-0638	Appeal of an Information Request Denial. If granted: The February 24, 1981, Information Request Denial issued by the Oak Ridge Operations Office would be rescinded, and the Oil, Chemical and Atomic Workers International Union would receive access to certain DOE materials.

Notices of Objection Received

[Week of Mar. 20 through Mar. 27, 1981]

Date	Name and locaton of applicant	Case No.
Mar. 23, 1981	Joe E. Smith, Austin, Texas	DEE-2246.
Mar. 25, 1981	Arizona Fuels Corporation, Washington, D.C.	DEE-6984.
Mar. 25, 1981	Arizona Fuels Corporation, Washington, D.C.	BEE-0526.
Mar. 25, 1981	Commonwealth Oil Refining Company, Washington, D.C.	BXE-1575.
Mar. 26, 1981	Edgington Oil Company, Washington, D.C.	BEE-1555.

[FR Doc. 81-12728 Filed 4-27-81; 8:45 am]

BILLING CODE 6450-85-M

Issuance of Proposed Decisions and Orders; Week of March 2 Through March 6, 1981

During the week of March 2 through March 6, 1981, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,

Director, Office of Hearings and Appeals.

April 22, 1981.

Beacon Oil Co., Hanford, Calif., BEE-1382, crude oil

Beacon Oil Co. filed an Application for Exception from the provisions of 10 CFR 211.67. The exception request, if granted, would permit Beacon Oil Co. to be issued additional entitlements for the firm to sell which are equal in value to those entitlements which Beacon was obliged to purchase during the first seven months of its 1980 fiscal year. On March 4, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

The Crude Co., Washington, D.C., BEE-1015, crude oil

The Crude Company (TCC) filed an Application for Exception from the provisions of 10 CFR 212.126(b) and 212.187(b). The exception request, if granted, would permit TCC to be relieved of the requirement that it file certain crude oil reseller's certification reports until currently pending criminal proceedings are concluded. On March 5, 1981, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Dunigan Operating Company, Inc., Pampa, Texas, BEE-1233, crude oil

Dunigan Operating Company, Inc. filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. The exception request, if granted, would permit the firm to classify the M. B. Davis Lease as a "stripper well lease" and to sell the crude oil produced from that lease located in Gray County, Texas, at exempt prices. On March 2, 1981, the DOE issued a Proposed Decision and Order and tentatively determined that exception relief should be denied.

The Somerset Refinery, Inc., Washington, D.C., BEE-1500, crude oil

The Somerset Refinery, Inc. filed an Application for Exception from the provisions of 10 CFR 211.67. The exception request, if granted, would permit the firm to receive additional entitlements in order to bring its average crude oil acquisition costs into substantial parity with those of other crude oil refiners. On March 6, 1981, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Tom Brown, Inc., Midland, Texas, BEE-1300, crude oil

Tom Brown, Inc. filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. The exception request, if granted, would permit Tom Brown, Inc. to retroactively increase the prices for crude oil produced from its Neta Crawford lease. On March 5, 1981, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

[FR Doc. 81-12725 Filed 4-27-81; 8:45 am]

BILLING CODE 6450-85-M

ENVIRONMENTAL PROTECTION AGENCY

[Docket No. ECAO-CD-79-1; FRL 1813-4]

Air Quality Criteria for Particulate Matter and Sulfur Oxides

AGENCY: Environmental Protection Agency.

ACTION: Extension of Comment Period on Second External Review Draft.

SUMMARY: On March 6, 1981 (46 FR 15569) EPA announced a 60-day comment period on the second draft criteria document for particulate matter and sulfur oxides (PM/SOx), to end on May 5, 1981. This notice announces a 10-day extension of the comment period. Pursuant to this extension, the new deadline for submission of comments is Friday, May 15, 1981.

SUPPLEMENTARY INFORMATION: As stated in the Federal Register of March 6, 1981, EPA is seeking to issue a revised criteria document for PM/SOx as rapidly as possible, consistent with maintaining the quality of the final document. EPA has passed the statutory deadline for completing appropriate revisions to the criteria document and is currently engaged in litigation concerning the timing of criteria document review and revision. As part of the criteria document revision process, EPA has requested that the Clean Air Scientific Advisory Committee (CASAC) meet to provide advice on the second draft. That meeting, which will be announced in a subsequent Federal Register, is currently scheduled for July 7-9, 1081.

Recently, several parties have requested extensions of the May 5 deadline for receipt of comments on the draft. Several reasons for the extensions were cited, including the length and complexity of the document, and the great importance of the proceeding to them. Such requests have come from the American Mining Congress, the American Petroleum Institute, and eight companies in the nonferrous smelter industry. In considering whether to extend the comment period, I have weighed the compelling need to expeditiously complete issuance of a final document, with the stated needs of these parties for additional time. Because an extension of the comment period to May 15, 1981, will not require postponement of the CASAC meeting, and therfore not retard progress in preparing a revised document, I have decided to grant this short extension to the comment period.

As was the case with the original deadline, all comments must be actually received by EPA in Research Triangle Park, North Carolina, by 5 p.m., May 15, 1981. Comments should reference the docket number ECAO-CD-79-1, and be addressed to Diane Chappell-PM/SOx, Environmental Criteria and Assessment Office, MD-52, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711. Furthermore, commenter are again encouraged to send all or part of their comments to EPA before the deadline, where possible, in order to facilitate EPA's consideration of them.

Dated: April 23, 1981.

Richard M. Dowd,

Acting Assistant Administrator for Research and Development.

[FR Doc. 81-12659 Filed 4-27-81; 8:45 am]

BILLING CODE 6560-35-M

[OPTS-51252; TS FRL 1812-6]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the Federal Register certain information about each PMN within 5 working days after receipt. This notice announces receipt of eight PMN's and provides a summary of each.

DATE: Written comments by:

PMN 81-131, 81-133, 81-134, 81-135—May 16, 1981

PMN 81-141, 81-142, 81-144, 81-145—May 23, 1981

ADDRESS: Written comments to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M Street SW., Washington, DC 20460, (202-426-2610).

FOR FURTHER INFORMATION CONTACT: *For PMN No., Notice Manager, Telephone, and Room Number*

81-131, Rachel Diamond, (202-426-8816), E-221

81-133, 81-134, 81-135, 81-141, 81-142, 81-144, and 81-145, David Dull, (202-382-2277), E-229

Michael Brown, (202-472-3376), E-335

Mail address of notice managers: Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA (90 Stat. 2012 (15 U.S.C. 20604)), requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Initial Inventory were published in the Federal Register of May 15, 1979 (44 FR 28558-Initial) and July 29, 1980 (45 FR 50544-Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the Federal Register issues of January 10, 1979 (44 FR 2242) and October 6, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the Federal Register of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN Must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2), EPA must publish in the Federal Register nonconfidential information on the identity and uses of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use, and the potential exposure descriptions in the Federal Register.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended Federal Register notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) Federal Register notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the Federal Register.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN is published herein.

Interested persons may, on or before the dates shown under "Dates", submit to the Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St., SW., Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51252]" and the specific PMN number. Comments received may be seen Rm. E-106 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: April 20, 1981.

Edward A. Klein,

Director, Chemical Control Division.

PMN 81-131

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. June 15, 1981.

Manufacturer's Identity. Monsanto Company, 800 North Lindbergh Boulevard, St. Louis, MO 63166.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Allylglycidyl ether polyol resin.

Use. The manufacturer states that the PMN substance will be used in a cross-linking adhesive in paper bonding.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1981	5,000	20,000

The 1982 and 1983 production estimates were claimed confidential business information.

Physical Chemical Properties

Viscosity—150 cps.
Boiling point—750°F (estimated at 1 atmosphere).
Vapor pressure—< 0.1 mm Hg at 140°F.
Specific gravity—1.06
Percent volatiles—< 1%.
Flash point—335°F, Cleveland open cup.
Solubility—Insoluble in water. Soluble in polar organic solvents such as acetone.

Environmental Test Data

LC_{50} (mg/1):
Rainbow trout (96 hr)—240
Bluegill sunfish (96 hr)—26
Daphnia Magna (48 hr)—51

Toxicity Data

Single oral LD_{50} (rats)—3,700 mg/kg.
Single dermal LD_{50} (rabbits)—> 5,000 mg/kg.
Skin irritation (rabbits)—Non-irritating.
Eye irritation (rabbits)—Slightly irritating.

Exposure. The submitter states that at two sites 2–5 workers manufacturing and processing the new chemical could have minimal inhalation exposure 8 hr/da, 100 da/yr, during transfer operations.

Environmental Release/Disposal. The manufacturer states that there is no anticipated release or disposal of the new chemical into the environment; amounts released by accidental spill will be recycled or disposed of by incineration or landfill.

PMN 81-133

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. June 15, 1981.

Manufacturer's Identity. E. I. du Pont de Nemours & Co., 1007 Market Street, Wilmington, DE 19898.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Unsaturated carboxylic amide.

Use. Fuel additive.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. Claimed confidential business information.

Toxicity Data. No data were submitted on the PMN substance. The manufacturer provided the following data from tests on a typical mixture of PMN subtances.

Oral LD_{50} (rats)—> 5,000 mg/kg; very low toxicity
DOT skin corrosion test (rabbits)—Non-corrosive.
Primary skin irritation (guinea pigs)—Moderately to mildly irritating in 24 and 48 hours.
Skin sensitization (guinea pigs)—Not sensitizing.
(Details and results of other tests are available at EPA).

Exposure. No data were submitted. The manufacturer states that the PMN substance will be manufactured in a closed system; skin or inhalation exposure would be accidental and minimal.

Environmental Release/Disposal. Claimed confidential business information.

PMN 81-134

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. June 15, 1981.

Manufacturer's Identity. E. I. du Pont de Nemours & Co., 1007 Market Street, Wilmington, DE 19898.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Unsaturated carboxylic amide-carboxylic acid.

Use. Fuel additive.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. Claimed confidential business information.

Toxicity Data. No data were submitted on the PMN substance. The manufacturer provided the following data from tests on a typical mixture of PMN substances:

Oral LD_{50} (rats)—> 5,000 mg/kg; very low toxicity.
DOT skin corrosion test (rabbits)—Non-corrosive.
Primary skin irritation (guinea pigs)—Moderately to mildly irritating in 24 and 48 hours.
Skin sensitization (guinea pigs)—Non-sensitizing.
(Details and results of other tests are available at EPA).

Exposure. No data were submitted. The manufacturer states that the PMN substance will be manufactured in a closed system; skin or inhalation exposure would be accidental and minimal.

Environmental Release/Disposal. Claimed confidential business information.

PMN 81-135

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. June 15, 1981.

Manufacturer's Identity. E. I. du Pont de Nemours & Co., 1007 Market Street, Wilmington, DE 19898.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Acrylic polymer.

Use. The manufacturer states that the PMN substance will be used in the preparation of textile fiber.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. No data were submitted on the PMN substance.

Toxicity Data. No data were submitted on the PMN substance.

Exposure. The manufacturer states that 129 workers could have skin and inhalation exposure to the new substance 152 da/yr at a concentration of 0 to 10 mg/m³.

Environmental Release/Disposal. Reactor and filter vapors are discharged through water scrubbers and then, along with the dryer exhaust air, vented through a stack to the atmosphere. The liquid from filtration is distilled for recovery and recycling of unreacted monomers and the waste from the recovery system is discharged to the plant waste treatment system.

PMN 81-141

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. June 22, 1981.

Manufacturer's Identity. Andrews Paper & Chemical Co., Inc., 1 Channel Drive, P.O. Box 509, Port Washington, NY 11050.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: 4-*N,N*-Diethylaminobenzene diazonium sulfonate salt.

Use. The manufacturer states that the PMN substance will be used in an industrial and commercial use as diazo reproduction paper and film.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	300	3,500
2d year	600	8,000
3d year	1,000	12,000

Physical/Chemical Properties

Molecular weight—422.
Physical appearance—Yellow-green powder.
Decomposition range—162-167°C.
Non-flammable; does not ignite with a flame.
Soluble in water, alcohol at pH >7.
Sensitive to ultra violet light, reacts with couplers in alkaline media to give azo dyes.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that two manufacturing workers could have accidental skin and inhalation exposure 1 hr/da, 20 da/yr, at average and peak concentrations of 0–1 mg/m³ during filtering, drying, packing, and drum filling operations. At approximately 20 sites not controlled by the submitter, 20 processing workers could have accidental skin and inhalation exposure 0.1 hr/da, 50 da/yr, while weighing the new chemical and adding it to a solution. Daily skin exposure would occur to 500 commerical users of articles containing the new substance.

Enviromental Release/Disposal. The manufacturer states that none of the new substance will be released into the air and that less than 10 kg/yr will be released 0.1 hr/da, 30 da/yr, into a publicly owned treatment works (POTW) after pH neutralization. At the sites of approximately 20 users, none will be released into the air and less than 10 kg/yr through waste disposal companies.

PMN 81-142

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. June 22, 1981.

Manufacturer's Identity. Andrews Paper & Chemical Co., Inc., 1 Channel Drive, P.O. Box 509, Port Washington, NY 11050.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: 4-(4-morpholinyl)-2,5-dibutoxybenzene diazonium sulfonate salt.

Use. The manufacturer states that the PMN substance will be used in an industrial and commercial use as diazo reproduction paper and film.

Production Estimates

Year	Kilograms per year	
	Minimum	Maximum
1st	250	1,000
2d	400	2,000
3d	500	3,000

Physical/Chemical Properties

Molecular weight—580.
Physical appearance—Yellow powder.
Decomposition range—133 to 138° C.
Nonflammable; does not ignite with a flame.
Soluble in water, alcohol at pH over 7.
Sensitive to U.V. light; reacts with couplers in alkaline media to give azo dyes.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that two manufacturing workers could have accidental skin and inhalation exposure 1 hr/da, 10 da/yr, at average and peak concentrations of 0–1 mg/m³ during filtering, drying, packing, and drum filling operations. At approximately 20 sites not controlled by the submitter, 20 processing workers could have accidental skin and inhalation exposure 0.1 hr/da, 50 da/yr, while weighing the new chemical and adding it to a solution. Daily skin exposure would occur to 500 commerical users of articles containing the new substance.

Enviromental Release/Disposal. The manufacturer states that none of the new substance will be released into the air and that less than 10 kg/yr will be released 0.1 hr/da, 10 da/yr, into a POTW after pH neutralization. At the sites of approximately 20 users of the new chemical, none will be released into the air and less than 10 kg/yr through waste disposal companies.

PMN 81-144

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. June 22, 1981.

Manufacturer's Identity. Andrews Paper & Chemical Co., Inc., 1 Channel Drive, P.O. Box 509, Port Washington, NY 11050.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: 4-(1-Prolidinyl)-3-methylbenzene diazonium sulfonate salt.

Use. The manufacturer states that the PMN substance will be used in an industrial and commercial use as diazo reproduction paper and film.

Production Estimates

Year	Kilograms per year	
	Minimum	Maximum
1st	250	1,250
2d	500	2,500
3d	750	4,000

Physical/Chemical Properties

Molecular weight—434.
Physical appearance—Yellow-orange powder.
Decomposition range—135-140° C.
Nonflammable; does not ignite with a flame.
Soluble in water, alcohol at pH over 7.
Sensitive to U.V. light; reacts with couplers in alkaline media to give azo dyes.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that two manufacturing workers could have accidental skin and inhalation exposure 1 hr/da, 20 da/yr, at average and peak concentration of 0–1 mg/m³ during filtering, drying, packing, and drum filling operations. At approximately 20 sites not controlled by the submitter, 20 processing workers could have accidental skin and inhalation exposure 0.1 hr/da, 50 da/yr, while weighing the new chemical and adding it to a solution. Daily skin exposure would occur to 500 commercial users of articles containing the new substance.

Environmental Release/Disposal. The manufacturer states that none of the new substance will be released into the air and that less than 10 kg/yr will be released 0.1 hr/da, 20 da/yr, into a POTW after pH neutralization. At the sites of approximately 20 users of the new chemical, none will be released into the air and less than 10 kg/yr through waste disposal companies.

PMN 81-145

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. June 22, 1981.

Manufacturer's Identify. Andrews Paper & Chemical Co., Inc., 1 Channel Drive, P.O. Box 509, Port Washington, NY 11050.

Specific Chemical Identify. Claimed confidential business information. Generic name provided: 4-*N,N*-Dimethylaminobenzene diazonium sulfonate salt.

Use. The manfacturer states that the PMN substance will be used in an industrial and commercial use as diazo reproduction paper and film.

Production Estimates

Year	Kilograms per year	
	Minimum	Maximum
1st	300	3,000
2d	600	6,000
3d	1,000	10,000

Physical/Chemical Properties

Molecular weight—394

Physical appearance—Yellow-orange powder.
Decomposition range—165–170° C.
Nonflammable; does not ignite with a flame.
Soluble in water, alcohol at pH over 7.
Sensitive to U.V. light; reacts with couplers in alkaline media to give azo dyes.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that two manufacturing workers could have accidental skin and inhalation exposure 1 hr/da, 15 da/yr, at average and peak concentrations of 0–1 mg/m^3 during filtering, drying, packing, and drum filling operations. At approximately 20 sites not controlled by the submitter, 20 processing workers would have accidental skin and inhalation exposure 0.1 hr/da, 50 da/yr, while weighing the new chemical and adding it to a solution. Daily skin exposure would occur to 500 commercial users of articles containing the new substance.

Environmental Release/Disposal. The manfuacturer states that none of the new substance will be released into the air and that less than 10 kg/yr will be released 0.1 hr/da, 20 da/yr, into a POTW after pH neutralization. At the sites of approximately 20 users of the new chemical, none will be released into the air and less than 10 kg/yr through waste disposal companies.

[FR Doc. 81-12856 Filed 4-24-81; 8:45 am]
BILLING CODE 6560-31-M

[OPP 100001; PH FRL 1812-7]

Confidential Business Information; Transfer of Data to Contractors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has transferred to eight contractors and the Canada Department of National Health and Welfare information received under section 3 and 6 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Some of the information has been claimed to be confidential business information (CBI). the contracts listed below have met the requirements of 40 CFR 2.301(h)(2) and the data have been tranferred to the contractors for performance of the contracts.

FOR FURTHER INFORMATION CONTACT: William C. Grosse, Chief, Information Services Branch, Program Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington., D.C. 20460, (703) 557-7143.

SUPPLEMENTARY INFORMATION: The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) section 10(e) provides that confidential business information (CBI), or business information which is alleged to be confidential, may be disclosed to an authorized contractor when such disclosure is necessary for the performance of the contract. EPA routinely receives such CBI as part of the data that are submitted by pesticide registrants and others as provided for in FIFRA sections 3(c)(2) and 6(a)(2). Contractors are authorized to receive such data after the EPA program office managing the contract makes the determinations that are specified in 40 CFR 2.301(h)(2) as referenced in § 2.201. Such determinations have been made on the current contracts listed below. Advance notice covering all new contracts as specified by § 2.301(h)(2)(iii) shall be provided.

(a) Contractors to whom FIFRA CBI is being disclosed:

(1) Raven Systems and Research, Washington, D.C.—Contract No. 68–01–4934. Technical data are indexed, coded, and entered into the Pesticide Document Management System (PDMS) from which retrievals are run and bibliographies produced to support Registration Standards, RPAR and other data-dependent aspects of the pesticide regulatory program.

(2) Computer Sciences Corp., Falls Church, Va—Contract No. 68–01–3840. Computer processing of confidential and nonconfidential data is performed on the premises of EPA. This contractor is not concerned with the meaning of the data being processed, under security safeguards, at EPA headquarters.

(3) TRW Inc., Redondo Beach, Cal.—Contract No. 68–02–3174. Major pest control strategies in forest management are evaluated. Toxicology, environmental effects, and options for disposal are evaluated.

(4) Enviro Control, Inc., Rockville Md.—Contract No. 68–01–5144. Use pattern profiles for all pesticide chemicals are prepared. Contract No. 68–01–5830. Environmental exposure data on pesticides are reviewed and evaluated, primarily in the reregistration process.

(5) Mitre Corp., McLean, Va—Contract No. 68–01–5944. Risk and benefit studies are performed. Contract No. 68–01–5965. Socioeconomic impact analyses of current and proposed pesticide regulations are made.

(6) Geomet Technologies Inc., Gaithersburg, Md.—Contract No. 68–01–5155. Use pattern analyses for environmental fate, ecological effects, residue chemistry, and economics are made.

(7) Clement Associates, Inc., Washington, D.C., and EPL, Inc., Herndon, Va.—Contract No. 68–01–5824. Assessment of scientific data is made in support of pesticide evaluations.

(8) Jacobs Engineering Group, Inc., Pasadena, Cal.—Contract No. 68–03–2569. RPAR trigger review is made for two pesticides. (b) Disclosure of FIFRA CBI under intergovernmental administrative agreements:
Environmental Health Directorate, Health Protective Branch, Canada Department of National Health and Welfare—Memorandum of Understanding, February 12, 1980. Under this agreement, EPA (Office of Pesticide Programs) and the Canada Department of National Health and Welfare (Health Protection Branch) share technical data and information on ingredients found in pesticide formulations regulated by both countries. This agreement specifies that each nation's policy on data confidentially be scrupulously observed by the other in protection any and all information shared under this agreement. With respect to providing security of data from unauthorized release, EPA has determined that the security provisions contained in 40 CFR 2.301(h)(2) are met by provisions of the Canadian Pest Control Products Act and Official Secrets Act. The agreement further stipulates that both governments will hold confidential all CBI unless disclosure is authorized in writing by the government furnishing the data. This assures that both governments retain the discretion to follow their security procedures with respect to data disclosure, prior to disclosure by the other government.

(Sec. 10 as amended 92 Stat. 819; (7 U.S.C. 136))

Dated: April 16, 1981.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs

[FR Doc. 81-12657 Filed 4-27-81; 8:45 am]
BILLING CODE 6560-32-M

[ER FRL 1812-4]

EPA Comments on Environmental Impact Statements and Other Actions Impacting the Environment; Availability of Report

AGENCY: Office of Federal Activities (A-104), Environmental Protection Agency.

PURPOSE: Pursuant to the requirements of section 102(2)(c) of the National Environmental Policy Act of 1969, and section 309 of the Clean Air Act, as

amended, the Environmental Protection Agency (EPA) has reviewed and commented in writing on Federal agency actions impacting the environment.

SUMMARY OF NOTICE: A report which identifies EPA's comments on EIS's and other actions impacting the environment which were released during March 1981 has been prepared and is available upon request. To obtain a copy of this report you should contact: Ms. Kathi L. Wilson, Office of Federal Activities (A-104), U.S. Environmental Protection Agency, Washington, D.C. 20460.

This report is also published in the monthly publication entitled, 102 Monitor, which is available through subscription with the Government Printing Office, Superintendent of Documents, Washington, D.C. 20402.

CONTENTS OF REPORT: The report contains the type and title of the document reviewed by EPA, the agency responsible for preparing document, the EPA review control number, the classification of the nature of EPA's comments for draft EIS's and a summary of the EPA's comments is given for final EIS's and other actions.

Dated: April 21, 1981.

William N. Hedeman, Jr.,

Director, Office of Federal Activities.

[FR Doc. 81-12654 Filed 4-27-81; 8:45 am]

BILLING CODE 6560-37-M

[AS FRL 1812-3]

Science Advisory Board Executive Committee; Open Meeting

Under Pub. L. 92-463 notice is hereby given of a meeting of the Executive Committee of the Science Advisory Board. The meeting will be held May 14-15, 1981 starting at 9:15 am in Room 1101, West Tower, EPA Headquarters, 401 M Street, SW., Washington, D.C. 20460.

The agenda for the meeting includes a discussion of issues concerning science and decision-making in EPA. These issues include: Distinctions between science and policy issues; criteria development for scientific studies and standard setting; risk analysis and standard setting; and development of scientifically supportable standards. Other issues on the agenda include a briefing on the revisions to EPA research budget for fiscal year 1982.

The meeting is open to the public. Any member of the public wishing to attend or obtain information should contact Richard M. Dowd, Director, Science Advisory Board at (202) 755-2600 or Terry F. Yosie, Staff Officer, Science Advisory Board at (202) 755-0263 before close of business May 7, 1981.

Richard M. Dowd,

Director, Science Advisory Board.

April 22, 1981.

[FR Doc. 81-12653 Filed 4-27-81; 8:45 am]

BILLING CODE 6560-34-M

[OPTS 90001; TSFRL 1812-8]

Toxics Integration Information Series; Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA announced in the Federal Register of August 25, 1980 (45 FR 56432) the availability of the Toxics Integration Information Series. The Information Series provides data and analysis regarding the assessment and regulation of chemical substances throughout the Environmental Protection Agency. This notice announces the availability of four documents.

FOR FURTHER INFORMATION CONTACT: John B. Ritch, Jr., Director, Industry Assistance Office (TS-799), Office of Toxic Substances, U.S. Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, Toll free: (800-424-9065), Washington, D.C.: (554-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: Section 9 of the Toxic Substances Control Act (TSCA), Pub. L. 94-469, requires the Environmental Protection Agency to integrate and coordinate the various Federal activities involved with controlling toxic substances whenever regulatory action is contemplated or initiated under this Act.

The Toxics Integration Information Series contains publications that (1) provide basic data on the status of assessment and regulation of chemical substances throughout the Environmental Protection Agency, (2) provide locator and reference information regarding groups and agencies charged with responsibility for chemical substance research, assessment, and regulatory missions, and (3) contain occasional publications analyzing scientific, technical, and business information regarding chemical substances and groups of substances that will be useful to EPA and other decisionmakers.

Ordering

This notice announces the availability of four documents. These documents are intended primarily for EPA program managers, but they may be helpful to Federal and State health and environmental officials, industry, labor, environmentalists, and others interested in EPA activities related to chemicals.

To have your name placed on the mailing list to receive Notices of future documents as they become available in the Toxics Integration Information Series, send in your complete mailing address (name, company/organization, street address, city, State, and zip code) to the Industry Assistance Office (address above). If you have already placed your name on this list, do not do so now.

After the initial supply of each document is exhausted, copies can be purchased from the National Technical Information Service (NTIS). The NTIS reference number can be obtained from the Industry Assistance Office.

Documents Available

The first document, "EPA Chemical Activities: Status Report, Second Edition," is an annual catalog of chemicals being regulated and/or studied by EPA for possible regulation. The publication enables a person to locate for a specific chemical under what authority it is being considered and the nature of current activities. The document summarizes information about pre-regulatory assessments, surveys, investigations, monitoring, technical assistance programs, and regulatory activities.

The second document, "Chemical Selection Methods: An Annotated Bibliography," is a catalog of resource materials about the selection, ordering, and ranking of chemical substances. The bibliography provides individuals interested in chemical selection (priority setting, ranking, indexing, sorting) with a collection of extant materials and, thus, may prevent duplicative effort and assist in developing new methods. Most entries include information on where the documents may be obtained.

The third document, the "Chemical Information Resources Handbook," is a compendium describing approximately 70 computerized resources containing information about chemicals available through government and private organizations.

The Handbook provides a framework for retrieving information on chemical toxicology, environmental effects, spill responses, disposal methods, ambient air and water concentrations, control technologies, and existing regulations. The various resources provide both bibliographic and other information on these subjects. Beyond currently available resources, the Handbook describes resources that will be

available in the future, how to access the systems, cost of resource access, and the format and form of the output.

The Handbook was developed for presentation at 35 nationwide orientation sessions on chemical information resources. The Environmental Protection Agency (EPA) sponsored these sessions to promote an understanding of the resources available in the field of chemical information.

The fourth document, the "TSCA Status Report for Existing Chemicals," is a periodic publication with lists all the existing chemicals of interest to the Office of Pesticides and Toxic Substances under the Toxic Substances Control Act and indicates the regulatory/assessment status of each.

Dated: April 8, 1981.

Marilyn C. Bracken,

Associate Assistant Administrator for Toxics Integration.

[FR Doc. 81-12658 Filed 4-27-81; 8:45 am]

BILLING CODE 6560-31-M

FEDERAL COMMUNICATIONS COMMISSION

[BC Docket Nos. 81-268, 81-269; File Nos. BPH-800318AJ, BPH-800829BF]

DOXA Inc., and Covington Area Broadcasters, Inc.; Consolidated Hearing on Stated Issues

In re applications of DOXA, Inc., Covington, Indiana, Reg. 103.1 MHz, Channel 276A 3kW, (H&V), 299 feet, BC Docket No. 81-268, File No. BPH-800318AJ; Covington Area Broadcasters, Inc., Covington, Indiana, Reg: 103.1 MHz, Channel 276A 3.00 kW (H&V), 300 feet; BC Docket No. 81-269, File No. BPH-800829BF, for a construction permit; for a New FM Station.

Hearing Designation Order

Adopted: April 15, 1981.

Released: April 21, 1981.

1. The Commission, by the Chief, Broadcasting Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by DOXA Inc. (DOXA) and Covington Area Broadcaster (CAB).

2. The applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

3. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

4. It is further ordered, that, to avail themselves of the opportunity § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

5. It is further ordered, that the applicants herein shall pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing (either individually, or if feasible and consistent with the rule, jointly) and shall advise the Commission of the publication of such notice as required by § 73.3594 of the rules.

Federal Communications Commission.

Larry D. Eads,

Acting Chief, Broadcast Facilities Division.

[FR Doc. 81-12651 Filed 4-27-81; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 81-217; FCC 81-131]

MCI Telecommunications Corp., et al; Designated Application for Hearing on Stated Issues

In the matter of MCI Telecommunications Corporation v. American Telephone and Telegraph Company and the Pacific Telephone and Telegraph Company and In the matter of MCI Telecommunications Corporation, CC Docket No. 81-217.

Memorandum Opinion and Order

Adopted: March 26, 1981.

Released: Apri 7, 1981.

By the Commission: Chairman Ferris not participating; Commissioner Fogarty dissenting and issuing a statement; Commissioner Jones concurring in the result.

1. The Commission has before it for reconsideration a Memorandum Opinion and Order in *MCI Telecommunications Corp. v. AT&T,* 74 FCC 2d 184 (1979) (Second Order). There the Commission denied a formal complaint [1] filed by MCI Telecommunications Corporation (MCI) against The American Telephone and Telegraph Company (AT&T) and Pacific Telephone and Telgraph Company (PT&T), and also denied a petition for reconsideration and petition for stay of our Memorandum Opinion and Order in *MCI Telecommunications Corporation,* 62 FCC 2d 703 (1976) (First Order). MCI sought judicial review of the Second Order in the United States Court of Appeals for the District of Columbia Circuit.[2] Thereafter, on June 16, 1980, the Commission voluntarily requested the Court to remand the case to the Commission for consideration of matters raised in MCI's brief which either were not addressed or were addressed inadequately in the order under review. The Court ordered the remand on September 2, 1980. For reasons discussed below, we now conclude that the Second Order was inadequate to dispose of the complaint, and we will direct an expedited hearing on MCI's complaint.

Background

2. In February of 1975, MCI entered into a contract with General Motors (GM) to provide private line service connecting GM offices in Chicago, Detroit, and Oakland, California. The service was to begin in July of that year. MCI's own facilities extended from Chicago and Detroit, through Phoenix, to Los Angeles. However, it did not have circuits from Los Angeles or Phoenix to Oakland. MCI thus sought to lease AT&T circuits linking MCI offices in either Los Angeles or Phoenix with GM's office in Oakland.

3. By letter dated March 31, 1975, MCI ordered 116 voice grade circuits from Phoenix to Oakland under AT&T's Other Common Carrier Tariff FCC No. 266 (OCC tariff). After some delays in finding the correct AT&T officer, the order was repeated on April 8. The order was stated by MCI to be "under the provisions of Tariff FCC 266 as modified in FCC 20099 negotiations."

4. Two days later, MCI placed another order, as agent for GM, requesting two bundles of Telpak C circuits from a GM switch in Oakland "to an MCI provided switch on General Motors premises" located in MCI's Los Angeles office. On April 15, AT&T refused to accept the Telpak C order because it did "not relate to the provision of facilities as covered in Tariff FCC No. 266 and modified in Docket 20099." The Telpak service would have cost MCI about $32,000 a month under AT&T's Tariff FCC 260.

[1] File No. TS 7-76, filed September 22, 1976.

[2] *MCI Telecommunications Corporation v. FCC,* No. 79-2315 (D.C. Cir. filed Nov. 2, 1979.)

5. On April 18, AT&T informed MCI that its order under the OCC tariff for service from Oakland to Phoenix could not be completely filled by the July 1 date requested. Only 46 circuits, it said, could be made available by then, and 10 of those might be technically unacceptable for MCI's purposes. AT&T further stated that the remaining facilities could be made available within a normal interval of 25 weeks from the date of the order. The bill for this service would have been about $84,500 per month by AT&T's calculations, $52,000 per month according to MCI.[3]

6. MCI then ordered 118 circuits from Pacific Telephone and Telegraph (PT&T) and a week later cancelled the order from AT&T under the OCC tariff. PT&T billed MCI at its interstate single channel rate under P.T.T. Tariff FCC No. 126 at about $181,000 a month. However, MCI only paid it $32,000 a month (the Telpak rate), while at the same time gradually replacing the PT&T circuits. On March 22, 1976, PT&T notified MCI by letter that its remaining facilities, seven circuits, were subject to disconnection for failure to pay the billed charges and demanded payment of accumulated bills totalling $889,203.03.

7. It was at this point that the Commission became involved. On April 20, 1976, MCI filed a petition for emergency relief in which it asked the Commission to enjoin the termination pending a determination of the proper charges. It also argued that the so-called customer premises restriction in AT&T's Tariff 260, which was the apparent basis for AT&T's denial of Telpak service, was in violation of the Act as well as court and Commission orders.

8. Significantly, even before these events, the Commission had been considering the reasonableness of two restrictions in AT&T's Tariff 260. In the *Resale and Shared Use Decision*, 60 FCC 2d 261 (1976)[4] (*Resale*), the Commission concluded that the restrictions on resale or sharing of private line services, including those offered under Telpak rates, were unreasonable and thus unlawful. That order was adopted on July 1, 19765. Two weeks later, the Commission struck down the customer premises restriction, finding it inconsistent with its landmark *Hush-a-Phone*,[5] *Carterfone*,[6] and *Specialized Common Carrier Services*[7] decisions. *AT&T, Restrictions on Interconnection of Private Line Services*, 60 FCC 2d 939 (1976) (the "Piece-Out" decision).

9. At the same meeting, the Commission also considered MCI's petition and denied it. The Commission found that MCI was obliged to pay PT&T all charges properly billed and that self-help by refusing to pay part of the bill was not an acceptable remedy. The Commission also noted that the proper proceeding for obtaining a ruling on the issues MCI raised was by way of complaint for reparation under Sections 206–209 of the Act, 47 U.S.C. 206–209. Finally, it concluded that it was unable to determine whether AT&T actually needed 25 weeks to provide the OCC tariff services requested by MCI. Accordingly, AT&T was directed to submit a detailed explanation of the factors which had prevented it from meeting MCI's request for service.

10. MCI filed a petition for reconsideration and also filed a complaint, both of which were denied by the Commission in the Second Order on September 13, 1979. That order concluded first that the explanation AT&T provided for the 25-week period of delay was not unreasonable. Next, it examined the agency relationship between MCI and GM, concluding that MCI had acted as a reseller. Finally, it reasoned that its decision to eliminate restrictions on resale of Telpak circuits was a matter of new policy and that it would be unfair to give the decision retroactive effect. As such, the Commission distinguished *Carterfone*, where it had given retroactive effect to a finding that a tariff restriction was unlawful, on the grounds that the restriction in that case violated a preexisting policy. The decision, however, found it unnecessary to reach the question of whether the rejection of the customer premises restrictions should be given retroactive effect.

Discussion

11. MCI seeks damages upon two distinct theories: the first relates to MCI's request for Telpak C circuits under AT&T's Tariff 260 and the second to the request for service under the OCC tariff. We deal with each theory separately.

A. The Telpak Issue

12. At the time of MIC's order, AT&T's Tariff 260 contained two restrictions which ostensibly justified AT&T's refusal to provide Telpak C circuits to MCI. The customer premises or "piece-out"[7] restriction provided that connection of AT&T's private line services was available only at the premises of customer and prohibited many types in connections of AT&T private line services at other common carrier premises, including the connection requested by MCI at its Los Angeles office. Further, the resale restriction barred the provision of service or facilities to an intermediary who then reoffered the service or facilities to the public.[8]

13. MCI argues that because the Commission determined that these restrictions were unlawful a short time later the restrictions were also unlawful at the time MCI placed its order. Thus, it contends it should have received service under Tariff 260 at the Telpak rate, which is the rate it actually did pay to PT&T. AT&T contends, on the other hand, that the restrictions were lawful at the time of MCI's order, and as these provisions were legally in effect, its refusal of service was proper.

14. The basic legal issues presented are whether, notwithstanding the tariff restrictions that were in effect at the time MCI placed its order, AT&T is liable to MCI for unlawfully refusing service, and if so, in what amount. To repeat, in our Second Order, we denied MCI's complaint on the ground that our *Resale* decision had prospective effect only. Left unaddressed, however, was the question whether, apart from our *Resale* decision, the restrictions were unlawful at the time AT&T denied MCI's request for circuits.

15. Section 206 of the Act, 47 U.S.C. 206, provides that

[3] MCI in its pleadings and brief to the D.C. Court argued that 25 weeks was an unreasonably long time to provide these circuits and that GM was such a vitally important customer for MCI at that time, because MCI's credibility and actual survival were at stake, that it was forced to use any service it could get to meet the July deadline. It also contended that AT&T knew this because of its own bid for GM's contract.

[4] *Amended on recon.*, 62 FCC 2d 588 (1977), *aff'd sub nom., AT&T v. F.C.C.* 572 F.2d 17 (2d Cir. 1978), *cert. denied* 439 U.S. 875 (1978).

[5] *Hush-a-Phone v. United States*, 238 F.2d 266 (D.C. Cir. 1956).

[6] *Carterfone*, 13 FCC 2d 420, *recon denied*, 14 FCC 2d 571 (1968).

[7] *Specialized Common Carrier Services*, 29 FCC 2d 870 (1971), *aff'd sub nom., Washington Utilities and Transportation Commission v. F.C.C.*, 513 F. 2d 1142 (9th Cir. 1975), *cert. denied*, 423 U.S.C. 836 (1975).

[7] The customer premises restriction effectively restricted interconnection of AT&T private line services to premises where a non-carrier customer had a regular and continuing need to originate and teminate calls. The restriction thereby prevented customers from "piecing out" a communications system by interconnecting AT&T private lines with lines provided by the customer itself or competing common carriers.

[8] We note in passing that MCI argued in its brief to the court that it was not a reseller because it would have provided the services to GM at a loss. Even assuming this was the case, it is dispositive on the issue of status as a reseller. The resale restrictions applied to any use for which a payment or other compensation would be received, and it is undeniable that MIC would have received compensation for the services from GM.

In case any common carrier shall do, or cause or permit to be done, any act, matter, or thing in this Act prohibited or declared to be unlawful, or shall omit to do any act, matter, or thing in this Act required to be done, such common carrier shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of any such violation of the provisions of this Act, together with a reasonable counsel or attorney's fee, to be fixed by the court in every case of recovery, which attorney's fee shall be taxed and collected as part of the costs in the case.

Section 207, 47 U.S.C. 207, allows recovery either by complaint to the Commission or suit in United States district court (but not both). Section 208, 47 U.S.C. 208, goes on to provide specific procedures for complaints to the Commission, and Section 209, 47 U.S.C. 209, allows the Commission to make awards of damages against carriers. These provisions were lifted directly from the Interstate Commerce Act (ICA) and are essentially identical to the provisions of that Act in effect when the Communications Act was adopted in 1934. For this reason, the Commission has often looked to reparations cases decided under the ICA for guidance.[9]

16. AT&T's position is basically that since the Act provides that tariffs became effective if the Commission fails to reject or suspend and investigate them, and the carrier is bound by Section 203(c) of the Act to apply those tariffs, the tariffs are conclusively legal until revised or the Commission finds otherwise, and not subject to later recovery of damages. On the other hand, MCI seems to argue that once a tariff provision is found unreasonable in an investigation or rulemaking, that determination is conclusive to any claim for damages by an injured party.

17. The leading decisions which spell out the nature of the ICC's (and impliedly this Commission's) functions in this area are *Baer Brothers v. Denver & R. G. R. R.*, 233 U.S. 479 (1914) and *Arizona Grocery v. Atchison, T. & S. F. R., Co.*, 284 U.S. 370 (1932). In *Baer*, the Court held that damages cases and rate fixing cases are essentially different:

That the two subjects of Reparations and Rates may be dealt with in one order is undoubtedly ture. But awarding reparation for the past and fixing rates for the future involve the determination of matters essentially different. One is in its nature private and the other public. One is made by the Commission in its *quasi*-judicial capacity to measure past injuries sustained by a private shipper; the other in its *quasi*-legislative capacity, to prevent future injury to the public. But testimony showing the unreasonableness of a past rate may also furnish information on which to fix a reasonable future rate and both subjects can be, and often are, disposed of by the same order. This, however, is not necessarily so * * * Then, too, there are cases in which a rate, reasonable when made, becomes unreasonable as the result of a gradual change in conditions, so that no reparation is ordered even though a new rate be established for the future. Conversely, there may be cases where what was an unreasonable rate in the past is found to be reasonable at the date of the hearing. In such a case reparation would be awarded for past unreasonable charges collected but no new rate would be established for the future. (citations omitted) 233 U.S. at 486–87, 488

Baer establishes in other words, that action on a complaint for damages is a quasi-judicial function and that the outcome of an administrative ratemaking (i.e., quasi-legislative) proceeding is not necessarily dispositive for purposes of a related damages case. Practical and theoretical considerations, too, may in some cases justify differing rulings. This difference in function is also reflected in different procedural requirements. For example, the carrier has the burden of proving the reasonableness of an increased charge in a rate investigation, but the customer bears the burden of proving unreasonableness, as well as damages, in a complaint proceeding.[10]

18. MCI thus is not entitled automatically to a judgment in its favor simply as a result of the Commission's decisions in the *Piece Out* and *Resale* cases; indeed, the question of damages was not even considered in either case. By the same token, however, the fact that we were making policy prospectively in these decisions does not bar a ruling on the merits of MCI's timely complaint and our conclusion to that effect in the Second Order was erroneous. The issues in MCI's complaint for damages are somewhat different from those in the two policy-making investigations involving as they do questions of past rather than future unlawfulness, and there may be changes in circumstances or other defenses available to AT&T which would justify a different result. An expedited hearing will provide the proper forum for resolution of the complaint.

19. AT&T's argument that MCI should be denied an award of damages because the customer premises restriction was a legally effective provision in AT&T's Tariff 260 at the time is similarly erroneous. Carrier-initiated tariff provisions may be subject to a damages award if the provisions are later found to be unlawful. As the Supreme Court explained in *Arizona Grocery, supra*, the ICA specifically preserves the common law duty of carriers to charge reasonable rates, and the carrier "[takes] its chances that in an action by the shipper these might be adjudged unreasonable and reparation be awarded."[11] The fact that the ICC has the power to review carrier-initiated tariffs does not alter this basic duty. Carrier-initiated rates and regulations in legally effective tariffs can always be challenged as unreasonable and unlawful. The Court put it this way:

In order to render rates definite and certain, and to prevent discrimination and other abuses, the statute required the filing and publishing of tariffs specifying the rates adopted by the carrier, and made these the *legal* rates, that is, those which must be charged to all shippers alike. Any deviation from the published rate was declared a criminal offense, and also a civil wrong giving rise to an action for damages by the injured shipper. Although the Act thus created a legal rate, it did not abrogate, but expressly affirmed, the common-law duty to charge no more than a reasonable rate, and left upon the carrier the burden of conforming its charges to that standard. In other words, the legal rate was not made by the statute a lawful rate—it was lawful only if it was reasonable. Under (49 U.S.C. 6) the shipper was bound to pay the legal rate; but if he could show that it was unreasonable he might recover reparation.

The Act altered the common law by lodging in the Commission the power theretofore exercised by courts, of determining the reasonableness of a published rate. If the finding on this question was against the carrier, reparation was to be awarded the shipper, and only the enforcement of the award was relegated to the courts. (footnotes omitted) 284 U.S. at 384–85.

20. Because prospective ratemaking was considered a quasi-legislative function, and out of considerations of fairness to carriers, rates which were approved or prescribed by the Commission were distinguished and held to be lawful rates not subject to reparation in *Arizona Grocery*. But this restriction was narrowly construed, and rates which the ICC ruled had merely not been shown to be unlawful, but did not specifically approve, stood only as carrier-made rates open to possible recovery of reparations in a later proceeding.[12]

[9] See, e.g., *Carterfone, supra; Hughes Sports Network v. AT&T*, Docket No. 16043, 25 FCC 2d 550 (1970); *United States v. AT&T*, Memorandum of FCC as Amicus Curiae, 62 FCC 2d 1102, 1115 (1977). See also, *Stanley v. Western Union Telegraph Co.*, 23 F. Supp. 674 (S.D. Fla. 1938).

[10] 47 U.S.C. 204(a). See *Southern R. Co. v. Seaboard Allied Milling Corp.*, 442 U.S. 444, 454–55 (1979).

[11] 284 U.S. at 383.

[12] *Interstate Commerce Com. v. Inland Waterways Corp.*, 319 U.S. 671 (1943).

21. To sum up, then, the lessons of *Arizona Grocery* and its progeny come down to this: as a matter of fairness to carriers, where the regulatory agency after investigation finds that carrier initiated rates are lawful or prescribes its own rates, those rates will not subject the carrier to damages. Conversely, where the agency merely permits the rates to become effective, those rates may subject the carrier to damages liability in a future proceeding should be complainant meet its burden of proving unlawfulness and damages.

22. In the present case, AT&T's customer premises and resale restrictions plainly were never approved or prescribed by the Commission; they were merely initiated by AT&T and permitted to become effective. Applying the principles of *Arizona Grocery*, the Commission may therefore award damages for injury suffered as a result of those restrictions, if they are found to have been unlawful at the time and under the circumstances in which they were applied.

B. The 25 Weeks Issue

23. Assuming damages may not be awarded on the first ground, MCI argues alternatively that the Commission should order an evidentiary hearing on the reasonableness of the 25-week period claimed necessary by AT&T in order to meet MCI's service requirement under the OCC tariff. The Commission concluded in the Second Order that AT&T's explanation of the 25-week period was not unreasonable, and that MCI "did not present sufficient evidence to significantly contradict the evidence presented by AT&T." 74 FCC 2d at 191. In its brief to the D.C. Circuit MCI argued that the AT&T data is inherently suspect, based upon MCI's own experience, but that discovery processes or cross-examination would be necessary to determine the accuracy of AT&T's report.

24. We conclude upon reexamination of the record that a hearing is warranted on this issue. AT&T did provide an explanation for the delay in response to the Commission's First Order, but that explanation was unsupported. There is no specific evidence, aside from AT&T's statements, that the delay was normal or reasonable. On the whole, we conclude that MCI should have an opportunity to develop facts which might demonstrate that AT&T's treatment of its OCC tariff order was unreasonable. If MCI prevails on the issue of liability, it will bear the burden of proving the actual damage it suffered as a result of any unreasonable act on the part of AT&T.

25. Accordingly, it is ordered, that pursuant to Sections 201(a), 201(b) and 206-209 of the Communications Act of 1934, as amended, 47 U.S.C. 201(a), 201(b) and 206-209, this matter is designated for hearing in an expedited proceeding on the following issues:

(a) Whether AT&T's refusal to accept MCI's April 10, 1975 order of two bundles of Telpak C offerings from Oakland, CA to Los Angeles, CA was unjust or unreasonable or otherwise in violation of Section 201(b) or 202(a) or the Communications Act;

(b) Whether, and if so, to what extent, AT&T's response to MCI's March 31 and April 8, 1976 orders for 116 voice grade circuits from Phoenix, AZ to Oakland, CA was unjust or unreasonable or otherwise unlawful under Sections 201(b) or 202(a) of the Communications Act; and

(c) What damages, if any, should be awarded to MCI for any unlawful acts of omissions of AT&T found under issues (a) and (b) above.

26. It is further ordered, that the hearing in this proceeding shall be held before an Administrative Law Judge at a time and place to be specified by subsequent order; and that such Administrative Law Judge shall, upon closing of the record, prepare and issue an initial decision, which shall be subject to the submittal of exceptions and request for oral argument as provided in §§ 1.276 and 1.277 of the Commission's rules (47 CFR 1.276 and 1.277), after which the Commission shall issue its decisions as provided in § 1.282 of the Commission's rules (47 CFR 1.282). The Administrative Law Judge is hereby authorized to conduct this proceeding in such a manner as to insure that the initial decision will be issued within six months of the release date of this Memorandum Opinion and Order.

27. It is further ordered, that MCI Telecommunications Corporation, American Telephone and Telegraph Company, Pacific Telephone and Telegraph Company, and the Chief, Common Carrier Bureau are designated parties to this proceeding.

28. It is further ordered, That the parties herein may avail themselves of an opportunity to be heard by filing with the Commission pursuant to § 1.221(e) of the rules, 47 CFR 1.221(e) of the rules, 47 CFR 1.221(e), within twenty (20) days of the release date of this Memorandum Opinion and Order, a written notice stating an intention to appear on the date set for hearing and present evidence on the issues specified.

29. It is further ordered, that the decision of the Commission in *MCI Telecommunications, Corp., v. AT&T*, 74 FCC 2d 184 (1979) is vacated.

30. It is further ordered, that Notice of this decision is directed to be provided to the United States Court of Appeals for the District of Columbia Circuit.

Federal Communications Commission [13]

William J. Tricarico,

Secretary.

Dissenting Statement of Commissioner Joseph R. Fogarty

In Re: MCI Telecommunications Corporation v. American Telephone and Telegraph Company and Pacific Telephone and Telegraph Company; and MCI Telecommunications Company—Memorandum Opinion and Order.

I must dissent to the Commission's decisions to vacate its Memorandum Opinion and Order in *MCI Telecommunications Corp.* v. *AT&T*, 74 FCC 2d 184 (1979) [Second Order] and to direct an expedited hearing on MCI's complaint. Based on the record, I believe that the Commission correctly concluded in the *Second Order* that MCI's petitions should be denied on the grounds that the resale policy, under which restrictions such as AT&T's "piece-out" prohibitions were held to be unlawful, should not be applied retroactively and that AT&T had submitted a sufficient explanation as to the reasonableness of the 25-week delay. No new evidence or additional legal arguments have been presented which would rebut these conclusions and serve to justify vacating the *Second Order* and designating MCI's complaint for hearing. Under these circumstances, I am unable to agree that the Commission's decision adopting the *Second Order* was incorrect. I, therefore, believe this action by the Commission vacating the *Second Order* to be improper.

[FR Doc. 81-12665 Filed 4-27-81; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket Nos. 81-242, 81-243]

Q. Communications, Inc., and Glen J. Goldenberg; Hearing Designation Order

In re applications of Q. Communications, Inc., Saloma, Kentucky, Req: 910 kHz, 500 W, DA, Day, BC Docket 81-242, File No. BP-20,838; Glen J. Goldenberg, Burnside, Kentucky, Req: 910 kHz, 500 W, DA, Day, BC Docket 81-243, File No. BP-781205AG; for construction permit.

[13] See attached dissenting statement of Commissioner Fogarty.

Adopted: April 3, 1981.
Released: April 14, 1981.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications for new AM broadcast stations.

2. *Q. Communications, Inc.* Q. Communications failed to submit its corporate by-laws, as required by Question 3 of Section II, FCC Form 301. An amendment is necessary.

3. *Glen J. Goldenberg.* We have no evidence that Goldenberg published local notice of his application, as required by Section 73.3580 of the Commission's Rules. He will be required to demonstrate proper notice by filing a statement of publication with the presiding Administrative Law Judge.

4. *Other matters.* The two proposals, although for different communities, would serve substantial common areas. Consequently, in addition to an issue to determine pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient, and equitable distribution of radio services, a contingent comparative issue will be specified.

5. Both applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

6. Accordingly, it is order, that pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the areas and populations which would receive primary service from each proposal, and the availability of other primary aural service to such areas and populations.

2. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient, and equitable distribution of radio service.

3. To determine, in the event it be concluded that a choice between the applications should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, better serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. It is further ordered, that Q. Communications, Inc. shall file the amendment specified in paragraph 2, above, within 30 days after this order is published in the **Federal Register**. (May 28, 1981).

8. It is further ordered, that Glen J. Goldenberg shall publish local notice of his application (if he has not already done so), and shall file a state of publication with the presiding Administrative Law Judge within 40 days after this order is published in the **Federal Register** (June 8, 1981).

9. It is further ordered, that to avail themselves of the opportunity to be heard and pursuant to § 1.221(c) of the Commission's Rules, the applicants shall within 20 days of the mailing of this order, in person or by attorney, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this order.

10. It is further ordered, that pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, the applicants shall give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.
Larry D. Eads,
Acting Chief, Broadcast Facilities Division.

[FR Doc. 81-11771 Filed 4-27-81; 8:45 am]
BILLING CODE 6712-01-M

[BC Docket No. 81-256; File No. BPH-791220AB et al.]

Triangle Broadcasting Co. et al.

In re Application of Triangle Broadcasting Company, Havre, Montana, BC Docket No. 81-256, file No. BPH-791220AB; Req: 95.1 MHz, Channel 236C 100 kW (H&V), 420 feet; Hi-Line Radio Fellowship Inc., Havre, Montana, BC Docket No. 81-257, file No. BPH-800828AA; Req: 95.1 MHz, Channel 236C 100 kW (H&V), 793 feet; Havre Broadcasting Corporation, Havre, Montana, BC Docket No. 81-258, file No. BPH-800829AT; Req: 95.1 MHz, Channel 236C 100 kW (H&V), 422 feet; for construction permit for a new FM station.

Hearing Designation Order: Designating Applications for Consolidated Hearing on Stated Issues

Adopted: April 9, 1981.
Released: April 21, 1981.

By the Chief, Broadcast Bureau.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications of Triangle Broadcasting Co. (Triangle), Hi-Line Radio Fellowship Inc. (Hi-Line), and Havre Broadcasting Co. (Havre) for a construction permit for a new FM station.

2. *Triangle.* Applicants for new broadcast stations are required by § 73.3580(f) of the Commission's Rules to give local notice of the filing of their applications. The local notice must contain the names of all corporate officers, directors and 10% shareholders. They must then file with the Commission the statement described in § 73.3580(h) of the Rules. Triangle's certification of local notice does not contain the names of its officers, directors and 10% shareholders. Accordingly, Triangle will be required to republish local notice of its application and to file a statement of publication with the presiding Administrative Law Judge.

3. Applicants for new broadcast stations are required to submit information to the Commission establishing their ability to finance construction costs and three months operation costs for the proposed station. Triangle has submitted a letter from the Citizens Bank of Montana which approves its loan request of $100,000 but fails to specify the terms of the loan. Moreover, Triangle submits balance sheets of its stockholders without any explanation of what the stockholders are obligated to contribute. Additionally, Triangle has failed to submit an estimate of its three months operating costs, legal costs, and necessary information indicating the manner in which it will finance construction and operation of the station. In light of these deficiencies, a general financial issue will be specified.

4. The Triangle application does not indicate how many full-time and part-time employees it intends to employ. Section VI of Form 301 and § 73.2080 of the Rules require that an Equal Employment Opportunity Plan detailing the applicant's hiring and promotion policies be submitted if there will be five or more full-time station employees. Triangle did not submit an EEO program nor indicate that it is exempt from this requirement. Accordingly, an issue will be specified.

5. *Havre.* Havre has not provided us with a current FAA clearance. Accordingly, an appropriate issue will be specified.

6. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

7. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether Triangle Broadcasting Co. is financially qualified to construct and operate the proposed station.

2. To determine whether Triangle must comply with § 73.2080 of the Commission's Rules and submit an Equal Employment Opportunity Plan.

3. To determine whether there is a reasonable possibility that the tower height and location proposal by Havre Broadcasting Corporation would constitute a hazard to air navigation.

4. To determine which of the proposals would, on a comparative basis, best serve the public interest.

5. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

8. It is further ordered, That Triangle file a statement with the presiding Administrative Law Judge demonstrating compliance with the public notice requirement of § 73.3580(f) of the Commission's Rules.

9. It is further ordered, That the Federal Aviation Administration is made a party to the proceeding.

10. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

11. It is further ordered, That the applicant's herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934 as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Acting Chief, Broadcast Facilities Division.

[FR Doc. 81-12652 Filed 4-27-81; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

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, N.W., Room 10218; or may inspect the agreement 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 May 18, 1981. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or 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 been done.

Agreement No.: T-3967.

Filing Party: Joe H. Hamner, Jr., Esquire, Board of Commissioners of the Port of New Orleans, P.O. Box 60046, New Orleans, Louisiana 70160.

Summary: Agreement No. T-3967, between the Board of Commissioners of the Port of New Orleans (Board) and Ryan-Walsh Stevedoring Company, Inc. (Lessee), provides for the lease of bulk terminal facilities and related equipment, located at the Mississippi River-Gulf Outlet, Orleans Parish, Louisiana. Lessee will utilize the facilities in their present condition for the handling of a limited number of bulk commodities loaded or unloaded from various carriers. The term of the agreement will be for five years, with an option to extend the lease for one further period of five years. The Lessee's right to renew the lease is conditioned on its having invested not less than $2,000,000 in capital improvements on the leased premises before the expiration of the initial five year term of the lease. As rent, Lessee shall pay to the Board a tonnage charge of 70¢ per ton of 2,000 pounds for each ton of cargo first handled at the leased premises. If Lessee handles cargoes other than dry bulk commodities, the tonnage charge shall not apply. In lieu thereof, Lessee shall pay additional rent in the amount equal to the wharfage charges published in the Board's Dock Department Tariff. Lessee guarantees that the total amount of charges paid under the tonnage charge shall not be less than $500,000 during each year of the lease term. If the total amount of tonnage charges paid to the Board during any year of the term, reaches $1,000,000, the tonnage charges on dry bulk commodities shall be reduced 10¢ per ton, for the remainder of the year. The parties further agree as to the terms of indemnification, assignment and subletting and other terms and conditions provided for in the agreement.

Agreement No.: 50-38.

Filing Party: F. Conger Fawcett, Graham & James, One Maritime Plaza, Suite 300, San Francisco, California 94111.

Summary: Agreement No. 50-38 amends the basic agreement of the Pacific/Australia-New Zealand Conference by eliminating the 2nd paragraph of Article VI to remove the zonal restriction on transshipment service by water. The primary reason for deleting this prohibition is to permit Blue Star Line, Ltd., to serve Tacoma, Washington on a transshipment basis.

Agreement No.: 93-23.

Filing Party: Ralph M. Pais, Esquire, Graham & James, One Maritime Plaza, Suite 300, San Francisco, California 94111.

Summary: Agreement No. 93-23 amends the basic agreement of the North Europe-U.S. Pacific Freight Conference to extend the expiration date of the independent action clause through June 30, 1982.

Agreement No.: 7770-21.

Filing Party: Mr. Howard A. Levy, Ms. Patricia E. Byrne, Attorneys at Law, 17 Battery Place, New York, New York 10004.

Summary: Agreement No 7770-21 modifies the basic agreement of the North Atlantic French Atlantic Freight

Conference by eliminating the unanimity requirement for votes taken by poll.

Agreement No.: 8210-44.

Filing Party: Mr. Howard A. Levy, Ms. Patricia E. Byrne, Attorneys for Agreement No. 8210, 17 Battery Place, Suite 727, New York, New York 10004.

Summary: Agreement No. 8210-44 modifies the basic agreement of the Continental North Atlantic Westbound Freight Conference to comply with a Commission directive to delete certain references to intermodal shipments from the basic agreement.

Agreement No.: 9214-27.

Filing Party: Mr. Howard A. Levy, Ms. Patricia E. Byrne, Attorneys for Agreement No. 9214, 17 Battery Place, Suite 727, New York, New York 10004.

Summary: Agreement No. 9214-27 modifies the basic agreement of the North Atlantic Continental Freight Conference to comply with a Commission directive to delete certain references to intermodal shipments from the basic agreement.

Agreement No.: 10416.

Filing Parties: William H. Fort, Esquire, Kominers, Fort, Schlefer & Boyer, 1776 F Street NW., Washington, D.C. 20006. Morris R. Garfinkle, Esquire, Galland, Kharasch, Calkins & Short, 1054 31st Street NW., Washington, D.C. 20007.

Summary: Agreement No. 10416, between Trailer Marine Transport Corporation and Puerto Rico Maritime Shipping Authority, permits the parties to discuss, establish and maintain uniform tariff rules, regulations, provisions and charges, including terminal and accessorial charges but excluding any of the parties' ocean freight rates, in connection with the common carriage of cargo by the parties in the trades between: (1) ports in the United States and ports in Puerto Rico; (2) ports in the United States and ports in the U.S. Virgin Islands, and (3) ports in Puerto Rico and ports in the U.S. Virgin Islands. The agreement shall become effective upon Federal Maritime Commission approval, and shall remain in effect for 36 months unless otherwise cancelled. The agreement may be extended upon further agreement of the parties and with approval by the Commission. Each party to the agreement must publish its own tariffs and file same with the Commission. Any common carrier by water regularly engaged in one or more of the covered trades, or who intends to serve such trades, may become a party to this agreement.

By Order of the Federal Maritime Commission.

Dated: April 22, 1981.

Joseph C. Polking,

Acting Secretary.

[FR Doc. 81-12623 Filed 4-27-81; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 81-30]

The Boston Shipping Association, Inc. and New York Shipping Association, Inc.; Filing of Complaint and Assignment

Notice is given that a complaint filed by The Boston Shipping Association against The New York Shipping Association was served April 21, 1981. Complainant alleges that Rule 10 of the Master Contract negotiated by respondent with the International Longshoreman's Association, effective October 1, 1980, exacts charges or assessments in violation of Section 8 of the Merchant Marine Act, 1920, section 205 of the Merchant Marine Act, 1936 and Sections 15, 16, 17, and 18 of the Shipping Act, 1916.

This proceeding has been assigned to Administrative Law Judge Joseph N. Ingolia. Initial decision in this matter will be issued on or before December 20, 1981 (Rule 75). Any hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Joseph C. Polking,

Acting Secretary.

[FR Doc. 81-12720 Filed 4-27-81; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 81-31]

The Boston Shipping Association, Inc. and New York Shipping Association, Inc.; Filing a Complaint and Assignment

Notice is given that a complaint filed by The Boston Shipping Association, Inc. against New York Shipping Association, Inc. was served April 21, 1981. Complainant alleges that Rule 10 of the Master Contract negotiated by respondent with the International Longshoremen's Association, effective October 1, 1977, exacted charges of assessments in violation of section 8 of the Merchant Marine Act, 1920, section 205 of the Merchant Marine Act, 1936 and sections 15, 16, 17 and 18 of the Shipping Act, 1916.

This proceeding has been assigned to Administrative Law Judge Joseph N. Ingolia. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Joseph C. Polking,

Acting Secretary.

[FR Doc. 81-12721 Filed 4-27-81; 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 Governers 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 May 19, 1981.

A. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. Citicorp, New York, New York (consumer finance and insurance activities; North Carolina): To relocate an existing office of its subsidiary, Citicorp Person-to-Person Financial Center, Inc., from 3535 South Wilmington Street, Raleigh, North Carolina, to 4915 Waters Edge Drive, Raleigh, North Carolina; and to expand the service area and activities of the office at the new location. The previously approved activities which will be relocated to the new office are as follows: the purchasing and servicing for its own account of sales finance contracts; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the sale of credit-related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed brokers, as required; the sale of credit related property and casualty insurance protecting real and personal property subject to a security agreement with Citicorp Person-to-Person Financial Center, Inc., to the extent permissible under applicable state insurance laws and regulations; and the servicing, for any person, of loans and other extensions of credit. The previously approved service area of the office would be expanded to include the entire state of North Carolina. The proposed new activity to be conducted from the office would be: the making of loans to individuals and businesses to finance the purchase of mobile homes, modular units or related manufactured housing, together with the real property to which such housing is or will be permanently affixed, such property being used as security for the loans. The sale of credit related property and casualty insurance would not be expanded to the new service area nor extended to cover the proposed new activity. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc.

2. Manufacturers Hanover Corporation, New York, New York (relocation of office and expansion of service area; Georgia): To engage, through its indirect subsidiary, Ritter Finance Company, Inc., of Georgia, in consumer finance, sales finance and home equity lending activities and in the sale of single and joint credit life insurance, and credit accident, health and property insurance at 4434 Jonesboro Road, Forest Park, Georgia 30236. Manufacturers Hanover Corporation has received the approval of the Federal Reserve to engage in these activities at 118 South Main Street, Jonesboro, Georgia 30236. The application is to engage in the activities at a different location serving an expanded service area; the application does not involve the commencement of any new activities at the new location that have not been approved by the Federal Reserve for the old location. The new office will serve customers in Clayton, western Henry, southwestern DeKalb, northeastern Fayette, and Fulton Counties.

3. Manufacturers Hanover Corporation, New York, New York (relocation of office; Louisiana): To engage in consumer finance and sales finance activities and in the sale of insurance related to such lending activities through its indirect subsidiary, Termplan Incorporated of Louisiana, Shreveport, Louisiana, at 3713 Jewela Road, Shreveport, Louisiana 71109. Manufacturers Hanover Corporation has received the approval of the Federal Reserve to engage in these activities at 333 Market Street, Shreveport, Louisiana 71101. The application is only to engage in activities at a different location; the application does not involve the commencement of any new activities at the new location that have not been approved by the Federal Reserve for the old location. The new office will continue to serve customers in the eastern half of Caddo Parish and in western Bossier Parish.

B. *Federal Reserve Bank of Minneapolis* (Lester G. Gable, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

First Bank System, Inc., Minneapolis, Minnesota (mortgage banking; Washington and Oregon): To engage through its subsidiary, FBS Mortgage Corporation, in mortgage banking activities. The application is for a relocation of Applicant's previously approved office in Seattle, Washington, to Bellevue, Washington, serving the metropolitan areas of Seattle, Washington and Portland, Oregon.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, April 20, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-12640 Filed 4-27-81; 8:45 am]

BILLING CODE 6210-01-M

Champaign Bancorp, Inc.; Formation of Bank Holding Company

Champaign Bancorp, Inc., Champaign, Illinois, has applied for the Board's approval under 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares, less directors' qualifying shares, of the successor by merger to The First National Bank in Champaign, Champaign, Illinois. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than May 19, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, April 20, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-12638 Filed 4-27-81; 8:45 am]

BILLING CODE 6210-01-M

Continental Illinois Corp.; Proposed Acquisition of Certain Assets of Drillamex, Inc.

Continental Illinois Corporation, Chicago, Illinois, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire certain assets of Drillamex, Inc., New York, New York.

Applicant states that the assets would be acquired by its wholly-owned subsidiary, Continental Illinois Energy Development Corporation, and are related to loans financing energy development and exploration projects located Alabama, Arkansas, California, Colorado, Idaho, Kansas, Louisiana, Missouri, Mississippi, Montana, Nebraska, New Mexico, Oklahoma,

Oregon, Texas, Utah, and Wyomong. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than May 19, 1981.

Board of Governors of the Federal Reserve System, April 20, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-12839 Filed 4-27-81; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 81F-0112]

American Cyanamid Co.; Withdrawal of Petition for Food Additives

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the withdrawal without prejudice of the petition (FAP 0A2513) proposing the safe use of glycerol ester of tall oil rosin for adjusting the density of citrus oils used in the preparation of beverages.

FOR FURTHER INFORMATION CONTACT: Thomas C. Brown, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786 (21 U.S.C. 348(b))), the following notice is issued:

In accordance with § 171.7 *Withdrawal of petition without prejudice* of the procedural food additive regulations (21 CFR 171.7), American Cyanamid Co., Wayne, NJ 07470, has withdrawn its petition (FAP 0A2513), notice of which was published in the **Federal Register** of May 23, 1970 (35 FR 7996) proposing that the food additive regulations be amended to provide for the safe use of glycerol ester of tall oil rosin for adjusting the density of citrus oils used in the preparation of beverages.

Dated: April 17, 1981.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 81-12464 Filed 4-27-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 81M-0055]

Analytab Products; Premarket Approval of API 3600S Standardized Antimicrobic Susceptibility System

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the API 3600S Standardized Antimicrobic Susceptibility System sponsored by Analytab Products, Plainview, NY. After reviewing the recommendation of the Microbiology Device Section of the Immunology and Microbiology Devices Panel, FDA notified the sponsor that the application was approved because the device has been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by May 28, 1981.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Henry A. Goldstein, Bureau of Medical Devices (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

SUPPLEMENTARY INFORMATION: On June 2, 1980, Analytab Products, Plainview, NY, submitted to FDA an application for premarket approval of the API 3600S Standardized Antimicrobic Susceptibility System, an antimicrobial susceptibility system. The application was reviewed by the Microbiology Device Section of the Immunology and Microbiology Devices Panel, an FDA advisory committee, which recommended approval of the application. On January 30, 1981, FDA approved the application by a letter to the sponsor from the Acting Director of the Bureau of Medical Devices.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before May 28, 1981, file with the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, four copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be

seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 21, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-12462 Filed 4-27-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80P-0355]

Caloric Corp., Approval of Variance for Microwave Ovens Used in Combination Microwave Ranges

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that a variance from the performance standard for microwave ovens has been approved by the Bureau of Radiological Health (the Bureau) for microwave ovens used in combination microwave ranges manufactured by Caloric Corp. The Bureau Director has determined that the microwave ovens may be manufactured with three safety interlocks (instead of the usual two) such that the ovens will still be operable when the primary and secondary interlocks have failed, and such that suitable radiation protection will still be provided.

DATES: The variance became effective March 12, 1981, and ends March 12, 1983.

ADDRESS: The application and all correspondence on the application have been placed on public display in the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joseph Wang, Bureau of Radiological Health (HFX-460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3426.

SUPPLEMENTARY INFORMATION: Under § 1010.4 (21 CFR 1010.4), Caloric Corp., Topton, PA 19562, has been granted a variance from § 1030.10(c)(2)(vi) (21 CFR 1030.10(c)(2)(vi)) of the performance standard for microwave ovens. The variance applies to microwave ovens used in combination microwave electric self-clean and in combination microwave gas self-clean ranges marketed as: Caloric Corp. models ERP 381, 383, and 385, RRR 383, ERR 384, 385, and 394; Montgomery Ward and Co. models CG 2500 and 4500; Sharp Electronics Corp. model R 3700; or Amana Refrigeration, Inc., model MRR 1000. The variance relieves the microwave ovens used in the combination microwave ranges from the requirement of § 1030.10(c)(2)(vi) to provide a means of monitoring the primary or secondary safety interlocks and to prevent the ovens from operating until repaired in the event either interlock should fail to perform properly. Microwave ovens under this variance shall have three safety interlocks (instead of the usual two) with monitors on the primary and tertiary interlocks. Should both the primary and secondary interlocks fail, microwave ovens under this variance can still be operable when controlled solely by the tertiary interlock and its monitor. The product shall bear the variance number 80P-0355.

By letter of March 12, 1981, the Director of the Bureau approved the requested variance, which ends on March 12, 1983.

In accordance with § 1010.4, the application and all correspondence including the written notice of approval on the application have been placed on public display in the Dockets Management Branch (HFA-305), Food and Drug Administration, and may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 21, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-12461 Filed 4-27-81; 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 the Commissioner of Food and Drugs.

DATE: The meeting will be held at 1 p.m., Tuesday, May 5, 1981.

ADDRESS: The meeting will be held in the Hubert H. Humphrey Bldg. Auditorium, 200 Independence Ave. SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Alexander Grant, Associate Commissioner for Consumer Affairs (HFE-1), Food and Drug Administration, 5600 Fishers Lane, Rm. 16-85, Rockville, MD 20857, 301-443-5006.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to exchange information between FDA officials and consumer representatives, by providing an opportunity for consumer representatives to present their views directly to the Commissioner and to the top managers of FDA, by seeking solutions to any problems agreed on during this communication, and by giving the agency an opportunity to discuss and communicate vital health and policy issues to the concerned public. Proposed discussion at the meeting will focus on the issues of sodium policy and food irradiation.

Dated: April 21, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-12465 Filed 4-27-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 81F-0113]

Hercules, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that Hercules, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of hydrocarbon resins formed from mixtures of mono-unsaturated and di-unsaturated aliphatic, alicylic and monobenzenoid hydrocarbons derived from cracked petroleum and terpene stocks as a component of adhesives intended for food contact.

FOR FURTHER INFORMATION CONTACT: Rudolph Harris, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), FDA gives notice that Hercules, Inc., 910 Market St., Wilmington, DE 19899, has filed a petition (FAP OB3501) proposing that § 175.105 *Adhesives* be amended to permit the safe use of hydrocarbon resins formed from mixtures of mono-unsaturated and di-unsaturated aliphatic, alicyclic, and monobenzenoid hydrocarbons derived from cracked petroleum and terpene stocks as a component of adhesives intended for food contact.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the

Federal Register in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: April 17, 1981.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 81-12463 Filed 4-27-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 81F-0105]

Unitech Chemical, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that Unitech Chemical, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of epoxidized soybean oil in food for human consumption.

FOR FURTHER INFORMATION CONTACT: Rudolph Harris, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 7A3329) has been filed by Unitech Chemical, Inc., 115 W. Jackson Blvd., Chicago, IL 60604, proposing that the food additive regulations be amended to provide for the safe use of epoxidized soybean oil as a halogen stabilizer in brominated soybean oils intended for use in foods for human consumption.

The agency has carefully considered the potential environmental effects of this proposed action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that document may be seen at the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 17, 1981.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 81-12460 Filed 4-27-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 81N-0038]

Brandenfels Scalp and Hair Applications and Massage; Denial of Hearing and Withdrawal of Approval of New Drug Application

AGENCY: Food and Drug Administrator.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs denies a hearing and withdraws approval of the new drug application for Brandenfels Scalp and Hair Applications and Massage on the basis that this drug product lacks substantial evidence of effectiveness for its labeled indications.

