

# federal register

Tuesday  
May 12, 1981

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## Highlights

- 26301 Environmental Protection-Grant Programs** EPA issues a class deviation from a provision of its program grant regulations to extend the FY 1981 budget period from September 30, 1981 to December 31, 1981 for the State Underground Water Source Protection Program.
- 26403 Juvenile Justice Grant Programs** Justice/JJDPO publishes proposed funding policy for the balance of FY 1981.
- 26275 Federal Credit Unions** NCUA issues rule to provide greater flexibility to credit union share accounts. This rule permits members to make additions to a share certificate without the requirement to specify in advance.
- 26297 Human Prescription Drugs in Oral Dosage Forms** CPSC exempts pancrelipase preparation in tablet, capsule, or powder form from child-protection packaging requirements.
- 26358 Washington National Airport** DOT/FAA proposes rule on nonstop operation practices for turbojet air carrier aircraft.
- 26378 Railroads** ICC approve updated car-hire charges.

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## Highlights

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# Rules and Regulations

Federal Register

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

## NATIONAL CREDIT UNION ADMINISTRATION

### 12 CFR Part 701

#### Organization and Operations of Federal Credit Unions; Share, Share Draft, and Share Certificate Accounts

**AGENCY:** National Credit Union Administration.

**ACTION:** Final rule.

**SUMMARY:** The National Credit Union Administration Board is issuing a final rule to provide greater flexibility to credit union share accounts. Under this revision a Federal credit union may permit its members to make additions to a share certificate without the requirement to specify in advance. There will be no restrictions on when a share deposit can be made or the amount of an addition. The original amount in the account, as well as all additions, will remain subject to premature withdrawal penalties. Therefore, a shareholder withdrawing either the original amount or additions to the account prior to the original maturity date will continue to be required to pay a premature withdrawal penalty.

**ADDRESS:** National Credit Union Administration, 1776 G St., NW, Washington DC, 20456.

**DATE:** Effective date, May 6, 1981.

**FOR FURTHER INFORMATION CONTACT:** Daniel Gordon, Senior Financial Economist, at (202) 357-1090.

#### SUPPLEMENTARY INFORMATION:

Regulation 701.35(a)(3) now reads as follows:

- (a) \* \* \*
- (3) Share Certificate Account means:
- (i) An account that will earn dividends at a particular rate if held to maturity and on which a penalty may be assessed for any premature withdrawal. Additions shall reset

the maturity of the entire account for a term equal to the original qualifying period; or

(ii) An account that will earn dividends at a particular rate provided:

(A) A notice of a minimum of 90 days of intent to withdraw on a specified date is required;

(B) A penalty is assessed for failure to provide a minimum of 90 days notice; and

(C) Regular additions are made to the account for the duration of the qualifying period pursuant to a written contract or savings plan. Additions to this type of account shall not reset the maturity of the entire account for a term equal to the original qualifying period.

This revised rule permits Federal credit unions to offer share certificates to which their members may add funds during the term of the certificate, either according to a prearranged plan of regular additions or at random, without such additions having the effect of extending the maturity of the certificate. It should be noted, however, that § 701.3(e) of NCUA's regulations continues to prescribe minimum penalties for premature withdrawal from share certificates.

Because the revised rule represents a deregulation and provides the opportunity for credit unions to reduce their administrative costs and provide increased benefits to their membership, a delay in the adoption of this final rule may be harmful to the public interest in that it would reduce the ability of credit unions to participate effectively in current financial markets. The NCUA Board for good cause finds, in accordance with 5 U.S.C. 553(b)(B), that notice and public procedure on this rule are unnecessary and contrary to the public interest.

Since NCUA is, therefore, not required by 5 U.S.C. 553 to publish a proposed rule, neither an initial flexibility analysis nor a certification required by the Regulatory Flexibility Act have been done, 5 U.S.C. 603(a).

This final rule is made effective in less than 30 days, in accordance with 5 U.S.C. 553(d)(1), because it is a substantive rule and relieves a restriction.

(Pub. L. 95-22, 91 Stat. 49 (12 U.S.C. 1757(6)))

12 CFR 701.35(a)(3) is revised as set forth below:

#### § 701.35 Share accounts and share certificate accounts.

- (a) \* \* \*
- (3) Share Certificate Account means:

(i) An account that will earn dividends at a particular rate if held to maturity and on which a penalty may be assessed for any premature withdrawal. Additions need not reset the maturity of the entire account; or

(ii) An account that will earn dividends at a particular rate where:

(A) A notice of a minimum of 90 days of intent to withdraw on a specified date is required;

(B) A penalty is assessed for failure to provide a minimum of 90 days notice; and

(C) Additions may be made to the account for the duration of the qualifying period. Additions to this type of account shall not reset the maturity of the entire account.

Rosemary Brady,

Secretary of the National Credit Union Administration Board.

May 6, 1981.

[FR Doc. 81-14255 Filed 5-11-81; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

#### 15 CFR Parts 373, 379, 385, and 399

#### Commodities Excluded From Certain License Procedures

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

**ACTION:** Interim rule with request for comments.

**SUMMARY:** In the matter of revision of commodities excluded from certain special license procedures, the advisory notes and the Commodity Control List (CCL) (Supp. No. 1 to Part 373, Supp. No. 1 to Part 385 and Supp. No. 1 to § 399.1) and written assurance requirements for CCL entry 1572. This revision is undertaken to: conform the export controls imposed by the U.S. Government with the controls established during multilateral negotiations with our COCOM partners (International Coordinating Committee); correct errors in previous listings of unilaterally and multilaterally controlled commodities; modify controls applicable to selected unilaterally and multilaterally controlled commodities; and insert new entries in the Advisory

Notes for Selected CCL (Commodity Control List) Entries which identify commodities more likely to be approved for export than others. In addition, a new paragraph is added to Part 379 of the Export Administration Regulations to describe written assurance requirements for a particular entry on the CCL.

**DATES:** The changes announced in this document are effective May 12, 1981. This rule may be further revised in light of any comments received. Comments must be received by the Department before noon, July 13, 1981.

**ADDRESS:** Written comments (five copies when possible) should be sent to: Richard J. Isadore, CCL-1, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, P.O. Box 7138, Ben Franklin Station, Washington, D.C. 20044.

**FOR FURTHER INFORMATION CONTACT:** Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, Telephone: (202) 377-5247 or 377-4811.

**SUPPLEMENTARY INFORMATION:** Revisions of the Advisory Notes (Supplement Number 1 to Part 385) and the Commodity Control List (Supplement Number 1 to § 399.1) of the Export Administration Regulations have been made following unilateral and multilateral reviews of the export of strategic items. These changes relate to national security controls imposed under the authority of section 5 of the Export Administration Act of 1979. In some cases, this revision clarifies the conditions requiring applications for specific export licenses, and will reduce the number of exporters' inquiries and license submissions. In other cases, certain items in the CCL are redefined because of multilateral review which determined that tighter export controls are necessary for national security or foreign policy purposes. Other changes to the CCL add clarifying footnotes and correct errors in a previous CCL revision published in the *Federal Register* on June 25, 1980. In addition, a new paragraph is added to Section 379(f) "Written Assurance Requirements" of the Export Administration Regulations. This paragraph is necessary because current regulations on written assurances cover both technical data and the resultant product. Written assurances for the "exceptions" of CCL entry 1572 are different, however, because *only* the technical data is to be controlled under a letter of assurance; therefore, a special paragraph for that entry is needed.

#### Rulemaking Requirements

Section 13(a) of the Export

Administration Act of 1979 (Pub. L. 96-72, 50 U.S.C. App. 2401 *et seq.*) ("the Act") exempts regulations promulgated under the Act from the public participation in rulemaking procedures of the Administrative Procedure Act. This rule will not have a significant economic impact on a substantial number of small business entities because it does not impose any additional costs or other regulatory burdens on them. This rule does not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* This regulation is not a major rule within the meaning of section 1(b) of Executive Order 12291 (46 FR 13193, February 19, 1981).

However, because of the importance of the issues raised by these regulations and the intent of Congress set forth in section 13(b) of the Act, these regulations are issued in interim form and comments will be considered in developing final regulations.

The period for submission of comments will close July 13, 1981. All comments received before the close of the comment period will be considered by the Department in the development of final regulations. While comments received after the end of the comment period will be considered if possible, their consideration cannot be assured. Public comments that are accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason will not be accepted. Such comments and materials will be returned to the submitter and will not be considered in the development of final regulations.

All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, comments in written form are preferred. If oral comments are received, they must be followed by written memoranda which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the International Trade Administration Freedom of Information Records Inspection Facility, Room 3102, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in

accordance with regulations published in Part 4 of Title 15 of the *Code of Federal Regulations*. Information about the inspection and copying of records at the facility may be obtained from Mrs. Patricia L. Mann, the International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377-3031.

Accordingly, the Export Administration Regulations are amended by amending Supplement Number 1 to Part 373, Supplement Number 1 to Part 385 and the Commodity Control List (Supplement Number 1 to § 399.1), and amending Part 379, as follows:

#### PART 373—SPECIAL LICENSING PROCEDURES

##### Part 373, Supp. No. 1 [Amended]

1. Supplement No. 1 to Part 373 is amended by revising Entry No. 1505 to read as follows: 1505<sup>1</sup> Television cameras incorporating electron tubes defined in Entry No. 1555. (Entire entry.)

#### PART 385—SPECIAL COUNTRY POLICIES AND PROVISIONS

##### Part 385, Supp. No. 1 [Amended]

2. The Advisory Notes for Selected CCL Entries (Supp. No. 1 to Part 385) are amended by revising Entry No. 1572A to read as follows:

##### *Export Control Commodity Number and Commodity Description*

1572A Recording and/or reproducing equipment, as follows (for equipment that may be exported in conjunction with computer shipments, see entry No. 1565):

- (a) Using magnetic techniques;
- (b) Using electron beam(s) operating in a vacuum, and/or laser-produced light beams (see also Entry No. 1522) that produce patterns or images directly on the recording surface, and specialized equipment for image development;
- (c) Graphic instruments capable of continuous direct recording of sinusoidal waves at frequencies exceeding 20 kHz; and
- (d) Specialized parts and components for the above and recording media used in equipment covered by sub-entries (a) and (b). (The term "recording media" is intended to include all types and forms of specialized recording media used in such recording techniques, including but not limited to tapes, drums, discs and matrices.);

<sup>1</sup> Distribution license is available for shipments to Australia, Belgium, Canada, Denmark, France, the Federal Republic of Germany (including West Berlin), Greece, Iceland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Turkey, and the United Kingdom.

(e) Exceptions to (a), (b) and (d) above are as follows:

Exception 1. Sub-entries (a) and (b) do not control the following: Equipment using magnetic techniques:

(i) *Specifically designed for voice or music and not employing digital techniques;*

(ii) *Specifically designed to use magnetic card, tag, label or bank check recording media with a magnetic surface area not exceeding 13 sq. in. (85 sq. cm.);*

Equipment using electron beam(s) operating in a vacuum, and/or laser-produced light beams:

(i) *Specifically designed for television recording and/or reproducing on discs;*

(ii) *Facsimile equipment incorporating lasers such as used for commercial weather imagery and commercial wire photos and text;*

Note.—No technical data relating to the commodities described in the following Exceptions may be exported under General License GTDR until a written assurance against reexport of the data has been obtained by the exporter in accordance with 379.4(f)(3).

Exception 2. Sub-entries (a) or (b) also do not control the following recording and/or reproducing equipment and sub-entry (d) does not control the specialized parts and components therefor (recording media used in this equipment are still covered by sub-entry (d), see Exception 3 and Note 2 below), provided that:

(a) The equipment has been designed for identifiable civil use and by nature of design or performance is substantially restricted to the particular application for which it has been designed;

(b) The equipment has all of the following characteristics:

- (1) Not ruggedized;
- (2) Not rated for continuous operation in ambient temperatures from below  $-20^{\circ}\text{C}$  to above  $+55^{\circ}\text{C}$ ;
- (3) Not specifically designed for underwater use;

(c) The equipment is limited as follows:

(1) Video magnetic tape and disc recorders specially designed for television recording, using a signal registered with the CCIR, or specially designed or adapted for use with medical equipment, and having all of the following characteristics:

- (i) 3 dB recording bandwidth not exceeding 6 MHz;
- (ii) A signal-to-noise ratio not exceeding 48 dB, unless the equipment is a cassette-type recorder, in which case the signal-to-noise ratio does not exceed 52 dB;

(iii) Maximum length of time of a single scan not exceeding 20 milliseconds;

(iv) Portable or transportable and having a net weight not exceeding 50 kg;

(2) Analog magnetic tape recorders specifically designed for use with medical equipment, *i.e.*, for recording physiological signals, and having all of the following characteristics:

(i) Bandwidth capability at maximum design speed not exceeding 300 kHz per track;

(ii) Recording density not exceeding 5,000 magnetic flux sine waves per linear inch (25.4 mm) per track;

Technical Note.—Recording density is, for direct recorders, the recording bandwidth divided by the tape speed; and, for FM recorders, the sum of the carrier frequency and the deviation divided by the tape speed.

(iii) Not including recording and/or reproducing heads of rotary or floating types or heads designed for use in equipment with characteristics superior to those defined in sub-paragraphs (i) or (ii) above;

(iv) Tape speed not exceeding 60 inches (152.4 cm) per second;

(v) Number of recording tracks (excluding audio voice track) not exceeding 20;

(vi) Start-stop time not less than 25 milliseconds;

(vii) Equipped with tape-derived (off-tape) servo speed control and with a time displacement (base) error of not less than  $\pm 5$  microseconds at a tape speed of 60 inches (152.4 cm) per second and not less than  $\pm 10$  microseconds at any lower tape speed measured in accordance with applicable IRIG and EIA documents;

(3) Digital tape recorders specially designed for the collection of medical data obtained from nuclear or other ionizing radiation measurements and having all of the following characteristics:

(i) Mean packing density, with less than 5 percent loss of pulses, not exceeding 800 pulses per inch per track;

(ii) Characteristics not superior to those defined in sub-paragraphs (c)(2)(iii), (vi) and (vii) above;

(iii) Tape speed not exceeding 37.5 inches (95 cm) per second;

(iv) Number of recording tracks not exceeding 8;

(v) Packing density not exceeding 800 bits per inch of track;

(4) Equipment using electron beam(s) operating in a vacuum specially designed for television recording on film, using a signal registered with the CCIR and having all of the following characteristics:

(i) Pattern or image frame size not exceeding 3 mm x 2.3 mm;

(ii) Pattern or image not exceeding 312.5 lines per frame;

(iii) Beam spot position stability not better than 0.3 percent;

(iv) 3 dB recording bandwidth not exceeding 4 MHz;

(5) Digital recording and reproducing equipment operating serially with a packing density not exceeding 800 bits per inch per track specially designed for use with, and incorporated in, typewriter systems used for preparing, correcting and/or composing text.

Exception 3. Sub-entry (d) does not control the following magnetic tape and flexible disc cartridge recording media, provided that:

(a) The magnetic tape is a standard commercial product that has been in use in quantity for at least two years and is not designed for use in satellite applications or in applications requiring a tape life exceeding 3,000 passes;

(b) The base material consists only of polyester or cellulose acetate;

(c) The magnetic tape recording media with a magnetic coating material consisting only of undoped gamma-ferric (iron) oxide with a rated intrinsic coercivity not exceeding 350 oersteds is limited to the following types and characteristics:

(1) Video tape designed for television recording and reproduction or instrumentation tape designed for analog recording and reproduction, and having all of the following characteristics:

(i) Not designed for use in video recorders having a 3 dB recording bandwidth exceeding 6 MHz or in analog recorders having a recording density exceeding 5,000 magnetic flux sine waves per linear inch (25.4 mm) per track;

(ii) A tape width not exceeding 1 inch (25.4 mm);

(iii) A magnetic coating thickness not less than 0.40 mil (10.2 micrometers);

(iv) A tape length not exceeding 4,600 feet (1,402 meters);

(2) Computer tape designed for digital longitudinal recording and reproduction and having all of the following characteristics:

(i) A magnetic coating certified for a maximum packing density of 6,250 bits per inch (9,042 flux changes per inch) along the length of the tape;

(ii) A magnetic coating thickness not less than 8.13 micrometers (0.32 mil);

(iii) A tape width not exceeding 1 inch (25.4 mm);

(iv) A tape length not exceeding 3,600 feet (1,097 meters);

(3) Computer tape in cassettes/cartridges designed for digital longitudinal recording and reproduction

and having all of the following characteristics:

(i) A magnetic coating certified for a maximum packing density of 1,600 bits per inch (3,200 flux changes per inch) along the length of the tape;

(ii) A magnetic coating thickness not less than 0.17 mils (4.32 micrometers);

(iii) A tape width not exceeding ¼ inch (6.35 mm);

(iv) A tape length not exceeding 900 feet (274.3 meters);

(4) Computer flexible disc cartridges designed for digital recording and reproduction and having all of the following characteristics:

(i) A magnetic coating certified for a maximum packing density of 13,262 flux changes per radian (3,268 bits per inch, at a radius of 2.029 (51.536 mm) around the disc;

(ii) A magnetic coating thickness not less than 2.54 micrometers (0.1 mil);

(iii) A disc thickness not exceeding 80 micrometers (0.003 inch);

(iv) A disc outer diameter not exceeding 7.88 inches (201 mm);

(v) A disc inner diameter of 1.5 inch (38.1 mm);

(d) The magnetic tape recording media with a magnetic coating material consisting only of chromium dioxide with a rated intrinsic coercivity not exceeding 650 oersteds are limited to video tape specially designed for the video recorders defined in Note 2(c)(1) and having both of the following characteristics:

(1) A tape width not exceeding 1 inch (25.4 mm);

(2) A tape length not exceeding 1,800 feet (548.6 meters);

(e) The magnetic tape recording media in video tape cassettes are specially designed for the video recorders defined in Note 2(c)(1) and have all of the following characteristics:

(1) A rated intrinsic coercivity not exceeding 750 oersteds;

(2) A magnetic coating thickness not less than 2.54 micrometers (0.1 mil);

(3) A tape length not exceeding 1,800 feet (548.6 meters);

(4) A tape width not exceeding ¼ inch (6.35 mm);

Exception 4. Sub-entry (a) also does not control normal civil use digital recording and reproducing equipment specially designed for recording and/or reproducing voice or music on tape or disc.

#### Notes

1. Licenses are likely to be approved for export to satisfactory end-users of reasonable quantities of equipment covered by sub-entry (a) above, and specialized parts, components and recording media therefor covered by sub-entry (d), for use with the exported equipment as follows:

(a) Video magnetic tape recorders specially designed for television recording, using a signal registered with the CCIR, or specifically designed or adapted for use with medical equipment, and having all of the following characteristics:

(1) 3 dB recording bandwidth not exceeding 6 MHz;

(2) Maximum length of time of a single scan not exceeding 20 milliseconds;

(3) Not ruggedized;

(b) Analog magnetic tape recorders having all of the following characteristics:

(1) Bandwidth capability at maximum design speed not exceeding 300 kHz per track;

(2) Recording density not exceeding 5,000 magnetic flux sine waves per linear inch (25.4 mm) per track;

**Technical Note.**—Recording density is, for direct recorders, the recording bandwidth divided by the tape speed; and, for FM recorders, the sum of the carrier frequency and the deviation divided by the tape speed.

(3) Not ruggedized;

(4) Not rated for continuous operation in ambient temperatures ranging from less than -20° C to greater than +55° C;

(5) Not specifically designed for underwater use;

(6) Not including recording and/or reproducing heads of the rotary or floating types or designed for use in equipment with characteristics superior to those defined in sub-paragraphs (b)(1) and (b)(2) above;

(7) Tape speed not exceeding 60 inches (152.4 cm) per second;

(8) Number of recording tracks (excluding audio voice track) not exceeding 16 channels for direct recording and 28 channels for FM recording;

(9) Start-stop time not less than 25 milliseconds;

(10) Equipped with tape-derived (off-tape) servo speed control and with a time displacement (base) error of not less than ±5 microseconds at a tape speed of 60 inches (152.4 cm) per second and not less than ±10 microseconds at any lower tape speed measured in accordance with applicable IRIG and EIA documents;

(c) Systems for use in civil aircraft or helicopters to record flight data for safety and/or maintenance purposes, and having all of the following characteristics:

(i) In normal civil use for more than one year;

(ii) Not exceeding 100 input channels;

(iii) Sum of the individual channel recording bandwidths not exceeding 500 Hz;

(d) Recording equipment not intended for use in conjunction with equipment or material covered by other entries, provided that the capability of the recorder is limited to both:

(1) A tape width not exceeding ¼ inch (6.35 mm);

(2) Digital recording techniques in serial form with a packing density not exceeding 800 bits per inch.

**Technical Note.**—Packing density is, for digital recorders, the number of bits per second per track divided by the tape speed.

(e) Incremental recorders and/or reproducers (*i.e.*, equipment designed for

discontinuous sampling and/or collection of data in an incremental manner) having all of the following characteristics:

(1) The maximum tape speed, at the maximum stepping rate, does not exceed 2 inches (50.8 mm) per second;

(2) The equipment has all the characteristics specified in sub-paragraphs (b)(3) to (6) of this Note;

(f) Digital magnetic recorders specially designed for seismic/geophysical applications and operating in the frequency range of 5 to 800 Hz.

(g) Digital recording and reproducing equipment operating serially with a packing density not exceeding 1,600 bits per inch per track, specially designed for use with, and incorporated in, typewriter systems used for preparing, correcting and/or composing text.

2. Licenses are likely to be approved for export to satisfactory end-users for use in civil television recording and reproducing applications, of reasonable quantities of the following types of magnetic tape recording media covered by sub-entry 1572(d) whose base material consists only of polyester or cellulose acetate:

(a) With a magnetic coating material consisting only of undoped gamma-ferric (iron) oxide with a rated intrinsic coercivity not exceeding 350 oersteds and limited to video tape designed for television recording and reproduction with a tape width not exceeding 2 inches (50.8 mm);

(b) With a magnetic coating material consisting only of chromium dioxide with a rated intrinsic coercivity not exceeding 750 oersteds and limited to video tape designed for television recording and reproduction with a tape width not exceeding 1 inch (25.4 mm);

(c) With a magnetic coating material consisting only of doped or undoped gamma-ferric (iron) oxide with a rated intrinsic coercivity not exceeding 650 oersteds, hand limited to video tape designed for television recording and reproduction and having all of the following characteristics:

(1) Not designed for use in video recorders having a 3 dB recording bandwidth exceeding 6 MHz;

(2) A magnetic coating thickness not less than 5.1 micrometers (0.2 mil);

(3) A tape length not exceeding 2,400 feet (732 meters);

(4) A tape width not exceeding 1 inch (25.4 mm);

3. Licenses are likely to be approved for export to satisfactory end-users for the shipment of reasonable quantities of computer magnetic disc recording media covered by sub-entry (d) above for use in civil digital computer applications, provided that:

(a) The magnetic disc recording media are a standard commercial product, have not been designed as ruggedized equipment and are neither capable of meeting military specifications for ruggedized equipment nor modified for military use;

(b) The magnetic disc recording media are limited to the following types and characteristics:

(1) Unrecorded single-disc cartridges (front loading, 2,200 b.p.i.) (2315-type) designed to meet ANSI X3.52-1976;

(2) Unrecorded single-disc cartridges (top loading, 2,200 b.p.i.) (5440-type) designed to meet International Standard ISO 3562-1976;

(3) Unrecorded magnetic six-disc packs (2311-type) designed to meet ANSI X3.40-1974 or International Standard ISO 2864-1974(E);

(4) Unrecorded eleven-disc packs (single-density or double density 2314-type) designed to meet ANSI X3.58-1977 or International Standard ISO 3564-1976.

4. Licenses are likely to be approved for export to satisfactory end-users for the shipment of reasonable quantities of analog magnetic tape recorders covered by sub-entry (a) above, and specialized parts, components and recording media therefor covered by sub-entry 1572(d), for use with those recorders, provided that:

(a) The equipment is for a legitimate civil end-use and is reasonable for that use;

(b) Details of such equipment have previously been submitted to the Department of Commerce and a determination has been made that the equipment is eligible for special treatment.

3. The Advisory Notes for Selected CCL Entries (Supp. No. 1 to Part 385) is amended by revising Entry No. 1588A to read as follows:

1588 Materials composed of crystals having spinel, hexagonal, orthorhombic or garnet crystall structures; thin film devices; assemblies of the foregoing; and devices containing them as follows (for equipment which may be exported in conjunction with computer shipments, see Entry No. 1565):

(a) \* \* \*

(b) Single aperture forms possessing any of the following characteristics:

(1) Switching speed of .3 microsecond or faster at the minimum field strength required for switching at 104° F (40° C); or

(2) A maximum dimension less than 0.45 mm (18 mils);

Note.—For machinery and equipment associated with forms having a maximum dimension less than 0.76 mm (30 mils), see Entry No. 1358.

(c) \* \* \*

(d) \* \* \*

(e) \* \* \*

(f) \* \* \*

(g) \* \* \*

Note.—Licenses are likely to be approved for export to satisfactory end-users of shipment of single aperture forms embargoed by sub-entry (b) above, provided they have a switching rate equal to or slower than 0.24 microsecond and a maximum dimension of 0.30 mm (12 mils) or more.

4. A new Entry No. 1757A is added in numerical order (disregarding the first digit) to the Advisory Notes for Selected CCL Entries (Supp. No. 1 to Part 385) reading as follows:

1757 Compounds and materials as follows:

(a) Monocrystalline silicon having any of the following characteristics:

(1) Containing bismuth, indium, gallium, selenium, or thallium at an average carrier concentration of greater than  $10^{16}/\text{cm}^3$ ;

(2) Containing arsenic at an average carrier concentration of greater than  $10^{16}/\text{cm}^3$  and less than  $10^{18}/\text{cm}^3$ ;

(3) Having P-type conductivity and a resistivity of 5,000 ohm/cm or greater;

(4) In the form of wafers (slices) or ingots (boules) having a resistivity of 50 ohm/cm or less for all N type and for P type 1-1-1, or 100 ohm/cm or less for P type 1-0-0.

(b) Monocrystalline gallium compounds, except gallium phosphide, and except gallium arsenide, gallium arsenide phosphide, and gallium nitride having all of the following characteristics:

(1) Diffusion processed wafers;

(2) Selenium tellurium, silicon, sulphur, tin or zinc doped;

(3) Dislocation density (EPD) greater than 10,000 per sq. cm.;

(4) Carrier concentration greater than  $1 \times 10^{16}$  per cu. cm.; and

(5) Carrier mobility less than 2,000 sq. cm. per volt second;

(c) Monocrystalline indium compounds in any form, except electronic grades of monocrystalline

materials containing less than 1 percent of indium;

(d) Composites (hetero-epitaxial materials) consisting of a monocrystalline insulating substrate epitaxially layered with silicon, compounds of gallium or compounds of indium; and

(e) Mercury cadmium telluride compounds in any form.

Note.—Licenses are likely to be approved for export to satisfactory end-users of wafers (slices) embargoed by sub-entry (a)(4) above having any of the following characteristics:

(1) 1-1-1 crystal orientation for N type.

(2) 1-1-1 crystal orientation and having a resistivity less than 2 ohm/cm for P type.

(3) 1-0-0 crystal orientation and having a resistivity between 0.5 and 2 ohm/cm for N type.

#### PART 399—COMMODITY CONTROL LIST AND RELATED MATTERS

##### Part 399, Supp. No. 1 [Amended]

5. Footnote 2 of Entry No. 1355A of the Commodity Control List (Supplement No. 1 to § 399.1) is revised to read as follows:

\* The GLV \$ value limit for sub-entry (b)(2) is \$100.