EFFECTIVE DATE: May 8, 1981.

FOR FURTHER INFORMATION CONTACT: Mary E. Catchings, Bureau of Drugs (HFD-32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 3684), published in the Federal Register of September 25, 1970 (35 FR 14954), the Commissioner of Food and Drugs announced his conclusions, after evaluating reports received from the National Academy of Sciences/National Research Council, Drug Efficacy Study Group (NAS/NRC), concerning certain sulfonamide-containing preparations, including Brandenfels Scalp and Hair Applications and Massage (NDA 6-367), held by Carl Brandenfels, Scappoose, OR 97056, hereinafter referred to as "Brandenfels"). The announcement stated that the drug product was regarded as "possibly effective" for its labeled indications. Brandenfels and any person marketing such a drug without approval were given 6 months to submit substantial evidence of effectiveness for those conditions classified as "possibly effective." The announcement stated that at the end of the 6-month period, the Food and Drug Administration (FDA) would evaluate the data to determine whether substantial evidence of effectiveness had been provided, and if it had not, FDA would initiate procedures to withdraw approval of the new drug application under section 505(e) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 355(e)).

On March 18, 1971, in response to the September 25, 1970 notice, Brandenfels wrote to FDA and requested a 6-month extension to submit additional material supporting the effectiveness of the Brandenfels treatment. On June 21, 1971, FDA granted the request and informed Brandenfels that it would review the data that Brandenfels had submitted on September 25, 1964, for evidence of effectiveness.

Subsequently, the agency issued a notice of opportunity for hearing (formerly Docket No. FDC-D-406), published in the Federal Register of February 12, 1972 (37 FR 3198), for Brandenfels Scalp and Hair Applications and Massage. FDA stated in the notice that no evidence of effectiveness had been submitted within the time period specified by the September 25, 1970 notice, and it reclassified the "possibly effective" indications to "lacking substantial evidence of effectiveness." FDA proposed to issue an order withdrawing approval of the new drug application and all amendments and supplements thereto on the grounds that new information, evaluated together with the evidence available when the application was approved, showed there is a lack of substantial evidence that the drug will have the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling. Before initiating such action, the agency invited Brandenfels and any other interested person who would be adversely affected by the order withdrawing approval to submit within 30 days a written notice electing whether to avail themselves of the opportunity for a hearing. Those requesting a hearing were instructed to state the reasons why approval of the new drug application should not be withdrawn and to provide a well-organized and full factual analysis of the clinical and other investigational data they were prepared to prove in support of their opposition to the agency's intended action.

By letters of March 13, and May 10, 1972, FDA granted Brandenfels a 30-day extension for filing a written appearance. On June 9, 1972, Brandenfels wrote FDA and requested another extension for a period of 60 days from June 14, 1972, to file a written appearance. The agency granted this request on June 14, 1972.

On June 14, 1972, Brandenfels filed a written appearance and requested a hearing on the proposed withdrawal of NDA 6-367 for Brandenfels Scalp and Hair Applications and Massage.

In its hearing request, Brandenfels objected that it did not have adequate time to prepare its response. Brandenfels also contended that it had been denied adequate notice of the agency's decision to withdraw approval of its new drug application because FDA did not furnish it with the reasons for

the proposed action in violation of the Administrative Procedure Act.

In addition, Brandenfels contended that, in deciding to withdraw approval of its new drug application, FDA had not considered the efficacy evidence that Brandenfels had submitted on September 25, 1964. This submission included two clinical studies, a bacteriological study, autopsy studies, statements made by three physicians in a 1946 Post Office proceeding against Brandenfels, a second statement of one of those physicians, references to the medical literature, letters and photographs received from selected subjects who had used the Brandenfels treatment, and the results of questionnaires sent to selected patients who had used the Brandenfels treatment. Brandenfels argued that, as a matter of "simple deduction" from established medical facts, its claims were justified, and that its September 25, 1964 submission, plus the list of scientific articles and the excerpts from the medical literature that it submitted with its hearing request, established this fact.

No further submissions have been received from Brandenfels

After considering all of the material submitted by Brandenfels, I have concluded that there is no genuine and substantial issue of fact requiring a hearing, and that the legal objections offered are insubstantial. A full discussion follows.

I. The Drug

Brandenfels Scalp and Hair Applications and Massage is an aqueous solution of 0.25 percent sulfanilimide (Formula A) and an aqueous solution of 1.5 percent lanolin (Formula B).

II. Recommended Uses

The labeling reviewed by the NAS/NRC claimed that Brandenfels Scalp and Hair Applications and Massage tends to soften the scalp, to remove dandruff scales, and to aid the scalp and hair. The present labeling contains the same claims.

The directions for use in the labeling instruct users first to massage the scalp using the pressure massage pictured in the labeling and then to apply Formula A by pressing it on the scalp. The massage is repeated, and then Formula B is applied in a similar manner. The labeling also suggests that the massage be repeated, without application of the formulas, two additional times each day.

The label for Formula A warns that persons with high blood pressure, with hardening of the arteries, or with a "sensitivity to sulfanilimide or sulfanilimide drug or lanolin, and small children should not use this preparation except on the advice of their physician." The label for Formula B contains a similar warning to people sensitive to wool or lanolin.

It is implied in advertisements for the Brandenfels Scalp and Hair Applications and Massage that use of the product as directed and adherence to the scheduled massage technique offers the user the expectation of diminished hair loss, hair regrowth in cases of baldness, and alleviation of dandruff.

III. Data Submitted To Support Claims of Effectiveness

A. *Clinical Studies.* Brandenfels submitted two clinical studies purporting to establish the effectiveness of Brandenfels Scalp and Hair Applications and Massage:

1. *University of Oregon Medical School Study.* This unpublished study, of 242 subjects with normal scalps, dandruff, or varying degrees of baldness, was performed by a committee of four physicians on the faculty of the University of Oregon Medical School at Portland. The two solutions, Formula A and Formula B, were applied to the scalp twice daily, with massage four times daily. Many of the subjects failed to adhere to the regime, particularly the massage, because of the time and inconvenience involved. Duration of treatment was from 15 to 96 days. The patients were observed weekly to detect adverse effects, such as local irritation, but not for an evaluation of effectiveness. Seventy-two of 165 patients with dandruff, 7 of 11 patients with falling hair, and 10 of 58 patients with baldness reported improvement. Adverse effects reported by patients included falling hair (11 patients) and worsening of the condition of baldness (4 patients).

This study does not support the claims of effectiveness for the Brandenfels treatment because it does not satisfy any of the fundamental criteria set forth in 21 CFR 314.111 (a)(5)(ii) for an adequate and well-controlled clinical investigation.

In addition, the study is inadequate because it does not explain the method of selection of the subjects (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)) or the methods of observing and recording results (21 CFR 314.111(a)(5)(ii)(*a*)(*3*)). A summary of the methods of analysis and evaluation of data derived from the study, including appropriate statistical methods, also is not provided. Thus, the study fails to comply with the standard set forth in 21 CFR 314.111(a)(5)(ii)(*a*)(*5*). The report on the study only contains a summary of subjective descriptions of patient reactions. It does not contain any definitions of the parameters that were used in assessing the effectiveness of the drug, nor does it contain a system for quantifying symptom severity. Furthermore, the subjects were not assigned to test groups in such a way as to eliminate bias or to provide for comparable test and control groups. Instead, all but 19 subjects (of 223) were treated with the active formulae, the identity of which was known to the subjects. Consequently, the study is also deficient under 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*ii*), because subjects were not assigned to test groups in a way that would minimize bias, under 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*iii*), because the comparability of test and control groups was not assured. Moreover, the effects of the Brandenfels treatment were not compared with a control of any kind. The 19 subjects who did not use the Brandenfels treatment were designated as "controls". However, there is no indication of how these "controls" were selected, of any alternative therapy being given to them, or of any use to which these "controls" were put. A basic requirement of an adequate and well-controlled study is that there be a properly selected control group. 21 CFR 314.111(a)(5)(ii)(*a*)(*4*). Because the investigators did not avail themselves of the control group in this study, it is impossible to ascertain whether the improvement reported was due to the Brandenfels treatment, or whether the condition would have improved absent medication.

Clearly, this study is not adequate and well-controlled within the meaning of 21 CFR 314.111(a)(5)(ii). Even if it were submitted as a corroborative study under 21 CFR 314.111(a)(5)(ii)(*c*), it could not be considered because it lacks the details that permit scientific evaluation.

2. *Biopsy or Sub-Dermal Research Study.* The second clinical study submitted was on the histopathological changes in the scalp after a course of treatment with the Brandenfels solutions. It was performed in 1949 by Dr. Frank Menne, a pathologist, and Dr. Ervin Ladd. The protocol of the study provided for visual examinations and biopsies to be done on 27 subjects with various forms of alopecia before use of the Brandenfels treatment. After a few months of treatment, examinations were again to be made, with biopsies in selected cases. Six of the 27 patients did not complete the study for unexplained reasons. The remaining patients were diagnosed as 7 cases of male pattern baldness and 14 cases of alopecia areata. Of the 7 cases of male pattern

baldness, marked regrowth was reported in 3 patients and some regrowth was reported in 1 patient. Of the 14 alopecia areata cases, marked improvement was reported in 8 patients and slight improvement was reported in 4 patients. In regard to histological findings, a marked change was reported in 11 subjects and slight change in 5 subjects. The examining pathologist stated that he found definite improvement in cellular structure in certain cases, with less inflammation and more numerous and healthy follicles. Case reports, biopsy photographs, and "before" and "after" photographs showing marked improvement are presented for only three subjects. These subjects were diagnosed as alopecia areata with male pattern baldness. Also included are photomicrographs and pathological findings of scalp biopsies on cadavers with full heads of hair and with partial to complete baldness.

This study is not adequate and will-controlled within the meaning of 21 CFR 314.111(a)(5)(ii) for several reasons. The description of the study submitted fails to show that the method of subject selection was suitable for the purposes of this study. There is no indication that the diagnoses were established by a qualified clinician. 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*i*). The history, physical examinations, and photographs of the three patients reported are compatible with alopecia areata, a condition that might resolve spontaneously, but not with male pattern baldness.

In addition, the study is inadequate because no control group of any kind was employed. 21 CFR 314.111(a)(5)(ii)(*a*)(*4*). All subjects were treated with active formulae. The methods of observation and recording results are not explained, contrary to the requirement in 21 CFR 314.111(a)(5)(ii)(*a*)(*3*), nor does it provide a summary of the methods of analysis and an evaluation of the data, required by 21 CFR 314.111(a)(5)(ii)(*a*)(*5*). Thus, this study was uncontrolled, and the clinincal data are inadequate for evaluation. It therefore does not support the effectiveness of the Brandenfels treatment. 21 CFR 314.111(a)(5)(ii)(*c*).

B. *Bacteriological Study.* In this study, Dr. Norman David, a pharmacologist, did bacterial counts on the hair roots of six subjects before and after 1 week of treatment with the Brandenfels solutions and found a decrease in counts in four subjects. He stated that the prevalence of bacteria has a definite relation to thinning of hair, and that treatment by application of antiseptics combined with massage represents the general consensus of medical opinion. It was his opinion that the Brandenfels treatment brings about a condition conducive to normal hair growth and decreases dandruff, and that massage facilitates penetration of the ingredients.

Very little information has been provided about the conduct of this study. From the information that has been provided, however, it is clear that the study is not adequate and well-controlled within the meaning of 21 CFR 314.111(a)(5)(ii). There is no clear statement of the objectives of the study as required by 21 CFR 314.111(a)(5)(ii)(*a*)(*1*). The objective of the study appears to have been to demonstrate the effect of the product on scalp bacterial counts. However, it has not been shown that the prevalence of bacteria in the scalp and hair follicles is causally related to either baldness or dandruff (Refs. *1* through *3*).

The study is inadequate because a control group was not employed. 21 CFR 314.111 (a)(5)(ii)(*a*)(*4*). Although the investigator took a bacterial count on each of the six subjects before use of the Brandenfels treatment as a "control," all of the six subjects were treated with the product. Consequently, a quantitative evaluation of the results of the study cannot be made. 21 CFR 314.111 (a)(5)(ii)(*a*)(*4*). In addition, the methods of observation and recording results are not explained (21 CFR 314.111 (a)(5)(ii)(*a*)(*3*)), and a summary of the methods of analysis and an evaluation of the data, including any appropriate statistical methods, is not provided (21 CFR 314.111 (a)(5)(ii)(*a*)(*5*)).

C. *Autopsy Studies.* In the course of autopsies, Dr. Frank Menne made "studies" in which he compared the follicular and cellular structures in scalps of bald and balding men with the follicular and cellular structures in the scalps of men with full hair. Photomicrographs and pathological findings were made of the cadavers and included in Brandenfels' submission. However, Brandenfels does not present any evidence that these "studies" were intended or could be used to establish the effectiveness of the Brandenfels treatment. There is no indication in Brandenfels' submission that the people whose scalps were examined had used the Brandenfels treatment before their death. In addition, Brandenfels does not represent that Dr. Menne drew any conclusions from these studies. It merely states that these studies constituted a part of his fund of knowledge. Brandenfels Appearance and Response to Notice of June 14, 1972, page 20. These "studies" do not in any way comply with the essentials of an adequate and well-controlled clinical investigation as defined in 21 CFR 314.111 (a)(5)(ii). Therefore, they do not provide substantial evidence of effectiveness of the Brandenfels treatment for its labeled indications.

D. *Expert Opinion.* 1. Two statements by Dr. Frank Menne were submitted. In each, he described his experience with the Brandenfels treatment as a result of his participation in the University of Oregon Medical School study and of the biopsy study previously described. As a result of this participation and of personal experience, Dr. Menne concluded that there was a reasonable probability that in some cases the Brandenfels treatment would cause: (a) a change in the cellular structure of the scalp, (b) a condition that will help nature to allow hair to grow, (c) a lessening of excessive falling hair, and (d) relief from dandruff scale. Dr. Menne's stated rationale for the effectiveness of the treatment was that two of the causative factors in baldness are diminished circulation and inflammation around a follicle which interferes with its nutrition. He explained that removal of the inflammation would result in improvement, while massage would increase circulation. In addition, in his opinion, the lanolin in the Brandenfels treatment keeps down dandruff and softens the follicular opening, making it easier for the hairs to penetrate.

2. The statement of Dr. Norman David, who also participated in the University of Oregon Medical School study and in the bacteriolgical study, was submitted by the firm. Dr. David shared the opinion of Dr. Menne that the Brandenfels treatment is effective for its labeled indications. Dr. David stated that the prevalence of bacteria has a definite relation to thinning of hair, and that treatment by antiseptics, combined with massage, represents the general consensus of medical opinion. He felt that the Brandenfels sulfanilimide solution, aided in penetration by the lanolin and the massage, has a bacteriostatic effect at the hair root.

3. The statement of Dr. Ervin Ladd described his participation in and the results of the biopsy study.

Brandenfels has not established that the opinions of Dr. Menne and Dr. David concerning the etiology or alopecia of dandruff represent current medical opinion (Refs. *1* through *3*). Moreover, even if the views of these physicians did represent the consensus current medical opinion respecting the etiology of the conditions for which the product is recommended, their statement are in the

nature of estimonials and do not provide the requisite genuine and substantial issue of fact for a hearing. The courts have consistently held that such testimonials in no way constitute substantial evidence of effectiveness within the meaning of the new drug provisions of the act, 21 U.S.C. 355(d). *Weinberger* v. *Hynson, Westcott & Dunning Inc.*, 412 U.S. 609, 619 (1973); *Weinberger* v. *Bentex Pharmaceuticals, Inc.*, 412 U.S. 645, 652 (1973); *Upjohn Co.* v. *Finch*, 412 U.S. 944, 951–954 (6th Cir. 1970); *PMA* v. *Richardson*, 318 F. Supp. 301, 309–310 (D. Del. 1970). As the Supreme Court noted in *Weinberger* v. *Hynson, Westcott & Dunning, Inc.*, *supra*, 412 U.S. at 619, Congress, as early as 1961, considered such testimonial evidence "treacherous" and, as a result, narrowly defined the nature and quality of evidence acceptable under the act.

E. *Medical Literature Citations.* Brandenfels' submission also included a bibliography of 32 citations to "pertinent" articles in the medical literature. However, none of the articles cited were reproduced in their entirety. FDA attempted to locate these articles, but the full text of only six articles could be found for review. None of these articles assess the effectiveness of the Brandenfels treatment.

1. Light, A. E., "Histological Study of Human Scalps Exhibiting Various Degrees of Non-Specific Baldness," *Journal of Investigative Dermatology*, 13:53, 1949. The author performed histological studies on the skin of normal and bald scalps and found an apparent relationship between a decrease in the number of hairs and an infiltration of the fat layer with connective tissue in which the blood vessels had thickened walls and smaller lumens. The article in no way attemts to assess the effectiveness of any drug product. The Brandenfels treatment is nowhere mentioned. The article thus does not constitute an adequate and well-controlled clinical investigation of the effectiveness of the Brandenfels treatment within the meaning of 21 CFR 314.111(a)(5)(ii).

2. Montagna, W., "Introduction, Annals of the New York Academy of Science," 83:362, 1959. This article is an introduction to a monograph on hair growth, following a conference on that subject. The author stresses that baldness should not be thought of as a degenerative, pathological condition, and that an attempt should be made to define it in anatomical terms. No clinical studies are presented, and the Brandenfels treatment is not mentioned. Thus, the report does not purport to be, nor does it constitute, an adequate and well-controlled clinical investigation of the Brandenfels treatment within the meaning of 21 CFR 314.111(a)(5)(ii).

3. Vickers, H. R., "Premature Baldness," *The Practitioner*, 186:756, 1961. The author states his opinion that the most common local cause of hair loss is seborrhea capitis, which he claims is due to low-grade infection of the skin and to a lowering of the natural resistance of the skin. In this article, the author makes no attempt to study the effectiveness of any drug product, including the Brandenfels product. The article does not purport to be, nor does it constitute, an adequate and well-controlled clinical investigation of the effectiveness of the Brandenfels treatment within the meaning of 21 CFR 314:111(a)(5)(ii).

4. Lubowe, I. I., "The Evaluation of a New Anti-Seborrheic Formulation," *Medical Times*, 85:58, 1957. The author states that the recent finding of an abundance of *P. ovale* in seborrheic scales has reemphasized the importance of this organism in the pathogenesis of seborrhea capitis and cites two articles that report a relationship between seborrhea capitis and hair loss. He describes clinical studies performed in patients with dandruff and hair loss using a solution containing a benzopyran derivative. The Brandenfels treatment does not contain a benzopyran derivative. Thus, this article does not assess the effectiveness of the Brandenfels treatment. Hence, the report is not an adequate and well-controlled clinical investigation of the effectiveness of the Brandenfels treatment within the meaning of 21 CFR 314.111(a)(5)(ii).

5. Van Scott, E. and T. M. Ekel, "Geometric Relationship between the Matrix of the Hair Bulb and Its Dermal Papilla," *Journal of Investigative Dermatology*, 31: 281, 1958. This article reports on a study of the relationship between the volume of the hair bulb matrix and that of the dermal papilla in normal scalps, bald scalps, and scalps with alopecia areata. The Brandenfels treatment is not mentioned. The study does not purport to be, nor does it constitute, an adequate and well-controlled clinical investigation of the effectiveness of the Brandenfels treatment within the meaning of 21 CFR 314.111(a)(5)(ii).

6. Naide, M., "Relation of Growth of Hair on Digits to the Severity of Ischemia," *New England Journal of Medicine*, 248:179, 1953. The author performed a study on patients with peripheral ischemia and found that the growth of hair on the toes could be correlated with the degree of ischemia. This article was apparently cited by Brandenfels because of its labeling claim that use of the Brandenfels treatment will increase blood supply to the scalp. The study does not purport to be, nor does it constitute, an adequate and well-controlled clinical investigation of the Brandefels treatment within the meaning of 21 CFR 314.111(a)(5)(ii).

F. *Testimonial Letters and Photographs, Questionnaire Results, and Bibliography.* Brandenfels submitted photocopies of numerous testimonial letters from individuals who had used the Brandenfels treatment and were satisfied with the results. Brandenfels claimed that these letters were a representative sample of the 25,233 letters and statements it had received from people who reported renewed hair growth, less excessive falling hair, relief from dandruff scale, or improved scalp conditions after use of the product. Photographs showing several of the people who wrote letters before and after they used the Brandenfels treatment were also submitted.

The Brandenfels submission also includes the tabulated results of a questionnaire that Brandenfels sent in 1949 to 290 people who had used the product. The questionnaire inquired about the user's scalp and hair conditions before and after they used the Brandenfels treatment and about the names of any doctors who had treated them for their scalp and hair conditions. On the basis of this survey, Brandenfels claims that meager to good results may be expected in baldness cases about 50 percent of the time. No explanation is provided of how the 290 people were selected. In addition, no explanation is provided of how the questionnaires were evaluated.

These letters, photographs, and questionnaires do not provide substantial evidence of the effectiveness of the Brandenfels treatment. 21 U.S.C. 355(d); *Weinberger* v. *Hynson, Westcott & Dunning, Inc., supra; Weinberger* v. *Bentex Pharmaceuticals, Inc., supra; Upjohn Co.* v. *Finch, supra; PMA* v. *Richardson, supra.* These data lack the detail that would permit scientific evaluation and cannot be considered in evaluating whether substantial evidence exists supporting the effectiveness of the Brandenfels treatment. 21 CFR 314.111(a)(5)(ii)(*c*).

References

1. Munro, D. D., "Disorder Affecting the Skin Appendages," *in* "Dermatology in General Medicine," edited by Fitzpatrick, T. B., et al., McGraw-Hill, New York, pp. 302–303, 1971.

2. Ebling, F. J. and A. Rook, "Hair," *in* "Textbook of Dermatology," edited by Rook,

A., et al., 2d ed., Blackwell Scientific Publications, London, vol. II, pp. 1589-1587, 1639-1640, 1971.

3. Pilsbury, D. M., "Eczema," *in* "Dermatology," edited by Moschella, S. L., et al., W. B. Saunders Co., Philadelphia, vol. I, pp. 282-283, 1975.

IV. Summary

Brandenfels did not submit any adequate and well-controlled studies that demonstrate the effectiveness or Brandenfels Scalp and Hair Applications and Massage for the various labeled indications.

The University of Oregon Medical School study and the biopsy study share the same basic defects: neither of the studies provide the essential details required under 21 CFR 314.111(a)(5)(ii), such as patient selection and diagnostic criteria or summaries of the methods of analysis and evaluation of data derived from the study. Because all of the subjects (except for 19 subjects in the Oregon Medical School study) were treated with the same active formulae, the identity of which was known to the subjects, neither study provides a comparison of the results of treatment with an appropriate control. 21 CFR 314.111(a)(5)(ii)(*a*)(*4*).

In addition to also containing these same basic defects, the bacteriological study, which found a decrease in the bacterial counts of the hair roots in four of six subjects after a week of treatment, does not evaluate the effectiveness of the Brandenfels treatment. The sponsor has not shown that the prevalence of bacteria in the scalp and hair follicles is causally related to either hair loss or dandruff. The autopsy studies do not in any way comply with the essentials of an adequate and well-controlled clinical investigation as defined in 21 CFR 314.111(a)(5)(ii).

The testimonial letters, photographs, questionnaire results, bibliography, and statements submitted from various doctors are inadequate as a matter of law to support the claims of effectiveness for the Brandenfels treatment.

V. Legal Arguments

Brandenfels made two legal arguments in its hearing request. First, it contended that FDA violated the Administrative procedure Act by not supplying the reasons and facts upon the agency based its proposed withdrawal of approval of the Brandenfels new drug application. Interspersed in this argument are allegations that FDA acted in bad faith.

Brandenfels' argument is without merit. FDA specified in the February 12, 1972 notice of opportunity for hearing the facts and evidence on which it proposed to withdraw approval of Brandenfels' application. The agency stated that the evidence available when the application was originally approved did not provide substantial evidence that the drug would have the effect it was purported or represented to have under the conditions of use prescribed, recommended, or suggested in its labeling, and that no evidence of effectiveness was submitted by Brandenfels after the publication of the September 25, 1970 notice. Brandenfels was also given actual notice in the February 12, 1972 notice and in various letters from FDA that evidence of the effectiveness of the Brandenfels treatment would have to meet the standard set forth in the regulations promulgated in the **Federal Register** of May 8, 1970 (35 FR 2751). In *Weinberger v. Hynson, Westcott & Dunning, Inc., supra*, 412 U.S. at 622, the Supreme Court stated:

> The drug manufacturers have full and precise notice of the evidence they must present to sustain their NDA's, and under these circumstances we find FDA hearing regulations unexceptionable on any statutory or constitutional ground.

Therefore, FDA has provided Brandenfels with adequate notice, and further notice is not required.

Brandenfels' second major argument was that the data that were submitted consisting of testimonials from three experts, together with "the experience of many users of the treatment," established the effectiveness of the Brandenfels treatment.

However, as previously stated, it is well established that medical opinion does not provide substantial evidence of the effectiveness of a drug under 21 U.S.C. 355(d), unless it is based on adequate and well-controlled studies. *Weinberger* v. *Hynson, Westcott & Dunning, Inc., supra; Weinberger* v. *Bentex Pharmaceuticals, Inc., supra; Upjohn Co.* v. *Finch, supra; PMA* v. *Richardson, supra*. The only studies upon which each of Brandenfels' experts based his opinion were the studies previously submitted by Brandenfels. As explained above, none of these studies was adequate and well-controlled. It is also well established that testimonials from lay users of a drug product do not meet the standards of substantial evidence of effectiveness. *Weinberger* v. *Hynson, Westcott & Dunning, Inc., supra; PMA* v. *Richardson, supra*.

VI. Findings

On the basis of the foregoing review, I find that there is a lack of substantial evidence that Brandenfels Scalp and Hair Applications and Massage has the effect it is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling. Since Brandenfels has not offered any data or legal reason to demonstrate the existence of a genuine and substantial issue of fact requiring a hearing, the hearing request is hereby denied.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 505(e), 76 Stat. 782 as amended (21 U.S.C. 355 (e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), approval of NDA 6-367 for Brandenfels Scalp and Hair Applications and Massage, and all amendments and supplements thereto, is hereby withdrawn effective May 8, 1981.

Dated: January 30, 1981.

Mark Novitch,

Assistant Commissioner of Food and Drugs.

[FR Doc. 81-12621 Filed 4-27-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80N-0370]

Prescription Drugs: Final Guideline Patient Package Inserts for Ampicillin and Related Drugs, Cimetidine, Clofibrate, Phenytoin, and Propoxyphene

AGENCY: Food and Drug Administration.

ACTION: Temporary stay of effective dates for final guideline patient package inserts.

SUMMARY: The Food and Drug Administration (FDA) is staying the effective dates for final guideline patient package inserts for ampicillin and related drugs, cimetidine, clofibrate, phenytoin, and propoxyphene. Elsewhere in this issue of the **Federal Register**, FDA is staying the effective dates of final regulations amending its patient package insert regulations to list ampicillin, cimetidine, clofibrate, phenytoin, and propoxyphene as drugs that must be dispensed with patient package inserts.

EFFECTIVE DATE: This stay is effective as of April 23, 1981.

FOR FURTHER INFORMATION CONTACT: Michael C. McGrane, Bureau of Drugs (HFD-30), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5220.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 12, 1980 (45 FR 60754), FDA adopted final regulations establishing requirements and procedures for the preparation and distribution of patient package inserts for prescription drugs for human use. Although the regulations were effective

October 14, 1980, they do not apply to particular drugs or drug classes until 180 days after publication of a separate notice in the **Federal Register** specifically applying the regulations to a drug or drug class.

In a notice published in the **Federal Register** of November 25, 1980 (45 FR 78516), the agency announced the applicability of the regulations to cimetidine, clofibrate, and propoxyphene effective May 25, 1981, and published final guideline patient package inserts for those drugs. In a notice published in the **Federal Register** of January 2, 1981 (46 FR 160), the agency announced the applicability of the regulations to ampicillin and related drugs and phenytoin effective July 1, 1981, and published final guideline patient package inserts for those drugs.

The agency is now staying those effective dates. This stay does not effect requirements for patient package inserts for oral contraceptive, estrogen, and progestational drug products codified at §§ 310.501, 310.515, and 310.516 (21 CFR 310.501, 310.515, and 310.516), respectively.

This action is taken under § 10.35(a) of FDA's procedural regulations (21 CFR 10.35(a)), which authorize the agency to stay at any time the effective date of a pending action or following a decision on any matter. Important questions continue to be raised regarding the cost, necessity, and utility of FDA's patient package insert program. These questions merit further review before final implementation of any requirements. FDA also believes additional review of these requirements to be consistent with the spirit of the provisions of Executive Order 12291 (46 FR 13193; February 19, 1981).

The agency is aware that this stay may affect some manufacturers and distributors who are preparing to implement the regulations. A distributor of an ampicillin product has informed the agency that it has reprinted its product's labels to include a statement that a patient package insert must be distributed with the product, as required under § 203.24(a)(1)(iii) (21 CFR 203.24(a)(1)(iii)). The distributor suggested that if the agency's patient package insert regulations were stayed it did not intend to incur the expense of voluntarily distributing inserts. The distributor asked whether use of its newly printed labels which contain the statement that the dispenser must provide patient package inserts to patients to whom the drug is dispensed, would misbrand the drug.

The agency advises that it will not view as misbranded labeling that contains a statement required under § 203.24(a)(1)(iii) that was printed in anticipation of the effective date of the patient package insert requirements. The agency requests that the private sector assist in publicizing this stay so that dispensers will not be misled by such statements that may appear on the label of particular drugs that were scheduled to be subject to the final regulations.

Notices establishing final guideline patient package inserts were published in the **Federal Register** of November 25, 1980 (45 FR 78516) for cimetidine, clofibrate, and propoxyphene and in the **Federal Register** of January 2, 1981 (46 FR 160) for ampicillin and phenytoin. The effective dates of these notices, which apply FDA's patient package insert regulations in Part 203 (21 CFR Part 203) to those drugs, are stayed until further notice.

Dated: April 23, 1981.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 81-12672 Filed 4-23-81; 2:36 pm]

BILLING CODE 4110-03-M

Health Services Administration

Genetic Diseases Review And Advisory Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of June 1981:

Name: Genetic Diseases Review and Advisory Committee
Date and Time: June 15-17, 1981, 9:00 a.m.
Place: Conference Room M, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857
Open June 15, 9:00 a.m.-5:00 p.m. and June 16, 9:00 a.m.-12:00 noon
Closed for remainder of meeting.

Purpose. To advise and make recommendations to the Secretary and the Administrator, Health Services Administration, regarding genetic diseases services grants for projects to establish and operate voluntary genetic testing and counseling programs primarily in conjunction with other existing health programs, including programs assisted under Title V of the Social Security Act. The Committee will advise on the development of services relating to genetic diseases, including the dissemination of information and materials to persons providing health care, to teachers and students, and to the public generally in order to most rapidly make available the latest advances in the testing, diagnosis, counseling, and treatment of individuals respecting genetic diseases.

Agenda. This is the first meeting of the Committee. The open portion of the meeting will be devoted to a presentation to the Committee, by program of the background legislative mandate and current status of program activities and accomplishments followed by a discussion of the role of the Committee and future program directions. The remainder of the meeting will be closed to the public for the review of grant applications for Genetic Diseases Education, Testing, and Counseling Programs. The closing is in accordance with the provision set forth in section 552b(c)(6), Title 5, U.S. Code, and the Determination by the Acting Administrator, Health Services Administration, pursuant to Pub. L. 92-463.

Anyone wishing to obtain a roster of members, minutes of meeting, or other relevant information should write to or contact Dr. Audrey F. Manley, Chief, Genetic Diseases Services Branch, Office for Maternal and Child Health, Bureau of Community Health Services, Room 7-49, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-1080.

Agenda items are subject to change as priorities dictate.

Dated: April 21, 1981.

William H. Aspden, Jr.,

Associate Administrator for Management.

[FR Doc. 81-12614 Filed 4-27-81; 8:45 am]

BILLING CODE 4110-84-M

Designation of Medically Underserved Areas

AGENCY: Health Services Administration, PHS, HHS.

ACTION: Notice.

SUMMARY: This notice is intended to clarify, for purposes of certain Federal health programs, the distinction between designation of an area as a Health Manpower Shortage Area (HMSA) and designation of an area as a Medically Underserved Area (MUA). Although it is possible for an area to be designated as both an HMSA and an MUA, the two designation processes are independent, each having its own established criteria and procedures. An area designated as an HMSA will be considered as an MUA only if it has been formally designated as an MUA under the criteria and procedures published in the **Federal Register**. The latest such publication is that of October 15, 1976 (41 FR 45718-45777), "Designation of Medically Underserved Areas."

FOR FURTHER INFORMATION CONTACT: Mr. James J. Corrigan, Director, Division of Policy Development, Bureau of Community Health Services, Room 6-40, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone number 301 443-1034.

SUPPLEMENTARY INFORMATION: The designation of MUAs has significance for a number of Federal health

programs. Community Health Center (CHC) and Hospital-Affiliated Primary Care Center (HAPCC) projects must serve MUAs in order to receive Federal grants administered by the Bureau of Community Health Services (BCHS) under sections 328 and 330 of the Public Health Service (PHS) Act. Federal funding under the following programs is also affected by MUA designations:

(1) Health Maintenance Organizations (PHS Act, Title XII);

(2) Health Systems Agencies (PHS Act, Title XV);

(3) Health Resources Development (PHS Act, Title XVI); and

(4) Medicare/Medicaid Reimbursement for Rural Health Clinic Services (Social Security Act, Titles XVIII and XIX).

The basis for identifying medically underserved areas and populations is the index of medical underservice (IMU). The IMU is obtained by applying weights to data on the following indicators:

(1) Ratio of primary care physicians to population;

(2) Infant mortality rate;

(3) Percentage of the population which is age 65 or over; and

(4) Percentage of the population with family income below the poverty level.

The designation of HMSAs is significant in that public or nonprofit entities in areas so designated are eligible to apply for the assignment of members of the National Health Service Corps to provide services in or to the areas. These areas are also eligible service areas for PHS scholarship and loan repayment programs.

The criteria for the designation of areas, population groups, medical facilities and other public facilities as HMSAs considering the following factors:

(1) Practitioner-to-population ratios;

(2) Infant mortality rates;

(3) Health status;

(4) Access to health services;

(5) Other indicators of need; and

(6) Percentage of physicians who are foreign medical graduates.

On October 15, 1976, the Secretary published a notice in the **Federal Register** (42 FR 45718-45777), describing how the list of MUAs is produced and setting forth the procedure for ongoing revision of the list. The publication stated that "Areas designated as Critical Health Manpower Shortage Areas * * * are designatable as medically underserved."

On February 16, 1978, BCHS Regional Memorandum 78-6 established the policy that areas designated as primary care physician HMSAs would be considered as MUAs for the purposes of meeting BCHS funding criteria. This policy was aimed at eliminating the necessity of applying for two separate, though related, area designations pertaining to medical underservice. The 2½ years' experience with this policy, however, revealed that the HMSA designation tends to be more volatile than the MUA designation. Relatively small changes in numbers of physicians or demographic characteristics affect the HMSA criteria more than MUA criteria. The Bureau concluded that it was unwise to base multiyear funding commitments to health centers on a relatively unstable area designation. Therefore, on October 28, 1980, BCHS Regional Memorandum 80-20 was issued to repeal the policy announced in Regional Memorandum 78-6.

Dated: April 17, 1981.

John H. Kelso,

Acting Administrator.

[FR Doc. 81-12813 Filed 4-27-81; 8:45 am]

BILLING CODE 4110-84-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of an Environmental Assessment on the Tuolumne River Flow Schedule Revision (Canyon Power Project)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that an Environmental Assessment on the Tuolumne River Flow Schedule Revision (Canyon Power Project, California) has been completed and is available for public review.

The U.S. Fish and Wildlife Service has determined that flows in a twelve-mile reach of the Tuolumne River below O'Shaughnessy Dam (Hetch Hetchy Reservoir) in Yosemite National Park should be maintained at 75 cubic feet per second (cfs) during the period October 1-April 30; 200 cfs during May 1-June 30; and at 150 cfs July 1-September 30. The purpose of these flow releases would be to protect fishery, recreation and aesthetic values of the river within Yosemite National Park and Stanislaus National Forest.

Copies of the Environmental Assessment are available from the Area Manager, William W. Sweeney, Sacramento Area Office, Fish and Wildlife Service, 2800 Cottage Way, Room E-2740, Sacramento, California 95825. Telephone 916-484-4664.

Summary

The U.S. Fish and Wildlife Service has completed an Environmental Assessment on a proposal to establish minimum streamflows below Hetch Hetchy Reservoir in Yosemite National Park. Under the recommended action, streamflows will be increased from interim minimum levels of 35 cubic feet per second (cfs) during the winter and 75 cfs during the summer to new levels of 200 cfs during May and June, 150 cfs from July through September, and 75 cfs from the first of October through April 30.

The interim flows have been in effect since completion of the Canyon Power Project by the City and County of San Francisco in 1967. The Canyon Power Project is one segment of the Hetch Hetchy Water and Power System which diverts water from Yosemite National Park through powerhouses, pipelines and tunnels to the San Francisco Bay Area some 150 miles distant.

The recommended flow increases are based on fishery, recreation and aesthetic studies requested by the Secretary of the Interior in 1961, when approval was given to begin construction of the power project. Agencies which cooperated in the studies included the U.S. Fish and Wildlife Service, the National Park Service, the U.S. Forest Service, the California Department of Fish and Game, and the City and County of San Francisco.

The Environmental Assessment discusses the impacts of providing the recommended release or any of 6 alternative flow schedules (including the current interim flow regime of 35 cfs during September 16-April 30 and 75 cfs during May 1-April 30 and 75 cfs during May 1-September 15) on fish, recreational, and aesthetic values, and also on the generation of electric power and delivery of water by the City and County of San Francisco Hetch Hetchy Water and Power System.

The recommended flow schedule is based on cooperative field studies and other information supplied by the National Park Service, the U.S. Forest Service, the California Department of Fish and Game, and the City and County of San Francisco. The recommended flow schedule would provide good trout habitat and acceptable recreation/aesthetic conditions. The Hetch Hetchy project's dependable electric generation capacity would be reduced by an estimated 11% (from 371 to 333 Mw) and also the number of years of full projected water supply delivery capability (448,000 acre-feet annually)

would be reduced by about 2% (from 88% to 86%), as compared to conditions under the current interim flow schedule.

Dated: April 17, 1981.

Michael J. Spear,

Associate Director.

[FR Doc. 81-12534 Filed 4-27-81; 8:45 am]

BILLING CODE 4310-55-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 April 17, 1981. Pursuant to § 1202.13 of 36 CFR 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 May 13, 1981.

Carol Shull,

Chief, Registration Branch.

Pending April 28, 1981

Connecticut

New London County

Groton, *Smith, Jabez, House,* North Rd.

Nevada

Clark County

Overton vicinity, *Pueblo Grande de Nevada,* S of Overton

New Hampshire

Hillsborough County

Wilton vicinity, *County Farm Bridge,* NW of Wilton on Old County Farm Rd.

Merrimack County

Concord, *White Farm,* 144 Clinton St.

Texas

Eastland County

Cisco, *Mobley Hotel,* 4th St. and Conrad Hilton Ave.

Tarrant County

Fort Worth, *Fort Worth Main Post Office Building,* Lancaster and Jennings Aves.

[FR Doc. 81-12449 Filed 4-27-81; 8:45 am]

BILLING CODE 4310-03-M

Bureau of Land Management

Canon City District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Canon City district advisory council meeting.

SUMMARY: Notice is hereby given, in accordance with Public Law 94-579, that a meeting of the Canon City District Advisory Council will be held on Thursday and Fiday, May 28-29, 1981.

The meeting will be from 1:00 p.m. to 5:00 p.m. on May 28th and from 8:00 a.m. to noon on May 29th at the Lamplighter Motel, 419 Main Street, Alamosa, Colorado.

The topics of discussion will be: recreation management along the Arkansas River, wilderness-mining conflicts, San Luis Grazing EIS implementation and maintenance, and Northeast Resource Management Plan issues.

The meeting will be open to the public. Interested persons may make oral statements to the council during an allotted time period beginning at 9:00 a.m. on May 29th and lasting at least one hour. The District Manager may establish a time limit for oral statements depending on the number of people wishing to speak.

ADDRESS: Anyone wishing to address the council should notify the District Manager, Bureau of Land Management, 3080 E. Main, (P.O. Box 311), Canon City, Colorado 81212, phone (303) 275-0631, by May 22, 1981.

Melvin D. Clausen,

District Manager.

[FR Doc. 81-12612 Filed 4-27-81; 8:45 am]

BILLING CODE 4310-84-M

[4700 (N-6616)]

Use of Helicopters To Gather Wild Horses; Notice of Meeting

Notice is hereby given in accordance with Section 404 of P.L. 94-579 that the Battle Mountain District of the Bureau of Land Management will conduct a public meeting on June 3, 1981, to discuss the use of helicopters to gather wild horses. The meeting will begin at 1:00 p.m. in the conference room of the Bureau of Land Management Office at 2nd and Scott, Battle Mountain, Nevada.

The agenda for the meeting will include the discussion of the helicopter gathering techniques that will be utilized in the Bald Mountain Wild Horse Gather. The gather is scheduled to take place in July, 1981. The meeting is open to the public. Oral or written comments are welcome.

Dated: April 20, 1981.

Michael C. Mitchel,

Acting District Manager, Battle Mountain District, Nevada.

[FR Doc. 81-12670 Filed 4-27-81; 8:45 am]

BILLING CODE 4310-84-M

[W-73911 Amendment]

Wyoming; Notice of Application

April 20, 1981.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado, filed an application amendment for a reroute of their proposed right-of-way to construct 4-inch and 6-inch pipelines for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 13 N., R. 97 W.,
  Sec. 1, S½NW¼, NE¼SW¼, and NW¼SE¼;
  Sec. 2, lots 1, 2, 3, and SE¼NE¼.
T. 14 N., R. 97 W.,
  Sec. 27, N½SW¼, W½SE¼, and SE¼SE¼;
  Sec. 28, S½SW¼, and SE¼;
  Sec. 32, N½NE¼;
  Sec. 33, NW¼NW¼;
  Sec. 34, E½NE¼, and NE¼SE¼;
  Sec. 35, W½SW¼, and SE¼SW¼.

The proposed pipelines will serve to transport natural gas from the #1 Monument Valley Well and the #1 Federal Twin Fork Well in sections 28 and 32, T. 14 N., R. 97 W., to a point of connection with an existing pipeline in section 1, T. 13 N., R. 97 W., Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

William S. Gilmer,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-12667 Filed 4-27-81; 8:45 am]

BILLING CODE 4310-84-M

[W-21090]

Wyoming; Notice of Termination of Classification

April 17, 1981.

The following described lands were classified for disposal pursuant to the Classification and Multiple Use Act of September 19, 1964, 78 Stat. 986 (formerly 43 U.S.C. 1411-18), and for sale pursuant to the Public Land Sale Act of September 19, 1964, 78 Stat. 988 (formerly 43 U.S.C. 1421-27), on October 30, 1970, by Classification Decision Wyoming 21090:

Sixth Principal Meridian, Wyoming

T. 19 N., R. 105 W.,
Sec. 14, Lots 3, 4, and 6.

The area described contains 125.28 acres in Sweetwater County, Wyoming.

Classification Wyoming 21090 segregated the above lands from all forms of appropriation under the public land laws, including the mining and the mineral leasing laws, except for sale pursuant to the Public Land Sale Act of September 19, 1964. Classification Decision W-21090 was modified December 12, 1974, to allow granting of rights-of-way on the lands.

The above lands were classified for sale in response to a Public Land Sale Application filed by the City of Rock Springs, Wyoming. The City withdrew their application for sale on December 24, 1974. The Public Land Sale Act of September 19, 1964, has expired, and the lands can no longer be disposed of under that authority. Accordingly, pursuant to 43 CFR Part 2400, Classification Wyoming 21090, affecting the above described lands is hereby terminated in its entirety.

At 10:00 a.m., on May 29, 1981, the land shall be open to operation of the public land laws generally, subject to valid existing rights and the requirements of applicable law. All valid applications received at or prior to 10:00 a.m., on May 29, 1981, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

The land will be open to mineral location and the mineral leasing laws at 10:00 a.m., on May 29, 1981. For Oil and Gas leasing, the land must first be made available on the Simultaneous lands available list.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyoming 82001.

Maxwell T. Lieurance,
State Director.

[FR Doc. 81-12668 Filed 4-27-81; 8:45 am]
BILLING CODE 4310-84-M

National Park Service

General Management Plan, Redwood National Park

Pursuant to section 102(2)(c) of the National Environmental Policy Act, the Department of the Interior has prepared a final environmental impact statement and a general management plan for Redwood National Park, California. Copies of the plan and record of decision are available at the following locations:

National Park Service, Department of the Interior, 18th and C Street, NW., Washington, D.C. 20240
Redwood National Park, Drawer N, 1111 Second Street, Crescent City, California 95531
National Park Service, Western Region Office, 450 Golden Gate Avenue, San Francisco, California 94102

The record of decision follows this notice.

Dated: April 20, 1981.

Howard H. Chapman,
Regional Director, National Park Service, Western Region.

Redwood National Park General Management Plan, Record of Decision

The National Park Service has decided to adopt the general management plan as presented in the Redwood National Park Final Environmental Impact Statement (FES 80-45). This final environmental impact statement and plan were released to the public on October 31, 1980, after a two-year planning process which included extensive public involvement.

This plan for Redwood National Park is intended to guide management of the park for a ten-year period. It outlines specific actions for visitor use and facilities development, cultural resources management, and natural resources management. Annual reviews of park conditions may affect specific actions or management techniques, but the National Park Service is confident that thoughtful planning and thorough public review have produced sound and sensible guidelines for the life of the plan. These guidelines are flexible, and specific actions may be modified to meet changing conditions, such as visitor travel patterns or national priorities. This flexibility, however, will not prevent steady progress toward ensuring the preservation of "significant examples of the primeval coastal redwood forests, and the associated streams and seashore" (Public Law 90-345).

I. The Plan

The Redwood General Management Plan embodies the concepts set forth in the preferred alternative of the draft and final environmental impact statements. The plan provides for all practicable means to avoid or minimize environmental harm.

Of 106,000 acres of the land authorized for a national park by Public Law 90-545 and Public Law 95-250, 27,470 acres are in state parks and 83.12 acres are county lands, excluding county roads. To enhance visitor experience and to facilitate park management, the National Park Service will cooperate with the State of California and Humboldt County to manage state, county, and national park lands as one management entity.

Visitor Use and Facility Development

The central administrative headquarters will remain in Crescent City, California, and the maintenance center will be developed at Requa (formerly an Air Force radar installation).

The natural features and recreational opportunities of the park will always be focal points for the many visitors to the region, but specific services for the visitors—restaurants, motels, and developed campgrounds—will continue to be provided in the local communities. Commercial facilities required in the park will be operated on a concession. Long-established visitor use patterns such as camping and interpretive programs at the three state parks will continue to be offered. Additional use areas and facilities within the national park will be created to allow people to seek new outdoor recreational opportunities. More of the park will be made accessible, but fragile areas will be protected from the effects of overuse. Barrier free programs will be made available to disabled visitors.

The most significant proposals in terms of physical change in the park involve the development of activity centers and sites. These visitor developments will each feature one aspect of the park's natural environment. Interpretive themes at the activity centers will be "Redwoods and the River" in the Jed Smith unit and "Flora and Fauna of the Redwoods" in the Prairie Creek unit.

Themes at the various activity sites will include "Upland Redwoods" at Mill Creek Campground; "The Coast" at Cresent Beach North and South, and also at Lagoon Creek; and "Redwoods at the Sea" at Skunk Cabbage Hill.

Day and overnight use capacities will increase throughout the park from approximately 7,700 to 16,700 persons, and from 1,492 to 1,940 persons, respectively.

The outdoor schools at Howland Hill and Wolf Creek will be used primarily for education group activities.

The National Park Service will continue to work with the five established Native American Heritage Advisory Committees to implement the plan. Native Americans are encouraged to practice their traditional ceremonies in the park to the extent they are consistent with values for which Redwood National Park was established. They will also be urged to share their traditions, culture and history with park visitors.

Redwood National Park supports the concept of a Native American repertory theater in neighboring communities.

Cooperative programs for information/orientation services and for interpretation will be developed with local, state, and other federal agencies, principally with the U.S. Forest Service and the California Department of Parks and Recreation.

A national cemetery will not be developed in the park. Such a cemetery would result in an irreversible commitment of park resources to a use that is not complementary to the park's mandate or purpose.

The plan has been found consistent by the regional Coastal Commission. The management of the coastal zone takes into account resource protection and public access. Commercial fishing and sport-fishing will continue in cooperation with the California Department of Fish and Game. Commercial wood gathering will not be allowed on federal lands. Gathering firewood for local use will be allowed by permit at designated locations on a seasonal basis.

Major access and circulation for visitors will continue to be U.S. 101 and U.S. 199. The park circulation system will involve both internal National Park Service roads and external state and county roads. The interior system will enable visitors to participate in a variety of visual, interpretive, and recreational experiences, and it will also provide access to such opportunities as walking, horseback riding, boating, bicycling, automobile touring, and riding on public conveyances. Visitors can thereby choose different degrees of personal involvement with the redwood forest, the ocean's edge, and other park resources. The exterior system, which will connect with various elements of the interior system, will allow access for food, accommodations, and regional recreation pursuits.

Proposed maintenance and alteration of present traffic routes will not be implemented until rights-of-way have been donated by the state and county to the federal government. The state will enforce laws on commercial roadways.

The National Park Service is currently preparing an environmental impact statement on the rerouting of U.S. 101 around Prairie Creek Redwoods State Park. This development was authorized by Public Law 95-250.

The C-Line Road shuttle will continue to provide bus service to the vicinity of the Tall Trees Grove. With the expansion of the National Park Service shuttle program, visitors will have easier access to Gold Bluffs Beach or to trailheads in Prairie Creek Redwoods State Park. Much of the park will be accessible by trails and paths, and the Coastal Trail will run the entire length of the park.

Housing will be provided for a limited number of seasonal or transient personnel. The U.S. Forest Service facilities at the Redwood Experimental Forest will be returned to the U.S. Forest Service. The National Park Service currently uses these facilities, known as the Redwood Ranger Station, for offices, shops and residences.

Natural Resources Management

The goal of natural resources management within the park is to restore and/or maintain the natural ecosystems of the park as they would have evolved without disturbance by man. The natural resources management plan will be combined with the cultural resources management plan. It is currently under preparation and is expected to be distributed for public review in 1981. One important component of the natural/cultural resources management plan is the watershed rehabilitation program. Important aspects of this program include: Encouraging the return of a natural pattern of vegetation, minimizing or eliminating man-induced erosion, and cooperating with others to reduce cumulative effects of man's actions upstream from the national park and within the park protection zone, while still fostering the productivity of commercial forestland in the protection zone.

Cultural Resources Management

Cultural resources management at Redwood National Park is designed to protect those significant elements associated with man's habitation and use of the redwood forests and environs. Cultural themes, and the resources representing them, assist visitors, scientists and managers in obtaining a balanced interpretation of the park's internationally significant natural resources. Within the park boundary are resources as diverse as aboriginal village sites, architecturally significant buildings, historic trails, and areas of sacred and traditional importance to the descendants of the original Native American inhabitants. The actions proposed to protect this record of man in the redwoods are fully compatible with the legislative, executive and regulatory requirements for cultural resources, as well as with the other elements of this general management plan.

Jurisdictional Considerations

The Park Service presently has proprietary jurisdiction of those Federally-owned lands within the park boundary. In the future it may be appropriate to seek concurrent jurisdiction over all or portions of these lands, together with any lands (whether private lands, state parks and roads, county roads, tide and submerged lands, etc.) subsequently acquired by purchase or donation, in order to efficiently manage and protect the resources within the limited number of personnel available. Meanwhile, mutual aid agreements may be developed under the proprietary jurisdiction status or reciprocal working agreements might be formulated when concurrent jurisdiction is obtained.

II. Alternatives Considered

The alternatives for visitor use and facility development are the preferred alternative, no action, extended visits, and restructured visitor use.

Alternative A—No Action

This alternative would have continued current management practices and limited capital investment in new facilities. Current access and circulation patterns would have been unchanged but traffic safety would have been improved by the elimination of hazardous conditions, such as the making of certain roads one way.

Alternative B—Extended Visits

This alternative would have emphasized the development of additional facilities and services within the park to permit longer visits and more opportunities for enjoying park resources and activities. Activity centers would have been developed adjacent to significant park features. Construction of new hiking trails and the conversion of several former logging roads to trails or one-way park roads would have made much more of the park accessible to hikers, horseback riders and motorists. While the number of vehicle campsites would have been maintained at current levels, opportunities for different styles of overnight use would have been provided by adding walk-in and primitive camping areas along with hostels.

Alternative C—Restructured Visitor Use

This alternative would have emphasized closer interaction between the National Park Service and adjacent communities. Visitors would have been encouraged to leave their automobiles in a central location, such as a downtown parking lot or at their place of lodging, and ride shuttle buses to sites in the park.

Shuttle systems would have supplemented private vehicle use and most roads served by shuttle buses would have remained open for private vehicles.

The environmental impacts of the preferred alternative, the extended visits alternative, and the restructured visitor use alternatives are not substantially different. However, the preferred alternative was judged to be the environmentally preferred alternative because it will result in fewer cumulative impacts. The park will experience both an improvement in visitor services and activities and an improvement in the quality of the natural resources.

III. Mitigating Measures

A. Natural Environment

The watershed rehabilitation program will utilize existing literature on the subject along with techniques developed during rehabilitation projects. Monitoring results at rehabilitation sites and monitoring sediment transport in the basin as a whole will continue.

Vegetation losses due to visitor developments and watershed rehabilitation projects will be minimized by replanting distrubed areas with native vegetation.

Revegetation and mulching techniques developed during watershed rehabilitation programs will be used to reduce surface soil erosion in freshly disturbed areas.

Proposed development areas, along with other actions that disturb vegetation, will be reviewed to determine if any endangered or threatened species exist in the disturbed area. Surveys will be conducted where appropriate. Specific development actions may be modified to avoid damage to threatened or endangered plants.

Redwood groves will be studies to determine the effects of visitor use on soil fertility and vegetation.

During watershed rehabilitation projects, excavation of stream channels will closely proximate the original channel. Rocking, wooden check dams and a variety of other energy dissipation devices will be utilized to reduce further channel downcutting and erosion.

Water quality monitoring will be continued to measure, among other items, sediment levels and bacteriological contamination. Prior to specific site development requiring water, the feasibility of using groundwater will be studied.

Consultation with State of California, Department of Fish and Game, and U.S. Fish and Wildlife Service personnel will continue on formal and informal basis regarding effects of proposed actions on endangered or threatened wildlife. Although no negative impacts are foreseen, development proposals will be evaluated as new information becomes avilable.

B. Cultural Environment

Cultural resources management will be carried out in accordance with National Park Service Cultural Resource Management guidelines (NPS-28). A cultural resources management plan is being developed as a component of the park's resources management plan.

In accordance with the National Historic Preservation Act of 1966 (Public Law 89-665) and the procedures of the Advisory Council on Historic Preservation (36 CFR 800) a memorandum of agreement has been concluded between the State Historic Preservation Officer, Advisory Council on Historic Preservation and the National Park Service on actions affecting cultural resources and the actions to be taken to avoid, minimize effects or mitigate adverse effects.

Geographic areas not specifically covered by current archaeological inventory surveys, such as inholdings and lands proposed for rehabilitation, will be surveyed. Development proposals that may affect cultural resources will reflect a sensitivity to preservation of the historic scene through compatible and complementary designs. All developments with potential for ground disturbance will be preceeded by archaeological identification surveys.

A project clearance form has been initiated to assist in identifying potential impacts and insuring proper review of developments.

If effects on cultural resources cannot be avoided, all necessary mitigation will be conducted according to professional standards and in compliance with Section 106 of the National Historic Preservation Act of 1966.

Local Native American Heritage Advisory Committees will be consulted regarding proposals with potential for effects on traditional sites. Recommendations made by such committees that pertain to actual project implementation actions will be incorporated at that stage, or they will be reviewed through additional consultations if a conflict with management goals becomes apparent.

IV. Rationale for the Decision

The proposal calls for the development and management of Redwood National Park in such a manner as to complement the activities and services provided in adjoining communities. Access will be improved so that visitors may better appreciate the outstanding natural resources of the park. The watershed rehabilitation program is the first step in restoring Redwood Creek areas to a fascimile of its natural conditions.

Dated: March 13, 1981.

Robert D. Barbee,

Superintendent, Redwood National Park.

Dated: April 20, 1981.

Approved.

Howard H. Chapman,

Regional Director, Western Region.

[FR Doc. 81-12866 Filed 4-27-81; 8:45 am]

BILLING CODE 4310-70-M

Water and Power Resources Service

[INT-FES 81-18]

Polecat Bench Area, Shoshone Extensions Unit, Pick-Sloan Missouri Basin Project, Wyoming; Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior has prepared a final environmental statement on a proposed water development plan for providing irrigation water to 19,260 irrigable acres. Water for the project will be stored in the existing Buffalo Bill Reservoir. Delivery will be made through the existing Shoshone Canyon Conduit and Heart Mountain Canal of the Shoshone Project. Holden Reservoir will be an off-channel storage feature.

Copies are available for inspection at the following locations:

Director, Office of Environmental Affairs, Water and Power Resources Service, Department of the Interior, 18th and C Streets NW., Room 7622, Washington, DC 20240, telephone: (202) 343-4991.

Division of Management Support, General Services, Library Branch, Code D-950, Engineering and Research Center, Denver Federal Center, Denver, CO 80225, telephone: (303) 234-3019.

Regional Director, Water and Power Resources Service, Federal Building, 316 North 26th, Billings, MT 59103, telephone: (406) 657-6214.

Single copies of the statement may be obtained on request to the Director, Office of Environmental Affairs, or the Regional Director at the above address. Copies will also be available for inspection in libraries in the project vicinity.

Dated: April 22, 1981.

Clifford I. Barrett,

Acting Deputy Commissioner.

[FR Doc. 81-12861 Filed 4-27-81; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Decision-Notice

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-No. 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 C.F.R. 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 C.F.R. 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.

Dated: April 22, 1981.

By the Commission, Review Board Number 5, Members Krock, Taylor and Williams.

Agatha L. Mergenovich,

Secretary.

MC-F-14609, filed March 30, 1980 (correction) (Previously published in the **Federal Register** issue of April 15, 1981, at page 22076). CALDWELL FREIGHT LINES, INC. (Caldwell) (U.S. Hwy 321 South, P.O. Box 620, Lenoir, NJ 28645)—Purchase—LENOIR TRANSFER COMPANY, INC. (Lenoir) (U.S. Hwy 321 South, P.O. Box 696, Lenoir, NC 28645). The purpose of this republication is to correct certain typographical errors in the address of transferor and transferee and to correctly identify the territorial scope of the household goods authority. The territorial scope of such authority should read as follows: (a) between points in Caldwell, Burke and Catawba Counties, NC, (b) from points in Caldwell, Burke and Catawba Counties, NC, to points in NC on and west of U.S. Hwy 29, and (c) from points in NC on and west of U.S. Hwy 29 to points in Caldwell, Burke and Catawba Counties, NC.

[FR Doc. 81-12089 Filed 4-27-81; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. 68]

Motor Carriers; Restriction Removals; Decision-Notice

Decided: April 23, 1981.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Alspaugh, and Shaffer.

Agatha L. Mergenovich,

Secretary.

MC 3854 (Sub-61)X, filed April 16, 1981. Applicant: BURTON LINES, INC., 815 Ellis Road, P.O. Box 11306, East Durham. Representative: Edward G. Villalon, Suite 1032, Pennsylvania Ave. NW., Washington, DC 20004. Applicant seeks to remove restrictions in its lead and Sub-Nos. 1, 3, 6, 19, 27 and 34 certificates and E8, E9 and E10 letter notices to: (1) broaden the commodity description to "tobacco products" from tobacco and tobacco containers in the lead, materials, supplies and equipment used in processing, etc. of manufactured tobacco in Sub-Nos. 1, and 6; reconstituted or homogenized tobacco in Sub-Nos. 3, 6, 19, E-8 and E-9; tobacco, various shipping or packing materials for tobacco and unmanufactured tobacco in Sub-No. 6; tobacco in sheets or baskets in Sub-No. 6 and E-9; and tobacco and materials, equipment and supplies in Sub-Nos. 6, 27 and 34; (2) remove restrictions against the transportation of commodities in bulk, in tank vehicles in Sub-Nos. 1, 6, 27 and 34; (3) remove an "originating at or destined to" restriction and restriction against the transportation of cigarette paper in Sub-No. 34. The Sub-No. 34 authorizes service between points in CT, FL, GA, KY, MD, MA, MO, NJ, NY, NC, OH, PA, SC, TN, VA and WV and thus embraces the territorial authority contained in Sub-Nos. 1, 3, 6, 19, 27 and E-8, 9 and 10. Therefore the commodity expansion will subsume the above subnumbered authorities.

MC 18121 (Sub-34)X, filed April 13, 1981. Applicant: ADVANCE TRANSPORTATION COMPANY, 5005 South Sixth Street, Milwaukee, WI 53201. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. Applicant seeks to remove restrictions in its MC 144877 permit to (1) broaden the commodity descriptions to "such commodities as are manufactured, processed, sold, distributed, dealt in or used by wholesale, retail and chain grocery stores, food processing houses, variety houses, or manufacturers, converters, distributors and printers of paper and paper products" from, specified commodities such as, packinghouse products, dairy products, meat, canned goods, agricultural commodities, soap products, commodities awarded as premiums and advertising matter, and groceries, and (2) authorize service between points in the U.S.

MC 40088 (Sub-4)X, filed April 16, 1981. Applicant: L. L. BUCHANAN AND CO., INC., d.b.a. BUCHANAN AUTO FREIGHT, 115 W D St., Yakima, WA 98902. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave., Portland, OR 97210. Applicant seeks to remove restrictions in its lead and Sub-No. 3F certificate to (1) broaden the commodity descriptions from general commodities, with exceptions to "general commodities (except classes A and B explosives)"; (2) authorize service to all intermediate points between Yakima, WA, and Seattle, WA; and Yakima, WA, and Tacoma, WA, in the lead; (3) remove the restrictions to pickup only and delivery only in the lead; and traffic moving of freight forwarder bills of lading in Sub-No. 3F; and (4) expand city-wide to county-wide irregular route authority from Yakima to Yakima County, WA, and authorize two-way irregular route authority between Yakima County, WA, and points in Yakima, Kittitas, Benton, and Franklin Counties, WA, in Sub-No. 3F; and

regular route authority between Yakima, WA, and Tacoma, WA, in the lead.

MC 57697 (Sub-25)X, filed April 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-Nos. 1, 2, 4, 6, 7, 8, 9, 10, 11, 17F, 19F and 20F certificates to (1) broaden the commodity descriptions from (a) agricultural commodities, other than in containers, and livestock to "farm products"; building and fencing materials, farm machinery, used farm equipment, feed, seed, hides, wool, and irrigation supplies to "building materials, machinery, transportation equipment, food and related products, and metal products"; household goods, as defined by the Commission to "household goods"; machines, other than farm, maximum 5,000 pounds each to "machinery"; and oil-well casings, pipe, and supplies to "Mercer Commodities" in the lead; (b) agricultural commodities, seed, feed, building materials and farm machinery (except commodities in bulk, in tank vehicles, and coal) to "farm products, food and related products, building materials, and machinery", in Sub-No. 2; (c) plastic pipe and plastic pipe fittings to "rubber and plastic products" in Sub-No. 4; (d) lumber, lumber mill products, sawmill products, wood products, composition board, and wall board to "lumber and wood products and pulp, paper, and related products" in Sub-No. 6; (e) lumbe· and lumber mill products, wood products, and forest products to "lumber and wood products" in Sub-Nos. 7, 11, 17F, and 19F; (f) aluminum irrigation pipe and aluminum pipe and pipe fittings to "metal products" in Sub-Nos. 8 and 10; (g) brick to "clay, concrete, glass or stone products" in Sub-No. 9; and (h) refractory and refractory products, and materials, equipment, and supplies used in the manufacture of the foregoing commodities (except commodities in bulk), to "clay, concrete, glass, or stone products, ores and minerals, and metal products" in Sub-No. 20F; (2) remove the restrictions "Transportation between Sterling, CO, and points in Colorado on Colorado Highway 113 between Sterling and the Nebraska-Colorado State line on the one hand, and, on the other, Big Spring, NE, and points on U.S. Highway 30 between Cheyenne, WY, and North Platte, NE; on U.S. Highways 26 and 26N between Northport, NE, and the Wyoming-Nebraska State line; on Nebraska Highway 29 between Kimball and Scottsbluff, NE; on Nebraska Highway 19 between Alliance, NE, and the Colorado-Nebraska State line shall be restricted to agricultural commodities, other than in containers, livestock, and household goods as defined by the Commission, only. Said authority is restricted against being used (a) for interlining or interchanging any traffic involving the transportation of farm machinery, including farm tractors, and farm equipment, having any prior or subsequent movement by F–B Truck Line Company or any successor thereof, or (b) in the event Lester Smith Trucking, Inc., and F–B Truck Line Company or their successors shall merge their operations, as a basis for performing any through operations;" in Sub-No. 1; against the transportation of lumber originating at Saratoga and Cody, WY; against being used (a) for interlining or interchanging any traffic involving the transportation of farm machinery, including farm tractors, having any prior or subsequent movement by F–B Truck Line Company or any successor thereof or (b) in the event Lester Smith Trucking, Inc., and F–B Truck Line Company or their successors shall merge their operations, as a basis for performing any through operations; and against the transportation of feed between points in Wyoming on the one hand, and, on the other, points in South Dakota; and except precased and prestressed concrete products and the size and weight limitation in Sub-No. 2; and except composition board and wallboard in Sub-No. 7; (3) eliminate the facilities limitations in Sub-Nos. 4, 8, 10, 11 and 19F; (4) expand city-wide to county-wide to county-wide authority from McPherson to McPherson County, KS in Sub-No. 4; York to York, County, NE in Sub-No. 8; Pueblo and Trinidad to Pueblo and Las Animas Counties, CO in Sub-No. 9; Hastings to Adams County, NE in Sub-No. 10; Spearfish to Lawrence County, SD in Sub-No. 11; and Newcastle to Weston County, WY in Sub-No. 19F; (4) change one-way to radial authority between (a) McPherson County, KS, and, points in 15 named States and the Upper Peninsula of Michigan in Sub-No. 4; (b) points in ID, MT, OR and WA, and, points in 16 named States in Sub-No. 6; (c) points in WY (except Afton, Himes, Newcastle and Saratoga), and, points in KS, MO, NE, NM, OK and SD in Sub-No. 7; (d) York County, NE, and, points in numerous named States in Sub-No. 8; (e) Pueblo and Las Animas Counties, CO, and, points in numerous named States in Sub-No. 9; (f) Adams County, NE, and, points in numerous named States in Sub-No. 10; (g) Lawrence County, SD, and, points in several named States in Sub-No. 11; (h) points in Davis County, UT, and, those point in the U.S. in and west of OH, KY, TN and AL; and points in ID and MT, and, points in Davis County, UT in Sub-No. 17F; and, (i) Weston County, WY, and, points in several named States in Sub-No. 19F; and (5) remove the restrictions, "originating at and destined to" in Sub-No. 11, and "AK, HI and UT" in Sub-No. 17F.

MC 57697 (Sub-26)X, filed April 13, 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-No. 16 certificate to (1) broaden the commodity description in the authority from (A) bulk and service station equipment, each article to weigh a maximum of 5,000 pounds, agricultural commodities, feeds, seeds, feedlot supplies, office and store fixtures (except those transported as part of a household-goods movement), telephone and power line materials and coal to "machinery, transportation equipment, metal products, farm products, food and related products, chemcials and related products, instruments and photographic goods, furniture and fixtures, telephone and powerline materials, coal and coal products," (B) building materials (except precast and prestressed concrete products and commodities, the transportation of which, because of size and weight, requires the use of special equipment to "building materials," (C) agricultural machinery and implements and parts thereof when transported in the same vehicle and at the same time with such machinery and implements, as described in Appendix 111 to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 20 (except commodities which by reason of size or weight require the use of special equipment) to "machinery"; (2) eliminate the "commodities in bulk, in tank vehicles, and coal" restriction; (3) eliminate restrictions in (A) "each article to weight a maximum of 5,000 pounds," "except those transported as part of a household-goods movement)," and "the authority granted in (A)(5) above is restricted against transportation between Julesburg, on the one hand, and, on the other, points in WY;" (4) eliminate the restriction prohibiting joint-line service with named carriers or any of their successors or the transportation of building and construction equipment, farm machines and agricultural machinery and implements, including agricultural

tractors; (5) authorize radial authority between points in MO, CO, and WY, where appropriate, on sheets 3, 4 and 5.

MC 69224 (Sub-55)X, filed April 3, 1981. Applicant: H & W MOTOR EXPRESS COMPANY, 3000 Elm Street, Dubuque, IA 52001. Representative: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Applicant seeks to remove restrictions in its lead and Sub-Nos. 32, 35, 37, 39, 40, 41, 42, 43, 48F, 49F, 50F, and 52F certificates to (A) broaden the commodity description to (1) "food and related products" from (a) vinegar, malt beverages, butter, eggs and poultry, bakery products, cheese, sandwich spread and related articles in the lead certificate, irregular route portion, parts 2, 4, 11, 13 and 15, (b) meats, meat products, and meat by-products and articles distributed by packinghouses as described in sections A & C of App. I in the descriptions cases, in Sub-No. 39, (2) "petroleum, natural gas and their products and chemicals and related products" from petroleum products and antifreeze compounds, in the lead certificate, part 3, (3) "building materials and materials, equipment and supplies used in the manufacture, sale and distribution thereof" from building supplies and materials, sheet metal products, culverts, builders, hardware and construction materials, in the lead certificate, part 6, (4) "metal products" from (a) iron and steel tanks, in the lead certificate, part 6, and (b) iron castings, in Sub-No. 49F, (5) "machinery" from (a) metal and woodworking machinery and automatic sprinkler systems, in the lead certificate, part 7, and (b) electrical power line construction materials and equipment, in the lead certificate, part 16, and (6) "farm products" from grains, milled grains, feeds and seeds, in the lead certificate, part 12; (B) remove the restriction which prohibits the transportation of commodities (1) in containers, in the lead certificate, part 3, and (2) in bulk, in tank vehicles and hides, in Sub-No. 39; (C) authorize service at all intermediate points on its regular routes between various combinations of named points in IA, IL, and MN in the lead certificate; (D) eliminate the restriction which limits service to (1) the junction of IL Highways 64 and 72 near Lanark, IL, and (2) the termini of Marshalltown and Cedar Falls, IA, for purposes of joinder, only, in the lead certificate; (E) eliminate the originating at and destined to named facilities restriction, in Sub-No. 39; (F) authorize county-wide authority to replace city-wide service: (1) in the irregular route portion of the lead certificate, part 2, from Freeport, IL, to Stephenson County, IL; part 3, from Waterloo and Dubuque, IA, to Blackhawk and Dubuque Counties, IA; part 4, from Mankato, MN, to Blue Earth County, MN; and East Dubuque, IL, to Jo Daviess County, IL; parts 4 and 5, from Dubuque, IA, to Dubuque County, IA; part 7, from Rockford, IL, to Winnebago County, IL; part 9, from Rock Island, Moline, East Moline, Rockford and Freeport, IL, to Rock Island, Winnebago and Stephenson Counties, IL; part 12, from Minneapolis-St. Paul and Winona, MN, to Minneapolis-St. Paul and Winona County, MN; and from Cedar Falls, IA, to Blackhawk County, IA; part 13, from Dubuque and Davenport, IA, to Dubuque and Scott Counties, IA, and from Duluth, MN, to St. Louis County, MN; part 15, from Freeport, IL, to Stephenson County, IL; Marshalltown, Charles City, Mason City and Ottumwa, IA, to Marshall, Floyd, Cerrogordo and Wapelo Counties, IA; and, part 16, from Dubuque, Clinton and Decorah, IA, to Dubuque, Clinton and Winneshiek Counties, IA; (2) in Sub-No. 39, from Dubuque, IA, to Dubuque County, IA; (3) in Sub-No. 49, from Marhalltown, IA, to Marshall County, IA, and Racine, WI, to Racine County, WI; and; (4) in Sub-No. 50F, from Manchester, IA, to Delaware County, IA; and, (G) authorize radial authority to replace existing one-way service between various combinations of cities and counties in (a) IA and WI, in the irregular route portion of the lead certificate, and Sub-Nos. 48F, 49F, and 50F, and, (b) IL and MN, in the irregular route portion of the lead certificate.

MC 71478 (Sub-52)X, filed April 17, 1981. Applicant: THE CHIEF FREIGHT LINES COMPANY, 2401 North Harvard Avenue, Tulsa, OK 74115. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. Applicant seeks to remove restrictions in its Sub-No. 45F certificate to (1) broaden the commodity description from general commodities, with the usual exceptions, to "general commodities (except classes A and B explosives)"; and (2) broaden the territorial scope by removing restrictions: (a) against serving intermediate points to authorize service at all intermediate points between Dallas and Houston, TX and (b) against the handling of traffic where carrier's origin and carrier's destination are both within the State of Texas.