6. Entry No. 1356A of the Commodity Control List (Supplement No. 1 to § 399.1) is revised to read as follows:

1356A Machinery for the working of ----- PQSTVWYZ 500 MG 1  
synthetic film used as magnetic  
recording tape, as follows:

Equipment, components, and parts specially designed for the continuous coating of polyester base magnetic tape subject to embargo under sub-entry 1572(d) or free from embargo under Exception 3 to Entry No. 1572.

7. Entry No. 1358A of the Commodity Control List (Supplement No. 1 to § 399.1) is revised to read as follows:

1358A Machinery and equipment ----- PQSTVWYZ 500 MG 1  
specially designed for the  
manufacture of devices and assemblies thereof embargoed by  
sub-entries 1588 (b), (c), (d), or (e) and for magnetic recording  
media, other than tape, embargoed by sub-entry 1572(d) or free from  
embargo under Exception 3(c)(4) to Entry No. 1572 (for magnetic tape  
production equipment, see Entry No. 1356), as follows:

(a) Equipment for the manufacture of single and multi-aperture forms described in Entry No. 1588 sub-entries (b), (c), and (d), as follows:

(1) Automatic presses to produce types described in (a) above;

(2) Press dies to produce types described in (a) above; and

(3) Automatic equipment for monitoring, grading, sorting, exercising and/or testing of types described in (a) above;

(b) Equipment for the manufacture of thin film memory storage or switching devices having square hysteresis loops and automatic equipment for monitoring, grading, sorting, exercising, and/or testing of devices described in Entry No. 1588 sub-entry (e);

(c) Automatic equipment for monitoring, exercising, and/or testing assemblies of devices described in Entry No. 1588 sub-entries (b), (c), (d), and (e);

(d) Equipment for the application of magnetic coatings to recording media embargoed by sub-entry 1572 or free from embargo under Exception 3(c)(4) to Entry No. 1572;

(e) Automatic and semi-automatic equipment for monitoring, grading, exercising, and/or testing recording media embargoed by sub-entry 1572(d) or free from embargo under Exception 3(c)(4) to Entry No. 1572.

(f) Specialized test equipment, parts, and controls for the above.

(The term "automatic" refers to machinery not requiring the assistance of a human operator to complete its function or functions during each complete cycle of operations. The term "semi-automatic" refers to machinery requiring the assistance of a human operator to complete part but not all of its functions during each complete cycle of operations. The term "functions" does not include the initial loading or final unloading of material from the machine.)

**Technical Note.**—For this item, single aperture forms described in Entry No. 1588(b) with a maximum dimension less than 0.76 mm (30 mils) are considered embargoed types.

8. The initial paragraph of the commodity description of Entry No. 1519A of the Commodity Control List (Supplement No. 1 to § 399.1) is revised to read as follows:

Single- and multi-channel communications transmission equipment, including terminal, intermediate amplifier or repeater equipment and multiplex busses and multiplex equipment used for communications within or between communications or other equipment and systems by line, cable, optical fiber or radio means, and associated modems

and multiplex equipment, *except telemetering, telecommand and telesignalling equipment designed for industrial purposes, together with data transmission equipment not intended for the transmission of written or printed text and specialized parts, accessories and test equipment therefor (by telemetering, telecommand and telesignalling equipment is meant: sensing heads for the conversion of information into electrical information, the systems used for its long-distance transmission, the processes used to translate electrical information into coded data (telemetering), into control signals (telecommand), and into display signals (telesignalling)); facsimile*

*equipment other than that employing cipher, cryptographic and/or coding devices and equipment that are designed to ensure the secrecy of communications and thus prevent clear reception by anyone other than the intended receiver (see Supplement No. 2 to Part 370); equipment employing exclusively the direct current transmission technique, and electronic measuring equipment, suitable for use with PCM transmission equipment defined in CCITT recommendation series G 700 (ITU Geneva), as follows:*

9. Entry No. 1572A of the Commodity Control List (Supplement No. 1 to § 399.1) is revised to read as follows:

Export Control Commodity Number and Commodity Description

1572A Recording and/or reproducing equipment, as

follows (For equipment that may be exported in conjunction with computer shipments, see Entry No. 1565):

(a) Using magnetic techniques;

(b) Using electron beam(s) operating in a vacuum, and/or laser-produced light beams (see also Entry No. 1522) that produce patterns or images directly on the recording surface, and specialized equipment for image development;

(c) Graphic instruments capable of continuous direct recording of sinusoidal waves at frequencies exceeding 20 kHz; and

(d) Specialized parts and components for the above and recording media used in equipment covered by sub-entries (a) and (b). (The term "recording media" is intended to include all types and forms of specialized recording media used in such recording techniques, including but not limited to tapes, drums, discs and matrices.);

(e) Exceptions to (a), (b) and (d) above are as follows:

Exception 1. Sub-entries (a) and (b) do not control the following: Equipment using magnetic techniques:

(i) *Specifically designed for voice or music and not employing digital techniques;*

(ii) *Specifically designed to use magnetic card, tag, label or bank check*

*recording media with a magnetic surface area not exceeding 13 sq. in. (85 sq. cm.);*

Equipment using electron beam(s) operating in a vacuum, and/or laser-produced light beams:

(i) *Specifically designed for television recording and/or reproducing on discs;*

(ii) *Facsimile equipment incorporating lasers such as used for commercial weather imagery and commercial wire photos and text;*

**Note.**—No technical data relating to the commodities described in the following Exceptions may be exported under General License GTDR until a written assurance against reexport of the data has been obtained by the exporter in accordance with 379.4(f)(3).

Exception 2. Sub-entries (a) or (b) also do not control the following recording and/or reproducing equipment and sub-entry (d) does not control the specialized parts and components therefor [recording media used in this equipment are still covered by sub-entry (d), see Exception 3 and Note 2 below], provided that:

(a) The equipment has been designed for identifiable civil use and by nature of design or performance is substantially

restricted to the particular application for which it has been designed;

(b) The equipment has all of the following characteristics:

- (1) Not ruggedized;
- (2) Not rated for continuous operation in ambient temperatures from below  $-20^{\circ}\text{C}$  to above  $+55^{\circ}\text{C}$ ;
- (3) Not specifically designed for underwater use;

(c) The equipment is limited as follows:

(1) Video magnetic tape and disc recorders specially designed for television recording, using a signal registered with the CCIR, or specially designed or adapted for use with medical equipment, and having all of the following characteristics:

- (i) 3 dB recording bandwidth not exceeding 6 MHz;
- (ii) A signal-to-noise ratio not exceeding 48 dB, unless the equipment is a cassette-type recorder, in which case the signal-to-noise ratio does not exceed 52 dB;
- (iii) Maximum length of time of a single scan not exceeding 20 milliseconds;
- (iv) Portable or transportable and having a net weight not exceeding 50 kg;

(2) Analog magnetic tape recorders specifically designed for use with medical equipment, *i.e.*, for recording physiological signals, and having all of the following characteristics:

- (i) Bandwidth capability at maximum design speed not exceeding 300 kHz per track;
- (ii) Recording density not exceeding 5,000 magnetic flux sine waves per linear inch (25.4 mm) per track;

**Technical Note.**—Recording density is, for direct recorders, the recording bandwidth divided by the tape speed; and, for FM recorders, the sum of the carrier frequency and the deviation divided by the tape speed.

(iii) Not including recording and/or reproducing heads of the rotary or floating types or heads designed for use in equipment with characteristics superior to those defined in subparagraphs (i) or (ii) above;

(iv) Tape speed not exceeding 60 inches (152.4 cm) per second;

(v) Number of recording tracks (excluding audio voice track) not exceeding 20;

(vi) Start-stop time not less than 25 milliseconds;

(vii) Equipped with tape-derived (off-tape) servo speed control and with a time displacement (base) error of not less than  $\pm 5$  microseconds at a tape speed of 60 inches (152.4 cm) per second and not less than  $\pm 10$  microseconds at any lower tape speed measured in accordance with applicable IRIG and EIA documents;

(3) Digital tape recorders specially designed for the collection of medical data obtained from nuclear or other ionizing radiation measurements and having all of the following characteristics:

(i) Mean packing density, with less than 5 percent loss of pulses, not exceeding 800 pulses per inch per track;

(ii) Characteristics not superior to those defined in subparagraphs (c)(2)(iii), (vi) and (vii) above;

(iii) Tape speed not exceeding 37.5 inches (95 cm) per second;

(iv) Number of recording tracks not exceeding 8;

(v) Packing density not exceeding 800 bits per inch per track;

(4) Equipment using electron beam(s) operating in a vacuum specially designed for television recording on film, using a signal registered with the CCIR and having all of the following characteristics:

(i) Pattern or image frame size not exceeding 3 mm x 2.3 mm;

(ii) Pattern or image not exceeding 312.5 lines per frame;

(iii) Beam spot position stability not better than 0.3 percent;

(iv) 3 dB recording bandwidth not exceeding 4 MHz;

(5) Digital recording and reproducing equipment operating serially with a packing density not exceeding 800 bits per inch per track specially designed for use with, and incorporated in, typewriter systems used for preparing, correcting and/or composing text.

Exception 3. Sub-entry (d) does not control the following magnetic tape and flexible disc cartridge recording media, provided that:

(a) The magnetic tape is a standard commercial product that has been in use in quantity for at least two years and is not designed for use in satellite applications or in applications requiring a tape life exceeding 3,000 passes;

(b) The base material consists only of polyester or cellulose acetate;

(c) The magnetic tape recording media with a magnetic coating material consisting only of undoped gamma-ferric (iron) oxide with a rated intrinsic coercivity not exceeding 350 oersteds is limited to the following types and characteristics:

(1) Video tape designed for television recording and reproduction or instrumentation tape designed for analog recording and reproduction, and having all of the following characteristics:

(i) Not designed for use in video recorders having a 3 dB recording bandwidth exceeding 6 MHz or in analog recorders having a recording density exceeding 5,000 magnetic flux

sine waves per linear inch (25.4 mm) per track;

(ii) A tape width not exceeding 1 inch (25.4 mm);

(iii) A magnetic coating thickness not less than 0.40 mil (10.2 microns);

(iv) A tape length not exceeding 4,600 feet (1,402 meters);

(2) Computer tape designed for digital longitudinal recording and reproduction and having all of the following characteristics:

(i) A magnetic coating certified for a maximum packing density of 6,250 bits per inch (9,042 flux changes per inch) along the length of the tape;

(ii) A magnetic coating thickness not less than 8.13 micrometers (0.32 mil);

(iii) A tape width not exceeding 1 inch (25.4 mm);

(iv) A tape length not exceeding 3,600 feet (1,097 meters);

(3) Computer tape in cassettes/cartridges designed for digital longitudinal recording and reproduction and having all of the following characteristics:

(i) A magnetic coating certified for a maximum packing density of 1,600 bits per inch (3,200 flux changes per inch) along the length of the tape;

(ii) A magnetic coating thickness not less than 0.17 mils (4.32 microns);

(iii) A tape width not exceeding  $\frac{1}{4}$  inch (6.35 mm);

(iv) A tape length not exceeding 900 feet (274.3 meters);

(4) Computer flexible disc cartridges designed for digital recording and reproduction and having all of the following characteristics:

(i) A magnetic coating certified for a maximum packing density of 13,262 flux changes per radian (3,268 bits per inch, at a radius of 2.029 inches (51.536 mm)) around the disc;

(ii) A magnetic coating thickness not less than 2.54 micrometers (0.1 mil);

(iii) A disc thickness not exceeding 80 micrometers (0.003 inch);

(iv) A disc outer diameter not exceeding 7.88 inches (201 mm);

(v) A disc inner diameter of 1.5 inch (38.1 mm);

(d) The magnetic tape recording media with a magnetic coating material consisting only of chromium dioxide with a rated intrinsic coercivity not exceeding 650 oersteds are limited to video tape specially designed for the video recorders defined in Note 2(c)(1) and having both of the following characteristics:

(1) A tape width not exceeding 1 inch (25.4 mm);

(2) A tape length not exceeding 1,800 feet (548.6 meters);

(e) The magnetic tape recording media in video tape cassettes are specially designed for the video recorders defined in Note 2(c)(1) and have all of the following characteristics:

- (1) A rated intrinsic coercivity not exceeding 750 oersteds;
- (2) A magnetic coating thickness not less than 2.54 micrometers (0.1 mil);

(3) A tape length not exceeding 1,800 feet (548.6 meters);

(4) A tape width not exceeding 3/4 inch (19.05 mm);

Exception 4. Sub-entry (a)(1) also does not control normal civil use digital recording and reproducing equipment specially designed for recording and/or

reproducing voice or music on tape or disc.

10. Entry No. 5585D of the Commodity Control List (Supplement No. 1 to § 399.1) is revised to read as follows:

5585D<sup>1</sup> Photographic -----<sup>2</sup> PQSWYZ<sup>1</sup> --<sup>4</sup> MG --  
equipment as follows: and Afghanistan

<sup>1</sup>/A validated license also is required for export to the Republic of South Africa and Namibia if intended for delivery to or for use by or for military or police entities in these destinations or for use in servicing equipment owned, controlled or used by or for these entities. See §§371.2(c)(11) and 385.4(a).

<sup>2</sup>/Report cameras in "number" and film in "sq. ft."

<sup>3</sup>/A validated license is not required for export of these commodities to the countries listed in Supp. No. 2 or Supp. No. 3 to Part 373.

<sup>4</sup>/The GLV \$ value limit for Country Group Q is \$100.

(a) Other high-speed continuous writing, rotating drum cameras capable of recording at rates in excess of 2,000 frames per second, and parts and accessories, n.e.s.; and (4)

(b) Other 16 mm high-speed motion picture cameras capable of recording at rates in excess of 2,000 frames per second, and parts and accessories, n.e.s. (1)

11. Entry No. 1588A of the Commodity Control List (Supplement No. 1 to § 399.1) is revised to read as follows:

1588A Materials composed of No. PQSTVWYZ 500 -- 1  
crystals having spinel, hexagonal, orthorhombic or garnet crystal structures; thin film devices; assemblies of the foregoing; and devices containing them as follows (for equipment which may be exported in conjunction with computer shipments, see Entry No. 1565):

(a) Monocrystals of ferrites and garnets, synthetic only; MG

(b) Single aperture forms possessing any of the following characteristics: EE

(1) Switching speed of 0.3 microsecond or faster at the minimum field strength required for switching at 104° F (40° C); or

(2) A maximum dimension less than 0.45 mm (18 mils);

Note.—For machinery and equipment associated with forms having a maximum

dimension less than 0.76 mm (30 mils), see Entry No. 1358.

(c) Multi-aperture forms with fewer than 10 apertures possessing any of the following characteristics: EE

(1) Switching speed of 1 microsecond or faster at the minimum field strength required for switching at 104° F (40° C); or

(2) A maximum dimension less than 100 mils (2.54 mm);

(d) Multi-aperture forms having 10 or more apertures; EE

(e) Memory storage or switching devices, as follows: EE

(1) Thin film (including plated wire and plated rods);

(2) Single crystal or amorphous film magnetic bubble;

(3) Moving domain;

(4) Crosstie;

(f) Magnetic ferrite materials having square loop characteristics, suitable for operations above 1 GHz and having all of the following characteristics: EE



(1) A saturation magnetization of greater than 0.3 tesla (3,000 gauss);

(2) A dielectric loss tangent of less than 0.001 measured at a frequency of 1 GHz or greater;

(3) A ratio of the remanent magnetization ( $B_r$ ) to the saturation magnetization ( $4-M_s$ ) equal to or greater than 0.7; and

(g) Rod forms possessing either of the following characteristics: EE

(1) Switching speed of 0.3 microsecond or faster at the minimum field strength required for switching 104° F (40° C); or

(2) A minimum dimension less than 10 mils (0.254 mm).

(Specify by name and characteristics.)

12. Entry No. 1757A of the Commodity Control List (Supplement No. 1 to § 399.1) is amended by revising sub-entry (a) to read as follows:

1757A Compounds and materials,

No. PQSTVWYZ 500 MG 1

as follows:

(a) Monocrystalline silicon having any of the following characteristics:

(1) Containing bismuth, indium, gallium, selenium, or thallium at an average carrier concentration of greater than  $10^{15}/\text{cm}^3$ ;

(2) Containing arsenic at an average carrier concentration of greater than  $10^{16}/\text{cm}^3$  and less than  $10^{18}/\text{cm}^3$  ;

(3) Having P-type conductivity and a

resistivity of 5,000 ohm/cm or greater;

(4) In the form of wafers (slices) or ingots (boules) having a resistivity of 50 ohm/cm or less for all N type and for P type 1-1-1, or 100 ohm/cm or less for P type 1-0-0.

13. Entry No. 5998B of the Commodity Control List (Supplement No. 1 to § 399.1) is revised to read as follows:

5998B<sup>6</sup> Shotguns, barrel

---- PQSTVWYZ<sup>6</sup> 0 MG 3,5

length 18 inches or over;

and arms, discharge type (for example, stun-guns, shock batons, immobilization guns and projectiles, etc., except equipment used exclusively to treat or tranquilize animals), and except arms designed solely for signal, flare, or saluting use; and parts, n.e.s., including optical sighting devices for firearms.

<sup>6</sup>/A validated license is not required for export of these commodities to Australia, Belgium, Denmark, France, the Federal Republic of Germany (including West Berlin), Greece, Iceland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Turkey and the United Kingdom. No commodities in this entry may be shipped to the Republic of South Africa, Namibia, Botswana, Lesotho, and Swaziland without a validated license. However, a validated license is not required for export of shotguns with barrel length 24 inches or over and parts n.e.s., to other destinations in Country Groups T and V if for consignment or resale to other than police or law enforcement agencies.

14. Part 379 of the Export Administration Regulations is amended by adding a new paragraph (f)(3) to § 379.4 reading as follows:

**§ 379.4 General license GTDR: Technical data under restriction.**

(f) . . . .  
 (3) *Requirement of written assurances for entry No. 1572 on the Commodity Control List (CCL).* No technical data related to CCL entry 1572A, Exception 2 through 4, may be exported under the provisions of this General License GTDR until the exporter has received written assurance from the importer that the technical data will not be shipped, either directly or indirectly, to Country Groups P, Q, W, Y or Z, or Afghanistan. The letter of assurance requirements are stated in § 379.4(f)(1).

Secs. 4(e), 5, 6, 7, 13, 15, 17(d) Pub. L. 96-72, 93 Stat. 503, 50 U.S.C. app. § 2401 *et seq.*; Section 309(c), Pub. L. 95-242, 92 Stat. 141, to be codified at 42 U.S.C. § 2139a; Section 103, Pub. L. 94-163, 89 Stat. 877, 42 U.S.C. § 6212; Section 101, Pub. L. 93-153, 87 Stat. 576, amending 30 U.S.C. § 185; Section 201(11), Pub. L. 94-258, 90 Stat. 309, amending 10 U.S.C. § 7430; Executive Order 12214 (45 F.R. 29783, May 6, 1980); Department Organization Order 10-3 (45 F.R. 6141, January 25, 1980); International Trade Administration Organization and Function Orders 41-1 (45 F.R. 11862, February 22, 1980) and 41-4 (45 F.R. 85003, October 1, 1980.)

Dated: May 6, 1981.

William V. Skidmore,  
 Director, Office of Export Administration,  
 International Trade Administration.

[FR Doc. 81-14221 Filed 5-11-81; 8:45 am]

BILLING CODE 3510-25-M

**EFFECTIVE DATE:** May 12, 1981.

**FOR FURTHER INFORMATION CONTACT:**  
 Barry R. Rubin, Assistant General Counsel, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3520.

**SUPPLEMENTARY INFORMATION:** The Commission's interim rules implementing the Federal Trade Commission Improvements Act of 1980 were the subject of 60 days' public comment. In light of the comments received and of the Commission's experience with the interim rules, several changes are made. In addition, other technical corrections are made in the Commission's Rules of Practice, such as substitution of "Office of Personnel Management" for "Civil Service Commission" wherever it appears in the rules.

**The Comments**

Eight comments were received on the interim rules. The following is a discussion of the principal issues raised in the comments and the Commission's responses thereto. Specific changes in the rules are described in the next section.

1. The Grocery Manufacturers of America (GMA) objects to the Commission's assertion that documents submitted to it in response to compulsory process ("custodial documents") may be disclosed to Commission contractors or consultants who have signed a nondisclosure agreement, arguing that disclosure should be limited to Commission employees. The legislative history of the Improvements Act supports the Commission's interpretation. In debating the conference report on the bill that would become the Improvements Act, Senator Ford, Chairman of the Subcommittee on Consumer of the Senate Commerce Committee, said that section 21(b)(3)(B) of the FTC Act "does not preclude use of custodial documents by consultants retained by the Commission, provided that they will be using the documents for official business and have signed a written agreement not to disclose information without the Commission's consent." 126 Cong. Rec. S5678 (May 21, 1980).

GMA also urges that the amendments to section 6(f) of the FTC Act limiting public disclosure of certain confidential commercial or financial information should be read to preclude disclosure even in Commission administrative proceedings. However, section 21 (d)(2) of the FTC Act specifically provides that disclosure in such proceedings should be

**FEDERAL TRADE COMMISSION**

**16 CFR Parts 0, 1, 2, 4, and 5**

**Organization Changes in the Commission's Rulemaking and Investigatory Procedures**

**AGENCY:** Federal Trade Commission.

**ACTION:** Final rules.

**SUMMARY:** These rules reflect adoption of and amendments to the Commission's interim rules published May 29, 1980 (45 Fed. Reg. 36337), implementing the Federal Trade Commission Improvements Act of 1980 and respond to comments submitted on those rules. They are designed to implement changes made by that Act in the Commission's rulemaking and investigatory procedures.

governed by the Commission's rules for adjudicative proceedings. In explaining the confidentiality provisions of the statute to the House, Congressman Preyer, a member of the Conference Committee, stated that

The Commission may disclose trade secrets and confidential commercial and financial information in the following circumstances: \* \* \* relevant and material information may be disclosed in Commission administrative proceedings or in judicial proceedings, but it may be made subject to appropriate protective orders \* \* \*. 126 Cong. Rec. H3870 (May 20, 1980).

This corresponds to the Commission's longstanding interpretation of its statute (prior to the Improvements Act) that even trade secrets may be disclosed *in camera* in Commission adjudication. *H.P. Hood & Sons, Inc.*, 58 F.T.C. 1184, 1186 n.1 (1961). The Senate Report confirms this reading and specifically refers to the Commission's Rules of Practice regarding *in camera* submissions, 16 CFR §§ 1.18d(b) and 3.45. S. Rep. No. 96-500, 96th Cong., 1st Sess. 27-28 (1979) ("Senate Report"). As discussed below, rule 4.10(g) has been amended to provide submitters an opportunity to seek a protective or *in camera* order prior to the material being disclosed.

2. The Manufactured Housing Institute (MHI) comments that the Commission has not adequately insulated the presiding officers in rulemaking from the Commission staff. However, the only link that remains is with the Commission's Executive Director (who has agencywide budgetary and administrative responsibility) for the limited purpose of conducting periodic evaluations of the performance of presiding officers. See Senate Report at 20.

MHI also objects to allowing the staff in rulemaking to make a report which is then considered by the presiding officer in formulating his recommended decision. The staff report itself is not "evidence," but is merely a summary of the record including recommendations for a final rule if appropriate. All interested persons have an opportunity to comment both on the staff report and on the presiding officer's recommended decision. Accordingly, the Commission believes this procedure is entirely consistent with the Improvements Act. Rule 1.13(c)(6), which MHI argues is inadequate to effectuate the congressional intent in preventing *ex parte* communications with the presiding officer, is simply a restatement of the statutory requirement. Similarly, MHI argues that rule 2.6 should spell out in detail the way the subject of an investigation is to be notified of its

nature and purpose. The Commission believes the rule, which incorporates the statutory language, is adequate.

MHI objects that although the legislative history requires a staff memorandum justifying issuance of compulsory process, no such requirement is contained in the rules. As an internal requirement, the Commission believes it is unnecessary to address this requirement in its rules of practice.

MHI requested a minor clarification in rule 2.9, which describes the rights of witnesses in investigations, to make it clear that both the interviewer and his or her counsel can raise objections. The rule has been amended accordingly. MHI also requested a clarification of rule 2.51 to make explicit the 120-day time limit for responding to petitions to reopen orders. An appropriate change has been made.

MHI objected to the requirement that a request for return of documents submitted to the Commission can come only at the end of a proceeding since a third-party witness may have no way of knowing when that occurs. Additionally, MHI requested clarification of the term "original" document in rule 4.12. As discussed more fully below, the Commission has amended rule 4.12 to address these concerns. Other clarifying changes in rules 4.10 and 4.11 regarding the confidentiality and disclosure of documents submitted to the Commission (described below) respond to concerns raised by MHI and others.

The Commission declines, however, to attempt to define "confidential" in rule 4.10(a)(2) in greater detail. Examples in rule 4.10(a)(2) are intended only to be illustrative since, as provided in the rule, the prohibition on disclosure contained in FTC Act § 6(f) governs in any event. Further guidance on the meaning of the term "confidential commercial or financial information" can be gained by reference to the case law under exemption 4 of the Freedom of Information Act, 5 U.S.C. § 552(b)(4). See Senate Report at 10-11.

3. The Chamber of Commerce of the United States (in a comment that raised the same issues as one filed by the law firm of Lovejoy, Wasson, Lundgren and Ashton) urged the Commission to broaden rule 2.6 to provide that in all instances where information is requested by the Commission—not just CID's—the person be advised of the nature and purpose of the investigation. Rule 2.6 currently provides two slightly different requirements for notice, one for CID's (tracking the new statute) and one for all other requests for information. The Commission agrees that the notice requirements of the Improvements Act

should be applied to all requests for information.

The Chamber objects to the Commission's procedures for sharing information with state and federal law enforcement agencies, arguing that such agencies should be required to adopt detailed custodial arrangements for the documents. Commission rule 4.11 requires, as does the statute, a detailed certification including an agreement by the other agency to maintain the documents in confidence. The Commission believes these restrictions on disclosure are adequate to protect the rights of the submitter.

Further, the Chamber contends that the statute does not permit sharing information with states bringing antitrust treble damage suits. The Commission disagrees with this interpretation of the statute and notes that the Commission's view has been upheld in *Fleming v. FTC*, CCH 1980-1 Trade Cas. ¶ 63642 (D.D.C. Nov. 24, 1980). See also 126 Cong. Rec. H3158 (May 1, 1980). Finally, the Chamber asks that submitters of documents be notified of their release to other law enforcement agencies and be given a description of each document released. The Commission agrees that a submitter should be notified of the fact that documents have been released in most cases and has amended rule 4.11 as discussed below. On the other hand, the Commission believes that routine provision of a list of each document released would be inordinately burdensome; the office of the General Counsel, through which documents are released, is available to provide a general description of that information in most cases.

4. Sears, Roebuck & Co. suggests minor clarifying changes in the rules regarding compulsory process and motions to quash certain Commission orders. As described below, changes have been made in those sections to conform the CID and other compulsory process procedures in many respects.

5. The law firm of Howrey & Simon, on behalf of Exxon, addresses the issue of return of documents submitted, arguing that the Commission must return all documents submitted, including all Commission-made copies and notes. The Commission disagrees and notes that the Improvements Act specifically recognizes the authority of the Commission to retain such copies and notes. See FTC Act section 21(b)(5)(B). Unlike a grand jury, which has a limited existence and no ongoing policy or law enforcement functions, the Commission often uses information submitted in one investigation in a subsequent

investigation. The decision to retain or destroy Commission-made copies of documents or notes depends on whether they are records appropriate for preservation by the government within the meaning of the Federal Records Act, 44 U.S.C. § 3301 *et seq.* That determination, including the question of whether the documents should be preserved because of the information value to the government therein, is peculiarly within the purview of the Commission, not the submitter.