MC 82808 (Sub-21)X, filed April 3, 1981. Applicant: C.L. HUNT, d.b.a HUNT & SONS, P.O. Box 433, Warrensburg, MO 64093. Representative: Barry Weintraub, Suite 800, 8133 Leesburg Pike, Vienna, VA 22180. Applicant seeks to remove restrictions in its lead and Sub-Nos. 17F and 20F certificates to (A) broaden the commodity descriptions to (1) in its lead certificate, (a) "farm products" from livestock and hay, (b) "food and related products" from feed and groceries, (c) "building materials" from fencing materials and roofing materials, (d) "machinery and metal products" from farm machinery agricultural implements, poultry processing equipment, new, used, or damaged, farm equipment and agricultural implements, and parts and attachments for farm machinery, (e) "lumber and wood products" from logs, (f) "chemicals and related products" from fertilizer, and (g) "general commodities (except classes A and B explosives)" from general commodities (with usual exceptions); (2) in Sub-No. 17F, "building materials and pulp, paper and related products" from insulation, insulation products, insulation materials, and equipment used in the installation thereof, and materials, supplies and equipment used in the manufacture thereof, (3) in Sub-No. 20F, "chemicals and related products, and rubber and plastic products" from plastic articles, styrocups, food containers and materials and supplies used in the manufacture thereof; (B) authorize county-wide authority in lieu of existing city-wide or plantsite service: (1) in its lead certificate, irregular route portion, (a) Jackson County, MO, for Atherton, MO, (b) Douglas and Johnson Counties, KS, for Laurence and Olathe, KS, (c) Johnson County, MO, for Warrensburg, Centerview, Chilhowee, Shawnee Mount, and Knob Noster, MO, (d) Leavenworth County, KS, for Leavenworth, KS, (2) in Sub-No. 17F, Jackson County, MO for Grain Valley, MO, and (3) in Sub-No. 20F, Lafayette County, MO, for plantsite located in Higginsville, MO; (C) remove the territorial restriction which limits service to precise or no intermediate points, to authorize service at all intermediate points on its regular routes between (1) Higginsville, MO, and Kansas City, MO, (2) Blairstown, MO, and Kansas City, KS, in its lead certificate, (D) remove the restriction prohibiting service to (1) AK and HI, in the irregular route portion of its lead certificate, Sub-Nos. 17F and 20F, and (2) MO in Sub-No. 17F; (E) remove the restriction limiting or prohibiting service to the transportation of shipments (1) moving to or from missile sites of the Minuteman Missile Complex of Whitman Air Force Base, MO, as it applies to general commodities in the irregular route portion of its lead certificate, and (2) originating at or destined to a named point, as it applies to farm machinery, and equipment, and agricultural implements, in the irregular

route portion of its lead certificate; (F) remove the restriction prohibiting the transportation of commodities in bulk, in tank vehicles, in Sub-No. 17F; and (G) authorize radial authority to replace existing one-way service between cities and counties in various combinations of States throughout the U.S., in the lead certificate and Sub-No. 17F.

MC 92319 (Sub-5)X, filed April 17, 1981. Applicant: KENNETH GRAHAM, Route #1, Box 41-A, Brimley, MI 49715. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. Applicant seeks to remove restrictions in its MC-92319 and Sub-No. 4 Permits to (1) broaden the commodity descriptions from potatoes and empty been containers, fresh fruit, vegetables, groceries, furniture, hardware, and canned goods, and fresh fruit, vegetable, groceries, canned goods, hardware and beer to "such commodities as are dealt in by wholesale and retail grocery, furniture, and hardware business houses" in the lead; and from nonalcoholic beverages to "food and related products", in Sub-No. 4 (2) remove restrictions which inhibit service at intermediate points on its regular route authorities, in the lead; and (3) expand the territorial description to between points in the U.S. under continuing contract(s) with a named shipper in both permits.

MC 103937 (Sub-8)X, filed April 10, 1981. Applicant: ANTHRA-TRANS, INC., R.D. No. 3, Moscow, PA 184444. Representative: Ronald N. Cobert, 1730 M Street, NW., Suite 501, Washington, D.C. 20036. Applicant seeks to remove restriction from its Sub-Nos. 1, 4, 6 and 7F certificates to broaden the commodity description (1) in Sub-Nos. 1, 4, 6, and 7 from coal to "coal and coal products"; (2) in Sub-No. 6 from cullet to "clay, concrete, glass or stone products"; and (3) in Sub-No. 6 from scrap iron, steel and copper to "metal products"; (4) replace city with county-wide authority: Elmira, NY with Chemung County, NY in part B of Sub-No. 6: Dickson City, PA, Roebling, Perth Amboy and Mahwah, NJ with Lackawanna County, PA and Burlington, Middlesex and Bergen Counties, NJ in part C of Sub-No. 6; and, (6) change one-way to radial authority between (a) Scranton, PA and points within 20 miles of Scranton, and, Jersey City, NJ and New York, NY; and Scranton, PA and points in PA within 12 miles of Scranton, PA, and, Points in 5 NJ counties in Sub-No. 1, (b) points in 3 PA counties, and, 1 point in NH, 5 points in MA, and described portions of VT, and NY; points in 2 PA counties, and, points in a described portion of NY; points in Jersey City, NJ and points in PA, and, points in 1 NY county; and, points in 1 PA county, and, 3 NJ counties in Sub-No. 6, and (c) points in 3 PA counties, and, points in 6 states in Sub-No. 7.

MC 113475 (Sub-40)X, filed April 9, 1981. Applicant: RAWLINGS TRUCK LINE, INC. P.O. Box 831, Emporia, VA 23847. Representative: Harry J. Jordan, Suite 502, Solar Bldg., 1000-16th Street, NW., Washington, DC 20036. Applicant seeks to remove restrictions in its lead and Sub-Nos. 5, 12, 13,17, 18, 19, 21, 24, 26, 27, 28F, 29, 30F, 31F, 32F, 33F, certificates to (1) broaden the commodity descriptions from (a) wooden boxes, set up box shooks, and lumber, box shooks, and lumber in the lead; lumber, not including plywood and veneer and wooden boxes and box shooks in Sub-No. 5, lumber (except plywood and veneer) in Sub-No. 24, lumber in Sub-No. 27, and lumber in Sub-No. 28F to "lumber and wood products"; (b) flakeboard and lumber (except plywood and veneer in Sub-No. 13, compressed wood logs in Sub-No. 17, wood pulp in Sub-No. 18, landscape timbers and fencing in Sub-No. 21, lumber and lumber (except plywood and veneer) in Sub-No. 12, and paper, paper products, and composition board in Sub-No. 19 to "lumber and wood products, and pulp, paper and related products"; (c) lumber, lumber mill products, and forest products in Sub-No. 32F to "lumber and wood products, and forest products"; (d) change waste paper in Sub-No. 26 to "pulp, paper, and related products"; and (e) change gypsum and gypsum products in Sub-No. 29F to "clay, concrete, glass and stone products and building materials," (2) change one-way authorities to radial authorities between specified counties and cities and points throughout the U.S. in the lead and Sub-Nos. 5, 12, 13, 17, 18, 19, 21, 24, 26, 27, 28F, 29F, 31F, 32F, and 33F. (3) broaden the territorial scope by substituting cities for counties: in the lead Brunswick County for Laurenceville, VA; Brunswick, Dinwiddie, and Sussex Counties for Smoky Ordinary, Alberta, Dinwiddie and Stoney Creek, and Waverly, VA; in Sub-No. 12, Sussex County for Waverly, VA in Sub-Nos. 17, 19 Washington County for Plymouth, NC; in Sub-No. 18, Craven and Morehead Counties for Askin and Morehead City, NC in Sub-No. 21, Washington and Craven Counties for Plymouth and Weyco, NC; Wicomico County for Salisbury, MD; Chesterfield County for Pageland, SC; in Sub-No. 24, Mecklenburg County for Charlotte, NC; Richland, Sumter and Georgetown Counties for Columbia, Sumter, and Georgetown, SC; in Sub-No. 26, Washington County for Plymouth, NC; in Sub-No. 27, Sussex, and Dinwiddie Counties, VA, for Wakefield, and McKenney, VA; in Sub-No.29, Caroline County for Milford, VA; Erie County for Akron, NY; New Castle County for Wilmington, DE; Westchester County for Buchanon, NY; in Sub-No. 30, Bucks County for Quakertown, PA; in Sub-No. 31, Mahoning, Belmont, Jefferson Counties for Canfield, Martins Ferry, Mingo Junction, Steubenville, and Yorkville, OH; Washington and Westmoreland Counties for Allenport and Monnessen, PA; Brooke, Marshall, and Ohio Counties for Beechbottom Benwood, Follanshee, and Wheeling, WV; in Sub-No. 32, Greene County for Athens, NY; Burlington County for Hainesport, NJ; Wicomico County for Fruitland, MD; in Sub-No. 33, Bucks, Allegheny, Forest, Cambria, and Westmoreland Counties for Fairless, Dravosburg, Homestead, Duquesne, Clariton, Mc Kees Rock, Johnstown, Mc Keesport, and Vandergrift, PA; and Lorain, Cuyahoga and Mahoning Counties for Lorain, Cleveland, and Youngstown, OH; (4) delete plantsite restrictions in Sub-Nos. 13, 21, 26, 30, 31, and 33; (5) authorize radial authority between the counties named above and points in named Eastern states in the lead and Sub-Nos. 5, 12, 13, 17, 18, 19, 21, 24, 26, 27, 28, 29, 31, 32, and 33; and (6) eliminate tacking restriction in Sub-No. 5 against the transportation of traffic from or through named points and destined to named points in NC, NY, DC, DE, VA, WV, MD, NJ, PA, OH;

Note.—Applicant's ability to tack its Sub-No. 5 authority will be governed by 49 CFR part 1042.

MC 121568 (Sub-84)X, filed April 3, 1981. Applicant: HUMBOLDT EXPRESS, INC., P.O. Box 100906, Nashville, TN 37210. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. Applicant seeks to remove restrictions in its Sub-Nos. 31F, 34F, 35F, 36F, 38F, 39F, 41F, 47F, 51F, 53F, 55F, 62F, 63F, and 68F, certificates to (A) broaden the commodity descriptions as follows: in Sub-No. 31f part (1) from cotton and rayon mop yarn, and in Sub-No. 63F part (1) from cloth (except woven, knitted, or stitched), to "textile mill products"; in Sub-No. 34F from cash register paper, printed forms, computer paper, printing paper, ribbons, film plastic duplicating, chemicals, and micro film viewing machines, to "pulp, paper and related products, printed matter, rubber and plastic products, chemicals and related products and instruments and photographic goods"; in Sub-No. 35F from casting, iron and steel to "metal products"; and Sub-No. 36F from paint

to "chemicals and related products"; in Sub-No. 38F part (1) from film to "instruments and photographic goods"; in Sub-No. 39F part (1) from caulking and glazing compounds, paint, roof coating and roofing cement to "chemicals and related products, and clay, conrete, glass or stone products"; in Sub-No. 41F from clothing to "textile mill products" in Sub-No. part (1) from oil and air filters elements and units for oil and air filters elements to "transportation equipment"; in Sub-No. 51F from (1) wood burning stoves and fireplaces, and (2) parts for the commodities in (1); in Sub-No. 55F part (1) from outdoor barbecue grills and folding metal furniture; and in Sub-No. 68F part (1) from bearings and bushings to "metal products"; in Sub-No. 62F part (1) from games and toys to "miscellaneous products of manufacture"; and Sub-No. 53F part (1) from plastic articles, folding doors, window shades and parts for window shades to "lumber and wood products and furniture and fixtures"; (B) remove the restrictions: (a) except in bulk in Sub-Nos. 34F, 35F, 36F, 38F, 39F, 62F, 63F, and 68F; (b) except AK and/or HI in Sub-Nos. 38F, 53F, 55F, 63F and 68F; and (c) limiting traffic to transportation originating at or destined to named shippers in Sub-No. 53F and (c) broaden the territorial scope by replacing city-wide and/or facilities with county-wide authority, as follows: in Sub-No. 31F, Covington and Humboldt with Tipton and Gibson Counties, TN; in Sub-No. 34F, Morristown and Humboldt with Hamblen and Gibson Counties, TN; in Sub-No. 34F, Lufkin with Angelina County, TX; in Sub-No. 38F, Gallaway and Whiteville with Fayette and Hardeman Counties, TN; in Sub-No. 41F, Elizabethton with Cater County, TN and Amarillo with Potter and Randall Counties, TX; in Sub-No. 47F, Albion with Edwards County, IL; in Sub-No. 53F Covington with Tipton County, TN; and in Sub-No. 62F, Collierville with Shelby County, TN.

MC 126136 (Sub-3)X, filed April 17, 1981. Applicant: ALASKA TRANSFER & STORAGE, INC., P.O. Box 832, Kodiak, AK 99615. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. Applicant seeks to remove restrictions in its Sub-No. 1 certificate, acquired in MC-FC-78424, to (1) broaden the commodity description from general commodities, except those of unusual value to "general commodities" and (2) broaden city-wide authority to authorize service (a) between points on Kodiak Island, AK and points in the Third Judicial District of Alaska (for Homer, Seldoria and Seward, AK) and (b) between points on Kodiak Island, AK.

MC 134477 (Sub-444)X, filed April 13, 1981. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Thomas D. Fischbach, P.O. Box 43496, St. Paul, MN, 55164. Applicant seeks to remove restrictions in its Sub-No. 383 certificate, which authorizes the transportation of such commodities as are dealt in or used by department stores, hardware stores, building material supply centers, home improvement stores, and farmer cooperative associations, to (A) remove the "except commodities in bulk" restriction, (B) remove the restriction limiting service to transportation of traffic originating at the name origins and destined to the indicated destinations, and (C) change one-way service to radial service between points in numerous States and DC, and, points in six States.

MC 134925 (Sub-5)X, filed April 6, 1981. Applicant: CUMMINGS TRUCKING COMPANY, INC., 1321 7th Ave., North, Birmingham, AL 35202. Representative: Lewis Cummings, Jr. (same address as applicant). Applicant seeks to remove restrictions in its lead and Sub-Nos. 1, 2, and 3 certificates to (1) broaden the commodity descriptions (a) from paper, iron and steel, pipe, pipe fittings, contractor's equipment, building materials, coal, cotton, cotton seed, cotton seed meal and hulls, pitch and fertilizers to "pulp, paper and related products, metal products, machinery, coal and coal products, petroleum, natural gas and their products, farm products, food and related products and chemicals and related products", from explosives to "ordinance and accessories", from general commodities (with exceptions other than classes A and B explosives) to "general commodities"; from road machinery, tractors, graders, boilers, hoisting engine and construction equipment (sheet 6) to "machinery and supplies, and metal products"; from household goods such as personal affects and property used or to be used in a dwelling when a part of the equipment or supply of such dwelling; furniture, fixtures, equipment, and property of stores, offices, museums, institutions, hospitals or other establishments when a part of the stock, equipment or supply of such stores, offices, museums, institutions, hospitals or other establishments; and articles including objects of art, displays, and exhibits, which because of their unusual nature or value require specialized handling and equipment usually employed in moving household goods, to "household goods, furniture and fixtures, and articles of unusual value" in its lead; (b) from pipe, valves, fittings, hydrants, castings and accessories, and commodities used in, or in connection with construction, operation, repair, servicing, maintenance and dismantling of pipe lines, including the stringing and picking up thereof in Sub-No. 1 to "metal products"; machinery and supplies, and rubber and plastic products, and materials, equipment and supplies used in the manufacture of such commodities" (c) from waste paper and scrap metals in Sub-No. 2 to "waste or scrap materials not identified by industry producing"; and (d) from roofing materials (except liquid commodities in bulk, in tank vehicles), and materials and supplies used in the installation of roofing materials (except liquid commodities in bulk, in tank vehicles), in Sub-No. 3F to "building materials; and equipment, materials and supplies used in the manufacture and installation thereof" (2) serve all intermediate points on its regular routes in AL (not including alternate routes) in its lead; (3) remove restrictions (a) against interlined traffic; (b) against traffic to or from various combinations of Birmingham, Florence, Sheffield, Tuscaloosa, Decatur, or Russellville, AL and (c) requiring commodities in bulk to move from or to specified points in AL in its lead; (4) remove facilities limitations at Holt, AL in Sub-No. 1 and at Tuscaloosa, AL, in Sub-No. 2; (5) replace Holt, AL, with Tuscaloosa County, AL, in Sub-No. 1 and Tuscaloosa, AL with Tuscaloosa County, AL in its lead (sheets 4 and 6) (6) remove originating at or destined to restrictions in its lead and Sub-Nos. 1, and 2, (7) remove the restriction against the transportation of limestone in bulk in Sub-No. 3, and (8) change one-way radial authority between Tuscaloosa County, AL, and, points in 6 states in Sub-Nos. 1, and 2, and points in 9 states in Sub-No. 3.

MC 136509 (Sub-3)X, filed April 14, 1981. Applicant: JAMES R. COLELLO, INC., 174 Plain St., Millis, MA 02054. Representative: William P. Sullivan, 818 Connecticut Ave. N.W., Washington, DC 20006. Applicants seeks to remove restrictions in its lead and Sub-Nos. 1 and 2 permits to (1) broaden the commodity descriptions from Stone dust, in bulk, in the lead, and talc, in bulk, in Sub-No. 1 to "ores and minerals", and from insulating materials, asbestos, asphalt, cement, roofing and building materials, (except in bulk) and materials, equipment, and supplies in Sub-No. 2, to "insulating materials, building materials, equipment,

and supplies used in the manufacture, distribution, and installation of the above commodities"; and (2) broaden the territorial description in all permits to between points in the U.S. under continuing contract(s) with named Shippers.

MC 136774 (Sub-21)X, filed April 13, 1981. Applicant: MC-MOR-HAN TRUCKING CO. INC.; P.O. Box 368, Shullsburg, WI 53586. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. Applicant seeks to remove restrictions in its Sub-Nos. 14F, 15 and 16 certificates: (1) In Sub-No. 14F, (a) change the commodity description from liquid calcium chloride to "Chemicals and Related Products"; (b) remove the in bulk, in tank vehicle restriction; (c) replace city with county-wide authority, and change one way to radial authority between Cook County, (Lemont) IL, and points in IA, MN and WI; and (2) In Sub-No. 15, change the commodity description from liquid corn syrup and blends of liquid corn syrup to "Food and Related Products"; and (3) In Sub-No. 16, (a) change the commodity description from foodstuffs to "Food and Related Products"; and (b) remove the "in bulk" restriction, and remove the AK and HI exceptions in Sub-Nos. 15 and 16.

MC 138157 (Sub-274)X, filed April 13, 1981. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a., SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn (same as applicant). Applicant seeks to remove restrictions in its Sub-No. 136F certificate to (1) broaden the commodity description from heating and air conditioning equipment, materials, equipment, and supplies to "such commodities as are dealt in by manufacturers of heating and air conditioning equipment"; (2) delete the exceptions of service to AK and HI; (3) authorize county-wide authority in place of city-wide service: Elyria, OH, with Lorain County, OH; (4) delete restriction against the transportation of commodities in bulk, and which by reason of size or weight require the use of special equipment and to traffic originating at or destined to named facilities; and (5) authorize radial authority between Lorain County, OH, and points in the U.S.

MC 138609 (Sub-11)X, filed April 6, 1981. Applicant: ROBERT L. ARNOLD, d.b.a., PLANTATION TRANSPORT COMPANY, P.O. Box 2044, Albany, Georgia 31702. Representative: Robert L. Arnold (same address). Applicant seeks to remove restrictions in Sub-Nos. 1, 4F, 7F, 8F, and 9F certificates to (1) broaden the commodity descriptions from (a) in Sub-Nos. 1 and 4F, wooden pallets, lumber, and wooden pallets and boxes, to "lumber and wood products", (b) in Sub-No. 7F, malt beverages, advertising matter, labels, corrugated boxes, cardboard separators, empty keys, bottles, cans, bottle caps or crown and can lids, to "such commodities as are dealt in or used by retailers or wholesale distributors of malt beverages," (c) in Sub-No. 8F, iron and steel to "metal products", in Sub-No. 9F, precast and prestressed concrete products, to "clay concrete, glass, and stone products", (2) replace city-with county-wide authority in Sub-No. 8F, Florence, AL, to Colbert and Lauderdale Counties, AL, and Chattanooga, TN, to Bradley County, TN, and Richland, Sylvester, Ellaville, Moultrie, Waycross, Millen, Thomasville, and Eatonton, GA, to Webster, Worth, Schley, Colquitt, Ware, Jenkins, Thomas and Putnam Counties, GA; and in Sub-No. 9F Knoxville, TN, to Knox County, TN; and (3) replace one-way authority with radial authority as follows: in Sub-Nos. 1 and 4F between Stewart and Randolph Counties, GA, and points in AL and FL; in Sub-No. 7F, between Dougherty County, GA, and points in AL, FL, KY, LA, MS, and TN; in Sub-No. 8F, between Colbert and Lauderdale Counties, AL, and Bradley County, TN, and points in Putnam, Schley, Jenkins, Colquitt, Webster, Worth, Thomas and Ware Counties, GA; in Sub-No. 9F, between Knox County, TN, and points in AL, FL, GA, NC, and SC.

MC 140546 (Sub-7)X, filed April 9, 1981. Applicant: ROADHOUND TRUCK COMPANY, INC., 811 West Hale St., Osceola, AR 72370. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. Applicant seeks to remove restrictions in its No. MC-138213 and Sub-No. M1F permits and No. MC-140546 and Sub-Nos. 2, 3, and 4 certificates to (1) broaden the commodity descriptions from plastic articles, paper, paper products, such other articles as are dealt in by paper manufacturers or distributors, printing paper, wrapping paper, paper bags, tape, toilet tissue, paper tablets and pads, waxed paper, drawing paper, newsprint, paper towels and napkins, autographic register pages, computing paper, index cards, paper envelopes, and clipboard boxes and trays to "rubber and plastic articles and pulp, paper and related products" in No. MC-138213 and Sub-No. M1F; from iron and steel, iron and steel products, and copper and copper products to "ores and minerals and metal products" in No. MC-140546; from roofing and roofing materials and materials and supplies used in the manufacture, distribution and sale thereof to "building materials" in Sub-No. 2F; and from iron and steel articles to "ores and minerals and metal products" in Sub-Nos. 3F and 4F; (2) remove restrictions (a) requiring a prior or subsequent movement by water in No. MC-140546; (b) requiring traffic to move from or to specific points; (c) against traffic moving from or to specific points in its lead; (3) remove originating at or destined to restrictions in Sub-No. 2F, 3F, and 4F; (4) replace Osceola, AR with Mississippi County, AR in MC-1240546; facilities at Meridian, MS, with Lauderdale County, MS, in Sub-No. 2F; facilities at or near Hope, AR, with Hempstead County, AR in Sub-No. 3F; facilities at or near Plum,TX, with Fayette County, TX in Sub-No. 4F; (5) remove the exceptions of AK and HI in Sub-Nos. 3F and 4F; (6) replace one-way with radial authority (a) between Mississippi County, AR, and AR, MO, and TN in MC-140546; (b) between Little Rock, AR, and Lauderdale County, MS, and 18 southern and mid-western states in Sub-No. 2F; (c) between Hempstead County, AR, and the U.S. in Sub-No. 3F; (d) between Fayette County,TX and points in the U.S. in Sub-No. 4F; and (7) broaden the territorial descriptions in No. MC-138213 and Sub-No. M1F to between points in the U.S. under continuing contract(s) with named shippers.

MC 144693 (Sub-10)X, filed April 17, 1981. Applicant: GLENN'S TRUCK SERVICE, INC., #1 Produce Row, St. Louis, MO 63102. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Applicant seeks to remove restrictions in its Sub-No. 6F certificate to (1) broaden the commodity description from foodstuffs to "foodstuffs, and equipment, materials, and supplies used in the manufacture, distribution, or sale thereof"; (2) remove the in bulk restriction; (3) eliminate the facilities limitations at St. Louis, MO, and Itasca, IL, and (4) expand city to county-wide authority from Itasca to DuPage County, IL, and authorize radial authority between St. Louis, MO, and DuPage County, IL, and, points in the U.S.

MC 145011 (Sub-14)X, filed April 6, 1981. Applicant: R. F. WESTBURY, P.O. Box 498, Sandston, VA 23150. Representative: Carroll B. Jackson, 1810 Vicennes Road, Richmond, VA 23229. Applicant seeks to remove restrictions in its Sub-Nos. 1F, 2F, 3F, 4F, 5F, 6F, 7F, 8F, 9F, and 10F permits to broaden the territorial description to "between

points in the U.S.", under continuing contract(s) with named shippers.

MC 145813 (Sub-4)X, filed April 13, 1981. Applicant: POINTS WEST TRUCKING, INC., P.O. Box 55085, Valencia, CA 91355. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Applicant seeks to remove restrictions in its No. MC–145813F certificate, and No. MC–143760 and Sub-Nos. 2F, 3F, 4F, and 5F permits to (A) broaden the commodity descriptions, as follows: to "pulp, paper and related products" from paper products in the lead certificate; to "machinery" from electrical motors and component parts (except size and weight commodities) in the lead permit; to "rubber and plastic products" from plastic sheeting in Sub-No. 2; to "food and related products" from foodstuffs and grocery products in Sub-No. 3; and to "chemicals and related products" from toilet preparations and pharmaceutical products in Sub-No. 4; (B) in the lead certificate, remove the "originating at and destined to" restriction, replace the named facilities and city with county-wide authority, and change one-way service to radial service between points in Suffolk County, NY (facilities at Deer Park, NY), and, points in seven States; and (C) broaden the territorial description in all permits to authorize service between points in the U.S., under continuing contract(s) with named shippers.

MC 146075 (Sub-8)X, filed April 13, 1981. Applicant: TEXAS INTERMOUNTAIN TRANSPORTATION, INC., 6161 West 29th Place, Wheatridge, CO 80214. Representative: Delbert Ewing (same address as applicant). Applicant seeks to remove restrictions in its Sub-Nos. 2F and 5F certificates to (1) broaden the commodity description from paint in Sub-No. 2F and paint and paint products in Sub-No. 5F, to "chemicals and related products"; and (2) replace one-way with radial authority between Houston, TX and Denver, CO, and, CO, WY, MT, and UT in Sub-No. 2F, and Harris County, TX, and, AR, LA, OK and NM in Sub-No. 5F.

MC 146247 (Sub-5)X, filed April 3, 1981. Applicant: DELTA MOTOR EXPRESS, INC., 1309 Fifth Street, N.E., Washington, DC 20002. Representative: Neal A. Jackson, 1156 15th Street, N.W., Washington, DC 20005. Applicant seeks to remove restrictions in its Sub-Nos. 2F and 4F certificates to (1) broaden the commodity description to "food and related products" from bananas and agricultural commodities otherwise exempt from regulation when transported in mixed shipments with bananas, in both certificates, and (2) authorize radial authority to replace existing one-way service between: Baltimore, MD, Wilmington, DE, New York, NY and Charleston, SC, and, DE, MD, NJ, NY, PA, VA, WV, and DC in Sub-No. 2, and Norfolk, VA, and points in the eastern US in Sub-No. 4F.

MC 146293 (Sub-82)X, filed April 16, 1981. Applicant: REGAL TRUCKING CO., INC., P.O. Box 829, Lawrenceville, GA 30246. Representative: Richard M. Tettelbaum (same as applicant). Applicant seeks to remove restrictions in its Sub-No. 44 certificate to (A) broaden the commodity description in part 1 from carpet tack strip, adhesive cement, racks, stands, nails, rims, strips and tools to "such commodities as are dealt in by hardware stores"; (B) remove the in bulk restriction in part (2); (C) broaden the territorial description by replacing city-wide authority with county-wide authority to authorize service between Rockdale County, GA (for Conyers, GA), and Buncombe County, NC (for Asheville, NC) and points in the U.S., and (D) remove AK and HI exceptions.

MC 148818 (Sub-6)X, filed April 13, 1981. Applicant: CARL PRINCE, d.b.a. PRINCE TRUCKING, Route 1, Box 159, Cane Hill, AR 72717. Representative: John C. Everett, 140 E. Buchanan, P.O. Box A, Prairie Grove, AR 72753. Applicant seeks to remove restrictions in its Sub-Nos. 2F, 4F, and 4F certificates to (A) broaden the commodity descriptions in each to "furniture and fixtures" from furniture, in cartons, and (B) substitute county-wide authority in lieu of the named facilities and cities, and change one-way service to radial service: Sub-No. 2, between points in Newton County, MO (facilities near Neosho, MO), and , points in 10 States; Sub-No. 4, between points in Sebastian County, AR (facilities at Fort Smith, AR), and, points in 16 States; Sub-No. 5, between points in Faulkner County, AR (Conway, AR), and, points in 18 States.

MC 148831 (Sub-3)X, filed April 17, 1981. Applicant: STUMPS REFRIGERATED EXPRESS, INC., R.D. No. 1, Trio, OH 44887. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. Applicant seeks to remove restrictions in its Sub-Nos. 1 and 2 certificates to (1) broaden the commodity description to "such commodities as are dealt in or used by plumbing supply houses" from plumbing materials and materials and supplies used in the manufacture and distribution of plumbing materials in its Sub-No. 1 and to "food and related products" from meats, meat products, meat by-products, and articles distributed by meat-packing houses in its Sub-No. 2; (2) replace city-wide authority with county-wide authority as follows: Ashland County, OH for Ashland, OH, Richland County, OH for Shelby, OH and Wyandot County, OH for Upper Sandusky, OH in its Sub-No. 1; (3) change one-way to radial authority between points in EL Paso, Lubbock and Potter Counties, TX, and Caddo Parish LA, and points in several states and DC in its Sub-No.2; (4) remove "except hides and liquid commodities in bulk" restriction in its Sub-No. 2 and "except commodities in bulk" restriction in its Sub-No. 1.

MC 149591 (Sub-3)X, filed April 8, 1981. Applicant: VALLEY EXPRESS, INC. P.O. Box 68, Glyndon, MN 56547. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126. Applicant seeks to remove restrictions in its Sub-No. 1 certificate to (1) broaden the commodity description to "food and related products," from frozen potato products; (2) remove the facilities restriction; (3) remove the restriction prohibiting service to AK, HI, and ND; and (4) authorize radial, county-wide authority to replace existing one-way, city-wide service between points in Grand Forks County, ND (for Grand Forks, ND) and, points in the U.S.

MC 151005 (Sub-2)X, filed April 13, 1981. Applicant: MOTOR CARGO, INC., 12872 Brady, Redford, MI 48239. Representative: William B. Elmer, 624 Third Street, Traverse City, MI 49684. Applicant seeks to remove restrictions in its lead certificate to (1) broaden the commodity description from general commodities, with the usual exceptions, to "general commodities (except classes A and B explosives)"; and (2) broaden the territorial scope by removing the facility limitation at or near Detroit, MI.

MC 151072 (Sub-1)X, filed April 6, 1981. Applicant: NORTH CANTON TRANSFER CO., 7836 Freedom Ave., N.W., North Canton, OH 44720. Representative: Boyd B. Ferris, 50 West Broad St., Columbus, OH 43215. Applicant seeks to remove restrictions in its lead certificate to (1) broaden its commodity description from petroleum products (except in bulk), to "such commodities as are dealt in or used by manufacturers or distributors for petroleum and petroleum products"; (2) replace Freedom, McKees Rocks, and Washington, PA, and Congo, WV, with Beaver, Allegheny, and Washington Counties, PA, and Hancock County, WV; and (3) change one-way to radial authority between the above-specified counties, and points in OH, those in PA on and west of U.S. Hwy. 219, and those

in WV on and north of Interstate Hwy. 70.

[FR Doc. 81-12692 Filed 4-27-81; 8:45 am]

BILLING CODE 7035-01-M

[Sec. 5b Application Nos. 2, 3 and 6]

Western Railroads—Agreement; Eastern Railroads—Agreement; Southern Railroads—Agreement

AGENCY: Interstate Commerce Commission.

ACTION: Clarification of prior notice of decision.

SUMMARY: The Commission issued a final decision, served January 21, 1981, disapproving the proposed collective ratemaking agreements. Notice of that decision was published at 46 FR 9218, on January 28, 1981. The Southern Freight Association sought clarification of the status of 49 U.S.C. 10721 rates. The Commission will consider proposed government rates to be single-line for the purposes of 49 U.S.C. 10706(a)(3)(A)(i). Rate bureaus may file supplements to their amended agreements complying with this decision on or before May 13, 1981.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder or Jane F. Mackall, (202) 275-7656.

SUPPLEMENTARY INFORMATION: On March 27, 1981, the Southern Freight Association (SFA) sought clarification of our January 21, 1981, decision, with regard to government rates and the single-line voting prohibition of 49 U.S.C. 10706(a)(3)(A)(i). That provision prohibits a rate bureau from permitting a rail carrier to discuss, to participate in agreements related to, or to vote on single-line rates proposed by another carrier.

In our January 21, 1981, decision we found that surcharge and contract rates will be considered single-line rates for the purposes of Section 10706(a)(3)(A)(i). The Commission has stated that rail contracts, like other contracts, should be the result of private negotiations, and should not, without an exceptional showing of need, be made available to the parties' competitors or to the general public. Ex Parte No. 387, *Railroad Transportation Contracts*, notice served October 24, 1980.

Section 10721 provides that a common carrier may transport property for the United States Government, a State, or a municipal government without charge or at reduced rates. Except in extraordinary circumstances, the carrier must file the quoted rate, concurrently, with the Commission and with the government agency, department, etc., for which the quotation was made. Carriers are not required to publish such rates in tariffs, and the rate level is not subject to our jurisdiction. See, Docket No. 37314, *South Carolina Public Service Authority—Petition for Declaratory Order—Agreements Calling for Reduced Government Rates*, decided September 24, 1980.

By their nature government rates are similar to contract rates. A quotation or quoted rate, not unlike a bid, is offered by a carrier and is either accepted or rejected by the governmental body. The rate level is, in effect, negotiated by the parties. As with contract rates, we see no apparent need to involve a rate bureau in this transaction. Permitting a carrier's competitors to participate, discuss or vote on its government rate proposal thwarts effective competition. Because section 10721 rates correspond to contract rates, they will be treated as single-line for the purposes of 10706(a)(3)(A)(i). This treatment includes all government rate proposals. The rate bureau may publish these rates pursuant to 10706(4). This issue was not addressed in our January 21, 1981 decision. Due to the filing of this petition so near the April 6, 1981, filing deadline for revised rate bureau agreements, SFA and other rate bureaus may file supplements complying with this decision on or before May 13, 1981.

This decision will not significantly affect either the quality of the human environment or conservation of energy resources and will not have an adverse impact on small business.

(49 U.S.C. 10706)

It is ordered: The petition for clarification is granted.

Dated: April 16, 1981.

By the Commission, Acting Chairman Alexis, Commissioners Gresham, Clapp, Trantum, and Gilliam. Commissioner Clapp, whom Commissioner Gresham joined, dissented in part with a separate expression.

Agatha L. Mergenovich,

Secretary.

Commissioner Clapp, whom Commissioner Gresham joins, dissenting in part:

A purported "clarification" of our decision served January 21, 1981 is not the proper procedural device to resolve the future role that rail rate bureaus will play in the quotation of government rates. That decision stated that "contract rates (new section 10713) will be considered single-line rates" for purposes of determining applicable restrictions on consideration of these rates in a rail rate bureau. The Conference Report states that existing Federal antitrust laws apply to section 10713. Since treating a rate as a single-line prevents collective consideration of that rate, our January decision simply implemented unambiguous legislative intent.

Section 10713 rates are a new statutory creation and the Commission had not dealt with the question of their collective consideration before the January decision. By contrast, certain government rate tenders have been processed collectively in the past. There is no discussion of those rates in the legislative history of the Staggers Act. Legally, a change in this treatment seems to require adequate notice and the opportunity for comment.

The theory that government rate tenders "correspond" to section 10713 contract rates and should be treated similarly sounds logical and may in fact be correct. However, this theory has been propounded in a vacuum without benefit of the views of those most affected. With government traffic, considerations of national defense should, where relevant, be given the utmost weight. I believe that an intelligent and pragmatic policy calls for input by government shippers and railroads before this decision becomes effective.

[FR Doc. 81-12691 Filed 4-27-81; 8:45 am]

BILLING CODE 7035-01-M

Long- and Short-Haul Applications for Relief (Formerly Fourth Section Applications)

April 23, 1981.

These applications for long-and-short-haul relief have been filed with the I.C.C.

Protests are due at the I.C.C. on or before May 13, 1981.

FSA No. 43913, Southwestern Freight Bureau, Agent's No. B-121, rates on Acid, Carbolic (phenol), in tank cars, carload, from stations in Texas to Linden, NJ. The rates are published in Supplement 185 to its Tariff ICC SWFB 3355-D, to become effective May 13, 1981. Grounds for relief—market competition.

FSA No. 43914, Southwestern Freight Bureau, Agent's No. B-122, rates on iron or steel pipe and related articles, minimum weight 70,000 and 80,000 pounds, from Gerald and Union, MO to Southwestern destinations. The rates are published in Supplement 267 to its Traffic ICC SWFB 4853, to become effective May 19, 1981. Grounds for relief—market competition and rate relationship.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-12641 Filed 4-27-81; 8:45 am]

BILLING CODE 7035-01-M

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 application 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-2-053

Decided: April 20, 1981.

By The Commission, Review Board No. 1, Members Parker, Chandler, and Taylor.

MC 29563 (Sub-64), filed April 6, 1981. Applicant: ROCKFORD MILWAUKEE DISPATCH, INC., 1318 18th Avenue, Rockford, IL. Representative: James Robert Evans, 145 W. Winconsin Avenue, Neenah, WI 54956, (414) 722-2848. Over regular routes, transporting *general commodities* (except classes A and B explosives), (1) between Milwaukee, WI and Kaukauna, WI; from Milwaukee over U.S. Hwy 141 to Junction U.S. Hwy 10, then over U.S. Hwy 10 to Junction WI Hwy 55, then over WI Hwy 55 to Kaukauna and return over the same routes; (2) between Milwaukee, WI and Kaukauna, WI: from Milwaukee over U.S. Hwy 41 to Junction WI Hwy 96, then over WI Hwy 96 to Kaukauna and return over the same routes; (3) between Milwaukee, WI and Appleton, WI: from Milwaukee over WI Hwy 57 to Junction WI Hwy 10, then over WI Hwy 10 to Appleton and return over the same routes; (4) between Fond du Lac, WI and Sheboygan, WI, over WI Hwy 23 to Sheboygan; (5) between Fond du Lac, WI and Milwaukee, WI: from Fond du Lac over U.S. Hwy 151 to Junction WI Hwy 33, then over WI Hwy 33 to Junction WI hwy 26, then over WI Hwy 26 to Junction WI Hwy 16, then over to WI Hwy 16 to Milwaukee, and return over the same routes; (6) between Rockford, IL and Watertown, WI: from Rockford over Interstate Hwy 90 to Junction WI Hwy 26, then over WI Hwy 26 to Watertown and return over the same routes; (7) between Delavan, WI and Milwaukee, WI: from Delavan over WI Hwy 50 to Junction WI Hwy 31, then over WI Hwy 31 to Milwaukee and return over the same routes; and (8) between Elkhorn, WI and Racine, WI, over WI Hwy 11.

MC 104652 (Sub-4), filed April 9, 1981. Applicant: NESTER TRANSFER, INC., 2531 Alabama Avenue, Norfolk, VA 23513. Representative: Robert J. Gallagher, 1000 Connecticut Avenue, NW., Suite 1200, Washington, DC 20036, (202) 463-6044. Transporting *Household Goods*, as defined by the Commission, (1) Between points in KY, NC, SC, OH, PA, WV, VA, TN, MS, MI, GA, AL, FL, DE, IL, IN, MD, NJ, NY and DC, (2) Between points in KY, NC, SC, OH, PA, WV, VA, TN, MS, MI, GA, AL, FL, DE, IL, IN, MD, NJ, NY and DC, on the one hand, and, on the other, points in ME, NH, CT, MA, RI, VT, MS, LA, TX, OK, AR, MO, KS, CO, NM, NB, IA and WI.

MC 107012 (Sub-691F), filed April 10, 1981. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant), (219) 429-2110. Transporting *such commodities* as are dealt in by manufacturers and distributors of polyurethane foam products, between Richmond, VA and in Riverside County, CA, Logan County, KY, Catawba County, NC, and Bell County, TX, on the one hand, and, on the other, points in the U.S.

MC 107012 (Sub-692), filed April 10, 1981. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant), (219) 429-2110. Transporting *such commodities* as are dealt in by manufacturers and distributors of truck and automotive equipment, between points in the U.S.

MC 107012 (Sub-693), filed April 10, 1981. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant), (219) 429-2110. Transporting *such commodities* as are dealt in by manufacturers and distributors of personal care products, between points in Los Angeles County, CA and Gallatin County, KY, on the one hand, and, on the other, points in the U.S.

MC 114562 (Sub-11), filed April 8, 1981. Applicant: WENDELL TRANSPORT CORPORATION, P.O. Box 100, Wendell, NC 27591. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602, (919) 828-0731. Transporting *commodities in bulk* (1) between points in New Hanover County, NC on the one hand, and, on the other, points in FL, GA, NC, SC, and VA; (2) between Williamsburg, VA and

Baltimore, MD on the one hand, and, on the other, points in New Hanover County, NC; and (3) between Williamsburg, VA on the one hand, and, on the other, Baltimore, MD.

MC 134752 (Sub-6), filed April 9, 1981. Applicant: HILL & WILLIAMS BROS., INC., 799-44th Street, Marion, IA 52302. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, (515) 282-3525. Transporting *general commodities*, between points in Linn County, IA, on the one hand, and, on the other, points in the U.S.

MC 146272 (Sub-2), filed April 9, 1981. Applicant: J & H TRUCKING, LTD., Box 255, Lillooet, B. C., Canada VOK 1VO. Representative: Michael D. Duppenthaler, 211 S. Washington, St., Seattle, WA 98104, (206) 622-3220. Transporting, in foreign commerce, *lumber and wood products*, between points in the U.S., under continuing contract(s) with Evans Products, Ltd., of Canada.

MC 152002, filed April 9, 1981. Applicant: DOUGLAS A. HILL, d.b.a. MOUNTAIN HAUS TOURS, 7215 Skillman, Dallas, TX 75231. Representative: Thomas F. Sedberry, P.O. Box 2165, Austin, TX 78768, (512) 476-6083. Transporting passengers and their baggage, in special and charter operations, beginning and ending at points in Dallas, Tarrant, Denton, Collin, Rockwall, Kaufman, Smith, Ellis, Harris, Jefferson, Madison, Johnson and Travis Counties, TX, and extending to points in the U.S.

MC 153082 (Sub-3), filed April 9, 1981. Applicant: TRANS CONTINENTAL TRANSPORT, INC., P.O. Box 7583, Boise, ID 83707. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111, (801) 531-1306. Transporting (1) *lumber and wood products*, (2) *building materials*, (3) *metal products*, (4) *hides and pelts*, (5) *waste and scrap materials*, (6) *clay, concrete, glass, or stone products*, and (7) *such commodities* as are dealt in by hardware stores, between points in U.S. in and west of ND, SD, NE, KS, OK, and TX.

MC 153742, filed March 30, 1981. Applicant: ATLANTIC INTERMOUNTAIN EXPRESS, INC., 3000 East Hedley St., Philadelphia, PA 19137. Representative: Ira G. Megdal, 499 Cooper Landing Road, Cherry Hill, NJ 08002, (609) 667-6000. Transporting *food and related products* between the facilities of Campbell Soup Company at Camden, NJ, on the one hand, and, on the other, points in NY, PA, DE, MD, VA, CT, MA, RI, VT, ME, NH and DC.

MC 155212, filed April 8, 1981. Applicant: J. & T. LEASING, INC., 1 River Rd., Edgewater, NJ 07020. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048, (212) 466-0220. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of building products, between points in the U.S., under continuing contract(s) with Dynamit Novel of America, Inc. of Northvale, NJ and its subsidiaries.

Volume No. OPY-2-054

Decided April 21, 1981.

By The Commission, Review Board No. 1, Members Parker, Chandler and Taylor.

FF-53 (Sub-2), filed April 6, 1981. Applicant: YELLOW FORWARDING CO., P.O. Box 7270, Overland Park, KS 66207. Representative: William F. Martin, Jr. (same address as applicant), (913) 383-3000. *As a freight forwarder*, in connection with the transportation of *general commodities* (except clases A and B explosives), between points in CA, on the one hand, and, on the other, points in ID, OR, and WA.

MC 29452 (Sub-6), filed April 13, 1981. Applicant: B.O.W. EXPRESS, INC., 1251 Taney, N. Kansas City, MO 64116. Representative: Clyde N. Christey, Kansas Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612, (913) 233-9629. Transporting *general commodities* (except classes A and B explosives), (1) between the Kansas City, MO commercial zone and Cedar Vale, KS: from Ottawa, KS over U.S. Hwy 59 to junction U.S. Hwy 169, then over U.S. Hwy 169 to junction U.S. Hwy 54, then over U.S. Hwy 54 to junction U.S. Hwy 75, then over U.S. Hwy 75 to junction U.S. Hwy 166, then over U.S. Hwy 166 to Cedar Vale, serving all intermediate points (expect Garnett, KS) and return over the same route. (2) between the Kansas City, MO commercial zone and Fredonia, KS: from Ottawa, KS over U.S. Hwy 59 to junction U.S. Hwy 169, then over U.S. Hwy 169 to junction U.S. Hwy 54, then over U.S. Hwy 54 to junction U.S. Hwy 75, then over U.S. Hwy 75 to junction KS Hwy 47, then over U.S. Hwy 47 to Fredonia, and return over the same route. (3) between Kansas City, MO commercial zone and Hartford, KS: from Osage City, KS over KS Hwy 170 to Reading, KS, then over an unnumbered county road to Interstate Hwy 35, then over Interstate Hwy 35 to junction KS Hwy 130, then over KS Hwy 130 to Hartford, KS, serving all intermediate points. Applicant indicates intention to tack with existing authority. Applicant also seeks to interline traffic originating at or destined to all points and intermediate points in parts 1, 2 and 3 above.

MC 105733 (Sub-83), filed April 14, 1981. Applicant: RITTER TRANSPORTATION, INC., P.O. Box 1064-A, Rahway, NJ 07065. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St., NW, Washington, DC 20005, (202) 296-3555. Transporting *commodities in bulk*, between points in Hudson and Warren Counties, NJ, on the one hand, and, on the other, points in FL, AL, LA, MS, AR, TX, MO, IA, and WI.

MC 107012 (Sub-698), filed April 15, 1981. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same address as applicant), (219) 429-2234. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of medical equipment, between points in the U.S., under continuing contract(s) with General Electric Company, Medical Systems Business Division, of Milwaukee, WI.

MC 110563 (Sub-324), filed March 9, 1981, (correction), previously published in the FR issue of March 30, 1981, and republished this issue. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29, North, Sidney, OH 45365. Representative: Steven L. Weiman, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760, (301) 845-8565. Transporting (1) *such commodities* as are dealt in or used by chain discount stores, grocery stores and food business houses, and (2) *food and related products*, between points in the U.S. Condition: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation of carrier's outstanding certificates and withdrawal of any pending applications which duplicates in entirety the above-specified authority. The carrier shall submit a list of existing certificates, with dates of issue, to be cancelled.

Note.—This republication is to correct the commodity description and to clarify the condition.

MC 129712 (Sub-44), filed April 15, 1981. Applicant: GEORGE BENNETT MOTOR EXPRESS, INC., P.O. Box 569, McDonough, GA 30253. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Rd., NE., Atlanta, GA 30326, (404) 237-6472. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of induction heating and melting systems, between points in the U.S., under continuing contract(s) with American Induction Heating Corp, of Detroit, MI.

MC 142603 (Sub-46), filed April 14, 1981. Applicant: CONTRACT CARRIERS OF AMERICA, INC., P.O. Box 179, Springfield, MA 01101. Representative: Susan E. Mitchell (same address as applicant), (413) 732-6283. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Wilder Industries, of Philadelphia, PA.

MC 143593 (Sub-3), filed April 10, 1981. Applicant: ROTA-CONE OILFIELD OPERATING CO., 434 Palmer Dr., Muskogee, OK 74401. Representative: C. L. Phillips, Room 248—Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106, (404) 528-3884. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of pulp, paper and related products and lumber and wood products, between points in the U.S., under continuing contract(s) with Champion International Corporation, of Stamford, CT.

MC 144293 (Sub-21), filed April 13, 1981. Applicant: DUANE McFARLAND, P.O. Box 1006, Austin, MN 55912. Representative: Robert S. Lee, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402, (612) 333-1341. Transporting *food and related products*, between points in IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, SD, and WI. Condition: Issuance of a certificate in this proceeding is conditioned upon coincidental cancellation, at carrier's written request, of all of carrier's authority under MC 144293 and Sub Nos. 5, 9, 11, 14, 15, 16, 17, and 18.

MC 149553 (Sub-2), filed April 13, 1981. Applicant: VALLEY TRANSPORTATION SERVICE, INC., P.O. Box 1527, Mission, TX 78572. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064, (615) 790-2510. Transporting *building materials*, between points in Webb and El Paso Counties, TX, on the one hand, and, on the other, points in OK, TX, LA, CO, NM, UT, KS, IA, MS, IL, OH, and IN.

MC 152702 (Sub-2), filed April 2, 1981. Applicant: CHESAPEAKE PIEDMONT CORPORATION, 1210 Gallop Ave., P.O. Box 1452, Chesapeake, VA 23320. Representative: John W. Ford, 9612 14th View St., Norfolk, VA 23503, 804-583-5714. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with City Beverage Co., Inc., of Elizabeth City, NC.

MC 155052 (Sub-1), filed April 10, 1981. Applicant: GENPAK CORPORATION, 68 Warren St., Glens Falls, NY 12801. Representative: Richard R. Barcus (same address as applicant), 1-(518) 798-9511. Transporting (1) *pulp, paper and related products*, (2) *rubber and plastic products*, (3) *printed matter*, and (4) *chemicals and related products*, between points in the U.S., under continuing contract(s) with Medline Industries, Inc., of Northbrook, IL.

MC 155162, filed April 6, 1981. Applicant: BRUCE J. HAWLEY, 22920 S.W. 82nd Ave., Tualatin, OR 97062. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210, (503) 226-3755. Transporting *food and related products*, between points in CA, on the one hand, and, on the other, points in OR.

MC 155182, filed April 8, 1981. Applicant: G. RINGER & CO., 5360 Broadway Rd. NE., Louisville, OH 44641. Representative: Harold E. Ringer, Jr. (same address as applicant), (216) 456-9427. Transporting *pulp, paper and related products*, between Cleveland, OH, on the one hand, and, on the other, points in PA, WV, NY, IN, IL, and DC.

MC 155343, filed April 16, 1981. Applicant: GALA, INC., 840 North Martin Dr., Palatine, IL 60067. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603, (312) 263-2306. Transporting *metal products*, between Chicago, IL, on the one hand, and, on the other, points in IL, IN, IA, KY, MI, MO, MN, NY, OH, PA, TN, WV, and WI.

Volume No. OPY-3-050

Decided April 21, 1981.

By The Commission, Review Board No. 2, Members Carleton, Fortier and Williams.

MC 42405 (Sub/43), filed April 3, 1981. Applicant: MISTLETOE EXPRESS SERVICE, P.O. Box 25614, Oklahoma City, OK 73125. Representative: Stephen L. Plake (same address as applicant), (405) 236-1481. Over regular route, transporting *general commodities* (except classes A and B explosives), (1) between OK-TX State line at or near Texhoma, TX and Dalhart, TX, over U.S. Hwy 54, (2) between NM-TX State line near Texline and Port Lavaca, TX, over U.S. Hwy 87, (3) between OK-TX State line near Higgins and the TX-NM State line near Farwell, over U.S. Hwy 60, (4) between TX-OK State line approximately 7 miles north of Perryton and Brownsville, TX, over U.S. Hwy 83, (5) between TX-NM State line at or near Farwell and the TX-LA State line at or near Joaquin, TX, over U.S. Hwy 84, (6) between TX-NM State line near Anthony, TX, and the TX-LA State line near Jonesville, TX, over U.S. Hwy 80, (7) between TX-OK State line at or near Burkburnett, TX and Brownsville, TX over U.S. Hwy 281, (8) between TX-OK State line approximately 7 miles north of Oklaunion and Refugio, over U.S. Hwy 183, (9) between TX-OK State line approximately 7 miles north of Gainesville and Brownsville, over U.S. Hwy 77, (10) between TX-OK State line approximately 10 miles north of Denison and Galveston TX, over U.S. Hwy 75, (11) between TX-OK State line near Arthur City and Tyler, over U.S. Hwy 271, (12) between TX-OK State line approximately 13 miles north of DeKalb and Nacogdoches, TX, over U.S. Hwy 259, (13) between TX-AR State line approximately 8 miles north of Texarkana and Laredo, TX, over U.S. Hwy 59, (14) between TX-OK State line approximately 17 miles northwest of Stratford, TX and Port Arthur, TX, over U.S. Hwy 287, (15) between Muleshoe, TX and Vernon, TX, over U.S. Hwy 70, (16) between Plains, TX and Texarkana, TX, over U.S. Hwy 82, (17) between TX-NM State line near Bronco, TX and junction U.S. Hwy 69 and 67 at or near Greenville, TX, (18) between Denison, TX and Wordville, TX, over U.S. Hwy 79, (19) between Presidio, TX and Texarkana, TX, over U.S. Hwy 67, (20) between Dallas, TX and Jacksonville, TX, over U.S. Hwy 175, (21) between TX-LA State line approximately 3 miles east of Panola, TX and junction Interstate Hwy 35 and U.S. Hwy 81, (22) between Van Horn, TX and Orange, TX, over U.S. Hwy 90, (23) between junction U.S. Hwys 80 and 290 and Houston, TX, over U.S. Hwy 290, (24) between Waco and Laredo, TX, over Interstate Hwy 35, (25) between Seymour, TX and Del Rio, TX, over U.S. Hwy 277, (26) between Hartley, TX and Marathon, TX, over U.S. Hwy 385, (27) between junction U.S. Hwys 290 and 190 and TX-LA State line near Bon Wier, over U.S. Hwy 190, (28) between Tensha, TX and junction U.S. Hwys 69 and 287, over U.S. Hwy 96, (29) between Glenrio, TX and TX-OK State line approximately 14 miles east of Shamrock, TX, over U.S. Hwy 66, serving points in TX as off-route points in connection with carrier's otherwise-authorized regular-route operations.

Note.—Applicant intends to tack this authority with its existing regular route authority.

MC 106644 (Sub-361), filed April 13, 1981. Applicant: SUPERIOR TRUCKING COMPANY, INC., P.O. Box 916, Atlanta, GA 30301. Representative: Louis C. Parker III (same address as applicant), (404) 792-2550. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Edward Hines Lumber Co., of Chicago, IL.

MC 107295 (Sub-1031), filed April 10, 1981. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, IL 61842.

Representative: Duane Zehr (same address as applicant), (309) 928-2141. Transporting *fabricated metal products, roof and wall panels,* and *iron and steel articles,* between points in Waukesha County, WI, on the one hand, and, on the other, points in the U.S.

MC 107295 (Sub-1032), filed April 10, 1981. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, IL 61842. Representative: Duane Zehr (same address as applicant), (309) 928-2141. Transporting *air systems, environmental control systems, support structures,* and *iron and steel articles,* between the facilities used by Zurn Industries, Inc., in the U.S. on the one hand, and, on the other, points in the U.S.

MC 109865 (Sub-18), filed April 10, 1981. Applicant: VALLEY TRANSPORTATION, INC., 516 Oxford Road, Oxford, CT 06483. Representative: L. C. Major, Jr., Suite 400 Overlook Bldg., 6121 Lincolnia Road, Alexandria, VA 22312. Transporting *passengers and their baggage,* in the same vehicle with passengers, in special operations, from points in Hartford, New Haven and Fairfield Counties, CT, to points in ME, VT, NH, MA, and NY, and return.

MC 113855 (Sub-531), filed April 14, 1981. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Representative: Thomas J. Van Osdel, 502 First National Bank Bldg., Fargo, ND 58126, (701) 235-4487. Transporting *lumber and wood products,* between points in Beltrami County, MN, on the one hand, and, on the other, points in CO, IL, IN, IA, KS, MI, MN, MO, MT, NE, NY, ND, OH, PA, SD, WI and WY.

MC 135605 (Sub-17), filed April 6, 1981. Applicant: WILKINSON TRANSPORT, INC., P.O. Box 25, Barton, AR 72312. Representative: Billy L. Wilkinson (same address as applicant), (501) 572-9689. Transporting (1) *sporting goods,* and (2) *recreational equipment,* between points in Bossier County, IA, on the one hand, and, on the other, points in the U.S.

MC 136384 (Sub-27), filed April 6, 1981. Applicant: PALMER MOTOR EXPRESS, INC., P.O. Box 103, Savannah, GA 31402. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349, (404) 996-6266. Transporting *appliances,* between the facilities of General Electric Company, in Fulton and Gwinnett Counties, GA, on the one hand, and, on the other, points in AL, NC, and SC.

MC 138134 (Sub-10), filed April 7, 1981. Applicant: DONALD HOLLAND TRUCKING, INC., 1300 Main St., Keokuk, IA 52632. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501, (515) 682-8154. Transporting *general commodities* (except classes A and B explosives), between points in the U.S. under continuing contract(s) with Sheller Globe Corporation, of Keokuk, IA.

MC 138574 (Sub-3), filed April 10, 1981. Applicant: NORTHERN EXPRESS, INC., 31 Virginia Ave., Carteret, NJ 07008. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904. Transporting (1) *pharmaceuticals,* (2) *medicines,* (3) *toilet preparations,* (4) *animal feed supplements,* and (5) *chemicals and related products,* between points in Warren County, NJ, on the one hand, and, on the other, points in CT, DE, MD, NJ, NY and PA.

MC 140334 (Sub-8), filed April 6, 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 *general commodities* (except classes A and B explosives), betwen points in the U.S. under continuing contract(s) with Automation Industries, Inc., of Abbeville, SC.

MC 141424 (Sub-9), filed April 10, 1981. Applicant: P-Y TRANSPORT, INC., 2393 W. Market St., York, PA 17404. Representative: Maxwell A. Howell, 1100 Investment Bldg., 1511 K St. NW., Washington, DC 20005, (202) 783-7900. Transporting *malt beverages,* between the facilities of Clair E. Sheffer d.b.a. Sheffer Beer Distributor, in York, PA, on the one hand, and, on the other, points in the U.S.

MC 142125 (Sub-3), filed April 6, 1981. Applicant: WESTERN WISCONSIN TRUCKING CO., INC., Route #1, Independence, WI 54747. Representative: Joseph E. Ludden, 2707 South Ave., P.O. Box 1567, La Crosse, WI 54601, (608) 788-2000. Transporting *cement,* between points in La Crosse County, WI, and Cero Gordo County, IA, on the one hand, and, on the other, points in Houston, Winona, and Wabasha Counties, MN, and Buffalo and Trempealeau Counties, WI.

MC 144345 (Sub-23), filed April 10, 1981. Applicant: DON'S FROZEN EXPRESS, INC., 3820 Airport Ave., Caldwell, ID 83605. Representative: Irene Warr, 430 Judge Bldg., Salt lake City, UT 84111, (801) 531-1306. Transporting *food and related products,* between points in the U.S. under continuing contract(s) with Lamb-Weston, Inc., of Portland, OR.

MC 145375 (Sub-8), filed April 13, 1981. Applicant: H. D. EDGAR TRUCKING COMPANY, INC., Route 1, Box 48, Opp, AL 36467. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St. NW., Washington, DC 20005, (202) 296-3555. Transporting *textile mill products,* between points in Covington County, AL, on the one hand, and, on the other, points in the U.S.

MC 145545 (Sub-6), filed April 14, 1981. Applicant: CENTURY REEFER SERVICE, INC., 8 Main St., Salisbury, MA 01950. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St. NW., Washington, DC 20005, (202) 296-3555. Transporting *food and related products,* between points in Cook and kane Counties, IL, and Cuyahoga County, OH, on the one hand, and, on the other, points in CT, ME, MA, NH, RI and VT.

MC 146074 (Sub-5), filed April 14, 1981. Applicant: FORT TRANSFER CO., a corporation, 225 South Maple, Morton, IL 61550. Representative: Douglas G. Brown, 913 South Sixth St., Springfield, IL 62703, (217) 753-3925. Transporting *agricultural chemicals,* between points in the U.S. under continuing contract(s) with Shell Oil Company, of Houston, TX.

MC 148555 (Sub-2), filed April 13, 1981. Applicant: BAR S TRUCKING, Route 1, Gracemont, OK 73042. Representative: Michael H. Lennox, 531 N. Portland, Oklahoma City, OK 73147, (405) 943-2722. Transporting *carpets and carpeting,* between points in the U.S. under continuing contract(s) with Hollytex Carpet Mills, of Anadarko, OK.

MC 149025 (Sub-1), filed April 13, 1981. Applicant: VAN NORTWICK BROS., INC., 129 State Highway 36, East Keansburg, NJ 07734. Representative: Jeffrey A. Vogelman, Suite 400, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312. As a *broker,* at East Keansburg and points in Ocean County, NJ, in arranging for the transportation of *passengers and their baggage,* in special and charter operations, beginning and ending at points in Ocean County, NJ, and extending to points in the U.S.

MC 149114 (Sub-5), filed April 13, 1981. Applicant: NATIONAL TRANSPORT SERVICES CO., INC., 100 Industrial Ave., Edison, NJ 08837. Representative: Brian H. Siegel, 1101 Connecticut Ave., Suite 1000, Washington, D.C. 20036, (202) 857-0141. Transporting *frozen food products,* between points in the U.S. under continuing contract(s) with Lender's Bagel Bakery, Inc., of West Haven, CT.

MC 149114 (Sub-6), filed April 13, 1981. Applicant: NATIONAL TRANSPORT SERVICES CO., INC., 100 Industrial Ave., Edison, NJ 08837. Representative: Brian H. Siegel, 1101

Connecticut Ave., Suite 1000, Washington, D.C. 20036, (202) 857-0141. Transporting *rubber and plastic products*, between points in the U.S. under continuing contract(s) with The Goodyear Tire and Rubber Co., of Akron, OH.

MC 152134 (Sub-7), filed April 6, 1981. Applicant: BESTWAY TRANSPORT CO., a corporation, Route 2, Willard, OH 44890. Representative: Lewis S. Witherspoon, 88 E. Broad St., Columbus, OH 43215, (614) 224-2477. Transporting *printed matter and related products*, between points in Huron County, OH, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR, and TX.

MC 152544 (Sub-9), filed April 13, 1981. Applicant: CYPRESS TRUCK LINES, INC., 1746 East Adams St., Jacksonville, FL 32202. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202, (304) 632-230. Transporting *general commodities* (except classes A and B explosives), between the facilities of COS-Concrete Systems, Inc., at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 152644 (Sub-1), filed April 13, 1981. Applicant: WILLIAM J. CALL, d.b.a. WISCONSIN CARTAGE, 1121 West Grange Ave., Milwaukee, WI 53221. Representative: David Earl Tinker, 1000 Connecticut Ave., N.W., Suite 1112, Washington, DC 20036, (202) 887-5868. Transporting *general commodities* (except classes A and B explosives), between points in IL and WI.

MC 152674 (Sub-4), filed April 13, 1981. Applicant: MIDWEST EXPRESS, INC., P.O. Box 550, Miami, OK 74354. Representative: Michael H. Lennox, 531 N. Portland, Oklahoma City, OK 73147, (405) 943-2722. Transporting *chemicals and related products*, between points in MA, on the one hand, and, on the other, points in CA, IL and TX.

MC 152985 (Sub-1), filed April 10, 1981. Applicant: SOVEREIGN SANITATION, INC., 310 Forth St., Blawnox, PA 15238. Representative: David M. O'Boyle, 2310 Grant Building, Pittsburgh, PA 15219, (412) 471-1800. Transporting *hazardous materials*, between points in the U.S., under continuing contract(s) with Kipin Industries, Inc., of Coraopolis, PA.

Note.—The permit authorized in this proceeding shall expire 5 years from the date of issuance.

MC 153215 (Sub-1), filed April 13, 1981. Applicant: DON'S REFRIGERATED EXPRESS, LTD., 1168 168th St. R.R. #7, White Rock, British Columbia, Canada V4B 5A8. Representative: Michael D. Duppenthaler, 211 S. Washington St., Seattle, WA 98104, (206) 622-3220. Transporting *malt beverages*, between points in the U.S., under continuing contract(s) with Arthur J. Fritz, & Co., of Blaine, WA.

MC 153744 (Sub-1), filed April 13, 1981. Applicant: JOSEPH S. MICELLI, d.b.a. M & M MOTOR SERVICE, 1720 Algonquin Rd., Mount Prospect, IL 60056. Representative: Stephen H. Loeb Suite 2027, 33 North LaSalle St., Chicago, IL 60602, (312) 726-9722. Transporting *metal products*, between Chicago, IL, on the one hand, and, on the other, points in FL, GA, IA, IN, KY, MI, MN, MO, OH, TN, and WI.

MC 153985 (Sub-1), filed April 14, 1981. Applicant: COASTAL FREIGHT LINES, INC., 10 East Oregon Ave., Philadelphia, PA 19148. Representative: Richard Rueda, 135 North 4th St., Philadelphia, PA 19106, (215) 627-1923. Transporting *such commodities* as are dealt in or used by retail stores, between points in the U.S., under continuing contract(s) with Marshall's Inc., of Woburn, MA.

MC 153994 (Sub-1), filed April 13, 1981. Applicant: NORM SCHILLING TRUCKING, INC., 18042 S Kedzie Ave., Hazelcrest, IL 60429. Representative: Philip A. Lee, 120 W. Madison St., Chicago, IL 60602, (312) 326-8225. Transporting *clay, concrete, glass or stone products*, between points in IL, WI, MO, OH, IN, MI and MN.

MC 155074 (Sub-1), filed April 10, 1981. Applicant: JOHNSON FEED, INCORPORATED, Fairview, SD 57027. Representative: A. J. Swanson, P.O. Box 1103, 226 North Phillips Ave., Sioux Falls, SD 57101, (605) 335-1777. Transporting *chemicals and related products*, between points in the U.S., under continuing contract(s) with Cargill, Inc., Salt Division, of Minneapolis, MN.

MC 155244, filed April 10, 1981. Applicant: TOTAL ARMORED CAR SERVICE, INC., 13800 West Seven Mile Rd., Detroit, MI 48235. Representative: William B. Elmer, 624 Third St., Traverse City, MI 49684, (616) 941-5313. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with American Bakeries Company, of Toledo, OH, and Franks Nursery and Crafts, Inc., of Detroit, MI.

MC 155264, filed April 13, 1981. Applicant: WEST QUALITY FOOD SERVICE, INC., P.O. Box 2906, Laurel, MS 39440. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205, (601)948-8820. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with KFC National Purchasing Cooperative, Inc., of Louisville, KY.

MC 155285, filed April 14, 1981. Applicant: WILFORD WILLIAM BOWERS, d.b.a. BOWERS TRANSPORT, 13500 E. Imperial Hwy, Santa Fe Springs, CA 90670. Representative: (Same as applicant) (213)921-9713. Transporting *Mercer commodities, machinery and metal products*, between points in Los Angeles and Orange Counties, CA, on the one hand, and, on the other, points in AZ, CO, ID, NV, NM, OR, UT, WA, and WY.

On April 16, 1981, Volume No. OPY-3-039 was published on page 22275 of the **Federal Register** without the sentence:

"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 the Commission regulations."

This sentence should be included in the prefix.

On April 17, 1981, Volume No. OPY-3-040 was published on page 22485 of the **Federal Register** with the above-quoted sentence. Please ignore this sentence in the prefix.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-12642 Filed 4-27-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

Correction

In FR Doc. 81-11035, appearing at page 21701 in the issue for Monday, April 13, 1981, some material was inadvertantly omitted. On page 21709, in the third column, between paragraphs "MC 155074 (Sub-4-1TA)" and "MC 83539 (Sub-5-4TA)" please insert the following:

The following applications were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC35320 (Sub-5-58TA), filed March 30, 1981. Applicant: T.I.M.E.-DC, INC., 2598 74th Street, Lubbock, TX. 79408. Representative: Kenneth G. Thomas (same as applicant). Common, regular. *General commodities, except Classes A and B explosives*, serving points in Chatham County, GA., as off-route points in connection with carrier's

otherwise authorized regular-route operations. Supporting shippers: Boyd Nursery & Garden Cener, 7804 Abercorn Expressway, Savannah, GA. 31406; Great Southern Parts Distributions, 1302 Bay Street, Savannah, GA. 31401; Bill Moore Supply Co., 1121 Old Louisville Rd., Savannah, GA. 31401; Savannah Industrial Supply Co., Inc., 1119 Louisville Rd., Savannah, GA. 31402.

MC52460 (Sub-5-32TA), filed March 30, 1981. Applicant: ELLEX TRANSPORTATION, INC., 1420 W. 35th St., P.O. Box 9637, Tulsa, OK. 74107. Representative: Don E. Kruizinga, 1420 W. 35th St., P.O. Box 9637, Tulsa, OK. 74107. *Food and Related Products*, from Parishes of Jefferson and St. John the Baptist, LA, to points in AL., AR., FL., GA., IA., IL., IN., KS., KY., MI., MS., MO., NE., NC., OK., SC., TN., TX., VA., and WI. Supporting shipper: Godchaux—Henderson, P.O. Box Drawer AM, Reserve, LA. 70084.

MC 52460 (Sub-5-33TA), filed March March 30, 1981. Applicant: ELLEX TRANSPORTATION, INC., P.O. Box 9637, 1420 W. 35th St., Tulsa, OK 74107. Representative: Don E. Kruizinga, P.O. Box 9637, 1420 W. 35th St., Tulsa, OK 74107. *Food and Related Products*, from St. James Parish, LA to points in AL, AR, CO, FL, GA, IA, IL, IN, KS, KY, MS, MO, NE, NC, NM, OK, SC, TN, TX, VA, & WI. Supporting shipper: Colonial Sugar Co.—Gramercy, LA 70052.

MC 67234 (Sub-5-17TA), filed March 30, 1981. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105. *Oxford cloth shirts, shirts, and such commodities as are dealt in by retail clothing stores*, between Vidalia, GA to Freeport, ME. Supporting shipper: L. L. Bean, Inc., Casco Street, Freeport, ME 04032

MC 111401 (Sub-5-35TA), filed March 30, 1981. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock, Vice President, Traffic (same as applicant). *Jet Fuel, in bulk*, in Tank Vehicles, from Lake Charles Refining Co., near Lake Charles, LA to points in TX. Shippers: Commercial Helicopters, Inc., Suite 204, 4919 Jamestown Ave., Baton Rouge, LA 70808 and Era Helicopters, P.O. Box 6566, Lake Charles, LA 70606.

MC 114211 (Sub-5-28TA), filed March 30, 1981. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Adelor J. Warren, P.O. Box 420, Waterloo, IA. *Steel frames, steel articles, and steel air filters*, from pts in Washington County, OR, to pts in the U.S. Supporting shipper: Ted Nelson Company, P.O. Box 23398, Portland, OR 97223.

MC 119399 (Sub-5-57TA), filed March 30, 1981. Applicant: CONTRACT FREIGHTERS, INC., P.O. Box 1375, 2900 Davis Boulevard, Joplin, MO 64801. Representative: Thomas P. O'Hara (address same as applicant). *Transformer Bases and Plastics Pallets and materials and supplies used in the manufacture and distribution thereof* between the facilities of Thermodynamics Corporation at Broken Arrow, OK, on the one hand, and on the other, points in the U.S. Supporting shipper: Thermodynamics Corporation, Broken Arrow, OK 74102.

MC 119399 (Sub-5-58TA), filed March 30, 1981. Applicant: CONTRACT FREIGHTERS, INC., P.O. Box 1375, 2900 Davis Boulevard, Joplin, MO 64802. Representative: Thomas P. O'Hara (address same as applicant). *Food and Related Products (except commodities in bulk and commodities requiring refrigeration)* between Gretna, LA on the one hand, and, on the other, points in the U.S. restricted to traffic originating at or destined to Colonial Molasses Company. Supporting shipper: Colonial Molasses Company, Gretna, LA 70054.

MC 124174 (Sub-5-46TA), filed March 30, 1981. Applicant: MOMSEN TRUCKING CO., 13811 "L" Street, Omaha, NE 68137. Representative: Karl E. Momsen (same as above). *(1) Pet products, pet foods, pet supplies and accessories, (2) inedible 3-D and 4-D foodstuffs, and (3) feed ingredients*, (1) between all pts in the USA for the account of Con Agra Pet Accessories Division, (2) between pts in KS, TX, NM, WY, CO, IA, NE, MO, IL, IN, CA, OK, and OH, and (3) between pts in CA, WA, and OR, on the one hand, and pts in the USA on the other. Supporting shipper(s): Con Agra Pet Accesories Division, 3902 Leavenworth, Omaha, NE 68105; Consolidated Pet Foods, Inc., Dodge City, KS 67801; Tri State Industries, P.O. Box 1422, Dodge City, KS 67801; Piggyback Consolidators, Inc., P.O. Box 428, Midway City, CA 92655.

MC 135469 (Sub-5-2TA), filed March 30, 1981. Applicant: HAWKEYE TRANSPORT CO., 601 Front Street, Stanwood, IA 52337. Representative: Carl E. Munson, 469 Fischer Building, P.O. Box 796, Dubuque, IA 52001. *Anhydrous ammonia, in buld, in tank vehicles* from at or near Bellevue, IA, to pts in IL and WI. Supporting shipper: United States Steel Corporation, USS Agri-Chemicals Division, 233 Peachtree Street, N.E., Atlanta, GA 30303.

MC 135691 (Sub-5-9TA), filed March 30, 1981. Applicant: DALLAS CARRIERS CORP., 12661 Perimeter Drive, Dallas, TX 75228. Representative: J. Max Harding, P.O. Box 6645, Lincoln, NE 68506. *Non-exempt food and kindred products as described in Item 20 of the Standard Transportation Commodity Code*, from Franklin Park, IL; Denver, CO; Los Angeles and Milpitas, CA to points in the contiguous U.S. Supporting shipper: Fearn International, Inc., 9353 Belmont Avenue, Franklin Park, IL 60131.

MC 135691 (Sub-5-10TA), filed March 30, 1981. Applicant: DALLAS CARRIERS CORP., 12661 Perimeter Drive, Dallas, TX 75228. Representative: J. Max Harding, P.O. Box 6645, Lincoln, NE 68506. *(1) Containers, container accessories and sprayers, and (2) materials, supplies and equipment used in the manufacture, sale and distribution of the commodities in (1) above*, between points in Lowndes, Clinch and Clayton Counties, GA, Pearl River County, MS and Duval County, FL, on the one hand, and, on the other, points in the contiguous U.S. Supporting shipper: Standard Container, 1101-A Commerce Road, Morrow, GA 30260.

MC 138469 (Sub-4-40TA), filed March 30, 1981. Applicant: DONCO CARRIERS, INC., P.O. Box 75367, Oklahoma City, OK 73147. Representative: Daniel O. Hands, 205 W. Touhy Ave., Suite 200, Park Ridge, IL 60068. *(a) Chemicals, NOI, Cleaning compounds, NOI and (b) materials, equipment and supplies used in the manufacture of commodities in (a) above*, between Ferndale, MI; Waterbury, CT and Los Angeles, CA, on one hand and the following points on the other, Alsip, IL; Atlanta, GA; Chicago, IL; Cincinnati, OH; Cleveland, OH; Dallas, TX; Denver, CO; Euclid, OH; Grand Rapids, MI; Greensboro, NC; Hollywood, FL; Indianapolis, IN; Kansas City, KS; Maryland Hgts., MO; Minneapolis, MN; Phoenix, AZ; St. Louis, MO; Ferndale, MI; Waterbury, CT; Los Angeles, CA and points in their Commercial Zones. Supporting shipper: MacDermid, Inc., 1221 Farrow, Ferndale, MI 48220.

MC 139973 (Sub-5-7TA), filed March 30, 1981. Applicant: J. H. WARE TRUCKING, INC., 909 Brown Street, P.O. Box 398, Fulton, MO 65251. Representative: Ronald R. Adams, 600 Hubbell Building, Des Moines, IA 50309. *General commodities (except articles of unusual value, Classes A and B explosives, household goods as defined by the Commission, and articles because of their size and weight require special equipment)*, between points in

the U.S., restricted to traffic originating at or destined to the facilities of ITOFCA, Inc., or its members. Supporting shipper: ITOFCA, Inc., Two Walter Avenue, P.O. Box 188, Clarendon Hills, IL.

MC 140665 (Sub-5-66TA), filed March 30, 1981. Applicant: PRIME, INC., P.O. Box 4208, Springfield, MO 65804. Representative: Ann Holcombe, P.O. Box 786, Ravenna, OH 44266. *Liquor alcoholic, Not in bulk* between Portland, OR, and points in and east of ID, UT, and AZ. Supporting shipper: Potter Distilleries, Inc., 18700 N. E. San Rafael Rd., Portland, OR 97230.

MC 140831 (Sub-5-1TA), filed March 30, 1981. Applicant: ASHAWK TRANSPORT, INC., 455 West Pine Street, Ponchatoula, LA 70454. Representative: Byard Edwards, Jr., (same as applicant). *Contract; Irregular. *Forest Products and Lumber and Wood Products*, between points in the LA, MS, TX, AR, AL, GA, FL, MO, TN, and KY. Supporting shippers: Buffalo Mills Lumber Company, Inc., Amite, LA; Ponchatoula Hardwood Incorporated, Ponchatoula, LA.

MC 142913 (Sub-5-2TA), filed March 30, 1981. Applicant: TRAVIS TRANSPORT, INC., 3546 Vandalia Road, Des Moines, IA 50317. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Petroleum products*, from Scott County, IA, to points in that part of IL located on, north and west of U.S. Hwy 66. Supporting shipper: Casey's General Stores, Inc., P.O. Box 3288, Des Moines, IA 50316.

MC 144595 (Sub-5-2TA), filed March 30, 1981. Applicant: ROBERT D. ANTHOLZ, d.b.a PAWNEE GRAIN COMPANY, Route 3, Box 42, Pawnee City, NE 68420. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501, (402) 475-6761. *Transportation equipment and metal articles*, between Douglas County, NE on the one hand, and, on the other, pts in the US. Supporting shipper: Unarco Transportation Equipment, Division of UNR Industries, 13840 L Street, Omaha, NE 68137.

MC 145441, (Sub-5-44TA), filed March 30, 1981. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: Ralph E. Bradbury, P.O. Box 5130, North Little Rock, AR 72119. *Lighting fixtures, lamps and materials and equipment used in the manufacture of lightbulbs* between Middlesex County, NJ on the one hand, and on the other, points in the U.S. (except AK, HI, & NJ), restricted to traffic originating at or destined to facilities served by Action Tungsram. Supporting shipper: Action Tungsram, 11 Elkins Road, East Brunswich, NJ 08816.

MC 146078 (Sub-5-23TA), filed March 30, 1981. Applicant: CAL-ARK, INC., 854 Moline, P.O. Box 610, Malvern, AR 72104. Representative: John C. Everett, 140 E. Buchanan, P.O. Box A, Prairie Grove, AR 72753. *Paper and paper products* from Pryor, OK, to all points and places in the U.S. Supporting shipper: APL, Inc., 5911 Fresca Drive, La Palma, CA 90623.

MC 146616 (Sub-5-9TA), filed March 30, 1981. Applicant: B & H MOTOR FREIGHT, INC., 4724 West 21st Street, Tulsa, OK 74107. Representative: Fred Rahal, Jr., Suite 305 Reunion Center, 9 East Fourth Street, Tulsa, OK 74103. Contract, Irregular: (1) *Iron and steel articles; and (2) equipment and supplies used in the manufacture and distribution of the commodities named in (1) above*, between points in the U.S., under continuing contract(s) with Service Steel, Inc. of Tulsa, OK. Supporting shipper: Service Steel, Inc., 9726 E. 42nd St. Suite 232, Tulsa, OK 74145.

MC 148035 (Sub-5-8TA), filed March 30, 1981. Applicant: QUANDT TRANSPORT SERVICE, INC., 2606 North 11th Street, Omaha, NE 68110. Representative: Arlyn L. Westergren, Westergren & Hauptman, P.C., Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114. *Anhydrous ammonia and fertilizer* from Council Bluffs and Whiting, IA to pts in NE. Supporting shipper: United Suppliers, Inc., P.O. Box 538, Eldora, IA 50627.

MC 148643 (Sub-5-1TA), filed March 30, 1981. Applicant: MONTY R. COBLE, d.b.a. ARK CITY WAREHOUSE CO., 1201 South First St., Arkansas City, KS 67005. Representative: Monty R. Coble (same as applicant). Contract; irregular. *Malt beverages (beer)*, from St. Louis, MO to Arkansas City, KS. Supporting shipper: Ark Valley Distributing, Inc., 1003 W. Madison, Arkansas City, KS 67005.

MC 151383 (Sub-5-4TA), filed March 30, 1981. Applicant: NICKELL TRUCKING CO., 4901 West 51st Street, Tulsa, OK 74107. Representative: Fred Rahal, Jr., Rahal & Anderson, A Professional Corporation, Suite 305 Reunion Center, 9 East Fourth Street, Tulsa, OK 74103. Contract, irregular: *(1) Turbines, pipe, pipeline components, valves, check valves, recuperators, motors, and pumps; (2) equipment and supplies used in the manufacture and distribution of commodities named in (1) above*. Between points in the U.S. under continuing contract(s) with Mapco, Inc. of Tulsa, OK. Supporting shipper: Mapco, Inc., 1800 S. Baltimore Ave., Tulsa, OK 74119.

MC 152089 (Sub-5-1TA), filed March 30, 1981. Applicant: BEATRICE FREIGHT LINE, INC., 1935 Park Boulevard, Lincoln, NE 68502. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. *Metal products, furniture and fixtures, pulp paper and related products*, between pts in Gage County, NE on the one hand, and on the other, pts in CA, CO, GA, IA, IL, IN, KS, KY, LA, MN, MO, OH, OK, TN, TX, WI and WY. Supporting shippers: Hoover Universal, Division of Hoover Universal, Inc., 700-710 South 7th Street, Beatrice, NE 68310; and Storekraft Manufacturing Company, P.O. Box 807, Beatrice, NE 68310.

MC 153710 (Sub-5-2TA), filed March 30, 1981. Applicant: DENNIS FISHER, d.b.a. FISHER TRUCKING, P.O. Box 62, Perry, IA 50220. Representative: Ronald R. Adams, 600 Hubbell Building, Des Moines, IA 50309. *Feed ingredients*, between Omaha, NE on the one hand, and on the other, pts in IA, MN, MO and KS. Supporting shipper: Western By-Products, P.O. Box 7234, 4115 S. 33rd Street, Omaha, NE 68107.

MC 154597 (Sub-5-1TA), filed March 30, 1981. Applicant: HUELLINGHOFF BROS., INC., R.R. 2, Box 166, Union, MO 63084. Representative: Anthony J. Huellinghoff (same as applicant). *Propane* from Madison and Saint Clair counties IL, to points in MO. Supporting shipper: Great Plans Gas, 2727 Main, Jefferson City, MO 65101.

MC 154998 (Sub-5-1TA), filed March 30, 1981. Applicant: BUCKLEY MACHINERY COMPANY, P.O. Box 19433, Kansas City, MO. 64141. Representative: Tom B. Kretsinger, 20 East Franklin, P.O. Box 258, Liberty, MO. 64068. Contract irregular *machinery and related products and transportation equipment*, between all points in the U.S. Supporting shippers: Contractors Equipment & Rental, Inc., 3104 Manchester Trafficway, Kansas City, Missouri 64129. Pitman Manufacturing Co., Division of Emerson Electric, P.O. Box 120, Grandview, Missouri 64030.

MC 155009 (Sub-5-1TA), filed March 30, 1981. Applicant: K & B EQUIPMENT LEASING, 1004 11th Street NE., Ardmore, OK 73401. Representative: James F. Crosby & Associates, 7363 Pacific Street, Suite 210B, Omaha, NE 68114. *(1) Metal tanks; iron or steel articles; and well drilling equipment, and (2) equipment, materials, and supplies used in the manufacture, sale, and distribution of the articles in (1) above* between the facilities of Semco, at or near Springer, OK on the one hand

and, on the other, points in the U.S. Supporting shipper: Valmont Industries, Inc., Valley, NE 68064.

MC 155010 (Sub-5-1TA), filed March 30, 1981. Applicant: CRUMP TRANSPORTATION MANAGEMENT, INC., 11843 Missouri Bottom Road, Hazelwood, MO 63042. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105. Contract irregular *Rubber Products and materials, equipment and supplies used in the manufacture and distribution of rubber products* between points and places in the U.S. (excluding AK, HI, and MO.) Supporting shipper: Cupples Company, Manufacturers, 9430 Page Avenue, P.O. Box 8430, St. Louis, MO 63132.

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated January 19, 1981, and published in the **Federal Register** on January 27, 1981; (46 FR 8799), Eli Lilly and Company, Inc., Chemical Plant, Kilometer 146.7, State Road 2, Mayaquez, Puerto Rico 00708, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of Dextropropoxyphene, a basic class of controlled substance listed in schedule II.

No comments or objections having been received, and pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations Section 1301.54(e), the Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substances listed above is granted.

Dated: April 21, 1981.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 81-12666 Filed 4-27-81; 8:45 am]

BILLING CODE 4410-09-M

National Institute of Justice

Announcement for the General Evaluation Program—2; Solicitation

The National Institute of Justice has an interest in sponsoring studies which will widen the scope of its criminal justice evaluation activities.

The specific goal of this program is to fund a limited number of evaluation proposals that are not necessarily designated as priority areas in the Institute Program Plan but which address significant criminal justice issues, are of sound methodological design, and have potentially important implications for criminal justice policy and practice. Attention should be given to planned or operational innovative programs where evaluation is needed.

Proposals in the general area of criminal justice evaluation which have the potential of answering a significant question for practitioners are invited.

Eligible applicants include: universities, state and local agencies involved in the criminal justice process, other not-for profit and non-profit research organizations, and profit making organizations that are willing to waive their fee.

At this time the NIJ appropriation for fiscal year 1981 has not been finalized. If the proposed request is adopted, the Institute will allocate approximately $650,000 for the GEP-2. If a figure less than the amount requested is appropriated, this funding level may be modified. In either case, the total amount of awards will depend upon receipt of high quality proposals that meet all criteria.

The range of funding for each award will be from $50,000 to $250,000, for research of up to two years duration, with preferences being given to projects budgeted toward the lower end of the range.

In order to be eligible for funding under this program solicitation, eight copies of the proposal must be postmarked no later than midnight, June 26, 1981.

Copies of the solicitation and further information about the program may be obtained by calling or writing: W. Jay Merrill, Office of Program Evaluation, National Institute of Justice, 633 Indiana Avenue N.W., Washington, D.C. 20531, (301) 492-9085.

David I. Tevelin,

Acting General Counsel.

[FR Doc. 81-12673 Filed 4-27-81; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Employment and Training Administration

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same areas.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the

determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Administrator, Employment and Training Administration, 601 D Street, N.W., Washington, D.C. 20213.

Signed at Washington, D.C. this 23rd day of April 1981.

Luis Sepulveda,

Acting Director, Office of Program Services.

Applications Received During the Week Ending Apr. 25, 1981

Name of applicant and location of enterprise	Principal product or activity
Collins Industries, Inc., Hutchinson, Kansas.	Manufacturer of buses, ambulances, fire apparatus and special products for the handicapped.
Northland Recreation, Inc., Flagstaff, Arizona, and Beaver, Utah.	Recreation ski facilities.

[FR Doc. 81-12739 Filed 4-27-81; 8:45 am]

BILLING CODE 4510-30-M

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 81-33; Exemption Application No. D-649]

Exemption From the Prohibitions for Certain Transactions Involving the Evergreen Industries, Inc., Profit Sharing Trust Located in Lynnwood, Washington

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption exempts a certain lease of equipment by the Evergreen Industries, Inc. Profit Sharing Trust (the Plan) to Evergreen Industries, Inc. (the Employer), and the subsequent sale of the equipment by the Plan to the Employer. The lease was entered into before the effective date of the Employee Retirement Income Security Act of 1974 (the Act), but after July 1, 1974, the date specified in the transition rules contained in sections 414 and 2003 of the Act.

EFFECTIVE DATE: This exemption is effective January 1, 1975 with respect to the lease and October 28, 1979 with respect to the sale.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On March 6, 1981, notice was published in the **Federal Register** (46 FR 15611) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for transactions described in an application filed on behalf of the Employer. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has complied with the requirements of the notice to interested persons as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

This application was filed with both the Department and the Internal Revenue Service. However, the notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the leasing by the Plan to the Employer of a Hitachi Seiki Numerical Control Machining Center (the Machine), from January 1, 1975 until October 28, 1979, for the rental amount stated in the lease, provided the rental payments were no less than the fair rental value of the Machine and to the sale of the Machine by the Plan to the Employer on October 28, 1979, for $80,000, provided such amount was not less than the fair market value of the Machine at the time of the sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application

accurately describes all material terms of the transactions which are the subject of this exemption.

Signed at Washington, D.C., this 22nd day of April 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 81-12736 Filed 4-27-81; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 81-34; Exemption Application Nos. D-1938 and D-1942].

Exemption From the Prohibitions for Certain Transactions Involving the Filtrex, Inc., Employees' Money Purchase Pension Plan and Profit Sharing Plan Located in Hayward, California

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption permits the sale of a certain parcel of real property by the Filtrex, Inc. Employees' Money Purchase Pension Plan and Profit Sharing Plan (the Plans) to Filtrex, Inc. (the Employer).

FOR FURTHER INFORMATION CONTACT: Mr. Elliot Arditti of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On March 6, 1981, notice was public in the Federal Register (46 FR 15612 of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Employee Retired Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the sale of a parcel of property by the Plans to the Employer. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicants have represented the notification requirements set forth in the notice of pendency have been complied with. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plans and their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plans.

Accordingly the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the cash sale of a parcel of real property, located at 1945 Alpine Way, Hayward, California, by the Plans to the Employer for a purchase price of $85,000, provided that this sales price is not less than the fair market value at the date of sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 22nd day of April 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 81-12737 Filed 4-27-81; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 81-35; Exemption Application No. D-2389]

Exemption From the Prohibitions for Certain Transactions Involving Merrill Lynch Realty Management, Inc., Located in New York City, New York

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption, which is effective as of February 2, 1981, permits certain aspects of the proposed provision of real estate services by Merril Lynch Realty Management, Inc. (Merrill Lynch Realty) and its affiliates to banking and other financial institutions with trust powers (Banking Institutions) maintaining collective investment funds in which employee benefit plans invest.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S.

Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On March 3, 1981, notice was published in the **Federal Register** (46 FR 15009) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(b) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (E) and (F) of the Code, for certain aspects of the proposed provision of real estate services by Merrill Lynch Realty and its affiliates to Banking Institutions maintaining collective investment funds in which employee benefit plans invest. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for, a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any intrested person might submit a written request that a public hearing be held relating to this exemption. The applicant commented that in paragraph 6 of the Summary of Facts in the notice of pendency the statement is made that "If Merrill Lynch Realty is presented with Investment Guidelines it deems to be inappropriate, Merrill Lynch Realty will suggest that the banking institution retain the services of another broker in lieu of Merrill Lynch Realty." The applicant noted that the appropriate representation should read "If Merrill Lynch Realty is presented with Investment Guidelines it deems to be inappropriate, Merrill Lynch Realty will suggest that the banking institution retain the services of a non-affiliated entity for assistance." The Department approves the substitution of "non-affiliated entity" for "broker" as it has determined that the main concern in this regard is that such entity will not be an affiliate of Merrill Lynch Realty. Accordingly, such change will be incorporated into this final grant. The applicant also commented to the effect that in the application it represented "that Merrill Lynch Realty Management is a wholly-owned subsidiary of Merrill Lynch Hubbard Inc., which is wholly-owned subsidiary of Merrill Lynch & Co." However, in the very near future, Merrill Lynch Realty Management will become a wholly-owned subsidiary of Merrill Lynch Realty Associates, which is also a wholly-owned subsidiary of Merrill Lynch & Co. The Department notes this change and incorporates such into this final grant. No other comments were received by the Department. No requests for a hearing were received by the Department. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties repecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(a) of the Act and section 4975(c)(1)(A) through (D) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rule. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the plans and of its participants and beneficiaries; and

(c) It is protective of the rights of the particiants and beneficiaries of the plans.

Accordingly the restrictions of section 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(E) through (E) of the Code, effective February 2, 1981 shall not apply to the provision of real estate brokerage services as described in the notice of pendency and the receipt of commission with respect to such services by Merrill Lynch Realty and its affiliates.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 23rd day of April 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 81-12738 Filed 4-27-81; 8:45 am]

BILLING CODE 4510-29-M

Office of the Secretary

[TA-W-8744]

Alma Products Co.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 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 June 16, 1980, in response to a petition which was filed by the Oil, Chemical and Atomic Workers International Union on behalf of workers at Alma Products Company, Alma, Michigan. Workers at the firm produce and remanufacture clutch pressure plates, clutch discs, and torque converters.

The investigation revealed that with respect to workers producing clutch pressure plates, clutch discs, and torque converters, criterion 3 has not been met.

Petitioners allege that imports of automobiles have contributed importantly to declines in sales, production and employment at Alma Products Company. Although imported automobiles incorporate clutch pressure plates, clutch discs, and torque converters, imports of the whole product are not like or directly competitive with their component parts. Imports of the specific products must be considered in determining import injury to workers producing clutch pressure plates, clutch discs, and torque converters at Alma Products Company.

Preliminary estimates indicate that imports of clutch pressure plates were insignificant relative to domestic production in 1979 and 1980.

Alma Products' sales and production of clutch pressure plates increased in 1979 compared with 1978, and increased during the first half of 1980 compared with the same period in 1979. Quarterly variations in sales and production levels are due to normal business fluctuations.

Clutch discs and torque converters were not imported significantly by customers of Alma Products during the period under investigation. Alma Products' major customers responded to a Department survey indicating they did not purchase imported torque converters and that their purchases of imported clutch discs were insignificant in the context of their total demand for clutch discs.

The investigation revealed that workers engaged in remanufacturing operations do not produce an article within the meaning of section 222(3) of the Act. The Department of Labor has consistently determined that the performance of services does not constitute the production of an article as required by section 222; this determination has been upheld by the U.S. Court of Appeals. Therefore workers engaged in remanufacturing may be certified only if their separation was caused importantly by a reduced demand for their services by a parent firm, a firm otherwise related to the subject firm by ownership, or a firm related by control. In any case the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must be directly related to the product impacted by imports. These conditions have not been met for workers engaged in remanufacturing in this case.

Conclusion

After careful review, I determine that all workers of Alma Products Company, Alma, Michigan are denied eligibility to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of April 1981.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 81-12705 Filed 4-27-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-10,168]

Ambroson Gloves, Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 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. It is determined in this case that all of the requirements have been met.

The investigation was initiated on August 18, 1980 in response to a petition which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers at Ambroson Gloves, Incorporated, Gloversville, New York. The workers produce sport and dress gloves.

U.S. imports of dress gloves and mittens increased relative to domestic production during every year from 1975 through 1979. U.S. imports of sport gloves increased both absolutely and relative to domestic production during every year from 1976 through 1979.

A survey of manufacturers for whom Ambroson has performed work on a contract basis was conducted by the Department. Survey results revealed that a major manufacturer reduced contract work with Ambroson while increasing contract work with foreign firms during 1979 compared to 1978 and during 1980 compared to 1979. An additional manufacturer reduced contracts with Ambroson and increased foreign contracts during 1979 compared to 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with sport and dress gloves produced at Ambroson Gloves, Incorporated, Gloversville, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certifications:

All workers of Ambroson Gloves, Incorporated, Gloversville, New York who became totally or partially separated from employment on or after October 1, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of April 1981.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 81-12706 Filed 4-27-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8866, 8968, 8968A and 8968B]

Anderson-Bolling Manufacturing Co.; Negative Determination Regarding Application for Reconsideration

By letter dated March 10, 1981, the petitioner requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of former workers producing automotive stampings at Anderson-Bolling Manufacturing Company's Spring Lake, Michigan plant, and at the North and Elcona plants in Goshen, Indiana. It was further requested that the impact date for workers who were certified at the South (store fixture) plant in Goshen, Indiana (TA-W-8986B) be reset to an earlier date. The

determinations were published in the **Federal Register** on February 27, 1981 (46 FR 14501).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) if it appears on the basis of facts not previously considered that the determination complained or was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or,

(3) if, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the determination.

The petitioner claims that bumping occurs between the company's automotive metal stamping plants and the store fixture plant according to seniority, based on job classifications rather than on departments. Since the company does not keep records indicating work assignments on a day-to-day basis, according to the petitioner, "there is no way of knowing where people were working on the date of layoff." The petitioner further contends that two of Anderson-Bolling's major customers transferred several "job lots" to Canada and Mexico, causing a decrease in production and employment, and finally, that the impact date applied in the certification of the store fixture plant (South Plant, Goshen, Indiana, TA-W-8968B) was erroneously determined.

The Department's review of the investigative file shows that customers buying automotive metal stampings did not import a substantial number of metal stamping types. With regard to those types of metal stampings which customers imported, most of the stampings were purchased in decreasing amounts in model year 1980 and model year 1981 compared to model year 1979 and model year 1980, respectively. The stampings which were purchased in increasing amounts from foreign sources and decreasing amounts from domestic sources represented a small percentage of Anderson-Bolling's sales. Secondly, U.S. imports of automobile frames and frame parts decreased both absolutely and relative to domestic production from model year 1979 to model year 1980, and U.S. imports of light truck frames and frame parts decreased absolutely from model year 1979 to model year 1980. The ratio of U.S. imports of grilles to total U.S. production was less than four percent in each model year 1978 through model year 1980.

With respect to the company's lack of record keeping of employees' work assignments and bumping procedures on a day-to-day basis between the several plants, the Department has issued guidelines for interpreting certifications. The Employment and Training Administration has issued instructions on how to handle bumping cases. The determination of worker eligibility must be decided by the respective state employment service offices using company employment records. Concerning the petitioner's claim that two of its major customers transferred several "job lots" to plants in Canada and Mexico, such transfers would have been reflected in the results of the Department's original customer survey, assuming that these completed "job lot" products were returned to the U.S. as imports.

Regarding the impact date which the petitioner requested to be set prior to the July 15, 1980 date previously established by the Department for workers certified at Anderson-Bolling's South (store fixture) plant in Goshen, Indiana (TA-W-8968B), it is recommended that the impact date remain unchanged because some layoffs at this plant are the result of bumping from other company plants. Further, sales and employment at the South plant increased in 1979 compared to 1978 and increased in the second quarter of 1980 compared to the same quarter in 1979.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decisions. The application is, therefore, denied.

Signed at Washington, D.C. this 21st day of April 1981.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 81-12707 Filed 4-27-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9771]

Cotton Plant Apparel Co., Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 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. It is determined in this case that all of the requirements have been met.

The investigation was initiated on August 4, 1980 in response to a petition which was filed on behalf of workers at Cotton Plant Apparel Co., Inc., Cotton Plant, Arkansas. The workers produce primarily ladies' knit tops and tee shirts.

U.S. imports of women's, misses' and children's blouses and shirts (including knit tops and tee shirts) increased absolutely in 1980 compared to 1979.

The Department conducted a survey of customers representing a large percentage of total sales at Cotton Plant Apparel co., Inc. The survey revealed that major customers which decreased their purchases from Cotton Plant Apparel Co., Inc., in the January through November period of 1980 compared to the same period of 1979, increased their purchases of imported knit tops and tee shirts on both an absolute basis and relative to their total purchases in this same time period.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' knit tops and tee shirts produced at Cotton Plant Apparel Co., Inc., Cotton Plant, Arkansas contributed importantly to the decline in sales or production and to the total or partial separation of workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Cotton Plant Apparel Co., Inc., Cotton Plant, Arkansas, who became totally or partially separated from employment on or after February 15, 1980 and on or before July 31, 1980 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of April 1981.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 81-12708 Filed 4-27-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8600 and 9193]

Gould, Inc., Elastomer Products Division; Negative Determination Regarding Application for Reconsideration

By an application dated March 27, 1981, one of the petitioners requested administrative reconsideration of the Department of Labor's Negative

Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers producing automotive bushings at Gould's Elastomer Products Division plants at Napoleon, Ohio and Milan, Ohio. The determination was published in the **Federal Register** on February 27, 1981 (46 FR 14495).

Pursuant to 29 CFR 29.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) it it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) if, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

One of the petitioners claimed that production from Napoleon and Milan, Ohio is being transferred to Gould's plant in Canada. Petitioner also claims unequal treatment since workers at Ford component plant do not have to show that their worker separations are related to imports of component parts. A corollary claim by the petitioner is that Gould's customers, many of whom have workers certified for trade adjustment assistance, own the molds or patents on Gould's production. Lastly, petitioner claims that imports of Japanese autos and trucks have caused worker separations and a decline in production at Milan and Napoleon.

The Department's review showed that the worker petition did not meet the "contributed importantly" test of the Trade Act of 1974. The Department's survey of Gould's customers of bushings, which represented a preponderant portion of their model years 1979 and 1980 sales, showed that they did not increase their import reliance of busings.

The Department's rationale for certifying Ford component workers and denying certification for Gould component workers is that Ford component plants are a part of the Ford Motor Company and as such the Ford Motor Company is the "workers' firm" and also because their production is integrated into the production of automobiles at Ford where the Secretary of Labor was able to determine that imports of autos are related to worker separations. Workers at Gould, however, belong to an independent company which produces component parts for autos. Although autos incorporate component parts, such as busings, imports of the final product (autos) are not like or directly competitive with their component parts within the meaning of the Act. The courts have sustained this position in *United Shoe Workers of America, AFL-CIO*, v. *Bedell*, 506 F 2d 174 (D.C. Cir., 1974).

The issue of the transfer of production to Canada concerns only the workers at the Napoleon plant since the record indicates that none of Milan's production (rubber components to the bushings) was transferred. The Department notes that there was always a small interchange of production between Napoleon and St. Thomas in order to better utilize the skills and resources of the division. However, this interchange of production is very small. The St. Thomas plant did not make the rubber components to the bushing but received these parts from Milan.

The Department notes that since increased imports of like or directly competitive component parts (automotive bushings) did not contribute importantly to their layoffs, the only for workers at Gould's plants at Milan and Napoleon, Ohio to obtain certification is if one of their customers, Ford, General Motors or Chrysler, is the "workers' firm" within the meaning of the Trade Act of 1974. One of the customers may be determined to be the "workers' firm" if one is related to Gould by ownership or control or if the workers are *de facto* employees of Ford, General Motors or Chrysler. However, Ford, General Motors or Chrysler is not the "workers' firm" under either test. The workers at Gould Corporation, being an independent firm, are not *de facto* employees of Ford, General Motors or Chrysler since all payroll transactions personnel actions and employee benefits are under the control of Gould. The fact that Gould's customers may own the molds or patents is not sufficient to support a determination that they are the "workers' firm".

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C. this 21st day of April 1981.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 81-12709 Filed 4-27-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-10,280]

Mississippi Valley Structural Steel Co.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 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 absolute decline in sales or production.

The investigation was initiated on August 18, 1980 in response to a petition which was filed by the Teamsters on behalf of workers at the St. Louis, Missouri plant of the Mississippi Valley Structural Steel Company. Workers at the St. Louis plant produce fabricated structural steel.

The investigation revealed that criterion (3) has not been met.

Sales, production and employment increased at the St. Louis, Missouri plant of the Mississippi Valley Structural Steel Company in 1979 compared to 1978, before declining in 1980 compared to 1979.

The petitioners allege that a fabrication contract on which Mississippi Valley bid in 1980 was awarded to a foreign firm, and that the loss of tis contract contributed importantly to declines in sales or production and to loss of employment at Mississippi Valley's St. Louis plant. The investigation revealed that the Mississippi Valley Structural Steel Company was not the highest ranked domestic bidder on the contract.

Conclusion

After careful review, I determine that all workers of the St. Louis, Missouri plant of the Mississippi Valley Structural Steel Company are denied eligibility to apply for adjustment

assistance under section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of April 1981.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 81-12710 Filed 4-27-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-10,402]

Peerless Gage, Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 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 August 25, 1980 in response to a petition which was filed by the United Automobile, Aerospace and Agricultural Implement Workers of America on behalf of workers at Peerless Gage, Incorporated, Livonia, Michigan. Workers at the plant produce tooling devices including gages, fixtures, and jigs.

The investigation revealed that criterion (3) has not been met.

Peerless Gage, Incorporated produces tooling devices that are used by the automobile industry for the machining of component parts. Petitioners allege that increased imports of automobiles contributed importantly to the decline in sales, production and employment at Peerless Gage, Incorporated. Although tooling devices are utilized in the production of imported automobiles, imports of automobiles are not like or directly competitive with tooling devices. Imports of tooling devices must be considered in determining import injury to workers producing tooling devices at Peerless Gage, Incorporated.

U.S. imports of jigs and fixtures were negligible in relation to domestic shipments in the years 1975 through 1979.

Sales and production of tooling devices at Peerless Gage, Incorporated increased in 1979 compared with 1978 and in 1980 compared with 1979.

Conclusion

After careful review, I determine that all workers of Peerless Gage, Incorporated, Livonia, Michigan are denied eligibility to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of April 1981.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 81-12711 Filed 4-27-81; 8:45 am]

BILLING CODE 4510-28-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Mathematical and Computer Sciences; Subcommittee for Computer Science; Notice of Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee for Computer Science of the Advisory Committee for Mathematical and Computer Sciences
Date and time: May 27, 28 and 29, 1981—9:00 a.m. each day
Place: Rooms 642 and 540, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550
Type of meeting: Part Open—5/27 Closed—9:00 a.m. to 5:00 p.m.
5/28 Open—9:00 a.m. to 3:00 p.m.
5/28 Closed—3:00 p.m. to 5:00 p.m.
5/29 Open—9:00 a.m. to 3:00 p.m.
Contact person: Mr. Kent K. Curtis, Head, Computer Science Section, Room 339, National Science Foundation, Washington, D.C. 20550 Telephone: (202) 357-9747. Anyone planning to attend this meeting should notify Mr. Curtis no later than 5/18/81
Purpose of subcommittee: To provide advice and recommendations concerning support for research in Computer Science
Agenda: *Wednesday, May 27, 1981—9:00 a.m. to 5:00 p.m.—Closed*

Review and comparison of declined proposals (and supporting documentation) with successful awards under the Computer Science Research Equipment Program and the Intelligent Systems Program, including review of peer review materials and other privileged material.

Preparation of reports based upon the above reviews.

Thursday, May 28, 1981—9:00 a.m. to 1:00 p.m.—Open

9:00 a.m.—Welcome, Mr. Kent K. Curtis
9:15 a.m.—NSF Research Support Policies and Budgets, Dr. William Klemperer, AD/MPS
10:00 a.m.—Coordinated Experimental Research, Dr. W. Richards Adrion
10:45 a.m.—Computer Science Research Network, Dr. C. William Kern
11:30 a.m.—New Investigators Program and Postdoctoral Program, Dr. Bruce H. Barnes
12:00 Noon—Computer Engineering Program, Dr. Bernard Chern
1:00 p.m.—Box Lunch, Discussion of Research Support Issues in Computer Science

Thursday, May 28, 1981—3:00 p.m. to 5:00 p.m.—Closed

3:00 p.m.—Oversight Review and New Directions for Computer Science Research Equipment
4:00 p.m.—Oversight Review and New Directions for Intelligent Systems

Friday, May 29, 1981—9:00 to 3:00 p.m.—Open

9:00 a.m.—Joint meeting with Advisory Subcommittee for Mathematical Sciences to discuss cryptology issues.
12:00 Noon—Lunch
1:00 p.m.—Committee Business, Dr. Jack Minker
2:00 p.m.—Chairman's Items, Dr. Jack Minker
3:00 p.m.—Adjourn

Reason for closing: The Subcommittee will be reviewing grants and declination jackets which contain the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This session will also include a review of the peer review documentation pertaining to applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer delegated the authority to make such determinations by the Acting Director, NSF on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

April 23, 1981.

[FR Doc. 81-12632 Filed 4-27-81; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Social and Economic Science; Subcommittee for Geography and Regional Science; Notice of Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science

Foundation announces the following meeting:

Name: Subcommittee for Geography & Regional Science of the Advisory Committee for Social and Economic Science
Date/time: May 18, 1981; 8:30 a.m. to 5:00 p.m.
Place: Room 523, National Science Foundation, 1800 G Street, N.W., Washington, D.C.
Type of Meeting: Closed
Contact person: Dr. Barry M. Moriarty, Program Director, Geography & Regional Science, Room 312, National Science Foundation, Washington, D.C. 20550; telephone (202) 357-7326
Purpose of subcommittee: To provide advice and recommendations concerning support for research in Geography and Regional Science
Agenda: Closed portion: To review and evaluate research proposals and projects as part of the selection process for awards
Reason for closing: The proposals being reviewed include information of a proprietry or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b (c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub .L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator

April 23, 1981.

[FR Doc. 81-12693 Filed 4-27-81; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-368]

Arkansas Power and Light Co. (Arkansas Nuclear One, Unit No. 2); Order for Modification of License

I

The Arkansas Power and Light Company (the licensee) holds Facility Operating License No. NPF-6, which authorizes the licensee to operate the Arkansas Nuclear One Unit No. 2 (the facility) at power levels not in excess of 2815 megawatts (thermal) rated power. The facility, which is located at the licensee's site in Pope County, Arkansas is a pressurized water reactor (PWR) used for the commercial generation of electricity.

II

The Reactor Safety Study (RSS), WASH-1400, identified in a PWR an inter-system loss of coolant accident (LOCA) which is a significant contributor to risk of core melt accidents (Event V). The design examined in the RSS contained in-series check valves isolating the high pressure Primary Coolant System (PCS) from the Low Pressure Injection System (LPIS) piping. The scenario which leads to the Event V accident is initiated by the failure of these check valves to function as a pressure isolation barrier. This causes an overpressurization and rupture of the LPIS low pressure piping which results in a LOCA that bypasses containment.

In order to better define the Event V concern, all light water reactor licensees were requested by letter dated February 23, 1980, to provide the following in accordance with 10 CFR 50.54(f):

1. Describe the valve configurations and indicate if an Event V isolation valve configuration exists within the Class I boundary of the high pressure piping connecting PCS piping to low pressure system piping; e.g., (1) two check valves in series, or (2) two check valves in series with a motor operated valve (MOV);

2. If either of the above Event V configurations exist, indicate whether continuous surveillance or periodic tests are being performed on such valves to ensure integrity. Also indicate whether valves have been know, or found, to lack integrity; and

3. If either of the above Event V configurations exist, indicate whether plant procedures should be revised or if plant modifications should be made to increase reliability. In addition to the above, licensees were asked to perform individual check valve leak testing prior to plant startup after the next scheduled outage.

By letter dated March 24, 1980, the licensee responded to our February letter. Based upon the NRC review of this response as well as the review of previously docketed information for your facility, I have concluded in consonance with the attached Safety Evaluation (Attachment 1) that one or more valve configuration(s) of concern exist at the facility. The attached Technical Evaluation Report (TER) (Attachment 2) provides, in Section 4.0, a tabulation of the subject valves.

The staff's concern has been exacerbated due not only to the large number of plants which have an Event V configuration(s) but also because of recent unsatisfactory operating experience. Specifically, two plants have leak tested check valves with unsatisfactory results. At Davis-Besse, a pressure isolation check valve in the LPIS failed and the ensuing investigation found that valve internals had become disassembled. At the Sequoyah Nuclear Plant, two Residual Heat Removal (RHR) injection check valves and one RHR recirculation check valve failed because valves jammed open against valve over-travel limiters.

It is, therefore, apparent that when pressure isolation is provided by two in-series check valves and when failure of one valve in the pair can go undetected for a substantial length of time, verification of valve integrity is required. Since these valves are important to safety, they should be tested periodically to ensure low probability of gross failure. As a result, I have determined that periodic examination of check valves must be undertaken by the licensee as provided in Section III below to verify that each valve is seated properly and functioning as a pressure isolation device. Such testing will reduce the overall risk of an inter-system LOCA. The testing mandated by this Order may be accomplished by direct volumetric leakage measurement or by other equivalent means capable of demonstrating that leakage limits are not exceeded in accordance with Section 2.2 of the attached TER.

In view of the operating experiences described above and the potential consequences of check valve failure, I have determined that prompt action is necessary to increase the level of assurance that multiple pressure isolation barriers are in place and will remain intact. Therefore, the public health, safety and interest require that this modification of Facility Operating License No. NPF-6 be immediately effective.

III

Accordingly, pursuant to Section 161i of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered that effective immediately, Facility Operating License No. NPF-6 is modified by the addition of the following requirements:

1. Implement Technical Specifications (Attachment 3) which require periodic surveillance over the life of the plant and which specify limiting conditions for operation for PCS pressure isolation valves.

2. If check valves have not been (a) individually tested within 12 months preceding the date of this Order, and (b) found to comply with the leakage rate criteria set forth in the Technical Specifications described in Attachment 3, the MOV in each line shall be closed within 30 days of the effective date of this Order and quarterly Inservice

Inspection (ISI) MOV cycling ceased until the check valve tests have been satisfactorily accomplished. (Prior to closing the MOV, procedures shall be implemented and operators trained to assure that the MOV remains closed. Once closed, the MOV shall be tagged closed to further preclude inadvertent valve opening).

3. The MOV shall not be closed as indicated in paragraph 2 above unless a supporting safety evaluation has been prepared. If the MOV is in an emergency core cooling system (ECCS), the safety evaluation shall include a determination as to whether the requirements of 10 CFR 50.46 and Appendix K to 10 CFR Part 50 will continue to be satisfied with the MOV closed. If the MOV is not in an ECCS, the safety evaluation shall include a determination as to whether operation with the MOV closed presents an unreviewed safety question as defined in 10 CFR 50.59(a)(2). If the requirements of 10 CFR 50.46 and Appendix K have not been satisfied, or if an unreviewed safety question exists as defined in 10 CFR 50.59, then the facility shall be shut down within 30 days of the date of this Order and remain shutdown until check valves are satisfactorily tested in accordance with the Technical Specifications set forth in Attachment 3.

4. The records of the check valve tests required by this Order shall be made available for inspection by the NRC's Office of Inspection and Enforcement.

IV

The licensee or any other person who has an interest affected by this Order may request a hearing on this Order on or before May 26, 1981. A request for hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request shall also be sent to the Executive Legal Director at the same address, and to Nick Reynolds, Esq., DeBevoise & Liberman, 1200 Seventeenth Street, N.W., Washington, D.C. 20036 attorney for the licensee. If a hearing is requested by a person other than the licensee, that person shall describe, in accordance with 10 CFR 2.714(a)(2), the manner in which his or her interest is affected by this Order. Any request for a hearing shall not stay the immediate effectiveness of this Order.

If a hearing is requested by the licensee or other person who has an interest affected by this Order, the Commission will issue an order designating the time and place of any such hearing. If a hearing is held, the issues to be considered at such a hearing shall be:

(a) Whether the licensee should be required to individually leak test check valves in accordance with the Technical Specifications set forth in Attachment 3 to this Order.

(b) Whether the actions required by Paragraphs 2 and 3 of section III of this Order must be taken if check valves have not been tested within 12 months preceding the date of this Order.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on this Order. In the event that a need for further action becomes apparent, either in the course of procedings on this Order or any other time, the Director will take appropriate action.

Effective Date: This 20th day of April, 1981. Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

Attachments:

1. Safety Evaluation Report
2. Technical Evaluation Report
3. Technical Specifications

Attachments are available in the NRC Public Documents Rooms.

[FR Doc. 81-12701 Filed 4-27-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-335]

Florida Power and Light Co. (St. Lucie Nuclear Power Plant, Unit No. 1); Order for Modification of License

I

The Florida Power and Light Company (the licensee) holds Facility Operating License No. DPR-67, which authorizes the licensee to operate the St. Lucie Nuclear Power Plant, Unit No. 1 (the facility) at power levels not in excess of 2560 megawatts (thermal) rated power. The facility, which is located at the licensee's site in St. Lucie County, Florida is a pressurized water reactor (PWR) used for the commercial generation of electricity.

II

The Reactor Safety Study (RSS), WASH-1400, identified in a PWR an inter-system loss of coolant accident (LOCA) whch is a significant contributor to risk of core melt accidents (Event V). The design examine in the RSS contained in-series check valves isolating the high pressure Primary Coolant System (PCS) from the Low Pressure Injection System (LPIS) piping. The scenario which leads to the Event V accident is intitiated by the failure of these check valves to function as a pressure isolation barrier. This causes an overpressurization and rupture of the LPIS low pressure piping which results in a LOCA that bypasses containment.

In order to better define the Event V concern, all light water reactor licensees were requested by letter dated February 23, 1980, to provide the following in accordance with 10 CFR 50.54(f):

1. Describe the valve configurations and indicate if an Event V isolation valve configuration exists within the Class I boundary of the high pressure piping connecting PCS piping to low pressure system piping; e.g., (1) two check valves in series, or (2) two check valves in series with a motor operated valve (MOV);

2. If either of the above Event V configurations exist, indicate whether continuous surveillance or periodic tests are being performed on such valves to ensure intergrity. Also indicate whether valves have been known, or found, to lack integrity; and

3. If either of the above Event V configurations exist, indicate whether plant procedures should be revised or if plant modifications should be made to increase reliability.

In addition to the above, licensees were asked to perform individual check valve leak testing prior to plant startup after the next scheduled outage.

By letter dated March 17, 1980, you responded to our February letter. Based upon the NRC review of this response as well as the review of previously docketed information for your facility, I have concluded in consonance with the attached Safety Evaluation (Attachment 1) that one or more valve configuration(s) of conern exist at the facility. The attached Technical Evaluation Report (TER) (Attachment 2) provides, in Section 4.0, a tabulation of the subject valves.

The staff's concern has been exacerbated due not only to the large number of plants which have an Event V configuration(s) but also because of recent unsatisfactory operating experience. Specifically, two plants have leak tested check valves with unsatisfactory results. At Davis-Besse, a pressure isolation check valve in the LPIS failed and the ensuing investigation found that valve internals has become disassembled. At the Sequoyah Nuclear Plant, two Residual Heat Removal (RHR) injection check valves and one RHR recirculation check valve failed because valves jammed open against valve over-travel limiters.

It is, therefore, apparent that when pressure isolation is provided by two in-series check valves and when failure of one valve in the pair can go undetected for a substantial length of time, verification of valve integrity is

required. Since these valves are important to safety, they should be tested periodically to ensure low probability of gross failure. As a result, I have determined that periodic examination of check valves must be undertaken by the licensee as provided in Secton III below to verify that each valve is seated properly and functioning s a pressure isolation device. Such testing will reduce the overall risk of an inter-system LOCA. The testing mandated by this Order may be accomplished by direct volumetric leakage measurement or by other equivalent means capable of demonstrating that leakage limits are not exceeded in accordance with Section 2.2 of the attached TER.

In view of the operating experiences described above and the potential consequences of check valve failure, I have determined that prompt action is necessary to increase the level of assurance that multiple pressure isolation barriers are in place and will remain intact. Therefore, the public health, safety and interest require that this modification of Facility Operating License No. DPR-67 be immediately effective.

III

Accordingly, pursuant to Section 161i of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, It is hereby ordered that effective immediately, Facility Operating License No. DPR-67 is modified by the addition of the following requirements:

1. Implement Technical Specifications (Attachment 3) which require periodic surveillance over the life of the plant and which specify limiting conditions for operation for PCS pressure isolation valves.

2. If check valves have not been (a) individually tested within 12 months preceding the date of this Order, and (b) found to comply with the leakage rate criteria set forth in the Technical Specifications described in Attachment 3 the MOV in each line shall be closed within 30 days of the effective date of this Order and quarterly Inservice Inspection (ISI) MOV cycling ceased until the check valve tests have been satisfactorily accomplished. (Prior to closing the MOV, procedures shall be implemented and operators trained to assure that the MOV remains closed. Once closed, the MOV shall be tagged closed to further preclude inadvertent valve opening).

3. The MOV shall not be closed as indicated in paragraph 2 above unless a supporting safety evaluation has been prepared. If the MOV is in an emergency core cooling system (ECCS), the safety evaluation shall include a determination as to whether the requirements of 10 CFR 50.46 and Appendix K to 10 CFR Part 50 will continue to be satisfied with the MOV closed. If the MOV is not in an ECCS, the safety evaluation shall include a determination as to whether operation with the MOV closed presents an unreviewed safety question as defined in 10 CFR 50.59(a)(2). If the requirements of 10 CFR 50.46 and Appendix K have not been satisfied, or if an unreviewed safety question exists as defined in 10 CFR 50.59, then the facility shall be shut down within 30 days of the date of this Order and remain shutdown until check valves are satisfactorily tested in accordance with the Technical Specifications set forth in Attachment 3.

4. The records of the check valve tests required by this Order shall be made available for inspection by the NRC's Office of Inspection and Enforcement.

IV

The licensee or any other person who has an interest affected by this Order may request a hearing on this Order on or before May 26, 1981. A request for hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request shall also be sent to the Executive Legal Director at the same address, and to Robert Lowenstein, Esq., Lowenstein, Newman, Reis and Alexrad, 1025 Connecticut Avenue, N.W., Washington, D.C. 20036 attorney for the licensee. If a hearing is requested by a person other than the licensee, that person shall describe, in accordance with 10 CFR 2.714(a)(2), the manner in which his or her interest is affected by this Order. Any request for a hearing shall not stay the immediate effectivenss of this order.

If a hearing is requested by the licensee or other person who has an interest affected by this Order, the Commission will issue an order designating the time and place of any such hearing. If a hearing is held, the issues to be considered at such a hearing shall be:

(a) Whether the licensee should be required to individually leak test check valves in accordance with the Technical Specifications set forth in Attachment 3 to this Order.

(b) Whether the actions required by Paragraphs 2 and 3 of section III of this Order must be taken if check valves have not been tested within 12 months preceding the date of this Order.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on this Order. In the event that a need for further action becomes apparent, either in the course of proceedings on this Order or any other time, the Director will take appropriate action.

Effective Date: This 20th day of April, 1981. Bethesda, Maryland.

Attachments:

1. Safety Evaluation Report
2. Technical Evaluation Report
3. Technical Specifications

Attachments are available in the NRC Public Document Rooms.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 81-12702 Filed 4-27-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-250 and 50-251]

Florida Power and Light Co.; Issuance of Amendment to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 64 to Facility Operating License No. DPR-31, and Amendment No. 56 to Facility Operating License No. DPR-41 issued to Florida Power and Light Company (the licensee), which revised Technical Specifications for operation of Turkey Point Plant, Unit Nos. 3 and 4 (the facilities) located in Dade County, Florida. The amendments are effective as of the date of issuance.

The amendments update the Technical Specifications Table 4.2-1 (7.1) Reactor Coolant Pump Flywheel inservice inspection to conform to Regulatory Guide 1.14, Section XI of the ASME Code and the Standard Review Plan.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in

connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated March 5, 1981, (2) Amendment Nos. 64 and 56 to License Nos. DPR-31 and DPR-41, and (3) the Commission's letter dated April 16, 1981. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33190. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 16th day of April 1981.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 81-12093 Filed 4-27-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-250, 50-251]

Florida Power and Light Co. (Turkey Point Plant, Units 3 and 4); Order for Modification of Licenses

I

The Florida Power and Light Company (the licensee) holds Facility Operating License Nos. DPR-31 and DPR-41 which authorizes the licensee to operate the Turkey Points Units 3 and 4 at power levels not in excess of 2200 megawatts thermal rated power. The licenses were originally issued on July 19, 1972 and April 10, 1973 and both will expire on April 27, 2007. The facility, which is located at the licensee's site in Dade County, Florida, is a pressurized water reactor (PWR) used for the commercial generation of electricity.

II

The Reactor Safety Study (RSS), WASH-1400, identified in a PWR an intersystem loss of coolant accident (LOCA) which is a significant contributor to risk of core melt accidents (Event V). The design examined in the RSS contained in-series check valves isolating the high pressure Primary Coolant System (PCS) from the Low Pressure Injection System (LPIS) piping. The scenario which leads to the Event V accident is initiated by the failure of these check valves to function as a pressure isolation barrier. This causes an overpressurization and rupture of the LPIS low presure piping which results in a LOCA that bypasses containment.

In order to better define the Event V concern, all light water reactor licensees were requested by letter dated February 23, 1980, to provide the following in accordance with 10 CFR 50.54(f):

1. Describe the valve configurations and indicate if an Event V isolation valve configuration exists within the Class I boundary of the high pressure piping connecting PCS piping to low pressure system piping; e.g. (1) two check valves in series, or (2) two check valves in series with motor operated valve (MOV);

2. If either of the above Event V configurations exist, indicate whether continuous surveillance or periodic tests are being performed on such valves to ensure integrity. Also indicate whether valves have been known, or found, to lack integrity; and

3. If either of the above Event V configurations exist, indicate whether plant procedures should be revised or if plant modifications should be made to increase reliability.

In addition to the above, licensees were asked to perform individual check valve leak testing prior to plant startup after the next scheduled outage. By letter dated March 17, 1980, the licensee responded to our February letter. Based upon the NRC review of this response as well as the review of previously docketed information for the facility, I have concluded in consonance with the attached Safety Evaluation (Attachment 1) that one or more valve configuration(s) of concern exist at the facility. The attached Technical Evaluation Report (TER) (Attachment 2) provides, in Section 4.0 a tabulation of the subject valves.

The staff's concern has been exacerbated due not only to the large number of plants which have an Event V configuration(s) but also because of recent unsatisfactory operating experience. Specifically, two plants have leak tested check valves with unsatisfactory results. At Davis-Besse, a pressure isolation check valve in the LPIS failed and the ensuing investigation found that value internals had become disassembled. At the Sequoyah Nuclear Plant, Two Residual Heat Removal (RHR) injection check, valves and one RHR recirculation check valve failed because valves jammed open against valve over-travel limiters.

It is, therefore, apparent that when pressure islation is provided by two in-series check valves and when failure of one valve in the pair can go undetected for a substantial length of time, verification of valve integrity is required. Since these valves are important to safety, they should be tested periodically to ensure low probability of gross failure. As a result, I have determined that periodic examination of check valves must be undertaken by the licensee as provided in Section III below to verify that each valve is seated properly and functioning as a pressure isolation device. Such testing will reduce the overall risk of an intersystem LOCA. The testing mandated by this Oder may be accomplished by direct volumetric leakage measurement or by other equivalent means capable of demonstrating that leakage limits are exceeded in accordance with Section 2.2. of the attached TER.

In view of the operating experiences described above and the potential consequences of check valve failure, I have determined that prompt action is necessary to increase the level of assurance that multiple pressure isolation barriers are in place and will remain intact. Therefore, the public health, safety and interest require that this modification of Facility Operating License Nos. DPR-31 and DPR-41 be immediately effective.

III

Accordingly, pursuant to Section 161i of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered that effective immediately, Facility Operating License Nos. DPR-31 and DPR-41 is modified by the addition of the following requirements:

1. Implement Technical Specifications (Attachment 3) which require periodic surveillance over the life of the plant and which specify limiting conditions for operation for PCS pressure isolation valves.

2. If check valves have not been (a) individually tested within 12 months preceding the data of the Order, and (b) found to comply with the leakage rate criteria set forth in the Technical Specifications described in Attachment 3, the MOV in each line shall be closed within 30 days of the effective date of this Order and quarterly Inservice Inspection (ISI) MOV cycling ceased until the check valve tests have been satisfactorily accomplished. (Prior to closing the MOV, procedures shall be implemented and operators trained to assure that the MOV remains closed. Once closed, the MOV shall be tagged closed to further preclude inadvertent valve opening.)

3. The MOV shall not be closed as indicated in paragraph 2 above unless a supporting safety evaluation has been

prepared. If the MOV is in an emergency core cooling system (ECCS), the safety evaluation shall include a determination as to whether the requirements of 10 CFR 50.46 and Appendix K to 10 CFR Part 50 will continué to be satisfied with the MOV closed. If the MOV is not in an ECCS, the safety evaluation shall include a determination as to whether operation with the MOV closed presents an unreviewed safety question as defined in 10 CFR 50.59(a)(2). If the requirements of 10 CFR 50.46 and Appendix K have not been satisfied, or if an unreviewed safety question exists as defined in 10 CFR 50.59, then the facility shall be shut down within 30 days of the date of this Order an remain shutdown until check valves are satisfactorily tested in accordance with the Technical Specifications set forth in Attachment 3.

4. The records of the check valve tests required by this Order shall be made available for inspection by the NRC's Office of Inspection and Enforcement.

The licensee or any other person who has an interest affected by this Order may request a hearing on this Order on or before May 26, 1981. A request for hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request shall also be sent to the Executive Legal Director at the same address, and to Mr. Robert Lowenstein, Esquire, Lowenstein, Newman, Reis and Axelrad, 1025 Connecticut Avenue, NW, Suite 1214, Washington, DC 20036, attorney for the licensee. If a hearing is requested by a person other than the licensee, that person shall describe, in accordance with 10 CFR 2.714(a)(2), the manner in which his or her interest is affected by this Order. Any request for a hearing shall not stay the immediate effectiveness of this order.

If a hearing is requested by the licensee or other person who has an interest affected by this Order, the Commission will issue an order designating the time and place of any such hearing. If a hearing is held, the issues to be considered at such a hearing shall be:

(a) Whether the licensee should be required to individually leak test check valves in accordance with the Technical Specifications set forth in Attachment 3 to this Order.

(b) Whether the actions required by Paragraphs 2 and 3 of Section III of this Order must be taken if check valves have not been tested within 12 months preceding the date of this order.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on this Order. In the event that a need for further action becomes apparent, either in the course of proceedings on this Order or any other time, the Director will take appropriate action.

Effective Date: April 20, 1981, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

Attachments:

1. Safety Evaluation Report
2. Technical Evaluation Report
3. Technical Specifications

Attachments are available in the NRC Public Document Rooms.

[FR Doc. 81-12864 Filed 4-27-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-302]

Florida Power Corp., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued amendment No. 38 to Facility Operating License No. DPR-72, issued to the Florida Power Corporation, City of Alachua, City of Bushnell, City of Gainesville, City of Kissimmee, City of Leesburg, City of New Smyrna Beach and Utilities Commission, City of New Smyrna Beach, City of Ocala, Orlando Utilities Commission and City of Orlando, Sebring Utilities Commission, Seminole Electric Cooperative, Inc., and the City of Tallahassee (the licensees) which revised the Technical Specifications for operation of the Crystal River Unit No. 3 Nuclear Generating Plant (the facility) located in Citrus County, Florida. The amendment is effective as of the date of issuance.

This amendment revises the Technical Specifications to specify requirements consistent with Lessons Learned Category "A" requirements that resulted from our review at the Three Mile Island Unit No. 2 accident.

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 September 15, 1980, as revised December 31, 1980, (2) Amendment No. 38 to License No. DPR-72, 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 Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida 32629. 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 17th day of April, 1981.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 81-12866 Filed 4-27-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-282 and 50-306]

Northern States Power Co. (Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2); Order for Modification of Licenses

I

The Northern States Power Company, (the licensee) holds Facility Operating License Nos. DPR-42 and DPR-60, which authorize the licensee to operate the Prairie Island Generating Plant, Unit Nos. 1 and 2 (the facilities) at power levels not in excess of 1650 megawatts (thermal) rated power. The facilities, which are located at the licensee's site in Goodhue County, Minnesota are pressurized water reactors (PWR) used for the commercial generation of electricity.

II

The Reactor Safety Study (RSS), WASH-1400, identified in a PWR an intersystem loss of coolant accident (LOCA) which is a significant contributor to risk of core melt accidents (Event V). The design examined in the RSS contained in-series check valves isolating the high pressure Primary Coolant System (PCS) from the Low Pressure Injection System (LPIS) piping. The scenario which leads to the Event V accident is initiated by the failure of these check valves to function as a pressure isolation barrier. This causes

an overpressurization and rupture of the LPIS low pressure piping which results in a LOCA that bypasses containment.

In order to better define the Event V concern, all light water reactor licensees were requested by letter dated February 23, 1980, to provide the following in accordance with 10 CFR 50.54(f):

1. Describe the valve configurations and indicate if an Event V isolation valve configuration exists within the Class I boundary of the high pressure piping connecting PCS piping to low pressure system piping; e.g., (1) two check valves in series, or (2) two check valves in series with a motor operated valve (MOV);

2. If either of the above Event V configurations exist, indicate whether continuous surveillance or periodic tests are being performed on such valves to ensure integrity. Also indicate whether valves have been known, or found, to lack integrity; and

3. If either of the above Event E configurations exist, indicate whether plant procedures should be revised or if plant modifications should be made to increase reliability.

In addition to the above, licensees were asked to perform individual check valve leak testing prior to plant startup after the next scheduled outage.

By letter dated March 23, 1981, the licensee responded to our February letter. Based upon the NRC review of this response as well as the review of previously docketed information for your facility, I have concluded in consonance with the attached Safety Evaluation (Attachment 1) that one or more valve configuration(s) of concern exist at the facility. The attached Technical Evaluation Report (TER) (Attachment 20 provides, in Section 4.0, a tabulation of the subject valves.

The staff's concern has been exacerbated due not only to the large number of plants which have an Event V configuration(s) but also because of recent unsatisfactory operating experience. Specifically, two plants have leak tested check valves with unsatisfactory results. At Davis-Besse, a pressure isolation check valve in the LPIS failed and the ensuring investigation found that valve internals had become dissassembled. At the Sequoyah Nuclear Plant, two Residual Heat Removal (RHR) injection check valves and one RHR recirculation check valve failed because valves jammed open against valve over-travel limiters.

It is, therefore, apparent that when pressure isolation is provided by two in-series check valves and when failure of one valve in the pair can go undetected for a substantial length of time, verification of valve integrity is required. Since these valves are important to safety, they should be tested periodically to ensure low probability of gross failure. As a result, I have determined that periodic examination of check valves must be undertaken by the licensee as provided in Section III below to verify that each valve is seated properly and functioning as a pressure isolation device. Such testing will reduce the overall risk of an intersystem LOCA. The testing mandated by this Order may be accomplished by direct volumetric leakage measurement or by other equivalent means capable of demonstrating that leakage limits are not exceeded in accordance with Section 2.2 of the attached TER.

In view of the operating experiences described above and the potential consequences of check valve failure, I have determined that prompt action is necessary to increase the level of assurance that multiple pressure isolation barriers are in place and will remain intact. Therefore, the public health, safety and interest require that this modification of Facility Operating License Nos. DPR-42 and DPR-60 be immediately effective.

III

Accordingly, pursuant to Section 161i of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered that effective immediately, Facility Operating License Nos. DPR-42 and DPR-60 are modified by the addition of the following requirements:

1. Implement Technical Specifications (Attachment 3) which require periodic surveillance over the life of the plant and which specify limiting conditions for operation for PCS pressure isolation valves.

2. If check valves have not been (a) individually tested within 12 months preceding the date of this Order, and (b) found to comply with the leakage rate criteria set forth in the Technical Specifications described in Attachment 3, the MOV in each line shall be closed within 30 days of the effective date of this Order and quarterly Inservice Inspection (ISI) MOV cycling ceased until the check valve tests have been satisfactorily accomplished. (Prior to closing the MOV, procedures shall be implemented and operators trained to assure that the MOV remains closed. Once closed, the MOV shall be tagged closed to further preclude inadvertent valve opening).

3. The MOV shall not be closed as indicated in paragraph 2 above unless a supporting safety evaluation has been prepared. If the MOV is in an emergency core cooling system (ECCS), the safety evaluation shall include a determination as to whether the requirements of 10 CFR 50.46 and Appendix K to 10 CFR Part 50 will continue to be satisfied with the MOV closed. If the MOV is not in an ECCS, the safety evaluation shall include a determination as to whether operation with the MOV closed presents an unreviewed safety question as defined in 10 CFR 50.59(a)(2). If the requirements of 10 CFR 50.46 and Appendix K have not been satisfied, or if an unreviewed safety question as defined in 10 CFR 50.59, then the facility shall be shut down within 30 days of the date of this Order and remain shutdown until check valves are satisfactorily tested in accordance with the Technical Specifications set forth in Attachment 3.

4. The records of the check valve tests required by this Order shall be made available for inspection by the NRC's Office of Inspection and Enforcement.

IV

The licensee or any other person who has an interest affected by this Order may request a hearing on this Order on or before May 26, 1981. A request for hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request shall also be sent to the Executive Legal Director at the same address, and to Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 1800 M Street NW., Washington, D.C. 20036, attorney for the licensee. If a hearing is requested by a person other than the licensee, that person shall describe, in accordance with 10 CFR 2.714(a)(2), the manner in which his or her interest is affected by this Order. Any request for a hearing shall not stay the immediate effectiveness of this order.

If a hearing is requested by the licensee or other person who has an interest affected by this Order, the Commission will issue an order designating the time and place of any such hearing. If a hearing is held, the issues to be considered at such a hearing shall be:

(a) Whether the licensee should be required to individually leak test check valves in accordance with the Technical Specifications set forth in Attachment 3 to this Order.

(b) Whether the actions required by Paragraphs 2 and 3 of section III of this Order must be taken if check valves have not been tested within 12 months preceding the date of this Order.

Operating of the facility on terms consistent with this Order is not stayed

by the pendency of any proceedings on this Order. In the event that a need for further action becomes apparent, either in the course of proceedings on this Order or any other time, the Director will take appropriate action.

Effective Date: This 20th day of April, 1981. Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

Attachments:

1. Safety Evaluation Report
2. Technical Evaluation Report
3. Technical Specifications

Attachments are available in the NRC Public Document Rooms.

[FR Doc. 81-12703 Filed 4-27-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-280 and 50-281]

Virginia Electric and Power Co. (Surry Power Station, Unit Nos. 1 and 2); Order for Modification of Licenses

I

The Virginia Electric and Power Company (the licensee) holds Facility Operating License Nos. DPR-32 and DPR-37, which authorizes the licensee to operate the Surry Power Station Unit Nos. 1 and 2 at power levels not in excess of 2441 megawatts thermal rated power. The licenses were originally issued on May 25, 1972 and January 29, 1973 and will expire on June 25, 2008. The facilities, which are located at the licensee's site in Surry County, Virginia, are pressurized water reactors (PWR) used for the commercial generation of electricity.

II

The Reactor Safety Study (RSS), WASH-1400, identified in a PWR an inter-system loss of coolant accident (LOCA) which is a significant contributor to risk of core melt accident (Event V). The design examined in the RSS contained in-series check valves isolating the high pressure Primary Coolant System (PCS) from the Low Pressure Injection System (LPIS) piping. The scenario which leads to the Event V accident is initiated by the failure of these check valves to function as a pressure isolation barrier. This causes an overpressurization and rupture of the LPIS low pressure piping which results in a LOCA that bypasses containment.

In order to better define the Event V concern, all light water reactor licensees were requested by letter dated February 23, 1980, to provide the following in accordance with 10 CFR 50.54(f):

1. Describe the valve configurations and indicate if an Event V isolation valve configurations exists within the Class I boundary of the high pressure piping connecting PCS piping to low pressure system piping; e.g., (1) two check valves in series, or (2) two check valves in series with a motor operated valve (MOV):

2. If either of the above Event V configurations exist, indicate whether continuous surveillance or periodic tests are being performed on such valves to ensure integrity. Also indicate whether valves have been known, or found, to lack integrity; and

3. If either of the above Event V configurations exist, indicate whether plant procedures should be revised or if plant modifications should be made to increase reliability.

In addition to the above, licensees were asked to perform individual check valve leak testing prior to plant startup after the next scheduled outage.

By letters dated March 14 and August 13, 1980, the licensee responded to our February letter. Based upon the NRC review of this response as well as the review of previously docketed information for the facility, I have concluded in consonance with the attached Safety Evaluation (Attachment 1) that one or more valve configurations(s) of concern exist at the facility. The attached Technical Evaluation Report (TER) (Attachment 2) provides, in Section 4.0, a tabulation of the subject valves.

The staff's concern has been exacerbated due not only to the large number of plants which have an Event V configurations(s) but also because of recent unsatisfactory operating experience. Specifically, two plants have leak tested check valves with unsatisfoactory results. At Davis-Besse, a pressure isolation check valve in the LPIS failed and the ensuing investigation found that valve internals had become disassembled. At the Sequoyah Nuclear Plant, two Residual Heat Removal (RHR) injection check valves and one RHR recirculation check valve failed because valves jammed open against valve over-travel limiters.

It is, therefore, apparent that when pressure isolation is provided by two in-series check valves and when failure of one valve in the pair can go undetected for a substantial length of time, verification of valve integrity is required. Since these valves are important to safety, they should be tested periodically to ensure low probability of gross failure. As a result, I have determined that periodic examination of check valves must be undertaken by the licensee as provided in Section III below to verify that each valve is seated properly and functioning as a pressure isolation device. Such testing will reduce the overall risk of an inter-system LOCA. The testing mandated by this Order may be accomplished by direct volumetric leakage measurement or by other equivalent means capable of demonstrating that leakage limits are not exceeded in accordance with Section 2.2 of the attached TER.

In view of the operating experiences described above and the potential consequences of check valve failure, I have determined that prompt action is necessary to increase the level of assurance that multiple pressure isolation barriers are in place and will remain intact. Therefore, the public health, safety and interest require that this modification of Facility Operating License No. DPR-32 and DPR-37 be immediately effective.

III

Accordingly, pursuant to Section 161i of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered that effective immediately, Facility Operating License Nos. DPR-32 and DPR-37 are modified by the addition of the following requirements:

1. Implement Technical Specifications (Attachment 3) which require periodic surveillance over the life of the plant and which specify limiting conditions for operation for PCS pressure isolation valves.

2. If check valves have not been (a) individually tested within 12 months preceding the date of the Order, and (b) found to comply with the leakage rate criteria set forth in the Technical Specifications described in Attachment 3, the MOV in each line shall be closed within 30 days of the effective date of this Order and quarterly Inservice Inspection (ISI) MOV cycling ceased until the check valve tests have been satisfactorily accomplished. (Prior to closing the MOV, procedures shall be implemented and operators trained to assure that the MOV remains closed. Once closed, the MOV shall be tagged closed to further preclude inadvertent valve opening).

3. The MOV shall not be closed as indicated in paragraph 2 above unless a supporting safety evaluation has been prepared. If the MOV is in an emergency core cooling system (ECCS), the safety evaluation shall include a determination as to whether the requirements of 10 CFR 50.46 and Appendix K to 10 CFR Part 50 will continue to be satisfied with the MOV closed. If the MOV is not in an ECCS, the safety evaluation shall

include a determination as to whether operation with the MOV closed presents an unreviewed safety question as defined in 10 CFR 50.59(a)(2). If the requirements of 10 CFR 50.46 and Appendix K have not been satisfied, or if an unreviewed safety question exists as defined in 10 CFR 50.59, then the facility shall be shut down within 30 days of the date of this Order and remain shutdown until check valves are satisfactorily tested in accordance with the Technical Specifications set forth in Attachment 3.

4. The records of the check valve tests required by this Order shall be made available for inspection by the NRC's Office of Inspection and Enforcement.

IV

The licensee or any other person who has an interest affected by this Order may request a hearing on this Order on or before May 26, 1981. A request for hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request shall also be sent to the Executive Legal Director at the same address, and to Mr. Michael W. Maupin, Houston and Williams, Post Office Box 1535, Richmond, Virginia 23213, attorney for the licensee. If a hearing is requested by a person other than the licensee, that person shall describe, in accordance with 10 CFR 2.714(a)(2), the manner in which his or her interest is affected by this Order. Any request for a hearing shall not stay the immediate effectiveness of this Order.

If a hearing is requested by the licensee or other person who has an interest affected by this Order, the Commission will issue an order designating the time and place of any such hearing. If a hearing is held, the issues to be considered at such a hearing shall be:

(a) Whether the licensee should be required to individually leak test check valves in accordance with the Technical Specifications set forth in Attachment 3 of this Order.

(b) Whether the actions required by Paragraphs 2 and 3 of section III of this Order must be taken if check valves have not been tested within 12 months preceding the date of this order.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on this Order. In the event that a need for further action becomes apparent, either in the course of proceedings on this Order or any other time, the Director will take appropriate action.

Effective Date: April 20, 1981.
Bethesda, Maryland.

For the Nuclear Regulatory Commission.
Darrell G. Eisenhut,
Director, Division of Licensing.

Attachments:
1. Safety Evaluation Report
2. Technical Evaluation Report
3. Technical Specifications

Attachments are available in the NRC Public Documents Rooms.

[FR Doc. 81-12698 Filed 4-27-81; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-338]

Virginia Electric and Power Co. (North Anna Power Station, Unit No. 1); Order for Modification of License

I

The Virginia Electric and Power Company (the licensee) holds Facility Operating License No. NPF-4, which authorizes the licensee to operate the North Anna Power Station, Unit No. 1, (the facility) at power levels not in excess of 2775 megawatts (thermal) rated power. The facility, which is located at the licensee's site in Louisa County, Virginia is a pressurized water reactor (PWR) used for the commercial generation of electricity.

II

The Reactor Safety Study (RSS), WASH-1400, identified in a PWR an intersystem loss of coolant accident (LOCA) which is a significant contributor to risk of core melt accidents (Event V). The design examined in the RSS contained in-series check valves isolating the high pressure Primary Collant System (PCS) from the Low Pressure Injection System (LPIS) piping. The scenario which leads to the Event V accident is initiated by the failure of these check valves to function as a pressure isolation barrier. This causes an overpressurization and rupture of the LPIS low pressure piping which results in a LOCA that bypasses containment.

In order to better define the Event V concern, all light water reactor licensees were requested by letter dated February 23, 1980, to provide the following in accordance with 10 CFR 50.54(f):

1. Describe the valve configurations and indicate if an Event Visolation value configuration exists within the Class I boundary of the high pressure piping connecting PCS piping to low pressure system piping; e.g., (1) two check valves in series, or (2) two check valves in series with a motor operated valve (MOV);

2. If either of the above Event V configurations exist, indicate whether continuous surveillance or periodic tests are being performed on such valves to ensure integrity. Also indicate whether valves have been known, or found, to lack integrity; and

3. If either of the above Event V configurations exist, indicate whether plant procedures should be revisd or if plant modifications should be made to increase reliability.

In addition to the above, licensees were asked to perform individual check valve leak testing prior to plant startup after the next scheduled outage.

By letter dated March 14, 1980, you responded to our February letter. Based upon the NRC review of this response as well as the review of previously docketed information for your facility, I have concluded in consonance with the attached Safety Evaluation (Attachment 1) that one or more valve configuration(s) of concern exist at the facility. The attached Technical Evaluation Report (TER) (Attachment 2) provides, in Section 4.0, a tabulation of the subject valves.

The staff's concern has been exacerbated due not only to the large number of plants which have an Event V configuration(s) but also because of recent unsatisfactory operating experience. Specifically, two plants have leak tested check valves with unsatisfactory results. At Davis-Besse, a pressure isolation check valve in the LPIS failed and the ensuing investigation found that valve internals had become disassembled. At the Sequoyah Nuclear Plant, two Residual Heat Removal (RHR) injection check valves and one RHR recirculation check valve failed because valves jammed open against valve over-travel limiters.

It is, therefore, apparent that when pressure isolation is provided by two in-series check valves and when failure of one valve in the pair can go undetected for a substantial lenght of time, verification of valve integrity is required. Since these valves are important to safety, they should be tested periodically to ensure low probability of gross failure. As a result, I have determined that periodic examination of check valves must be undertaken by the licensee as provided in Section III below to verify that each valve is seated properly and functioning as a pressure isolation device. Such testing will reduce the overall risk of an intersystem LOCA. The testing mandated by this Order may be accomplished by direct volumetric leakage measurement or by other equivalent means capable of demonstrating that leakage limits are not exceeded in accordance with Section 2.2. of the attached TER.

In view of the operating experiences described above and the potential consequences of check valve failure, I have determined that prompt action is necessary to increase the level of assurance that multiple pressure isolation barriers are in place and will remain intact. Therefore, the public health, safety and interest require that this modification of Facility Operating License No. NPF-4 be immediately effective.