6. The Food Marketing Institute (FMI) suggests that the Commission establish a "pre-submission procedure for determining confidentiality." However, the Commission believes that the confidentiality provisions of the Improvements Act obviate the need for any such procedure except in extraordinary circumstances. Specifically, section 21(b)(3)(B) protects the confidentiality of all documents submitted in response to compulsory process in a law enforcement investigation and section 21(c) protects all other documents marked confidential from public disclosure without 10 days' notice. Further, FMI asks the Commission to establish detailed procedures for identifying which copies should be retained by the Commission. The Commission believes that the determination of whether copies are "appropriate for preservation" under the Federal Records Act will depend on many factors not susceptible to codification such as potential investigatory interest in an industry or a certain practice.

7. On August 29, 1980, the Section of Antitrust Law, American Bar Association, submitted comments which, for the most part, raised issues mentioned in the other comments. In addition, the Section urged that the Commission consider several changes in rulemaking procedures described in its study on FTC Rulemaking. These include fundamental changes such as the use of administrative law judges in place of presiding officers and stricter *ex parte* prohibitions which are beyond the scope of these rule changes. The Commission believes that the statutory provisions for separation of presiding officers from the staff of the Commission and for a limited *ex parte* prohibition adequately meet the Section's concerns. The Section also urged clarifying changes in the Commission's confidentiality rules, many of which are included in these amended rules. The Section questioned whether the FOIA exemption in section 21(f) of the FTC Act is applicable to documents produced in postcomplaint proceedings.

The Commission believes the exemption in section 21(f), as well as the exemption in section 21(b), is equally applicable in precomplaint and postcomplaint proceedings.

#### Rules Changes

After considering the foregoing comments and the Commission's experience under its interim rules during the past several months, it has amended the interim rules as described below. In addition, these rules implement the rulemaking changes made by sections 8 and 15 of the Improvements Act. Finally, they include many technical changes in the Commission's rules.

1. Section 15 of the Improvements Act adds a new section 22 to the FTC Act requiring the publication of preliminary and final regulatory analyses and other requirements. In addition, the Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1164, requires the preparation of initial and final regulatory flexibility analyses. The statute also provides that in the interest of avoiding duplicative or unnecessary analyses, those analyses may be made a part of any other analyses. The Commission believes that rather than preparing separate documents under the Regulatory Flexibility Act, it will be more efficient to incorporate those analyses into the analyses required by the Improvements Act. The Commission's rules, like the Regulatory Flexibility Act, are intended to require regulatory flexibility analyses for rules for which a notice of proposed rulemaking is issued on or after January 1, 1981.

Section 8 of the Improvements Act amends section 18 of the FTC Act by requiring the publication of an advance notice of proposed rulemaking prior to the commencement of a rulemaking proceeding. Amendments to rules 1.9, 1.10, 1.11 and 1.14 implement those sections.

2. Section 1.13 is amended to clarify several rulemaking procedures. First, the deadline for submission of written comments will no longer be set in the Rules of Practice (formerly set at 45 days before the commencement of the oral hearings) but now will be set by the Commission in the initial notice. Interested persons will then have an additional period of 30 days to submit proposals to the presiding officer for designated issues. The Commission anticipates that interested persons will then be able to use the written comments in framing proposals for disputed issues.

Second, the rules now explicitly require all motions to be filed with the presiding officer until the close of the

postrecord comment period and authorize him or her to rule on all motions (including motions to extend time periods). Similarly, the presiding officer is given the explicit duty to maintain the rulemaking record.

Third, rule 1.13(c)(3)(i) concerning the procedures for appealing rulings of the presiding officer to the Commission has been clarified. The rule eliminates the requirement of the filing of an "application for review" with the Commission after certification of the appeal; the presiding officer's certification serves the purpose of the application.

3. Section 1.13(d)(6) is amended to clarify the fact that compulsory process in trade regulation rulemaking must take the form of a civil investigative demand and is available to the Commission staff as well as other rulemaking participants. Rule 1.15 is amended to allow the Commission to make nonsubstantive amendments to trade regulation rules without additional comment periods.

4. Section 1.17 is amended to incorporate the requirements of section 10 of the Improvements Act regarding compensation of participants in rulemaking proceedings. These include the establishment of a small business outreach program and limitations on the amount a person can receive in any one proceeding or in any fiscal year. In accordance with the legislative history of section 10, these limitations are prospective only, and money received prior to the effective date of the Improvements Act is not counted in arriving at these limitations. See 126 Cong. Rec. H3859 (May 20, 1980) (Remarks of Chairman Scheuer). Further, the Commission deleted the \$50 per hour limit on attorneys' fees in rule 1.17 (e)(2) since that arbitrary figure may restrict the ability of small businesses and others to obtain effective representation. The Commission (through its General Counsel) will, of course, continue to assure that all costs incurred are reasonable.

5. Section 2.6 is amended to apply to all recipients of requests for information who are under investigation the requirement that they be notified of the purpose of the investigation. The Commission believes this accurately reflects the intention of Congress when it adopted the Improvements Act, although this requirement is limited by the statute to CID's. Similarly, the Commission has amended rules 2.11 and 2.12 to provide that petitions to limit or quash any form of investigatory compulsory process be submitted within 20 days.

6. Section 2.7(a) is amended to clarify the provision allowing the recipient of a CID to make documents available at its principal place of business. Section 2.9(b)(2) is amended to provide that in an investigational hearing the witness or his counsel may object to questions on the record.

7. Section 2.51(d) implements section 2 of the Improvements Act requiring the Commission to make a determination on a request to reopen an order within 120 days. It is amended to make explicit the 120-day limit.

8. In response to the comments, the Commission has made several important changes in part 4 of its rules regarding the confidential treatment of information submitted to the Commission. First, rule 4.10 is amended to delete the reference to staff assurances of confidentiality since documents submitted to the Commission are now adequately protected by the procedures of section 21 of the FTC Act and by the amendment to section 6(f) of the FTC Act made by section 3 of the Improvements Act. Second, section 4.10(a) now describes only the classes of documents that can be withheld under the Freedom of Information Act; the Commission's authority to disclose information is now contained in sections 4.10(d), (e) and (f) and 4.11.

Section 4.10(d), as amended, limits the Commission's authority to disclose material submitted to it. Thus, although the Commission is empowered pursuant to sections 6(f) and 21(c) of the FTC Act to disclose noncustodial material which the Commission determines does not constitute confidential commercial or financial information, the Commission has determined that it will not disclose under the FOIA information that it can withhold if the information is marked confidential. In adopting this rule which waives its discretion to release certain documents, the Commission is seeking to encourage voluntary compliance with requests for information. Since persons who submit documents to the Commission in a law-enforcement investigation voluntarily in lieu of compulsory process will now be assured that their documents will receive the same confidentiality treatment as documents provided under compulsory process, there should be no disincentive to providing information to the Commission voluntarily. This is particularly true since the Commission has established an internal procedure for logging and controlling all documents received by it. (This of course does not restrict information-sharing with other agencies.)

Special restrictions on disclosure of information submitted to the

Commission as in the line of business reporting program are effective according to their terms.

Third, the Commission amended rule 4.10(f) to provide that information obtained by it may be disclosed to persons other than the submitter in connection with the taking of oral testimony only if the Commission is not prohibited from disclosing it under section 6(f) of the FTC Act. If the material is marked confidential, the submitter will be provided 10 days' notice of the intended disclosure. Similarly, under amended rule 4.10(g) information will not be disclosed in administrative or adjudicatory proceedings without affording the submitter an opportunity to obtain a protective or *in camera* order.

Fourth, the Commission amended section 4.11(c) to clarify the contents of the certificate required from state and federal law enforcement agencies as a condition to sharing information. A copy of the certificate will be forwarded to the submitter of the information at the time the agency request is granted unless the agency requests that the submitter not be notified.

9. Section 4.12, which deals with the disposition of documents submitted to the Commission, has been amended to allow requests for return of documents to be filed at any time. The documents will still be returned only at the close of the proceeding but this provision removes the burden of knowing when an investigation is concluded from the submitter. The section also makes clear that Commission-made copies of documents will not be returned to the submitter except upon a showing of extraordinary circumstances.

Accordingly, the Commission amends its Rules of Practice as follows:

#### PART 0—ORGANIZATION

1. Section 0.10 is revised to read as follows:

##### § 0.10 Office of the Executive Director.

(a) The Executive Director, under the direction of the Chairman, is the chief operating official. He exercises executive and administrative supervision over all the offices, bureaus, and staff of the Commission, and, in coordination with the Office of Policy Planning, resolves problems concerning priorities in case handling. Immediately under his direction is the Deputy Executive Director.

(b) The Deputy Executive Director functions as staff advisor to the Executive Director in all aspects of administrative management; provides administrative policy guidance to

agency management and provides general supervision to the programs of data processing and information systems, personnel, budget and finance, and administrative service activities; initiates and develops long-range plans to assure that the Commission acquires and effectively utilizes the manpower, financial resources, physical facilities, and management tools necessary to accomplish its mission.

##### § 0.12 [Amended]

2. Section 0.12 is amended by changing the title of the publication "Statutes and Court Decisions involving the Commission" to read "Court Decisions—Federal Trade Commission."

3. The title of Section 0.13 is revised to read as follows:

##### § 0.13 Office of Policy Planning.

\* \* \* \* \*

##### § 0.14 [Amended]

4. Section 0.14 is amended by changing "Civil Service Commission" to read "Office of Personnel Management."

5. Section 0.17 is revised to read as follows:

##### § 0.17 Bureau of Consumer Protection.

The Bureau investigates unfair or deceptive acts or practices under section 5 of the Federal Trade Commission Act as well as potential violations of numerous special statutes which the Commission is charged with enforcing. It prosecutes before the agency's administrative law judges alleged violations of law after issuance of a complaint by the Commission or obtains through negotiation consented-to orders, which must be accepted and issued by the Commission. The bureau participates in trade regulation rulemaking proceedings under section 18(a)(1)(B) of the Federal Trade Commission Act and other rulemaking proceedings under other statutory authority. It investigates compliance with final orders and trade regulation rules and seeks civil penalties or consumer redress for their violation. In addition, the bureau seeks to educate both consumers and the business community about the laws it enforces.

#### PART 1—GENERAL PROCEDURES

##### Subpart B [Amended]

6. The title of Subpart B is revised to read as follows: Subpart B—Rules and Rulemaking Under Section 18(a)(1)(B) of the FTC Act.

7. Section 1.7 is revised to read as follows:

### § 1.7 Scope of rules in this subpart.

The rules in this subpart apply to and govern proceedings for the promulgation of rules as provided in section 18(a)(1)(B) of the Federal Trade Commission Act. Such rules shall be known as trade regulation rules. All other rulemaking proceedings shall be governed by the rules in the remainder of this part.

8. Section 1.8 is revised to read as follows:

### § 1.8 Nature, authority and use of trade regulation rules.

(a) For the purpose of carrying out the provisions of the Federal Trade Commission Act, the Commission is empowered to promulgate trade regulation rules which define with specificity acts or practices which are unfair or deceptive acts or practices in or affecting commerce. Such rules may include requirements prescribed for the purpose of preventing such acts or practices. A violation of a rule shall constitute an unfair or deceptive act or practice in violation of section 5(a)(1) of that Act, unless the Commission otherwise expressly provides in its rule. However, the respondent in an adjudicative proceeding may show that his conduct does not violate the rule or assert any other defense to which he is legally entitled.

(b) The Commission at any time may conduct such investigations, make such studies and hold such conferences as it may deem necessary. All or any part of any such investigation may be conducted under the provisions of Subpart A of Part 2 of this Chapter.

9. Section 1.9 is revised to read as follows:

### § 1.9 Initiation of a trade regulation rule proceeding.

Trade regulation rule proceedings may be commenced by the Commission upon its own initiative or pursuant to written petition filed with the Secretary by any interested person stating reasonable grounds therefor. If the Commission determines to commence a trade regulation rule proceeding pursuant to the petition, the petitioner shall be mailed a copy of the public notices issued under §§ 1.10, 1.11 and 1.12. Any person whose petition is not deemed by the Commission sufficient to warrant commencement of a rulemaking proceeding shall be notified of that determination and may be given an opportunity to submit additional data.

10. Section 1.10 is revised to read as follows:

### § 1.10 Advance notice of proposed rulemaking.

(a) Prior to the initiation of any trade regulation rule proceeding, the Commission shall publish in the *Federal Register* an advance notice of such proposed proceeding.

(b) The advance notice shall: (1) contain a brief description of the area of inquiry under consideration, the objectives which the Commission seeks to achieve, and possible regulatory alternatives under consideration by the Commission; and (2) invite the response of interested persons with respect to such proposed rulemaking, including any suggestions or alternative methods for achieving such objectives.

(c) The advance notice shall be submitted to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Interstate and Foreign Commerce of the House of Representatives.

(d) The Commission may, in addition to publication of the advance notice, use such additional mechanisms as it considers useful to obtain suggestions regarding the content of the area of inquiry before publication of an initial notice of proposed rulemaking pursuant to § 1.11.

11. Section 1.11 is revised to read as follows:

### 1.11 Commencement of a rulemaking proceeding.

(a) *Initial notice.*—A trade regulation rule proceeding shall commence with an initial notice of proposed rulemaking. Such notice shall be published in the *Federal Register* not sooner than 30 days after it has been submitted to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Interstate and Foreign Commerce of the House of Representatives. The initial notice shall include: (1) the text of the proposed rule including any alternatives which the Commission proposes to promulgate; (2) reference to the legal authority under which the rule is proposed; (3) a statement describing with particularity the reason for the proposed rule; (4) an invitation to all interested persons to propose issues which meet the criteria of § 1.13(d)(1)(i) for consideration in accordance with § 1.13(d)(5) and (d)(6); (5) an invitation to all interested persons to comment on the proposed rule; and (6) a statement of the manner in which the public may obtain copies of the preliminary regulatory analysis.

(b) *Preliminary regulatory analysis.*—Except as otherwise provided by statute, the Commission shall, when commencing a rulemaking proceeding,

issue a preliminary regulatory analysis which shall contain:

(1) a concise statement of the need for, and the objectives of, the proposed rule;

(2) a description of any reasonable alternatives to the proposed rule which may accomplish the stated objective of the rule in a manner consistent with applicable law;

(3) for the proposed rule, and for each of the alternatives described in the analysis, a preliminary analysis of the projected benefits and any adverse economic effects and any other effects, and of the effectiveness of the proposed rule and each alternative in meeting the stated objectives of the proposed rule; and

(4) the information required by section 603 of the Regulatory Flexibility Act, Pub. L. 96-354.

12. Section 1.13 is amended by revising paragraphs (a), (b), (c)(1) and (2), and (c)(3), and by removing the word "and" at the end of paragraph (c)(2)(vii), changing the period at the end of paragraph (c)(2)(viii) to "; and" by adding a new paragraph (c)(2)(ix) and revising paragraph (d)(6) to read as follows:

### § 1.13 Rulemaking proceeding.

(a) *Written comments.* After commencement of a trade regulation rule proceeding, the Commission shall accept written submissions of data, views, and arguments on all issues of fact, law, and policy. The initial notice shall specify the deadline for filing written comments under this subsection.

(b) *Comments proposing issues subject to the procedures of § 1.13(d)(5) and (d)(6).*—Interested persons may propose issues for consideration in accordance with § 1.13(d)(5) and (d)(6) until thirty (30) days after the close of the written comment period or such other period as the Commission may establish in the initial notice.

(c) *Presiding officer.*—(1) *Assignment.*—Upon commencement of a proposed trade regulation rule proceeding, a presiding officer shall be appointed by the Chief Presiding Officer or, when the Commission or one or more of its members serves as presiding officer, by the Commission.

(2) *Powers of the presiding officer.*—The presiding officer shall be responsible for the orderly conduct of the rulemaking proceeding and the maintenance of the rulemaking and public records until the close of the postrecord comment period. He shall have all powers necessary to that end including the following: \* \* \*; and (ix) to rule upon all motions or petitions of

interested persons, which motions or petitions must be filed with the presiding officer until the close of the postrecord comment period.

(3) *Review of rulings by the presiding officer.* (i) *Review after certification by the presiding officer.*—Except as otherwise provided in subsection (ii), applications for review of a ruling will not be entertained by the Commission prior to its review of the record pursuant to § 1.14, unless the presiding officer certifies in writing to the Commission that a ruling involves a controlling question of law or policy as to which there is substantial ground for difference of opinion and that an immediate review of the ruling may materially advance the ultimate termination of the proceeding or subsequent review will be an inadequate remedy. Within five (5) days after a ruling by the presiding officer, any interested person may petition the presiding officer for certification of that ruling to the Commission. Certification of a ruling shall not stay the rulemaking proceeding unless the presiding officer or the Commission shall so order. Submissions to the Commission not to exceed fifteen (15) pages may be made within ten (10) days of the presiding officer's certification. All such filings shall be a part of the rulemaking record. The Commission may thereupon, in its discretion, permit the appeal. Commission review, if permitted, will be based on the application for review and any additional submissions, without oral argument or further briefs, unless otherwise ordered by the Commission.

(d) \* \* \*

(6) *Requests to compel the attendance of persons or the production of documents or to obtain responses to written questions.*—During the course of the rulemaking proceeding, the presiding officer shall entertain requests from the Commission's staff or any interested person to compel the attendance of persons or the production of documents or to obtain responses to written questions. Requests to compel the attendance of persons or the production of documents or to obtain responses to written questions shall contain a statement showing the general relevancy of the material, information or presentation, and the reasonableness of the scope of the request, together with a showing that such material, information or presentation is not available by voluntary methods and cannot be obtained through examination, including cross-examination, of oral presentations or the presentation of rebuttal submissions, and is appropriate and required for a full and true disclosure

with respect to the issues designated for consideration in accordance with paragraphs (d)(5) and (d)(6) of this section. If the presiding officer determines that a request should be granted, he shall transmit his determination to the Commission which shall determine whether to issue a civil investigative demand under § 2.7(b). Information received in response to such a demand may be disclosed in the rulemaking proceeding subject to an *in camera* order under § 1.18(b).

13. Section 1.14 is amended by revising paragraphs (a), (a) (1) and (2), and (c) and (d) to read as follows:

**§ 1.14 Promulgation.**

(a) The Commission, after review of the rulemaking record, may issue, modify, or decline to issue any rule. Where it believes that it should have further information or additional views of interested persons, it may withhold final action pending the receipt of such additional information or views. If it determines not to issue a rule, it may adopt and publish an explanation for not doing so.

(1) *Statement of Basis and Purpose.*—If the Commission determines to promulgate a rule, it shall adopt a Statement of Basis and Purpose to accompany the rule which shall include: (i) a statement as to the prevalence of the acts or practices treated by the rule; (ii) a statement as to the manner and context in which such acts or practices are unfair or deceptive; (iii) a statement as to the economic effect of the rule, taking into account the effect on small businesses and consumers; (iv) a statement as to the effect of the rule on State and local laws; and (v) a statement of the manner in which the public may obtain copies of the final regulatory analysis.

(2) *Final Regulatory Analysis.*—Except as otherwise provided by statute, if the Commission determines to promulgate a final rule, it shall issue a final regulatory analysis relating to the final rule. Each final regulatory analysis shall contain—

(i) a concise statement of the need for, and the objectives of, the final rule;

(ii) a description of any alternatives to the final rule which were considered by the Commission;

(iii) an analysis of the projected benefits and any adverse economic effects and any other effects of the final rule;

(iv) an explanation of the reasons for the determination of the Commission that the final rule will attain its objectives in a manner consistent with

applicable law and the reasons the particular alternative was chosen;

(v) a summary of any significant issues raised by the comments submitted during the public comment period in response to the preliminary regulatory analysis, and a summary of the assessment by the Commission of such issues; and

(vi) the information required by section 604 of the Regulatory Flexibility Act.

(c) The final rule and Statement of Basis and Purpose shall be published in the *Federal Register*. A rule issued under this subpart shall be deemed promulgated at 3:00 PM Eastern Standard Time on the fourth day after the date on which the final rule and Statement of Basis and Purpose are published in the *Federal Register*. In the event such day is a Saturday, Sunday or national holiday, then the rule is deemed promulgated at 3:00 PM Eastern Standard Time on the following business day.

(d) After promulgating a final rule, the Commission shall submit such rule to the Congress for review in accordance with section 21 of the Federal Trade Commission Improvements Act of 1980. After the conclusion of the legislative review process, the Commission shall publish a notice in the *Federal Register* announcing the effective date of the rule which shall be at least 30 days thereafter unless the Commission, for good cause found and published, sets an earlier effective date.

14. Section 1.15 is revised to read as follows:

**§ 1.15 Amendment or repeal of a rule.**

(a) *Substantive amendment or repeal of a rule.* The procedures for substantive amendment to or repeal of a rule are the same as for the issuance thereof.

(b) *Nonsubstantive amendment of a rule.* The Commission may make a nonsubstantive amendment to a rule by announcing the amendment in the *Federal Register*.

15. Section 1.17 is amended by revising paragraph (e)(2) and by adding paragraph (f) and (g) to read as follows:

**§ 1.17 Compensation for representation in rulemaking proceedings.**

(e) *Payment of compensation.*—(1)

(2) Effective until the end of fiscal year 1982, the amount of compensation which may be paid to any applicant approved for reimbursement of participation costs may not exceed \$75,000 per rulemaking proceeding; the

aggregate amount of compensation paid in any fiscal year for all rulemaking proceedings to any such person may not exceed \$50,000. Computation of these limits shall begin with funds approved May 28, 1980, after the effective date of the FTC Improvements Act of 1980.

(f) *Participation of small businesses.*—To ensure a fair determination in rulemaking proceedings, the Commission solicits public comment from small businesses whose views otherwise would not be adequately represented. The Commission encourages small business participation in the compensation program by disseminating to small businesses information which explains the procedures and requirements applicable to the receipt of compensation.

(g) *Funds set aside for persons who would be regulated by proposed rules.*—The Commission reserves an amount equal to 25 percent of the annual fiscal appropriations for participation costs under this program. This reserved amount is available for reimbursement only to persons who (1) would be regulated by the proposed rule involved or (2) represent persons who would be so regulated.

#### § 1.32 [Amended]

16. Section 1.32 is amended by changing "Division of Special Statutes" to read "Division of Energy and Product Information."

#### § 1.71 [Amended]

17. Section 1.71 is amended by changing "Division of Special Statutes" to read "Division of Credit Practices."

#### § 1.72 [Amended]

18. Section 1.72 is amended by changing "Division of Special Statutes" to read "Division of Credit Practices."

#### § 1.83 [Amended]

19. Section 1.83(b)(2) is amended by changing "Office of the Assistant Secretary for Legal and Public Records" to read "Public Reference Branch."

### PART 2—NONADJUDICATIVE PROCEDURES

20. Section 2.6 is revised to read as follows:

#### § 2.6 Notification of purpose.

Any person under investigation compelled or requested to furnish information or documentary evidence shall be advised of the purpose and scope of the investigation and of the nature of the conduct constituting the alleged violation which is under

investigation and the provisions law applicable to such violation.

21. Section 2.7(a) is revised to read as follows:

#### § 2.7 Compulsory process in investigations.

(a) *In general.*—The Commission or any member thereof may, pursuant to a Commission resolution, issue a subpoena or a civil investigative demand directing the person named therein to appear before a designated representative at a designated time and place to testify or to produce documentary evidence, or both, or, in the case of a civil investigative demand, to provide a written report or answers to questions relating to any matter under investigation by the Commission. Material for which a civil investigative demand has been issued shall be made available for inspection and copying at the principal place of business of the person or at such other place or in such other manner as the person and the custodian designated pursuant to § 2.16 agree.

22. Section 2.9(b)(2) is revised to read as follows:

#### § 2.9 Rights of witnesses in investigations.

(b) \* \* \*

(2) Where it is claimed that the testimony or other evidence sought from a witness is outside the scope of the investigation, or that the witness is privileged to refuse to answer a question or to produce other evidence, the witness or counsel for the witness may object on the record to the question or requirement and may state briefly and precisely the ground therefor. The witness and his counsel shall not otherwise object to or refuse to answer any question, and they shall not otherwise interrupt the oral examination.

23. Section 2.11(b), (c) and (d) is revised to read as follows:

#### § 2.11 Orders requiring access.

(b) Any petition to limit or quash an order requiring access shall be filed with the Secretary of the Commission within twenty (20) days after service of the order, or, if the date for compliance is less than twenty (20) days after service of the order, then before the return date. Such petition shall set forth all assertions of privilege or other factual and legal objections to the order requiring access, including all appropriate argument, affidavits and other supporting documentation. All

petitions to limit or quash orders requiring access shall be ruled upon by the Commission itself, but the above-designated Directors, Deputy Directors, Assistant Directors, Regional Directors and Assistant Regional Directors are delegated, without power of redelegation, the authority to rule upon motions for extensions of time within which to file petitions to limit or quash orders requiring access.

(c) The timely filing of any petition to limit or quash such an order shall stay the requirement of compliance if the Commission has not ruled upon the motion by the date of compliance. If it rules on or subsequent to the date required for compliance and its ruling denies the petition in whole or in part, the Commission shall specify a new date of compliance.

(d) All petitions to limit or quash orders requiring access, and the Commission's responses thereto, are part of the public records of the Commission, except for information exempt from disclosure under § 4.10(a) of this chapter.

24. Section 2.12(d), (e) and (f) is revised to read as follows:

#### § 2.12 Reports.

(d) Any petition to limit or quash an order requiring a report or answer to specific questions shall be filed with the Secretary of the Commission within twenty (20) days after service of the order, or, if the date for compliance is less than twenty (20) days after service of the order, then before the return date. Such petition shall set forth all assertions of privilege or other factual and legal objections to the order requiring a report or answer to specific questions, including all appropriate arguments, affidavits and other supporting documentation. All petitions to limit or quash orders requiring reports or answers to questions shall be ruled upon by the Commission itself, but the above-designated Directors, Deputy Directors, Assistant Directors, Regional Directors and Assistant Regional Directors are delegated, without power of redelegation, the authority to rule upon motions for extensions of time within which to file petitions to limit or quash orders requiring reports or answers to questions.

(e) Except as otherwise provided by the Commission, the timely filing of any petition to limit or quash such an order shall stay the requirement of return on the portion challenged if the Commission has not ruled upon the petition by the return date. If it rules on or subsequent to the return date and its



ruling denies the petition in whole or in part, the Commission shall specify a new return date.

(f) All petitions to limit or quash orders requiring a report or answers to specific questions, and the Commission's responses thereto, are part of the public records of the Commission, except for information exempt from disclosure under § 4.10(a) of this chapter.

25. Section 2.16(a) and (c) is revised to read as follows:

#### § 2.16 Custodians.

(a) *Designation.*—The Commission shall designate a custodian and one or more deputy custodians for material to be delivered pursuant to compulsory process in an investigation, a purpose of which is to determine whether any person may have violated any provision of the laws administered by the Commission. The custodian shall have the powers and duties prescribed by section 21 of the FTC Act. Deputy custodians may perform all of the duties assigned to custodians. The appropriate Bureau Directors, Deputy Directors, Assistant Directors, Regional Directors or Assistant Regional Directors shall take the actions required by section 21(b)(7) of the FTC Act if it is necessary to replace a custodian or deputy custodian.

(c) Material produced pursuant to the Federal Trade Commission Act, while in the custody of the custodian, shall be for the official use of the Commission in accordance with the Act; but such material shall upon reasonable notice to the custodian be made available for examination by the person who produced such material, or his duly authorized representative, during regular office hours established for the Commission.