III

Accordingly, pursuant to Section 161i of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered that effective immediately, Facility Operating License No. NPF-4 is modified by the addition of the following requirements:

1. Implement Technical Specifications (Attachment 3) which require periodic surveillance over the life of the plant and which specify limiting conditions for operation for PCS pressure isolation valves.

2. If check valves have not been (a) individually tested within 12 months preceding the date of this Order, and (b) found to comply with a the leakage rate criteria set forth in the Technical Specifications described in Attachment 3, the MOV in each line shall be closed within 30 days of the effective date of this Order and quarterly Inservice Inspection (ISI) MOV cycling ceased until the check valve tests have been satisfactorily accomplished. (Prior to closing the MOV, procedures shall be implemented and operators trained to assure that the MOV remains closed. Once closed, the MOV shall be tagged closed to further preclude indavertent valve opening).

3. The MOV shall not be closed as indicated in paragraph 2 above unless a supporting safety evaluation has been prepared. If the MOV is in an emergency core cooling system (ECCS), the safety evaluation shall include a determination as to whether the requirements of 10 CFR 50.46 and Appendix K to 10 CFR Part 50 will continue to be satisfied with the MOV closed. If the MOV is not in an ECCS, the safety evaluation shall include a determination as to whether operation with the MOV closed presents an unreviewed safety question as defined in 10 CFR 50.59(a)(2). If the requirements of 10 CFR 50.46 and Appendix K have not been satisfied, or if an unreviewed safety question exists as defined in 10 CFR 50.59, then the facility shall be shut down within 30 days of athe date of this Order and remain shutdown until check valves are satisfactorily tested in accordance with the Technical Specifications set forth in Attachment 3.

4. The records of the check valve tests required by this Order shall be made available for inspection by the NRC's Office of Inspection and Enforcement.

The licensee or any other person has an interest affected by this Order may request a hearing on this Order on or before May 26, 1981. A request for hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request shall also be sent to the Executive Legal Director at the same address, and to Michael W. Maupin, Esq., Hunton, Williams, Gay and Gibson, P.O. Box 1535, Richmond, Virginia 23212 attorney for the licensee. If a hearing is requested by a person other than the licensee, that person shall describe, in accordance with 10 CFR 2.741(a)(2), the manner in which his or her interest is affected by this Order. Any request for a Hearing shall not stay the immediate effectiveness of this order.

If a hearing is requested by the licensee or other person who has an interest affected by this Order, the Commission will issue an order designating the time and place of any such hearing. If a hearing is held, the issues to be considered at such a hearing shall be:

(a) Whether the licensee should be required to individually leak test check valves in accordance with the Technical Specifications set forth in Attachment 3 to this Order.

(b) Whether the actions required by Paragraphs 2 and 3 of section III of this Order must be taken if check valves have not been tested within 12 months preceding the date of this Order.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on this Order. In the event that a need for further action becomes apparent, either in the course of proceedings on this Order or any other time, the Director will take appropriate action.

Effective Date: this 20th day of April, 1981.
Bethesda, Maryland.

Attachments:

Darrell G. Eisenhut,
Director, Division of Licensing.

1. Safety Evaluation Report.
2. Technical Evaluation Report.
3. Technical Specifications.

Attachments are available in the NRC Public Document Rooms.

For the Nuclear Regulatory Commission.

[FR Doc. 81-12899 Filed 4-27-81; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-266 and 50-301]

Wisconsin Electric Power Co. (Point Beach Nuclear Plant, Unit Nos. 1 and 2); Order for Modification of Licenses

I

The Wisconsin Electric Power Company (the licensee) holds Facility Operating License Nos. DPR-24 and DPR-27, which authorize the licensee to operate the Point Beach Nuclear Plant, Unit Nos. 1 and 2, (the facilities) at power levels not in excess of 1518 megawatts (thermal) rated power. The facilities, which are located at the licensee's site in Manitowoc County, Town of Two Creeks, Wisconsin are pressurized water reactors (PWR) used for the commercial generation of electricity.

II

The Reactor Safety Study (RSS), WASH-1400, identified in a PWR and intersystem loss of coolant accident (LOCA) which is a significant contributor to risk of core melt accidents (Event V). The design examined in the RSS contained in-series check valves isolating the high pressure Primary Coolant System (PCS) form the Low Pressure Injection System (LPIS) piping. The scenario which leads to the Event V accident is initiated by the failure of these check valves to function as a pressure isolation barrier. This causes an overpressurizatin and rupture of the LPIS low pressure piping which results in a LOCA that bypasses containment.

In order to better define the Event V concern, all light water reactor licensees were requested by letter dated February 23, 1980, to provide the following in accordance with 10 CFR 50.54(f):

1. Describe the valve configurations and indicate if an Event V isolation valve configuration exists within the Class I boundary of the high pressure piping connecting PCS piping to low pressure system piping, e.g., (1) two check valves in series, or (2) two check valves in series with a motor operated valve (MOV);

2. If either of the above Event V configurations exist, indicate whether continuous surveillance of perodic tests are being performed on such valves to ensure integrity. Also indicate whether valves have been known, or found, to lack integrity; and

3. If either of the above Event V configurations exist, indicate whether plant procedures should be revised or if plant modifications should be made to increase reliability.

If addition to the above, licensees were asked to perform individual check

valve leak testing prior to plant startup after the next scheduled outage.

By letter dated March 21, 1980, the licensee responded to our February letter. Based upon the NRC review of this response as well as the review of previously docketed information for your facility, I have concluded in consonance with the attached Safety Evaluation (Attachment 1) that one or more valve configuration(s) of concern exist at the facility. The attached Technical Evaluation Report (TER) (Attachment 2) provides, in Section 4.0, a tabulation of the subject valves.

The staff's concern has been exacerbated due not only to the large number of plants which have an Event V configuration(s) but also because of recent unsatisfactory operating experience. Specifically, two plants have leak tested check valves with unsatisfactory results. At Davis-Besse, a pressure isolation check valve in the LPIS failed and the ensuing investigation found that valve internals had become disassembled. At the Sequoyah Nuclear Plant, two Residual Heat Removal (RHR) injection check valves and one RHR recirculation check valve failed because valves jammed open against valve over-travel limiters.

It is, therefore, apparent that when pressure isolation is provided by two in-series check valves and when failure of one valve in the pair can go undetected for a substantial length of time, verification of valve integrity is required. Since these valves are important to safety, they should be tested periodically to ensure low probability of gross failure. As a result, I have determined that periodic examination of check valves must be undertaken by the licensee as provided in Section III below to verify that each valve is seated properly and functioning as a pressure isolation device. Such testing will reduce the overall risk of an intersystem LOCA. The testing mandated by this Order may be accomplished by direct volumetric leakage measurement or by other equivalent means capable of demonstrating that leakage limits are not exceeded in accordance with Section 2.2 of the attached TER.

In view of the operating experiences described above and the potential consequences of check valve failure, I have determined that prompt action is necessary to increase the level of assurance that multiple pressure isolation barriers are in place and will remain intact. Therefore, the public health, safety and interest require that this modification of Facility Operating License Nos. DPR-24 and DPR-27 be immediately effective.

III

Accordingly, pursuant to Section 161i of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered that effective immediately, Facility Operating License No. DPR-24 and DPR-27, are modified by the addition of the following requirements:

1. Implement Technical Specifications (Attachment 3) which require periodic surveillance over the life of the plant and which specify limiting conditions for operation for PCS pressure isolation valves.

2. If check valves have not been (a) individually tested within 12 months preceding the date of this Order, and (b) found to comply with the leakage rate criteria set forth in the Technical Specifications described in Attachment 3, the MOV in each line shall be closed within 30 days of the effective date of this Order and quarterly Inservice Inspection (ISI) MOV cycling ceased until the check valve tests have been satisfactorily accomplished. (Prior to closing the MOV, procedures shall be implemented and operators trained to assure that the MOV remains closed. Once closed, the MOV shall be tagged closed to further preclude inadvertent valve opening).

3. The MOV shall not be closed as indicated in paragraph 2 above unless a supporting safety evaluation has been prepared. If the MOV is in an emergency core cooling system (ECCS), the safety evaluation shall include a determination as to whether the requirements of 10 CFR 50.46 and Appendix K to 10 CFR Part 50 will continue to be satisfied with the MOV closed. If the MOV is not in an ECCS, the safety evaluation shall include a determination as to whether operation with the MOV closed presents an unreviewed safety question as defined in 10 CFR 50.59(a)(2). If the requirements of 10 CFR 50.46 and Appendix K have not been satisfied, or if an unreviewed safety question exists as defined in 10 CFR 50.59, then the facility shall be shut down within 30 days of the date of this Order and remain shutdown until check valves are satisfactorily tested in compliance with the Technical Specifications set forth in Attachment 3.

4. The records of the check valve tests required by this Order shall be made available for inspection by the NRC's Office of Inspection and Enforcement.

IV

The licensee or any other person who has an interest affected by this Order may request a hearing on this Order on or before May 28, 1981. A request for hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request shall also be sent to the Executive Legal Director at the same address, and to Jay E. Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street N.W., Washington, D.C. 20036, attorney for the licensee. If a hearing is requested by a person other than the licensee, that person shall describe, in accordance with 10 CFR 2.714(a)(2), the manner in which his or her interest is affected by this Order. Any request for a hearing shall not stay the immediate effectiveness of this order.

If a hearing is requested by the licensee or other person who has an interest affected by this Order, the Commission will issue an order designating the time and place of any such hearing. If a hearing is held, the issues to be considered at such a hearing shall be:

(a) Whether the licensee should be required to individually leak test check valves in accordance with the Technical Specifications set forth in Attachment 3 of this Order.

(b) Whether the actions required by Paragraphs 2 and 3 of section III of this Order must be taken if check valves have not been tested within 12 months preceding the date of this Order.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on this Order. In the event that a need for further action becomes apparent, either in the course of procedings on this Order or any other time, the Director will take appropriate action.

Effective Date: This 20th day of April, 1981.

Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

Attachments:

1. Safety Evaluation Report
2. Technical Evaluation Report
3. Technical Specifications

Attachments are available in the NRC Public Document Rooms.

[FR Doc. 81-12700 Filed 4-27-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-305]

Wisconsin Public Service Corp. et al. (Kewaunee Nuclear Power Plant); Order for Modification of License

I

The Wisconsin Public Service Corporation et al. (the licensee) holds

Facility Operating License No. DPR-43, which authorizes the licensee to operate the Kewaunee Nuclear Power Plant at power levels not in excess of 1650 megawatts thermal rated power. The license was originally issued on December 21, 1973 and will expire on Midnight, August 6, 2008. The facility, which is located at the licensee's site in Kewaunee County, Wisconsin, is a pressurized water reactor (PWR) used for the commercial generation of electricity.

II

The Reactor Safety Study (RSS), WASH-1400, identified in a PWR an inter-system loss of coolant accident (LOCA) which is a significant contributor to risk of core melt accidents (Event V). The design examined in the RSS contained in-series check valves isolating the high pressure Primary Coolant System (PCS) from the Low Pressure Injection System (LPIS) piping. The scenario which leads to the Event V accident is initiated by the failure of these check valves to function as a pressure isolation barrier. This causes an overpressurization and rupture of the LPIS low pressure piping which results in a LOCA that bypasses containment.

In order to better define the Event V concern, all light water reactor licensees were requested by letter dated February 23, 1980, to provide the following in accordance with 10 CFR 50.54(f):

1. Describe the valve configurations and indicate if an Event V isolation valve configuration exists within the Class I boundary of the high pressure piping connecting PCS piping to low pressure system piping; e.g., (1) two check valves in series, or (2) two check valves in series with a motor operated valve (MOV);

2. If either of the above Event V configurations exist, indicate whether continuous surveillance or periodic tests are being performed on such valves to ensure integrity. Also indicate whether valves have been known, or found, to lack integrity; and

3. If either of the above Event V configurations exist, indicate whether plant procedures should be revised or if plant modifications should be made to increase reliability.

In addition to the above, licensees were asked to perform individual check valve leak testing prior to plant startup after the next scheduled outage.

By letter dated March 18, 1980 the licensee responded to our February letter. Based upon the NRC review of this response as well as the review of previously docketed information for the facility, I have concluded in consonance with the attached Safety Evaluation (Attachment 1) that one or more valve configuration(s) of concern exist at the facility. The attached Technical Evaluation Report (TER) (Attachment 2) provides, in Section 4.0, a tabulation of the subject valves.

The staff's concern has been exacerbated due not only to the large number of plants which have an Event V configuration(s) but also because of recent unsatisfactory operating experience. Specifically, two plants have leak tested check valves with unsatisfactory results. At Davis-Besse, a pressure isolation check valve in the LPIS failed and the ensuing investigation found that valve internals had become disassembled. At the Sequoyah Nuclear Plant, two Residual Heat Removal (RHR) injection check valves and one RHR recirculation check valve failed because valves jammed open against valve over-travel limiters.

It is, therefore, apparent that when pressure isolation is provided by two in-series check valves and when failure of one valve in the pair can go undetected for a substantial length of time, verification of valve integrity is required. Since these valves are important to safety, they should be tested periodically to ensure low probability of gross failure. As a result, I have determined that periodic examination of check valves must be undertaken by the licensee as provided in Section III below to verify that each valve is seated properly and functioning as a pressure isolation device. Such testing will reduce the overall risk of an intersystem LOCA. The testing mandated by this Order may be accomplished by direct volumetric leakage measurement or by other equivalent means capable of demonstrating that leakage limits are not exceeded in accordance with Section 2.2 of the attached TER.

In view of the operating experiences described above and the potential consequences of check valve failure, I have determined that prompt action is necessary to increase the level of assurance that multiple pressure isolation barriers are in place and will remain intact. Therefore, the public health, safety and interest require that this modification of Facility Operating License No. DPR-43 be immediately effective.

III

Accordingly, pursuant to Section 161i of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered that effective immediately, Facility Operating License No. DPR-43 is modified by the addition of the following requirements:

1. Implement Technical Specifications (Attachment 3) which require periodic surveillance over the life of the plant and which specify limiting conditions for operation for PCS pressure isolation valves.

2. If check valves have not been (a) individually tested within 12 months preceding the date of the Order, and (b) found to comply with the leakage rate criteria set forth in the Technical Specifications described in Attachment 3, the MOV in each line shall be closed within 30 days of the effective date of this Order and quarterly Inservice Inspection (ISI) MOV cycling ceased until the check valve tests have been satisfactorily accomplished. (Prior to closing the MOV, procedures shall be implemented and operators trained to assure that the MOV remains closed. Once closed, the MOV shall be tagged closed to further preclude inadvertent valve opening).

3. The MOV shall not be closed as indicated in paragraph 2 above unless a supporting safety evaluation has been prepared. If the MOV is in an emergency core cooling system (ECCS), the safety evaluation shall include a determination as to whether the requirements of 10 CFR 50.46 and Appendix K to 10 CFR Part 50 will continue to be satisfied with the MOV closed. If the MOV is not in an ECCS, the safety evaluation shall include a determination as to whether operation with the MOV closed presents an unreviewed safety question exists as defined in 10 CFR 50.59(a)(2). If the requirements of 10 CFR 50.46 and Appendix K have not been satisfied, or if an unreviewed safety question as defined in 10 CFR 50.59, then the facility shall be shut down within 30 days of the date of this Order and remain shutdown until check valves are satisfactorily tested in accordance with the Technical Specifications set forth in Attachment 3.

4. The records of the check valve tests required by this Order shall be made available for inspection by the NRC's Office of Inspection and Enforcement.

IV

The licensee or any other person who has an interest affected by this Order may request a hearing on this Order on or before May 26, 1981. A request for hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request shall also be sent to the Executive Legal Director at the same address, and to Steven E. Keane, Esquire, Faley and Lardner, 777 East Wisconsin Avenue, Milwaukee,

Wisconsin, 53202, attorney for the licensee. If a hearing is requested by a person other than the licensee, that person shall describe, in accordance with 10 CFR 2.714(a)(2), the manner in which his or her interest is affected by this Order. Any request for a hearing shall not stay the immediate effectiveness of this order.

If a hearing is requested by the licensee or other person who has an interest affected by this Order, the Commission will issue an order designating the time and place of any such hearing. If a hearing is held, the issues to be considered at such a hearing shall be:

(a) Whether the licensee should be required to individually leak test check valves in accordance with the Technical Specifications set forth in Attachment 3 to this Order.

(b) Whether the actions required by Paragraphs 2 and 3 of section III of this Order must be taken if check valves have not been tested within 12 months preceding the date of this Order.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on this Order. In the event that a need for further action becomes apparent, either in the course of proceedings on this Order or any other time, the Director will take appropriate action.

Effective Date: April 20, 1981.
Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

Attachments:

1. Safety Evaluation Report
2. Technical Evaluation Report
3. Technical Specifications

Attachments are available in the NRC Public Document Rooms.

[FR Doc. 81-12697 Filed 4-27-81; 8:45 am]

BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

MIT Computer Laboratory, Cambridge, Mass.; Visit to Facility

April 23, 1981.

Notice is hereby given that Acting Chair Steiger, Vice Chairman Bright, Commissioners DuPont and Fritschler, and Commission staff members will visit the MIT Computer Laboratory, Cambridge, MA, on Thursday, April 30, 1981, for the purpose of acquiring general knowledge of a computer originated mail transmission system.

A report of the visit will be on file in the Commission's docket room.

David F. Harris,

Secretary.

[FR Doc. 81-12687 Filed 4-27-81; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 17744; File No. 4-208]

American Stock Exchage, Inc., et al.; Implementation of an Automated Interface [1]

April 21, 1981.

In the matter of American Stock Exchange, Boston Stock Exchange, Inc., Cincinnati Stock Exchange, Inc., Midwest Stock Exchange, Inc., National Association of Securities Dealers, Inc., New York Stock Exchange, Inc., Pacific Stock Exchange, Inc., Philadelphia Stock Exchange, Inc.

The Securities and Exchange Commission announced today that it has issued an order ("Order") under the Securities Exchange Act of 1934 ("Act")[2] which requires the current participants in the Intermarket Trading System ("ITS")[3] and the National Association of Securities Dealers, Inc. ("NASD") to implement, by March 1, 1982,[4] an automated interface ("Automated Interface") between the ITS and the NASD's NASDAQ system, as enhanced to include, among other things, an order routing and automatic execution capability. That Interface, when completed, will permit market professionals trading in securities subject to Rule 19c-3 under the Act ("Rule 19c-3 securities") on participating exchanges or over-the-counter to route orders efficiently between those two types of markets and will therefore significantly further the goals of a national market system.

I. Background

On February 5, 1981, the Commission published a release ("Proposal Release") in which it proposed to issue an Order requiring an Automated Interface between the ITS and the enhanced NASDAQ system.[5] In publishing the Proposal Release, the Commission recognized that the Congress, in amending the Act to direct the Commission to facilitate the establishment of a national market system, set out as an explicit objective of that system the "linking of all markets for qualified securities through communication and data processing facilities."[6] Moreover, the Commission noted that, pursuant to that statutory objective, it has, for a period of three years, repeatedly emphasized the need for an efficient linkage between OTC and exchange markets, thus providing the securities industry with substantial advance notice both of its expectations of industry progress and its intention to take regulatory action if insufficient progress occurred.[7]

In determining to propose the Order, the Commission reiterated its belief that the prompt implementation of the Automated Interface is a critical event in the development of a national market system which will address market fragmentation, reduce pricing inefficiencies, enhance the ability of a brokerage firm to obtain best execution of its customers' orders and promote the type of competitive market structure which a national market system was designed to achieve.[8]

The Commission also emphasized in the Proposal Release that its determination to propose the Order should not be understood as being intended to discourage industry efforts to develop a generally accepted means of addressing internalization.[9] Indeed, the Commission specifically indicated that it recognized the potential problems which may flow from internalization and committed itself to address those, and related, concerns as part of its ongoing evaluation of the effects of Rule 19c-3 on the securities markets. Notwithstanding its support of industry effors to address internalization

---

[1] For further information contact: Robert Colby (202-272-2888) Room 390, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

[2] 15 U.S.C. § 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975).

[3] The ITS is an intermarket order routing system operated jointly by certain national securities exchanges and authorized by the Commission, on a provisional basis, as a national market system facility pursuant to Section 11A(a)(3)(B) of the Act.

[4] *See* text accompanying notes 61-67, *infra.*

[5] Securities Exchange Release No. 17516 (February 5, 1981), 46 FR 12379.

[6] Section 11A(a)(1)(D) of the Act, 15 U.S.C. § 78k-1(a)(1)(D).

[7] For a more complete discussion of the Commission's previous statements regarding the need for an efficient linkage between the exchange and OTC markets. *See* the Proposal Release, *supra* note 5, at 3-17, 46 FR 12380-12382.

[8] Proposal Release, *supra* note 5, at 19-26, 46 FR 12382-12384.

[9] The Commission had defined the term "internalization" as referring to "the withholding of retail orders from other market centers, for the purpose of executing them in-house, as principal, without exposing those orders to buying and selling interest in those other market centers." *See* Securities Exchange Act Release No. 16888 (June 11, 1980), at 18, n.31, 45 FR 41125, 41128, n.31 ("Rule 19c-3 Adoption Release").

concerns, the Commission indicated its preliminary belief that those efforts should not operate to delay implementation of the Automated Interface because that implementation would not exacerbate internalization concerns as a structural matter.[10]

Subsequent to the issuance of the Release, the enhancements to the NASDAQ system have become operational on a pilot basis. The Commission has been informed by the NASD that, to date, there have been no serious technical problems encountered in the operation of the system.

In response to the Commission's solicitation of comment on the Order, the Commission received comments from eight organizations.[11] of those comments, four were from organizations generally representing the exchange community, two were from OTC representatives and the other two were from Merrill Lynch and Instinet, a registered broker-dealer which operates a computerized stock execution system. After consideration of those comments, and for the reasons articulated below, the Commission has determined to issue the Order, in revised form, effective upon publication of this release in the **Federal Register.**

II. Discussion

A. Introduction

A major objective of the national market system is assuring "fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets." [12] In attempting to improve competitive opportunities in the markets (and, in particular, the opportunity for regional exchange specialists and third market dealers to make markets in listed securities in competition with the primary markets), the Commission has taken a number of regulatory actions, including the adoption of its consolidated last sale and quotation reporting rules and the approval of intermarket linkage and trading systems, such as ITS and the Cincinnati Stock Exchange's ("CSE") National Securities Trading System ("NSTS"). Unfortunately, those actions alone have not resulted in significant increases in market making competition (at least on the basis of published quotations) and have not provided the Commission with sufficient actual experience with respect to the dynamics of a competitive market environment characterized by concurrent OTC and exchange trading in listed securities.[13]

In order to permit additional market making competition and to provide "a valuable learning experience" to the Commission and the securities industry with respect to the effects on the markets of direct competition between exchange and OTC markets,[14] the Commission adopted Rule 19c–3 eliminating exchange off-board trading restrictions for most newly listed securities.[15] The Commission noted that the Rule was "justified by its experimental value" and that

> [w]hile adoption of the Rule could not be expected to yield empirical data sufficient to support definitive conclusions regarding the removal of remaining off-board trading restrictions, the Commission [believed] that experience under the Rule will yield data which will enable the Commission to analyze the direct effects of the Rule on the trading markets for Rule 19c–3 Securities.[16]

In addition, the Commission noted that the Rule might "provide insight" into (i) the ability of exchanges to continue to compete for order flow in the absence of off-board trading restrictions and (ii) whether the absence of off-board trading restrictions has any significant effects on pricing efficiency.[17] Finally, the Commission stated that experience under the Rule would assist the Commission in gauging the effectiveness of existing linkage and trading systems to meet the needs of an integrated OTC-exchange trading environment.[18]

In determining to adopt Rule 19c–3 and to conduct a limited (and closely monitored) experiment in concurrent exchange and OTC trading in listed securities, the Commission recognized (and in fact expected) that both the number of OTC market makers and the amount of OTC trading in securities subject to the Rule would increase and that, because some of those additional market makers would be retail-oriented, integrated firms, a collateral result of that increase might be increased opportunities for internalization of customers' orders. However, the Commission determined that it was premature to consider a regulatory response to internalization in the absence of actual trading experience under the Rule or some demonstrated (or at least clearly probable) adverse effects on the markets for Rule 19c–3 securities resulting from internalization by OTC market makers. Moreover, an essential part of that determination (and a basic underlying assumption for it) was that an ITS/NASDAQ linkage would first be in place and operating to permit some empirical assessment of whether such a linkage may be sufficient to address any concerns in fact arising from internalization, as well as to enhance order interaction between exchange and OTC Markets.

The Commission remains fully cognizant of the concerns raised by commentators relating to internalization by OTC market makers and its possible effects on the securities markets. However, the Commission carefully considered these concerns in the context of its Rule 19c–3 proceeding and determined that, on balance, any

---

[10] Proposal Release, *supra* note 5, at 19, 46 FR 12382.

[11] See letter to George Fitzsimmons, Secretary, SEC, from David V. Shields, President, Alliance of Floor Brokers Inc., dated March, 1981; letter to George A. Fitzsimmons, Secretary, SEC, from William A. Schreyer, Chairman of the Board, Merrill Lynch Pierce Fenner & Smith, Inc. ("Merrill Lynch") dated March 6, 1981 ("Merrill Lynch letter"); letter to George Fitzsimmons, Secretary, SEC, from James E. Buck, Secretary, New York Stock Exchange ("NYSE"), dated March 13, 1981 ("NYSE letter"); letter to George A. Fitzsimmons, Secretary, SEC from Jerome M. Pustilnik, Chairman of the Board, Institutional Network Corporation ("Instinet"), dated March 13, 1981 ("Instinet letter"); letter to George A. Fitzsimmons, Secretary, SEC, from Jim Gallagher, President, Pacific Stock Exchange ("PSE") dated March 9, 1981 ("PSE letter"); letter to Georger A. Fitzsimmons, Secretary, SEC, from Richard M. Hufnagel, Chairman and Morton N. Weiss, President, National Security Traders Association ("NSTA") dated March 13, 1981 ("NSTA letter"); letter to George A. Fitzsimmons, Secretary, SEC, from Gordon S. Macklin, President, NASD, dated March 16, 1981 ("NSDA letter"); letter to George A. Fitzsimmons, Secretary, SEC, from Robert J. Birnbaum, President, American Stock Exchange ("Amex") dated March 16, 1981, ("Amex letter"), and letter to George A. Fitzsimmons, Secretary, SEC, from John G. Weithers, President, Midwest Stock Exchange ("MSE") dated March 16, 1981 ("MSE letter") contained in File No. 4–208.

The Commission has also received and placed in the public file letters from both the Senate and House Oversight Subcommittees on Securities which address, among other things, the proposed Order.

[12] Section 11A(a)(1)(C)(ii) of the Act, 15 U.S.C. 78k–1(a)(1)(C)(ii).

[13] Although "third market" trading has been a part of the trading environment with respect to listed securities for many years, following the complete elimination of fixed rates of brokerage commissions in 1975, the competitive significance of the third market has been reduced to *de minimis* levels.

[14] Of course, the Commission also determined that adoption of Rule 19c–3 was necessary and appropriate in order to limit the anti-competitive effects of exchange off-board trading restrictions.

[15] Specifically, Rule 19c–3 precludes off-board trading rules from applying with certain exceptions, to any reported security (1) which was not traded on an exchange on April 28, 1979, or (2) which was traded on an exchange on April 26, 1979, but which ceases to be traded on an exchange for any period of time thereafter.

[16] Rule 19c–3 Adoption Release, *supra* note 9, at 12, 45 FR 41125, 41127.

[17] *Id.* at 13, 45 FR 41125, 41127.

[18] *Id.* at 13–14, 45 FR 41125, 41127.

adverse effects resulting from the removal of off-board trading restrictions for a limited number of newly listed securities were off-set by the prospects of enhanced competitive and experimental benefits resulting from that action. The Commission concludes that it is neither necessary nor appropriate to reconsider that determination at this time. While the Commission views self-regulatory efforts to resolve industry concerns relating to OTC trading in listed securities as significant and positive, and remains prepared to take regulatory action itself if adverse consequences result from internalized trading and SRO efforts are unsuccessful, the Commission believes that the achievement of an efficient linkage between exchange and OTC markets is fundamental to the entire national market system program and must be implemented promptly independent of these collateral market structure concerns.

The Commission also emphasizes that its decision today to issue the Order represents an integral part of its continuing program to facilitate the orderly evolution of the nation's securities markets into an integrated national market system. The Commission continues to believe that the development of a national market system should be primarily an industry endeavor.[19] Thus, the Commission has attempted to facilitate the development of a national market system by identifying, through the publication of comprehensive policy statements and numerous specific proposals, near-term goals while permitting the industry itself to fashion the means of achieving those goals and defining the specific characteristics of resulting systems and rules.[20] However, while the Commission, in general, is reluctant to take regulatory action where either competitive forces or industry initiatives are sufficient to achieve a particular national market system goal, it also recognizes that the Congress, in enacting the Securities Act Amendments of 1975 ("1975 Amendments") intended that, where competitive forces are not sufficient,

The Commission will use the power granted to it in [the 1975 Amendments] to act promptly and effectively to assure that the essential mechanisms of an integrated secondary trading system are put into place as rapidly as possible.[21]

The Commission has acted today only after providing the securities industry with an extended opportunity to achieve the subject linkage voluntarily. In this regard, the Commission has repeatedly called for such a linkage over the last three and a half years. Finally, the Commission has decided to issue the Order only after thorough consideration and upon making a clear determination that the industry would not otherwise promptly achieve the market linkage necessary to continue progress toward a national market system.

B. Need for, and Timing of, an Automated Interface

1. *Comments.* All of the commentators were in agreement that the develpment of a linkage between OTC and exchange markets was desirable and, with the exception of two regional exchanges [22] and Instinet, [23] generally agreed that such a linkage would appropriately be achieved through the implementation of the Automated Interface. In this regard, the NYSE specifically indicated that it "has long recognized the need for the [Automated Interface]" [24] and is committed "to the integration of all markets—both exchange markets and off-floor markets—in qualified securites in order to achieve a truly effective MMs".[25] Similarly, the Amex noted its continued support for a "linkage of all markets as a fundamental underpinning of the national market system envisoned by Congress in the 1975 Securities Acts Amendments" and affirmed its readiness to cooperate in the development of a pilot Automated Interface.[26]

Notwithstanding the general agreement with respect to the need for, and desirability of, establishment of the Automated Interface, a number of commentators opposed issuance of the Order at this time. Specifically, the exchange commentators argued that the Automated Interface should not become operational until some industry-wide measures had been taken to address the concerns expressed by those commentators regarding the ability of exchange member firms to internalize their customers' orders in Rule 19c–3

[19] *See* Securities Exchange Act Release No. 15671 (March 22, 1979), 44 FR 20360 (1979).

[20] For example, the Commission has deferred action on its proposed price protection rule (Proposed Rule 11Ac1–13, Securities Exchange Act Release No. 15770 (April 26, 1979), 44 FR 26692), in order to afford the ITS participants the opportunity to implement such a rule voluntarily. The recent agreement by the ITS participants to adopt a trade-through rule without regulatory compulsion shows that this approach can operate effectively if the industry is committed to taking joint affirmative action.

[21] Committee of Conference, Report to Accompany S. 349, H.R. Rept. No. 94–249, 94th Cong., 1st Sess. 92 (1975). *See* Subcomm. on Oversight and Investigations and Sub-Comm. on Cons. Protection of the House Comm. on Interstate and For. Comm., Report on Oversight Administration of the Securities Acts Amendments of 1975, Comm. Print No. 95–27, 95th Cong., 1st Sess. 4 (1977) (". . . the evolutionary process [of developing a national market system] must be shepherded by the SEC which must step in when the pace of progress slackens and use the considerable authority Congress granted it").

[22] The PSE argued that, rather than immediately implementing an Automated Interface, it would be desirable, as a first step toward linking the OTC market with ITS, to place ITS terminals in the trading rooms of OTC market makers for Rule 19c-3 Securities ("Direct ITS Access"). The PSE also stated that such access (which would be identical to the access provided exchange market participants) would not place OTC market makers at a competitive disadvantage vis-a-vis these exchange market makers. PSE letter, *supra* note 11, at 9–10. The MSE also suggested that the Automated Interface might not be an appropriate mechanism, by itself, to provide an efficient linkage between exchange and OTC markets because not all OTC market makers would be required to trade through the enhanced NASDAQ. MSE letter, *supra* note 11, at 3–4.

The Commission disagrees with the PSE's assertion that linkage with the OTC market should initially be accomplished through Direct ITS Access. Direct ITS Access would be totally redundant with the enhanced NASDAQ system. Aside from requiring a completely duplicative set of transmission lines, Direct ITS Access also would require installation of new ITS terminals in each OTC market maker's office which would be redundant with the enhanced NASDAQ terminals to be installed in each OTC market maker's office in the near future. In addition, Direct ITS Access would require the display of each OTC market maker quotation, in a particular ITS stock, on the floor of such ITS participant while the use of the Automated Interface would permit the other ITS participants to display only a single OTC best bid and offer quotation rather than quotations from each OTC market maker. Similarly, ITS pre-openings might be unnecessarily complicated because the primary exchange specialists would be required to respond to a potentially large number of individual OTC market maker responses. In contrast, because an Automated Interface would use existing NASDAQ facilities, it would also appear to be more cost effective, and would ensure the inclusion, at a reasonable cost, of all OTC market makers wherever located. Similarly, the utilization of the enhanced NASDAQ system also would ensure adequate systems capacity to handle large numbers of OTC market makers. Finally, the automatic execution capabilities of the enhanced NASDAQ should minimize the risks of accessing OTC market quotations.

The Commission recognizes the MSE's concern that, while all OTC market makers in Rule 19c-3 Securities will eventually be permitted to trade through the enhanced NASDAQ, there is no requirement that they do so. The Commission does not believe it is appropriate, at this time, to require all Rule 19c-3 OTC market makers to trade through the enhanced NASDAQ system; however, as discussed in the context of a possible internalization rule, such a requirement may be appropriate in the future if it appears that a significant amount of OTC trading occurs outside the system. In addition, the Commission expects that the NASD will impose restrictions against any OTC market maker, executing a transaction at a price inferior to the publicly disseminated quotation of any other market ("trade-throughs"), whether or not it is registered for trading in CAE, in Rule 19c-3 securities traded through the Automated Interface. *See* n. 53, infra.

[23] *See* text accompanying note 37, *infra.*

[24] NYSE letter, *supra* note 11 at 7–8, n.*.

[25] *Id.*

[26] Amex letter, supra note 11 at 21.

Securities.[27] Specifically, the NYSE reaffirmed its support for a two-phase "test" linkage between the ITS and the enhanced NASDAQ system. Under this proposal, the first phase of the "test" would consist of two elements—the actual electronic linkage (operated on a pilot basis for the 30 most active Rule 19c-3 Securities) and a "preliminary" rule with respect to internalization. Phase two of the "test", which would permit all Rule 19c-3 Securities [28] to be traded through the Automated Interface, would only occur after periodic evaluation of participant experience under the "preliminary rule" and "agreed upon changes" in the "preliminary rule" or in the operation of the Automated Interface and after an industry "evaluation of the policies, rules and regulations which will be needed to assure a fair field of competition among the markets and the market participants which are to be connected through the electronic linkage" and the implementation of any "agreed upon" rule change resulting from this evaluation.[29] Both the Amex and PSE supported the NYSE's proposal in their comment letters on the proposed Order.[30]

The exchange commentators argued that it was inappropriate to mandate implementation of the Automated Interface before the ITS participants and the NASD had agreed upon a preliminary rule addressing internalization concerns because issuing the Order, at this time, would "seriously endanger, and may well destroy, the industry's chances of succeeding in its efforts to resolve internalization [concerns]." [31] In this regard, the NYSE argued that the Order would "remove the incentive for OTC representatives to negotiate and could create a less than optimum environment for an industry resolution of the internalization issue." [32]

The Amex and the MSE also disagreed with the Commission's preliminary belief, indicated in the Proposal Release, that the implementation of the Automated Interface would not exacerbate internalization concerns as a structural matter. The Amex and the MSE argued that the Automated Interface will "intensify the problems of internalization."[33] Specifically, these exchanges argued that the operation of the Automated Interface will encourage OTC market making in Rule 19c-3 Securities because it will provide OTC market makers with more efficient and less costly access to the floors of the other ITS participants and thus reduce the risks of providing agency orders with "primary market price protection." As a result of this increased OTC market making, the Amex and the MSE argued that there would be a quantitative increase in internalized trading which they suggested would have significant adverse competitive effects on the exchanges.[34]

In addition to the concerns noted above, the PSE argued that the implementation of the Automated Interface should await resolution of certain disparities in the regulation of OTC and exchange market makers.[35] While not articulating any reasons why "equal regulation" concerns were heightened by the operation of the Automated Interface, the PSE, in effect, argued that the Commission should reverse its decision to permit the Commission and the industry to evaluate the relative competitive advantages and disadvantages of OTC and exchange market makers in a limited environment free of off-board trading restrictions before determining whether any regulatory action was necessary to ensure equal regulation of all markets.[36]

Finally, Instinet, while apparently supporting Commission action in this area, argued that the Commission should "employ Instinent's proprietary System" to effect a linkage between exchange and OTC markets.[37]

In contrast, each of the OTC representatives and Merrill Lynch supported the issuance of the proposed Order as necessary to ensure consummation of the Automated interface.[38] The NASDA indicated its belief that implementation of the Automated Interface would be "a major factor in achieving competition among the markets for listed securities."[39] Similarly, the NSTA suggested that prompt issuance of the Order was necessary because, in the present trading environment, exchange markets were frequently "trading-through" OTC markets, "causing many market makers to halt their participation in [19c-3 trading] or discouraging some from even beginning to participate."[40] Merrill Lynch stated that delays in implementing an efficient linkage between the OTC and exchange markets

* * * have impaired the ability of the industry to handle periods of high volume efficiently and to prepare for even further increases in securities trading. We also believe that the public has not always been well-served by the present inefficient systems of locating the best prices and obtaining executions at those prices. Our own experience, for example, in trading 19c-3 securities is that our customers have benefited from a price superior to the quoted markets in a significantly high percentage of the time. We can only conclude from this that many other public customers are deprived of obtaining superior prices for their orders by the lack of the kind of linkage which the Commission is ordering.[41]

---

[27] While the commentators only addressed concerns regarding internalization by OTC market makers, the Commission has indicated that "internalization (*i.e.*, failure to expose orders to potential buying and selling interest in other markets) is present in the trading of listed securities on exchanges, as well as the over-the-counter market." Rule 19c-3 Adoption Release, *supra* note 9, at 25-27, 45 FR 41125, 41129. The MSE has suggested, however, that internalization by OTC market makers trading through the enhanced NASDAQ System differs from internalization by exchanges because, while exchanges require that orders be exposed within their own marketplace for displacement by other orders, OTC marketmakers are not required to expose their orders to other buying and selling interest in the enhanced NASDAQ. While the Commission understands this difference in theory, few stocks traded on a regional exchange have sufficient order flow to permit actual interaction of orders without a dealer. In fact, Phlx's PACE system precludes such order exposure by exchange rule. MSE letter, supra note 11, at 10. *See* also n. 58, *infra*.

[28] The NYSE's proposal did not provide for the inclusion of exchange-traded securities which were not subject to Rule 19c-3.

[29] NYSE letter, *supra* note 11, at 2-3.

[30] *See* Amex and PSE letters, *supra* note 11, at 9 and 2, respectively.

[31] NYSE letter, *supra* note 11, at 11.

[32] NYSE letter, *supra* note 11, at 11-12. *See also* Amex letter, *supra* note 11, at 8.

[33] Amex letter, *supra* note 11 at 7.

[34] *See* Amex letter, *supra* note 11, at 7-8 and MSE letter, *supra*, note 11, at 11-12. The Amex also suggested that the implementation of the Automated Interface was "a structural exacerbation of the internalization problem because it removes the incentive which otherwise existed for all parties to reach agreement on internalization as a predicate for the linkage". Amex letter, *supra* note 11, at 7.

[35] PSE letter, *supra* note 11, at 4-6. The PSE also raised concerns regarding possible disparities of transaction reporting in the OTC and exchange markets. The Commission believes that the concern expressed by the PSE is no longer warranted. On July 7, 1980, the Commission approved a proposed rule change submitted by the NASD which requires the reporting of OTC transactions on a "gross" basis, exclusive of any mark-up or mark-down. In approving the rule the Commission specifically noted the NASD's commitment to conduct a rigorous surveillance program to ensure compliance with the rule change. Accordingly, the adoption of this rule by the NASD has effectively eliminated any disparity in transaction reporting procedures between the exchange and OTC markets. *See* Securities Exchange Release No. 16960 (July 7, 1980), 45 FR 47291.

[36] PSE letter, *supra* note 11, at 4-6.

[37] Instinet letter, *supra* note 11, at 1-4.

[38] Merrill Lynch letter, *supra* note 11, at 1; NASD letter, *supra* note 11, at 1; and NSTA letter, *supra* note 11, at 1. While expressing its support of the Automated Interface, the NASD also articulated certain timing and technical concerns regarding the provisions of the Order. *See* discussion accompanying notes 62-65 and 69-72, *infra*.

[39] NASD letter, *supra* note 11, at 1.

[40] NSTA letter, *supra* note 11, at 2.

[41] Merrill Lynch letter, *supra* note 11, at 1.

In addition, Merrill Lynch argued that no further rule change should be "a prerequisite to the start of the linkage."[42] While Merrill Lynch recognized that the securities industry was currently discussing possible approaches to address internalization, it suggested that "the present experience with trading in 19c-3 securities indicates that this is a vastly overrated problem."[43] Accordingly, Merrill Lynch argued that no need had been shown for the adoption of a "preliminary rule" addressing internalization prior to effecting the Automated Interface.[44]

2. *Discussion.* As the Commission noted in the Proposal Release, the absence of an efficient linkage between exchange and OTC markets in listed securities is frustrating progress toward achievement of important objectives of the Act. First, the failure to achieve such a linkage inhibits a broker's ability to ensure best execution of customer orders.[45] In the Proposal Release, the Commission stated:

> Orders routed to exchange floors cannot be easily redirected to the OTC market in situations where more favorable prices are offered by OTC market makers. Conversely, OTC market makers have no efficient means of achieving rapid execution of their orders on exchange floors.[46]

Similarly, without such a linkage in place, fair competition between and among different types of trading markets and market professionals is severely impeded since OTC market makers have little ability either to interact with the vast majority of retail orders which presently are routed to the primary exchange markets or to attract additional order flow through their displayed quotations.

In addition, the Commission noted that delays in the implementation of the Automated Interface would contribute to deferral of nationwide price protection—another important national market system goal.[47] While the ITS participants have taken a significant step toward achievement of nationwide intermarket price protection by agreeing to a uniform rule precluding trade throughs in all ITS linked markets,[48] the Commission noted that

> The Failure to provide an efficient linkage between the OTC market and exchange markets provides a significant impediment to the effectiveness of any trade through rule adopted by the exchanges and would significantly inhibit efforts to achieve comprehensive nationwide price protection.[49]

The support by the commentators for the development of an efficient linkage between exchange and OTC markets confirms the Commission belief that the implementation of the Automated Interface is a critical element of the national market system which should be effected as quickly as possible. As Merrill Lynch and NSTA point out, the implementation of the Automated Interface should enhance pricing efficiency, market making competition and the ability of brokerage firms to ensure best execution of their customers' orders. Inded, without implementation of the Automated Interface, a number of major national market system initiatives of the Commission and the industry, if not rendered totally ineffective, will remain, at best, unfinished.[50]

The Commission recognizes the significance of the concerns raised by commentators regarding the ability of exchange member firms permitted to make markets upstairs pursuant to Rule 19c-3 to internalize their customers' order flow. In this connection, the Commission continues to support the NYSE's leadership role, together with the informal coordination by the Securities Industry Association, in encouraging industry development of approaches to address concerns relating to internalization in connection with Rule 19c-3 trading. Notwithstanding the Commission's support of this industry initiative, however, the Commission does not accept the arguments of the ITS participants that industry efforts to address internalization concerns should be considered a prerequisite to, or act to delay, the actual operation of the Automated Interface.

The ITS participants, in arguing that the adoption of a "preliminary rule" to address internalization concerns should be a precondition to operation of the Automated Interface, essentially reiterated the arguments against removal of off-board trading restrictions which they presented at the Commission hearing regarding then proposed Rule 19c-3. The Commission considered these arguments carefully during the Rule 19c-3 proceeding but determined to adopt the Rule in light of its limited scope and the ability of the Commission to respond promptly, should trading develop in Rule 19c-3 Securities in a manner inimicable to the public interest, the maintenance of fair and orderly markets or fair intermarket competition. In reaching that decision, the Commission attached significant weight to its belief that Rule 19c-3 presented the Commission and the industry with a unique opportunity to consider concerns relating to the effects of internalization in a limited context and that regulatory action by the Commission, if deemed necessary to deal with internalization concerns, should await actual experience under the Rule. The Commission continues to believe that, for the reasons noted above, the benefits of removing off-board trading restrictions for a limited group of securities outweigh any potential adverse effects resulting from that action.

Although several commentators have argued strenuously that implementation of the Automated Interface without an effective internalization rule in place will increase the degree of internalization, the Commission is not persuaded either that internalization concerns with respect the OTC trading of listed securities will, in fact, become more acute or that such concerns cannot be adequately evaluated and, if necessary, addressed through regulatory action after the Interface is operational.

First, the implementation of the Automated Interface will not permit exchange member firms to internalize customer orders in any stock which they are not already permitted to do so pursuant to Rule 19c-3. Rather, the Automated Interface will provide OTC market makers with a means to attract order flow from other markets, the very converse of internalization. Moreover, the existence of the Automated Interface may also provide the Commission and the industry with a facility through which the industry or the Commission could take further regulatory action to

---

[42] *Id.*

[43] *Id.*

[44] Merrill Lynch also urged the ITS Participants to take "prompt action" to develop an automated execution capability for the ITS with respect to commitments to trade sent to exchange participants. Merrill Lynch urged that such a capability "would provide a greater degree of efficiency and enhance the ability of customers to have their orders executed with a minimum delay and in a manner which increases the ability to obtain the best available price". *Id.* at 1.

[45] Proposal Release, *supra* note 5, at 20-21, 46 FR 12382, 12383. *See* Section 11A(a)(1)(C)(iv), 15 U.S.C. 78k-1(a)(1)(C) (iv).

[46] Proposal Release, *supra* note 5, at 20-21, 46 FR 12383. In addition, as the Commission has previously emphasized, the need for an efficient linkage between ITS and the OTC market has been heightened by the adoption of Rule 19c-3. *See* the Proposal Release, *supra* note 5, at 22-23, 46 FR 12382, 12383.

[47] *Id.* at 22, 46 FR 12382, 12383.

[48] *See* Securities Exchange Release No. 17704 (April 9, 1981).

[49] Proposal Release, *supra* note 5, at 22, 46 FR 12382, 12383.

[50] In addition to the significant limitations on the effectiveness of any trade-through rule, the absence of an efficient linkage between exchange and OTC markets renders impossible the Commission's goal of nationwide price protection of limit orders. Moreover, as discussed in n. 58, *infra*, the implementation of the Automated Interface will provide the securities industry and the Commission with a mechanism to address concerns raised by OTC trading of exchange-traded securities.

ameliorate those concerns.[51] Finally, the operation of an Automated Interface will permit the Commission and the industry to observe the degree to which integrated firms will internalize their order flow if given the opportunity to efficiently route orders elsewhere, and thereby increase the value of the Rule 19c-3 experience as a basis for evaluating internalization concerns.

The Commission recognizes the argument that the implementation of the Automated Interface may result in additional OTC market making in Rule 19c-3 securities and thereby indirectly cause an increase in the extent of internalized trading activity. This argument appears to be based on the assumption that any enhanced efficiency in OTC market making for Rule 19c-3 Securities should be opposed because it might thereby result in increased market making and increased internalization. The Commission does not accept this underlying assumption. Increased market making is wholly consistent with the Commission's desire, in adopting Rule 19c-3, to permit OTC market making in Rule 19c-3 securities. Accordingly, the Commission has determined that, in the near term, any regulatory concerns arising from the adoption of Rule 19c-3 are outweighed by the increased competition and experimental opportunities resulting from the removal of off-board trading restrictions for a limited number of securities. As a result, the Commission adopted Rule 19c-3 without adopting any rule addressing internalization. In light of this prior determination, as well as the fact that internalization concerns are not directly exacerbated by the Automated Interface, the Commission does not believe that consideration of the proposed Order is the appropriate forum for reviewing those concerns.[52]

Similarly, the Commission does not agree with the assertions of certain commentators that questions regarding "equal regulation" of exchange and OTC market makers must be resolved prior to the implementation of the Automated Interface. The implementation of the Automated Interface does, for the first time, provide a direct link between exchange and OTC market makers. However, the commission does not perceive how the operation of the Automated Interface will heighten concerns regarding the lack of uniform regulation of all 19c-3 market makers.

Each exchange participating in the ITS has varying regulations governing its marketmakers; however, the participants have seen fit to require uniform obligations only with respect to the actual operation of ITS and related measures such as "locked markets" and "trade throughs." Assuming that OTX market makers were governed by these same rules (as the order would require),[53] the Commission does not perceive how the inclusion of the OTC market in ITS raises any new "equal regulation" concerns. Indeed, the automated execution capability of the enhanced NASDAQ, in effect, imposes an additional obligation on OTC market makers since that capability will provide exchange participants with assurance that any OTC quotation which they may attempt to execute against is absolutely firm.

In addition, the Commission does not agree that the more general questions regarding the present differences in regulation in the OTC and primary exchange markets must be resolved in the context of the Order. As the Commission noted in the Rule 19c-3 Adoption Release, uniform regulation is appropriate only when applied in the context of persons who "enjoy similar privileges, perform similar functions and have the potential for similar market impact." [54] Accordingly, as it has stated in the past, the Commission has determined to defer any consideration of modification of Commission or exchange rules until it has had an opportunity to gain experience with trading in an environment free of off-board trading restrictions, because, without such experience, it would be extremely difficult, if not impossible, to determine the extent to which any type of market maker regulation should be universally applied.[55]

The Commission continues to believe that it is premature to determine what, if any, market maker obligations should be applied to all markets in a national market system. As noted above, the NYSE and the Amex continue to be the "primary" markets in virtually all Rule 19c-3 securities with OTC market makers presently accounting for a relatively small percentage of the total consolidated volume. It may be that, once the Automated Interface is operational and the enhanced NASDAQ is expanded to include all OTC market makers and all exchange-traded stocks, OTC market makers may be successful in attracting additional order flow. However, in light of the present trading environment,[56] the Commission continues to believe that it would not be appropriate, at this time, to either impose additional regulatory obligations on OTC market makers or alter existing rules of the "primary" exchanges which impose "affirmative" and "negative" obligations upon specialists.

Similarly, the Commission does not agree with the suggestion of Merrill Lynch that it would be appropriate, at this time, to require all of the exchange ITS participants to provide a universally available automated execution capability similar to what would be provided by the enhanced NASDAQ System. The Commission does believe, however, that providing an automated execution capability for ITS (at least with respect to the secondary markets) would greatly enhance the efficiency of that system and might increase the ability of secondary markets to attract orders through ITS. Therefore, the

---

[51] See n. 58, *infra*.

[52] The Commission recognizes the concern expressed by a number of exchange commentators that the issuance of the Order at this time may reduce the incentive for OTC representatives to actively pursue agreement on a "preliminary rule" to address internalization concerns. However, the Commission cannot agree that achievement of this most critical national market system initiative should be delayed because of speculative concerns regarding the ability of the industry to reach agreement on a means to address internalization, especially in light of the Commission's determination that the Automated Interface will not directly exacerbate internalization concerns. The Commission wishes to emphasize, however, that it expects the NASD and all other OTC representatives to pursue, in good faith, active consideration of an appropriate "preliminary rule."

[53] The Order specifically requires the NASD and the ITS participants to submit to the Commission amendments to the ITS Plan providing for the participation of the NASD in ITS. The Commission would emphasize that this provision of the Order envisions acceptance, by the NASD, of the trading rules contained in the ITS Plan.

The Commission wishes to note, however, that the MSE's related concern regarding the willingness of the NASD to "assume responsibility for the conduct of (OTC market makers) trading over ITS" should not delay participation of the NASD in ITS. MSE letter, *supra* note 11, at 7-8. The exchanges presently only accept liability (to varying degrees) for uncompared trades resulting from errors not traceable to any exchange member involved in the trade. Because of the automated trading characteristics of the enhanced NASDAQ, that system is capable of providing a "locked-in" trade report in which the identity of each of the persons trading through the enhanced NASDAQ may be identified. Accordingly, if each of the OTC market makers participating in the enhanced NASDAQ undertakes to be responsible for whatever trades the system's "locked-in" trade reports showing participating in, there would appear to be no reason for the NASD ever to be required to assume liability for uncompared trades.

[54] Rule 19c-3 Adoption Release, *supra* note 9, at 38-39, 45 FR 41125, 41131.

[55] *Id.* Thus, experience under Rule 19c-3 should, in addition to providing the Commission with the opportunity to evaluate internalization concerns in a limited context, provide similar opportunities for the industry and the Commission to evaluate equal regulation concerns.

[56] The Commission wishes to emphasize that its determination at this time, not to require uniform regulation of all market makers trading in Rule 19c-3 Securities should not be construed as a determination that changes in existing regulations governing market making would not be appropriate in the future as the national market system evolves.

Commission would support any determination by the ITS participants to enhance ITS to provide for the capability for market makers in ITS participating exchanges to offer automated execution of commitments.

Although the Commission has concluded that it should not now consider regulatory action with respect to OTC market making in conjunction with the instant Order, the Commission wishes to reemphasize its continuing commitment to observe closely trading patterns in Rule 19c-3 securities, both before and after implementation of the Automated Interface, with a view to identifying any adverse effects resulting from internalization, unequal regulation, or any other aspect of the present Rule 19c-3 trading environment.[57] In this connection, the Commission has requested the staff to complete its first monitoring report on 19c-3 trading by the end of May 1981. As the Commission has previously stated, if it determines as a result of that review, or at any time in the future, that the ability of OTC market makers to internalize or the present regulatory structure regarding market makers has had unwarranted adverse effects on the markets for Rule 19c-3 securities, it will not hesitate to take whatever regulatory action is necessary to address those effects.[58]

However, the Commission does not believe, as some commentators suggested, that the implementation of the Automated Interface should be delayed pending the results of the Commission's monitoring of experience under Rule 19c-3.[59] While the Commission will review carefully the findings of the forthcoming staff monitoring report, that report will not be based on widespread Rule 19c-3 OTC trading due in part, the Commission believes, to the absence of an OTC trading environment characterized by an efficient intermarket linkage for Rule 19c-3 Securities. Therefore, the Commission anticipates that this initial annual report will not permit any conclusive evaluation of the Rule 19c-3 experiment which has been frustrated in significant respects due to the absence of an effective OTC link to exchange markets.

In summary, the Commission believes that the immediate implementation of the Automated Interface is a critical event in the development of a national market system and will not directly exacerbate internalization or any other regulatory concerns as a structural matter. Accordingly, while the Commission reaffirms its support of industry efforts to address internalization concerns promptly (and urges both the ITS participants and the NASD to commit themselves fully and in good faith to the process), the Commission has also determined that any further delay in implementing the Automated Interface would be inconsistent with the public interest, the protection of investors and the establishment of a national market system. Therefore, the Commission has determined to issue the Order, in revised form, effective upon publication in the **Federal Register.**[60]

III. Timing for the Implementation of the Automated Interface

The proposed Order would have required that the ITS participants and the NASD jointly effect the Automated Interface, on a pilot basis, by September 30, 1981. In order to ensure acceptable progress toward that goal, the order would have also required the ITS participants to provide the NASD, by April 15, 1981, complete technical specifications of line protocols, message formats and other matters relevant to the Automated Interface and both the ITS participants and the NASD to prepare and submit to the Commission, by May 15, 1981, a description of, and timetable for, the implementation of the Interface. In connection with these requirements, the Commission also requested the NASD to provide to the Commission, by April 15, 1981, a status report regarding its progress in testing the automatic execution capability of the enhanced NASDAQ system. The Commission expressly requested comment on the feasibility of the September 30 deadline for implementation of the Automated Interface, as well as regarding the remainder of the timetable set forth in the proposed Order.[61]

---

[57] In the Rule 19c-3 Adoption Release, the Commission indicated its intention to monitor the effects the Rule, by increasing opportunities for internalization, might have on (1) the fairness of inter-market dealer competition, (2) fragmentation of securities markets (with collateral effects on pricing efficiency) and (3) occurrences of overreaching. Rule 19c-3 Adoption Release, *supra* note 9, at 49-52, 43 FR 41125, 41134; *see generally* Securities Exchange Act Release No. 13662 (June 23, 1977), at 45-65, 42 FR 33510. In this regard, the Commission expects to analyze bid and ask quotation spreads in Rule 19c-3 Securities to attempt to determine whether adoption of the Rule has had any significant weight on market maker competition, the quality of the market in Rule 19c-3 Securities (including the extent to which the published quotations in Rule 19c-3 Securities are an accurate reflection of all buying and selling interest in a particular market for those securities) and the quality of executions in Rule 19c-3 securities, with particular reference to the relationships between transactions and quotations in those securities.

[58] The Commission's statement that it is prepared to take regulatory action to respond to adverse market structure or competitive problems resulting from internalization in Rule 19c-3 Securities should not be read as an indication that internalization, to the extent it is a problem, is confined to the OTC market. As indicated above, the Commission believes that, to a large extent, exchange-based trading today is internalized since much of the order flow sent to exchange markets is not in fact effectively exposed to other markets prior to execution on those exchanges. Therefore, the Commission believes that any regulatory response to internalization must take into consideration the impact of existing exchange-based internalization.

The Commission does recognize, however, that, unlike some exchange market makers (*e.g.*, primary exchange specialists in more actively traded stocks) which actually expose their agency orders to other participants in their own market, OTC market makers do not expose agency orders to any other trading interest. *See* MSE letter, *supra* note 11, at 10-11. Consistent with this view, in the Rule 19c-3 Adoption Release, the Commission indicated that, if internalization concerns are borne out it might (1) require all OTC trading in Rule 19c-3 securities to be effected through a trading system (such as the enhanced NASDAQ System, Instinet or NSTS) which provides an opportunity for order interaction; (2) require integrated firms to "hold-out" customer orders through such a system or the consolidated quotation system for a minimum period of time prior to executing those orders as principal; or (3) require market makers in Rule 19c-3 securities to send their own agency order flow to other market makers. The MSE in its comment letter made a similar suggestion. *See* MSE letter, *supra* note 11, at 12. In addition, in light of the present lack of effective order interaction on the regional exchanges, the Commission will also consider whether any of these exposure requirements should be applied to all secondary markets, whether exchange or OTC.

[59] *See, e.g.*, PSE letter, *supra* note 11, at 4.

[60] The Commission wishes to reaffirm, however, that it does not regard the Automated Interface as necessarily the exclusive means of providing for interaction between the OTC and exchange markets. In this connection, the Commission is sensitive to the concerns raised by Instinet that the Commission is implicitly enfranchising the ITS and the enhanced NASDAQ system as the exclusive means for inter-market trading in a national market system. *See* Instinet letter, supra note 11, at 4-8. The Commission has never mandated the development or participation in any particular inter-market trading system to the exclusion of any other system or participation therein. Rather, through encouragement of the development of ITS, Instinet, the enhanced NASDAQ system, NSTS and the NYSE's proposed "competitive market maker system," the Commission has attempted to provide an environment in which competing systems could develop and which would permit the industry to determine, on the basis of its own needs, which systems should evolve into permanent market fixtures. Accordingly, Instinet's request that the Commission somehow require all exchange and OTC market makers to trade in its system would be contrary to the Commission's basic evolutionary approach to facilitating a natinal market system. However, to the extent Instinet wishes to establish a linkage, similar to that envisioned by the Order, between its system and other trading markets, Instinet should explore the possibility of doing so with the ITS participants and the NASD.

[61] Proposal Release, *supra* note 5, at n. 37 and 61, 46 FR 12382, 12385. In addition to the dates noted above, the proposed Order would have required the ITS participants (i) to prepare and submit to the Commission, by August 1, 1981, proposed amendments to the ITS Plan necessary to reflect participation of the NASD in the ITS ("NASD

Continued

In response to that request for comment, the NASD indicated that it would be difficult, if not impossible, for it to implement the Automated Interface by September 30, 1981. However, the NASD did commit to work to establish an automated interface within six months of the date agreement on design specifications for the Interface was reached.[62] In this connection, the NYSE has indicated that a draft of the technical specifications for the Automated Interface has been prepared by the Securities Industry Automation Corporation ("SIAC"), the ITS Plan Processor, and anticipated that "those specifications can be put in final form satisfactory to the ITS Participants and the NASD, by April 15." [63] The Commission understands that those specifications have now been provided to the NASD. Moreover, the NYSE also indicated its belief that "from a systems standpoint" the NASD and the ITS participants will be able to prepare, by May 15, a time schedule for the implementation of the Automated Interface.[64]

The Commission agrees with the NYSE that the ITS participants and the NASD should be able to reach agreement on final specifications shortly after the issuance of the Order and, therefore, the Order as issued, requires that the NASD and the ITS participants submit a time schedule for the implementation of the Automated Interface by June 15, 1980.[65]

Participation Amendment") and (ii) prior to July 31, 1981, to develop a capability to receive quotations from market makers participating in the enhanced NASDAQ ("CAE market-makers") and revise quotation displays on their respective floors to reflect quotations from CAE market makers. Finally, the Commission requested the ITS participants to submit, by July 31, 1981, a report on progress toward the development of a preliminary rule addressing internalization. *See* discussion accompanying note 67 *infra.*

[62] NASD letter, *supra* note 11, at 1.

[63] NYSE letter, *supra* note 11, at 14. Without specifying any reason why the initial timetable set by the proposed Order was infeasible, the MSE argued that it was inappropriate for the Commission to base its timing requirements "solely" on the timing estimates of the NASD. MSE letter *supra* note 11, at 6. As noted above, however, both the NASD and the NYSE, after consulting with SIAC, appear to be in agreement that the Automated Interface can be technically built in the new time period provided by the revised Order issued today. The Commission would also note that it is perfectly appropriate for it to place primary emphasis on the NASD's timing estimates because the Order imposes on the NASD the principal responsibility for building the Automated Interface.

[64] *Id.*

[65] The Commission has, however, deleted from the Order the requirement that final specifications for the Automated Interface be provided the NASD by April 15, 1982, in light of its understanding that the Consolidated Quotation Operation Committee has voluntarily forwarded those specifications to the NASD.

Accordingly, in light of the NASD's indication that the Automated Interface could be built in six months from that date as well as the Commission's continuing belief that there are no significant technical problems in implementing the Automated Interface in the form provided in the Order, as issued,[66] there would appear to be general agreement that the Automated Interface can be implemented by year end. However, in order to provide the NASD and the ITS participants with additional flexibility, the Order, as revised, provides an outside date for activation of the Automated Interface of March 1, 1982.[67]

IV. Functional Provisions of the Order

A. Comments

The proposed Order sets forth the functional characteristics of the Automated Interface.[68] While commentators generally did not raise objections to those characteristics, the NASD did suggest certain revisions.

The NASD raised two concerns generally regarding the scope of the proposed Order. First, the NASD argued that the Order should not restrict trading through the Automated Interface to Rule 19c-3 Securities. The NASD argued that there were no technical reasons for this limitation and therefore urged that the Automated Interface should permit

[66] The NASD did raise a concern regarding its ability to technically effect certain functional characteristics contained in the proposed Order regarding pre-opening applications. However, the Commission believes that the Order, as adopted, is responsive to the concerns expressed by the NASD. *See* text accompanying notes 69-79, *infra.*

In addition, while the Amex, MSE and PSE did not identify any technical problems relating to the Automated Interface, those exchanges argued that it was inappropriate to issue the Order because, in light of the very limited opportunity the ITS participants have had to observe an operational enhanced NASDAQ system, technical problems may be discovered in the future. *See* Amex letter, *supra* note 11, at 5. MSE letter, *supra* note 11, at 4-5 and PSE letter, supra note 11, at 9. To the extent that unforeseen technical problems arise, the Commission expects that the NASD will devote every effort to resolve those problems expeditiously. Moreover, if, despite efforts by the NASD, unforeseen technical problems delay implementation of the Automated Interface, the Commission, of course, will take those problems into account.

[67] The Order, as issued, has also been revised to require the ITS participants to submit the NASD Participation Amendment by November 1, 1981 and to develop a capability to receive CAE market makers' quotations by March 1, 1982. The Commission also wishes to reaffirm its request that the ITS participants and the NASD provide it with status reports on progress toward the development of a "preliminary rule" addressing internalization concerns by July 31, 1981.

[68] The Order, as issued, does not provide technical specifications for the Automated Interface because the Commission believes that it would be unnecessarily cumbersome and inflexible for the Commission to dictate such specifications.

trading in all ITS stocks traded by an OTC market maker.[69] Second, the NASD suggested that the provision for a six month pilot period, during which the Automated Interface would be limited to the thirty most active Rule 19c-3 stocks, was unnecessary. Instead, the NASD argued that the Automated Interface should immediately permit trading in all ITS securities traded in the OTC market with no limitation on the number of participating market makers.[70]

In addition to its concerns regarding the scope of the proposed Order, the NASD expressed concern over the requirement in the proposed Order that the enhanced NASDAQ System be capable of aggregating all CAE market maker responses to pre-opening applications. The NASD suggested that this requirement would necessitate "significant modifications" to the enhanced NASDAQ which might delay the implementation of the Automated Interface. As an alternative, the NASD suggested designing the Automated Interface to permit each CAE market maker to send individual pre-opening responses to other ITS participants. In addition, to the extent that this revision might act to delay implementation of the Automated Interface, the NASD indicated it would be willing, on an interim basis, to agree either to aggregate manually CAE market maker opening responses or to preclude CAE market makers from participating in the pre-opening application.[71]

The NASD also argued that the provision in the proposed Order limiting participation in the Automated Interface, during the pilot period, to five CAE market makers per stock was unnecessary. While the NASD recognized that the ITS was presently technically unable to accept more than five "contra-parties" for an ITS commitment, it argued that this limitation should not restrict the number of CAE market makers in any stock. Instead, the NASD suggested that, until this problem has been remedied, it would program the enhanced NASDAQ to allocate a particular ITS commitment to a maximum of five CAE market makers.[72]

B. Discussion

The Commission shares the NASD's desire to include all Rule 19c-3 stocks in the Automated Interface as quickly as possible. However, the Commission continues to believe that the immediate

[69] NASD letter, *supra* note 11, at 3.

[70] *Id.* at 3.

[71] *Id.* at 1-2.

[72] *Id.* at 2-3.

inclusion of all Rule 19c–3 stocks might act to delay implementation of the Automated Interface. Accordingly, the Order, as issued, continues to provide for a six month pilot phase during which trading through the Automated Interface could be limited to the thirty most active Rule 19c–3 stocks.[73] The Commission would note, however, that, to the degree that the ITS participants and the NASD can agree that a pilot phase is unnecessary, the Order would in no way preclude the inclusion of additional stocks in the Automated Interface.

The Commission also agrees with the NASD that the Automated Interface should ultimately permit trading in all ITS securities. However, because of the potential for greater OTC market making activity in Rule 19c–3 Securities, the Commission continues to believe that it is appropriate for the Order to continue to be limited exclusively to those Securities. However, the Commission urges the ITS participants and the NASD, after they have had an opportunity to observe the effects of trading Rule 19c–3 Securities through the Automated Interface,[74] to consider permitting the inclusion of additional ITS securities in the Automated Interface.[75]

The Commission also agrees with the NASD that the development of a capability to aggregate automatically CAE market maker pre-opening responses should not delay the implementation of the Automated Interfaces. Accordingly, the Order, as issued, has been revised to permit the NASD to perform that aggregation function manually.[76] The Commission disagrees, however, with the NASD's suggestion that the Automated Interface and the ITS should eventually permit each CAE market maker individually to send his pre-opening response to other ITS participants. Without any provision for aggregation of CAE market maker responses, the specialist who initially sent the pre-opening application potentially would be required to assimilate and respond to large numbers of individual responses before opening the stock. The Commission belives that such a procedure would be extremely unwieldy and would result in unnecessary delays in opening stocks in which pre-opening applications have been sent. Accordingly, the Commission believes that the NASD should modify the enhanced NASDAQ, as expeditiously as practicable, to permit that System to aggregate automatically and send pre-opening responses by the end of the pilot phase of the Automated Interface.[77]

Finally, the Commission is also sympathetic to the NASD's desire to avoid placing any limitation on the number of CAE market makers for any stock traded through the Automated Interface. In this connection, the Commission has been informed by the ITS participants that they expect to complete planned enhancements to the ITS which would permit that System to accept up to forty "contra-parties" by September 1, 1981. Therefore, the Commission would anticipate that any limitation on the number of market makers trading through the Automated Interface will prove unnecessary. However, in the event that the planned enhancements to the ITS become delayed, the Commission does not believe that the NASD's suggestion that its enhanced NASDAQ be programmed to only allocate ITS commitments among a maximum of five market makers is appropriate in itself. The best bid and offer quotation for CAE market makers ("OTC BBO"), which the Order, as issued, requires the NASD to provide to each of the ITS participants, would have aggregated the quotation sizes of all CAE market makers at the same price. Accordingly, in cases in which there were more than five CAE market makers bidding or offering at one price, other ITS participants would be misled as to the actual size of the OTC market which they could access.[78] Thus, the Order, as issued, limits CAE market maker participation in the pilot phase of the Automated Interface to the extent that "contra party" information cannot be provided either at the time of the trade or on a "names later" basis.

C. Description of the Order

With the exception of the changes discussed above, the Order, as adopted, has not been substantively changed.[79] The Order requires the ITS participants and the NASD to effect jointly the Automated Interface. The Interface will

---

[73] The Commission recognizes that certain of the thirty most active Rule 19c–3 stocks may not presently be traded in ITS because they are currently traded by only one ITS participant. However, with the inclusion of NASD as an ITS participant, the Commission believes that it is imperative that all of these stocks, in which CAE market makers either make markets or indicate an interest in making markets, should be traded through ITS.

[74] The Commission understands that certain of the ITS participants have expressed concerns that the application of the Automated Interface to non-Rule 19c–3 Securities might, in effect, constitute the removal of off-board trading restrictions with respect to those securities. *See* letter from John G. Weithers, President, MSE, to John J. Phelan, Jr., President, NYSE, dated July 31, 1980. As the Commission has previously indicated, however, it does not view the existence of an Automated Interface as having any particular effect on existing off-board trading rules or any subsequent Commission action with respect to those rules.

[75] In this connection, a number of commentators requested clarification regarding whether the enhanced NASDAQ should be treated as an "exchange" for purposes of the Act. *See, e.g.*, NYSE letter, *supra* note 11, at 21–25. While certain trading characteristics of the enhanced NASDAQ are functionally similar to the traditional exchange-type trading mechanism, the Commission does not believe that such similarity transforms any electronic trading mechanism into an exchange for purposes of the Act. Moreover, there was no suggestion in the 1975 Amendments, which were written during a period when Instinet was already operating and other electronic trading systems were widely contemplated, that the Congress intended that all such systems be registered as national securities exchanges. At the same time, the Act does not prohibit an exchange, such as the CSE, from operating an electronic trading system, such as the NSTS, as an exchange facility.

The Act specifically addresses the regulation of national securities associations in Section 15A of the Act. That Section was substantially revised by the 1975 Amendments to provide for treatment of associations which was substantively similar to treatment of exchanges in Section 6 of the Act. Most significantly, Section 15A(b)(6) provides that the governing rules of a national securities association, which must be filed with the Commission for approval pursuant to Section 19(b) of the Act, should be designed, among other things, to remove impediments to and perfect the mechanism of a free and open market and a national market system. Accordingly, it appears clear that Congress anticipated that the NASD, as well as the exchanges, would participate in building the facilities necessary to create a national market system.

In addition, pursuant to Section 15A and 19 of the Act, the NASD would be required to file, and has filed, with the Commission for its approval, a complete description of the functional attributes of the enhanced NASDAQ system. *See* Securities Exchange Release No. 17601 (March 4, 1981), 46 FR 16171. Therefore, because the Commission's authority under Section 15A with respect to the development by the NASD of national market system facilities such as the enhanced NASDAQ is as great as that which it would possess if that facility were deemed a facility of an exchange, and since the standards for approval of that system's rules and operational procedures are comparable to those applicable to exchange trading facilities, no regulatory purpose would be furthered by treating the enhanced NASDAQ as an exchange.

[76] The Commission would emphasize, however, that the Order does require that the enhanced NASDAQ provide CAE market makers with the ability to initiate pre-opening applications. The Commission understands that the enhanced NASDAQ is capable of performing that function through the broadcast of an administrative message.

[77] Because participation in the ITS pre-opening application affords an attractive trading opportunity, the Commission would expect that CAE market makers will encourage the NASD to implement this system enhancement promptly.

[78] This concern might be eliminated if the NASD were to aggregate the size of a maximum of only five market makers in calculating the best bid and offer quotation for CAE market makers. Accordingly, if planned enhancements to the ITS are not completed by March 1982, the Commission would consider amending the Order to permit additional CAE market maker participation if the NASD effected the quotation aggregation limitation discussed above.

[79] The Commission has, however, made certain language changes in the Order in response to comments by the NYSE. *See* NYSE letter, *supra* note 11, at 18–21.

be required to permit users of the enhanced NASDAQ and the ITS to send ITS commitments, responses and other existing types of messages (with the exception of responses to pre-opening applications) between the ITS and the enhanced NASDAQ.

The Order also requires the NASD to assume sole responsibility to (1) modify the enhanced NASDAQ to send and receive commitments, administrative messages, pre-opening notifications and any other existing message (with the exception of pre-opening responses) in the ITS standard format, (2) develop a capability, either manually or through the enhanced NASDAQ, to send aggregated pre-opening responses in the ITS in standard ITS format and (3) collect and make available to SIAC, as ITS plan processor, the best bid and offer, with size, for CAE market makers, in each security traded through the Automated Interface.[80] In this connection, the Order also requires the ITS participants to develop the capability to receive and display CAE market maker quotations.