26. Section 2.51(d) is revised to read as follows:

#### § 2.51 Requests to reopen.

(d) *Determination.*—After the period for public comments on a request under this section has expired and no later than one hundred and twenty (120) days after the date of the filing of the request, the Commission shall determine whether the request complies with subsection (b) and whether the proceeding shall be reopened and the rule or order should be altered, modified, or set aside as requested. In doing so, the Commission may, in its discretion, issue an order reopening the proceeding and modifying the rule or order as requested, issue an order to show cause pursuant to § 3.72, or take

such other action as is appropriate: *Provided, however,* That any action under § 3.72 or otherwise shall be concluded within the specified 120-day period.

#### PART 4—MISCELLANEOUS RULES

27. Section 4.10 is amended by revising the introductory text of paragraph (a), revising paragraph (a)(2), (a)(8) and (9), and paragraph (d), paragraphs (a)(10) and (e), (f) and (g) are added to read as follows:

#### § 4.10 Nonpublic information.

(a) The following records of the Commission are exempt from availability for public inspection and copying pursuant to 5 U.S.C. 552.

(2) Trade secrets and commercial or financial information obtained from a person and privileged or confidential. As provided in section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), this exemption applies to competitively sensitive information, such as costs or various types of sales statistics and inventories. It includes trade secrets in the nature of formulas, patterns, devices, and processes of manufacture, as well as names of customers in which there is a proprietary or highly competitive interest.

(8) Material (including transcripts of oral testimony) which is received by the Commission (i) in an investigation, a purpose of which is to determine whether any person may have violated any provision of the laws administered by the Commission, and (ii) which is provided pursuant to any compulsory process under the Federal Trade Commission Act, 15 U.S.C. 41, *et seq.*, or which is provided voluntarily in place of compulsory process in such an investigation. This material is exempt from disclosure under the Freedom of Information Act, by virtue of section 21(f) of the Federal Trade Commission Act.

(9) Material (including transcripts of oral testimony) which is received by the Commission pursuant to compulsory process in an investigation, a purpose of which is to determine whether any person may have violated any provision of the laws administered by the Commission. This material is exempt from disclosure under the Freedom of Information Act by virtue of section 21(b)(3)(C) of the Federal Trade Commission Act.

(10) Such other records of the Commission as may from time to time be designated by the Commission as

confidential pursuant to statute or Executive Order. This exempts from disclosure any information which has been designated nonpublic pursuant to criteria and procedures prescribed by Executive Order and which has not been subsequently declassified in accordance with applicable procedures. The exemption also preserves the full force and effect of statutes which restrict public access to specific government records.

(d) Except as provided in paragraphs (f) and (g) and in § 4.11 (b), (c), and (d), no material (including transcripts of oral testimony) which is marked or otherwise identified as confidential and which is within the scope of subsection 4.10(a)(8) and no material (including transcripts of oral testimony) which is within the scope of subsection 4.10(a)(9) which is not otherwise public shall be made available to any individual other than a duly authorized officer or employee of the Commission or a consultant or contractor retained by the Commission who has agreed in writing not to disclose the information without the consent of the person who produced the material. All other Commission records may be made available to a requester under the procedures set forth in § 4.11 or may be disclosed by the Commission except where prohibited by law.

(e) Except as provided in paragraphs (f) and (g) and in § 4.11 (b), (c), and (d), material (including transcripts of oral testimony) not within the scope of § 4.10(a)(8) or 4.10(a)(9) which is received by the Commission and is marked or otherwise identified as confidential may be disclosed only if it is determined that the material is not within the scope of § 4.10(a)(2), and only if the submitter is provided at least 10 days' notice of the intent to disclose the material involved.

(f) Nonpublic material (including transcripts of oral testimony) obtained by the Commission may be disclosed to persons other than the submitter in connection with the taking of oral testimony without the consent of the submitter only if the material or transcript is not within the scope of § 4.10(a)(2). If the material is marked confidential, the submitter will be provided 10 days' notice of the intended disclosure or will be afforded an opportunity to seek an appropriate protective order.

(g) Material (including transcripts of oral testimony) obtained by the Commission may be disclosed in Commission administrative or court proceedings subject to appropriate

Commission or court protective or *in camera* orders. See §§ 1.18(b) and 3.45 of this chapter. Prior to disclosing material or transcripts under this subsection the submitter will be afforded an opportunity to seek an appropriate protective or *in camera* order.

28. Section 4.11 (b), (c), (d) and (e) is revised to read as follows:

**§ 4.11 Requests for disclosure of records.**

(b) *Requests from congressional committees and subcommittees.*—Requests from congressional committees and subcommittees shall be referred to the General Counsel for presentation to the Commission, subject to the provisions in 5 U.S.C. 552(c) and FTC Act 21(b) that neither the Freedom of Information Act, 5 U.S.C. 552, nor the Federal Trade Commission Act, 15 U.S.C. 41, et seq., is authority to withhold information from Congress. Upon receipt of a request from a congressional committee or subcommittee, the General Counsel will notify the submitter of any material marked confidential, or any material within the scope of § 4.10(a)(9), that is responsive to the request that the request has been received. No other notice need be provided prior to granting the request. The Commission will inform the committee or subcommittee that the submitter considers such information confidential.

(c) *Requests from Federal and State law enforcement agencies.*—Requests from law enforcement agencies of the Federal Government should be addressed to the liaison officer for the requesting agency, or if there is none, to the General Counsel. Requests from state agencies should be addressed to the General Counsel. The appropriate liaison officer or the General Counsel may grant the request or where appropriate may authorize the custodian to grant the request, or refer it to the Commission for determination. Prior to granting access under this section to any material submitted to the Commission, the General Counsel or liaison officer will obtain from the requester a certification that such information will be maintained in confidence and will be used only for official law enforcement purposes. The certificate will also describe the nature of the law enforcement activity and the anticipated relevance of the information to that activity.

A copy of the certificate will be forwarded to the submitter of the information at the time the request is

granted unless the agency requests that the submitter not be notified.

(d) *Requests from Federal and State agencies for purposes other than law enforcement.*—Requests from Federal and State agencies for access not related to law enforcement should be addressed to the General Counsel. Disclosure of nonpublic information will be made consistent with sections 6(f) and 21 of the FTC Act.

(e) *Information requested by subpoena.*—Any employee of the Commission who is served with a subpoena or other compulsory process, except a subpoena issued within the scope of § 3.36 of this chapter, requiring the production of any document or record or the disclosure of any information which, under § 4.10, is exempt from availability for public inspection and copying, shall promptly advise the General Counsel of the service of such subpoena or other compulsory process, the nature of the documents or information sought, and all relevant facts and circumstances. If the employee so served has not received instructions from the General Counsel prior to the return date of the subpoena or other compulsory process, he shall appear in response thereto and respectfully decline to produce the documents or records or to disclose the information called for, basing his refusal upon this paragraph. The General Counsel will consider and act upon compulsory process under this section with due regard for statutory restrictions, the Commission's rules and the public interest, and the established legal standards for determining whether justification exists for the disclosure of confidential information and records.

29. Section 4.12 is revised to read as follows:

**§ 4.12 Disposition of documents submitted to the Commission.**

(a) *Documents submitted to the Commission.*—Any person who has submitted documentary material to the Commission (including transcripts of oral testimony) may obtain, on request, the return of material submitted to the Commission which has not been received into evidence (1) after the close of the proceeding in connection with which the documents were submitted or (2) when no proceeding in which the material may be used has been commenced within a reasonable time after completion of the examination and analysis of all such material and other information assembled in the course of the investigation. Such request shall be in writing, addressed to the custodian designated pursuant to § 2.16 or the Secretary of the Commission in all other

circumstances, and shall reasonably describe the documents requested. A request for return of documents may be filed at any time, but documents will not be returned nor will commitments to return documents be undertaken prior to the time described in this subsection.

(b) *Commission-made copies of documents submitted to the Commission.*—The Commission will not return to the submitter copies of documents made by the Commission unless, upon a showing of extraordinary circumstances, the Commission determines that return would be required in the public interest.

(c) *Disposition of documents not returned.*—Subsequent to the time prescribed in subsection (a), the staff will examine all submitted documents and Commission-made copies located in a reasonable search of the Commission's files and will determine, pursuant to the Federal Records Act, 44 U.S.C. 3301, which documents are appropriate for preservation as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Commission or because of the information value of data in them. The Commission will dispose of all documents determined not to be appropriate for preservation in accordance with applicable regulations of the General Services Administration.

**§ 4.13 [Amended]**

30. Section 4.13 is amended by changing each reference to "Civil Service Commission" to read "Office of Personnel Management."

**PART 5—STANDARDS OF CONDUCT**

**§ 5.2 [Amended]**

Section 5.2 is amended by changing "Civil Service Commission" to read "Office of Personnel Management."

**§ 5.9 [Amended]**

31. Section 5.9 is amended by changing "Civil Service Commission" to read "Office of Personnel Management."

**§ 5.12 [Amended]**

32. Section 5.12(c) is amended by changing "Civil Service Commission" to read "Office of Personnel Management."

33. Section 5.31 is revised to read as follows:

**§ 5.31 Form and contents of statements.**

Financial disclosure reports filed by Commissioners and employees subject to the requirements of Title II of the Ethics in Government Act of 1978 shall be placed on the public record. Employees in the positions described in § 5.32 who are not required to file

reports by that Act shall submit nonpublic statements of employment and financial interests containing the information required by the formats prescribed by the Office of Personnel Management.

34. In § 5.32 paragraphs (a), (c), and (d) are revised, paragraphs (f), (g), (h), and (i) are redesignated as (g), (h), (i), and (j) and a new paragraph (f) is added to read as follows:

**§ 5.32 Employees required to submit statements.**

(a) The following employees, whether or not serving in an acting capacity, shall submit statements to the Executive Director:

- (1) The Secretary of the Commission;
- (2) The Director of the Office of Policy Planning;
- (3) The Director and Deputy Director of the Office of Public Information;
- (4) The General Counsel;
- (5) The Director of the Bureau of Competition;
- (6) The Director of the Bureau of Consumer Protection;
- (7) The Director of the Bureau of Economics;
- (8) The Chief Administrative Law Judge;
- (9) The Chief Presiding Officer;
- (10) The Deputy Executive Director;
- (11) The Director of Equal Employment Opportunity;
- (12) The Director, Office of Congressional Relations;
- (13) The Assistant to the Executive Director;
- (14) Directors of the Regional Offices;
- (15) Advisors to the Commissioners and the Assistant to the Chairman, except that each Commissioner in the Commissioner's discretion may direct otherwise.

(c) The following employees of the Bureaus of Competition, Consumer Protection and Economics, whether or not serving in an acting capacity, shall submit statements to their Bureau Director:

- (1) Deputy Directors;
  - (2) Assistant Directors;
  - (3) Deputy Assistant Directors;
  - (4) Associate Directors;
  - (5) Executive Assistants to the Director and Assistants to the Director;
  - (6) Assistants to the Deputy Director.
- (d) The following employees, whether or not serving in an acting capacity, shall submit statements to the Deputy Executive Director:
- (1) The Director of the Division of Administrative Services;
  - (2) The Director of the Division of Budget and Finance;
  - (3) The Director of the Data

Processing and Information Systems Division:

- (4) The Director of the Division of Personnel;
- (5) The Director of the Library; and
- (6) The Director of the Office of Procurement and Contracts.

(f) Presiding Officers designated under § 1.13(c) of Part 1 shall submit statements to the Chief Presiding Officer.

**§ 5.32 [Amended]**

35. Section 5.32(i), redesignated from paragraph (h), is amended by changing "Civil Service Commission" to read "Office of Personnel Management."

**§ 5.39 [Amended]**

36. Section 5.39(b) is amended by changing "Assistant Executive Director for Management" to read "Deputy Executive Director," and by inserting after "Chief Administrative Law Judge," the phrase "the Chief Presiding Officer."

**§ 5.40 [Amended]**

37. Section 5.40 is amended by changing "Civil Service Commission" to read "Office of Personnel Management."

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 81-14228 Filed 5-11-81; 8:45 am]

BILLING CODE 6750-01-M

**16 CFR Part 4**

**Participation in Commission Proceedings; Former Commission Members and Employees**

**AGENCY:** Federal Trade Commission.

**ACTION:** Final rule.

**SUMMARY:** The Federal Trade Commission is revising its rule governing participation in Commission proceedings by former Commission members and employees. The wording of the prior rule produced uncertainty about when the rule applied and what the standards for decisionmaking were. The revised rule clarifies the circumstances under which former members and employees must file an application for clearance to participate, specifies in greater detail the restrictions on postemployment participation, establishes deadlines for the processing of clearance applications, and establishes a new procedure for firms to participate in Commission proceedings through screening of disqualified former employees.

**DATE:** These amendments are effective on June 26, 1981.

**FOR FURTHER INFORMATION CONTACT:**

Barry R. Rubin, Assistant General Counsel, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3520.

**SUPPLEMENTARY INFORMATION:** On August 4, 1978, the Commission published for comment (43 FR 35947) proposed revisions to § 4.1(b) of its Rules of Practice, 16 CFR 4.1(b), governing postemployment participation in Commission proceedings by former Commission members and employees. Subsequently, the Commission announced (44 FR 45179, Aug. 1, 1979) that it was deferring final action on this proposal until Congress decided whether further to amend the Ethics in Government Act and until the D.C. Court of Appeals acted on proposed "revolving door" amendments to Canon 9 of the Code of Professional Responsibility. The Ethics Act has been amended, and though the D.C. Court of Appeals has not taken final action, the Commission's final rule is compatible with the Court's previously announced proposed rule and further delay by the Commission appears to be unwarranted. The Commission is, therefore, now adopting a final rule. The Commission will reexamine its rule, as need be, after final action by the D.C. Court of Appeals.

The major elements of the revised rule are as follows: (1) The revised rule retains the basic procedure of its predecessor: If a former Commission member or employee (hereinafter "former employee") wishes to participate in a professional capacity in a Commission proceeding or investigation described in the rule, he or she must apply for permission to do so. However, the final rule differs from both the previous rule and the proposed rule in the details of this "clearance" mechanism. The old rule required filing if the proceeding or investigation was "pending in any manner," which commenters generally agreed was too vague a criterion. The proposed rule would have substituted a requirement for filing in all cases for a term of years after the end of an employee's tenure. However, the Commission believes that this approach is insufficiently linked to the substantive concerns that underlie the rule. Accordingly, the revised rule specifies the circumstances under which filing is required. These are the types of professional representation which, because of possible connections to the former employee's activities at the Commission, ought not to be undertaken without an agency determination that there is in fact no impropriety.

Advance permission must be obtained if the particular proceeding or investigation in which the former

employee wishes to participate was pending during the former employee's tenure, or if a directly antecedent investigation was pending. For example, if a former employee wishes to participate in an adjudication, he or she must seek clearance to do so if, during the former employee's tenure, an initial phase or formal investigation that directly led to the adjudication was pending. Filing is not required under this provision simply because some attenuated connection may be traced between a matter pending during the former employee's tenure and the current matter. Only if the very investigation or proceeding itself or a directly linked, earlier phase of the matter was pending must the former employee file.

A former employee who wishes to represent a party in an investigation of compliance with an order, to obtain reopening of an order, or to participate in an ongoing reopening proceeding, must also file for clearance if the former employee participated personally and substantially in the adjudicatory proceeding or its antecedent investigation (or, in the case of consent orders negotiated prior to complaint, the investigation) that resulted in the order in question.

These are situations in which there is sufficient potential for misuse of nonpublic information to warrant a clearance process. A last element of the new filing requirement touches another such situation. If a former employee "gained personal knowledge of nonpublic documents or information containing specific criteria for the initiation of future investigations or cases pertaining to a practice involved in the proceeding or investigation" in which the former employee wishes to participate, and if the participation is to occur within three years of the former employee's departure from the Commission, he or she must apply for clearance. This residual category is intended to reach instances in which knowledge of concrete enforcement plans may give rise to a present advantage. For example, while at the Commission, an attorney in the Bureau of Competition works on an enforcement protocol for vertical restraint cases in a particular market. This document suggests the kinds of cases to be emphasized and how they should be structured. After the attorney leaves the Commission, the Bureau opens an investigation into allegedly unlawful vertical restraints imposed by a company in that market. The attorney must apply for clearance to participate in that investigation.

Other examples, however, will suggest the limited scope of this residual requirement: An attorney works on a merger case involving a particular product market. After leaving the Commission, the attorney wishes to represent a company involved in a new Commission investigation of another merger in that market. Even though the attorney has been privy to nonpublic information about the Commission's view of the market, he or she need not file for clearance. Similarly, a former employee who attended a Commission budget meeting need not file under this provision, though such meetings often entail a general discussion of the types of investigations to be emphasized. A former employee who read memoranda reflecting the decisionmaking of a bureau's evaluation committee also need not file, though these decisions sometimes turn on whether a particular proposal fits within current enforcement priorities. None of these situations involves knowledge of "specific criteria for the initiation of future investigations or cases," within the meaning of the rule. The knowledge thus gained is too generalized to pose a risk of unfair advantage great enough to warrant the much broader filing requirement that would be necessary to capture all such cases for scrutiny. The three-year time limit for filing in situations covered by this provision is based upon a comparable recognition that, in reality, knowledge of even the most specific enforcement plan loses its special value rather rapidly. Of course, in any situation not covered by the rule, an attorney remains obliged under the Code of Professional Responsibility not to reveal the Commission's confidences and secrets or to use them to advantage of a private client. DR 4-101(B)(1), (3).

The Commission believes that this approach to the filing requirement provides greater clarity and predictability than the old rule. Former employees may seek the advice of the General Counsel if they are uncertain whether a clearance application is required in any given situation.

The phrase "appear as attorney or counsel or otherwise participate through any form of professional consultation or assistance" is meant to cover not only personal contacts with the agency but also office counseling and similar behind-the-scenes work. However, the requirement applies only to the kinds of proceedings or investigations delineated in the rule. That is, the rule does not apply to counseling or the like, unless the client is seeking advice about its involvement in a specific Commission proceeding or investigation. Commission

employees quite naturally develop an expertise about the agency and its practice. The Commission would not wish to prohibit the diffusion of this knowledge (which is certainly shared by many who have never worked at the agency) even if it could. Its objective is simply to prevent lawyers and other professionals from gaining an unfair representational advantage from, and so trading on, nonpublic information. The filing of a clearance request prior to participating in a specific, ongoing matter permits this objective to be sought without hindrance to "preventive" lawyering and similar counseling.

(2) A former employee who seeks clearance must supply enough information to permit an informed decision on the request. This provision is largely unchanged from the prior rule.

(3) There are three bases on which a request for clearance would be denied. Two of them reflect prohibitions in the Ethics in Government Act. First, the former employee will be denied clearance if he or she participated personally and substantially in the proceeding or investigation for which clearance is sought. A request for clearance will also be denied if the clearance request is filed within two years after the former employee leaves the Commission and if, within one year prior to the termination of the former employee's service, he or she was officially responsible for the proceeding for which clearance to participate is sought. Finally, augmenting the statute with a restriction designed to eliminate the main potential cause of impropriety or the appearance of impropriety, the Commission will deny clearance if nonpublic documents or information, as denominated in § 4.10 of the Commission's rules, pertaining to the proceeding or investigation for which clearance is sought came to the attention, or would likely have come to the attention, of the former employee, unless the Commission finds that the nature of the documents or information is such that no present advantage could be derived from such "inside" information.

This standard is somewhat more specific than the test in the superseded rule, "actual or apparent impropriety." Still, the rule will gain practical meaning only in case-by-case application. That is inevitable. The Commission intends to examine, in each situation, the nature of the nonpublic information and its relation to the particular proceeding. Clearance would quite probably be denied, for example, to a lawyer who, a few months before, had read a

nonpublic enforcement strategy memo concerning a particular practice and now wants to represent a respondent in a proceeding where that strategy is being implemented. However, clearance might well be granted if the lawyer were applying two years after leaving the Commission, because intervening events might have rendered the information in the memo valueless in the intended representation. If information that once was nonpublic has been disclosed, or if information that remains nonpublic is nevertheless of little value in the particular matter, then clearance will not be denied on this basis.

(4) The rule also incorporates the Ethics Act's restriction on postemployment appearances or communications, based not upon a former employee's contact with any particular matter, but rather derived from the kind of position held by the former employee. See 18 U.S.C. 207(c), (d). In order to allay public concern about the reappearance of former high-ranking public officials as private advocates, Congress and, by delegation, the Office of Government Ethics have identified the Commissioners and certain of the most senior staff members as appropriately subject to a flat ban against direct, personal efforts to influence the course of Commission decisionmaking during the year after their departure from the Commission.

(5) The General Counsel is delegated the authority to approve clearance requests. The Commission itself will issue any denial of a clearance request.

(6) In response to several comments, the Commission is establishing 15-day deadlines for the processing of clearance requests. One commenter proposed that the underlying proceeding or investigation be suspended during the pendency of a clearance request. While the Commission declines to adopt a rule provision to this effect, the Commission does expect its staff to accommodate, to the extent possible in light of particular law enforcement needs, any delay caused by processing of a clearance request.

(7) The rule itemizes several exceptions to which the various restrictions will not apply.

The exceptions listed in § 4.1(b)(7)(i) apply to all of the restrictions in the rule, while those listed in § 4.1(b)(7)(ii) apply to all but the one-year flat ban on appearances by former senior officials. Practitioners should note that the exception for Hart-Scott-Rodino filings, second requests, and related enforcement proceedings in § 4.1(b)(7)(ii)(C) does not extend to other activities that may be going on simultaneously. For example, if the

Commission issues an investigational subpoena *ad testificandum* following a Hart-Scott-Rodino filing, clearance would be required for representational activity in connection with the subpoena. As a practical matter, therefore, the exception is meant to allow a former Commission attorney to represent a client in the initial phases of Hart-Scott-Rodino compliance without awaiting a clearance decision, but the attorney ought to file for clearance promptly, in case matters apart from Hart-Scott-Rodino compliance arise.

An exception applies to public record comments in a rulemaking, but other forms of participation in an ongoing rulemaking proceeding require clearance. The substantive tests of the rule likewise apply, though if the former employee had neither personally and substantially participated in the proceeding nor (during the prescribed period prior to departure) had been officially responsible for it, authorization will generally be given. Nonpublic information having some potential for conferring a present advantage is unlikely to arise frequently in rulemaking proceedings.

(8) A new procedure treats the question of participation by a firm when one of its members or associates is disqualified under the rule. For the reasons stated in Part II of our Order Denying Motion to Disqualify Counsel in *Brunswick Corporation*, Docket No. 9028 (Feb. 22, 1980), we adopt a procedure whereby a firm may participate in a matter, notwithstanding that one or more of the firm's members are disqualified on the basis of personal and substantial participation in the matter, if the firm establishes a satisfactory means of screening those who are disqualified from any involvement in the substance of the representation and from any of the fees resulting from it. The revised rule will require the filing of an affidavit attesting to these matters before the firm begins its participation. However, advance approval is not required and the firm may undertake its participation once it files the affidavit. The Commission reserves the right to terminate a firm's participation if it determines that the screening measures are inadequate or that improper solicitation by a disqualified former member or employee has occurred.

An affidavit is not a prerequisite to firm participation when one of the firm's members is unable to participate personally because of some reason other than personal and substantial prior participation. Requiring affidavits in these other circumstances would impose

an undue burden on practitioners and the agency itself.

(9) In order to provide uniform treatment for all practitioners before this agency, regardless of the jurisdiction in which they are licensed, this rule is intended to apply in lieu of procedures imposed by other rules, such as disciplinary rules adopted by a jurisdiction's court of appeals, to the extent that such other procedures regulate when former Commission employees may participate in FTC proceedings or impose procedural requirements prior to such participation. Of course, all other ethical obligations required by the bars of which attorneys practicing before the Commission are members remain unaffected by this rule, and indeed they are incorporated by reference in paragraph (e)(1) of this section.

The Commission's intention with respect to ongoing representation is as follows:

(1) A former Commission member or employee who is properly participating in a Commission proceeding or investigation—that is, who obtained clearance under the prior rule or who was not required to obtain clearance under that rule—need *not* obtain clearance under the revised rule.

(2) Members or associates of a firm who are properly participating, notwithstanding the personal disqualification of a former Commission member or employee, pursuant to the restriction in prior § 4.1(b)(4) that the services of the former Commission member or employee not be utilized in any way, need *not* file the affidavit required by revised § 4.1(b)(8)(ii).

(3) However, if a former Commission member or employee joins a firm *after* the effective date of these amendments, and if that former member or employee is disqualified because of personal and substantial prior participation in a proceeding or investigation in which the firm is then participating, the firm must promptly file an affidavit in accordance with § 4.1(b)(8)(ii), to establish that the newly arrived member or associate of the firm is properly screened.

Accordingly, 16 CFR Part IV is amended by revising § 4.1(b) to read as follows:

#### § 4.1 Appearances.

\* \* \* \* \*

(b) *Restrictions as to former members and employees.* (1) Except as provided in this section or otherwise specifically authorized by the Commission, no former member or employee of the Commission shall appear as attorney or counsel or otherwise participate through

any form of professional consultation or assistance:

(i) in any proceeding or investigation, formal or informal, (A) if such proceeding or investigation was itself pending in the Commission while the former member or employee served with the Commission; (B) if an investigation from which such proceeding or investigation directly resulted was pending during such service; or (C) if such former member or employee, during the course of his service with the Commission, gained personal knowledge of nonpublic documents or information containing specific criteria for the initiation of future investigations or cases pertaining to a practice involved in the proceeding or investigation, and if the participation by the former member or employee would occur within three (3) years of the termination of his service with the Commission; or

(ii) in an investigation of compliance with an order, submission of a request to reopen an order, or a proceeding with respect to reopening of an order, if the former member or employee participated personally and substantially in the adjudicative proceeding or investigation that resulted in such order.

(2) In cases to which paragraph (b)(1) of this section is applicable, a former member or employee of the Commission may request authorization to appear or participate in a proceeding or investigation by filing with the Secretary of the Commission a written application therefor, disclosing the following information, to the extent known: (i) the nature and extent of the former member's or employee's participation in, knowledge of, and connection with the proceeding or investigation during his service with the Commission; (ii) in the case of applications filed pursuant to Paragraphs (b)(1)(i)(B), (b)(1)(ii), or (b)(1)(iii) of this section, the nature and extent of the former member's or employee's participation in, knowledge of, and connection with the predecessor investigation, adjudication or investigation, or rulemaking proceeding, respectively, during his service with the Commission; (iii) whether documents or information concerning the proceeding or investigation came to his attention and, if so, the nature of such documents or information; (iv) whether he was employed in the same bureau, office, division, or other administrative unit in which the proceeding or investigation is or has been pending; (v) whether he worked directly or in close association with Commission personnel assigned to the proceeding or investigation; and (vi)

whether during his service with the commission he was engaged in any matter concerning the individual, company, industry, or any member of the industry involved in the proceeding or investigation.

(3) The requested authorization will not be given in any case (i) where it appears that the former member or employee during his service with the Commission participated personally and substantially in the proceeding or investigation; (ii) where the application is filed within two (2) years after termination of the former member's or employee's service with the Commission and it appears that within a period of one (1) year prior to the termination of his service the former member or employee was officially responsible for the proceeding or investigation; or (iii) where documents or information of the kind delineated in § 4.10(a) pertaining to the proceeding or investigation for which authorization is sought came to the attention of the former member or employee or would be likely to have come to his attention in the course of his duties, unless the Commission finds that the nature of the documents or information is such that no present advantage could thereby be derived.