Finally, the Order continues to provide that OTC firm access to ITS, in particular stocks, would be limited to firms making markets in those stocks.[81]

V. Effects on Competition

In determining to issue the Order, the Commission has considered whether any anti-competitive impact of the Commission's action would outweigh the regulatory benefits gained in terms of furthering the purposes of the Act. The Commission believes, however, that issuance of the Order would not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Indeed, as discussed above, the Automated Interface, by enhancing the access of OTC and exchange market makers to each other's markets, should increase market making competition.

The Commission recognizes the concerns expressed by some commentators that the ability of exchange member firms to internalize their customer's orders and the present "disparities" of regulations imposed on OTC and exchange market makers may have certain adverse competitive effects on exchange market makers.[82] However, as discussed in detail above, the Commission, when it adopted Rule 19c-3, determined that any such potential adverse competitive effects were outweighed by the benefits obtained from the removal of off-board trading restrictions.[83] In light of this determination and the fact that the implementation of the Automated Interface does not structurally exacerbate internalization concerns, the Commission has determined that any burden on competition imposed by the Order is outweighed by the important benefits to be obtained from implementation of the Automated Interface.

VI. Text of Proposed Order

The Securities and Exchange Commission hereby issues an order pursuant to its authority under the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq., as amended by Pub. L No. 94-29 (June 4, 1975)] and particularly Sections 2, 3, 6, 10, 11, 11A, 15A, 17 and 23 thereof [15 U.S.C. 78b, 78c, 78f, 78j, 78k, 78K-1, 78o-1 78q, 78w(a)]. The text of the order is as follows:

I. It is hereby ordered that the American Stock Exchange, Inc., Boston Stock Exchange, Inc., Cincinnati Stock Exchange, Inc., Midwest Stock Exchange, Inc. New York Stock Exchange, Inc., Pacific Stock Exchange, Inc., Philadelphia Stock Exchange, Inc. and any other self-regulatory organization which hereafter becomes a participant in the Intermarket Trading System ("ITS") (collectively, the "Current ITS Participants") and the National Association of Securities Dealers, Inc. ("NASD") shall

A. Act jointly in planning, developing and operating an automated intermarket communications linkage ("Automated Interface") between the ITS and the NASDAQ electronic interdealer quotation system, as modified by the NASD to permit computer assisted execution ("Enhanced NASDAQ"), in order to permit those systems to send and receive, in standard ITS format, commitments to trade and responses thereto, pre-opening notifications and responses thereto (which, with respect to responses sent from the Enhanced NASDAQ, shall be aggregated, manually or automatically, as a single, or series of, responses) and administrative messages with respect to any security:

(1) Which is subject to Rule 19c-3 under the Act and is not a "covered security" as defined in that Rule;

(2) Included in the ITS; and

(3) In which at least one over-the-counter market maker ("CAE market maker") is registered, or indicates an intention to register, as such with the NASD for purposes of use of the Enhanced NASDAQ; *Provided, however*, that (i) no person other than a CAE market maker may have access to the Automated Interface to send or receive ITS commitments to trade, pre-opening notifications and responses thereto or administrative messages otherwise than on or through the facilities of an exchange participating in ITS and (ii) CAE market makers may have access to the Automated Interface only with respect to securities in which they are acting as a market maker in the Enhanced NASDAQ.

B. The Current ITS Participants and the NASD shall take whatever actions are appropriate, individually or jointly, to ensure that the Automated Interface is operational on or before March 1, 1982; *Provided, however*, that, if full operation of the Automated Interface is not deferred beyond September 1, 1982, the Automated Interface may initially be made operational on a pilot basis, limited to the following terms, or such other terms as are agreed to by the ITS participants and the NASD:

(1) No more than the number of CAE market makers per stock whose identity the enhanced NASDAQ is capable of providing, and the ITS is capable of receiving, either at the time of a trade or on a "names later" basis; and

(2) Those 30 securities subject to Rule 19c-3 under the Act in which a CAE market maker is either presently registered or indicates an interest in becoming registered for trading and which had the largest aggregate share volume as reported in the consolidated transaction reporting system during the fourth quarter of 1981.

C. The Current ITS Participants and the NASD shall file with the Commission, not later than June 15, 1981, a detailed timetable for implementation of the Automated Interface, including the Automated Interface testing schedules between the Current ITS Participants, details of any pilot phase, and plans for expansion beyond any such pilot phase.

II. In implementing the foregoing, the NASD and Current ITS Participants are

[80] See n. 78, *supra*.

[81] As discussed in the Proposed Release, this limitation is responsive to concerns raised by the regional exchanges that, with the Automated Interface in place, exchange member firms could use the ITS as an order routing mechanism for both agency and proprietary orders, in securities where they are not acting as a market maker, enabling those firms to use the ITS to avoid floor brokerage and transaction fees and perhaps the need for exchange membership.

The Commission recognizes that the PSE has suggested that this limitation be expanded so that CAE market makers would not be permitted to route agency orders through the Automated Interface. *See* PSE letter, *supra* note 11, at 10-11. The Commission believes, however, that such a limitation would be inconsistent with the purposes of the Act because it would inhibit the ability of OTC market makers to achieve a better execution of their customers' orders.

[82] *See, e.g.*, PSE letter, *supra* note 11, at 3-4.

[83] *See* text *supra* accompanying notes 14-18 and 51-52.

hereby further ordered, to submit to the Commission, on or before November 1, 1981, proposed amendments to the "Plan for the purpose of creating and operating an Intermarket Communication Linkage" filed with and approved by the Commission ("ITS Plan"), reflecting the inclusion of NASD as an ITS Participant.

III. The Current ITS participants are hereby further ordered, prior to March 1, 1982, to develop a capability to receive aggregated quotations from CAE market makers and revise quotation displays on their respective floors to reflect aggregated quotations from CAE market makers.

IV. The NASD is hereby further ordered to collect and process quotations from CAE market makers and make available to the ITS Plan processor, on a current and continuous basis during each trading day, the best bid and best offer of all such CAE market makers, together with the size associated with such best bid and such best offer; *Provided, however,* that in the event two or more CAE market makers make available bids or offers at the same price the size of the best bid or offer shall be the aggregate of the size indicated by the CAE market makers.

By the Commission.

George A. Fitzsimmons,

Secretary.

April 21, 1981.

[FR Doc. 81-12723 Filed 4-27-81; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

[Supplement to Department Circular; Public Debt Series No. 11-81]

Series Q-1983 Notes; Interest Rate

April 23, 1981.

The Secretary announced on April 22, 1981, that the interest rate on the notes designated Series Q-1983, described in Department Circular—Public Debt Series—No. 11-81, dated April 16, 1981, will be 14½ percent. Interest on the notes will be payable at the rate of 14½ percent per annum.

Paul H. Taylor,

Fiscal Assistant Secretary.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the departmental procedures applicable to such regulations.

[FR Doc. 81-12686 Filed 4-27-81; 8:45 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 81
Tuesday, April 28, 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

	Items
Equal Employment Opportunity Commission	1
Federal Communications Commission	2, 3
Federal Deposit Insurance Corporation	4
National Transportation Safety Board	5
Nuclear Regulatory Commission	6
Occupational Safety and Health Review Commission	7-9
Parole Commission	10
Securities and Exchange Commission	11

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION:

TIME AND DATE: 2 p.m. (eastern time), Tuesday, April 28, 1981.

PLACE: Commission Conference Room 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street, N.W., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE DISCUSSED:

1. Freedom of Information Appeal No. 81-1-FOIA-3-NO, concerning a request for subpoenas and supporting documents issued by the New Orleans District Office during a certain time period.

2. A report on Commission Operation by the Executive Director.

Closed to the Public:

1. Litigation Authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Treva I. McCall, Executive Officer, Executive Secretariat, at (202) 634-6748.

This Notice Issued April 21, 1981.

[S-664-81 Filed 4-24-81; 10:16 am]

BILLING CODE 6570-06-M

2

FEDERAL COMMUNICATIONS COMMISSION.

Additional Item To Be Considered at Closed Meeting

The Federal Communications Commission will consider an additional item on the subject listed below at the Closed Meeting, Thursday, April 23, 1981, Following the Open Meeting which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

Common Carrier—1—*Title:* ITT World Communications Required Rate of Return CC Docket No. 80-633; IT World Communications Rate Base and Expense Investigation

The prompt and orderly conduct of Commission business requires that less than 7-days notice be given consideration of this additional item.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen P. Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: April 24, 1981.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[S-669-81 Filed 4-24-81; 2:08 pm]

BILLING CODE 6712-01-M

3

FEDERAL COMMUNICATIONS COMMISSION.

Deletion of Agenda Item

The following item has been deleted from the list of agenda items scheduled for consideration at the April 23, 1981, Open Meeting, and previously listed in the Commission's Public Notice of April 16, 1981.

Agenda, Item No., and Subject

Television—3—*Title:* Southern Television Corp. *Summary:* Application filed by Southern Television Corporation for authority to construct a new UHF television translator station in Columbia, Mississippi. A petition to deny filed by Columbus TV Cable Corp. Petitioner alleges that grant of the application will result in a regional concentration of control in violation of Section 73.636 of the Commission's Rules.

Additional information concerning this item may be obtained from Maureen P. Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: April 24, 1981.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[S-670-81 Filed 4-24-81; 2:06 pm]

BILLING CODE 6712-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Thursday, April 23, 1981, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Mr. Charles E. Lord, acting in the place and stead of Director John G. Heimman (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Notice of acquisition of control of an insured State nonmenber bank.

Recommendation regarding the liquidation of a bank's assets acquird by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,745-L—The Mission State Bank & Trust Company, Mission, Kansas

The Board further determined, by the same majority vote, that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Request from the Comptroller of the Currency that the Corporation, pursuant to section 10(b) of the Federal Deposit Insurance Act, assist in an examination of a national bank.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matter added to the agenda in a meeting open to public observation; and that the matter added to the agenda could be considered in a closed meeting by authority of subsections (c)(8) and (c)(9)(A)(ii) of the

"Government in the Sunshine Act" (5 U.S.C. 552b(c)(8) and (c)(9)(A)(ii)).

Dated: April 23, 1981.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-665-81 Filed 4-24-81; 11:20 am]

BILLING CODE 6714-01-M

5

[NM-81-14]

NATIONAL TRANSPORTATION SAFETY BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 46 FR 22850, April 21, 1981.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m. Tuesday, April 28, 1981.

CHANGE IN MEETING: A majority of the Board has determined by recorded vote that the business of the Board requires revising the agenda of this meeting and that no earlier announcement was possible. The agenda as now revised is set forth below.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Pipeline Accident Report:* Union Light, Heat, and Power Company, Natural Gas Explosion and Fire, Simon Kenton High School, Independence, Kentucky, October 9, 1980, and *Recommendations* to Union Light, Heat, and Power Company, the Research and Special Programs Administration, and the American Gas Association.

2. *Railroad Accident Report:* Derailment of Amtrak Passnger Train No. 21 on the Illinois Central Gulf Railroad, at Springfield, Illinois, October 30, 1980, and *Recommendations* to the Illinois Central Gulf Railroad, Amtrak, and the Federal Railroad Administration.

3. *Railroad Accident Report:* Head-end Collision of Amtrak Passenger Train No. 74 and Conrail Freight Train OPSE-7 at Dobbs Ferry, New York, November 7, 1980, and *Recommendations* to Consolidated Rail Corporation, National Railroad Passenger Corporation, and the Federal Railroad Administration.

4. *Letter* to the Federal Aviation Administration regarding "Access to Flight Data Recorder Tapes," Docket 20661, Notice No. 80-14B.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming 202-472-6022.

April 24, 1981.

[S-666-81 Filed 4-24-81; 12:07 pm]

BILLING CODE 4910-58-M

6

NUCLEAR REGULATORY COMMISSION.

DATE: Week of April 27, 1981 (Revised).

PLACE: Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open/Closed.

matters to be considered

Tuesday, April 28

10:00 a.m.—1. Discussion of Revised Licensing Procedures (Public meeting) (as announced)

1:30 p.m.—1. Discussion of Full-Power Operating License for Salem (Approx 1 hr) (Public meeting) (as announced)

2. Briefing on Long-Range Research Plan (Public meeting) (Approx 1½ hrs) (as announced)

3. Discussion of Management-Organization and Internal Personnel Matters (Closed meeting) (rescheduled from 4/29)

Thursday, April 30

10:00 a.m.—1. Proposed Rule on Operating License Applications and Interim Amendments on Hydrogen Control (Public meeting)

2:00 p.m.—1. Meeting with Representatives of Scientists and Engineers for Secure Energy (Approx 2 hrs) (Public meeting)

2. Affirmation/Discusssion Session (Public meeting) Affirmation and/or Discussion and Vote:

a. Commission Review of ALAB-603, St. Lucie Nuclear Power Plant

b. Requests for Hearings in the Matter of the Proposed Decontamination of Dresden Unit 1

c. Alternative Site Issues in Operating License Proceedings

d. Review of Director's Decision under 10 CFR 2.206, DD-81-3 (Matter of Pacific Gas and Electric Company)

E. Rulemaking to Upgrade the Emergency Preparedness of Certain Fuel Cycle and Materials Licenses

ADDITIONAL INFORMATION: By a vote of 4-0 on April 23, the Commission determined pursuant to 5 U.S.C. 552b(e) and § 9.107a of the Commission's Rules that Commission business required that the affirmation of Leithauser Motion for Official Notice of Intervenor Status, held that day, be held on less than one week's notice to the public. Affirmation of Proposed Amendment to Part 71 to Restrict Air Transport of Plutomium and TMI Restart Schedule—Issuance of Proposed Draft Order, scheduled for 4/23, were cancelled.

Automatic telephone answering service for schedule update: (202) 634-1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, (202) 634-1410.

Gary Gilbert,

Office of the Secretary.

April 23, 1981.

[S-671-81 Filed 4-27-81; 10:32 am]

BILLING CODE 7590-01-M

7

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m. on May 21, 1981.

PLACE: Room 1101, 1825 K Street, N.W., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Patricia Bausell (202) 634-4015.

Dated: April 24, 1981.

[S-663-81 Filed 4-24-81; 10:09 am]

BILLING CODE 7600-01-M

8

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m. on May 14, 1981.

PLACE: Room 1101, 1825 K Street, N.W., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION:

Mrs. Patricia Bausell (202) 634-4015.

Dated: April 24, 1981.

[S-662-81 Filed 4-24-81; 10:09 am]

BILLING CODE 7600-01-M

9

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 1 p.m. on May 7, 1981.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Patricia Bausell (202) 634-4015.

Dated: April 24, 1981.

[S-661-81 Filed 4-24-81; 10:09 am]

BILLING CODE 7600-01-M

10

[1P0401]

PAROLE COMMISSION.

Public Announcement

TIME AND DATE: 9:30 a.m., Wednesday, April 29, 1981.

PLACE: Room 420-F, One North Park Building, 5550 Friendship Boulevard, Bethesda, Maryland 20015.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 11 cases in which inmates of federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commission (301) 492-5926.

[S-666-81 Filed 4-24-81; 12:53 pm]

BILLING CODE 4410-01-M

11

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" citation of previous announcements: To be published.

STATUS: Open meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATES PREVIOUSLY ANNOUNCED: Tuesday, April 21, 1981.

CHANGES IN THE MEETING: Deletion/correction. The following item will not be considered at an open meeting scheduled for Thursday, April 30, 1981, at 10:00 a.m.

Consideration of whether to issue a release adopting an amendment to Rule 11al-5 which would permit Registered Equity Market Makers and Registered Competitive Market Makers registered on the American Stock Exchange and New York Stock Exchange respectively, to credit revenues derived from their transactions as such towards satisfaction of the "business mix" test of Section 11(a)(1)(G) of the Securities Exchange Act and Rule 11a1-1(T) thereunder. For further information, please contact Stuart Strauss at (202) 272-2413.

In addition, item no. 4 on the open meeting agenda for the same date should be corrected to indicate that consideration will be given to whether to *propose* amendments to Regulation S-X. (See 46 FR 23187)

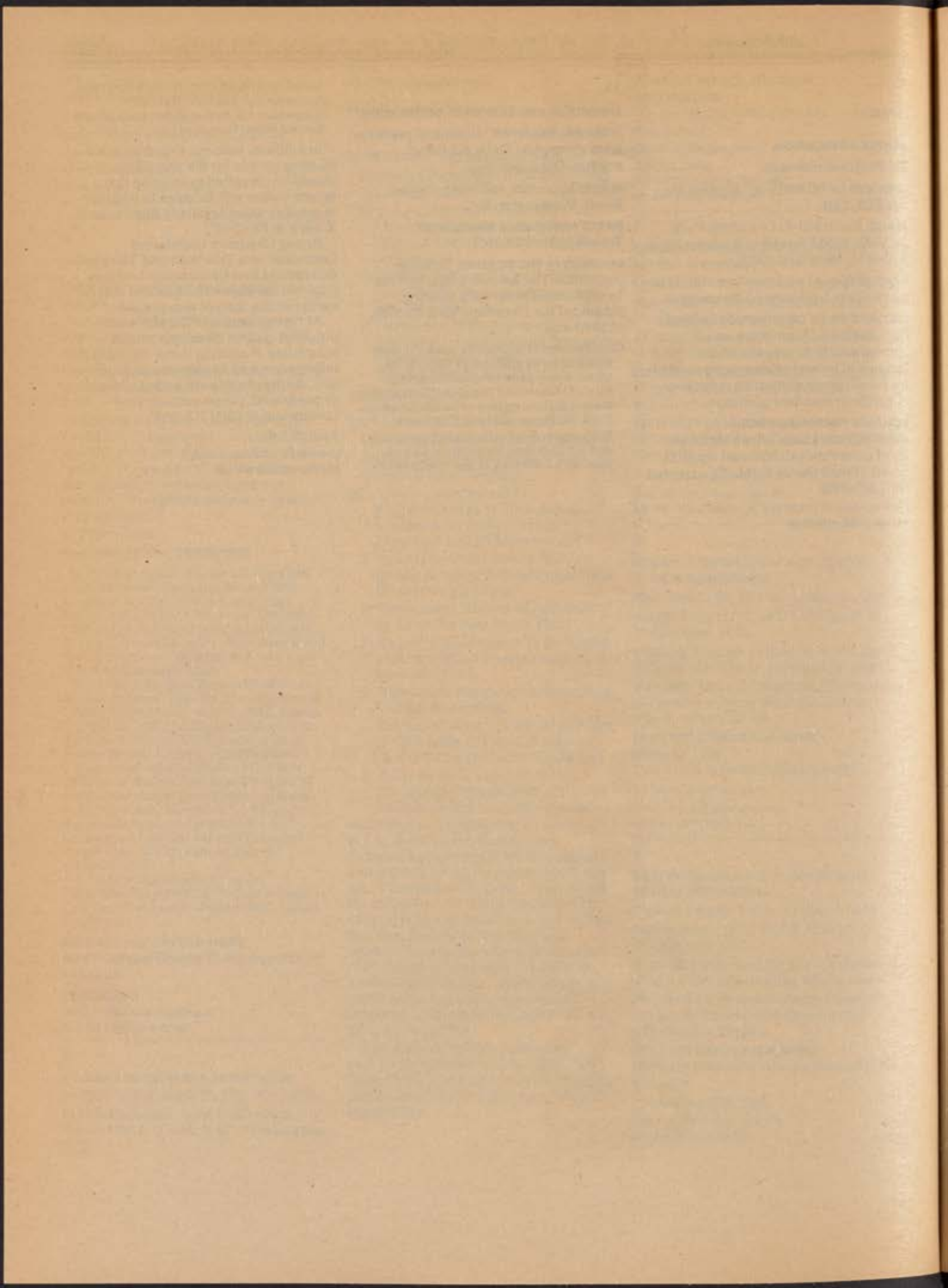
Acting Chairman Loomis and Commissioners Friedman and Thomas determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Paul Lowenstein at (202) 272-2092.

April 23, 1981.

[S-667-81 Filed 4-24-81; 12:10 pm]

BILLING CODE 8010-01-M



federal register

Tuesday
April 28, 1981

Part II

Department of Agriculture

Office of the Secretary

Semi-Annual Regulatory Agenda

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Chs. I–VII, IX–XII, XIV–XVIII, XXI, XXIV–XXIX

9 CFR Chs. I–IV

36 CFR Ch. II

41 CFR Ch. 4

Semi-Annual Regulatory Agenda: Major Regulations Pending and Planned for April 1981 through October 1981

AGENCY: Office of the Secretary, USDA.

ACTION: Semi-Annual regulatory agenda.

SUMMARY: This agenda provides summary descriptions of major regulations being developed in all agencies of the U.S. Department of Agriculture in conformance with Executive Order 12291, Federal Regulations. The agenda also describes regulations affecting small entities as required by section 602 of the "Regulatory Flexibility Act," Pub. L. 96–354. The purpose of the agenda is to inform the public, small entities, and other government agencies of all major actions and regulation review activities as early as possible so interested parties may get background information and comment on these decisions while they are being developed.

FOR FURTHER INFORMATION CONTACT: For further information on any specific decision shown in this agenda, please contact the person listed for that decision.

Requests for copies of this agenda should be directed to: Regulatory Agenda, OBPE, Office of the Secretary, Room 147–E, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 382–1270. If you requested a copy of a previous Decision Calendar, we have placed you on our mailing list for the Regulatory Agenda. You will receive a copy as soon as they are available.

SUPPLEMENTARY INFORMATION:

Purpose of This Agenda

The purpose of publication of the Agenda is to provide the public and other government agencies early notice of pending major actions under consideration by USDA; thus the agenda provides an overview of all Departmental decisionmaking. The projected schedules shown for each action make it possible for interested individuals or groups to plan ahead, acquire background information, and prepare to provide information and comments at appropriate steps in the decisionmaking process (i.e., when proposals are published for comment, or when pre-notices are published).

This Agenda is a substantial revision and update of the Decision Calendar published in the **Federal Register** on November 14, 1980.

Agenda Organization

The Agenda includes 3 sections:

• A list of the titles of actions formerly reported which have been completed, designated as "non-major", or withdrawn from consideration since publication of the last Decision Calendar;

• A list of major regulatory actions planned or under development between April and October of 1981. Actions are organized under headings identifying the USDA agency responsible and include descriptions, legal authority, projected schedules, and information contacts; and

• A list of regulations scheduled for review, for which review is ongoing or will be initiated between now and October 1981.

Be sure to review each of these sections to identify decisions on which you may want to comment. If additional information is desired on an entry, contact the person identified in that entry.

How To Identify New Items on the Agenda

The Regulatory Agenda number shows the month and year that the item was identified as major and placed on the Regulatory Agenda. The first 2 digits after the agency abbreviation identify the month, and the third digit provides the year. Thus, ASCS 031–4 indicates that it was identified as major in March (i.e., "03") of 1981 (i.e., "1"). Any entry with a number indicating a date later than November 1980 is new on the Regulatory Agenda.

Background of Regulatory Agenda

The Regulatory Agenda is published and updated in April and October of each year as part of USDA's response to Executive Order 12291 and the "Regulatory Flexibility Act," Pub. L. 96–354.

This Administration is committed to reducing the burden of Federal regulation on the American economy. USDA is serving as an active and aggressive partner with the President in this effort. To this end, procedures have been established to concentrate greater effort on analyzing major regulatory actions to ensure that government action is needed, that it is clearly within delegated legal authority, and that the effects of taking the action are as well understood as possible.

Also, USDA is focusing added attention on regulatory actions which affect small entities. "Small entities" include small businesses, small not-for-profit organizations, and small governmental jurisdictions. Any time an agency cannot certify that a rule (as defined in the Regulatory Flexibility Act) will not have a significant economic impact on a substantial number of small entities, a Regulatory Flexibility Analysis (RFA) must be completed. The RFA will identify and analyze less burdensome alternative regulatory strategies consistent with the law. Entries in the Agenda for which a Regulatory Flexibility Analysis will be carried out are identified by the symbol "(RFA)" found at the end of the action's "Description." This symbol is shown both in the list of ongoing actions and in the "List of Regulations Scheduled for Review."

Criteria for Major Actions

For a regulatory action to warrant publication in this Agenda, and to receive intensive review and analysis, it must meet one or more of the following criteria:

• An annual effect on the economy of $100 million or more; or

• A major increase in costs or prices for:

—Consumers;
—Individual industries,
—Government agencies (federal, state, or local),
—Geographic regions; or

• Significant adverse effects on:

—Competition,
—Employment,
—Investment,
—Productivity,
—Innovation, or
—The ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The criteria used to determine whether actions are "major" are significantly more stringent than those previously used to determine whether actions were "significant." As a result, fewer actions are listed on this agenda than were listed on previous calendars. The lesser number of actions will allow more intensive analyses to be conducted, so as to more accurately assess the impacts of these important actions.

In this Agenda, we have attempted to list all major actions pending at the time of the agenda, but some may have been inadvertently missed. There is no legal

significance to an item not appearing on this listing.

The dates shown for the steps of each action are estimated and are not commitments to act on, or by the date shown. The "pre-notice" date, when given, is an indication the agency intends to seek public input prior to the "notice of proposed rulemaking."

How To Influence Decisions

The purpose of comment periods and other forms of public participation is to get information and varying points of view which may not be otherwise available to decisionmakers at USDA. All comments are useful in the decisionmaking process. However, the more substantive, well-reasoned, and well-documented a comment is, the more likely it is that it will have a strong influence on the decision.

Comments on the following topics are of particular value:

(1) Alternatives that have been overlooked;

(2) Redefinition of the problem being addressed or assumptions as to what the basis of the problems is;

(3) Suggested changes in the Department's goals in dealing with the problem; and

(4) Other inadequacies in the Department's analysis.

If comments are supported with any of the following types of information, they will be particularly effective:

(1) Identification of major factors that should be considered in the decision;

(2) Costs or benefits or other positive or negative impacts on specific groups, sectors of the economy or parts of the country, etc.—whether direct or indirect, quantifiable or not;

(3) Validity or reliability problems with data or information used, if any;

(4) Data not considered;

(5) Problems with the analytical technique employed, if any;

(6) New analytical techniques;

(7) Different interpretations of the intent of the law, citing the documents on which such interpretations are based;

(8) Case law which USDA may not have considered and explanations of how it bears on the decision;

(9) Other governmental directives or regulations which may overlap or be in conflict with the decision; and

(10) Attitudes, opinions and other comments relevant to the decision.

In view of the above, it is clearly an advantage to have a good understanding of what is behind a "pre-notice" or "proposal." This Regulatory Agenda not only describes the decisions so you can select the ones of interest to you, it provides the projected schedules so you can plan to review any background material in time to comment.

Getting Background Information

Even before a "pre-notice" or "proposal" is published, there are often articles, studies, or preambles to earlier versions of the regulations or decisions, etc., which are helpful in understanding the contemplated action. The "contact" listed for the decision can provide these. When any major action is proposed, a Preliminary Regulatory Impact Analysis is available, usually from this same contact. The analysis describes the options considered in developing the proposal and the costs and benefits of implementing each option. Use of this type of material will help you understand the rationale for the proposal and increase the influence your comments have on USDA decisionmaking.

Review of Existing Regulations

USDA is conducting a comprehensive review of all its existing regulations. Executive Order 12291 requires that reviews be carried out on all currently effective rules and that Regulatory Impact Analyses be performed on all such major rules.

Review of an existing regulation is differentiated from the revision of a regulation because the entire regulation must be examined rather than the specific provision(s) being changed.

The regulation review list contained in this Agenda is a planning and public information activity which precedes and/or accompanies more substantive review activity. Each item is listed on the "List of Regulations Scheduled for Review," with "major" actions appearing in the body of the agenda as well. Substantive review normally begins in the subsequent six-month period.

This "List of Regulations Scheduled for Review" also identifies those regulations with a significant economic impact on a substantial number of small entities, thereby indicating that the required Regulatory Flexibility Analysis will be carried out.

Dated: April 22, 1981.

John R. Block,

Secretary.

List of Actions Formerly Reported Which Have Been Completed, Designated as Non-Major, or Withdrawn

AMS 108–7; Designated Non-Major; Review of Regulations Under the Federal Seed Act

AMS 108–44; Completed; Amendment of Nebraska-Western Iowa Milk Order

AMS 108–49; Completed; New Federal Milk Order for Boise, Idaho, Area

AMS 099–90; Withdrawn; Regulatory Treatment of Reconstituted Milk in All Federal Milk Orders

AMS 129–111; Designated Non-Major; Proposed New Milk Marketing Order for Alabama-West Florida

AMS 020–5; Designated Non-Major; Amendment of the Eastern South Dakota Federal Milk Order

AMS 040–16; Designated Non-Major; Review of Existing Regulations and Policy Statements Issued Under the Packers and Stockyards Act—First Phase

AMS 040–24; Completed; Marketing Policy Statement for California Walnuts Under M.O. No. 984

AMS 040–26; Completed; Marketing Policy Statement for California Raisins Under M.O. No. 989

AMS 040–30; Completed; Set Annual Marketing Policy for Navel Oranges Grown in Arizona and Designated Part of California

AMS 040–33; Designated Non-Major; Amendment of 29 Milk Orders

AMS 050–57; Completed; Proposed Amendment to Filbert Marketing Order

AMS 090–75; Designated Non-Major; Notice of Hearing on Proposed Further Amendment of California Dried Prune Marketing Order

AMS 090–76; Completed; Proposed Free and Restricted Percentages for the 1980–81 Marketing Policy Year—Filberts

AMS 090–78; Designated Non-Major; Review of Regulations: Amendment of Flue-Cured Tobacco Grower Designation Regulations

AMS 100–85; Designated Non-Major; Review of Existing Regulations Issued Under the Packers and Stockyard Act—Second Phase

AMS 100–86; Completed; Marketing Policy for Hops of Domestic Production Under M.O. 991 for 1981–82

AMS 100–87; Completed; Marketing Policy for Valencia Oranges Grown in California and Arizona for 1980

AMS 100–88; Withdrawn; Marketing Policy for Cranberries Grown in 10 Designated States for 1981

AMS 100–90; Completed; Revision of Marketing Policy for Hops of Domestic Production Under M.O. 991

AMS 110–101; Completed; Marketing Policy and Recommendation for Volume Regulation—Far West Spearmint Oil

AMS 021–6; Withdrawn; Proposed Amendments to Regulations Governing Official Standards for Flue-Cured Tobacco, U.S. Types 11–14

AMS 021–8; Designated Non-Major; Amendment of Filbert Marketing Order Regulations and Import Grade Regulations

AMS 031–13; Withdrawn; Merger of Inland Empire and Puget Sound Federal Marketing Orders

APHIS 108–10; Withdrawn; Revision of Export Livestock Handling Requirements

APHIS 039–12; Designated Non-Major; Revised Cattle Scabies Regulations

APHIS 039–25; Designated Non-Major; Revise Brucellosis Regulations to Parallel Uniform Methods and Rules

APHIS 099–45; Designated Non-Major; Exotic Newcastle Disease; and Psittacosis or Ornithosis in Poultry

APHIS 020-2; Designated Non-Major; Proposal to Increase Swine Brucellosis Indemnity Rates in 9 CFR Part 51
APHIS 030-4; Withdrawn; Pseudorabies Testing of Export Swine
APHIS 070-33; Designated Non-Major; Endangered Species Regulations
APHIS 070-35; Designated Non-Major; Mediterranean Fruit Fly
APHIS 080-38; Withdrawn; Oriental Fruit Fly
APHIS 100-49; Designated Non-Major; Brucellosis Indemnity
APHIS Oil-2; Completed; Declaration of Emergency Because of the Existence of African Swine Fever in Haiti
APHIS Oil-3; Designated Non-Major; Interstate Movement of Certain Psittacine Birds.
ASCS 040-11; Completed; 1981 Feed Grain and Soybeam Programs
ASCS 040-12; Completed; 1981 Rice Set-Aside and Land Diversion Payment Program and the 1981 Rice Loan Purchase and Payment Program
ASCS 040-13; Completed; 1981 Upland Cotton Program Provisions
ASCS 040-15; Completed; 1981 Crop Peanuts—National Acreage Allotment and National Poundage Quota
ASCS 040-25; Completed; 1981 Crop Flue-Cured Tobacco Marketing Quota
ASCS 040-29; Completed; 1981 Crop Burley Tobacco Marketing Quota
ASCS 070-33; Withdrawn; 1980 Crop Oil Sunflower Seed Price Support Program
ASCS 100-42; Completed; 1981 Crop Peanuts—National Average Price Support Levels and General Program Provisions
ASCS 100-43; Completed; Semiannual Adjustment of the Milk Support Price
ASCS 120-48; Completed; Grain Reserve Program for 1980 & Subsequent Crops
ASCS 021-1; Withdrawn; Revised Beekeeper Indemnity Payment Program for FY 1981
ASCS 031-2; Designated; Non-Major; Farm Facility Loan Program
ASCS 031-3; Designated; Non-Major; Reduction or Waiver of 10 Cents Liquidated Damages on Reentry into the U.S. of Contract Additional Peanuts
ASCS 031-6; Completed; 1982 Crop Wheat (Proclamation of National Marketing Quota for the 1982 Crop of Wheat)
FAS 108-3; Designated Non-Major; Proposed Establishment of Selected Area Agricultural Trade Offices
FAS 108-38; Completed; Proposed Designation of Agricultural Counselors
FAS 100-3; Withdrawn; Implementation of Meat Import Act of 1979, Pub. L. 96-177
FAS 110-7; Withdrawn; Notice of Intention to Suspend Meat Import Limitations
FAS 021-2; Completed; Notice—Office of the Secretary—Swiss Cheese Price Undercutting
FGIS 108-3; Withdrawn; Dust Particle Size Limits
FGIS 109-61; Designated Non-Major; Review of the Part 68 Regulations Under the Agricultural Marketing Act of 1946
FGIS 040-7; Designated Non-Major; Review of Regulations—U.S. Standards for Corn, Soybeans, and Mixed Grain
FGIS 080-13; Designated Non-Major; Review of Regulations—U.S. Standards for Barley
FmHA 108-1; Withdrawn; Review of Thermal Insulation Standards for Masonry Construction
FmHA 108-2; Completed; Planning and Performing Site Development Work
FmHA 108-3; Withdrawn; Solar Demonstration Retrofit
FmHA 108-10; Designated Non-Major; Revision of Policy and Procedures Relating to Self-Help Technical Assistance Grants
FmHA 108-12; Withdrawn; Home Ownership Assistance Program
FmHA 108-14; Withdrawn; Coordinated Use of Loan and Grant Programs to Meet Low-Income Needs
FmHA 108-44; Withdrawn; Phase II, National Rural Community Facilities Assessment Study
FmHA 108-56; Withdrawn; Needs Assessment Capability Study
FmHA 079-45; Completed; Fees and Charges for B&I Loans
FmHA 089-53; Withdrawn; Review of Minimum Property Standards to Assess Applicability to Rural Housing
FmHA 099-66; Completed; Revision of Community Programs Loan and Grant Approval Authorities, FmHA Instruction 1901-A, Exhibit B
FNS 118-8; Withdrawn; School Breakfast Program: Grain-Fruit Product—Limits on Utilization, Part 220 to Use the Product in the School Breakfast Program
FNS 118-13; Designated Non-Major; Assessment, Improvement, and Monitoring System (AIMS) for School Nutrition Programs
FNS 118-70; Designated Non-Major; Work Registration and Job Search Joint Rulemaking
FNS 039-1; Completed; Changes in WIC Food Packages
FNS 109-11; Designated Non-Major; Amendments to Part 250 on Processing of Donated Foods By Commercial Firms
FNS 030-2; Completed; Procedures for Reducing Food Stamp Allotments
FNS 060-16; Designated Non-Major; Authorization of Wholesalers
FNS 070-24; Completed; Food Stamp Program: Quality Control Sanction and Incentive System
FNS 070-26; Designated Non-Major; Food Delivery System Amendments to WIC Regulations
FNS 080-30; Designated Non-Major; Amendment on Lunch Pattern Monitoring
FNS 090-50; Designated Non-Major; Overall Revision of Food Distribution Regulations
FS 108-3; Designated Non-Major; Cost Reimbursement
FS 108-5; Designated Non-Major; Implementation of Pub. L. 95-313. The Cooperative Forestry Assistance Act of 1978
FS 049-2; Completed; Evaluation of Forest Pest Management Programs
FS 119-7; Completed; Revision of Secretary's Log Export Regulations
FS 120-22; Designated Non-Major; Federal Register Notice—Leasing of Wilderness Lands for Oil, Gas and Other Minerals
FSQS 039-13; Completed; Change in Reporting Frequency (MP Form 404) from Weekly to Annually of Processing Operations at Official Establishments
FSQS 100-41; Completed; Designation of the State of Maine Under Title II of the Federal Meat Inspection Act
OEO 089-1; Designated Non-Major; Age Discrimination Regulation
OEO 129-2; Designated Non-Major; Comprehensive Civil Rights Regulation
SCS 108-2; Designated Non-Major; 7 CFR Chapter VI, Part 622, Watershed Projects
SCS 108-4; Designated Non-Major; SCS Public Participation Plan
SCS 108-13; Withdrawn; Plan for Completing Soil Mapping Nationwide
SCS 108-16; Designated Non-Major; Revision of SCS Policy Relating to Endangered Species
SCS 108-20; Designated Non-Major; Procedures for Protecting Archeological and Historical Properties Encountered in SCS Assistance Programs
SCS 069-1; Withdrawn; 7 CFR Chapter VI, Subchapter E—Resource Conservation and Development
SCS 069-10; Withdrawn; Southeast Choctawhatchee River Watershed, Alabama
SCS 069-11; Withdrawn; Hacklebarney Watershed, Iowa
SCS 069-12; Withdrawn; Indian-Van Buren Watershed, Iowa
SCS 069-15; Withdrawn; San Bois Creek Watershed, Oklahoma
SCS 069-16; Withdrawn; Calapooya Watershed, Oregon
SCS 109-22; Withdrawn; South Fork Licking River Watershed, Ohio
SCS 109-24; Withdrawn; Douglas Watershed, Wyoming
SCS 109-25; Withdrawn; CFR, Chapter VI Conservation Operation, Part 612, Snow Survey and Water Supply Forecasting
SCS 109-26; Withdrawn; Plant Materials Centers
SCS 040-4; Designated Non-Major; Review of Regulation—Water Resources—River Basin Investigations and Surveys
SEA 039-1; Withdrawn; National Agricultural Research Award
SEA 039-4; Withdrawn; Nutrition Status Monitoring Program
SEA 039-7; Withdrawn; Green Thumb Project
SEC 059-3; Designated Non-Major; Implementation of the Resources Conservation Act of 1977
SEC 040-1; Designated Non-Major; Uniform Regulations to Implement the Archaeological Resources Protection Act of 1979

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

ASCS 031-4

REVISE EMERGENCY FEED PROGRAM (EFP) REGULATIONS

DESCRIPTION: Issue emergency rule to (1) reduce cost-share assistance from 50 percent to 30 percent, (2) exclude from eligible livestock those livestock owned less than six months, and (3) limit the amount of pasture loss to 50 percent of the computed pasture loss when determining the applicant's total

allowance. This action is necessary to reduce program costs and to prevent program abuse.

AUTHORITY: Sec. 1105 of Food and Agriculture Act of 1977, Pub. L. 95-13, 91 Stat. 955; 7 CFR 1475.50-1475.68.

PROJECTED SCHEDULE

a. Date of pre-notice: None.
b. Date of proposal: None.
c. Final Decision: 5/1/81.

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Clarence Domire, (202) 447-7997, USDA, ASCS, Room 4095S, Washington, D.C. 20250.

ASCS 041-7

PRICE SUPPORT LEVEL FOR MILK, 1981-82 MARKETING YEAR (BEGINNING OCTOBER 1, 1981)

DESCRIPTION: The Agricultural Act of 1949, as amended, requires that the price of milk be supported at such level between 75 and 90 percent of parity as the Secretary deems necessary in order to assure an adequate supply of pure and wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs.

AUTHORITY: The Agricultural Act of 1949, as amended, Section 201, 7 U.S.C. Section 1446, 7 CFR Part 1430.

PROJECTED SCHEDULE

a. Date of pre-notice: None.
b. Date of proposal: 6/1/81.
c. Final Decision: 9/30/81.

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Donald Friedly, (202) 447-4037, USDA, ASCS, Room 5749S, Washington, D.C. 20250.

ASCS 041-9

FLUE-CURED TOBACCO—1982 QUOTA

DESCRIPTION: Announce the National Marketing Quota for the 1982 Marketing Year as prescribed by law.

AUTHORITY: The Agricultural Adjustment Act of 1938, as amended, Section 312, 7 U.S.C. Section 1312, 7 CFR Part 725.

PROJECTED SCHEDULE

a. Date of pre-notice: None.
b. Date of proposal: 8/15/81.
c. Final Decision: 12/1/81.

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Robert Tarczy, (202) 447-6733, USDA, ASCS, Box 2415, Washington, D.C. 20013.

FARMER'S HOME ADMINISTRATION

Review of all contemplated regultory actions is underway for the Farmer's Home Administration. Appropriate actions, if any, will be announced in the October USDA Regulatory Agenda.

FEDERAL GRAIN INSPECTION SERVICE

FIGS 108-6

PROPOSED AMENDMENT TO THE OFFICIAL U.S. STANDARDS FOR GRAIN (WEEVILY)

DESCRIPTION: Presently, the standards for various grains require varying sizes of samples used for determining insect infestation and different tolerances for insects between grains. We are evaluating the need for providing uniform requirements as to sample size and procedures used in order to reflect actual grain quality in a more uniform and useful manner.

AUTHORITY: Section 4 of U.S. Grain Standards Act. (7 U.S.C. 76)

PROJECTED SCHEDULE

a. Date of pre-notice: 12/28/79 (45 FR 76835).
b. Date of proposal: 5/31/81.
c. Final Decision: 10/31/81.

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: James L. Driscoll, (816) 348-2861, FTS 753-6861 Richards-Gebaur AFB, Bldg. 221, Grandview, Mo. 64030.

FOOD SAFETY AND QUALITY SERVICE

Review of all contemplated regulatory actions is uderway for the Food Safety and Quality Service. Appropriate actions, if any, will be announced in the October USDA Regulatory Agends.

FOREST SERVICE

FS 041-1

REVIEW OF REGULATIONS—REGULATIONS FOR NATIONAL FOREST SYSTEM LAND AND RESOURCE MANAGEMENT PLANNING

DESCRIPTION: The regulation prescribes how land and resource management planning is to be conducted for National Forest System Lands. It sets forth a process for developing, adopting and revising land and resource management plans to meet the requirements of the Forest and Rangeland Renewable Resources Planning Act.

AUTHORITY: 36 CFR Part 219, Subpart A.

PROJECTED SCHEDULE

a. Date of pre-notice: 5/81.
b. Date of proposal: 8/81.
c. Final Decision: 12/81.

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Raymond M. Housley, (202) 447-3523, USDA, FS, Room 3018S Washington, D.C. 20250.

RURAL ELECTRIFICATION ADMINISTRATION

Review of all contemplated regulatory actions is underway for the Rural Electrification Administration. Appropriate actions, if any, will be announced in the October USDA Regulatory Agenda.

SOIL CONSERVATION SERVICE

SCS 040-6

REVIEW OF REGULATION—GREAT PLAINS CONSERVATION PROGRAM

DESCRIPTION: Recent legislation to extend the Great Plains Conservation Program was signed into law June 6, 1980. Rules will need to be reviewed and revised to continue the program as directed by Congress and guided by public participation. SCS enters into contracts with producers based upon approved conservation plans to provide cost-sharing for land treatment where appropriate and in the public interest.

AUTHORITY: Pub. L. 75-430, 49 Stat. 1151 (U.S.C. 590d); Pub. L. 84-1021, 70 Stat. 1115 (16 U.S.C. 590p(b)); Pub. L. 91-118, 83 Stat. 194 (16 U.S.C. 590d), 7 CFR Part 631.

PROJECTED SCHEDULE

a. Date of pre-notice: 11/1/80.
b. Date of proposal: 6/1/81.
c. Final Decision: 10/1/81.

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Guy D. McClaskey (202) 447-2324, USDA, SCS, Room 6109S, Washington, D.C. 20250.

BILLING CODE 3410-01-M

LIST OF REGULATIONS SCHEDULED FOR REVIEW

This list provides an overview of the USDA regulations undergoing review between April 1981 and October 1981. All "major" regulation review actions are listed first, with each entry shown under the name of the responsible USDA agency along with the CFR parts affected, a brief description, and an agency contact. Following the "major" items, all "non major" items are listed in a similar fashion. "Major" regulations are also listed in the preceding section of this agenda, which shows a projected schedule of activity.

Any action deemed to have a significant economic impact on a substantial number of small entities will be identified with the letters "RFA" (Regulatory Flexibility Act) following the description.

Regulations are reviewed and announced in the Federal Register (FR) using, basically, the same procedural rules which apply to new regulations. Each "major" item listed is to be analyzed by means of an Impact Analysis taking into account impacts on the affected publics.

If you wish to comment and influence decisionmaking, get in touch with the "contact" identified for the item of interest to you. Please note, however, that this particular list is not a request for comments; it serves as an announcement only.

Parts Affected	Subject	Description	Contact
		Agricultural Marketing Service - Scheduled, Non Major	
7 CFR Part 28 Subpart E (AMS 031-43)	Cotton Fiber and Processing Tests	These regulations describe fiber and processing tests on the properties of cotton samples as to applicability, impact, need, fees, and relationship to private industry activities in the domain of cotton.	Harvey R. Smith AMS, USDA Room 3128 Annex Washington, D.C. 20250 (202) 447-2260
7 CFR 29.9201-.9281 (AMS 011-4)	Official Standards for Type 32 Maryland Broadleaf Tobacco	This regulation sets forth procedures for marketing Maryland tobacco.	T.A. VonGarlem AMS, USDA Room 502 Annex Washington, D.C. 20250 (202) 447-2567
7 CFR Part 35 (AMS 041-60)	Regulations Under the Export Grape and Plum Act	These regulations require that, prior to shipment, any person shipping or offering for shipment, vinafera species table grapes to any foreign destination must have the fruit inspected by the Federal or Federal-State Inspection Service and certified as meeting specified quality and other requirements. Copies of the "Export Form Certificate" or Memorandum of Inspection issued by the inspector must be retained by the export carrier for a period of not less than three years after the date of export.	William J. Doyle AMS, USDA Room 2532S Washington, D.C. 20250 (202) 447-5975
7 CFR Part 48 (AMS 041-59)	Regulations for the Enforcement of the Produce Agency Act	This regulation imposes accounting requirements on consignment transactions involving fresh produce received in interstate commerce. It specifies the evidence needed to justify dumping of produce.	M.D. Price, AMS USDA, Room 2095S Washington, D.C. 20250 (202) 447-4180
7 CFR Part 103 (AMS 031-42)	Tobacco Warehouses	These regulations are applicable to tobacco warehouses applying for license or licensed under provisions of the United States Warehouse Act. They define acceptable warehousing practices and specify basic responsibilities of licensees.	Orval Kerchner, AMS USDA, Room 2720S Washington, D.C. 20250 (202) 447-3616
7 CFR Part 104 (AMS 031-41)	Wool Warehouses	These regulations are applicable to wool warehouses applying for for license or licensed under provisions of the United States Warehouse Act. They define acceptable warehousing practices and specify basic responsibilities of licensees.	Orval Kerchner, AMS USDA, Room 2720S Washington, D.C. 20250 (202) 447-3616
9 CFR 201.17-.24 and 201.26 (AMS 031-40)	Packers and Stockyards: Rates and Charges	Third phase. This continues the plan for review of existing regulations and policy statements issued under the Packers and Stockyards Act. This phase will review procedures for filing and amending schedules of rates and charges filed by market agencies and stockyard operators.	John A. Sands, AMS USDA, Room 3408S Washington, D.C. 20250 (202) 447-6951

AMS has scheduled the following regulation for review for which the category was not yet determined as of the publication deadline for this regulatory agenda.

Parts Affected	Subject	Description	Contact
7 CFR 900-999	Fruit and Vegetable Marketing Orders	The Agricultural Marketing Service is developing a plan for evaluating the 47 fruit and vegetable marketing order programs, which regulate the marketing of fruits and vegetables in specific areas. (This evaluation is in response to the Presidential Task Force on Regulatory Relief mandate that these programs be examined to determine their effectiveness.)	William T. Manley AMS, USDA Room 3069S Washington, D.C. 20250 (202) 447-4276

Parts Affected	Subject	Description	Contact
Animal and Plant Health Inspection Service - Scheduled			
APHIS has scheduled the following regulations for review for which the category was not yet determined as of the publication deadline for this regulatory agenda.			
7 CFR 318.13 (APHIS 041-15)	Hawaiian Fruits and Vegetables	This regulation prescribes the conditions under which Hawaiian fruits and vegetables, cut flowers, rice straw, mango seeds and cactus plants are allowed into the continental United States. This quarantine is designed to prevent the spread of several dangerous plant diseases and insect infestations, including the Mediterranean fruit fly.	T. Lanier USDA, APHIS-PPQ Rm. 635, Federal Bldg. Hyattsville, MD. 20782 (301) 436-8247
7 CFR 318.58 (APHIS 041-18)	Fruits and Vegetables from Puerto Rico or Virgin Islands	This regulation limits the movement of raw or unprocessed fruits and vegetables from Puerto Rico and the U.S. Virgin Islands to prevent the spread of certain dangerous insect infestations, including certain fruit flies and the bean pod borer. It also restricts the movement of cactus plants from the U.S. Virgin Islands to the U.S. to prevent the spread of a cactus borer.	T. Lanier USDA, APHIS-PPQ Rm. 635 Federal Bldg. Hyattsville, MD. 20782 (301) 436-8247
7 CFR 319.15 (APHIS 041-17)	Sugarcane	Prohibits the importation into the United States of canes, cuttings, or leaves of sugarcane and bagasse from all foreign countries and localities to avoid pest risk.	T. Lanier USDA, APHIS-PPQ Rm. 635, Federal Bldg., Hyattsville, MD. 20782 (301) 436-8247
7 CFR 319.56 (APHIS 041-16)	Fruits and Vegetables	In order to prevent the introduction into the United States of certain injurious insects, including fruit and melon flies, this regulation restricts the importation of fruits and vegetables and of plants used as packing material in shipments of fruits and vegetables.	T. Lanier USDA, APHIS-PPQ Rm. 635 Federal Bldg., Hyattsville, MD. 20782 (301) 436-8247
7 CFR 322 (APHIS 041-14)	Importation of Adult Honeybees into the United States	Places restrictions upon the importation of adult honeybees from any country other than Canada in an effort to prevent the introduction of diseases dangerous to the adult honeybee.	T. Lanier, USDA, APHIS-PPQ Rm. 635, Federal Bldg., Hyattsville, MD. 20782 (301) 436-8247
9 CFR 55 (APHIS 041-19)	Cattle Destroyed Because of Anaplasmosis	Provides agreement with State of Hawaii to enforce quarantine restrictions for control and eradication of anaplasmosis. Provides 50% of expenses to purchase and dispose of affected cattle.	J.D. Kopec, USDA APHIS-VS, Room 810 Federal Bldg. Hyattsville, Md. 20782 (301) 436-8713
9 CFR 113.50-.55 (APHIS 041-20)	Ingredient Requirements	Gives standards of purity and quality for all ingredients used in a licensed biological product.	R.J. Price, USDA APHIS-VS, Room 827 Federal Bldg. Hyattsville, Md. 20782 (301) 436-8245
Foreign Agricultural Service - Scheduled			
FAS has scheduled the following regulations for review for which the category was not yet determined as of the publication deadline for this regulatory agenda.			
7 CFR 1520.1-.6 (FAS 041-5)	Availability of Information to the Public	Prescribes the method by which the public may obtain FAS material.	J. Don Looper, FAS USDA, Room 5074S Washington, D.C. 20250 (202) 447-3448
7 CFR 2507.1-.6 (FAS 041-4)	Availability of Information to the Public	Prescribes the method by which the public may obtain DGSM materials. This regulation is being cancelled.	J. Don Looper, FAS USDA, Room 5074S Washington, D.C. 20250 (202) 447-3448

Parts Affected	Subject	Description	Contact
		Farmers Home Administration - Scheduled, Non Major	
7 CFR 1806 426.1 (FmHA 100-58)	Real Property Insurance	Prescribes the authorizations, methods and procedures for obtaining and servicing property insurance.	George Moore, FmHA USDA, Room 5324S Washington, D.C. 20250 (202) 447-4572
7 CFR 1823 442.11 (FmHA 100-61)	Loans to Indian Tribes and Tribal Corporations	Provides policies and procedures for making initial and subsequent insured loans to Indian tribes or tribal corporations for the acquisition of land within tribal reservations and Alaskan communities.	Allan Brock, FmHA USDA, Room 5013S Washington, D.C. 20250 (202) 447-4671

FmHA has scheduled the following regulation for review for which the category was not yet determined as of the publication deadline of this regulatory agenda.

Parts Affected	Subject	Description	Contact
7 CFR 1901-K (FmHA 041-11)	Certificates of Beneficial Ownership and Insured Notes	Prescribes policies and procedures for certificates of beneficial ownership and insured notes.	LaVerne Isenberg FmHA, USDA Room 6325S Washington, D.C. 20250 (202) 447-2852

Federal Crop Insurance Corporation - Scheduled

FCIC has scheduled the following regulations for review for which the category was not yet determined as of the publication deadline for this regulatory agenda.

Parts Affected	Subject	Description	Contact
7 CFR 411	Grapes	Regulations scheduled for review in the light of insuring experience and farming practices.	Peter F. Cole, FCIC USDA, Room 4088S Washington, D.C. 20250 (202) 447-3325
7 CFR 424	Rice	Regulations scheduled for review in the light of insuring experience and farming practices.	Peter F. Cole, FCIC USDA, Room 4068S Washington, D.C. 20250 (202) 447-3325

Federal Grain Inspection Service - Scheduled, Non Major

Parts Affected	Subject	Description	Contact
7 CFR 68.101-.122 and 7 CFR 68.130-.138 (FGIS 100-18)	Review of Regulations - United States Standards for Beans	FGIS will conduct a review of the United States Standards for Beans.	J. Driscoll, FGIS USDA, Richards-Gebaur AFB, Bldg. 221, Grandview, MO. 64030 (816) 348-2861
7 CFR 68.201-.213 (FGIS 100-17)	Review of Regulations - United States Standards for Rough Rice	FGIS will conduct a review of the United States Standards for Rough Rice.	J. Driscoll, FGIS USDA, Richards-Gebaur AFB, Bldg. 221, Grandview, MO. 64030 (816) 348-2861
7 CFR 68.251-.264 (FGIS 100-17)	Review of Regulations - United States Standards for Brown Rice for Processing	FGIS will conduct a review of the United States Standards for Brown Rice for Processing.	J. Driscoll, FGIS USDA, Richards-Gebaur AFB, Bldg. 221, Grandview, MO. 64030 (816) 348-2861
7 CFR 68.301-.316 (FGIS 100-17)	Review of Regulations - United States Standards for Milled Rice	FGIS will conduct a review of the United States Standards for Milled Rice.	J. Driscoll, FGIS USDA, Richards-Gebaur AFB, Bldg. 221, Grandview, MO. 64030 (816) 348-2861
7 CFR 800.0 (FGIS 031-2)	Review of Regulations - Meaning of Terms	FGIS will conduct a review of that section of the regulations under the U.S. Grain Standards Act dealing with the definition of terms used throughout the regulations.	J.T. Abshier, FGIS USDA, Room 2405 Auditors Bldg. Washington, D.C. 20250 (202) 447-8262

Federal Grain Inspection Service - Scheduled, Non Major (Continued)

Parts Affected	Subject	Description	Contact
7 CFR 800.2-.8 (FGIS 031-2)	Review of Regulations - Administrative Procedures	FGIS will conduct a review of that section of the regulations under the U.S. Grain Standards Act dealing with the administration of responsibilities and policies.	J.T. Abshier, FGIS USDA, Room 2405 Auditors Bldg. Washington, D.C. 20250 (202) 447-8262
7 CFR 810.201-.211 (FGIS 080-13)	Review of Regulations - United States Standards for Barley	FGIS will conduct a review of the United States Standards for Barley.	J. Driscoll, FGIS USDA, Richards-Gebaur AFB, Bldg. 221, Grandview, MO. 64030 (816) 348-2861

Food Safety and Quality Service - Scheduled

FSQS has scheduled the following regulation for review for which the category was not yet determined as of the publication deadline for this regulatory agenda.

Parts Affected	Subject	Description	Contact
9 CFR Parts 317, 319	Mechanically Processed (Species) Product	This regulation controls labelling, standards, and use of mechanically processed (species) products, commonly known in the industry as mechanically deboned meat. (RFA)	L.L. Gast, FSQS USDA, Room 332-E Washington, D.C. 20250 (202) 447-8217

Forest Service - Scheduled, Major

Parts Affected	Subject	Description	Contact
36 CFR 219 Subpart A (FS 041-1)	National Forest System Land and Resource Management Planning	The regulation prescribes how land and resource management planning is to be conducted for National Forest System lands. It sets forth a process for developing, adopting, and revising land and resource management plans to meet the requirements of the Forest and Rangeland Renewable Resources Planning Act.	Charles Hartgraves FS, USDA Room 4021S Washington, D.C. 20250 (202) 447-6697

Rural Electrification Administration - Scheduled, Non Major

Parts Affected	Subject	Description	Contact
Bulletin 1-7 (REA 041-8)	General Funds	Sets forth policy with regard to borrowers general fund, working capital and reserve fund levels.	C.R. Weaver, REA USDA, Room 3344S Washington, D.C. 20250 (202) 447-5900
Bulletin 20-5;320-2 (REA 041-9)	Extensions of Payments of Principal and Interest	Provisions under Section 12 of Rural Electrification Act which permits borrowers to request extensions of principal payments under certain conditions.	C.R. Weaver, REA USDA, Room 3344S Washington, D.C. 20250 (202) 447-5900
Bulletin 20-8 (REA 041-10)	Purchase of Real Estate by Electric Borrowers	Requirements and procedures concerning the purchase of real estate by electric borrowers with Rural Electrification Administration (REA) loan funds or borrowers' general funds.	C.R. Weaver, REA USDA, Room 3344S Washington, D.C. 20250 (202) 447-5900
Bulletin 20-20 (REA 041-11)	Deferment of Principal Repayments for Investment in Supplemental Lending Institutions	Criteria for providing assistance to borrowers to aid investment in supplemental financing organizations.	C.R. Weaver, REA USDA, Room 3344S Washington, D.C. 20250 (202) 447-5900
Bulletin 42-1 (REA 041-12)	Architectural Services for Electric Borrowers	States the REA policy regarding selection of architects by REA electric borrowers, and the procedures to be followed in contracting for architectural services.	Archie Cain, REA USDA, Room 1270S Washington, D.C. 20250 (202) 447-3813
Bulletin 60-10 (REA 041-13)	Construction Work Plans, Electric Distribution Systems	Requires that each electric borrower follow the practice of having two-year construction work plans prepared, and provides guidance in the preparation, use and approval of construction work.	Archie Cain, REA USDA, Room 1270S Washington, D.C. 20250 (202) 447-3813
Bulletin 81-7;381-11 (REA 041-14)	Changes or Corrections in Line Construction	Provides a procedure and a sample form for use for authorizing changes in contract construction (construction change order) where the cost of the change is to be borne by the borrower.	Archie Cain, REA USDA, Room 1270S Washington, D.C. 20250 (202) 447-3813

Parts Affected	Subject	Description	Contact
		Rural Electrification Administration - Scheduled, Non Major (Continued)	
Bulletin 86-2 (REA 041-15)	Pre-Construction Activities for Headquarters Facilities for Electric Borrowers	Sets forth REA requirements and procedures for the contract construction of borrower headquarters facilities.	Archie Cain, REA USDA, Room 1270S Washington, D.C. 20250 (202) 447-3813
Bulletin 86-3 (REA 041-16)	Headquarters Facilities for Electric Borrowers	Sets forth REA policy and procedures under which borrowers may obtain financing for headquarters facilities.	Archie Cain, REA USDA, Room 1270S Washington, D.C. 20250 (202) 447-3813
Bulletin 100-2 (REA 041-17)	Minutes of the Meetings of Boards of Directors, Members or Stockholders	REA requirements for borrowers with regard to the submission of minutes of board meetings when certain actions are taken.	C.R. Weaver, REA USDA, Room 3344S Washington, D.C. 20250 (202) 447-5900
Bulletin 100-4 (REA 041-18)	Financial Security of REA Distribution Borrowers	REA policy and procedures for assisting borrowers identified as having financial problems.	C.R. Weaver, REA USDA, Room 3344S Washington, D.C. 20250 (202) 447-5900
Bulletin 107-1:407-1 (REA 041-19)	Data Processing Systems	Sets forth policy regarding data processing systems used by REA borrowers.	C.R. Weaver, REA USDA, Room 3344S Washington, D.C. 20250 (202) 447-5900
Bulletin 109-4 (REA 041-20)	Selecting a Qualified Manager	Sets forth REA policy and procedures on the selection of a manager by electric borrowers.	C.R. Weaver, REA USDA, Room 3344S Washington, D.C. 20250 (202) 447-5900
Bulletin 115-1 (REA 041-21)	Sales of Capital Assets by Electric Borrowers	REA policies and procedures to be followed in the sale of mortgaged property.	C.R. Weaver, REA USDA, Room 3344S Washington, D.C. 20250 (202) 447-5900
Bulletin 180-6:460-2 (REA 041-22)	Selection of Depositories for Funds of REA Borrowers	REA policies and procedures regarding the selection of depositories by borrowers.	Sheldon Chazin, REA USDA, Room 4307S Washington, D.C. 20250 (202) 447-7221

Rural Electrification Administration - Scheduled

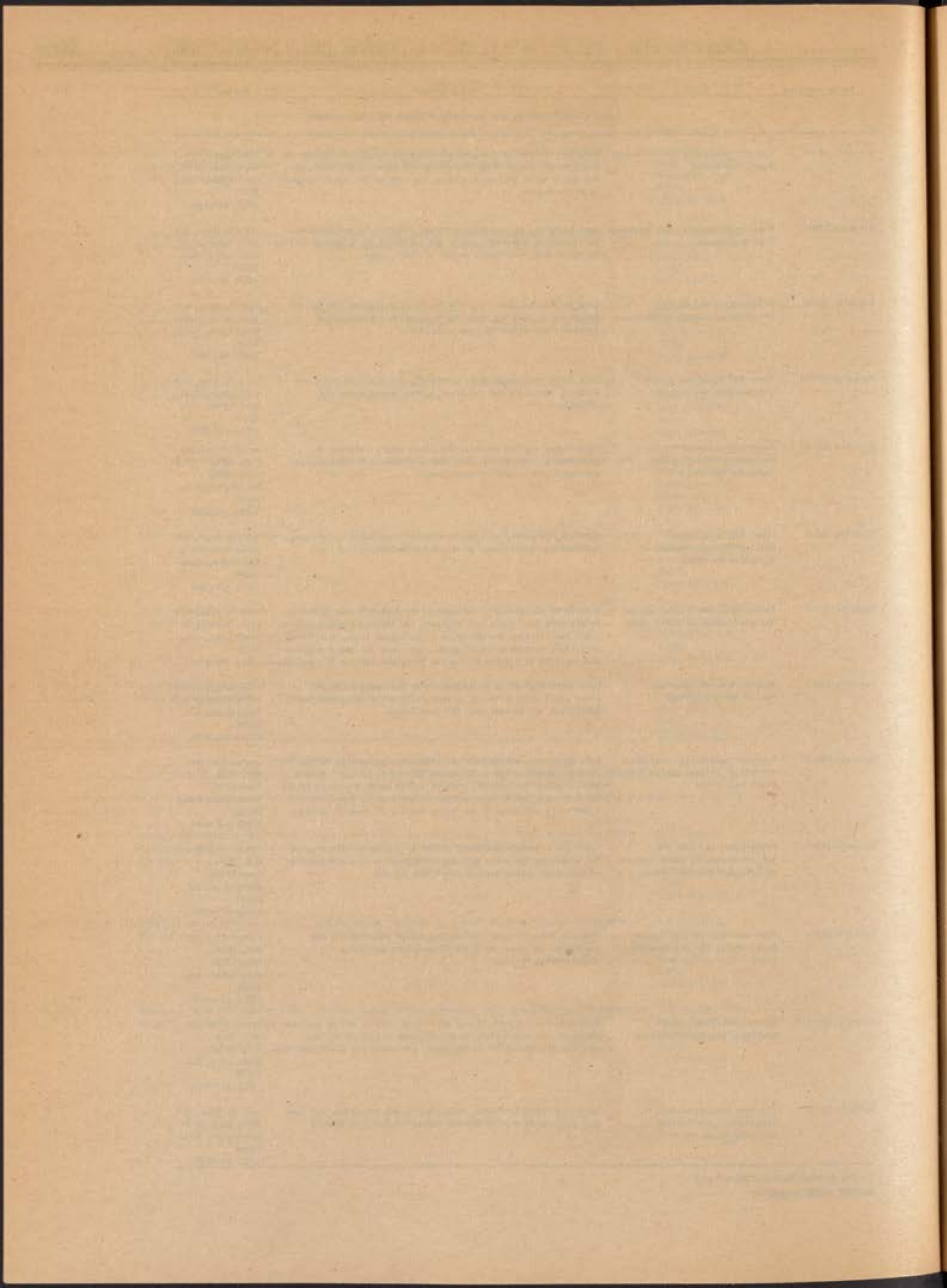
REA has scheduled the following regulations for review for which the category was not yet determined as of the publication deadline for this regulatory agenda.

Parts Affected	Subject	Description	Contact
Bulletin 2-1	Guiding Statement of REA Policy Concerning its Relationship with Borrowers.	Sets forth policy concerning the relationship between the Rural Electrification Administration (REA) and its borrowers.	B.D. Stockton REA, USDA Room 4024S Washington, D.C. 20250 (202) 447-4512
Bulletin 100-1	Selection of an Attorney by an REA Borrower	REA policy for approval by REA of the selection of an attorney by a borrower.	B.D. Stockton REA, USDA Room 4024S Washington, D.C. 20250 (202) 447-4512
Bulletin 111-1	Wholesale Contracts for Purchase and Sale of Electric Energy	Sets forth REA policy concerning wholesale power supply contracts.	C.R. Weaver, REA USDA, Room 3344S Washington, D.C. 20250 (202) 447-5900

Parts Affected	Subject	Description	Contact
		Rural Electrification Administration - Scheduled (Continued)	
Bulletin 111-4	Electric Wholesale Rates - Power Supply Borrowers	Sets for REA policy and general recommendations with respect to electric wholesale rates charged by REA power supply borrowers. Wholesale rates include all rates and charges for electric power sold for resale.	C.R. Weaver, REA USDA, Room 3344S Washington, D.C. 20250 (202) 447-5900
Bulletin 320-4	Pre-loan Procedures for Telephone Loan Applicants	Sets forth REA policy and procedures relating to applications for financing the improvements and extension of telephone service to the widest practicable number of rural users.	John N. Rose, REA USDA, Room 2913S Washington, D.C. 20250 (202) 447-5252
Bulletin 320-9	Organization and Capital Structure of Telephone Borrowers	Sets forth REA policy relating to the organization and capital structure of loan applications in order to minimize legal complications affecting loan security.	John N. Rose, REA USDA, Room 2913S Washington, D.C. 20250 (202) 447-5252
Bulletin 320-14	Loans for Telephone System Improvements and Extensions	Sets forth procedures and requirements for supplemental loans to existing borrowers for telephone system improvements and extensions.	John N. Rose, REA USDA, Room 2913S Washington, D.C. 20250 (202) 447-5252
Bulletin 320-23	Construction Certification Procedures for Designated Telephone Borrowers	Establishes the REA policies and requirements relating to post-loan procedures for telephone borrowers with substantial and continuing construction programs.	Joseph Flanigan, REA, USDA, Room 1355S Washington, D.C. 20250 (202) 447-6985
Bulletin 324-1	Loans for Refinancing Outstanding Indebtedness of Telephone Borrowers	Outlines REA policy on the provision of loan funds to refinance outstanding indebtedness of telephone borrowers.	John N. Rose, REA USDA, Room 2913S Washington, D.C. 20250 (202) 447-5252
Bulletin 325-1	Financing Lines, Facilities on Systems Outside of Rural Areas	Sets forth guidelines to be used by the Administrator of REA in determining that loans are necessary for the improvement, expansion, acquisition, and operation of telephone lines, facilities or systems outside of rural areas when loans for these purposes are required to furnish or improve telephone service in rural areas.	John N. Rose, REA USDA, Room 2913S Washington, D.C. 20250 (202) 447-5252
Bulletin 326-1	Acquisitions of Telephone Facilities and Systems	Sets forth factors to be considered by telephone borrowers (loan applicants) planning to acquire existing telephone lines, facilities, or systems with REA loan funds.	John N. Rose, REA USDA, Room 2913S Washington, D.C. 20250 (202) 447-5252
Bulletin 381-8	Contract Construction Telephone Borrowers' Initial System Outside Plant Facilities	Sets forth the requirements and procedures pertaining to the contract construction of telephone borrowers' initial systems outside plant facilities. Initial system means the basic system to be constructed in each central office area to serve the subscribers estimated to be taking service at time of cutover.	Joseph Flanigan REA, USDA Room 1355S Washington, D.C. 20250 (202) 447-6985
Bulletin 383-1	Preparation of Plans and Specifications for Construction of Outside Plant Facilities	Furnishes telephone borrowers and their engineers with a guide for preparing the plans and specifications for the construction of telephone system outside plant facilities.	Joseph Flanigan REA, USDA Room 1355S Washington, D.C. 20250 (202) 447-6985
Bulletin 383-4	Post-Loan Engineering Design Requirements for Supplemental Loans	Presents the post-loan engineering design requirements and procedures for loans to existing telephone borrowers (supplemental loans).	Joseph Flanigan REA, USDA Room 1355S Washington, D.C. 20250 (202) 447-6985
Bulletin 384-3	Central Office Equipment Contracts and Specifications	Announces the issuance of new or revised central office equipment, contracts, or specifications and provides a list of current editions of central office equipment contracts and specifications.	Joseph Flanigan REA, USDA Room 1355S Washington, D.C. 20250 (202) 447-6985
Bulletin 385-1	Pre-loan Procedures and Requirements for Two-Way Radio-Telephone Service	Sets forth considerations, requirements and procedures for loan applications to provide two-way radio-telephone equipment.	John N. Rose, REA USDA, Room 2913S Washington, D.C. 20250 (202) 447-5252

[FR Doc. 81-12811 Filed 4-27-81; 8:45 am]

BILLING CODE 3410-01-C



federal register

Tuesday
April 28, 1981

Part III

Department of Labor

Office of the Secretary

Semiannual Regulatory Agenda

DEPARTMENT OF LABOR

Office of the Secretary

20 CFR Chs. I, IV, V, VI, and VII

29 CFR Subtitle A and Chs. II, IV, V, XVII, and XXV

30 CFR Ch. I

41 CFR Chs. 29 and 60

Semiannual Regulatory Agenda

AGENCY: Department of Labor.

ACTION: Semiannual agenda of regulations selected for review or development.

SUMMARY: This Document sets forth the Department's Semiannual Agenda of Regulations selected for review or development during the coming six month period, under both Executive Order 12291 and the Regulatory Flexibility Act.

DATES: The agenda includes all regulations which are expected to be under review or development between April 28, 1981, and October 27, 1981.

FOR FURTHER INFORMATION CONTACT: Seth D. Zinman, Associate Solicitor for Legislation and Legal Counsel, Office of the Solicitor, Department of Labor, 200 Constitution Avenue, N.W., Room N2428, Washington, D.C. 20210, 202-523-8201.

SUPPLEMENTARY INFORMATION: Executive Order 12291 and the Regulatory Flexibility Act require the semiannual publication in the **Federal Register** of an agenda of regulations.

Executive Order 12291 became effective on February 17, 1981, and in substance requires the Department of Labor to publish an agenda, listing all the regulations it expects to consider, review, or issue during the coming 6 month period, and to conduct a Regulatory Impact Analyses for all "major" regulations being reveiwed or developed.

The "Regulatory Flexibility Act" became effective on January 1, 1981, applies only to regulations for which a notice of proposed rulemaking was issued on or after January 1, 1981, and requires the Department of Labor to publish an agenda, listing all the regulations it expects to propose or promulgate that are likely to have a "significant economic impact on a substantial number of small entities." For any regulation that will have this impact, the Department must conduct a Regulatory Flexibility Analyses, to guage the economic consequences of the rule, and to analyze the availability of more flexible approaches for lightening the rule's regulatory burden on "small entities." For all proposed regulations that will not have a "significant economic impact on a substantial number of small entities," the Department of Labor must publish a certification to that effect at the time of the general notice of proposed rulemaking or at the time of the publication of the final rule, along with a succinct statement explaining the reasons for such certification.

As permitted by law, the Department of Labor is combining in this publication its agendas under the Regulatory Flexibility Act and Executive Order 12291.

Each entry is identified by Agency, Title and Code of Federal Regulations citation, and contains a brief description of the regulation, states why the regulation is being reviewed or developed, and indicates if the regulation is a "major" regulation for which a Regulatory Impact Analyses may be required under Executive Order 12291. Each entry is arranged by status for the particular regulatory initiative, and provides the name, address and telephone number of a knowledgeable agency official who may be contacted by any person who has an interest in the regulation. To better inform the public, the Department of Labor has also listed those regulations which have taken effect as final regulations since the publication of its last semiannual agenda (published pursuant to requirements of Executive Order 12044, at 45 FR 81160, on December 9, 1980; Executive Order 12044 has since been revoked by Executive Order 12291).

Those entries which are not subject to the Regulatory Flexibility Act, because they will not have a "significant economic impact on a substantial number of small entities," are identified in the index with an asterisk [*]. All other entries, for which a notice of proposed rulemaking issued on or after January 1, 1981, are regulations which may require a Regulatory Flexibility Analyses.