(4) Notwithstanding any other provision of this section, no former member of the Commission and no former senior employee in a position designated by the Office of Government Ethics pursuant to 18 U.S.C. § 207(d) shall, for a period of one (1) year after termination of the former member's or employee's service in that position, appear as attorney or counsel or otherwise represent anyone (other than the United States) in any formal or informal appearance before the Commission in any proceeding or investigation or, with the intent to influence, make any oral or written communication on behalf of anyone in any proceeding or investigation which is before the Commission or in which the Commission has a direct and substantial interest.

(5) The General Counsel shall have the authority (i) to determine whether, under Paragraph (b)(1) of this section, a request for authorization to appear or participate need be filed and (ii) to grant any such request. In any case in which the General Counsel proposes that a request be denied, he shall refer the request to the Commission for determination, and in other unusual or difficult cases he may, in his sole discretion, refer a request to the Commission for determination.

(6) (i) The General Counsel shall (A) within three (3) working days of receipt of an oral or written request for a

determination whether, under Paragraph (b)(1) of this section, a request for authorization to appear or participate need be filed, render such determination and (B) within fifteen (15) working days of the receipt of a request for authorization to appear or participate, either grant such request or refer it to the Commission.

(ii) The Commission shall, within fifteen (15) working days of the receipt of a request referred by the General Counsel pursuant to Paragraph (b)(5) of this section either grant or deny such request.

(iii)(A) The Commission or the General Counsel may, by written notice to the requester, and for good cause, extend the time limit for a determination by not more than fifteen (15) working days.

(B) Any time limit specified in this paragraph shall be tolled during such time as may elapse between a request by the Commission or General Counsel to the former member or employee for additional information and the receipt of such information by the Commission or General Counsel.

(7) (i) Paragraphs (b)(1), (b)(2), (b)(3) and (b)(4) of this section shall not apply to (A) pro se filings of any kind; (B) submissions of requests or appeals under the Freedom of Information Act, Privacy Act, or Government in the Sunshine Act; (C) testimony under oath; (D) submissions of statements required to be made under penalty of perjury; (E) submissions of statements based on the former member's or employee's own special knowledge in the particular area that is the subject of the statement, provided that no compensation is thereby received, other than that regularly provided by law or by § 4.5 for witnesses; and (F) appearances on behalf of the United States.

(ii) Paragraphs (b)(1), (b)(2), and (b)(3) shall not apply to (A) submissions of comments on a matter on which the Commission has invited public comment; and (B) filings of premerger notification forms or participation in subsequent events concerning compliance or noncompliance with Section 7A of the Clayton Act, 15 U.S.C. 18a, or any regulations issued pursuant to that section.

(8) (i) In any case in which a former member or employee of the Commission is prohibited under Paragraph (b)(3)(i) of this section from appearing or participating in a Commission proceeding or investigation, no partner or legal or business associate of such former member or employee shall appear or participate in such proceeding

or investigation, except as provided in this paragraph.

(ii) If a partner or legal or business associate of a former member or employee of the Commission prohibited under Paragraph (b)(3)(i) of this section from appearing or participating in a Commission proceeding or investigation wishes to appear or participate in such proceeding or investigation, he shall file with the Secretary of the Commission, not later than the time such appearance or participation begins, an affidavit attesting: (A) that the former member or employee will not participate in the proceeding or investigation in any way, directly or indirectly; (B) that he will not share, directly or indirectly, in any fees in the proceeding or investigation; (C) that all persons who intend to appear or participate are aware of the requirement that the former member or employee be screened from participating in or discussing the proceeding or investigation, or the firm's representation, and describing the procedures being taken to screen the personally disqualified former member or employee; (D) that the client or clients have been so informed; and (E) that the matter was not brought to such partner or legal or business associate through the active solicitation of the former member or employee.

(iii) Upon the filing of the affidavit, such partner or legal or business associate may begin such appearance or participation, *Provided, however*, That if the Commission finds (A) that the screening measures being taken are unsatisfactory or (B) that the matter was brought to such partner or legal or business associate through the active solicitation of the former member or employee, and so notifies such partner or legal or business associate, such appearance or representation shall cease immediately.

(9) (i) The restrictions and procedures in this subsection are intended to apply in lieu of restrictions and procedures as may be adopted by the appropriate authority in any state or jurisdiction, insofar as such restrictions and procedures apply to appearances or participation in Commission proceedings or investigations, *Provided, however*, That nothing in this section supersedes other standards of ethical conduct required under paragraph (e) of this section.

(ii) In the event that Commission approval is sought for an appearance or participation by a former member or employee in a proceeding in court or before another agency, the General Counsel shall have the authority to respond to such a request, applying as

appropriate the standards of this subsection.

(15 U.S.C. 46(g))

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 81-14201 Filed 5-11-81; 8:45 am]

BILLING CODE 6750-01-M

## CONSUMER PRODUCT SAFETY COMMISSION

### 16 CFR Part 1700

#### Human Prescription Drugs in Oral Dosage Forms; Exemption of Pancrelipase Preparations in Tablet, Capsule, or Powder Form From Child-Protection Packaging Requirements

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission exempts pancrelipase preparations in tablet, capsule, or powder form from child-protection packaging requirements. Pancrelipase provides additional pancreatic enzymes, and is particularly used in the treatment of children with cystic fibrosis. The information available to the Commission indicates that child-protection packaging for this drug is not needed to protect children from serious illness or injury, because of the low toxicity of pancrelipase and lack of adverse human experience associated with the drug. This exemption is in response to a petition from Johnson & Johnson Baby Products Company, a manufacturer of a capsule form of pancrelipase.

**DATE:** This exemption is effective May 12, 1981.

**FOR FURTHER INFORMATION CONTACT:** Charles Jacobson, Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, D.C., 20207, telephone (301) 492-8400.

#### SUPPLEMENTARY INFORMATION:

##### Background

On April 26, 1979, the Commission received a petition (PP 79-3) from Johnson & Johnson Baby Products Company, of Raritan, N.J., requesting an exemption from child-protection (special) packaging requirements for pancrelipase in 100 and 250 capsule containers. A large amount of the drug is regularly used as replacement therapy for pancreatic enzyme insufficiency in children with cystic fibrosis. Such children may be taught to self-administer the drug at an early age (5-8

years) because the medication must be taken at all meals and snacks.

#### Grounds for Exemption

The petitioner stated that an exemption for pancrelipase is justified based upon the low toxicity of the drug as shown by the lack of adverse human experience data. Data from the National Clearinghouse for Poison Control Centers (NCPCC) indicate that only two ingestions of pancrelipase products were reported during the period from 1969 through 1978. These two ingestions occurred in 1974, and no symptoms or hospitalization were involved in either case. In addition, a medical literature search back to 1950 does not reveal any articles on the accidental ingestion of pancrelipase. Physicians' reports included in the petitioner's supporting material reveal that no adverse reactions occurred in patients taking the petitioner's pancrelipase preparation during clinical studies. Also, animal toxicity studies could not determine the Median Lethal Dosage of pancrelipase in rats and mice, as doses up to 9,336 grams per kilogram did not produce death in any of the animals tested. Another study cited by the petitioner demonstrates that the single dose ingestion of an entire container of 250 capsules by each of four beagle dogs did not produce any toxic effects.

An examination of the most current data sources available to the Commission staff reveals no reports of pancrelipase ingestion other than the two reports in 1974 (neither involving symptoms or hospitalization) which are cited in the petition and referenced above. The staff examined the data supplied by the petitioner, statistics from the National Clearinghouse for Poison Control Centers for the period 1969 through 1978, data from the National Electronic Injury Surveillance System for 1978, 1979, and 1980, accident investigation reports, and the Commission's consumer complaint, injury and potential injury, and death certificate files.

Johnson & Johnson also argued that an exemption for pancrelipase is justified because special packaging could adversely affect the utility and stability of the drug. According to the petitioner, because the cystic fibrotic children who need access to the drug care not physically strong, opening the child-resistant closure is especially difficult, and special packaging could interfere with self-administration of the medication. In addition, the petitioner argued that if such difficulty causes the children to leave the closure loosened, then the capsules would be exposed to

moisture in the air which could result in a loss of product potency.

The Commission solicited the opinion of its Technical Advisory Committee (TAC) on Poison Prevention Packaging. Of the 14 members who commented on the petition, 10 members recommended granting the petition and 4 members recommended denial. The recommendations that the TAC members gave at that time are explained in the proposal (44 FR 67438; November 26, 1979).

The Commission also solicited the opinion of the Food and Drug Administration (FDA) on the exemption request. Based upon the low toxicity of pancrelipase and upon the absence of reported adverse symptoms from ingestions of the drug, FDA concluded that the exemption should be granted.

Based on the available information showing the low toxicity of pancrelipase and the lack of adverse human experience reported from ingesting pancrelipase, the Commission preliminarily found that pancrelipase preparations in tablet, capsule, or powder form do not pose a risk of serious personal illness or serious injury to children. Accordingly, the Commission proposed to exempt pancrelipase preparations from the child-resistant packaging requirements (44 FR 67438; November 26, 1979). This action constituted the granting of petition PP 79-3.

The exemption was specifically requested for containers of 100 and 250 capsules. However, pancrelipase is also prescribed in powder and tablet form and may be enteric coated to prevent destruction of a portion of the pancrelipase in the stomach. Regardless of the form of the product, it appears unlikely that a child would ingest a quantity of the drug sufficient to cause serious personal injury or serious illness. Therefore, based upon the low toxicity of pancrelipase preparations, the Commission proposed the exemption for pancrelipase on a generic basis for all dosage forms (tablets, capsules, and powders).

#### Response to the Proposal

In response to the proposal to exempt pancrelipase from the child-resistant packaging requirements applicable to oral prescription drugs, the Commission received 2 comments from members of the public. In addition, the Commission asked the members of the Technical Advisory Committee (TAC) to submit their views on the proposal. The comments that were received are explained below.

Seven members of the TAC submitted comments on the proposal. All of these

members supported the issuance of the proposed exemption from child-resistant packaging requirements for pancrelipase. All of the members cited the low toxicity of this drug as a basis for granting an exemption, and one member also stated that it was desirable for cystic fibrotic children, who constitute a majority of the product's users, to be able to self-administer the drug. Another commented that since 5 to 8 year old cystic fibrotic children are taught to self-administer this drug, any difficulty they experience could cause them to either transfer the drug to another container or leave the child-resistant container unsecured. This member argued that the net effect of this would be to make access to the drug by younger siblings easier rather than more difficult.

One of the comments from members of the public also supported the exemption on the basis that child-resistant packaging was difficult for older persons with arthritis to open and that it would be desirable to supply pancrelipase in easily-opened packages for the benefit of the children who use it.

The other public comment was from the Chairman of the Medical Advisory Council for the Cystic Fibrosis Foundation. She opposed an exemption for pancrelipase and in particular the powder form of the product.

This commenter stated that allowing pancrelipase to be sold in containers that are not child-resistant would result in misuse of the drug that "would lead to exacerbation of the underlying physical problem that use of the drug is intended to alleviate" and that "too much or too little can be harmful to the patient." For this reason, she disagreed with the petition's suggestion that it is proper medical practice for small children with cystic fibrosis to self-administer pancrelipase.

With regard to the issue of adverse effects due to improper dosages of pancrelipase taken by children with cystic fibrosis, it does not seem likely that allowing this product to be sold in containers that are not child-resistant would result in too little of the drug being taken. If too much were taken because the child had uncontrolled access to a container that was not child-resistant, a child could develop hyperuricosuria (high levels of uric acid in the urine) if excessive doses are taken at each meal over a period of several days or weeks. However, this condition would ordinarily be completely reversed once normal doses of medication are resumed. Even if the hyperuricosuria resulted in the formation of kidney stones, which would occur only if the uric acid level were quite high for a long

time, the stones would be medically treatable either through drug therapy or, if larger, by minor surgery.

The taking of excessive amounts of pancrelipase should not worsen an existing cystic fibrosis condition or have other adverse effects other than the hyperuricosuria described above.

Therefore, in view of the relatively minor effects that can occur from excessive doses of pancrelipase, the long period of time such doses must continue before these effects are caused, and the likelihood that such intentional abuses would be relatively rare, the Commission concludes that special packaging is not required to protect children from serious personal injury or serious illness from ingesting pancrelipase.

The commenter from the Cystic Fibrosis Foundation also alluded to "many cases of severe adverse reactions when the powder form of pancrelipase is inhaled inadvertently." The materials submitted with this comment indicate that this concern is based on "the problem of inhalant allergy common in mothers who administer the powdered pancreatic preparations." Since these cases involve an adult administering the medicine, their incidence would not be affected by the presence or absence of child-resistant packaging. As to unauthorized access by the child patient, it is unlikely both that the child would be allergic to the medication that is prescribed and that this condition would not be detected as a result of the reaction to the normal dosage. Although there is some possibility that respiratory discomfort or complications might result from the accidental inhalation of powdered pancrelipase preparations, this possible risk also applies to a variety of powdered household products, such as talcum powder or powdered detergents. Thus, this factor alone would not warrant the continuation of a special packaging requirement.

The question of whether a particular child should be encouraged to self-administer this drug is a matter that should be decided on an individual basis by the treating physician. Therefore, the petitioner's contentions that it is desirable for children to self-administer this drug and that child-resistant packaging would be a hindrance in this regard, have not been adopted by the Commission in granting the exemption. However, as noted above, if a child were to self-administer the drug, a lack of child-resistant packaging would not cause a child to take too little of the medicine, compared to the amount the child would take from



child-resistant packaging. Although a child might self-administer larger than prescribed amounts, or take amounts in addition to those administered to the child by an adult, the risk to the child from these overdoses would be relatively small, for the reasons discussed above.

Accordingly, the Commission concludes that special packaging for pancrelipase preparations is not required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substances.

The Commission emphasizes that this exemption is limited to pancrelipase preparations containing no other substances subject to the requirements for special packaging under 16 CFR 1700.14(a)(10).

#### Conclusion

Having considered the petition, the human experience data and the animal toxicity studies submitted by the petitioner, the poison control statistics of the National Clearinghouse for Poison Control Centers from 1969 through 1978, the comments received on the proposed exemption, medical and scientific literature, and other Commission data sources, and having consulted, pursuant to section 3 of the Poison Prevention Packaging Act of 1970 (PPPA), with the Technical Advisory Committee on Poison Prevention Packaging established in accordance with section 6 of the PPPA, the Commission concludes that pancrelipase preparations in tablet, capsule, or powder form should be exempted from the special packaging requirements of § 1700.14(a)(10).

Since this rule grants an exemption, the delayed effective date provision of 5 U.S.C. 553(d) is not applicable, and the exemption is effective May 12, 1981.

Accordingly, pursuant to the provisions of the PPPA (Pub. L. 91-601, sections 2, 3, 5; 84 Stat. 1670-72; 15 U.S.C. 1471, 1472, 1474) and under authority vested in the Commission by the Consumer Product Safety Act (Pub. L. 92-572, sec. 30(a); 86 Stat. 1231; 15 U.S.C. 2079(a)), the Commission amends 16 CFR 1700.14(a)(10) by adding a new subdivision (ix), reading as follows (the introductory language of § 1700.14(a)(10), although unchanged, is included for context):

#### § 1700.14 Substances requiring special packaging.

(a) \* \* \*

(10) *Prescription drugs.* Any drug for human use that is in a dosage form intended for oral administration and that is required by Federal law to be dispensed only by or upon an oral or

written prescription of a practitioner licensed by law to administer such drug shall be packaged in accordance with the provisions of § 1700.15 (a), (b), and (c), except for the following:

(ix) Pancrelipase preparations in tablet, capsule, or powder form and containing no other substances subject to this § 1700.14(a)(10).

(Secs. 2, 3, 5, Pub. L. 91-601, 84 Stat. 1670, 1671 (15 U.S.C. 1471, 1472, 1474))

Effective date: May 12, 1981.

Dated: May 7, 1981.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 81-14245 Filed 5-11-81; 8:45 am]

BILLING CODE 6355-01-M

#### COMMODITY FUTURES TRADING COMMISSION

##### 17 CFR Parts 1, 3, 145, and 147

[Forms 8-R, 8-S, and 8-T]

#### Registration Forms and Rules; Deferral of Effective Date

##### Correction

In FR Doc. 81-13476, published at page 24940, on May 4, 1981 make the following corrections:

(1) On page 24943, in the first column, in the section heading for § 3.30, in the second line "service or service to be filed with the" should be corrected to read "service to be filed with the."

(2) In the third column, the last line, "3 CFR 3.10" should be corrected to read "17 CFR 3.10".

(3) On page 24944, in the first column, in paragraphs b., c., d., and e. "3 CFR" should be corrected to read "17 CFR".

BILLING CODE 1505-01-M

#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

##### Office of the Secretary

##### 21 CFR Part 5

#### Raising the Level of Rulemaking Authority of the Food and Drug Administration in Matters Involving Significant Public Policy; Response to Executive Order 12291

Note.—This document originally appeared in the Federal Register for Monday, May 11, 1981. It is reprinted in this issue to meet requirements for publication on the Tuesday-Friday schedule assigned to the Food and Drug Administration, Health and Human Services Department.

AGENCY: Office of the Secretary, HHS.

**ACTION:** Rule (Notice of Reservation of Authority).

**SUMMARY:** The President's Executive Order on Federal Regulation, Executive Order 12291, requires each Federal agency to minimize regulatory burdens on the public. This notice, raising the level of the rulemaking authority of the Food and Drug Administration in matters involving significant public policy to the Secretary, is part of HHS' response to the Executive Order.

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

#### FOR FURTHER INFORMATION CONTACT:

Robert Brady, Executive Assistant to the Commissioner, Office of the Commissioner (HF-9), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4124.

#### SUPPLEMENTARY INFORMATION:

##### Overview and Purpose

On February 17, 1981, President Reagan issued Executive Order 12291. The Executive Order establishes a government-wide framework for carrying out the President's policy of providing regulatory relief to the public. HHS is fully committed to this objective and will soon be establishing a number of Department-wide policies to assure its successful implementation.

Among the actions HHS will take are revisions to the Department's regulations development processes to assure consistency with the objectives of the President's regulatory relief program in all of the Department's regulatory actions. Included in the revisions will be steps to maximize coordination and consultation with the President's Task Force on Regulatory Relief and the Director of the Office of Management and Budget, as required by the Executive Order.

Under the terms of the Order, all regulations, except several categories specifically exempted, must be reviewed by the Director of the Office of Management and Budget, subject to the direction of the President's Task Force on Regulatory Relief, chaired by the Vice President, and composed of a number of Cabinet members.

Under existing practice, all regulations issued by operating components of HHS, with the exception of the Food and Drug Administration, are approved by the Secretary prior to review by the Director of OMB. In order to effectively carry out HHS' substantive responsibilities under the Executive Order, as well as the procedural requirements pertaining to review by the Director of OMB, FDA regulations involving significant public policy must

receive similar Secretarial consideration and approval.

Therefore, this document amends previous delegations of authority to issue regulations of the Food and Drug Administration by providing that the Secretary reserves the authority vested in him by applicable statutes to approve FDA regulations involving significant public policy, except regulations to which the formal rulemaking procedures of the Administrative Procedure Act apply.

More specifically, regulations which establish procedural rules applicable to a general class of foods, drugs, cosmetics, medical devices, or other subjects of regulation, or which present highly significant public issues involving the quality, availability, marketability or cost of one or more foods, drugs, cosmetics, medical devices, or other subjects of regulation, shall be reserved for Secretarial approval.

This reservation of authority is designed to continue previous delegations of authority to the Commissioner of Food and Drugs with respect to all other activities of the agency, including the approximately 1,000 regulatory actions taken annually by FDA regarding specific foods, drugs, cosmetics, medical devices, and other subjects of regulation not involving significant public policy. This reservation of authority is intended only to improve the internal management of the Department, and is not intended to create any legal right or benefit. Regulations issued by FDA without approval of the Secretary are to be conclusively viewed as falling outside the scope of this reservation of authority. Moreover, it is the policy of the Secretary that with respect to those FDA regulations for which the Secretary hereby reserves approval authority, the Commissioner of Food and Drugs will be the Secretary's principal advisor.

This reservation of authority, set forth below, is effective this date.

Dated: May 6, 1981.

Richard S. Schweiker,  
Secretary.

Title 21, Part 5 of the Code of Federal Regulations, is amended as follows:

**§ 5.1 [Redesignated as § 5.10]**

1. By redesignating § 5.1 as § 5.10;
2. By adding after § 5.10 the following new § 5.11:

**§ 5.11 Reservation of authority.**

(a) Notwithstanding provisions of § 5.10 or any previous delegations of authority to the contrary, the Secretary reserves the authority to approve regulations of the Food and Drug

Administration, except regulations to which sections 556 and 557 of Title 5 of the United States Code apply, which:

- (1) establish procedural rules applicable to a general class of foods, drugs, cosmetics, medical devices, or other subjects of regulation; or
- (2) present highly significant public issues involving the quality, availability, marketability or cost of one or more foods, drugs, cosmetics, medical devices, or other subjects of regulation.

(b) This reservation of authority is intended only to improve the internal management of the Department of Health and Human Services, and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, the Department of Health and Human Services, the Food and Drug Administration, and agency, officer, or employee of the United States, or any person. Regulations issued by the Food and Drug Administration without the approval of the Secretary are to be conclusively viewed as falling outside the scope of this reservation of authority.

**§ 5.10 [Amended]**

3. By inserting in redesignated section § 5.10(a)(15), after the word "Administration," a comma and the following: "except as provided in § 5.11."

[FR Doc. 81-14183 Filed 5-8-81; 8:45 am]

BILLING CODE 4110-03-M

**Food and Drug Administration**

**21 CFR Part 146**

[Docket No. 78N-0236]

**Grapefruit Juice; Standards of Identity and Fill of Container**

*Correction*

In FR Doc. 81-10518 appearing on page 21359 in the issue of Friday, April 10, 1981, correcting FR Doc. 81-2919 appearing at page 8462, in the issue of Tuesday, January 27, 1981, make the following change:

In § 146.132(a)(3)(ii) the second word now reading "no" should be changed to read "any".

BILLING CODE 1505-01-M

**21 CFR Part 520**

**Oral Dosage Form New Animal Drugs Not Subject to Certification; Oxfendazole Powder and Pellets**

**AGENCY:** Food and Drug Administration.  
**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) amends the animal drug regulations to reflect approval of two supplemental new animal drug applications (NADA's) filed by Syntex Agribusiness, Inc., providing for use of the equine powder and pellet for the treatment of *Strongylus equinus* infections.

**EFFECTIVE DATE:** May 12, 1981.

**FOR FURTHER INFORMATION CONTACT:** Sandra K. Woods, Bureau of Veterinary Medicine (HFV-114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

**SUPPLEMENTARY INFORMATION:** Syntex Agribusiness, Inc., 3401 Hillview Ave., Palo Alto, CA 94304, filed supplemental NADA's 110-776 and 110-777 providing for use of oxfendazole powder and pellets in horses for treatment of *S. equinus* infections in addition to its existing approved use for treatment of certain other helminth infections. The powder is reconstituted to form a suspension and then administered by either stomach tube or dose syringe. The pellets are sprinkled on the grain portion of the ration.

Approval of this supplement is based on results of critical anthelmintic tests demonstrating the drug is effective against the additional infecting helminth. The existing indications and other conditions of use are not changed. The supplement is approved and the regulations amended to reflect the approval. Under the Bureau of Veterinary Medicine's supplemental approval policy, proposed 21 CFR 514.106(b)(2)(vii) (December 23, 1977; 42 FR 64367), this is a Category II approval which does not require reevaluation of the safety and effectiveness data in the original application.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen 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, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this 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.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)1 of the Order.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 520.1628 is amended by revising paragraph (c)(2) to read as follows:

§ 520.1628 Oxfendazole powder and pellets.

(c) \* \* \*

(2) *Indications for use.* The drug is used in horses for removal of the following gastrointestinal worms: Large roundworms (*Parascaris equorum*), mature and immature pinworms (*Oxyuris equi*), large strongyles (*Strongylus edentatus*, *Strongylus vulgaris*, and *Strongylus equinus*), and small strongyles.

*Effective date.* This amendment is effective May 12, 1981.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: May 5, 1981.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 81-14253 Filed 5-11-81; 8:45 am]

BILLING CODE 4110-03-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 35

[WH-FRL 1821-7]

### State and Local Assistance; Program Grants; Class Deviation

AGENCY: Environmental Protection Agency.

ACTION: Deviation to rule.

**SUMMARY:** EPA is issuing a class deviation from a provision of its program grant regulations to extend the FY 1981 budget period from September 30, 1981, to December 31, 1981, for the State Underground Water Source Protection Program. Recently, EPA's Office of Drinking Water made a change in the pattern of program funding. As a result of this action, the allotment and expenditure of FY 1981 and FY 1982 funds must be coordinated. To accomplish this, EPA is extending the budget period.

**DATE:** The class deviation became effective on April 30, 1981.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Harvey Pippen, Jr., Director, Grants Administration Division, (PM-216), 401 M Street, S.W., Washington, D.C. 20460, (202) 755-0860.

Dated: April 30, 1981.

Roy N. Gamse,

Acting Assistant Administrator for Planning and Management (PM-208).

Dated: April 27, 1981.

James N. Smith,

Acting Assistant Administrator for Water and Waste Management (WH-558).

#### United States Environmental Protection Agency

Date: May 4, 1981.

Subject: Class Deviation from 40 CFR 35.664 of the Underground Water Source Protection Program Grant Regulations.

From: Belle N. Davis for Harvey Pippen, Jr., Director, Grants Administration Division (PM-216).

To: Regional Administrators.

#### Action

I am approving a class deviation from 40 CFR 35.664 of the Underground Water Source Protection Program Grant Regulations to extend the FY 1981 budget period from September 30, 1981, to December 31, 1981. This deviation will allow for more stable funding levels between FY 1981 and FY 1982.

#### Background

To better manage Underground Injection Control (UIC) Program resources, the Office of Drinking Water recently ended the practice of awarding funds appropriated in one fiscal year to cover eligible State program activities in the subsequent fiscal year. As a result of this action, the FY 1981 and FY 1982 funds must be closely coordinated to insure a smooth transition. To accomplish this, the Office of Drinking Water requested a class deviation extending the FY 1981 budget period from September 30, 1981, to December 31, 1981.

Section 35.664 establishes the budget period as the Federal fiscal year. Therefore, to extend the budget period for FY 1981 awards to December 31, 1981, a class deviation is necessary.

Dated: April 30, 1981.

Roy N. Gamse,

Acting Assistant Administrator for Planning and Management (PM-208).

Dated: April 27, 1981.

James N. Smith,

Acting Assistant Administrator for Water and Waste Management (WH-558).

[FR Doc. 81-14260 Filed 5-11-81; 8:45 am]

BILLING CODE 6560-29-M

## 40 CFR Part 52

[A8 FRL 1812-1]

### Approval and Promulgation of State Implementation Plans; Nonattainment Area Plans for Colorado

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

**SUMMARY:** The purpose of this notice is to modify the conditional approval for the Pueblo total suspended particulate (TSP) portion of the Colorado State Implementation Plan (SIP). While EPA's initial conditional approval (44 FR 57401 and 45 FR 7801) required a submittal of a 24-hour TSP standard attainment demonstration by February 1, 1980, additional deficiencies in the Pueblo plan have been discovered. Today, EPA is modifying that conditional approval to require submission of a TSP standard demonstration based on allowable emissions and a complete inventory by December 31, 1981, provisions for enforceable reasonably available control technology (RACT) on all existing sources, and enforceable compliance schedules for all affected sources by July 1, 1981.