The Regulatory Reform process continues to be an extremely valuable aid in the development of better regulations by the Department. We believe that improved regulatory management, more clearly written regulations, and in many instances, significantly less burdensome regulations are all attributable to our regulatory reform program.

Further improvement is certainly needed and we are constantly seeking new and innovative approaches in pursuit of this goal. All interested members of the public are invited and encouraged to let Departmental officials know how our regulatory reform process can be further improved and, of course, to participate in and comment on the review or development of the regulations listed on the Agenda.

The Department of Labor's next Semiannual Agenda, under Executive Order 12291 and the Regulatory Flexibility Act, will be published in October 1981.

Guide to Agency Abbreviation Code

ETA—Employment and Training Administration
OSHA—Occupational Safety and Health Administration
OASAM—Office of the Assistant Secretary for Administration and Management
MSHA—Mine Safety and Health Administration
LMSA—Labor-Management Services Administration
LMSA—ERISA Labor-Management Services Administration/Employee Retirement Income Security Act
ESA—Employment Standards Administration

INDEX

I

Regulations that have become final since their publication in the Department of Labor's last semiannual agenda:

1. *ETA*—Extended benefits for unemployment insurance claimants, including Federal employees and ex-servicemen.*

2. *ETA*—Labor Certification Process for Permanent Employment of Aliens in the United States.

3. *ETA*—Basic and Support Services of the Employment Service System.

4. *OSHA*—Electrical.

5. *OASAM*—Administrative Requirements Governing All Grants and Agreements by Which Department of Labor Agencies Award Funds.

6. *ESA*—Overtime Compensation.

7. *MSHA*—Respirable Dust Standard For Surface Coal Mines.

8. *MSHA*—Transfer of Miners.

9. *LMSA/ERISA*—Transitional Relief for Certain Loans, Leases, and Dispositions of Property Prior to June 30, 1984, under Sections 414(c)(1), (2) and (3) of ERISA.

10. *LMSA/ERISA*—Certain Exemptions For Plans Under Which Membership in a Health Maintenance Organization is Offered as an Option.

11. *LMSA/ERISA*—Maintenance of Indicia of Ownership of Plan Assets Outside Jurisdiction of District Courts of the United States.

12. *LMSA/ERISA*—Alternative Method of Compliance With the Reporting and Disclosure Requirements of ERISA For Certain (Non-Model) Simplified Employee Pensions.

13. *LMSA/ERISA*—Alternative Method of Compliance with the Reporting and Disclosure Requirements of ERISA in Respect to Short Plan Years.

II

Regulations that have been published as final regulations, that have not taken effect, and that are now being proposed to be withdrawn by the Department of Labor:

1. *ETA*—Adverse Effect Wage Rate Methodology.
2. *OSHS*—Walkaround Pay.
3. *ESA*—Payment of Membership Fees in Private Clubs and Organizations.

III

Regulations that have been published as final regulations, that have not taken effect, and that are now under policy review by the Department of Labor:

1. *Office of the Secretary*—Rules of Practice for Administrative Proceedings Enforcing Labor Standards in the Federal and Federally Assisted Construction Contracts and Federal Service Contracts.
2. *OSHA*—Occupational Exposure to Noise.
3. *ESA*—Office of Federal Contract Compliance Programs Coverage, Requirements, Prohibited Practices, and Guidelines.
4. *ESA*—Labor Standards for Federal Service Contracts.
5. *ESA*—Labor Standards Provisions, Davis-Bacon and Related Acts.
6. *ESA*—Defining the Terms "Executive," "Administrative," "Professional," and "Outside Salesman".
7. *LMSA/ERISA*—Suspension of Benefits.

IV

Regulations for which a general notice of proposed rulemaking has issued:

1. *ETA*—Veterans Indicators of Compliance.
2. *ETA*—Unemployment Compensation for Federal Civilian Employees.*
3. *ETA*—Unemployment Compensation for Ex-Servicemembers.*
4. *ETA*—Comprehensive Employment and Training Act (CETA). Allowability of Legal Expenses.
5. *ETA*—Comprehensive Employment and Training Act (CETA): Complaints, Investigations and Sanctions.
6. *ETA*—Labor Certification Process for the Permanent Employment of Aliens in the United States.
7. *ETA*—Senior Community Service Employment Program.
8. *ETA*—Airline Employee Protection Program.
9. *ETA*—Comprehensive Employment and Training Act (CETA) Regulations Concerning Eligibility of Prisoners.
10. *ETA*—Labor Standards for the Registration of Apprenticeship Program.
11. *ETA*—Labor Certification Process for Employment of Temporary Alien Agricultural Workers in the U.S.
12. *OSHA*—Safety and Health Regulations for Marine Terminal Facilities.
13. *Office of the Secretary*—Employees Served with Subpoenas.
14. *OASAM*—Minority Business Enterprises.
15. *OASAM*—Small and Disadvantaged Business Concerns and Labor Surplus Areas Concerns.
16. *ESA*—Affirmative Action Obligations for Disabled Veterans, Veterans of Vietnam Era and, Handicapped Workers.
17. *ESA*—Labor Standards on Projects or Productions Assisted by Grants from the National Endowment for the Arts.
18. *ESA*—Procedures for Processing Discrimination Complaints Under Section 428 of the Black Lung Benefits Act.*
19. *MSHA*—Telephones and Signaling Devices.
20. *MSHA*—Pattern of Violations.
21. *MSHA*—Civil Penalties
22. *MSHA*—Miner Participation in Respirable Dust Sampling Procedures.
23. *MSHA*—Electrical Components and Headlights for Mobile Diesel-powered Transportation Equipment.
24. *MSHA*—Electric Caplamps.
25. *LMSA*—Protective Arrangements Under Section 1642(c), Public Health Services Act.
26. *LMSA*—Election Enforcement Provisions of the LMRDA.
27. *LMSA*—Redwood Employee Protection Program.
28. *LMSA/ERISA*—Individual Benefit Reporting and Recordkeeping for Single Employer Plans.
29. *LMSA/ERISA*—Individual Benefit Reporting and Recordkeeping for Multiple Employer Plans.
30. *LMSA/ERISA*—Definition of Plan Assets and Establishment of Trust.
31. *LMSA/ERISA*—Revision of Annual Report Forms re: Master Trusts.
32. *LMSA/ERISA*—Supplemental Pay.
33. *LMSA/ERISA*—Proposed Regulations Relating to the Summary Annual Report Furnished Participants and Beneficiaries of Employee Benefit Plans.

V

Regulations under consideration by the Department of Labor, but not yet proposed:

1. *ETA*—Services For Veterans.
2. *ETA*—Transfers to State Accounts Under Section 903 of the Social Security Act (Reed Act).*
3. *ETA*—Special Programs and Activities Under Title III of the Comprehensive Employment and Training Act (CETA).
4. *ETA*—Adjustment Assistance for Workers After Certification Under the Trade Act of 1974.*
5. *ETA*—Federal-State Extended Benefits.
6. *ETA*—Temporary Labor Certification Process for Occupations on Guam other than Agricultural and Logging.
7. *ETA*—Social Security Disability Amendments of 1980 (Pub. L. 96-265). Work Incentive Program for AFDC Recipients Under Title IV of the Social Security Act. Title 29, Subtitle A, Part 56 for the Department of Labor. Title 45, Chapter II, Part 224 for the Department of Health and Human Services.
8. *ETA*—Change in the Effective Date of the Annual Listing of Eligible Labor Surplus Areas.
9. *ETA*—Standards for Benefit Payment Promptness—Unemployment Compensation.*
10. *ETA*—Comprehensive Employment and Training Act Regulations; Amendments to Title VII & PSE Base Average Annual Wage Provisions.
11. *ETA*—Migrant and Other Seasonally Employed Farmworkers Program under the Comprehensive Employment and Training Act (CETA).
12. *OSHA*—Occupational Exposure to Lead.
13. *OSHA*—Hazardous Materials.
14. *OSHA*—Concrete—Concrete Forms and Shoring.
15. *OSHA*—Occupational Exposure to Asbestos.
16. *OSHA*—Respiratory Protection.
17. *OSHA*—Occupational Exposure to Cotton Dust.
18. *OSHA*—Identification and Labeling of Hazardous Materials in the Workplace.
19. *OSHA*—Conveyors.
20. *OSHA*—Occuptional Exposure to MBOCA.
21. *MSHA*—Review of Metal and Nonmetal Standards.
22. *MSHA*—Wire Rope Standards.
23. *MSHA*—Revisions to Mandatory Safety Standards for Coal and Metal and Nonmetal Mines Based on Affirmative Decisions on Petitions for Modification of the Application of Standards.
24. *MSHA*—Radon Daughters.
25. *MSHA*—Safety and Health Standards for Construction Work At Surface Areas of Mines.
26. *ESA*—Employment of Homeworkers in Certain Industries.
27. *ESA*—Criteria for Determining Whether State Workers' Compensation Laws Provide Adequate Coverage For Pneumoconiosis and Listing of Approved Laws.
28. *ESA*—Black Lung Benefits: Requirements for Coal Mine Operators Insurance.
29. *ESA*—Claims for Compensation Under the Federal Employees' Compensation Act, as Amended.
30. *ESA*—Claims for Benefits Under Part C of Title IV of the Federal Mine Safety and Health Act, as Amended.
31. *ESA*—Longshoremen's and Harbor Workers' Compensation.*
32. *LMSA*—Labor Organization Annual Reports.
33. *LMSA/ERISA*—Transitional Relief for Certain Dispositions of Property Under Section 414(c)(5) of ERISA.
34. *LMSA/ERISA*—Prohibited Sales, Exchanges and Leases.
35. *LMSA/ERISA*—Certain Plans for Management and Highly Compensated Employees.
36. *LMSA/ERISA*—Participant Directed Individual Account Plans.
37. *LMSA/ERISA*—Loans to Participants.
38. *LMSA/ERISA*—Prohibited Extension of Credit.
39. *LMSA/ERISA*—Definition of the term "qualifying employer real property."
40. *LMSA/ERISA*—Bonding.
41. *LMSA/ERISA*—Conversions, Splits & Other Transactions not Deemed "Acquisitions".
42. *LMSA/ERISA*—Conversion of Securities.
43. *LMSA/ERISA*—Eligible Individual Account Plans.
44. *OASAM*—Cost Principles for State Employment Security Agency (SESA) Grants.
45. *OASAM*—Debarred, Suspended and Ineligible Bidders.
46. *OASAM*—Administrative Requirements Governing All Grants and Agreements by

Which Department of Labor Agencies Award Funds.

47. *OASAM*—Administrative Requirements Governing all Grants and Agreements by Which Department of Labor Agencies Award Funds.

48. *OASAM*—Administrative Requirements Governing All Grants and Agreements by Which Department of Labor Agencies Award Funds.

I

The following regulations are final regulations that have taken effect since their publication in the Department of Labor's last semiannual agenda, and are therefore being removed from the agenda.

1. ETA—20 CFR Part 615—Extended benefits for unemployment insurance claimants, including Federal employees and ex-servicemen.

This regulation modified the previously used "trigger" for bringing the Extended Benefit Program into operation by excluding claims for extended benefits from the calculations. The purpose of this change was to improve the method by which the calculation of unemployment insurance indicator rates are made.

Status: A final regulation was published on January 3, 1980. However, the U.S. District Court for the District of Columbia ruled the change invalid, and the revised regulation rescinding the January change was published in final on January 13, 1981, and took effect on February 13, 1981. Therefore, this item is removed from the Agenda. A regulatory impact analysis was not required.

Contact: Ed Kerley, Room 7100—Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213, 202-376-7104.

2. ETA—20 CFR Part 656—Labor Certification Process for Permanent Employment of Aliens in the United States.

These regulations set forth the alien labor certification process in detail, describe the responsibilities of employers who wish to employ aliens on a permanent basis, and delineate the role of the public employment service in assisting employers in finding available U.S. workers. A regulatory impact analysis was not required.

Status: The final regulation was published on December 19, 1980, and became effective January 19, 1981. This item is therefore removed from the agenda.

Contact: Aaron Bodin, Room 8410, Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213, (202) 376-6295.

3. ETA—20 CFR Part 653, Subparts A and E—Basic and Support Services of the Employment Service System.

The purpose of these regulations is to clarify and simplify existing policies, procedures, and guidelines contained in the Employment Security Manual and the field instructions governing basic services of the Employment Service System. The Employment Service Manual contains a complex assortment of directives and advisory material. It has evolved over a 30 year period and much of it is now out of date and incomplete. The need for review of existing regulations and for the development of new regulations where only a manual existed, was determined in discussions involving both State and Federal agencies. Recent court rulings have highlighted the need for the Employment Service to codify and clarify its regulations, policies and procedures. A regulatory impact analysis was not required.

Status: These regulations were published January 23, 1981, in their final form and became effective on April 23, 1981. This item is therefore removed from the agenda.

Contact: Edward A. Waters, Room 8018—Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213, 202-376-6700.

4. OSHA—29 CFR Part 1910, Subpart S—Electrical.

This Subpart contains provisions related to the design and installation of electrical systems in public and private facilities. OSHA revised Subpart S to simplify the current regulations and to bring them up to date with consensus standards and new technology. A regulatory analysis was not required.

Status: A final regulation was published on January 16, 1981, and became effective on April 16, 1981. This item is therefore removed from the agenda.

Contact: Joseph Pipkin, Room N3510, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-7198.

5. OASAM—41 CFR Part 29-70—Administrative Requirements Governing All Grants and Agreements by Which Department of Labor Agencies Award Funds.

This regulation will amend 41 CFR 29-70.103, "Cost Principles," and 41 CFR 29-70.216, "Procurement standards; required provisions for recipient contracts." The amendment is needed to incorporate requirements of amended OMB Circulars which govern Federal standards and cost principles applicable to Federal financial assistance. The Office of Management and Budget recently published revised cost principles for educational institutions as OMB Circular A-21; and for nonprofit organizations as OMB Circular A-122; and revised Attachment O to OMB Circular A-102 which amended "Federal Standards Governing State and Local Grantee Procurement." A regulatory impact analysis was not required.

Status: A final regulation was published on December 16, 1980. This item is removed from the agenda.

Contact: Theodore Goldberg, Room S1323, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-9174.

6. ESA—29 CFR Part 778—Overtime Compensation.

This regulation implements and interprets the overtime and maximum hours provisions of the FLSA. Because of increases in the Federal minimum wage under the 1974 and 1977 amendments to the Act, arithmetic examples in this regulation were obsolete and needed to be updated. Obsolete material related to provisions of the FLSA which have been repealed by the 1974 amendments to the Act has been deleted. In addition, a needed change was made in order to clarify the computation of overtime pay in situations where employers pay for certain activities, such as eating lunch, which are not ordinarily regarded as hours worked. A regulatory analysis was not required.

Status: A final regulation was published and took effect on January 23, 1981. This regulation is therefore removed from the agenda.

Contact: James L. Valin, Room S3508—Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-7043.

7. MSHA—30 CFR Part 71—Respirable Dust Standard For Surface Coal Mines.

This is a health standard which sets forth the dust level and procedures for sampling respirable coal mine dust in surface coal mines. This regulation changes the current sampling procedure and reduces by one half the number of samples required to be collected by mine operators and limits the dust monitoring program to high risk work positions. The sampling procedures are similar to the rules applicable to underground coal mines. A regulatory impact analysis was not required.

Status: A proposed regulation was published on Apriil 8, 1980. Public hearings were held June 3 and 5, 1980. The final rule was published on December 5, 1980. The regulation became effective on March 30, 1981.

This item is therefore removed from the Agenda.

Contact: Frank White, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203 703-235-1910.

8. MSHA—30 CFR Part 90—Transfer of Miners.

These regulations contain procedures for the transfer of underground coal miners with evidence of pneumoconiosis to low dust work areas in order to prevent further development of the disease. To improve the health environment of coal miners and for consistent enforcement, MSHA is revising all of its respirable dust regulations. This regulation will give miners both greater health and economic protections and it is expected that the regulation will encourage more miners to exercise their transfer rights. A regulatory impact analysis was not required.

Status: A proposed regulation was published on April 8, 1980. The final rule was published on December 5, 1981, and became effective on March 30, 1981. This item is therefore removed from the agenda.

Contact: Frank White, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203 703-235-1910.

9. LMSA-ERISA—29 CFR 2550.414c-1, 2 and 3-Transitional Relief for Certain Loans, Leases, and Dispositions of Property Prior to June 30, 1984, under Sections 414(c)(1), (2) and (3) of ERISA.

These regulations clarify the scope of transitional relief provided in section 414(c)(1), (2) and (3) of ERISA, which suspends until June 30, 1984, the application of the prohibited transaction provisions of sections 406 and 407(a) of ERISA to certain loans, leases, joint uses and dispositions of property between employee benefit plans and parties in interest. In part, these regulations will define certain terms and clarify certain conditions contained in section 414(c)(1), (2) and (3). These regulations relieve the Department's administrative burden by reducing the number of applications for exemptions from the prohibited transaction provisions of ERISA. A regulatory impact analysis was not required.

Status: A proposed regulation was published in April, 1979. A final regulation was published on January 23, 1981. The regulations under sections 414(c)(1) and (2) have taken effect and are therefore removed from the Agenda. The regulation under section 414(c)(3) became effective on March 30, 1981, and is therefore removed from the Agenda.

Contact: William J. Flanagan, Office of the Solicitor, Room C-4508, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-7931.

10. LMSA/ERISA—29 CFR Part 2520—Certain Exemptions For Plans Under Which Membership in a Health Maintenance Organization is Offered as an Option.

This regulation would provide exemptions from certain reporting and disclosure requirements, where application of those requirements might be duplicative in view of the Health Maintenance Organization Act of 1973. It will also provide that the grievance procedures which qualified HMOs are required to establish under the HMO Act with respect to benefits offered by the HMO will be deemed to satisfy the claims requirements of ERISA. The action taken is intended to harmonize the requirements of the two Acts and reduce unnecessary paperwork. A regulatory impact analysis was not required.

Status: A final regulation was published on January 21, 1981. The regulation became effective on March 30, 1981. This item is therefore removed from the agenda.

Contact: Robert Doyle, PWBP, Room N-4472, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-8518.

11. LMSA-ERISA—29 CFR Part 2550—Maintenance of Indicia of Ownership of Plan Assets Outside Jurisdiction of District Courts of the United States.

Revision of this regulation will clarify the conditions under which banks may maintain the indicia of ownership of certain plan assets in foreign entities under 29 CFR § 2550.404(b). Public comments received from banks have requested clarification of this regulation. A regulatory impact analysis was not required.

Status: A final regulation was published on January 6, 1981. The regulation became effective on March 30, 1981. This item is therefore removed from the Agenda.

Contact: Scott Galloway, Office of the Solicitor, Room C-4508, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-8658.

12. LMSA/ERISA—29 CFR Part 2520—Alternative Method of Compliance With the Reporting and Disclosure Requirements of ERISA for Certain (Non-Model) Simplified Employee Pensions.

This regulation provides an alternative method of compliance with the reporting and disclosure requirements of ERISA for certain simplified employee pensions (SEPs) other than Model SEPs. The Secretary of Labor is authorized to prescribe such an alternative method of compliance by section 110(a) of ERISA. The regulation is intended to reduce the reporting and disclosure requirements for these Non-Model SEPs. A regulatory impact analysis was not required.

Status: A final regulation was published on January 6, 1981. The regulation became effective on March 30, 1981. This item is therefore removed from the Agenda.

Contact: Charmaine Gordon, Office of the Solicitor, Room C-4508, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-9593.

13. LMSA/ERISA—29 CFR Part 2520—Alternative Method of Compliance with the Reporting and Disclosure Requirements of ERISA in Respect to Short Plan Years.

This regulation provides an alternative method of compliance with the reporting and disclosure requirements of ERISA in respect to engaging independent qualified public accountants where short plan years are involved. The Secretary of Labor is authorized to prescribe such an alternative method of compliance by section 110(a) of ERISA. The intent of the regulation is to reduce the administrative burden for employee benefit plans. A regulatory analysis is not required.

Status: A final regulation was published on January 6, 1981. This item is, therefore, removed from the Agenda.

Contact: John Malagrin, Room N4700, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-8684.

II

The following regulations were published as final regulations, did not take effect, and are now being proposed to be withdrawn by the Department of Labor.

1. ETA—20 CFR Part 655.207—Adverse Effect Wage Rate Methodology.

This subpart contains regulations related to establishing Adverse Effect Wage Rates for the Temporary Employment of Aliens in Agriculture. This final regulation would establish a new methodology for computing and applying a wage rate offered by employers who request utilization of temporary alien workers in agriculture. The proposal will not impact on sheepherding or logging activities.

Status: A regulatory impact analysis is not required. The publication of a final regulation occurred on January 16, 1981.

to take effect on February 17, 1981. However, on February 6, 1981, in response to the January 29, 1981 memorandum from President Reagan concerning the postponement of final regulations, the Department published in the **Federal Register** a notice deferring the effective date of these regulations until March 30, 1981, in order to allow for a full and appropriate review. On March 27, 1981, the Department published a proposal which would withdraw the final rule which had been published on January 16, 1981. In addition, on March 27, 1981, the Department published a separate notice which deferred the effective date of the January 16, 1981 rule until action is taken upon the proposal to withdraw the rule.

Contact: Ken Bell, Room 8410, Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213, 202-376-6295.

2. OSHA—29 CFR 1903.8—Walkaround Pay.

OSHA proposed two regulations requiring employers to pay representatives, authorized by employees for time spent accompanying OSHA compliance officers during OSHA inspections and to pay employees for time spent in discussing occupational safety or health matters with compliance officers during inspections. A regulatory impact analysis was not required.

Status: A walkaround pay regulation pursuant to sections 8(e) and 8(g)(2) of the Occupational Safety and Health Act was published in the **Federal Register** on January 16, 1981 (46 FR 3852) and was scheduled to become effective on February 17, 1981. This action has been delayed until May 30, 1981, pursuant to notice published March 27, 1981 (46 FR 18951). In a related document published on March 27, 1981, (46 FR 18999) the agency proposes to revoke the regulation in its entirety. All data and comments regarding the proposed revocation must be postmarked on or before April 30, 1981.

Contact: Barry Zettler, Office of Field Coordination, Rm. N3603, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-7725.

3. ESA—41 CFR Part 60-1—Payment of Membership Fees in Private Clubs and Organizations.

On January 22, 1980, a proposal was published which would have made it a violation of E.O. 11246 for contractors to pay membership fees or other expenses to organizations which bar, restrict, or limit membership on the basis of race, color, religion, sex or national origin where such restrictions or limitations impacted upon employees' promotional opportunities, status, compensation, or other terms and conditions of employment. The contractor, however, could refute such a violation if it established that the membership of its employees in these clubs or organizations had no impact on the employees' opportunity for promotion, compensation, or other terms and conditions of employment. Public comments on this proposal were received until March 24, 1980.

Status: A final rule was published on January 16, 1981, to take effect on February 17, 1981. On February 6, in response to the January 29, 1981, memorandum from President Reagan concerning postponement of pending regulations, the Department published a notice in the **Federal Register** deferring the effective date of their regulation until March 30, 1981, in order to allow for a full and appropriate review. On March 27, 1981, the Department proposed withdrawal of the regulation, invited public comments on the proposed withdrawal until April 27, 1981, and further suspended the effective date of the regulation until the Department takes final action on the proposed withdrawal.

Contact: Acting Director, Division of Program Policy, Office of Federal Contract Compliance Programs (OFCCP), Room C3324—Main Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-9426.

III

The following regulations have been published as final regulations, have not taken effect, and are under policy review by the Department of Labor.

1. Office of the Secretary—29 CFR Part 6—Rules of Practice for Administrative Proceedings Enforcing Labor Standards in Federal and Federally Assisted Construction Contracts and Federal Service Contracts.

The revisions to this part are intended to provide administrative hearings in enforcement cases and substantial interest proceedings involving the Davis-Bacon and related acts, the Service Contract Act, and the Contract Work Hours and Safety Standards Act, and substantial variance and arm's length proceedings under Section 4(c) of the Service Contract Act. These revisions are designed to make such proceedings as uniform as possible. A regulatory impact analysis is not required. In addition, an appeal is provided from decisions under the Service Contract Act.

Status: A proposal was published on April 22, 1980. Final regulations were published on January 16, 1981, to take effect on February 17, 1981. However, on February 6, 1981, in response to the January 29, 1981, memorandum from President Reagan concerning postponement of pending regulations, the Department published in the **Federal Register** a notice deferring the effective date on these regulations until March 30, 1981, in order to allow for a full and appropriate review. The effective date has now been further deferred until July 1, 1981, to permit reconsideration of the regulations under Executive Order 12291.

Contact: Gail Coleman, Room N2464, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-8268.

2. OSHA—29 CFR 1910.95—Occupational Exposure to Noise.

In 1974, OSHA proposed standards governing occupational noise exposure. Public hearings were held during 1975 and 1976. Specific requirements for hearing conservation programs, methods of compliance, and permissible exposure limits were reviewed and various alternatives analyzed. On January 6, 1981, OSHA published amendments to the current noise standard. These amendments were directed toward the establishment of hearing conservation programs. A regulatory analysis was performed.

Status: The hearing conservation amendments were scheduled to become effective on April 15, 1981; however, the effective date has been postponed to June 1, by **Federal Register** notice published April 10, 1981. The amendments are currently under policy review.

Contact: Sheldon Weiner, Room N3669—Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-7157.

3. ESA—41 CFR Parts 60-1, 60-2, 60-4, 60-20, 60-30, 60-40, 60-50, 60-60, 60-250 and 60-741. Office of Federal Contract Compliance Programs Coverage, Requirements, Prohibited Practices, and Guidelines.

This group of regulations contains OFCCP's rules covering obligations of Federal contractors and under E.O. 11246 (41 CFR Part 60-1); affirmative action program requirements under E.O. 11246 (41 CFR Part 60-2); construction contractors' affirmative action requirements under E.O. 11264 (41 CFR Part 60-4); sex discrimination guidelines under E.O. 11246 (41 CFR Part 60-20); administrative hearing rules under E.O. 11246, Section 402 of the Vietnam Era Veterans Readjustment Assistance Act and Section 503 of the Rehabilitation

Act of 1973 (41 CFR Part 60-30); religion and national origin discrimination guidelines under E.O. 11246 (41 CFR Part 60-50); non-construction contractor evaluation procedures under E.O. 11246 (41 CFR Part 60-60); affirmative action requirements and enforcement provisions under Section 402 of the Vietnam Era Veterans Readjustment Assistance Act (41 CFR Part 60-250); and affirmative action requirements and enforcement provisions under Section 503 of the Rehabilitation Act of 1973 (41 CFR Part 60-741); and examination and copying of OFCCP documents (41 CFR Part 60-40).

Proposed changes to the regulations were published in the **Federal Register** on December 28, 1979, and February 22, 1980. Comments on these proposals were received until March 24, 1980. A final rule was published on December 30, 1980. These regulations were to take effect on January 29, 1981 (except certain recordkeeping and reporting requirements). However, the effective date has now been deferred until July 1, 1981, to allow the Department time to review the regulations fully before they took effect. The need for a regulatory impact analysis is under study.

Status: The OFCCP regulations are now being reviewed to streamline and reduce contractor administrative burdens while ensuring meaningful equal employment opportunity requirements and objectives.

Contact: Acting Director, Division of Program Policy, Office of Federal Contract Compliance Programs (OFCCP), Room C3324—Main Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-9426. NOTE: Additional regulatory activities relating to 41 CFR Parts 60-1, 60-250, and 60-741 are listd in item 3, category II, and item 16, category IV of this Agenda.

4. ESA—29 CFR Part 4—Labor Standards for Federal Service Contracts.

These provisions contain regulations and interpretations governing the administration of the Service Contract Act, which requires certain contractors and subcontractors performing work under service contracts with the United States Government to observe prevailing wage and fringe benefit standards for the various classes of employees engaged in the performance of the contract. There is a need for a thorough review of this regulation to reflect and codify the Department's policies for administering the Act. A regulatory impact analysis is required.

Status: A proposal was published on December 28, 1979, and modified by a proposal concerning the treatment of concession contracts published on December 12, 1980. Final regulations were published on January 16 and 19, 1981, to take effect on February 17 and 18, 1981, respectively. However, on February 12, 1981, the effective dates of these regulations were stayed until April 17, 1981, to permit the Department to review the rules fully before they take effect. In staying the effective date, the Department also indicated its intention to repropose appropriate modifications to Part 4 after conducting the analysis and review. The effective date has now been further deferred until July 1, 1981, to permit reconsideration of the regulation in accordance with Executive Order 12291.

Contact: Dorothy P. Come, Room S3502—Main Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-8333.

5. ESA—29 CFR Parts 1 and 5—Labor Standards Provisions, Davis-Bacon and Related Acts.

These provisions contain regulations governing the issuance of prevailing wage determinations and the administration of labor standards required to be included in federally-funded or assisted construction contracts under the Davis-Bacon Act, the Contract Work Hours and Safety Standards Act, and responsibilities under the Copeland Anti-Kickback Act. There is a need for a thorough review of these regulations to reflect and codify the Department's policies for administering the Act. A regulatory impact analysis is required.

Status: The publication of a proposed Part 1 and Subpart A of Part 5 occurred on December 28, 1979. Final regulations were published on January 16, 1981, for Part 1 and Subpart A of Part 5 to take effect on February 17, 1981. However, on February 6, 1981, in response to the January 29, 1981 memorandum from President Reagan concerning postponement of pending regulations, the Department published in the **Federal Register** a notice deferring the effective date on these regulations until March 30, 1981, in order to allow for a full and appropriate review. The effective date has now been further deferred until July 1, 1981, to permit reconsideration of the regulations under Executive Order 12291.

Contact: Dorothy P. Come, Room S3502—Main Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-8333.

6. ESA—29 CFR Part 541—Defining the Terms "Executive," "Administrative," "Professional," and "Outside Salesman".

These regulations set forth criteria for determining the application of the Fair Labor Standards Act exemption for "executive," "administrative," "professional," and outside sales employees from the minimum wage and overtime requirements of the Act. They delineate and duties, responsibilities, and salary levels necessary for employees. In addition, they set an "upset" test—a salary level above which employees are considered exempt if they simply meet a primary duty test. The current salary test levels were established on April 1, 1975, on an interim basis, with the last "permanent" levels having been set in March 1970. Salaries paid to executive, administrative and professional employees, and other workers have increased substantially since the 1975 test levels were adopted. Changes in these salary tests may be appropriate to reflect the general salary levels at which executive, administrative and professional workers are currently paid in order to assure that the exemption is applied in accord with the purposes of the Act. A regulatory impact analysis is required.

Status: (A proposed rule was published on April 7, 1978 (43 FR 14688)). A final rule was published on January 13, 1981, to take effect on February 13, 1981. However, on February 12, 1981, the effective date was stayed indefinitely in order to allow the Department to review the regulation more fully before it takes effect. Also, the public comment period was reopened until April 6, 1981. On March 27, 1981, the Department published as a proposed rule its intention to suspend indefinitely the final regulations which had been scheduled to become effective on February 13, 1981, to provide further time for the Department to consider the economic effects of the regulation and to determine whether it should go into effect in its present form, and invited specific comments focusing on the precise economic impact of the regulation in certain respects. The public comment period is scheduled to close on April 27, 1981.

Contact: James L. Valin, Room S3508—Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-7043.

7. LMSA/ERISA—29 CFR 2530.203-3 Suspension of Benefits.

This regulation will describe the circumstances under which an employee pension benefit plan will be permitted to suspend the payment of benefits to an employed retiree under section 203(a)(3)(B) of The Employee Retirement Income Security Act (ERISA). Section 203(a)(3)(B) of ERISA directs the

Secretary to prescribe such regulations as may be necessary to carry out the purposes of that provision, including regulations with respect to the meaning of the term "employed".

Status: A proposed regulation was published on December 19, 1978. A final regulation was published on January 27, 1981, to become effective May 27, 1981. This regulation is under consideration pursuant to the requirements of E.O. 12291.

Contact: Jay S. Neuman, Office of the Solicitor, Frances Perkins Building, 200 Constitution Avenue, N.W. Washington, D.C. 20210, 202-523-8430 and Judith B. Kahn, PWBP, Room N4461, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-8430.

IV

The following are regulations for which a general notice of proposed rulemaking has issued.

1. ETA—20 CFR Part 653.230—Veterans Indicators of Compliance.

The Department has issued regulations to implement 38 U.S.C. Chapters 41 and 42 at 20 CFR Part 653, Subpart C. These regulations set forth requirements concerning services to veterans by State employment service agencies.

Sections 653.221-226 set forth standards of performance governing State agency service to veterans, and § 653.230 sets forth veterans preference indicators of compliance for use in determining whether the performance standards have been met. Under 20 CFR 653.230(c), (e) and (j) the Employment and Training Administration is required to update the numerical values for the veterans preference indicators of compliance on an annual basis and to publish such values in the **Federal Register.**

Status: Indicators of Compliance for fiscal year 1981 were published for comment on January 23, 1981. The date for the issuance of final regulations has not yet been established. A regulatory impact analysis is not required.

Contact: Lance Grubb, Patrick Henry Building, Room 8208, 601 D Street, N.W., Washington, D.C. 20213, (202) 376-6755.

2. ETA—20 CFR Part 609—Unemployment Compensation for Federal Civilian Employees.

These regulations implement 5 U.S. Code §§ 8501-8508, which establish a permanent program of unemployment compensation for Federal civilian employees administered under agreements with State Employment Security Agencies. A review of the regulations is required because of amendments made to the law by Public Law 94-566. A regulatory impact analysis is not required.

Status: These regulations were published in **Federal Register** Vol 46, No. 15, (7786) Friday, January 23, 1981, as proposed rules. The publication date of a final regulation has not been established.

Contact: Charles Reynolds, Room 7014—Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213, 202-376-62222.

ETA—20 CFR Part 614—Unemployment Compensation for Ex-Servicemembers.

These regulations implement 5 U.S.C. 8521-8525 which establish a permanent program of unemployment compensation of ex-servicemembers. The program is administered under agreements with State Employment Security Agencies. A review of the regulation is required because of amendments to the law made by Public Law 94-566. A regulatory impact analysis is not required.

Status: These regulations were published in the **Federal Register,** Vol 46, No. 15 (7796) Friday, January 23, 1981, as proposed rules. The publication date of a final regulation has not been established.

Contact: Charles Reynolds, Room 7014—Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213, 202-376-6222.

4. ETA—20 CFR 676.40-2—Comprehensive Employment and Training Act (CETA). Allowability of Legal Expenses.

This regulation would specify the conditions under which Comprehensive Employment and Training Act (CETA) funds may be used by recipients (and their subrecipients and contractors) for legal fees associated with administration of grants. The regulations would provide CETA recipients with more explicit and comprehensive guidance as to the allowability of legal costs than presently exists. A regulatory impact analysis is not required.

Status: These regulations were published in proposed form on January 23, 1981, and a final regulation by Summer 1981 is anticipated. This date is subject to change as a result of Excutive Order 12291 on regulatory management signed by President Reagan on February 17, 1981.

Contact: Mr. Robert Anderson, Administrator, Patrick Henry Biulding, 601 D Street, N.W., Wahington, D.C. 20213, (202) 376-6254.

5. ETA—20 CFR Parts 675 and 676—Comprehensive Employment and Training Act (CETA): Complaints, Investigations and Sanctions.

This regulation would revise the CETA rules concerning complaints, investigations and sanctions. These revisions are considered necessary for the proper operation of complaint, investigation and hearing procedures under CETA. A regulatory impact analysis is not required.

Status: These regulations were published in proposed form on January 27, 1981, and a final regulation by May 1981 is anticipated. This date is subject to change as a result of Executive Order 12291 on regulatory management signed by President Reagan on February 17, 1981.

Contact: Mr. Robert Anderson, Administrator, Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213, (202) 376-6254.

6. ETA—20 CFR 656—Labor Certification Process for the Permanent Employment of Aliens in the United States.

This is a modification of a previous regulation.

A proposal was published in the **Federal Register** to add to schedule A of 20 CFR 656.10 Canadian citizens who work for international railroads and who have qualified for employment in the United States on the basis of seniority rights under a collective bargaining agreement between the employer and an international labor union.

A regulatory impact analysis is not required.

Status: A proposed rule was published on January 16, 1981. The comment period on the proposed rule has been extended for 60 days. A final rule should be published by the end of September 1981.

Contact: Aaron Bodin, Room 8410, Patrick Henry Building, 601 D Street, N.W. Washington, D.C. 20213, (202) 376-6295.

7. ETA—29 CFR Part 89—Senior Community Service Employment Program.

These regulations govern the Senior Community Service Employment Program under Title V of the Older Americans Act. Review is required by amendments to the enabling Act. A regulatory impact analysis is not required.

Status: A proposed regulation was published on March 25, 1980. The publication of a final regulation by Summer 1981 is anticipated.

Contact: Paul Mayrand, Room 6122—Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213, 202-376-6233.

8. ETA—CFR Part 638—Airline Employee Protection Program.

These regulations are being developed to implement the employee protection provisions of the Airline Deregulation Act (Public Law 95-504). The Department is required to develop these regulations in accordance with this new legislation. A regulatory impact analysis is not required.

Status: The regulations are being reviewed. The publication date of a final regulation has not been established.

Contact: Robert S. Kenyon, Room 10430—Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213, (202) 376-7545; or LSMA Contact: Lary Yud, Room S5639—Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-6495.

9. ETA—20 CFR 675.5-1(e)—Comprehensive Employment and Training Act (CETA) Regulations Concerning Eligibility of Prisoners.

This regulation would amend the regulation at 20 CFR 675.5-1(e), published on May 20, 1980, at 45 FR 33859, concerning CETA eligibility requirements for persons institutionalized in prisons, jails or similar correctional institutions. The proposal would permit CETA funds to be used to provide employment and training services to prisoners consistent with participation timeframes applicable to CETA programs, with the restriction that stipends or allowances shall not be paid to any prisoner participating in such activities within the confines of the prison prior to one year from presumptive release. A regulatory impact analysis is not required.

Status: These regulations were published in proposed form January 23, 1981, and a final regulation by Spring 1981 is anticipated. This date is subject to change as a result of Executive Order 12291 on regulatory management signed by President Reagan on February 17, 1981.

Contact: Mr. Robert Anderson, Administrator, Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213, (202) 376-6254.

10. ETA—29 CFR Part 29—Labor Standards for the Registration of Apprenticeship Programs.

The purpose of this proposed addition to the regulations is to set forth a listing of occupations considered apprenticeable by the Bureau of Apprenticeship and Training or one or more of the State and territorial apprenticeship agencies. Appendix A is an initial listing of those occupations that appear to possess all of the required characteristics listed in Title 29, CFR 29.4. This is not a "major regulation" that requires preparation of a regulatory analysis.

Status: Appendix A was published as proposed on March 11, 1980, in 45 FR 15571. On February 13, 981, in 46 FR 12213, the comment period was extended until June 30, 1981.

Contact: Paul H. Vandiver, Room 5414, Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213, (202) 376-6217.

11. ETA—20 CFR Part 655.202(b)(4)—Labor Certification Process for Employment of Temporary Alien Agricultural Workers in the U.S.

A proposal has been published to amend this regulation which specifies that an employer seeking to import alien agricultural labor must first make an offer of three meals a day to U.S. workers. The purpose of the amendment is to allow for exceptions to this offer if prevailing practice supports other arrangements. A regulatory analysis is not required.

Status: Decision to publish final rule pending further review of proposal.

Contact: Grover Sanders, Room 8408, Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213, (202) 376-6889.

12. OSHA—29 CFR Part 1918a—Safety and Health Regulations for Marine Terminal Facilities.

These regulations will prescribe safety and health standards for workers in the marine terminal environment and represent a comprehensive set of performance based standards that will, upon promulgation, provide a significant reduction in the amount of regulatory compliance presently incumbent upon those industies engaged in marine cargo handling. The large number of General Industry standards (29 CFR 1910) would become inapplicable to these industries and the Agency would, in effect, reduce the volume of regulations to ⅛ that of the existing regualtions that currently apply. The need for a regulatory impact analysis is under study.

Status: A notice of proposed rulemaking was published in the Federal Register on January 16, 1981. Comments on the proposal are being received; public meetings are scheduled to be held in Washington, D.C. on April 28, 29 and 30, 1981.

Contact: Basil Needham, Room N3471, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-7234.

13. Office of the Secretary—29 CFR 2.20-2.24 (Subpart C)—Employees Served With Subpoenas.

This proposed regulation will amend three separate Parts of the Labor Department's regulations in order to establish one procedure to be followed by all Labor Department employees who have received subpoenas calling for the production of records or other materials, or the disclosure of information. A uniform procedure should result in more equitable treatment for the general public and place responsibility for determining the response to subpoenas on the appropriate Department officials. This proposal also seeks to amend 20 CFR 10.11 and 29 CFR Part 1906. A regulatory impact analysis is not required.

Status: A proposal was published on January 23, 1981, with comments due by March 24, 1981. The publication of a final regulation by June 30, 1981, is anticipated.

Contact: Sofia Petters, Room N2462, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-6807.

14. OASAM—41 CFR Subpart 29-1.13—Minority Business Enterprises.

This regulation proposes to add a new subpart to the Department of Labor Procurement Regulations (DOLPR). It implements Federal Procurement Regulation 41 CFR Subpart 1-1.13—Minority Business Enterprises, and provides additional policies and procedures for contracts with the Small Business Administration pursuant to Section 8 of the Small Business Act, as prescribed in 41 CFR Subpart 29-1.7. A regulatory impact analysis is not required.

Status: A proposed rule was published on December 19, 1980, with the period for public comment ending on February 17, 1981. Publication of a final rule is anticipated by May 30, 1981.

Contact: Walter C. Terry, see item 15.

15. OASAM—41 CFR Subpart 29-1.7—Small and Disadvantaged Business Concerns and 41 CFR Subpart 29-1.8—Labor Surplus Areas Concerns.

These regulations propose to amend 41 CFR Subpart 29-1.7 "Small Busines Concerns" and propose to add a new subpart, 41 CFR Subpart 29-1.8, entitled "Labor Surplus Area Concerns." The proposed regulations are needed to incorporate requirements of Public Law 95-507, which amends the Small Business Act of 1953. The proposed regulations formally assign responsibility for administering and managing the programs under Sections 8 and 15 of the Small Business Act, as amended, to the Office of Small and Disadvantaged Business Utilization; update procedures for carrying out the goals of the programs; and set out the duties of official personel involved in the programs. A regulatory impact analysis is not required.

Status: A proposed rule was published on December 19, 1980, with the period for public comment ending on February 17, 1981. Publication of a final rule is anticipated by May 30, 1981.

Contact: Walter C. Terry, Room S1325, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-9148.

16. ESA—41 CFR Part 60-1, 60-250 and 60-741—Affirmative Action Obligations for Disabled Veterans, Veterans of Vietnam Era and Handicapped Workers.

A proposal was published December 30, 1981, to make the definition section of these regulations consistent with 1978 amendments to the Rehabilitation Act of 1973 and the Vietnam Era Veterans' Readjustment Assistance Act, and to conform these regulations to changes in the Department's regulations implementing Section 504 of the Rehabilitation Act. (See 29 CFR Part 32, 45 FR 66706, October 7, 1980). The need for a regulatory impact analysis is under study.

Status: A proposal was published on December 30, 1980, for public comments. Public comments are now being analyzed.

Contact: Acting Director, Division of Program Policy, Office of Federal Contract Compliance Programs (OFCCP), Room C3324—Main Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210 (202) 523-9426.

17. ESA—29 CFR Part 505—Labor Standards on Projects or Productions Assisted by Grants from the National Endowment for the Arts.

The regulations sets forth procedures to carry out the provisions of Section 5(j) of the National Foundation on the Arts and Humanities Act of 1965 relating to labor standards requirements on projects or productions assisted by grants from the National Endowment for the Arts. The regulation must be updated to reflect the application of labor standards requirements with respect to all professional performers and related or supporting professional personnel employed on projects or productions financed in whole or in part under grants made by the National Endowment for the Humanities brought about by the 1976 amendments to the National Foundation on the Arts and the Humanities Act of 1965. The need for a regulatory impact analysis is under study.

Status: A proposed regulation was published on December 19, 1980. The public comment period has been extended to May 22, 1981, for this proposal.

Contact: James L. Valin, Room S3508—Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-7043.

18. ESA—20 CFR Part 730. Procedures for Processing Discrimination Complaints Under Section 428 of the Black Lung Benefits Act.

Regulations are needed to implement Section 428 of the Black Lung Benefits Act, which prohibits coal mine operators from discharging or otherwise discriminating against any miner in their employ because such miner is suffering from pneumoconiosis. These regulations will establish procedures for the processing of these discrimination complaints set out in a December 1979 Memorandum of Understanding between the Mine Safety and Health Administration and the Employment Standards Administration of the Department. A regulatory impact analysis is not required.

Status: Proposed regulations were published for comment on January 27, 1981.

Contact: Robert Dorsey, Room C3316, Main Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-9486.

19. MSHA—30 CFR Part 23—Telephones and Signaling Devices.

This regulation would permit MSHA to approve telephones that are connected to the mine power system. Previously MSHA could approve only battery operated telephones. This amendment would conform the existing regulation to advances in technology. A regulatory impact analysis is not required.

Status: MSHA is reviewing public comments to NPRM published August 22, 1980. The final rule is expected to be published by July 1981.

Contact: Frank A. White, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203, 703-235-1910.

20. MSHA—Pattern of Violations.

Under the Federal Mine Safety and Health Act of 1977, MSHA can issue a "pattern of violations" notice to operators who have a pattern of violations which could have significantly and substantially contributed to the cause and effect of safety and health hazards in the mine. After receiving notice that a pattern of violations exists the operator may be subject to closure orders for subsequent, significant and substantial violations. These proposed regulations set forth criteria for determining if a "pattern of violations" exists. A regulatory impact analysis is under study.

A significant element in one of the criteria is the percentage of significant and substantial violations which a mine operator receives during a given review period. In a recent civil penalty case *(Cement Division of National Gypsum Co. v. MSHA)*, the Federal Mine Safety and Health Review Commission (Commission) expressed concern over MSHA's policy with respect to the issuance of significant and substantial violations. MSHA has now received the Commission's written decision and is in the process of evaluating it to determine the extent of the impact and what specific legal and administrative actions will be taken in response to it.

Status: NPRM was published August 1980. After a review of the Commission decision, MSHA will make a determination of its impact on the proposed rule and prepare a notice of public hearing consistent with that determination.

Contact: Frank A. White, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203, 703-235-1910.

21. MSHA—30 CFR Part 100—Civil Penalties.

The civil penalty regulations were promulgated on May 30, 1978. At that time, MSHA made a commitment to review them after one year to determine if changes were needed. In August 1979, MSHA initiated this review and invited all segments of the mining industry to comment on both the substance and the application of the regulations. In response to those comments, MSHA has determined that there is a need to amend the regulations in order to restructure the civil penalty system. This project is one of MSHA's highest priorities. A regulatory impact analysis is under study.

Status: A proposed rule was published on November 7, 1980. We are reviewing the comments received on the proposed rule and anticipate that public hearings will be held during the summer of 1981.

Contact: Frank A. White, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203, 703-235-1910.

22. MSHA—30 CFR Part 70, 71 & 90—Miner Participation in Respirable Dust Sampling Procedures.

This proposal would amend MSHA's respirable coal dust regulations to permit miners' representatives to participate in the dust sampling process of underground and surface mines and for miners who have evidence of pneumoconiosis. This issue was first raised in a significant way during the public hearings on revisions to the procedures for sampling respirable dust in underground coal mines. Miners and their representatives were critical of

how the sampling program was actually being implemented in the Nation's mines. The participation of miners' representatives in the sampling procedures is intended to promote better cooperation between the coal mine operators and the miners whose health may be affected in order to improve the effectiveness of the respirable dust control program. Public hearings were held on August 12 and 14, 1980. A regulatory impact analysis is under study.

Status: The publication of a final rule by October 1981 is anticipated.

Contact: Frank A. White, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203, 703-235-1910.

23. MSHA—30 CFR Part 36—Electrical Components and Headlights for Mobile Diesel-powered Transportation Equipment.

MSHA is proposing to modify the requirements and conditions for approval of permissible mobile diesel-powered transportation equipment for use in gassy metal and nonmetal mines. The regulation would remove current design restrictions which prohibit the use of certain electric-powered accessories on such equipment. The change would not affect currently aproved equipment, but it would allow operators of gassy mines to obtain improved equipment which incorporates advanced technoloby, and thereby afford greater safety and health protection for miners. A regulatory impact analysis is not required.

Status: Proposed rule published October 21, 1980; comment period closed October 21, 1980; final rule anticipated July 1981.

Contact: Frank White, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203, 703-235-1910.

24. MSHA—30 CFR Part 19—Electric Caplamps.

This proposal would permit MSHA to modify procedures for testing caplamps which incorporate advances in technology. Thus, MSHA could test and evaluate new and innovative caplamp designs to determine if the caplamp is safe for its intended use. The proposal would not affect currently approved caplamps, and it would not affect testing and evaluation of any caplamp design which can be approved under the existing procedures in this part. A regulatory impact analysis is not required.

Status: A draft of the final rule is undergoing review. The final rule is expected to be published by July 1981.

Contact: Frank White, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203, 703-235-1910.

25. LMSA—29 CFR Part 225—Hospital Employee Protection Program Under Section 1642(c), Public Health Services Act.

President Carter signed the Health Planning and Resources Development Act of 1979 on October 4, 1979. Included in Title III of this legislation is a new HHS administered grant program designed to encourage and assist the discontinuance of unneeded hospital services.

Section 1642(c)(1) of the Act requires the certification of employee protective arrangements by the Secretary of Labor before the approval of grant applications by HHS. Section 1642(c)(2) states that "[t]he Secretary of Labor shall by regulation prescribe guidelines for arrangements for the protection of the interests of employees affected by the discontinuance of hospital services."

The Act requires the Secretary of Labor to certify that "fair and equitable arrangements have been made to protect the interests of employees affected by the discontinuance of services against a worsening of their positions with respect to their employment, including arrangements to preserve the rights of employees under collective bargaining agreements, continuation of collective bargaining rights consistent with the provisions of the National Labor Relations Act, reassignment of affected employees to other jobs, retraining programs, protecting pension, health benefits and fringe benefits of affected employees, and arranging adequate severance pay, if necessary." A regulatory impact analysis is not required.

Status: A proposed regulation was published on January 23, 1981, with comments due by March 24, 1981. This regulation is now under policy review.

Contact: Ron Glass, Room N5639—Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-6495.

26. LMSA—29 CFR Part 452, Subpart J—Election Enforcement Provisions of the LMRDA.

A proposed regulatory statement to revise and update existing enforcement provisions of the interpretative bulletin on elections (29 CFR Part 452) has been prepared. A regulatory impact analysis is not required.

Status: Proposed regulations were published in the **Federal Register** on October 3, 1980, allowing 60 days for public comments and a notice extending the comment period by 15 days was published on December 2, 1980. Publication of the final regulations is anticipated on or about October 1, 1981.

Contact: Herbert Raskin, Room N5109, Main Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-7373.

27. LMSA—29 CFR Part 92—Redwood Employee Protection Program.

The Department of Labor is responsible for administering the Redwood Employee Protection Program established by Title II of the Redwood National Park Expansion Act of 1978 (P.L. 95-250). Under Title I of the Act, employees whose jobs were lost as a result of this Park expansion were designated to receive preference in hiring for both Federal civilian jobs and jobs with certain private employers. In addition, under Title II of the Act, these employees were provided with a program of income and benefit maintenance, and with retraining, job search, and job relocation allowances.

The Department proposes to clarify criteria to be used in determining applicant eligibility for Redwood Employee Protection Program (REPP) benefits based on layoffs occurring subsequent to September 30, 1980.

Status: Proposed regulations were published in the **Federal Register** on March 13, 1981, allowing 30 days for public comment. A regulatory impact analysis is not required.

Contact: Robert Johnson, Room N5639, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-6495.

28. LMSA/ERISA—29 CFR Parts 2520 and 2530—Individual Benefit Reporting and Recordkeeping for Single Employer Plans.

These regulations will govern (1) reports that must be furnished to participants in single employer pensions plains (defined to include plans maintained by groups of employers under common control) and in some cases, to their benificiaries, regarding the benefits to which they are entitled, or may become entitled, at retirement; and (2) records that must be maintained to provide the information necessary to prepare these reports. These regulations, if adopted, would provide necessary guidance to employers contributing to pension plans and to pension plan administrators for compliance with certain statutory reporting and recordkeeping requirements of ERISA. Consideration is being given to whether a regulatory impact analysis is required pursuant to the provisions of E.O. 12291.

Status: A proposed regulation was published on August 1, 1980. A public

hearing on the regulation was held on November 25, 1980. The publication date of a final regulation is under consideration.

Contact: Mary O. Lin, Office of the Solicitor, Room C-4508 Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-9595.

29. LMSA/ERISA—29 CFR Parts 2520 and 2530—Individual Benefit Reporting and Recordkeeping for Multiple Employer Plans.

These regulations will govern (1) reports that must be furnished to participants in multiple employer pension plans (other than plans maintained by groups of employers under common control) and in some cases, to their beneficiaries, regarding the benefits to which they are entitled, or may become entitled, at retirement; and (2) records that must be maintained to provide the information necessary to prepare these reports. These regulations, if adopted, would provide necessary guidance to employers contributing to pension plans and to the pension plan administrators for compliance with certain statutory reporting and recordkeeping requirements of ERISA. Consideration is being given to whether a regulatory impact analysis is required pursuant to the provisions of E.O. 12291.

Status: A proposed regulation was published on August 8, 1980. A public hearing on the proposed regulation was held on December 6, 1980. The publication date of a final regulation is under consideration.

Contact: Mary O. Lin, Office of the Solicitor, Room C-4508 Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-9595.

30. LMSA/ERISA—29 CFR 2550—Definition of Plan Assets and Establishment of Trust.

This regulation would clarify what will be regarded as assets of an employee benefit plan under ERISA and would provide certain exemptions from the requirements that plan assets be held in trust. Clarification of the term "plan asset" is needed since it is a basic concept used, for example, in determining what property must be held in trust, and to what transactions the fiduciary responsibilities provisions of ERISA would apply. In addition, clarification was requested by commentators on a previously proposed regulation. Consideration is being given to whether a regulatory impact analysis in required pursuant to the provisions of E.O. 12291.

Status: A reproposed regulation was published on June 6, 1980. The publication date of a final regulation is under consideration.

Contact: William A. Schmidt, Office of the Solicitor, Room C-508, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-8610.

31. LMSA/ERISA—29 CFR Part 2520—Revision of Annual Report Forms re: Master Trusts.

This forms revision would change the manner in which employee benefit plans' investments in master trusts are reported annually under ERISA. The contemplated revision would make reporting easier for plans with no loss of information available to either the Secretary of Labor or to plan participants. Consideration is being given to whether a regulatory impact analysis is required pursuant to the provisions of E.O. 12291.

Status: A proposed revised form was published on December 30, 1980. The publication date of a final regulation is under consideration.

Contact: John Christensen, PWBP, Room N-4700, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-8684 and Stevan Durovic, Office of the Solicitor, Room C-4508, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-7924.

32. LMSA/ERISA—29 CFR Part 2510—Supplemental Pay.

This regulation amends the existing regulation under section 3(2) of ERISA by describing the circumstances under which supplemental payments by employers to retirees to help offset the effect of inflation on pension benefits will be deemed to be made under an employee welfare benefit plan rather than under an employee pension benefit plan. Consideration is being given to whether a regulatory impact analysis is required pursuant to the provisions of E.O. 12291.

Status: A proposed regulation was published on January 27, 1981 and republished (in order to correct typographical errors) on February 6, 1981. The publication date of a final regulation is under consideration.

Contact: R.F. Nuissl, PWBP, Room N-4456, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-7901, and Scott Galloway, Office of the Solicitor, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-8658.

33. LMSA/ERISA—29 CFR 2520.104b-10—Proposed Regulations Relating to the Summary Annual Report Furnished Participants and Beneficiaries of Employee Benefit Plans.

Pursuant to section 104(b)(3) of ERISA and 29 CFR § 2520.104b-10 (April 3, 1979), the administrator of an employee benefit plan, unless otherwise excepted, is required to furnish participants and beneficiaries each year a summary annual report (SAR) accurately reflecting financial information contained in the plan's annual return/report. Under 29 CFR § 2520.104-41 (August 1, 1980), however, plans with fewer than 100 participants are required to file a full return/report (Form 5500-C or K) only every third year and are permitted to file a shorter, registration-type statement (Form 5500-R) in the two intervening years. The Department has under consideration amendments to the current SAR requirements which would harmonize with the new triennial filing cycle. Consideration is being given to whether a regulatory impact analysis is required pursuant to the provisions of E.O. 12291.

Status: A proposed regulation was published on January 6, 1981. The publication date of a final regulation is under consideration.

Contact: Joseph L. Roberts III, Room N-4700, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-8685.

V

The following are regulations under consideration, for which a general notice of proposed rulemaking has not yet issued.

1. ETA—20 CFR Part 653—Subpart C—Services For Veterans.

P.L. 96-466, Veterans Rehabilitation Amendments of 1980, signed by the President October 17, 1980, made changes affecting services for veterans provided by the United States Employment Service. A regulatory impact analysis is not required.

Status: The date for proposed rulemaking has not yet been established.

Contact: Oscar Gjernes, Room 8118—Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213, 202-376-6909.

2. ETA—20 CFR 640—Transfers to State Accounts Under Section 903 of the Social Security Act (Reed Act).

These regulations describe the purposes for which Reed Act funds may be used and the administrative requirements which apply to their use. Review may be required to develop a clear and comprehensive set of requirements applicable to the use of Reed Act funds. A regulatory impact analysis is not required.

Status: The Department has reviewed these regulations and determined that

proposed regulations will be published by Fall 1981.

Contact: Merlin A. Myers, Room 4207—Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213, 202-376-6394.

3. ETA—20 CFR Part 687—Special Programs and Activities Under Title III of the Comprehensive Employment and Training Act (CETA).

These regulations will replace the existing provision of 29 CFR Part 97, Subpart D, which governs special programs and activities under Section 301 of CETA. Revision is required by the 1978 amendments to CETA. A regulatory impact analysis is not required.

Status: The publication of a proposed regulation by October 1981 is anticipated.

Contact: James M. Aaron, Room 6213—Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213, 202-376-6257.

4. ETA—29 CFR Part 91—Adjustment Assistance for Workers After Certification Under the Trade Act of 1974.

These regulations are required by Section 248 of the Trade Act of 1974 to implement provisions relating to individual entitlements to trade adjustment assistance for certain workers, and because the current regulations were published on April 11, 1975, (40 FR 16304), with a post-publication comment period. A review of the regulations is underway to determine whether it is necessary to clarify existing provisions, correct errors and omissions, and update those sections relating to program administration. A regulatory impact analysis is not required.

Status: The publication of a proposed regulation by August 1, 1981, is anticipated.

Contact: Bob Gillham, Room 7306—Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213, 202-376-6715.

5. ETA—20 CFR Part 615—Extended Benefits.

These regulations are being amended to implement amendments made by the Multiemployer Pension Plan Amendments Act of 1980 (Pub. L. 96-364) and the Omnibus Reconciliation Act of 1980 (Pub. L. 96-499) to the Federal-State Extended Unemployment Compensation Act of 1970, providing for the denial of extended benefits to certain interstate claimants and to individuals who fail to meet certain specified requirements relating to acceptance of or application for suitable work, or who fail to actively engage in seeking work, and providing for the purging of certain disqualifications in order to establish eligibility for extended benefits. Other technical and clarifying amendments will also be considered. A regulatory impact analysis is not required.

Status: Publication of proposed rules in 1981 is anticipated.

Contact: Edwin Kerley, Room 7102—Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213, 202-376-7105.

6. ETA—20 CFR 655 Subpart B—Temporary Labor Certification process for occupations on Guam other than agricultural and logging.

This is a revision of previous regulations, with modification of the apprentice/journeyman wage progressions for construction workers on Guam to bring them into line with wages on the mainland. The need for a regulatory impact analysis is under review.

Status: The publication of a proposed regulation in Fall 1981 is anticipated.

Contact: Aaron Bodin, Room 8410, Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213, 202-376-6295.

7. ETA—Social Security Disability Amendments of 1980 (P.L. 96-265). Work Incentive Program for AFDC Recipients Under Title IV of the Social Security Act. Title 29, Subtitle A, Part 56 for the Department of Labor. Title 45, Chapter II, Part 224 for the Department of Health and Human Services.

These regulations are proposed to update and introduce changes to the WIN program as well as to sharpen the focus of the work requirement and rationalize program operations in other areas, especially sanctions and adjudication. The major provisions of the regulations include the addition of employment search programs as a registration activity; the authority to provide social services to support all registrants (applicants and recipients) in employment search; the exemption of full time working recipients from registration; and the authority for the Secretaries to fix sanction periods for failure to participate. A regulatory impact analysis is not required for these regulations.

Status: The regulations are presently under review and will be published by April 15, 1981, as proposed rulemaking with a thirty day comment period.

Contact: Robert W. Easley, OWIN, Room 5106, Patrick Henry Building, 601 D Street, N.W., Washington, 20513, (202) 376-7030.

8. ETA—20 CFR Part 654—Change in the Effective Date of the Annual Listing of Eligible Labor Surplus Areas.

Under the current regulations, labor surplus areas are classified on an annual basis, effective from June 1 through May 31, of the following year. The Department proposes to change the effective date of the "Annual Listing of Eligible Labor Surplus Areas" from June 1 to October 1 of each year to correspond with the fiscal year.

Status: A regulatory impact analysis is not required. The publication date for this regulation has not yet been established.

Contact: James W. Higgins, Room 9304, Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213, (202) 376-6538.

9. ETA—20 CFR Part 640—Standards for Benefit Payment Promptness—Unemployment Compensation.

These regulations establish standards for promptness in the payment of unemployment benefits, set forth criteria States must attain to meet these standards and establish corrective action to be taken when a State's performance falls below the criteria. Revision of these regulations is necessary to clarify existing requirements and to fulfill a commitment made to revise the standards. A regulatory impact analysis is not required.

Status: The publication date of a proposed regulation has not been established.

Contact: Edwin Kerley, Room 7102, Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213, (202) 376-7105.

10. ETA—29 CFR Parts 676 and 679—Comprehensive Employment and Training Act Regulations; Amendments To Title VII and PSE Base Average Annual Wage Provisions.

The purpose of this regulation is to implement the statutory amendment to Title VII of the Comprehensive Employment and Training Act enacted on December 23, 1980 (Pub. L. 96-583). The amendment made various substantive changes in provisions governing Private Sector Initiative Programs under Title VII of CETA and also amended Section 122(i)(2) of the Act to increase the base average annual wage for Public Service Employment under Titles II-D and VI.

The Department has determined that this is not a "major regulation" which requires preparation of a regulatory analysis.

Status: It is planned to publish this regulation in proposed form during Spring 1981.

Contact: Jess Ramaker, Room 5402, U.S. Department of Labor, Employment

and Training Administration, 601 D Street, N.W., Washington, D.C. 20213, (202) 376-6366.

11. ETA—20 CFR Part 689—Migrant and Other Seasonally Employed Farmworkers Program Under the Comprehensive Employment and Training Act (CETA).

These amendments to regulations at 20 CFR Part 689.204 and 20 CFR Part 689.206 will modify the competitive process by which CETA Section 303 Migrant and seasonal farmworkers grantees are selected by incorporating improvements recommended by the General Accounting Office and the National Academy of Public Administration. A regulatory impact analysis is not required.

Status: The publication of a proposed regulation by May 1981 is anticipated.

Contact: Lindsay Campbell, Room 6308, Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213, (202) 376-6128.

12. OSHA—29 CFR 1910.1025—Occupational Exposure to Lead.

OSHA is undertaking a reevaluation and reconsideration of the occupational health standard regulating exposure to lead. The purpose of this proceeding is to review the technological and economic feasibility of complying with the regulation. The economic consequences of the regulation will be reexamined on two bases. First, the affected industries' ability to comply with the standard will be reexamined. Second, a cost-benefit analysis will be performed, in order to assess the practicality of relying on this approach in setting occupational health standards in the context of a specific regulation.

All provisions of the lead standard will be subject to this reexamination. In particular, the economic and technological feasibility of the present permissible exposure limit of 50 micrograms of lead per cubic meter of air (50 ug/m^3) averaged over an eight-hour day, and the medical removal protection provisions of the regulation, will be subject to analysis. Additionally, for a few industries where employees appear to be exposed to lead on an intermittent basis, the question whether the employees face a significant risk of lead-related disease will be addressed.

Status: An advance notice of proposed rulemaking was published in the Federal Register on April 21, 1981. Public comments in response to the notice must be submitted to the agency by June 1, 1981.

Contact: Robert P. Beliles, Room N3718, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-7081.

13. OSHA—29 CFR 1910, Subpart H—Hazardous Materials.

Subpart H contains safety requirements for hazardous materials with particular emphasis on fire and explosion hazards. OSHA believes that there may be a need to revise these standards in order to better address the more significant hazards to employees, address technological advances or changes, and simplify the standards as much as possible. A regulatory impact analysis is not required.

Status: An advance notice of proposed rulemaking was issued January 23, 1981. The notice requests written comments by July 30, 1981. A public meeting was held on April 8 and 9, 1981.

Contact: Thomas Seymour, Room N3463, Frances Perkins Building, 200 Constitution Ave., N.W., Washington, D.C. 20210, 202-523-7216.

14. OSHA—29 CFR Part 1926, Subpart Q, Concrete—Concrete Forms and Shoring.

This subpart contains standards to protect employees in the concrete construction industry. The existing standards are being reorganized to eliminate the need for users to read separate reference standards in order to obtain all of the requirements to assure compliance. The revised standard will also incorporate the latest technological changes and fill the gaps in coverage. The revision will result in a clear, easy to understand regulation. The agency is studying whether a regulatory impact analysis is required.

Status: The publication of an advance notice of proposed rulemaking by August 31, 1981, is anticipated.

Contact: Allan Martin, Room N3457, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-8161.

15. OSHA—29 CFR 1910.1001—Occupational Exposure to Asbestos.

OSHA is considering revisions to its current asbestos standard. New research on the health hazards of asbestos, particularly its role as a cause of occupationally related cancer, and concern for the adequacy of our current standard has prompted Agency review. Revisions may or may not include changes to the permissible exposure limit and provisions for medical surveillance, monitoring, etc. A regulatory impact analysis will be prepared.

Status: The Agency anticipates publication of an advance notice of proposed rulemaking by October 1981, however, this action is currently under policy review.

Contact: Robert P. Beliles, Room N3718, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-7081.

16. OSHA—29 CFR 1910.143; 1926.103; 1915.82; 1916.82; 1917.82 and 1918.102—Respiratory Protection.

OSHA is building a public record to ascertain what changes should be made to present regulations for respiratory protection. The present regulations do not provide guidelines for fit testing in particular. It is considered desirable to build the public record in order to determine the desirability of fit testing and to consider other important issues as well.

Status: The Agency expects to publish an advance notice of proposed rulemaking on or before June 19, 1981.

Contact: Sheldon Weiner, Room N3663, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-7151.

17. OSHA—29 CFR 1910.1043—Occupational Exposure to Cotton Dust.

OSHA is undertaking a reevaluation and reconsideration of the current occupational health standard regulating employee exposure to cotton dust. The purpose of this action is to review the economic consequences of the regulation and, in particular, to evaluate the feasibility and utility of relying upon cost-benefit analysis in setting occupational health standards in the context of a specific regulation. A regulatory impact analysis will be performed.

Status: An advance notice of proposed rulemaking was published in the Federal Register on March 31, 1981. Public comments in response to the notice must be submitted to the agency by May 15, 1981.

Contact: Robert P. Beliles, Room N3718, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-7081.

18. OSHA—29 CFR Part 1900—Identification and Labeling of Hazardous Materials in the Workplace.

OSHA is reevaluating a proposed regulation that would require employers to inform employees of the identities of hazardous chemicals in the workplace by such means as labels, lists, material safety data sheets, hazard warnings, and records preservation. A regulatory impact analysis will be prepared.

Status: A proposed standard was published Janaury 16, 1981 (46 FR 4412). The proposal was withdrawn on February 12, 1981 (46 FR 12020) pending further analysis of regulatory

alternatives. This action is currently under policy review.

Contact: Bailus Walker, Room N3718—Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-7075.

19. OSHA—29 CFR 1910.186—Conveyors.

This regulation will prescribe standards to protect employees from safety hazards encountered around conveyors, to help control such problems as limbs being caught in conveyors, workers falling while going over conveyors, and objects falling from conveyors onto workers. A regulatory impact analysis is required.

Status: A notice to reopen the record to introduce new information, and to provide opportuntiy to comment, was issued on November 14, 1980. On January 16, 1981, a notice was issued to extend the public comment period and to announce the scheduling of public hearings. On April 10, 1981, a notice was published in the **Federal Register** to change the Hearings to meetings. Public meetings will begin in Washington, D.C., on May 5, 6, and 7, 1981, and will continue in Chicago, Illinois, on May 12, 13, and 14, 1981, and in Los Angeles, California, on May 19, 20 and 21, 1981.

Contact: Mr. Carrol E. Burtner, Room N3605, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-7202.

20. OSHA—29 CFR 1910.1005—Occupational Exposure to MBOCA.

OSHA is considering development of a standard for occupational exposure to MBOCA (4, 4 methylene bis (2-chloroaniline)) which may inlcude a permissible exposure limit and provisions for medical surveillance, environmental monitoring, methods of compliance, and employee training. (An earlier standard for MBOCA was vacated for a procedural reason through judicial action.) MBOCA has been found to increase the risk of liver and bladder cancer. The need for a regulatory impact analysis is under study.

Status: The Agency anticipates publication of an advance notice of proposed rulemaking and a proposed standard for MBOCA by September 1981, however, this action is currently under policy review.

Contact: Robert P. Beliles, Room N3718, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-7081.

21. MSHA—30 CFR Parts 55, 56 and 57—Review of Metal and Nonmetal Standards.

MSHA is undertaking a thorough review of the metal and nonmetal health and safety standards. MSHA informed the metal and nonmetal mining community, by publication of an ANPRM in March 1980, that it would conduct a study of all the metal and nonmetal standards to determine their applicability and effectiveness. The need for a regulatory impact analysis is under study.

Status: Publish MSHA specific priorities for review and further public comment by July 1981.

Contact: Frank A. White, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203, 703-235-1910.

22. MSHA—30 CFR Parts 75 and 77—Wire Rope Standards.

This regulation will revise 30 CFR Parts 75 and 77 to include requirements for the selection, installation, use, inspection, maintenance, and removal of wire ropes. Currently, MSHA's wire rope standards incorporate by reference the American National Standards Institute (ANSI) standard M.11.1 on wire ropes in mines. Two administrative law judges of the Federal Mine Safety and Health Review Commission have reached different conclusions as to whether the standard is advisory or mandatory. These decisions have encouraged MSHA to expedite its planned review of the wire rope standards.

This proposal, which will set forth specific requirements for wire ropes, will eliminate the need to incorporate by reference the ANSI standard. A regulatory impact analysis is not required.

Status: MSHA is preparing a proposed rule and anticipates publication by October 1981.

Contact: Frank A. White, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203, 703-235-1910.

23. MSHA—30 CFR Parts 55, 56, 57, 75 and 77—Revisions to Mandatory Safety Standards for Coal and Metal and Nonmetal Mines Based on Affirmative Decisions on Petitions for Modification of the Application of Standards.

Under Section 101(c) of the Mine Act, MSHA has granted many petitions for modification of the appplication of standards (variances) based on mine operators' implementation of alternative methods which reflect advances in technology. MSHA intends to review the standards for which modifications have been granted and determine which standards should be revised to allow the use of improved and alternative methods which provide adequate protection for miners. A regulatory impact analysis is not required.

Status: MSHA anticipates publishing an ANPRM by October 1981.

Contact: Frank White, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203, 703-235-1910.

24. MSHA—30 CFR Part 57.5-37—Radon Daughters. MSHA has received a petition to revise the standards for radon daughter exposure in underground metal mines. The petitioners allege that miners are at an increased risk of lung cancer under the current exposure limits and that additional protective provisions are needed in the standard.

The National Institute for Occupational Safety and Health (NIOSH) submitted a report to MSHA in June 1980 which reviewed the literature regarding radon daughter exposure and concluded that a substantial health risk exists at current exposure levels. As a result of that report, NIOSH will provide MSHA with a quantitative assessment of risk and a more complete review of the scientific literature. After a review of that information, MSHA will determine whether there exists a significant risk of material impairment of health to justify a reduction of existing exposure limits. The need for a regulatory impact analysis is under study.

Status: A decision on the need for a revision of the existing regulation will not be made until late 1981.

Contact: Frank White, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203, 703-235-1910.

25. MSHA—30 CFR Part 110—Safety and Health Standards for Construction Work at Surface Areas of Mines.

This regulation would set forth minimum safety and health requirements for construction workers at surface areas of mines. Section 101(a)(8) of the Federal Mine Safety and Health Act of 1977 requires that the Secretary, to the extent practicable, promulgate separate standards applicable to mine construction activity on the surface. The need for a regulatory impact analysis is under study.

Status: An advance notice of proposed rulemaking, in which MSHA proposed to basically adopt OSHA's construction standards, was published in August 1979. We have received and analyzed the comments. A draft proposed rule is under review.

Contact: Frank White, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203, 703-235-1910.

26. ESA—29 CFR Part 530—Employment of Homeworkers in Certain Industries.

This regulation sets forth the conditions under which certificates can be issued authorizing the employment of individuals as homeworkers in certain restricted industries. There has been no comprehensive revision of this regulation since its inception is the early 1940's. Revisions may be needed to resolve problems which have recently been brought to light. A regulatory impact analysis is not anticipated.

Status: Public hearings were held on January 13 and 14, 1981, in Burlington, Vermont, and on February 17 and 18, 1981 in Washington, D.C. for the purpose of soliciting suggestions as to how, if at all, this regulation should be changed. A notice of proposed rulemaking is expected in early May.