EPA proposed to modify its conditional approval on December 12, 1980 (45 FR 81789) and requested public comments. The comments received are addressed in this notice.

**DATE:** Effective date: June 11, 1981.

**ADDRESSES:** Copies of the SIP and comments received are available at the following addresses for inspection:

Environmental Protection Agency, Air Programs Branch, Region VIII, Suite 200, 1860 Lincoln Street, Denver, Colorado 80295.

Environmental Protection Agency, Public Information Reference Unit, Room 2922 (EPA Library), Mail Code PM-213, 401 M Street, S.W., Washington, D.C. 20460.

#### FOR FURTHER INFORMATION CONTACT:

Eliot Cooper, Air Programs Branch, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837-3711.

#### SUPPLEMENTARY INFORMATION:

#### Background

In the October 5, 1979, final rulemaking on the Colorado SIP (44 FR 54701), EPA approved the Pueblo nonattainment area plan on the condition that a 24-hour TSP standard attainment demonstration be submitted to EPA by January 1, 1980. Although EPA did not cite this deficiency in the Pueblo plan in its initial May 11, 1979, Federal Register proposal (44 FR 27691),

public comment on the Pueblo plan brought this inadequacy in the plan to EPA's attention. EPA solicited comments (44 FR 57427) on the acceptability of the January 1, 1980, deadline. In the February 5, 1980, final rulemaking (45 FR 7801), EPA extended the January 1, 1980, deadline to February 1, 1980, due to unforeseen delays in the State's modeling analysis.

In the October 5, 1979, rulemaking, EPA also stated that if attainment could not be demonstrated with existing controls, EPA would require that additional controls be applied to sources at CF&I Steel to demonstrate attainment and maintenance of standards as expeditiously as practicable. EPA is now requiring these additional controls.

EPA had set the February 1, 1980, deadline and considered it reasonable for completing the 24-hour TSP standard analysis. The initial conditional approval deadline was not intended to provide sufficient time to prepare a control strategy, should the modeling analysis indicate violations of the 24-hour standard. On June 2, 1980, the Colorado Air Pollution Control Division submitted a 24-hour TSP standard analysis showing violations of the standard.

EPA has been working with the State for several months to determine the most efficient and effective method for remedying the deficiencies which were discovered as a result of the State's analysis. On October 7, 1980, EPA received a commitment and schedule from the Colorado Air Quality Control Commission to develop the necessary control strategy by July 1, 1981.

The Commission's October 7, 1980, commitment has satisfied EPA that the State will take necessary action to promulgate RACT for Pueblo by July 1, 1981. In addition, the 1981 Colorado State EPA Agreement commits the Colorado Air Pollution Control Division to submit the revised attainment demonstration for Pueblo.

#### Comments

On December 12, 1980, (45 FR 81789) EPA proposed to modify its conditional approval of the Pueblo TSP SIP and solicited comments on the deficiencies in existing control requirements identified in the notice and on the appropriateness of the conditions and deadlines. The Colorado Air Pollution Control Division commented on the attainment demonstration deadline. The State wanted this date amended to December 31, 1981, and in support of this comment, offered the following considerations:

1. During its discussion with EPA about these matters, it has been the

State's understanding that re-evaluation of RACT was the highest priority concern and that an attainment demonstration would be deferred until some later date. At this time, the State's resources are heavily committed to these RACT determinations and to preparation of technical procedures to support the 1982 SIP revision process. No resources are available to commence to prepare such a demonstration for Pueblo at this time.

2. The State, with EPA's assistance, is currently preparing procedures for the preparation of area source inventories. However, due to unavoidable contractual delays, this project is not due to be completed until May or June of 1981. Only at that time can construction of revised area source inventories begin.

3. The State wishes to consider the possibility of including particle-size information in this demonstration. This will require significant investigation and possible revision of modeling and inventory procedures.

4. The State would coordinate the performance of such a demonstration with all concerned parties. This is felt to be necessary in order to avoid controversy about the validity of the demonstration. Further, the State feels such a demonstration should be submitted as an official SIP revision. There is not adequate time to accomplish the demonstration and to meet all procedural requirements for such a submission by July 1, 1981.

5. Finally, the State would like to perform such a demonstration with information that is as correct as possible. Since the RACT determination will not be submitted until July, official EPA ruling upon its adequacy will not be available until after July. The State feels that the adequacy ruling on this determination is critical to the demonstration.

EPA agrees with these considerations and is changing this deadline to December 31, 1981.

#### EPA Action

Because of the additional deficiencies discovered after February 1, 1980, and based on the State's commitment to submit the necessary-SIP revisions, EPA is modifying the conditional approval and establishing a July 1, 1981, deadline. By this deadline the State must submit provisions for enforceable RACT including compliance schedules for all existing sources. EPA has also set a December 31, 1981, deadline for submission of the TSP attainment demonstration. This date was based on considerations raised by the State during the comment period. Since the public has had an opportunity to

comment generally on what deadlines should apply for these conditions (and no comments other than those from the State were received) and since the State is the party responsible for meeting the deadlines and has committed to comply with those deadlines, EPA finds that further opportunity for comment on the deadlines is unnecessary and therefore good cause exists for publishing the revised deadlines as final.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it imposes no regulatory requirements, but rather calls for the development of control technology requirements. Any regulatory requirements which may be developed by the State under this proposed rule will be dealt with in a separate action.

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

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

Dated: May 7, 1981.

Walter C. Barber,  
Acting Administrator.

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

#### Subpart G—Colorado

1. Section 52.330 is revised as follows:

##### § 52.330 Control strategy: Total suspended particulates.

(a) *Part D—Conditional Approval:* The Pueblo plan is approved assuming the State demonstrates by December 31, 1981, through air quality modeling, attainment of the 24-hour and annual standards, while considering emissions from all sources in the nonattainment area. In addition, the State must repromulgate Regulation No. 1 to satisfy reasonably available control technology requirements in accordance with the following schedule:

(1) The Commission will consider and adopt for public hearing any changes or additions to Regulation No. 1 by February 15, 1981.

(2) The proposed regulations will be published in the Colorado Register by March 10, 1981.

(3) Public hearing will be held by May 14, 1981.

(4) Regulations will be approved with an effective date no later than July 1,

1981, and submitted to EPA by the same date.

[FR Doc. 81-14231 Filed 5-11-81; 8:45 am]  
BILLING CODE 6560-39-M

#### 40 CFR Part 52

[A-9-FRL 1797-7]

### Approval and Promulgation of Implementation Plans; Guam Implementation Plan Revision

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

**SUMMARY:** The Environmental Protection Agency (EPA) takes final action to approve and, where appropriate, disapprove or take no action on revisions to the Guam Implementation Plan submitted by the Governor's designee. The intended effect of this action is to update rules and regulations and to correct certain deficiencies in the State Implementation Plan.

**EFFECTIVE DATE:** June 11, 1981.

**ADDRESS:** A copy of the revisions is located at: The Office of the Federal Register, 1100 "L" Street, N.W., Room 8401, Washington, D.C. 20005.

**FOR FURTHER INFORMATION CONTACT:**

Louise P. Giersch, Director, Air and Hazardous Materials Division, Environmental Protection Agency, 215 Fremont Street, San Francisco, California 94105, Attn: Douglas Grano, (415) 556-2938.

**SUPPLEMENTARY INFORMATION:** On October 31, 1980, EPA published a Notice of Proposed Rulemaking for revisions to the Guam Air Pollution Control Standards and Regulations submitted on October 12, 1979, and April 1, 1980, by the Governor's designee for inclusion in the Guam Implementation Plan.

The changes contained in those submittals that are being acted upon by this notice include the following:

- (A) Amended rules for Air Pollution Emergencies and Episode Criteria;
  - (B) Amended rules for controlling open burning; visible emissions, fugitive dust and sulfur dioxide; and
  - (C) Changes in the effective date for new and existing source compliance.
- A list of the affected rules was published as part of the October 31, 1980, Notice of Proposed Rulemaking. As described in that notice, all the rules were evaluated, found to be in conformance with the requirements of 40 CFR Part 51, and proposed to be approved, with certain exceptions. The Notice of Proposed Rulemaking provided a 60 day public comment

period. No comments were received. Thus, it is the purpose of this notice to approve the revisions under Section 110 of the Clean Air Act and to incorporate them into the Guam Implementation Plan except as discussed below.

Rule 8.7, "Roads and Parking Lots," is disapproved because it could allow an emissions increase, and a control strategy demonstration has not been submitted showing that any increased emissions would not interfere with the attainment or maintenance of the National Ambient Air Quality Standards (NAAQS).

Rule 13.1, "Control of Sulfur Dioxide Emissions," is approved for all applicable sources except the Tanguisson Power Plant. Approval of the old Rule 13.2, submitted January 25, 1972, is retained for this source until Guam can demonstrate that a less stringent emission limitation is sufficient for attainment of the national standards.

Rule 13.2, "Control of Sulfur Dioxide Emissions," is inconsistent with Section 123(a)(2) of the Clean Air Act which requires continuous control strategies and is therefore disapproved.

In addition, no action has been taken on Rule 1.18, "Nuisance," Rule 1.19, "Odor," and Chapter 11, *Control of Odor in Ambient Air*, since they are not specifically directed at the NAAQS.

No action has been taken on Chapter 15, *Standards of Performance for New Stationary Sources*, and Chapter 16, *National Emission Standards for Hazardous Air Pollutants*, as revisions to the Guam Implementation Plan because New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) rules implement § 111 and § 112 of the Clean Air Act and thus are not appropriate for inclusion in the State Implementation Plan under Section 110 of the Act.

The public hearing requirements of 40 CFR 51.4 have been satisfied.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. The miscellaneous SIP approvals announced today are not Major because they only approve State actions. They impose no new regulatory requirements. The disapprovals are also not Major because they preserve the status quo. Sources will remain subject to existing requirements that were previously approved by EPA. In addition, each of these disapprovals involves only a minor change to the SIP which is not expected to have a major economic effect.

This regulation was submitted to the Office of Management and Budget for

review as required by Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. 605(b) I hereby certify that the attached rules will not have a significant economic impact on a substantial number of small entities. 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.

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

(Secs. 110 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7410 and 7601(a))

Dated: April 14, 1981.

Walter C. Barber, Jr.,  
Acting Administrator.

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

#### Subpart AAA—Guam

1. Section 52.2670 is amended by adding paragraphs (c)(2)(iii) and (c)(3) as follows:

§ 52.2670 Identification of plan.

- • • • •
- (c) • • •
- (2) • • •
- (iii) Chapters 1 (except 1.18 and 1.19), 4, 10, 12 and 14; Rules 3.1-3.9, 5.3, 6.2, 7.1, 7.4, 7.5, 8.3-8.7, 13.1, 13.2 and 18.1-18.4; and deletion of Rules 3.12, 3.17 and 12.3.
- • • • •

(3) Amendments to the Guam Air Pollution Control Standards and Regulations submitted on April 1, 1980 by the Governor's designee.

(i) Addendum to 13.1—Compliance Order for the Guam Power Authority's Power Barge "Inductance".

2. Section 52.2672 is amended as follows:

§ 52.2672 Approval status.

With the exceptions set forth in this Subpart, the Administrator approves Guam's plan for the attainment and maintenance of the National Standards.

3. Section 52.2678 is amended by adding paragraph (c) as follows:

§ 52.2678 Control strategy and regulations: Particulate matter.

- • • • •
- (c) The following rules are disapproved because they could allow an emissions increase, and a control

strategy demonstration has not been submitted showing that any increased emissions would not interfere with the attainment or maintenance of the NAAQS.

(1) Rule 8.7, submitted on October 12, 1979.

4. Section 52.2679 is added as follows:

**§ 52.2679 Control strategy and regulations: Sulfur dioxide.**

(a) Approvals of the following rules are limited to specific sources, since a control strategy demonstration has not been submitted showing that any increased emissions would not interfere with the attainment or maintenance of the NAAQS.

(1) Rule 13.1, submitted on October 12, 1979, for all applicable sources except the Tanguisson Power Plant.

(2) Rule 13.2, submitted on January 25, 1972, for the Tanguisson Power Plant.

(b) The following rules are disapproved because they are inconsistent with Section 123(a)(2) of the Clean Air Act which requires continuous control strategies.

(1) Rule 13.2, submitted on October 12, 1979.

[FR Doc. 81-14202 Filed 5-11-81; 8:45 am]  
BILLING CODE 6560-36-M

**40 CFR Part 52**

[A-2-FRL 1811-7]

**Approval and Promulgation of Implementation Plans; Revision to the New Jersey State Implementation Plan**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** This notice announces approval by the Environmental Protection Agency of a revision to the New Jersey State Implementation Plan (SIP). This revision incorporates into the SIP an Amended Consent Judgment that requires the Atlantic City Electric Company's unit 1 and unit 2 at its B.L. England Generating Station to comply with applicable particulate emission requirements by March 31, 1982 and June 1, 1982, respectively. Current requirements promulgated at 40 CFR 52.1604(b) require compliance by June 1, 1981.

**EFFECTIVE DATE:** This action becomes effective on May 12, 1981.

**ADDRESSES:** Copies of the SIP revision are available for public inspection during business hours at:

Environmental Protection Agency, Air Programs Branch, Room 1005, Region

II Office, 26 Federal Plaza, New York, New York 10278.

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

New Jersey Department of Environmental Protection, Bureau of Air Pollution Control, Room 1108, Labor and Industry Building, John Fitch Plaza, Trenton, New Jersey 08625.

The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408

**FOR FURTHER INFORMATION CONTACT:** William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, (212) 264-2517.

**SUPPLEMENTARY INFORMATION:** On December 15, 1978, at 43 FR 58567, the Environmental Protection Agency (EPA) approved a State Implementation Plan (SIP) revision request from the New Jersey Department of Environmental Protection (NJDEP) to allow the Atlantic City Electric Company to use bituminous coal with a sulfur content not to exceed 3.5 percent, by weight, at units 1 and 2 of its B.L. England Generating Station in Beesley's Point, Cape May County.

This action also dealt with a State request to relax temporarily the particulate matter emission limitation applicable to these two units in order to provide the time necessary to install on them more efficient particulate matter control equipment. As a part of a Consent Judgment between the utility and NJDEP, the applicable emission limitation of 0.1 lbs/million BTU was relaxed to 0.5 lbs/million BTU until June 1, 1981. EPA's December 15, 1978 approval promulgated a federal requirement to this effect at 40 CFR 52.1604(b). (This promulgation underwent minor correction on March 12, 1979 at 44 FR 13478.)

On June 30, 1980, the State of New Jersey submitted to EPA as a proposed revision to its SIP, an Amended Consent Judgment, which extended from June 1, 1981, until March 31, 1982, and June 1, 1982, the dates by which units 1 and 2, respectively, must comply with the 0.1 lbs/million BTU particulate matter emission limitation. This proposal is described in detail in a January 5, 1981 Federal Register notice of proposed rulemaking (46 FR 953). Today's notice provides EPA approval of the State's SIP revision request, incorporates the Amended Consent Judgment into the New Jersey SIP and revises 40 CFR 52.1604(b). No comments were received by EPA on its proposal.

Based on EPA's review of the Amended Consent Judgment and the conclusion that the SIP revision discussed in this rulemaking will not interfere with the attainment of air quality standards in the area, EPA finds this revision to the New Jersey SIP consistent with the requirements of Section 110 of the Clean Air Act and EPA regulations at 40 CFR Part 51, and accordingly, approves it. Furthermore, this action is being made effective immediately because it imposes no regulatory burden on the affected source.

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

Pursuant to the provisions of 5 U.S.C. 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). The attached rule constitutes a SIP approval under section 110 and is 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 this action only applies to one facility.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not Major because it imposes no increase in costs to consumers, industry or State government. It serves to provide more time for complying with an existing federal regulation.

(Section 110, 301, Clean Air Act, as amended (42 U.S.C. 7410, 7601))

Dated: May 4, 1981.

Walter C. Barber, Jr.,

Acting Administrator, Environmental Protection Agency.

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

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

#### Subpart FF—New Jersey

1. Section 52.1570 is amended by adding new paragraph (c)(29) as follows:

##### § 52.1570 Identification of plan.

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

(29) A June 30, 1980 submittal by the New Jersey Department of Environmental Protection (NJDEP) consisting of an Amended Consent Order entered into by NJDEP and the Atlantic City Electric Company. This revision to the New Jersey State Implementation Plan establishes a construction and testing schedule designed to bring units 1 and 2 at Atlantic City Electric Company's B.L. England Generating Station at Beesley's Point, New Jersey, into compliance with New Jersey Administrative Code (N.J.A.C.) 7:27-3.1 *et seq.*, Control and Prohibition of Smoke from Combustion of Fuel; N.J.A.C. 7:27-4.1 *et seq.*, Control and Prohibition of Particulates from Combustion of Fuel; and N.J.A.C. 7:27-10.1 *et seq.*, Sulfur in Coal, by March 31, 1982 and June 1, 1982, respectively.

2. Section 52.1604, paragraph (b) is revised to read as follows:

##### § 52.1604 Control strategy and regulations: Total suspended particulates.

(b) Particulates emissions from units 1 and 2 of the Atlantic City Electric Company's B.L. England Generating Station are limited to an emission rate of 0.5 lbs/million BTU until March 31, 1982 and June 1, 1982, respectively. The opacity associated with such emissions from these units during this period shall not exceed 40 percent. On and after March 31, 1982 for unit 1, and June 1, 1982 for unit 2, these units shall be limited to an emission rate of 0.1 lbs/million BTU, and the associated opacity shall not exceed 20 percent.

[FR Doc. 81-14203 Filed 5-11-81; 8:45 am]

BILLING CODE 6560-38-M

#### 40 CFR Part 162

(PH-FRL-1824-6; OPP-30003C)

#### State Registration of Pesticides To Meet Special Local Needs; Expiration of Congressional Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule related notice.

**SUMMARY:** As required by section 25(a)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act, EPA submitted final rules relating to State registration of pesticides (40 CFR 162.150-162.156) to both Houses of Congress for review prior to the rules taking effect. These rules were submitted to Congress on January 7, 1981, the same day on which they were published in the *Federal Register* (46 FR 2008), and the minimum 60-day period for Congressional review ended on March 18, 1981. Congress did not act to either extend the review period or to disapprove the rules. Also, the Office of Management and Budget received these rules for 15-day review on April 9, 1981, and did not comment on them.

**DATE:** The rules published on January 7, 1981 will become effective on May 19, 1981.

**FOR FURTHER INFORMATION CONTACT:** Phillip H. Gray, Jr., Office of Pesticide Programs (TS-766C), Environmental Protection Agency, Rm. 915, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-0825).

**SUPPLEMENTARY INFORMATION:** On January 7, 1981, EPA promulgated final regulations (46 FR 2008) under sec. 24(c) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended [FIFRA] (Pub. L. 95-396, 92 Stat. 819, 7 U.S.C. 136 *et seq.*). These rules (40 CFR 162.150-162.156) relate to procedures for state registration of pesticides to meet special local needs. However, as required by sec. 25(a)(4) of FIFRA, those final rules could not take effect until after they had been submitted to both Houses of Congress for review and possible disapproval. This review period was to last for a minimum of 60 days of continuous Congressional session, as defined by sec. 25(a)(4), with a possibility of being extended by Congress for an additional 30 days. Since it was not possible to predict an exact date on which the Congressional review period would end, the preamble to the final sec. 24(c) rules stated that EPA would publish a separate *Federal Register* notice after the review period was over announcing the effective date of the rules.

On March 18, 1981, 60 days of continuous Congressional session elapsed. Since neither House of Congress took any action in that period to either disapprove the rules or to extend the review period, Congressional review under sec. 25(a)(4) of FIFRA ended on that date.

The section 24(c) rules were also subject to the Executive Office directive of January 29, 1981, freezing Federal

regulations for 60 days. That freeze ended on March 30, 1981.

In addition, on April 9, 1981, EPA submitted the final sec. 24(c) rules to the Office of Management and Budget (OMB) for review, as required by Executive Order 12291 of February 17, 1981. Under the Executive Order, OMB had 15 days to review those rules. The 15 day OMB review period ended on April 24, 1981. No comments were received from OMB.

Accordingly, the final regulations promulgated as 40 CFR 162.150-162.156 on January 7, 1981, will take effect on [insert 7 days after date of publication].

Finally, EPA has been requested to point out—as was done briefly in the preamble to both the proposed and final sec. 24(c) rules—that under sec. 24(c) and the final rules, valid State registrations become Federal registrations for all purposes. Therefore, all valid sec. 24(c) registrations will be subject to the same provisions for maintaining their effectiveness as registrations issued by EPA (i.e., holders of State registration will not need to take any action to maintain the registration under Federal law until EPA notifies the registrant to do so under the Registration Standards system).

Dated: April 30, 1981.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 81-14256 Filed 5-11-81; 8:45 am]

BILLING CODE 6560-32-M

#### FEDERAL EMERGENCY MANAGEMENT AGENCY

##### 44 CFR Part 64

[Docket No. FEMA 6048]

#### Arkansas, et al.; 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. Robert G. Chappell, National Flood Insurance Program, (202) 755-5585 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, D.C. 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 or 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 date of authorization of sale of flood insurance for area	Hazard area identified
<b>Arkansas:</b>				
Crawford	Alma, city of	050226	740325, emergency, 810401, regular	750809
Jackson	Grubbs, town of	050101	750416, emergency, 810401, regular	740809
Union	Strong, city of	050210	750211, emergency, 810401, regular	740623
Connecticut: New London	Ledyard, town of	080157	780822, emergency, 810401, regular	770527
Indiana: Johnson	Franklin, city of	180114	750120, emergency, 810401, regular	731228
<b>Maine:</b>				
Kennebec	Augusta, city of	230067	740319, emergency, 810401, regular	740628
Oxford	Brownfield, town of	230089	750805, emergency, 810401, regular	740913
Cumberland	Sobago, town of	230206	770622, emergency, 810401, regular	750117
<b>Michigan:</b>				
Lenawee	Deerfield, village of	260438	760920, emergency, 810401, regular	750912
Monroe	Whitford, township of	260157	750630, emergency, 810401, regular	740628
<b>Minnesota:</b>				
Dakota	Dakota County <sup>1</sup>	270101	740304, emergency, 810401, regular	741016
Ramsey	Shoreview, city of	270384	750502, emergency, 810401, regular	740614
Missouri: St. Louis	Town and Country, city of	290389	750707, emergency, 810401, regular	731228
Montana: Lewis and Clark	Lewis and Clark County <sup>1</sup>	300038	750826, emergency, 810401, regular	741227
<b>New Hampshire:</b>				
Hillborough	Antrim, township of	330082	750527, emergency, 810401, regular	740412
Cook	Gorham, town of	330032	750724, emergency, 810401, regular	740301
<b>New Jersey:</b>				
Hunterdon	Alexandria, township of	340230	730628, emergency, 810401, regular	740201
Hunterdon	Lambertville, city of	340237	730904, emergency, 810401, regular	740123
Hunterdon	West Amwell, township of	340243	721117, emergency, 810401, regular	730511
<b>New York:</b>				
Ontario	Canandaigua, city of	360597	740912, emergency, 810401, regular	761126
Schuyler	Montour Falls, village of	361018	741018, emergency, 810401, regular	740503
Orange	Washingtonville, village of	360638	720811, emergency, 810401, regular	731228
<b>North Carolina:</b>				
Alamance	Burlington, city of	370002	750418, emergency, 810401, regular	740621
Halifax	Weldon, town of	370119	740416, emergency, 810401, regular	740301
<b>Ohio:</b>				
Greene	Greene County <sup>1</sup>	390193	740703, emergency, 810401, regular	780707
<b>Oklahoma:</b>				
Garfield	North Erik, town of	400425	750618, emergency, 810401, regular	750124
<b>Oregon:</b>				
Morrow	Hepner, city of	410175	740621, emergency, 810401, regular	731123
Morrow	Ione, city of	410176	751117, emergency, 810401, regular	741122
Morrow	Lexington, city of	410178	740115, emergency, 810401, regular	740906
Morrow	Morrow County <sup>1</sup>	410173	740603, emergency, 810401, regular	750124
<b>Pennsylvania:</b>				
Berks	Alsace, township of	421376	750527, emergency, 810401, regular	750124
Lancaster	Brecknock, township of	421762	750709, emergency, 810401, regular	740510
Lancaster	Ephrata, borough of	420551	730417, emergency, 810401, regular	740322
Luzerne	Fairmount, township of	421827	760209, emergency, 810401, regular	750117
York	Farm, township of	422219	780319, emergency, 810401, regular	741227
York	Fallon, borough of	420922	731217, emergency, 810401, regular	770304
York	North Hopewell, township of	422228	750925, emergency, 810401, regular	741220
Bradford	North Towanda, township of	421087	750806, emergency, 810401, regular	740728
Allegheny	North Versailles, township of	421231	741122, emergency, 810401, regular	740906
York	Springfield, township of	422231	751113, emergency, 810401, regular	741227
<b>South Carolina:</b>				
Charleston	Ravenel, town of	450043	750925, emergency, 810401, regular	740914
York	Rock Hill, city of	450186	731227, emergency, 810401, regular	740802



State and county	Location	Community No.	Effective date of authorization of sale of flood insurance for area	Hazard area identified
<b>Tennessee:</b>				
Cheatham	Ashland, town of	470027	750310, emergency, 810401, regular	740816
Williamson	Williamson County <sup>1</sup>	470204	750527, emergency, 810401, regular	741206
<b>Texas:</b>				
Dallas	Cedar Hill, city of	480168	740621, emergency, 810401, regular	740301
Coleman	Coleman, city of	480129	741009, emergency, 810401, regular	740315
Tarrant	North Richland Hills, city of	480607	720331, emergency, 810401, regular	740628
Atascosa	Pleasanton, city of	480015	750221, emergency, 810401, regular	740621
<b>Vermont:</b>				
Chittenden	Bolton, town of	500308	750308, emergency, 810401, regular	750221
Franklin	Sheldon, town of	500059	750812, emergency, 810401, regular	740412
Virginia: Independent city	Martinsville, city of	510095	750623, emergency, 810401, regular	740531
Washington: King	Kent, city of	530080	741102, emergency, 810401, regular	740607
<b>Wisconsin:</b>				
Sheboygan	Random Lake, village of	550429	750730, emergency, 810401, regular	740628
Dodge	Watertown, city of	550107	750523, emergency, 810401, regular	740531
New York: Greene	Ashland, town of	360284	751119, emergency, 810410, regular	741101
Arizona: Santa Cruz	Nogales, city of	040091	750414, emergency, 810415, regular	740524
<b>Arkansas:</b>				
Clark	Arkadelphia, city of	050029	740816, emergency, 810415, regular	731012
Sebastian	Greenwood, city of	050198	741029, emergency, 810415, regular	740814
Crawford	Mountainburg, city of	050051	810415, emergency, 810415, regular	740503
California: Alameda	Alameda County <sup>1</sup>	060001	711203, emergency, 810415, regular	741101
<b>Illinois:</b>				
Du Page	Bloomington, village of	170201	740606, emergency, 810415, regular	740301
Cook	Cook County <sup>1</sup>	170054	730809, emergency, 810415, regular	770527
Du Page	Downers Grove, Village of	170204	730601, emergency, 810415, regular	740315
Indiana: St. Joseph	Walkerton, town of	180232	750715, emergency, 810415, regular	731123
<b>Louisiana:</b>				
Jefferson Davis Parish	Jennings, city of	220098	741021, emergency, 810415, regular	740201
Jefferson Davis Parish	Lake Arthur, town of	220099	750321, emergency, 810415, regular	740109
Acadia Parish	Morse, village of	220007	761208, emergency, 810415, regular	731123
Bossier Parish	Plain Dealing, town of	220035	750312, emergency, 810415, regular	771129
St. Landry Parish	Port Barre, town of	220175	740228, emergency, 810415, regular	740531
Minnesota: Hennepin	Greenfield, city of	270873	741226, emergency, 810415, regular	731207
Missouri: Barry	Monett, city of	290023	740923, emergency, 810415, regular	740524
<b>Montana:</b>				
Powell	Deer Lodge, city of	300060	750702, emergency, 810415, regular	740109
Lewis & Clark	Helena, city of	300040	750506, emergency, 810415, regular	740412
Nebraska: Lancaster	Firth, village of	310135	750722, emergency, 810415, regular	741106
<b>New Hampshire:</b>				
Rockingham	Brentwood, town of	330125	750610, emergency, 810415, regular	740628
Cheshire	Charlestown, town of	330153	751103, emergency, 810415, regular	740531
Rockingham	Derry, town of	330126	750512, emergency, 810415, regular	740913
Cheshire	Gitsum, town of	330021	750722, emergency, 810415, regular	740531
Cheshire	Hinsdale, town of	330022	750613, emergency, 810415, regular	740308
Grafton	Holderness, town of	330059	750722, emergency, 810415, regular	740322
Rockingham	Plaistow, town of	330138	760504, emergency, 810415, regular	741018
Cheshire	Walpole, town of	330027	750609, emergency, 810415, regular	0
Cheshire	Winchester, town of	330028	750620, emergency, 810415, regular	780315
New Jersey: Bergen	Harrington Park, borough of	340040	750416, emergency, 810415, regular	740628
<b>Ohio:</b>				
Clermont	Clermont County <sup>1</sup>	390065	760414, emergency, 810415, regular	771202
Preble	Eaton, city of	390462	750214, emergency, 810415, regular	740531
Preble	New Paris, village of	390463	750303, emergency, 810415, regular	740208
Summit	Summit County <sup>1</sup>	390781	751121, emergency, 810415, regular	780407
Summit	Tallmadge, city of	390533	750609, emergency, 810415, regular	750815
Warren	Warren County <sup>1</sup>	390757	750103, emergency, 810415, regular	760106
Oklahoma: Oklahoma	Choctaw, city of	400357	760225, emergency, 810415, regular	770121
<b>Oregon:</b>				
Josephine	Grants Pass, city of	410108	740424, emergency, 810415, regular	740322
Jackson	Medford, city of	410096	740607, emergency, 810415, regular	740621
<b>Pennsylvania:</b>				
Chester	Birmingham, township of	421474	741114, emergency, 810415, regular	741122
Luzerne	Buck, township of	421824	760217, emergency, 810415, regular	741220
Lancaster	Christiana, borough of	420542	750730, emergency, 810415, regular	740628
Luzerne	Dannison, township of	422271	750429, emergency, 810415, regular	741129
Lancaster	Drumore, township of	421766	750707, emergency, 810415, regular	741018
Lancaster	East Drumore, township of	421769	750827, emergency, 810415, regular	740920
Luzerne	Huntington, township of	421832	740702, emergency, 810415, regular	750103
Lancaster	Little Britain, township of	421775	750616, emergency, 810415, regular	740920
Dauphin	Lower Paxton, township of	420384	721103, emergency, 810415, regular	740109
Parry	Miller, township	421954	770321, emergency, 810415, regular	750117
Fayette	Newell, Borough of	420465	750220, emergency, 810415, regular	740628
Beaver	Patterson Heights, borough of	422325	780829, emergency, 810415, regular	750117
Luzerne	Ross, township of	421835	760209, emergency, 810415, regular	750124
Lancaster	Salisbury, township of	421783	750520, emergency, 810415, regular	740920
Lehigh	Washington, township of	421816	740821, emergency, 810415, regular	741115
Tioga	Wellsboro, borough of	420829	731226, emergency, 810415, regular	740322
<b>Tennessee:</b>				
Smith	Smith County <sup>1</sup>	470283	750205, emergency, 810415, regular	771021
<b>Texas:</b>				
Nueces	Bishop, city of	480505	750421, emergency, 810415, regular	740201
Brown	Brownwood, city of	480087	750620, emergency, 810415, regular	740524
Tarrant	Crowley, city of	480591	750220, emergency, 810415, regular	740628
Dallas	Duncanville, city of	480173	740418, emergency, 810415, regular	740208
San Patricio	Gregory, city of	480555	750516, emergency, 810415, regular	740607
<b>Virginia:</b>				
Wise	Wise, town of	510179	750303, emergency, 810415, regular	740510
<b>Washington:</b>				
Clark	Battle Ground, town of	530025	750602, emergency, 810415, regular	740524

State and county	Location	Community No.	Effective date of authorization of sale of flood insurance for area	Hazard area identified
Wisconsin: Milwaukee Total-118	West Allis, city of	550285	740417 emergency, 810415 regular	740412

<sup>1</sup> Unincorporated Areas.

#### (44 CFR § 64.6)

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 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 28, 1981.

Richard W. Krimm,

Acting Administrator, Federal Insurance Administration.

[FR Doc. 81-14033 Filed 5-11-81; 8:45 am]

BILLING CODE 6718-03-M

#### 44 CFR Part 67

#### Alabama, et al.; National Flood Insurance Program Final Flood Elevation Determinations

**AGENCY:** Federal Insurance Administration, FEMA.

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the nation.

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).

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

**ADDRESSES:** See table below.

**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. 20475.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of

flood elevations for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection 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 Part 67. An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

#### Final Base (100-year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet- (NGVD)
Alabama	Baldwin County, Unincorporated Areas, FEMA-5817	Mobile Bay	Approximately 1300 feet downstream from the confluence of Conway Creek on Tensaw River.	*14
			Approximately 1000 feet downstream from the confluence of Shay Branch on the cutoff.	12
			Approximately 3800 feet west of the intersection of County Route 9 and U.S. Route 98.	13
		Perdido Bay	Approximately 3500 feet east of the intersection of County Routes 99 and 91.	*9
			Approximately 60 feet downstream of the County Route 99 bridge over Manuel Bayou.	*8
Gulf of Mexico	Approximately 1700 feet south of Sheephead Point	*14		
	At State Route 182, approximately 5000 feet south of the intersection of State Route 180 and County Route 8.	*14		
Maps available for inspection at Commissioner's Office, P.O. Box 148, Bay-Minette, Alabama.				
Alabama	Bayou La Batre (City), Mobile County, FEMA-5817	Mississippi Sound	Intersection of Little River Street and western corporate limits.	*13
			Southwestern end of Powell Avenue	*14
Maps available for inspection at City Hall, City of Bayou La Batre, P.O. Box 517, Bayou La Batre, Alabama.				
Alabama	Mobile (City), Mobile County, FEMA-5817	Mobile Bay	Approximately 1700 feet south of the southeastern tip of Blakely Island.	*14
			Approximately 4400 feet east from the intersection of Marvin Street and Parham Street.	*16
Maps available for inspection at City Hall, City of Mobile, P.O. Box 1827, Mobile, Alabama.				
Alabama	Mobile County, Unincorporated Areas, FEMA-5817	Mobile Bay	Approximately 2500 feet east of the intersection of Riverview Drive and Dauphin Island Parkway.	*16
			Approximately 200 feet downstream of the Dauphin Island Parkway bridge over South Fork Deer River.	*12
		Mississippi Sound	Approximately 3200 feet north of Point Caddy	*15

## Final Base (100-year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Gulf of Mexico	Approximately 2300 feet south of the intersection of State Route 188 and Zirloff Road. At Oro Point	*17 *15
Maps available for inspection at Mobile County Courthouse, Mobile, Alabama.				
Tennessee	City of Collierville, Shelby County, FEMA-5813	Lateral I	Just upstream of Shelton Road	*302
		Lateral J	Approximately 240 feet upstream of Bouldincrest Avenue.	*309
		Lateral K	Approximately 500 feet upstream of Peterson Lake Road.	*298
		Lateral KA	Approximately 350 feet upstream of Powell Road	*315
		Lateral L	Just downstream of Collierville Arlington Road	*334
		Nonconneh Creek	Just upstream of Collierville Arlington Road	*308
		Lateral C	Approximately 150 feet downstream of State Highway 57.	*323
			Approximately 250 feet upstream of Southern Railroad	*329
			Approximately 250 feet upstream of Byhalia Road	*341
			Just upstream of U.S. Highway 72	*353
			Approximately 150 feet downstream of Sycamore View Road.	*356
Maps available for inspection at City Hall, 101 Walnut Street, Collierville, Tennessee 38017.				
Washington	West Richland (Town), Benton County, FI-4557	Yakima River	West Van Giesen Street—50 feet upstream of center-line.	*374
		Yakima River Right Overbank	Upstream corporate limits	*377
			At convergence with Yakima River Main Channel	*375
			Upstream corporate limits	*378
Maps available for inspection at Town Hall, 3805 W. Van Giesen Street, West Richland, Washington.				

[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 19387; and delegation of authority to Federal Insurance Administrator].

Issued: April 23, 1981.

Richard W. Krimm,

Acting Administrator, Federal Insurance Administration.

[FR Doc. 81-14029 Filed 5-11-81; 8:45 am]

BILLING CODE 6718-03-M

## 44 CFR Part 67

## Alabama et al.; National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FIA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required either to 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).

**EFFECTIVE DATE:** The date of insurance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

**ADDRESS:** See table below.

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

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determination of flood elevations for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster

Protection 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 Part 67). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

## Final Base (100-Year) Flood Elevations

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Alabama	Creola (Town) Mobile County FEMA-5966	Mobile Bay (Gunnison Creek)	At intersection of Guthrie Lane and Theophilus Road	*11
Maps available for inspection at Town Hall, Dead Lake Road, Creola, Alabama.				

## Final Base (100-Year) Flood Elevations—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. Elevation in feet (NGVD)
Alabama	Fairhope (City) Baldwin County FEMA-5817	Mobile Bay	Approximately 1,500 feet South along Devil's Hole (Fly Creek) from the northern corporate limits.	*11
Maps available for inspection at City Hall, City of Fairhope, P.O. Box 429, Fairhope, Alabama.				
Alabama	Gulf Shores (Town) Baldwin County FEMA-5817	Gulf of Mexico	Approximately 1,000 feet east of the intersection of West Gulf Shores Boulevard and the western most corporate limits.	*14
			Intersection of East 1st Avenue and East Third Street	*13
			Intersection of West 1st Street and East Gulf Shores Boulevard.	*14
		Mobile Bay	Approximately 2,000 feet west of the intersection of Rose Lane and Wedgewood Drive.	*11
Maps available for inspection at Town Hall, Town of Gulf Shores, P.O. Box 299, Gulf Shores, Alabama.				
California	Milbrae (City) San Mateo County FEMA-5955	Shallow Flooding	Approximately 500 feet northeast of intersection of Landa Avenue and Cuadro Avenue.	*4
			Intersection of San Anselmo Avenue and Landing Lane.	*8
Maps available for inspection at City Hall, 821 Magnolia Avenue, Milbrae, California.				
Connecticut	Bozrah, Town New London County (Docket No. FEMA-5966)	Yantic River	Downstream Corporate Limits	*119
			3,080' downstream of State Route 608	*128
			160' downstream of State Route 608	*143
			Upstream of dam just upstream of State Route 608	*155
			80' upstream of Haughton Road	*160
			110' upstream of Upstream crossing of State Route 608.	*165
		Gardner Brook	Confluence with Yantic River	*156
			80' upstream of Gager Road	*164
			600' downstream of Bear Hill Road	*175
			80' upstream of Bear Hill Road	*185
			Upstream of Dam at Bozrah Street (State Route 163)	*197
			80' downstream of Access Road, 2,300' upstream of Bozrah Street (State Route 163).	*207
			80' upstream of Access Road, 2,490' upstream of Bozrah Street (State Route 163).	*212
Maps available for inspection at the First Selectman's Office, Bozrah Town Hall, RFD #1, Fitchville, Connecticut.				
Connecticut	Morris, Town Litchfield County (Docket No. FEMA-5973)	Bantam Lake	Entire shoreline within the Town of Morris	*904
Maps available for inspection at the Town Clerk's Office, Morris Town Hall, Morris, Connecticut.				
Florida	City of Winter Haven, Polk County (FEMA-5966)	Winter Haven Chain of Lakes: including:	Entire Shoreline	*133
		Lake Jessie		
		Lake Idylwild		
		Lake Hartridge		
		Lake Cannon		
		Lake Mirror		
		Spring Lake		
		Lake Howard		
		Lake May		
		Lake Shipp		
		Lake Lulu		
		Lake Deer	Entire Shoreline	*142
		Lake Panty	Entire Shoreline	*131
		Lake Alfred		
		Chain of Lakes including:	Entire Shoreline	*131
		Lake Conine		
		Lake Smart		
		Lake Fannie	Entire Shoreline	*128
		Lake Henry	Entire Shoreline	*128
		Lake Hamilton	Entire Shoreline	*123
		Lake Citrus	Entire Shoreline	*146
		Lake Ida	Entire Shoreline	*135
		Lake Lucerne	Entire Shoreline	*134
		Lake Silver	Entire Shoreline	*147
		Lake Martha	Entire Shoreline	*144
		Lake Maude	Entire Shoreline	*143
		Lake Idyl	Entire Shoreline	*134
		Lake Buckeye	Entire Shoreline	*132
		Lake Gem	Entire Shoreline	*143
		Lake Pond	Entire Shoreline	*137
		Lake Elbert	Entire Shoreline	*137
		Lake Otis	Entire Shoreline	*130
		Lake Link	Entire Shoreline	*130
		Lake Mariah	Entire Shoreline	*126
Maps available for inspection at City Hall, 451 3rd Street, N.W., Winter Haven, Florida 33890.				
Georgia	City of Midway, Liberty County (FEMA-5966)	Cay Creek	Just downstream of U.S. Highway 82 (State Road 38)...	*6
			Just upstream of U.S. Highway 82 (State Road 38)	*6
			Just upstream of U.S. Highway 17 (State Road 25)	*6
Maps available for inspection at City Hall, Midway, Georgia 31320.				
Georgia	Town of Pooler, Chatham County (FEMA-5966)	Pipemakers Canal	Just downstream of Cemetery Road	*17
Maps available for inspection at City Hall, 103 South Rogers Street, Pooler, Georgia 31322.				

## Final Base (100-Year) Flood Elevations—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Illinois	McHenry County (Unincorporated Areas) FEMA-5973	Fox River	Intersection of Byrne Drive and Beach Drive	*736
			Intersection of Waterview Avenue and Jones Street	*739
		Nippersink Creek	Intersection of Roselle Street and Maude Place	*747
		North Branch Nippersink Creek	50 feet downstream from center of West Solon Road	*770
		Elizabeth Lake Drain	500 feet upstream from center of State Highway 173	*793
		Dutch Creek	700 feet upstream from center of Riverside Drive	*742
		Dutch Creek-North Branch	50 feet upstream from center of Johnsbury Road	*748
		Dutch Creek-Branch to Northwest	At confluence with Dutch Creek	*754
		Dutch Creek-North Fork of Branch to Northwest	50 feet upstream from center of State Highway 31	*825
		Dutch Creek-West Fork of North Fork of Branch to Northwest	Intersection of Creek and center of Chicago and North Western Railway	*823
		Slough Creek	50 feet upstream from center of Jankowski Road	*855
		North Branch Slough Creek	600 feet upstream from confluence with Slough Creek	*872
		Silver Creek	50 feet upstream from center of Charles Road	*859
		Silver Creek Tributary No.1	At confluence with Silver Creek	*859
		Silver Creek Tributary No.2	At confluence with Silver Creek	*859
		Cary Creek	25 feet upstream from center of Spring Street	*745
		Maps available for inspection at Planning Commission Office, 2200 North Seminary, Woodstock, Illinois		
Kentucky	Campbell County Unincorporated Areas (Docket No. F-5688)	Ohio River	At confluence with Woodlawn Creek	*499
			At confluence with Four Mile Creek	*502
			Stevens Yard, north of the City of Silver Grove	*503
			At confluence with Ten Mile Creek	*504
			Most upstream County Limits at centerline	*506
		Licking River	At confluence with Pooles Creek	*505
			At confluence with Scaffold Creek	*514
			At confluence with Pond Creek	*517
			Most upstream County Limits at centerline	*532
		Four Mile Creek	Confluence with Owl Creek	*503
			Lower Tug Fork Road 200 feet upstream from centerline	*505
			Kentucky Highway 547 (first crossing) 50 feet downstream from centerline	*512
			Kentucky Highway 547 (second crossing) 50 feet downstream from centerline	*525
			Upstream limit of Detailed Study at centerline of road	*534
		Tug Creek	Confluence with Four Mile Creek	503
			Hill Road at centerline	*504
			Second Private Drive upstream of Hill Road at centerline	*511
			Lower Tug Fork Road 50 feet upstream from centerline	*548
			Upstream limit of Detailed Study at centerline	*598
		Pond Creek	Pond Creek Road 50 feet downstream from centerline	*518
			Miller Road 50 feet downstream from centerline	*644
			Larvin Road at centerline	*666
			Upstream limit of Detailed Study 50 feet downstream from centerline	*682
Woodlawn Creek	Kentucky Highway 5 in backwater area from Ohio River at centerline	*499		
Maps available at Campbell County Courthouse, 20 West 4th Street, Newport, Kentucky				
Kentucky	Unincorporated Areas of Franklin County (FEMA-5973)	Elkhorn Creek	Just upstream of Louisville and Nashville Railroad	*641
			Approximately 400 feet at downstream of County Road 1262	*515
			Just downstream of Peaks Mill Road	*558
			Approximately 60 feet upstream of Old Grand Dad Distillery Road	*654
		North Elkhorn Creek	Approximately 800 feet upstream of South Trimble Memorial Road	*658
		South Elkhorn Creek	Just upstream of the Dam	*654
		Kentucky River (Near Elkhorn Creek)	At the confluence of Elkhorn Creek	*498
		Kentucky River (at downstream of the City of Frankfort)	At Lock and Dam No. 4	*507
			At the confluence of Benson Creek	*508
		Kentucky River (At upstream of the City of Frankfort)	Just downstream of the east-west connector	*509
			Just downstream of I-64 (west bound)	*510
		Benson Creek	Approximately 250 feet upstream of Louisville Road (U.S. 460)	*715
			Just upstream of Kentucky 151	*728
		South Benson Creek	Just upstream of Pea Ridge Road	*617
			Just upstream of Midland Trail (U.S. 60 and 460)	*686
			Just upstream of I-64 east bound	*706
			Approximately 300 feet at upstream of Bridgeport Road	*694
	Approximately 150 feet at downstream of South Benson Road	*728		
Cedar Run	Just upstream of I-64 west bound	564		
	Just upstream of Interstate Highway 64 east bound	*578		
Maps available for inspection at Franklin County Courthouse, Judge's Office, 224 St. Clair Street, Frankfort, Kentucky 40601.				

## Final Base (100-Year) Flood Elevations—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. Elevation in feet (NGVD)
Kentucky	Unincorporated Areas of Scott County (FEMA-5973)	North Elkhorn Creek	Just upstream of U.S. Highway 227	*776
			Just upstream of Crumbaugh Road	*817
		Cane Run	Just upstream of U.S. Highway 460	*778
			Just upstream of U.S. Highway 62	*805
			Just upstream of Etter Road	*819
		Cane Run Tributary	Just upstream of U.S. Highway 25 (Lexington Road)	*826
			Just upstream of Kentucky Highway 1963 (Lisle Road)	*839
		Dry Run Creek	Just upstream of confluence with Cane Run	*828
			Just upstream of confluence with North Elkhorn Creek	*800
		Locust Fork	Just upstream of Southern Railway	*815
			Just upstream of Kentucky Highway 1689	*743
		Eagle Creek	Just upstream of confluence of Lecomptes Run, Kentucky Highway 1689	*747
			Just upstream of Southern Railway	*780
Maps available for inspection at Scott County Courthouse, Main Street, Georgetown, Kentucky 40324.				
Kentucky	City of Worthington, Greenup County (FEMA-5973)	Ohio River	At downstream corporate limits	*544
			At upstream corporate limits	*545
Maps available for inspection at City Hall, Ferry Street, Worthington, Kentucky 41183.				
Kentucky	City of Wurtland, Greenup County (FEMA-5973)	Ohio River	Entire area within the City of Wurtland	*544
			Maps available for inspection at City Hall, 500 Wurtland Avenue, Wurtland, Kentucky 41144.	
Louisiana	Town of Duson, Lafayette Parish (FEMA-5973)	Bayou Que de Tortue	Just upstream of Louisiana Highway 95	*32
			Just downstream of Louisiana Highway 343	*34
		Duson Branch	Just upstream of Southern Pacific Railroad	*34
Maps available for inspection at Town Hall, 802 First Street, Duson, Louisiana 70529.				
Louisiana	Town of Haughton, Bossier Parish (FEMA-5973)	Foxskin Bayou	Just upstream of southern corporate limits	*218
			Maps available for inspection at Town Hall, 114 West McKinley Street, Haughton, Louisiana 71037.	
Massachusetts	Fall River, City Bristol County (Docket No. FEMA-5912)	Mount Hope Bay	Tiverton/Fall River Corporate Limits to U.S. Route 6 Bridge	*15
			Taunton River	U.S. Route 6 Bridge to Fall River Corporate Limits
		Maps available for inspection at the City Clerk's Office, City Hall, 1 Government Center, Fall River, Massachusetts.		
New Jersey	Corbin City, city, Atlantic County (Docket No. FEMA-5966)	Tuckahoe River	Entire Shoreline	*9
			Maps available for inspection at the City Municipal Building, Route 50, Corbin City, New Jersey.	
New Jersey	Demarest, borough, Bergen County (Docket No. FEMA-5966)	Tenakill Brook	Downstream Corporate Limits	*32
			Upstream Hardenburgh Avenue	*37
		Demarest Brook	Upstream Corporate Limits	*39
			Downstream Corporate Limits	*40
		Cresskill Brook	Upstream Meadow Road	*42
			Downstream County Road	*45
			Downstream Corporate Limits	*43
			530' Downstream County Road	*45
		Downstream County Road	*50	
		Maps available for inspection at the Demarest Borough Hall, 118 Serpentine Road, Demarest, New Jersey.		
New Jersey	High Bridge, borough, Hunterdon County (Docket No. FEMA-5966)	Raritan River	Downstream Corporate Limits	*219
			Upstream Arch Street Bridge	*233
		Willoughby Brook	Upstream Conrail	*242
			Upstream Taylor-Wharton Railroad Bridge	*257
			Downstream Lake Solitude Dam	*263
			Upstream Lake Solitude Dam	*290
			Upstream Corporate Limits	*290
			Downstream Corporate Limits	*294
		Approximately 800' upstream of Corporate Limits	*304	
		Upstream Conrail	*322	
Upstream Corporate Limits	*330			
Maps available for inspection at the Office of the Borough Clerk, Municipal Building, 71 Main Street, High Bridge, New Jersey.				
New Jersey	Matawan, borough, Monmouth County (Docket No. FEMA-5947)	Matawan Creek	Downstream Corporate Limits	*12
			Upstream Corporate Limits at New Brunswick Avenue	*18
		Gravelly Run	Upstream Main Street	*22
			Upstream Conrail at Upstream Corporate Limits	*23
Maps available for inspection at the Matawan Borough Clerk's Office, 150 Main Street, Matawan, New Jersey.				
New Jersey	Plumsted, township, Ocean County (Docket No. FEMA-5973)	Crosswicks Creek	Downstream Corporate Limits (State Route 537)	*68
			Upstream Conrail	*72
		Stonyford Brook	Upstream Corporate Limits	*74
			Confluence with Crosswicks Creek	*72
		Moorehouse Road	*77	
Maps available for inspection at the office of the Township Clerk, 31 Main Street, New Egypt, New Jersey.				
New Jersey	Township of Pohatcong, Warren County (Docket No. FEMA-5853)	Delaware River	At Riegelsville Bridge	*160

## Final Base (100-Year) Flood Elevations—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 5,000 feet downstream of confluence of Pohatcong Creek.	*166
			At confluence of Pohatcong Creek.	*171
			Approximately 7,600 feet upstream of confluence of Pohatcong Creek.	*173
			Approximately 2,000 feet downstream of Corporate Limits.	*179
			At upstream Corporate Limits.	*180
		Musconetcong River	At Conrail Bridge.	*159
			At Mount Joy Road.	*163
			Approximately 4,100 feet downstream of Willow Lane.	*169
			Upstream of Willow Lane.	*176
			Approximately 3,000 feet downstream of Milford-Warren Glen Road.	*186
			Approximately 1,100 feet downstream of Milford-Warren Glen Road.	*194
			Upstream of Milford-Warren Glen Road.	*204
			Approximately 1,700 feet upstream of Milford-Warren Glen Road.	*212
			Approximately 2,000 feet downstream of Riegel Paper Company Dam.	*219
			Approximately 1,100 feet downstream of Riegel Paper Company Dam.	*225
			Approximately 100 feet downstream of Riegel Paper Company Dam.	*231
			Upstream of Riegel Paper Company Dam.	*255
			At upstream Corporate Limits.	*260
		Pohatcong Creek	At Conrail Bridge.	*171
			At Creek Road.	*179
			At Winters Road.	*185
			Approximately 400 feet downstream of State Route 519.	*193
			At State Route 519.	*196
			Approximately 400 feet downstream of Conrail Bridge.	*205
			At Conrail Bridge.	*206
			At Municipal Drive Bridge.	*209
			At Still Valley Road.	*210
			At Conrail Bridge.	*223
			Approximately 1,700 feet upstream of Conrail Bridge.	*227
		Tributary #1 to Pohatcong Creek	At Still Valley Road.	*212
			Approximately 300 feet upstream of Still Valley Road.	*218
			At downstream side of Conrail Bridge.	*224
			At upstream side of Conrail Bridge.	*239
			Approximately 900 feet upstream of Conrail Bridge.	*244
		Lopatcong Creek	At downstream side of Corporate Limits.	*210
			Upstream side of Chestnut Street.	*215
			Upstream Corporate Limits.	*217
Maps available for inspection at the Town Hall, Municipal Drive, Pohatcong, New Jersey.				
New York	Big Flats, town, Chemung County (Docket No. FEMA-5944).	Chemung River	Downstream Corporate Limits.	*869
			Approximately 18,000 feet above downstream Corporate Limits.	*882
			Upstream of South Corning Road.	*895
			Upstream Corporate Limits.	*898
		Sing Sing Creek	Confluence with Chemung River.	*882
			Approximately 500 feet upstream of confluence with Cuthrie Run.	*892
			Upstream of Suburban Drive.	*902
			Downstream of Main Street.	*914
			Upstream of Conrail.	*920
			Upstream of Farm Road.	*931
			Upstream of Haul Road Bridge.	*937
			Approximately 300 feet upstream of Schweitzer Road.	*949
			Downstream of Sing Sing Road.	*966
			Downstream of Beers Hill Road.	*1,006
			Upstream Corporate Limits.	*1,024
		Cuthrie Run	Confluence with Sing Sing Creek.	*891
			Downstream of Conrail.	*900
			Approximately 1,700 feet upstream of State Route 17.	*928
			Approximately 3,600 feet upstream of State Route 17.	*943
			Approximately 600 feet downstream of Sing Sing Road.	*960
			Upstream of Sing Sing Road.	*978
			Approximately 1,380 feet downstream of Hubbard Road.	*993
			Downstream of Hubbard Road.	*1,008
			Upstream of Hubbard Road.	*1,015
		Gardner Creek	Confluence with Chemung River.	*891
			State Route 17.	*895
		Markle Hollow	Approximately 1,800 feet downstream of Corporate Limits.	*915
			Approximately 1,200 feet downstream of Corporate Limits.	*930
			Approximately 660 feet downstream of Corporate Limits.	*946
			Approximately 60 feet downstream of Corporate Limits.	*962
			Corporate Limits.	*965