Contact: James L. Valin, Room S3508, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202–523–7043.

27. ESA—20 CFR Part 722—Criteria for Determining Whether State Workers' Compensation Laws Provide Adequate Coverage For Pneumoconiosis and Listing of Approved Laws.

These regulations establish procedures and standards to be applied by the Secretary of Labor in determining whether a State workers' compensation law provides adequate coverage for death or disability due to pneumoconiosis. Review and revision of Part 722 is necessary because of the amendments to Section 421 of the Black Lung Benefits Act by the Black Lung Benefits Reform Act of 1977. A regulatory impact analysis is not required.

Status: The publication of a proposed regulation by October 30, 1981, is anticipated.

Contact: James Yocom, Room C3520, Main Labor Building, 200 Constitution Avenue, N.W. Washington, D.C. 20210, 202–523–6692.

28. EST—20 CFR Part 726—Black Lung Benefits: Requirements for Coal Mine Operators Insurance.

These rules govern the manner by which a coal mine operator shall fulfill its insurance obligations under the Black Lung Benefits Act, either by qualification as a self-insurer or by contracting with a commercial insurance company. Revision of Part 726 is necessary as a result of enactment of the Black Lung Benefits Reform Act of 1977 and the Black Lung Benefits Revenue Act of 1977. The need for a regulatory impact analysis is under study.

Status: The publication of a proposed regulation by October 30, 1981, is anticipated.

Contact: James Yocom, Room C3520, Main Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202–523–6692.

29. EST—20 CFR 10 et seq.—Claims for Compensation under the Federal Employees' Compensation Act, as amended.

Revisions in this regulation would define standards for determining the degree of disability attributable to specific occupational diseases. The changes will produce greater uniformity in the disability determinations in such cases. A regulatory impact analysis is not required.

Status: Publication of notices of proposed rulemaking concerning hearing loss and asbestosis are anticipated by October 30, 1981.

Contact: John D. McLellan, Jr., U.S. Department of Labor, Room S3329, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202–523–7552.

30. ESA—20 CFR 725. Claims for Benefits Under Part C of Title IV of the Federal Mine Safety and Health Act, as Amended.

These regulations define the procedures for the adjudication and payment of benefits on claims for total disability due to Black Lung disease. Several changes are under study. One would clarify the circumstances under which a lessor of a coal mine will not be liable for the payment of such benefits. Another will change the rate of interest to be paid by mine operators or other employers on reimbursements to the Black Lung Disability Trust Fund. A regulatory impact analysis is not required.

Status: A proposed change to Section 725.491(b) (2) clarifying the obligations of coal mine lessors was published for comment on January 27, 1981. Publication of a notice of proposed rulemaking modifying section 725.608 on interest charges is anticipated by June 30, 1981.

Contact: Robert Dorsey, Room C3316, Main Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202–523–9486.

31. ESA—20 CFR Parts 702, and 703—Longshoremen's and Harbor Workers' Compensation.

Revisions and additions to the Longshoremen's Act regulations are being considered. These revisions would establish standards to permit employer groups to qualify as self-insurers under 20 CFR Part 703; reflect and codify the Department's policies and procedures for handling second injury relief cases; modify procedures for requiring employers to pay additional compensation for failure to pay compensation without an award; clarify procedures related to the provision of rehabilitation services; and make other changes. The need for a regulatory impact analysis is under study.

Status: Proposed regulations on the handling of second injury relief cases were published for comment on January 27, 1981. Publication of proposals on other matters is anticipated by October 30, 1981.

Contact: Neil Montone, Room C4315, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202–523–8572.

32. LMSA—29 CFR 403—Labor Organization Annual Reports.

LMSA is planning to revise the Labor Organization Annual Reports, Forms LM–2 and LM–3, which are incorporated by reference in 29 CFR 403.3 and 403.4. Those reporting forms require the disclosure of certain details regarding the financial condition and operations of labor organizations pursuant to the Labor-Management Reporting and Disclosure Act of 1959, as amended. A number of changes in format and content are being considered in order to simplify the reporting requirements of labor organizations, facilitate more efficient processing of the reports by the Department, and reduce the paperwork for labor organizations and the Department. A regulatory impact analysis is not required.

Status: Proposed revisions will be published in the Federal Register for public comments on or about June 1, 1981.

Contact: Herbert Raskin, Room N5109, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202–523–7373.

33. LMSA/ERISA—29 CFR 2550.414(c) (5)—Transitional Relief for Certain Dispositions of Property Under Section 414(c) (5) of ERISA.

This proposed regulation would clarify the scope of the transitional relief provided in section 414(c) (5) of ERISA. The proposed regulation is designed to clarify the circumstances under which the prohibited transaction provisions contained in sections 406 and 407(a) of ERISA are inapplicable to certain sales, exchanges or othe dispositions of property to a party in interest. Consideration is being given to whether a regulatory impact analysis is required.

Status: The publication date of a proposed regulation is under consideration.

Contact: Douglas Wham, Office of the Solicitor, Room C–4508, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202–523–7923.

34. LMSA/ERISA—29 CFR 2550.406a-1—Prohibited Sales, Exchanges and Leases.

Section 406(a)(1)(A) of ERISA provides that a fiduciary with respect to a plan should not cause the plan to engage in a transaction if he knows or should know that such transaction constitutes a direct or indirect sale, exchange or lease of property between the plan and a party in interest. The Department has received correspondence in the form of inquiries and requests for advisory opinions as to the scope or the prohibitions contained in Section 406(a)(1)(A).

The purpose of this proposed regulation is to provide guidance regarding the Department's view of sales, exchanges and leases between a plan and a party in interest. Consideration is being given to whether a regulatory impact analysis is required pursuant to the provisions of E.O. 12291.

Status: The publication date of a notice of proposed rulemaking is under consideration.

Contact: Jay A. Neuman, Office of the Solicitor, Room C-4508, Francis Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210 (202) 523-8658.

35. LMSA/ERISA—29 CFR 2510.3-40—Certain Plans for Management and Highly Compensated Employees.

The proposed regulation will provide guidance regarding the circumstances under which a plan will be deemed unfunded and maintained by an employer primarily for the purpose of providing deferred compensation for a select group of management or highly compensated employees.

Plans which have these characteristics are exempted from coverage under Parts 2 (participation and vesting), 3 (funding), and 4 (fiduciary), of Title I of ERISA, by sections 201(2), 301(a)(3) and 401(a) of ERISA respectively. Consideration is being given to whether a regulatory impact analysis is required.

Status: The publication date of a notice of proposed rule is under consideration.

Contact: Jay S. Neuman, Office of the Solicitor, Room C4508, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-8658.

36. LMSA/ERISA—29 CFR 2550.404c—Participant Directed Individual Account Plans.

Section 404(c) of ERISA provides that if a participant or beneficiary in certain plans that provide for individual accounts excercises control over the assets in his account, then the participant or beneficiary will not be deemed to be a fiduciary by reason of his exercise of control, and other plan fiduciaries will not be liable for any loss, or by reason of any breach of their fiduciary duties under Title I of ERISA, that results from the exercise of control. Section 404(c) specifically contemplates the issuance of regulations by the Department regarding the circumstances under which a participant or beneficiary will be deemed to have exercised control over assets in his individual account.

The purpose of the proposed regulation is to describe the kinds of plans referred to in section 404(c), the circumstances under which a participant or beneficiary will be considered to have exercised control over his individual account and the consequences under section 404(c) of such an exercise of control. Consideration is being given to whether a regulatory impact analysis is required pursuant to the provisions of E.O. 12291.

Status: The publication date of a notice of proposed rulemaking is under consideration.

Contact: William A. Schmidt, Office of the Solicitor, Room C-4508, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-8610.

37. LMSA/ERISA—29 CFR Part 2550—Loans to Participants.

This regulation will describe the circumstances under which the exemption in section 408(b)(1) from the prohibited transaction provisions for loans by a plan to plan participants will be available. Consideration is being given to whether a regulatory impact analysis is required.

Status: The publication date of a proposed regulation is under consideration; it is not anticipated that the proposal will be published before 1982.

Contact: William Flanagan, Office of the Solicitor, Room C4508, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-8610.

38. LMSA/ERISA—29 CFR Part 2550—Prohibited Extension of Credit.

This regulation will interpret aspects of the statutory prohibition in section 406(a)(1)(B) of ERISA against the lending of money and other extensions of credit between a plan and a party in interest. Consideration is being given to whether a regulatory impact analysis is required.

Status: The publication date of a proposed regulation is under consideration; it is not anticipated that the proposal will be published before 1982.

Contact: Mary O. Lin, Office of the Solicitor, Room C4508, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-9595.

39. LMSA/ERISA—29 CFR Part 2550—Definition of the term "qualifying employer real property".

This regulation would define various terms used in the statutory definition of "qualifying employer real property." Such property generally is real estate owned by a plan and leased to the employer sponsoring the plan. With specified exceptions, plans may not invest more than 10% of their assets in employer real property and securities issued by the employer. Consideration is being given to whether a regulatory impact analysis is required.

Status: The publication date of a proposed regulation is under consideration; it is not anticipated that the proposal will be published before 1982.

Contact: Charmaine Gorden, Office of the Solicitor, Room C4508, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-9593.

40. LMSA/ERISA—29 CFR Part 2550—Bonding.

Section 412 requires that every person who handles plan assets be bonded. This regulation will provide necessary guidance with respect to these bonding requirements. Consideration is being given to whether a regulatory impact analysis is reuired.

Status: The publication date of a proposed regulation is under consideration; it is not anticipated that the proposal will be published before 1982.

Contact: Doris Jacobs, Office of the Solicitor, Room C4508, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-6844.

41. LMSA/ERISA—29 CFR Part 2550—Conversions, splits and other transactions not deemed "acquisitions".

This regulation will specify the extent to which conversions, splits, the exercise of rights and similar transactions will not be treated as "acquisitions" for purposes of section 407(d)(8), which limits the extent to which an employee benefit plan may acquire securities issued by the employer sponsoring the plan. Consideration is being given to whether a regulatory impact analysis is required.

Status: The publication date of a proposed regulation is under consideration; it is not anticipated that the proposal will be published before 1982.

Contact: Charmaine Gordon, Office of the Solicitor, Room C4508, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-9593.

42. LMSA/ERISA—29 CFR Part 2550—Conversion of Securities.

Section 408(b)(7) provides an exemption for the exercise of a privilege to convert securities, but only to the extent provided by regulation. This regulation will specify the circumstances under which the exemption is available. Consideration is being given to whether a regulatory impact analysis is required.

Status: The publication date of a proposed regulation is under consideration; it is not anticipated that the proposal will be published before 1982.

Contact: Douglas Wham, Office of the Solicitor, Room C4508, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-7923.

43. LMSA/ERISA—29 CFR Part 2550—Eligible Individual Account Plans.

This regulation will clarify the term "eligible individual account plans" as used in section 407(d)(3). Such plans may invest all their assets in securities and real property related to the employer, provided certain conditions are met. Consideration is being given to whether a regulatory impact analysis is required.

Status: The publication date of a proposed regulation is under consideration; it is not anticipated that the proposal will be published before 1982.

Contact: William Schmidt, Office of the Solicitor, Room C4508, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-9592.

44. OASAM—41 CFR Part 29-15—Cost Principles for State Employment Security Agency (SESA) Grants.

These regulations establish general principles and procedures governing the allowability of SESA costs. They consist of descriptions of particular types of costs which are allowable, allowable with prior Department of Labor approval, and unallowable as charges to grants to States for employment security and unemployment insurance administration.

These regulations are needed to implement Federal Management Circular 74-4 and OMB Circular A-102 and to provide complete guidance to State agencies on the use of Reed Act funds.

Legislative authority appears in the rulemaking provisions of the Wagner-Peyser Act (29 U.S.C. 49 C-3). A regulatory impact analysis is not required.

Status: A proposed rule was published on December 19, 1980. Comments are being reviewed. A revised proposed rule is expected to be published by October 30, 1981.

Contact: Theodore Goldberg, Room S1323, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-9174.

45. OASAM—41 CFR 29-1.6—Debarred, Suspended and Ineligible Bidders.

These regulations govern the exclusion of individuals and concerns from eligibility to receive Department of Labor contracts on account of violations of applicable Federal laws and regulations. Current departmental regulations on this subject need to be reviewed and updated. A regulatory impact analysis is not required.

Status: The publication of a proposed regulation by October 30, 1981, is anticipated.

Contact: Theodore Goldberg, Room S1323, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-9174.

46. OASAM—41 CFR Part 29-70—Administrative Requirements Governing All Grants and Agreements by Which Department of Labor Agencies Award Funds.

This regulation will amend 41 CFR Part 29-70 to add a new section 29-70.213, "Suspension and termination of grants and agreements; debarment." This section implements Attachment L to OMB Circular A-110 and the part of Attachment L to OMB Circular A-102 which deals with sanctions under grants. Section 29-70.213 includes the Federal standards which apply if a grant must be suspended or terminated; or if a grantee is debarred from eligibility to receive a Department of Labor grant. A regulatory impact analysis is not required.

Status: The publication of a proposed regulation by September 30, 1981 is anticipated.

Contact: Theodore Goldberg, Room S1323, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-9174.

47. OASAM—41 CFR Part 29-70—Administrative Requirements Governing all Grants and Agreements by Which Department of Labor Agencies Award Funds.

This regulation will amend 41 CFR 29-70.207-4, "Federal and non-Federal audit requirements," to implement Attachment P to OMB Circular A-102. Attachment P provides for independent audits of financial operations (including certain provisions of Federal law and regulation) of Federal grantees that are State or local governments or Indian tribal governments. A regulatory impact analysis is not required.

Status: Publication of the regulation as a proposed rule is anticipated by September 30, 1981.

Contact: Theodore Goldberg, Room S1323, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-9174.

48. OASAM—41 CFR Part 29-70—Administrative Requirements Governing all Grants and Agreements by Which Department of Labor Agencies Award Funds.

This regulation will amend 41 CFR Part 29-70 to add a new § 29-70.212, "Closeout procedures." This section will implement Attachment K to OMB Circular A-110 and the part of Attachment L to OMB Circular A-102 dealing with closeout. It will provide uniform Federal standards for closing out Department of Labor grants and agreements. A regulatory impact analysis is not required.

Status: Publication of the regulation as a proposed rule is anticipated by September 30, 1981.

Contact: Theodore Goldberg, Room S1323, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-9174.

Signed this 22nd day of April 1981 at Washington, D.C.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 81-12862 Filed 4-27-81; 8:45 am]

BILLING CODE 4510-23-M

federal register

Tuesday
April 28, 1981

Part IV

Department of Agriculture

Office of Environmental Quality

Environmental Policy; Categorical Exclusions

DEPARTMENT OF AGRICULTURE

Environmental Policy; Categorical Exclusions

AGENCY: Office of Environmental Quality, Agriculture.

ACTION: Final determination of categorical exclusions.

SUMMARY: Notice is hereby given that the Office of Environmental Quality (OEQ), pursuant to consultations with the Council on Environmental Quality (CEQ) and the Agencies set forth below has made a final determination that the current programs and activities of those USDA Agencies listed below come within the categorical exclusions contained in the Department of Agriculture's policies and procedures for compliance with the National Environmental Policy Act (NEPA) (7 CFR § 3100.22; 44FR 44802–44803). As a result of this determination, the designated Agencies will not prepare specific agency procedures for compliance with NEPA and the regulations of CEQ and the Department of Agriculture. However, those Agencies will continue to review their programs and activities to evaluate any new programs or activities which may necessitate the development of specific Agency procedures.

SUPPLEMENTARY INFORMATION: June 6, 1980, the OEQ published a proposed determination of categorical exclusions from the requirement of preparation of specific regulations and procedures for compliance with the National Environmental Policy Act (45 FR 38092). As of the closing date of August 5, 1980, the OEQ received two comments regarding the proposed categorical exclusion of the Agricultural Marketing Service (AMS). There were no comments as to the other designated Agencies.

One comment was concerned with the relationship between Federal fruit and vegetable marketing order regulations and pesticide usage, suggesting that such regulations are based upon cosmetic quality standards, which induce farmers to increase their use of pesticides.

There are indications that certain standards established by various government Agencies and the private sector may have effects on the use of pesticides, which effects may merit further studies. However, the programs and activities of AMS in this area do not have significant effects on pesticide usage and accordingly do not constitute significant effects on human environment. The establishment of Federal grades and standards for fruits and vegetables is not under the authority of AMS.

The other comment was concerned with the process by which AMS analyzed the potential effects of proposed amendments of the Plant Variety Protection Act of 1970, which amendments have since become law. AMS considers its analysis of those amendments to have been adequate. Further, the comment deals with the process by which the analysis was made and is not pertinent to the issue of categorical exclusions of AMS under NEPA.

DESIGNATED USDA AGENCIES FOR CATEGORICAL EXCLUSIONS UNDER NEPA:
Agricultural Cooperative Service
Agricultural Marketing Service
Economics and Statistics Service
Federal Grain Inspection Service
Food and Nutrition Service
Foreign Agricultural Service

EFFECTIVE DATE: April 28, 1981.

FOR FURTHER INFORMATION CONTACT: Barry R. Flamm, Director, Office of Environmental Quality, USDA Washington, D.C. 20250, Phone (202) 447–3965.

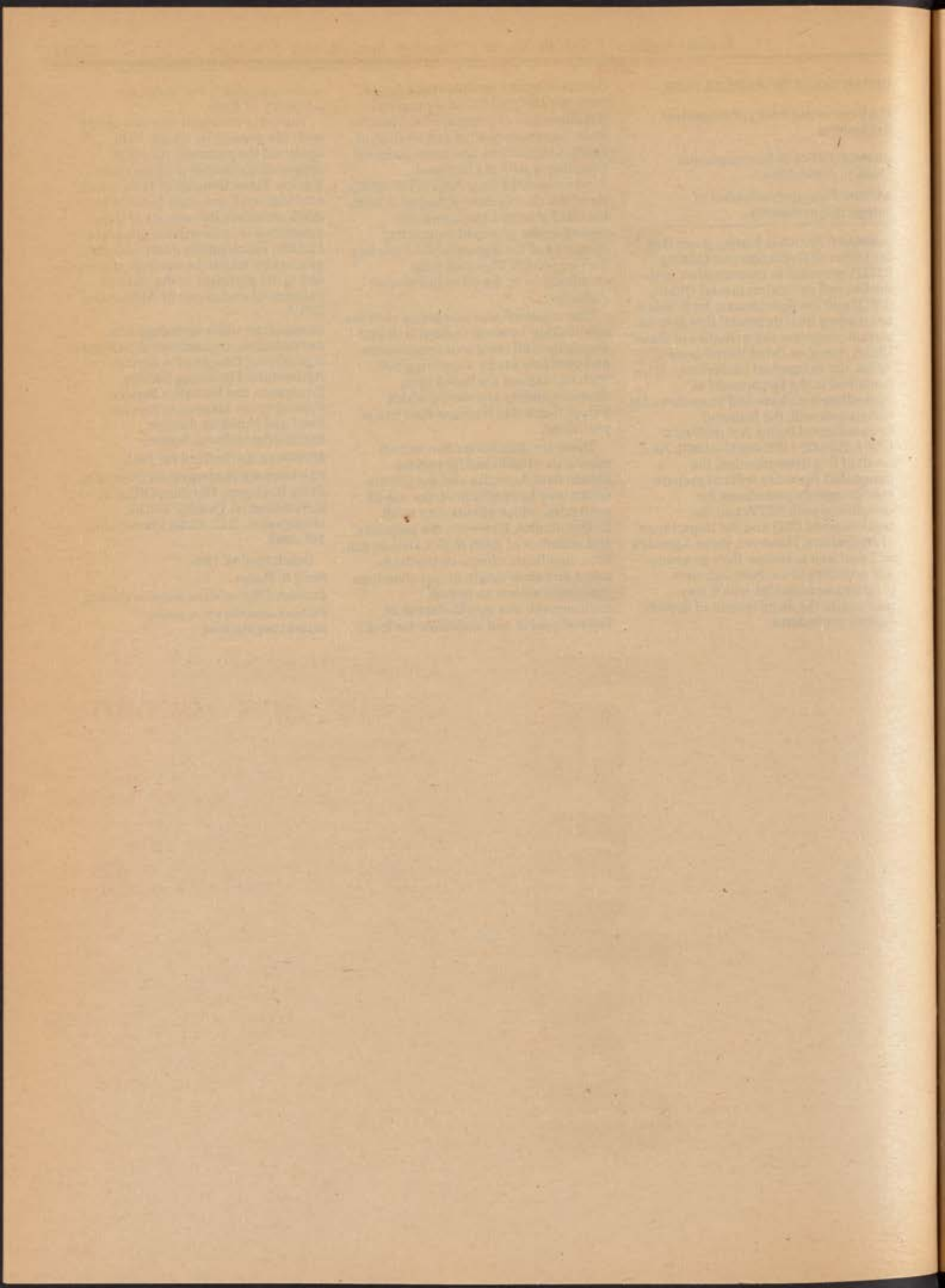
Dated: April 22, 1981.

Barry R. Flamm,

Director, Office of Environmental Quality.

[FR Doc. 81-12800 Filed 4-27-81; 8:45 am]

BILLING CODE 3410-01-M



federal register

Tuesday
April 28, 1981

Part V

Department of Health and Human Services

Office of Human Development Services

Native American Programs; Tribal Environmental Protection; Availability of Fiscal Year 1981 Financial Assistance

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

[Program Announcement 13612-816]

Native American Programs; Tribal Environmental Protection

AGENCY: Office of Human Development Services, DHHS.

SUBJECT: Announcement of Availability of Fiscal Year 1981 Financial Assistance for a Tribal Environmental Protection Program.

SUMMARY: The Administration for Native Americans announces that applications are being accepted for financial assistance under Section 805 of the Native American Programs Act of 1974, Pub. L. 93-644, as amended. Regulations covering this program are published in the *Code of Federal Regulations* in 45 CFR Part 1336.

DATE: Closing date for receipt of all applications under this program announcement is July 13, 1981.

Program Purpose

The major purpose of the Administration for Native Americans program is to promote the goal of economic and social self-sufficiency for Native Americans. A priority emphasis of the program is to strengthen the executive functions and institutions of tribal governing bodies to support social and economic development of the tribe.

The program and policy initiatives of the Administration for Native Americans are framed around three major objectives aimed at attaining Native American self-sufficiency. These objectives are:

1. *Social Development*—The development of social institutions and Native American leadership in ways that enhance the capacity of Native Americans to influence their social environment and the services to which they are entitled.

2. *Economic Development*—The realization of the full benefit from Native American resources, both potential and actual. Progress in the area of economic development is perceived as critical to addressing the fundamental causes of the acute and chronic social problems found among Native Americans.

3. *Service Improvement*—The elimination of gaps in services as a result of jurisdictional ambiguities, unclear areas of program responsibility, discrimination, and fragmented program efforts, is fundamental to improving the delivery of human services.

The Administration for Native Americans operates on the principle that economic and social development are essentially interrelated concerns in Native American affairs. One means of promoting social and economic self-sufficiency is through the implementation of research and demonstration projects designed to test or develop new approaches or methods that will assist in overcoming special problems or address specific needs of Native American communities.

Program Goals

The Tribal Environmental Protection Program is a joint initiative of the Environmental Protection Agency (EPA) and the Administration for Native Americans (ANA). The goal of the Tribal Environmental Protection Program is to assist tribal governments to establish and maintain the ongoing capability to protect reservation environments. This program supports EPA's mission to work cooperatively with State and local governments by extending to tribal governments assistance which increases their capacity to administer environmental programs and enforce environmental standards. In addition, the Tribal Environmental Protection Program complements and reinforces ANA's priorities to strengthen the executive functions and institutions of tribal governing bodies to support social and economic development of the tribe.

Background

The protection of reservation environments is a vital concern of many tribal governments. Tribes undertaking the development of natural resources on their reservations have expressed the need to establish and enforce standards for environmental protection. In other instances, tribes have expressed concern over activities of non-tribal entities, both on and off the reservation, which have had an adverse impact on the reservation environment.

At the Federal level, the Environmental Protection Agency has lead responsibility for administering the major environmental statutes. Primarily, EPA is a regulatory agency with responsibilities for the establishment and enforcement of Federal environmental standards. In the past, EPA has generally relied on State governments to implement and enforce environmental standards, with little assistance directed toward tribal governments to undertake comparable environmental protection activities. Since State governments usually do not have full legal jurisdiction on reservation lands, this approach has had limited effectiveness in addressing the environmental problems of Indian reservations.

While protection of reservation lands clearly falls within the purview of the Federal trust responsibility, the active role of tribal governments is vital to the success of such efforts. Programs to protect reservation environments must be predicated on a tribal/Federal partnership if programs are to be relevant to tribal concerns and effectively implemented and enforced. The Federal government recognizes tribal governments as legitimate units of government with regulatory authority over environmental concerns on reservation lands. Likewise, tribal governments are increasingly recognizing the advantages of developing and exercising the governmental functions associated with environmental protection.

Program Objectives

The primary objective of the program is to assist tribal governments to develop or enhance their instituional capability to undertake environmental protection projects and enforce environmental standards on reservation lands. Tribal environmental protection projects may address all or part of a wide range of environmental concerns, from the air pollution problems associated with large-scale energy development to problems more typical of rural America, such as the provision of safe drinking water, and adequate sewage and solid waste disposal.

The program is designed to be flexible, so that tribes can establish systems for addressing environmental concerns in a manner that is consistent with tribally-determined priorities and needs. The program will assist tribal governments to exercise their basic authority to undertake environmental protection activities on reservation lands. The strategies to accomplish environmental protection and enforcement will be determined by each tribe. Project activities may include, among other things, establishment and enforcement of standards, monitoring and evaluation, development of inventories, environmental planning, research, and acquiring appropriate expertise and training. Where appropriate, tribes may wish to develop projects to assume delegable EPA programs. Similarly, they may wish to develop cooperative agreements with tribal, State or Federal agencies, or establish consortia as part of their environment protection strategy.

The Tribal Environmental Protection Program is broad in scope, as it is

intended to respond to actual needs of the reservation environment and the tribal government. As a result, the specific strategies and proposed activities may vary significantly among tribal applicants, depending upon the nature of local issues, needs, priorities and unique circumstances in each community. For example, projects may address environmental problems which are reservation-wide, or which occur only on part of a reservation. In addition, projects may address a variety of problems or focus on one specific concern. However, proposals must address environmental concerns which have already been identified, as this program is not intended to fund activities for the primary purpose of identifying environmental problems.

The purpose of this program is to assist tribes to establish environmental protection efforts as an integral part of tribal governments. It is expected that tribal environmental protection efforts initiated under this program will be continued, or the expertise gained in the project will be utilized by the tribe on an ongoing basis. Therefore, during the project period, preparations must be made, and prospective sources of funds identified, for long-term operation and maintenance of tribal environmental protection programs. Such funds must be obtained from sources other than this program. Applicants will be required to submit a plan for long-range (3-5 year) funding beyond the designated project period.

Project Design

The applicant must document the environmental needs and concerns of the community and must clearly identify the problems to be addressed by the Tribal Environmental Protection project.

The applicant must clearly describe the goals and objectives of the project and clearly describe the manner in which the project will improve the capability of the tribal government(s) to respond to environmental issues on an on-going basis. Although the project period will be limited to a maximum of 3 years, with an initial budget period of 15 months, the applicant should present a clear and concise description and justification of the methodology and strategies it intends to follow over a 3–5 year period.

The applicant must include a statement of work for the implementation of each program objective for the 15-month budget period. The statement of work should include specific time frames, and must describe the method for monitoring and evaluating the activities proposed.

The applicant must include a detailed budget with justifications. The applicant should detail the total amount of resources (financial, human, training and technical assistance) required for the accomplishment of the proposed objectives and should indicate any anticipated sources of support which supplement activities conducted under this program announcement.

The applicant must provide information which indicates that the proposed personnel and management resources are adequate and appropriate to accomplish the proposed objectives.

The applicant must submit a preliminary plan for the long-range maintenance and operation of the tribal environmental protection project, or for long-term utilization of the expertise gained under the project. The plan should identify potential sources of funding for continuation of the project or for similar environmental protection efforts. Funding obtained under this program announcement may not be considered long-range funding. It is expected that preliminary plans will be further developed and refined during the course of the project.

The applicant must include a resolution from the Tribal Council indicating its knowledge, involvement and support of this application.

Applicants who wish further clarification or explanation of this announcement should call Ms. Jan Phalen, Administration for Native Americans (202) 245–7730, or Ms. Jeanne Rubin, ANA, (202) 245–7714.

Eligible Applicants

Applicants eligible for this program are governing bodies of Federally-recognized Indian reservations, or consortia of such governing bodies.

Available Funds

This program is jointly funded by ANA and EPA. A total of $250,000 is available in fiscal year 1981 for new projects under this program. It is anticipated that five to seven (5–7) grants will be awarded. The budget period for awards made under this competition will be fifteen (15) months. The project period for each grant may be up to three (3) years. Refunding on a non-competitive basis beyond the first fifteen months will depend upon the grantee's satisfactory progress, the availability of funds, and the grantee's compliance with ANA Regulations (45 CFR 1336).

Grantee Share of the Project

Grantees must provide 20% of the approved cost of the project. Grantee contributions may be in cash or in kind, fairly evaluated, including, but not limited to, plant, equipment, and services. The contribution must be allowable under the Department's applicable regulations in 45 CFR Part 74, Subparts G and Q.

Under certain circumstances, some or all of the non-Federal share of the project may be waived by ANA. Further explanation is contained in § 1336.52 of ANA's Regulations (45 CFR 1336).

The Application Process

Availability of application forms. In order to be considered for a grant under this program announcement, an application must be submitted on the forms supplied and in the manner prescribed by ANA. An application kit containing the necessary forms as well as supplemental descriptive project information may be obtained from: Ms. Carol Jones, Department of Health and Human Services, Administration for Native Americans, Room 5300, North Building, 330 Independence Avenue, SW., Washington, D.C. 20201, (202) 245–7776, Attention: No. 13612–816.

Application submission. One signed original and six copies of the grant application, including all attachments, must be submitted to the address specified in the application kit. The application must be signed by the principal official of the tribe or by his or her designee.

A-95 Notification Process. Federally-recognized tribes are not subject to the requirements of the Office of Management and Budget Circular No. A–95, revised (procedures at 41 FR 2052, January 13, 1976). However, the Administration for Native Americans encourages applicants to inform the State and Areawide Clearinghouses of their intent to apply for Federal assistance under this program announcement..

Application consideration. The Commissioner determines the final action to be taken with respect to each grant application for this program. Applications which do not conform to this announcement or are not complete will not be accepted for review and applicants will be notified in writing accordingly. Applications which are complete and conform to the requirements of this program announcement are subject to a competitive review and evaluation by qualified persons independent of the Administration for Native Americans. The results of the review assist the Commissioner in the consideration of competing applications. The Commissioner's consideration also takes into account the comments of

ANA and EPA staff, and other interested parties. The Commissioner makes grant awards consistent with the purpose of the Act, the regulations, and the program announcement within the limits of funds available.

After the Commissioner has reached a decision either to disapprove or to fund a competing grant application, unsuccessful applicants are notified of the decision in writing. Successful applicants are notified through the issuance of a Notice of Financial Assistance Awarded which sets forth to the recipient, in writing, the amount of funds granted, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the budget period for which support is given and the amount of recipient participation. It also specifies the total project period for which support is contemplated.

Criteria for Review and Evaluation

Competing grant applications will be reviewed and evaluated against the following criteria:

1. Goals and Objectives

(a) The applicant clearly understands the program goals and objectives described in this program announcement. (5 points)

(b) The project objectives are clearly capable of achieving the program goals and objectives described in this program announcement. (15 points)

2. Problems to be addressed are well defined, and the proposed project effectively addresses the identified environmental needs and concerns of the community. (15 points)

3. The proposed methodologies and strategies, if well executed, are capable of achieving the project objectives. (10 points)

4. The statement of work is comprehensive and adequate for the successful implementation of the proposed activities and includes quantifiable objectives, an appropriate time frame for accomplishment and a plan for monitoring and evaluating the activities proposed. (15 points)

5. The applicant has an adequate plan for long-term operation, maintenance and funding of the project or for long-term utilization of the expertise gained in the project. (10 points)

6. The applicant organization has adequate and appropriate personnel and management resources to accomplish the proposed objectives:

(a) the proposed staff are, or will be, well qualified to carry out the required activities. (10 points)

(b) the applicant has the necessary administrative experience, facilities and resources to carry out the proposed tasks effectively (a brief record of the applicant's experience in conducting related activities should be provided). (10 points)

7. The budget is given in detail with justifications and explanations. Estimated costs are commensurate with the level of effort needed to accomplish the objectives and the cost is reasonable to the government considering the anticipated results. (10 points)

Closing Date for Receipt of Application

The closing date for receipt of all applications under this program announcement is July 13 1981. Applications may be mailed or hand delivered. An application will be considered on time if:

- The application was sent by registered or certified mail not later than July 13, 1981 as evidenced by the U.S. Postal Service;
- The application is received on or before close of business July 13, 1981 in the HDS Grants Receiving Office in Washington, D.C. (address provided in the application kit); or
- The application is hand-delivered to the address on the application kit by close of business July 13, 1981. Hand-delivered applications will be accepted daily from 9 a.m. to 5:30 p.m. except Saturdays, Sundays, and Federal holidays. The official time and date of receipt is that registered by the Department of Health and Human Services.

Applications received after the deadline because they were postmarked or hand-delivered too late or addressed incorrectly will not be accepted and will be returned to the applicant without consideration.

(Catalog Federal Domestic Assistance Program No. 13.612 Native American Programs)

Dated: April 10, 1981.

A. David Lester,

Commissioner, Administration for Native Americans.

Approved: April 23, 1981.

Warren Master,

Acting Assistant Secretary for Human Development Services.

[FR Doc. 81-12874 Filed 4-27-81; 8:45 am]

BILLING CODE 4110-92-M

federal register

Tuesday
April 28, 1981

Part VI

Pension Benefit Guaranty Corporation

Valuation of Plan Benefits in Non-Multiemployer Plans; Correction

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2610

Valuation of Plan Benefits in Non-Multiemployer Plans; Correction

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule; Interim rule; Correction.

SUMMARY: This document corrects a final rule and an interim rule with requests for comments on the valuation of benefits in non-multiemployer pension plans which were published January 28, 1981 (46 FR 9492). This action is necessary to correct typographical errors in actuarial formulas and tables and in the text of the regulation. Because of printing errors in § 2610.42, that entire section is reprinted for clarity.

FOR FURTHER INFORMATION CONTACT: Nina R. Hawes, (202) 254-3010.

Robert E. Nagle,

Executive Director, Pension Benefit Guaranty Corporation.

Accordingly, the following corrections are made in FR Doc. 81-2983 appearing on 9492 in the issue of January 28, 1981:

1. On page 9497, column two, the first paragraph, under "Appendixes" the second line "tables of a_x's for healthy and disabled" is corrected to read "tables of q_x's for healthy and disabled".

2. On page 9498, column three, first paragraph, in § 2610.3(a), the eleventh line, "benefits assigned to priorities categories" is corrected to read "benefits assigned to priority categories".

3. On page 9500, starting in column two, § 2610.42 is corrected to read as follows:

§ 2610.42 Mathematical symbols and terms.

(a) *Fundamental symbols.* The following fundamental symbols represent the basic actuarial concepts used in computing the present value of a benefit:

x represents the insurance age of a participant.

q_x represents the probability that an individual whose present age is x will not survive to attain age x+1.

l_x represents the number of people within a closed group expected to survive to age x and is calculated to four decimal places.

ω represents the first age for which $l_x=0$. Since the values of l_x are carried to four decimal places, ω is the first age for which l_x is less than .00005.

i represents an effective annual interest rate which is the amount of money that 1 invested at the beginning of a year will earn during the year, where interest is paid at the end of the year.

m represents the number of times per year payments of benefits are made. It also represents the number of times per year the amount of a death benefit decreases.

n represents a period of time consisting of n years.

p represents the percentage of a benefit which continues to be paid to a survivor under a joint and survivor annuity.

(b) *Derived symbols.* The following derived symbols and commutation functions are representations of actuarial computations in a condensed form and are used to facilitate the expression of actuarial equations:

v is the present value of one dollar payable one year from today, and is computed by the equation

$$v = \frac{1}{1+i} \cdot$$

d_x is equal to the number of people within a closed group alive at age x, that is, l_x, who are not expected to attain the age of x+1, and is computed by the following equation, rounded to four decimal places $d_x = q_x \cdot l_x$.

l_{x+1} is equal to the number of people within a closed group expected to be alive at age x+1, and is computed by the equation $l_{x+1} = l_x - d_x$.

D_x is equal to the quantity $v^x \cdot l_x$.

N_x is equal to the sum of all D_y's for all ages y equal to or greater than x, to the last age when a person in a closed group is expected to be alive, and is computed by the equation

$$N_x = D_x + D_{x+1} + D_{x+2} \cdots + D_{\omega-1} \cdot$$

$N_x^{(m)}$ is a modification of N_x used in situations where annuity payments are made in equal amounts m times a year, and is computed by the equation

$$N_x^{(m)} = N_x - \frac{m-1}{2m} D_x \cdot$$

C_x is equal to the quantity $v^{x+1} \cdot d_x$.

M_x is equal to the sum of all C_y's for all ages y equal to or greater than x, to the last age when a person in a closed group is expected to be alive, and is computed by the equation

$$M_x = C_x + C_{x+1} + C_{x+2} + \cdots C_{\omega-1} \cdot$$

R_x is equal to the sum of all M_y's for all ages y equal to or greater than x, to the last age when a person in a closed group is expected to be alive, and is computed by the equation

$$R_x = M_x + M_{x+1} + M_{x+2} + \cdots M_{\omega-1} \cdot$$

$\overline{C}_x$ is a modification of C_x used in situations where death benefits are payable upon death, (rather than at the end of the year of death), and is computed by the equation

$$\overline{C}_x = \left(1 + \frac{i}{2}\right) C_x \cdot$$

$\overline{M}_x$ is a modification of M_x used in situations where death benefits are payable upon death, (rather than at the end of the year of death) and is computed by the equation

$$\overline{M}_x = \left(1 + \frac{i}{2}\right) M_x \cdot$$

$\overline{R}_x$ is a modification of R_x used in situations where death benefits are payable upon death, (rather than at the end of the year of death), and is computed by the equation

$$\overline{R}_x = \left(1 + \frac{i}{2}\right) R_x \cdot$$

D_{xy} is a modification of D_x used in situations where the status of another life limits annuity payments, and is computed by the equation

$$D_{xy} = \frac{(1+i)^{1/2(x+y)} D_x \cdot D_y}{10{,}000}$$

N_{xy} is equal to the sum of all $D_{w:z}$ is for all pairs of ages of the form w=x+t, z=y+t, where t is a non-negative integer, and is computed by the equation $N_{xy} = D_{xy} + D_{x+1:y+1} + D_{x+2:y+2} + \cdots$

$N_{xy}^{(m)}$ is a modification of N_{xy} used in situations where annuity payments are made in equal amounts m times per year, and is computed by the equation

$$N_{xy}^{(m)} = N_{xy} - \frac{m-1}{2m} \cdot D_{xy}$$

(c) *Actuarial notation.* The following actuarial notations are used in this subpart:

a represents the present value of an annuity of one dollar per annum.

A represents the present value of a death benefit which provides for the payment of one dollar at the end of the year in which death occurs.

DA represents the present value of a death benefit which provides payments of uniformly decreasing amounts over a specified period of time with no payments if death occurs after the expiration of the period.

.. is a notation which, when placed over a symbol representing the value of an annuity, indicates that payments are to be made at the beginning of the payment period, for example $\ddot{a}_x$.

¬ is a notation which, when placed over a symbol representing a period of time, indicates that an annuity or death benefit payment will not be made beyond that period of time.

: is a notation which separates two symbols in a suffixed subscript representing the status of two periods of life or time, when two such periods are utilized in the context of an actuarial symbol. For example, $\ddot{a}_{x:\overline{n}|}$ indicates that the annuity is payable until the expiration of a life aged x, or a term certain of n years, whichever is earlier.

– is a notation which, when placed over a symbol indicating the value of a death benefit, indicates that the benefit is payable immediately upon death. When placed over two symbols in a suffixed subscript representing the existence of a life or a period of time, it indicates that benefit payments continue during the existence of either. For example, $\bar{A}$ represents the present value of a benefit payable immediately upon death, and $a_{\overline{x:\overline{n}|}}$ represents an annuity payable until the later of the end of a life age x or the passage of n years.

1 is a notation which, when placed over a symbol in a suffixed subscript indicating the existence of a life or a period of time, indicates that expiration of such life or period of time causes payments to commence, if such expiration occurs before the expiration of the other period represented in the subscript. For example $A^{1}_{x:\overline{n}|}$ indicates that payment is made only if the death of the individual, age x, occurs before the expiration of n years.

4. On page 9501, column two, § 2610.44(a), line 6, "Paragraphs (c)–(o) of this section along" is corrected to read "Paragraphs (c)–(n) of this section along".

5. On page 9502, column three, § 2610.44(n), 24th line from the bottom "certain is determined by dividing the" is corrected to read "certain shall be determined by dividing the".

6. On page 9503, column one, § 2610.45(b), line four, "the annuity as of the date of payments" is corrected to read, "the annuity as of the date payments".

7. On page 9504, column one, § 2610.47(f), line 17, "date of plan termination as set forth in," is corrected to read, "valuation date as set forth in".

8. On page 9504, column one, § 2610.48, lines four and five, "benefit and, if any, pre-retirement death benefit is the amount of mandatory" are corrected to read, "benefit and in lieu of a pre-retirement death benefit, if any, is the amount of mandatory".

9. On page 9504, column two, § 2610.63(b)(1), line two, "guaranteed monthly benefit payable at" is corrected to read "monthly benefit payable at".

10. On page 9505, column one, Appendix A to Part 2610—Construction of Mortality Tables, is corrected down to Table I to read as follows:

Appendix A—Construction of Mortality Tables

The plan administrator shall construct mortality tables of l_x's for a closed group using the q_x's contained in the tables in Appendix A and the following procedure which assumes a radix of 10,000 at age 15.

(1) $l_{15}=10{,}000$

(2) Compute l_{16} from the equation $l_{16}=l_{15}-d_{15}$ where $d_{15}=l_{15}\cdot q_{15}$.

(3) Compute l_{17} from the equation $l_{17}=l_{16}-d_{16}$.

(4) This process is continued until the first age x when $l_x=0$. That is, until the age is reached when no person will be alive. l_x will equal zero for all ages equal to and beyond ω.

The PBGC has calculated mortality tables based on 10,000 lives at age 15. They are set forth in Appendix C to this part.

* * * * *

11. On page 9505, column two, Table 1, the rate for age 98, "0.378365" is corrected to read "0.378865".

12. On page 9505, column two, Table II the heading "q_x" is corrected to read "q_x".

13. On page 9505, column three, the heading for Table III, "Mortality Rates for Disabled Male Participants" is corrected to read "Mortality Rates for Disabled Male Participants Not Receiving Social Security Disability Benefit Payments".

14. On page 9506, column two, the heading for Table IV, "Mortality Rates for Disabled Female Participants" is corrected to read, "Mortality Rates for Disabled Female Participants Not Receiving Social Security Disability Benefit Payments".

15. On pages 9506 and 9507, the parenthetical in Title V and in Table VI "(For plans that terminate on or after September 4, 1974 and before December 1, 1980)" is corrected to read, "(For plans that terminate on or after September 2, 1974 and before December 1, 1980)".

16. On page 9507, Table Va is moved from after Table VI to before Table VI and after Table V.

17. On pages 9512 and 9513, in the Columnar headings of Table Va, "l_x" is corrected to read "l_x".

18. On page 9516, column one, Appendix E to Part 2610, first paragraph, line four, "examples use the tables in Appendix C to this" is corrected to read, "examples use the tables in Appendix D to this".

19. On page 9517, column one, first paragraph, line one, "Using Table I–80 of Appendix C and items", is corrected to read, "Using Table I–80 of Appendix D and items".

20. On page 9517, column two, first paragraph, line two, "retirement at valuation date) and vertically" is corrected to read "retirement age at valuation date) and vertically".

21. On page 9497, third column, the title of Part 2610, "Valuation of Benefits" is corrected to read "Valuation of Plan Benefits in Non-Multiemployer Plans".

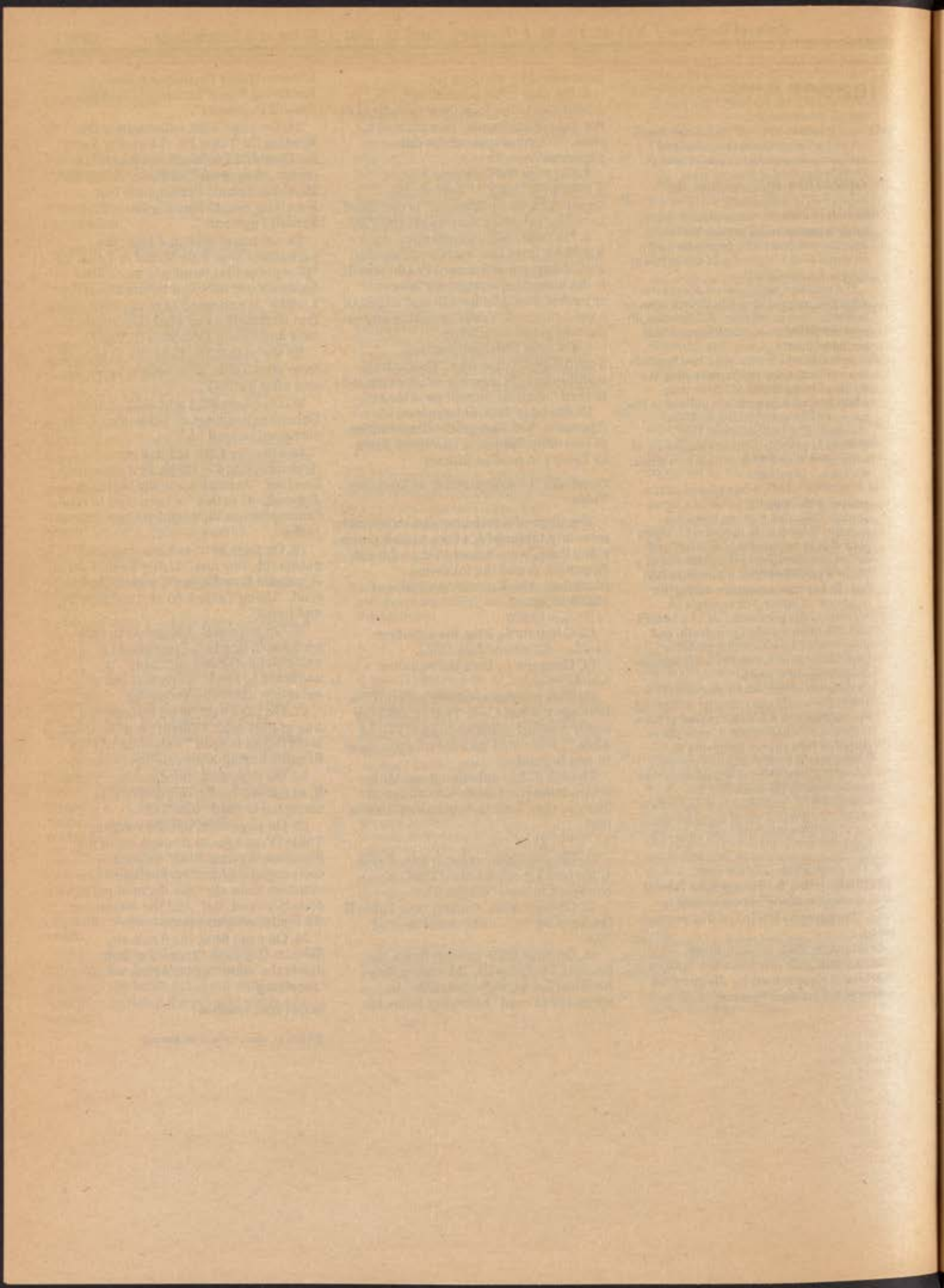
22. On page 9505, third column, Table II, at age 80, the figure, "0.05775" is corrected to read "0.057775".

23. On page 9506, middle column, Table IV, at ages 61 through 84, in the first three figures, "0.10" of each corresponding number, the figure 1 is removed from after the decimal point, to correctly read "0.0" and the remaining six figures stay the same.

24. On page 9498, third column, Subpart B, § 2610.21, line 5 of text, delete the word "to" after the word "receiving".

BILLING CODE 7708-01-M

[FR Doc. 81-12877 Filed 4-27-81; 8:45 am]



Reader Aids

Federal Register

Vol. 46, No. 81

Tuesday, April 28, 1981

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419
	523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Public Inspection Desk	633-6930
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282
	523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

Privacy Act Compilation	523-3517
United States Government Manual	523-5230

SERVICES

Agency services	523-3408
Automation	523-3408
Dial-a-Reg	
Chicago, Ill.	312-663-0884
Los Angeles, Calif.	213-688-6694
Washington, D.C.	202-523-5022
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public briefings: "The Federal Register—What It Is and How To Use It"	523-5235
Public Inspection Desk	633-6930
Regulations Writing Seminar	523-5240
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5239

FEDERAL REGISTER PAGES AND DATES, APRIL

19813-19900.....1
19901-20134.....2
20135-20532.....3
20533-20666.....6
20667-20976.....7
20977-21142.....8
21143-21338.....9
21339-21590.....10
21591-21746.....13
21747-21982.....14
21983-22174.....15
22175-22350.....16
22351-22558.....17
22559-22744.....20
22745-22888.....21
22889-23042.....22
23043-23192.....23
23193-23404.....24
23405-23736.....27
23737-23912.....28

CFR PARTS AFFECTED DURING APRIL

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:

11888 (Amended by EO 12302).....19901
12302.....19901
12303.....21341

Proclamations:

4611 (Revoked by Pub. L. 96-487).....19860
4612 (Revoked by Pub. L. 96-487).....19860
4613 (Revoked by Pub. L. 96-487).....19860
4614 (Revoked by Pub. L. 96-487).....19860
4615 (Revoked by Pub. L. 96-487).....19860
4616 (Revoked by Pub. L. 96-487).....19860
4617 (Revoked by Pub. L. 96-487).....19860
4618 (Revoked by Pub. L. 96-487).....19860
4619 (Revoked by Pub. L. 96-487).....19860
4620 (Revoked by Pub. L. 96-487).....19860
4621 (Revoked by Pub. L. 96-487).....19860
4622 (Revoked by Pub. L. 96-487).....19860
4623 (Revoked by Pub. L. 96-487).....19860
4624 (Revoked by Pub. L. 96-487).....19860
4625 (Revoked by Pub. L. 96-487).....19860
4626 (Revoked by Pub. L. 96-487).....19860
4627 (Revoked by Pub. L. 96-487).....19860
4707 (Amended by EO 12302).....19901
4768 (Amended by EO 12302).....19901
4807 (Amended by Proc. 4835).....22175
4830.....20135
4831.....21339
4832.....21591
4833.....21593
4834.....21983
4835.....22175
4836.....22351
4837.....22889
4838.....23193
4839.....23195
4840.....23197
4841.....23405
4842.....23737

4 CFR

102.....22353

5 CFR

Ch XIV.....23043
213.....20137-20146
531.....22745
532.....21343
539.....22745
870.....21355
871.....21355
872.....21355
873.....21355

Proposed Rules:

Ch. I.....23751
213.....20213
330.....20213
890.....23262
891.....23262

7 CFR

0.....22354, 22559
2.....21985
46.....22745
301.....21143, 21148
354.....22354
410.....22559
411.....23199
420.....23200
421.....23201
422.....23203
423.....23204
424.....23205
425.....23206
427.....23207
428.....23209
431.....23209
432.....23213
433.....23216
434.....23217
435.....23219
436.....23220
437.....23221
438.....23222
907.....19927, 21150, 22177, 23043
908.....21150, 22557
910.....20148, 21356, 22355, 23222
979.....22356
991.....20667
1065.....19813
1139.....21151
1280.....22882
1425.....20149,21595
1474.....20151
1701.....20152, 20153, 20667, 20668
2852.....23223

Proposed Rules:

Ch. I-VII.....23872
Ch. IX-XII.....23872

- Ch. XIV-XVII....23872
- Ch. XXI....23872
- Ch. XXIV-XXIX....23872
- 0....21016
- 29....22002, 23263
- 301....22197
- 945....23058
- 958....22382
- 981....22901
- 982....19946, 21017
- 999....21017
- 1032....21183
- 1050....21183
- 1068....19946
- 1098....23060
- 1133....23061
- 1135....21944
- 1701....21367, 22383
- 2851....23751
- 2856....22383

8 CFR

- 238....20533, 22357

9 CFR

- 75....22565
- 94....19817
- 113....23224
- 313....23225
- 331....22358

Proposed Rules:

- Ch. I-IV....23872
- 72....23754
- 92....23264
- 313....23265

10 CFR

- 2....22358
- 9....21356
- 50....20153
- 205....20508
- 210....20508
- 211....20508
- 212....20508
- 214....20508
- 220....20508
- 474....22747
- 1500....22328
- 1502....22328
- 1534....22334

Proposed Rules:

- 2....20215, 23061
- 51....19946
- 71....21619
- 73....21619
- 211....23755
- 376....20502, 23266
- 1504....22340

12 CFR

- 204....22177
- 206....21747
- 207....20977
- 213....20949
- 220....20977
- 221....20977
- 224....20977
- 226....20848
- 701....19927, 20154, 21987, 22178
- 741....21987

Proposed Rules:

- Ch. I....22112
- Ch. II....19824
- 217....22600
- 701....22388, 22762
- 721....22003
- 723....22003
- 724....22003
- 1204....20155, 20558

13 CFR

Proposed Rules:

- 122....19829

14 CFR

- 39....19932, 20533-20535, 21152-21154, 21595-21597, 22566, 23044, 23045, 23407, 23408
- 71....23046, 23047
- 73....23046, 23048
- 75....23047
- 97....19933, 22567
- 203....21747

Proposed Rules:

- Ch. I....20036, 21184
- Ch. II....21367
- Ch. V....20036, 20560
- 71....19947, 20561, 20562, 22202, 22203, 23065-23069
- 241....21185
- 252....22763
- 296....20563
- 385....20563

15 CFR

- 368....21154
- 370....21154
- 372....23409
- 376....21154
- 378....21154
- 385....21154
- 386....21154, 23409
- 806....23225
- 937....21357
- 938....21357

Proposed Rules:

- 301....23755
- 970....23070

16 CFR

- 3....20979
- 13....19817, 21598, 21599, 22179, 23409
- 13....22891
- 406....20979
- 460....22179, 22180
- 1212....20030

Proposed Rules:

- 13....23763
- 453....21784
- 461....21019
- 1212....20032
- 1301....23469

17 CFR

- 3....23469
- 32....23469
- 211....22569
- 241....22571

Proposed Rules:

- 1....23469
- 3....20679, 23469
- 32....23469
- 140....20679
- 210....21020
- 240....20218, 22602

18 CFR

- 46....22180, 23048
- 131....22180, 23048
- 271....20669, 20670
- 274....20980
- 362....21155

Proposed Rules:

- 157....21189
- 260....21189
- 271....20218, 20219, 20683-20686, 21192, 22004
- 274....21027, 21192
- 282....23487

19 CFR

- 4....20536, 21988
- 101....20538
- 123....21989
- 353....22754
- 355....21155, 21357

Proposed Rules:

- Ch. I....22115
- 177....21194

20 CFR

- 416....21992
- 689....20156

Proposed Rules:

- Ch. I....23884
- Ch. IV....23884
- Ch. V....23884
- Ch. VI....23884
- Ch. VII....23884
- 404....22609, 23765
- 416....22609, 23765

21 CFR

- 16....22359
- 20....22359
- 146....21359
- 155....21359
- 177....23227
- 193....23228
- 203....23739
- 314....21360
- 330....21360
- 442....21360
- 444....22359
- 446....21361
- 448....22359
- 449....21361
- 452....22359
- 510....20158, 21361, 22359, 23229
- 520....20158, 23230, 23231
- 522....20158, 20159, 23232
- 524....22359
- 555....21361
- 558....20160, 20161, 21362, 21364, 21748, 22361, 22754, 23232
- 809....22359
- 812....21360
- 861....22359
- 880....21364
- 1030....23233
- 1308....20671

Proposed Rules:

- 207....21368
- 210....21368
- 225....21368
- 226....21368
- 440....22389
- 501....21368
- 510....21368
- 514....21368
- 539....22389
- 540....22389
- 558....21368
- 610....23765
- 801....23766
- 864....20221, 20222, 22764
- 868....20223-20226
- 876....20687, 22393
- 880....20227, 20228
- 1030....23266
- 1308....22393

22 CFR

- 9....21992

Proposed Rules:

- Ch. I....22394

23 CFR

- 1....21156
- 140....21156
- 160....21156
- 230....21156
- 650....21156
- 652....21156
- 655....21157
- 656....21157
- 659....21156
- 920....21156

Proposed Rules:

- Ch. I....20036, 21184
- Ch. II....20036, 21184
- 200....21620
- 230....21620
- 625....21620
- 635....21620
- 770....21620
- 771....21620
- 795....21620

24 CFR

- 203....23049
- 207....23049
- 213....23049
- 220....23049
- 221....23049
- 232....23049
- 234....23049
- 235....23049
- 236....23049
- 241....23049
- 242....23049
- 244....23049
- 868....21932

Proposed Rules:

- 115....22204
- 235....22394

25 CFR

- 161....22205

26 CFR

- 1....20162, 23234
- 7....23234
- 150....19935

Proposed Rules:

- Ch. I....22121
- 1....22611
- 31....22395
- 51....19947

27 CFR

- 252....21157

Proposed Rules:

- Ch. I....22133
- 9....21195, 21197, 21623

19 21624

28 CFR

0 ..... 19935, 22361, 23051
16 ..... 20539, 22362
40 19935
59 22362

Proposed Rules:

42 22395

29 CFR

1 23739
4 23739
5 23739
6 23739
1910 ..... 21365, 23740, 23741
1952 ..... 20162, 20163
2200 22892
2610 23910

Proposed Rules:

Subtitle A 23884
Ch. II 23884
Ch. IV 23884
Ch. V 23884
Ch. XIV 20036, 20228, 23489
Ch. XVII 23884
Ch. XXV 23884
Ch. XXVI 23267
1611 21784
1691 22395
1910 ..... 21368, 21785, 22764
1952 20229

30 CFR

250 19935
700 20211
716 20211
785 20211
926 20983

Proposed Rules:

Ch. I 23884
200 22901
231 22901
271 22901
722 22902
730 22399
731 22399
732 22399
800 22399
843 22902
872 20688

31 CFR

240 22184

Proposed Rules:

Subtitle A 22139
Ch. I 22139
Ch. II 22140, 22141
51 20230

32 CFR

199 ..... 19818, 21992
770 22755
775 22892
1285 20541

Proposed Rules:

1293 23070

33 CFR

100 22580
117 ..... 23051, 23052
165 20551

Proposed Rules:

Ch. I 21184
Ch. IV 21184
110 ..... 21626, 22206
161 22207

34 CFR

Proposed Rules:

106 23081

36 CFR

223 22581

Proposed Rules:

Ch. I 22905
Ch. II 23872
16 23389
1215 22208

37 CFR

Proposed Rules:

303 20566

38 CFR

21 20672

Proposed Rules:

Ch. I 23081
4 23085
36 21389

39 CFR

10 23235
111 21159
601 21365
776 22366

40 CFR

52 ..... 19819, 19936, 20164–20172, 20551, 20996, 21165, 21599, 21749, 21758, 21767, 21994, 22184, 22185, 22368, 22373, 22374, 22581, 22583, 23235, 23410–23412
60 21769
65 23417
81 ..... 21997, 23419
86 23053
122 22584
123 19819
180 ..... 19820, 20998, 21600, 21770, 23057, 23237, 23238, 23420
261 21999
403 19936
429 19936
600 23053

Proposed Rules:

Ch. I 22400, 23692
33 20567
35 20567
50 21628
51 ..... 21628, 22906
52 ..... 19829, 20231, 20232, 20690–20696, 21199, 21200, 21390, 21391, 22209, 23768–23772
60 ..... 21628, 21789, 22005, 22768
62 19835
65 ..... 20573, 21790
80 20698
81 ..... 20233–20236, 20703
85 21628
86 ..... 20703, 20705, 21393, 21628, 21629
122 20706
123 21395
162 23490
173 23086
180 ..... 21631, 21632, 22612, 22613, 22615, 22907, 23773
260 20706
264 20706
410 22400
420 20707
430 21396
431 21396
720 20574
762 22908
772 ..... 20236, 21633, 22210

41 CFR

Ch. 51 23490
Ch. 101 23742
5A-3 21772
5A-7 21772
5A-53 21772
8-1 22895
8-3 ..... 22756, 22897
8-7 22756
8-75 22897
60-1 23742
60-2 23742
60-4 23742
60-20 23742
60-30 23742
60-50 23742
60-60 23742
60-250 23742
60-741 23742
101-14 21605

Proposed Rules:

Ch. 4 23872
Ch. 12 ..... 20036, 21184
Ch. 29 23884
Ch. 51 ..... 19836, 23490
Ch. 60 23884

42 CFR

110 21999
435 21992

Proposed Rules:

36 22616

43 CFR

9 22585
2090 22585
2200 22585
2210 22585
2220 22585
2230 22585
2240 22585
2250 22585
2260 22585
2270 22585
2300 22585
2310 22585
2320 22585
2340 22585
2350 22585
2920 22585

Public Land Orders:

5653 (Revoked by Pub. L. 96-487) 19860
5654 (Revoked by Pub. L. 96-487) 19860
5696 (Revoked by Pub. L. 96-487) 19860
5697 (Revoked by Pub. L. 96-487) 19860
5698 (Revoked by Pub. L. 96-487) 19860
5699 (Revoked by Pub. L. 96-487) 19860
5700 (Revoked by Pub. L. 96-487) 19860
5701 (Revoked by Pub. L. 96-487) 19860
5702 (Revoked by Pub. L. 96-487) 19860
5703 (Revoked by Pub. L. 96-487) 19860
5704 (Revoked by Pub. L. 96-487) 19860
5705 (Revoked by Pub. L. 96-487) 19860
5706 (Revoked by Pub. L. 96-487) 19860
5707 (Revoked by Pub. L. 96-487) 19860
5708 (Revoked by Pub. L. 96-487) 19860
5709 (Revoked by Pub. L. 96-487) 19860
5710 (Revoked by Pub. L. 96-487) 19860
5711 (Revoked by Pub. L. 96-487) 19860

44 CFR

64 ..... 20174, 20999, 21773, 22376, 22378, 22586, 23743
65 ..... 20176, 21775
67 ..... 20177–20193, 20999–21011, 21605, 21779
70 ..... 20194–20197, 22379, 22380, 23420–23427

Proposed Rules:

Ch. I 23271
67 ..... 20236–20237, 21028–21041, 22618, 22623, 23773

45 CFR

Ch. X 23491
1396 21992
1611 19936

Proposed Rules:

Ch. XII 23087
95 23273

46 CFR

Ch. I 20036
Ch. III 20036
160 23428
401 20556
521 20198
530 19821
540 20673
549 20199

Proposed Rules:

Ch. I 21184
Ch. III 21184
56 22210
58 22210
536 22214
538 22214

47 CFR

0 ..... 22553, 23745
1 22592
2 ..... 20199, 21012, 22899, 23240, 23428, 23746
15 ..... 21780, 23240
21 23428
22 ..... 22586, 22757
73 ..... 19937–19942, 20200, 20674, 20677, 22188–22190, 22194, 22761, 23454, 23455, 23747, 23749

83.......22589
87.......23428, 23456
90.......20199, 22590, 23428
95.......21169, 22592
97.......21169, 22899
Proposed Rules:
Ch. I.......21042
22.......21042, 22214, 22909
25.......19947
63.......20707
68.......22215
73.......20708-20711, 21042, 21633, 21791, 21792, 22006-22011, 22400, 22769, 22770, 22910, 22911, 23087, 23496-23498, 23774
83.......21043
90.......21397, 22624, 22626 23275

48 CFR

Proposed Rules:
46.......22243

49 CFR

1.......22593, 23057
23.......23457
171.......22194, 23462
173.......22194
177.......22194
178.......22194, 23462
195.......20556
512.......21617
525.......21617
537.......21617
555.......21617
571.......21172, 21180
1033.......19822, 19940, 20201, 22000
1034.......21781
1056.......22594
1064.......22899
1080.......22380
1100.......20204
1102.......22594
1109.......20678
1139.......21180
1201.......20209
1206.......21618
Proposed Rules:
Subtitle A.......21184
Ch. I.......20036, 21184
Ch. II.......20036, 21184
Ch. III.......20036, 21184
Ch. IV.......20036, 21184
Ch. V.......21184
Ch. VI.......21184
71.......23500
172.......21202
175.......21202
395.......21620
396.......21620
531.......22243
533.......22243
571.......20575, 21203, 21205, 21634, 22626
575.......21203
583.......19947
660.......23501
1043.......19948, 23275
1056.......21634
1063.......22911
1064.......22911
1084.......19948, 23275

50 CFR

17.......21208, 21209
215.......20557
651.......21365
671.......23462-23466
Proposed Rules:
13.......22243
14.......22243
15.......22243
16.......22243
17.......22243
18.......22243
19.......22243
20.......22243
21.......22243
22.......22243
23.......20713, 22243
410.......22913
611.......20237, 21399, 21793
651.......22011
653.......23501
675.......21399

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.)

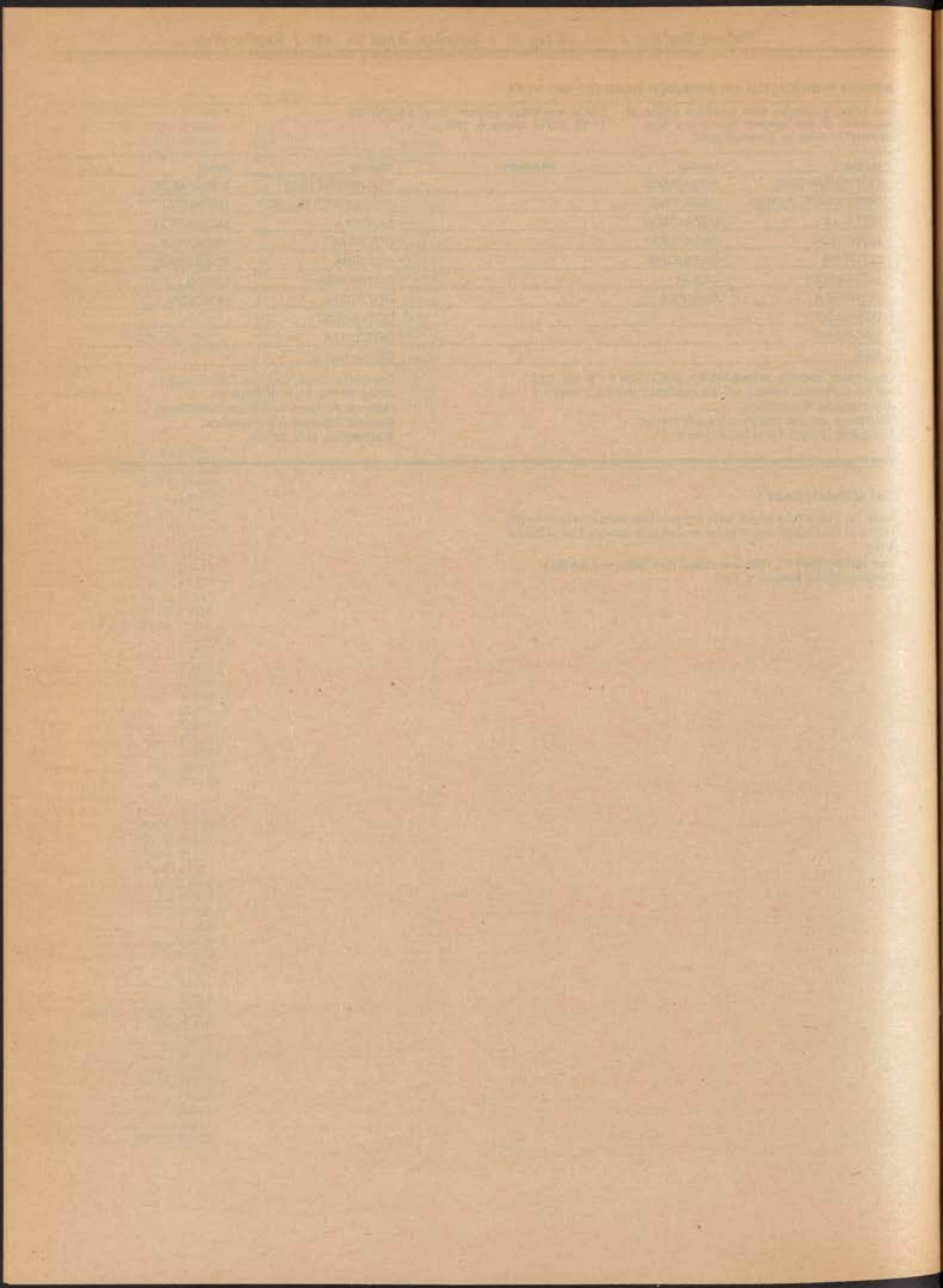
Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

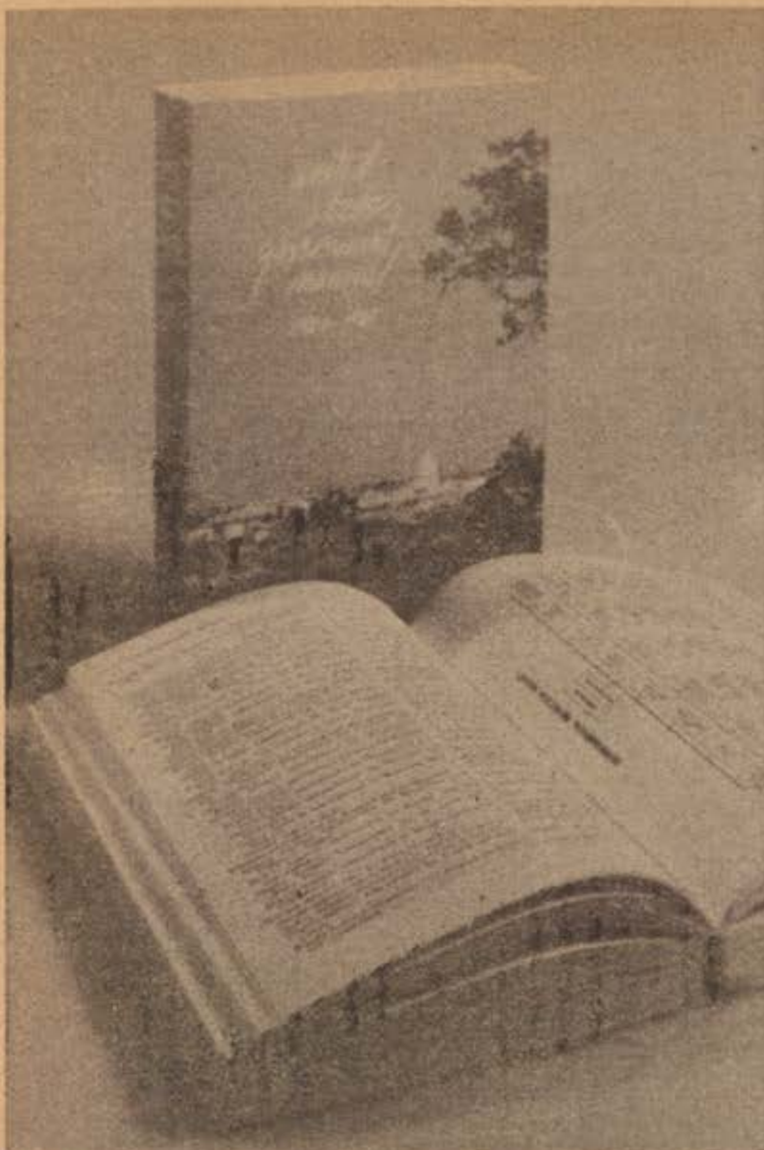
Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator,
Office of the Federal Register,
National 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 April 17, 1981; last cumulative listing for the 96th Congress (1980) January 7, 1981





Now available

United States Government Manual 1980-1981

. As the official handbook of the Federal Government, the *Manual* is the best source of information on the activities, functions, organization, and principal officials of the agencies of the legislative, judicial, and executive branches. It also includes information on quasi-official agencies, international organizations in which the United States participates, and boards, committees, and commissions.

For those citizens interested in where to go and who to see about a subject of particular concern, the *Manual* provides the "Guide to Government Information" section, a reference to an agency's statement of organization in the *Federal Register* or *Code of Federal Regulations*, and comprehensive name, subject, and agency indexes. Particularly helpful is each agency's "Sources of Information" section, which provides addresses and telephone numbers for obtaining specifics on consumer activities, contracts and grants, employment, publications and films, and many other areas of citizen interest.

Of significant historical interest is Appendix A, which describes the agencies and functions of the Federal Government abolished or transferred subsequent to March 4, 1933.

$8.50 per copy

ORDER FORM Mail To: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Enclosed is $ ________ ☐ check, ☐ money order, or charge to my Deposit Account No.

☐☐☐☐☐☐☐-☐

Order No.____________

Master Card and Visa accepted.

Credit Card Orders Only

Total charges $________ Fill in the boxes below.

Credit Card No. ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Expiration Date Month/Year ☐☐☐☐

Please send me ____________ copies of the United States Manual, 1980/81, at $8.50 per copy. Stock No. 022-033-01052-1

Name—First, Last

Company name or additional address line

Street address

City State ZIP Code

(or Country)

PLEASE PRINT OR TYPE

For Office Use Only.

	Quantity	Charges
Enclosed		
To be mailed		
Subscriptions		
Postage		
Foreign handling		
MMOB		
OPNR		
UPNS		
Discount		
Refund		