## Final Base (100-Year) Flood Elevations—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Owen Hollow Creek	Confluence with Gardner Creek	*893
			Upstream of State Route 17	*899
			Approximately 400 feet upstream of Hillview Drive	*905
			Approximately 2,725 feet upstream of Hillview Drive	*910
			Approximately 850 feet downstream of Chestnut Street	*930
			Downstream of Chestnut Street	*941
			Approximately 550 feet upstream of Chestnut Street	*950
			Approximately 950 feet upstream of Chestnut Street	*970
			Approximately 1,400 feet upstream of Chestnut Street	*983
Maps available for inspection at the Town Clerk's Office, Big Flats Town Hall, 476 Maple Street, Big Flats, New York.				
New York	Boston, Town Erie County (Docket No. FEMA-5978)	Eighteen Mile Creek	Downstream Corporate Limits	*801
			Upstream of Spillway Dam	*812
			Upstream of Zimmerman Road	*817
			Approximately 4,600' upstream of Zimmerman Road	*825
			Approximately 9,500' upstream of Zimmerman Road	*835
			Approximately 12,500' upstream of Zimmerman Road	*845
			Approximately 16,600' upstream of Zimmerman Road	*855
			Shero Road	*860
			Approximately 3,200' upstream of Shero Road	*870
			Upstream of Polish Hill Road	*884
			Approximately 2,700' upstream of Polish Hill Road	*885
			Approximately 4,900' upstream of Polish Hill Road	*905
			Approximately 7,200' upstream of Polish Hill Road	*915
			Upstream of Mill Street	*924
			Spillway Dam 1,800' downstream of Travett Road	*937
			Upstream of Travett Road	*950
			Upstream of Corporate Limits	*976
Maps available for inspection at the Boston Town Hall, 8500 Boston State Road, Boston, New York.				
New York	Ithaca, City Tompkins County Lake (Docket No. FEMA-5947)	Cayuga Lake	Entire Shoreline within City of Ithaca	*388
		Cayuga Inlet	Confluence with Cayuga Lake	*386
			Confluence of Cascadikka Creek	*387
			Downstream confluence of Old Inlet	*387
			State Routes 78, 89, and 96	*388
			Upstream confluence of Old Inlet	*388
			Upstream Corporate Limits	*400
		Cascadikka Creek	Confluence with Cayuga Inlet	*387
			Upstream North Cayuga Street	*396
			Upstream North Tioga Street	*403
			350' upstream Linn Street	*416
		Fall Creek	Confluence with Cayuga Lake	*385
			110' downstream Lake Street	*396
		Old Inlet	Downstream confluence with Cayuga Inlet	*387
			Confluence with Sixmile Creek and Relief Channel	*388
			Upstream confluence with Cayuga Inlet	*398
		Relief Channel	Confluence with Old Inlet	*388
			Approximately 4,000' upstream of confluence with Old Inlet	*388
		Sixmile Creek	Confluence with Old Inlet	*388
			100' downstream West Clinton Street	*398
			Approximately 60' upstream North Aurora Street	*408
			900' upstream North Aurora Street	*418
			60' downstream Footbridge	*429
			980' upstream Footbridge	*439
			1,320' upstream Footbridge	*442
Maps available for inspection at the City Clerk's Office, 108 E. Green Street, Ithaca, New York.				
New York	Minetto, Town Oswego County (Docket No. FEMA-5973)	Oswego River	Downstream Corporate Limits	*297
			Downstream Dam	*298
			Upstream Dam	*314
			Upstream Corporate Limits	*316
		Benson Creek	Upstream Conrail First downstream crossing	*304
			Upstream Worden Road	*313
			Approximately 250' downstream of Minetto-Lysander Road	*320
Maps available for inspection at the Minetto Town Hall, Route 48, Minetto, New York.				
New York	Oswego, Town Oswego County (Docket No. FEMA-5973)	Lake Ontario	Entire Shoreline	*249
		Camp Creek	Confluence with Lake Ontario	*249
			550' upstream from confluence with Lake Ontario	*259
			Upstream from West Lake Road	*269
			Upstream of confluence of Camp Creek Tributary	*270
		Camp Creek Tributary	Confluence with Camp Creek	*270
			2,350' upstream from confluence of Camp Creek	*281
			Downstream from California Road	*288
			Upstream from California Road	*297
			Upstream from U.S. Route 104A	*301
Maps available for inspection at the Oswego Town Hall, Johnson Road, Oswego, New York.				
New York	Stony Point, Town Rockland County (Docket No. FEMA-5966)	Hudson River	Entire shoreline within community	*8
		Tributary No. 1 to Hudson River	Confluence with Hudson River	*8
			Downstream of Stony Point State Park	*12
			Upstream of Stony Point State Park	*15
			Approximately 200' upstream of calvert	*25



## Final Base (100-Year) Flood Elevations—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 25' downstream of most upstream crossing of Park Road.	*40
			Approximately 200' upstream of most upstream crossing of Park Road.	*60
			Approximately 450' upstream of most upstream crossing of Park Road.	*82
			Downstream of Lighthouse Court Culvert	*86
			Upstream of Lighthouse Court Culvert	*102
			Downstream of Maryann Court	*113
			Upstream of Maryann Court	*118
			Downstream of Adams Drive	*125
			Upstream of Adams Drive	*130
			Approximately 330' upstream of Adams Drive	*160
			Approximately 640' upstream of Adams Drive	*190
			Approximately 1,025' upstream of Adams Drive	*220
			Wayne Avenue	*224
		Cedar Pond Brook	Confluence with Hudson River	*8
			Upstream of Lowland Hill Road	*14
			Upstream of U.S. Routes 9W and 202	*25
			Approximately 700' upstream of U.S. Routes 9W and 202	*35
		Tributary to Cedar Pond Brook	Confluence of Tributary to Cedar Pond Brook	*51
			Confluence with Cedar Pond Brook	*51
			Approximately 350' upstream of confluence with Cedar Pond Brook	*60
			Downstream of State Route 210	*72
			Downstream of Private Drive	*85
			Upstream of Private Drive	*94
			Upstream of Washburns Lane	*101
			Downstream of Sengstacken Road Culvert	*112
			Upstream of Sengstacken Road Culvert	*118
			Upstream of Central Highway and Filors Lane	*132
			Upstream Corporate Limits	*141
Maps available for inspection at the Stony Point Town Hall, 74 East Main Street, Stony Point, New York.				
New York	West Haverstraw, Village Rockland County (Docket No. FEMA-5973).	Hudson River	Backwater affecting northeast corner of community adjacent to Grassy Point Road.	*8
		Mini-sceongo Creek	Downstream Corporate Limits	*13
			Approximately 650' upstream of Samsondale Avenue	*23
			Approximately 1,460' upstream of Samsondale Avenue	*33
			Upstream Conrail	*42
			Approximately 240' downstream of U.S. Route 9W and 202	*53
			Upstream U.S. Routes 9W & 202	*63
			Approximately 780' upstream of U.S. Routes 9W & 202	*73
			Approximately 1,320' upstream of U.S. Routes 9W & 202	*83
			Approximately 1,740' upstream of U.S. Routes 9W & 202	*93
			Approximately 2,080' upstream of U.S. Routes 9W & 202	*103
			Approximately 2,420' upstream of U.S. Routes 9W & 202	*113
			Downstream of 1st Dam	*123
			Upstream of 1st Dam	*140
			Upstream of Main Street	*153
			Downstream of 2nd Dam	*166
			Upstream of 2nd Dam	*179
			Upstream Corporate Limits	*179
Maps available for inspection at the West Haverstraw Village Hall, 15 Bridge Street, Garnerville, New York.				
Oklahoma	Town of Maysville, Garvin County (FEMA-5966)	Beef Creek	Just upstream of Williams Street	*939
			Just downstream of Mays Street	*941
Maps available for inspection at City Hall, 510 West Main Street, Maysville, Oklahoma 73057.				
Oklahoma	Town of Valley Brook, Oklahoma County (FEMA-5757)	Crooked Oak Creek	Just upstream of S.E. 59th Street	*1,236
Maps available for inspection at City Hall, 6315 Camille Avenue, Valley Brook, Oklahoma 73149.				
Pennsylvania	Abington, Township Lackawanna County (Docket No. FEMA-5973).	Ackerly Creek	Upstream of Ackerly Road	*1,068
			Downstream of Conrail culvert	*1,075
			Upstream of conrail crossing approximately 750' upstream of downstream Corporate Limits	*1,087
			400' upstream of Conrail culvert	*1,100
			Downstream of Oakford Glen Dam	*1,113
			Upstream of Oakford Glen Dam	*1,134
			Downstream of Oakford Glen Road	*1,144
			Upstream of Second Golf Course Bridge	*1,155
			Approximately 40' downstream of Abington Road	*1,168
Maps available for inspection at the Township Offices, Abington, Pennsylvania.				
Pennsylvania	Bethel, Township Lebanon County (Docket No. FEMA-5973).	Little Swatara Creek	Approximately 1,500' upstream of Legislative Route 38002	*447
			Upstream Corporate limits	*453
		Monroe Creek	Downstream Corporate Limits	*452

## Final Base (100-Year) Flood Elevations—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground Elevation in feet (NGVD)
			Upstream Township Route 740	*458
			Downstream Legislative Route 38049	*469
			Downstream Lake Weiss Dam	*474
			Upstream Lake Weiss Dam	*482
			Downstream Lake Strause Dam	*493
			Approximately 2,770' upstream Lake Strause Dam	*503
		Beach Run	Confluence with Deep Run	*437
			Upstream Pennsylvania Route 343	*448
			Upstream U. S. Route 22	*456
			Upstream Main Street	*461
			Upstream Legislative Route 38050	*470
			Upstream Township Route 504	*477
			Approximately 420' upstream Township Route 504	*479
		Deep Run	Confluence with Beach Run	*437
			Upstream U. S. Route 22	*442
			Upstream Township Route 601	*459
			Upstream Main Street	*464
			Downstream First Private Road	*476
			Downstream Second Private Road	*482
			Approximately 260' upstream of Second Private Road	*484
Maps available for inspection at the Township Building, Bethel, Pennsylvania.				
Pennsylvania	Cain, Township Chester County (Docket No. FEMA-5973)	East Branch Brandywine Creek	Downstream Corporate Limits	*242
			State Route 282	*245
			U. S. Route 30 (Downington Coatesville by-pass) (Upstream side)	*249
			Upstream Corporate Limits	*252
		Beaver Creek	Downstream Lloyd Avenue (Upstream side)	*250
			Confluence of Valley Run	*259
			Approximately 1,500' upstream confluence of Valley Run	*266
			Approximately 1,000' downstream U.S. Route 30 (Downington-Coatesville by-pass)	*274
			Approximately 240' downstream U. S. Route 30 (Downington-Coatesville by-pass)	*282
		Valley Run	Confluence with Beaver Creek	*250
			Bondsville Road (Downstream side)	*277
			Private Road (Upstream side)	*284
			Municipal Drive (Upstream side)	*297
			Bailey Road (Upstream side)	*303
			Bailey Sheaf Road (Downstream side)	*318
			Loomis Avenue (Upstream side)	*322
			Seltzer Avenue (Upstream side)	*330
			Approximately 950' upstream of Seltzer Avenue	*336
Maps available for inspection at the Township Building, Municipal Drive, Cain, Pennsylvania.				
Pennsylvania	Carbondale, Township Lackawanna County (Docket No. FEMA-5973)	Lackawanna River	Downstream Corporate Limits	*980
			Meredith Street (Upstream side)	*987
			Approximately 1,400' upstream Meredith Street	*997
			Upstream Corporate Limits	*1,005
Maps available for inspection by contacting Mr. Cavage, Carbondale Township Supervisor at (717) 262-4808				
Pennsylvania	Coal Center, Borough Washington County (Docket No. FEMA-5888)	Monongahela River	Downstream Corporate Limits	*767
			Upstream Corporate Limits	*767
Maps available for inspection at the Borough Building, Water Street, Coal Center, Pennsylvania.				
Pennsylvania	Cumberland, Township Adams County (Docket No. FEMA-5973)	Rock Creek	Approximately 100' upstream of U.S. Route 15	*422
			Approximately 200' upstream of U. S. Route 140	*432
			Approximately 1,400' upstream of U. S. Route 140	*443
			Approximately 2,000' downstream of State Route 116	*473
			Downstream U. S. Business Route 15	*482
			Confluence with Rock Creek Tributary 3	*490
		Rock Creek Tributary 3	Upstream Miller Road (T 508)	*482
			Upstream Put Road	*506
		Marsh Creek	Downstream Dam	*439
			Upstream U. S. Business Route 15	*448
			Downstream Red Rock Road	*459
			Downstream Legislative Route 01025	*467
Maps available for inspection at the Township Municipal Building, Cumberland, Pennsylvania.				
Pennsylvania	Delaware, Township Juniata County (Docket No. FEMA-5955)	Juniata River	Downstream Corporate Limits	*409
			Approximately 1.0 mile upstream from downstream corporate limits	*412
			Approximately 2.0 miles upstream from downstream corporate limits	*414
			Confluence of Delaware Creek	*417
			Upstream of Thompsonstown Bridge	*418
			Confluence of Locust Run	*419
			Upstream Corporate Limits	*422
		Delaware Creek	Confluence with Juniata River	*417
			Thompsonstown downstream Corporate Limits	*423
			Thompsonstown upstream Corporate Limits	*451

## Final Base (100-Year) Flood Elevations—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream of U.S. Routes 22-322 East Bound Lane	*453
			Upstream of Access Ramp	*462
			Upstream of Legislative Route 275	*472
			Approximately 150 feet downstream of Evans Hollow Road	*490
			Approximately 460 feet upstream of Evans Hollow Road	*497
			Approximately 2,440 feet upstream of Evans Hollow road opposite Legislative Route 275 and Township route 422 intersection.	*525
			Approximately 990 feet downstream of Private Road crossing	*535
			Downstream of Private Road	*543
			Upstream of Legislative Route 275	*550
			Confluence of White Oak Hollow Run	*557
			Downstream of Legislative Route 34017 (extended)	*565
			Confluence of Kurtz Valley Run	*569
			Downstream of Legislative Route 637	*575
			Upstream of Legislative Route 637	*579
			Downstream of Township Route 471	*589
			Approximately 800 feet upstream of Township Route 471	*597
			Upstream of Legislative Route 275	*605
			Upstream of 2nd crossing of Township Route 436	*612
			Downstream of Township Route 461	*618
			Downstream of Private Driveway	*621
			Downstream of Township Route 34021 (extended)	*637
			Upstream of Private Driveway	*655
			Downstream of State Route 235	*662
		Tributary 9	Confluence with Delaware Creek	*619
			Upstream of Private Driveway	*621
			Downstream of Private Driveway (extended)	*630
			Approximately 1,920 feet upstream of Private Driveway Crossing	*633
		Locust Run	Confluence with Juniata River	*419
			Downstream of Township Route 393	*424
			Approximately 1,100 feet upstream of Township Route 393	*434
			Upstream Corporate Limits	*443
Maps available for inspection at the residence of the Township Secretary, Ms. Kay Lukens, R. D. 1, Thompaortown, Pennsylvania.				
Pennsylvania	Fell, Township Lackawanna County (Docket No. FEMA-5973).	Lackawanna River	Downstream Corporate Limits	*1,096
			Upstream of Morse Avenue	*1,130
			Upstream of Main Street (State Route 171)	*1,136
			Approximately .43 mile upstream of Main Street (State Route 171)	*1,161
		Wilson Creek	Confluence with Lackawanna River	*1,133
			Upstream of Conrail	*1,142
			Upstream of Delaware and Hudson Railroad	*1,149
			Upstream of Midland Street	*1,153
			Approximately .15 mile upstream of Midland Street	*1,177
			Approximately .3 mile upstream of Midland Street	*1,201
			Downstream of Main Street (State Route 171)	*1,221
Maps available for inspection at the Fell Township Building, Fell, Pennsylvania.				
Pennsylvania	Heidelberg, Township York County (Docket No. FEMA-5973).	Codorus Creek	Downstream Corporate Limits	*464
			York Road (downstream side)	*477
			Township Route 374 (upstream side)	*492
			Legislative Route 66007 (upstream side)	*501
			township Route 377 (upstream side)	*509
		Oil Creek	Confluence with Codorus Creek	*464
			Private Drive approximately 4,800' upstream of Corporate Limits (upstream side)	
			Moulstown Road (upstream side)	*475
			Legislative Route 66009 (upstream side)	*498
			Maryland and Pennsylvania Railroad bridge (downstream side)	*508
			Legislative Route 66007 (upstream side)	*515
			Township Route 341 (downstream side)	*531
			Upstream Corporate Limits	*536
		Giotts Run	Approximately 380 feet downstream of Maryland and Pennsylvania Railroad bridge	*546
			Maryland and Pennsylvania Railroad Bridge (upstream)	*557
Maps available for inspection at the Heidelberg Township Municipal Building (Porter Fire Hall).				
Pennsylvania	Hermitage, Municipality Mercer County (Docket No. FEMA-5696).	Shenango River	Downstream Corporate Limits	*833
			Conrail (upstream of Corporate Limits extended)	*834
		Hogback	Sample Road (Upstream)	*1,080
			Approximately 350' upstream of Private Drive	*1,090
			Approximately 1,680' downstream Plawkey Lane	*1,102
			Plawkey Lane (Upstream)	*1,116
			Sonoff Lane (Upstream)	*1,124
			South Keel Ridge Road (Upstream)	*1,129
			Virginia Road (Downstream)	*1,132
		Bobby Run	Longview Road (Upstream)	*924

## Final Base (100-Year) Flood Elevations—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 1,500' upstream Longview Road.....	*946
			Approximately 2,450' upstream Longview Road.....	*957
			Approximately 3,800' upstream Longview Road.....	*966
			Approximately 1,600' downstream Rombold Road.....	*974
			Approximately 450' downstream Rombold Road.....	*985
		Golden Run.....	Private Drive approximately 0.5 mile upstream Casady Road (Upstream).....	*1,096
			Robertson Road (Upstream).....	*1,105
			Lamor Road (Upstream).....	*1,109
			Approximately 2,550' upstream Lamor Road.....	*1,122
			Scott Drive (extended).....	*1,132
		Baker Run.....	Approximately 400' upstream East State Street.....	*1,093
			Woodside Drive (Upstream).....	*1,102
			Highland Road (Downstream).....	*1,113
			Richmond Drive (Upstream).....	*1,118
			Cohasset Drive (Upstream).....	*1,121
			North Buhl Farm Drive (Downstream).....	*1,132
		West Branch Pine Hollow Run.....	U.S. Route 62 Bypass (Upstream).....	*1,072
			Approximately Upstream 180' upstream Sunset Boulevard.....	*1,082
			Easton Road (Upstream).....	*1,094
			Morefield Road (Downstream side).....	*1,109
Maps available for inspection at the Municipal Building, Hermitage, Pennsylvania.				
Pennsylvania	Jackson, Township York County (Docket No. FEMA-5973)	Codorus Creek.....	Hershey Road (Upstream).....	*444
			Dam (Upstream).....	*458
			Confluence with Oil Creek.....	*464
		Oil Creek.....	Confluence with Codorus Creek.....	*464
			Moulstown Road (Upstream).....	*468
		Little Conewago.....	Downstream Corporate Limits.....	*411
			Confluence with Paradise Creek.....	*417
			Pine Road (Upstream).....	*443
			U.S. Route 30 (Upstream).....	*450
			Grant Road (Upstream).....	*460
			Airport Road (Upstream).....	*469
			LaBott Road (Downstream).....	*479
			Approximately 2,050' upstream of LaBott Road.....	*489
			Approximately 3,150' upstream of LaBott Road.....	*499
			Approximately 3,900' upstream of LaBott Road.....	*509
			Roths Church Road (Upstream).....	*521
		Paradise Creek.....	Lefever Road (Upstream).....	*427
			East Berlin Road (Upstream).....	*437
			Shady Dell Road (Upstream).....	*445
		Tributary.....	Confluence with Little Conewago Creek.....	*459
			Airport Road (Upstream).....	*466
			Main Street (Upstream).....	*473
Maps available for inspection at the Township Building, Roth Church Road, Jackson, Pennsylvania.				
Pennsylvania	Jackson, Township Lebanon County (Docket No. FEMA-5973)	Tupehocken Creek.....	Legislative Route 38015 (Upstream).....	*417
			Township Route 618 (Upstream).....	*426
			Township Route 578 (Upstream).....	*440
			Township Route 614 (Upstream).....	*450
			Township Route 572 (Upstream).....	*459
			Township Route 560 (Upstream).....	*467
			Approximately 120' upstream U.S. Route 422.....	*462
			Upstream Corporate Limits.....	*485
		Owl Creek.....	Confluence with Tulpehocken Creek.....	*438
			*427 Township Route 500 (Upstream).....	*451
			Approximately 3,000' upstream Township Route 500.....	*426
		Tributary A.....	Confluence with Tulpehocken Creek.....	*432
			Conrail (Upstream).....	*433
			Approximately 1,060' upstream Township Route 405.....	*451
		Tributary B.....	Confluence with Tulpehocken Creek.....	*461
			Township Route 500 (Upstream).....	*470
			U.S. Route 422 (Upstream).....	*478
			Jackson Avenue (Upstream).....	*509
			Approximately 2,300' upstream Jackson Avenue.....	*467
		Tributary C.....	Confluence with Tulpehocken Creek.....	*472
			U.S. Route 422 (Upstream).....	*485
			Township Route 489 (Upstream).....	*499
			Approximately 3,680' upstream Township Route 489.....	*444
		Tributary D.....	Confluence with Owl Creek.....	*447
			Approximately 1,150' upstream of confluence with Owl Creek.....	*447
Maps available for inspection at the Jackson West Elementary School, Jackson, Pennsylvania.				
Pennsylvania	Mayfield, Borough Lackawanna County (Docket No. FEMA-5973)	Lackawanna River.....	Downstream Corporate Limits.....	*948
			Poplar Street (Downstream).....	*952
			Approximately 450' upstream of Poplar street.....	*961
			Confluence of Powderly Creek.....	*968
			800' downstream of upstream.....	*976
			Upstream Corporate Limits.....	*980
Maps available for inspection at the Borough Building, Mayfield, Pennsylvania.				

## Final Base (100-Year) Flood Elevations—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)		
Pennsylvania	North Whitehall, Township Lehigh County (Docket No. FEMA-5973).	Lehigh River	Downstream Corporate Limits	*903		
			Old Laury Dam (Downstream)	*314		
			Old Laury Dam (Upstream)	*318		
			State Route 145 (Upstream)	*331		
			Treichlers Dam (Downstream)	*334		
			Treichlers Dam (Upstream)	*345		
			Confluence of Rockdale Creek	*347		
			Upstream Corporate Limits	*351		
			Jordan Creek	Downstream Corporate Limits	*356	
				Kernsville Road (Upstream)	*362	
				Approximately 1,500' upstream of Kernsville Road	*366	
		Copley Creek	Township Route 593 (Upstream)	*371		
			Downstream Corporate Limits	*372		
			Driveway approximately 470' downstream of Township Route 695 (Upstream)	*379		
			Township Route 695 (Upstream)	*383		
			Hill Street (Upstream)	*388		
			Upstream Abandoned Bridge approximately 1,940' upstream of Hill Street (Downstream)	*392		
			Walnut Street (Upstream)	*396		
			Willow Street (Upstream)	*402		
			Driveway approximately 5,000' Upstream of Willow Street (Upstream)	*410		
			Driveway approximately 1,800' downstream of Golf Course Road (Upstream)	*414		
			Golf Course Road (Upstream)	*426		
			Coffeetown Road (L.R. 39012) (Downstream)	*437		
			Approximately 1,500' upstream of Coffeetown Road (L.R. 39012)	*447		
			Approximately 2,100' upstream of Coffeetown Road (L.R. 39012)	*452		
			Levans Road (Downstream)	*460		
			Levans Road (Upstream)	*465		
			Approximately 1,230' upstream of Levans Road	*474		
			Approximately 1,480' downstream of Township Route 691	*484		
			Township Route 691 (Upstream)	*498		
			Approximately 860' upstream of Township Route 691	*504		
			Sand Springs Road (Downstream)	*514		
			Township Route 674 (Downstream)	*521		
			Township Route 674 (Upstream)	*525		
		Approximately 950' downstream of upstream crossing of Township Route 674	*535			
		Upstream crossing of Township Route 674 (Downstream)	*542			
		Upstream crossing of Township Route 674 (Upstream)	*546			
		Excelsior Road (Upstream)	*556			
		State Route 329 (Upstream)	*569			
		Maps available for inspection at the North Whitehall Township Building, R.D. 1, Copley, Pennsylvania.				
		Pennsylvania	Peach Bottom, Township York County (Docket No. FEMA-5955).	Susquehanna River	Approximately 8,500 feet downstream of upstream corporate limits	*115
					Upstream corporate limits	*117
					Muddy Creek	Confluence of Scott Creek
				Upstream side of Maryland and Pennsylvania Railroad		*227
				Upstream side of Dam		*237
				Approximately 8,100 feet downstream of upstream corporate limits		*277
				Approximately 5,400 feet downstream of upstream corporate limits		*287
				Approximately 2,100 feet downstream of upstream corporate limits		*297
				Upstream corporate limits		*302
				Fishing Creek	Confluence with Muddy Creek	*228
					Approximately 1,060 feet upstream of confluence with Muddy Creek	*237
					Approximately 1,660 feet upstream of confluence with Muddy Creek	*247
					Approximately 920 feet downstream of Woodbine road	*257
					Upstream side of Woodbine Road	*265
					Upstream side of Private Drive	*268
					Upstream side of Rock Dam	*281
Upstream side of Barr Road Bridge	*310					
Upstream side of Bryansville Road	*366					
Upstream side of Kilgore Road	*367					
Approximately 1,400 feet upstream of Kilgore Road	*377					
Approximately 1,750 feet downstream of Whiteford Road	*387					
Approximately 850 feet downstream of Whiteford road	*397					
Downstream of Whiteford Road	*406					
Upstream side of Whiteford Road	*412					
Upstream side of (first) Hollow Road Bridge	*425					
Upstream side of (second) Hollow Road Bridge	*434					
Approximately 2,140 feet downstream of (third) Hollow Road Bridge	*454					

## Final Base (100-Year) Flood Elevations—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
			Approximately 800 feet downstream of (third) Hollow Road Bridge	*474
			Upstream side of (third) Hollow Road Bridge	*493
		Bald Eagle Creek	Upstream corporate limits	*301
		Neill Run	Confluence with Fishing Creek	*266
			Approximately 5,100 feet upstream of confluence with Fishing Creek	*355
			Approximately 5,460 feet downstream of Gemmill Road	*380
			Approximately 1,970 feet downstream of Gemmill Road	*420
			Upstream side of Gemmill Road	*440
			Approximately 2,400 feet upstream of Gemmill Road	*460
			Approximately 540 feet downstream of Whiteford Road	*480
		Scott Creek	Upstream of Whiteford Road	*490
			Confluence with Muddy Creek	*222
			Upstream side of (first) Maryland-Pennsylvania Railroad Bridge	*228
			Upstream side of Private Drive	*230
			Upstream side of Bryansville Road	*236
			Approximately 1,250 feet upstream of Bryansville Road	*246
			Approximately 350 feet downstream of (second) Maryland-Pennsylvania Railroad bridge	*256
			Upstream side of (second) Maryland-Pennsylvania Railroad bridge	*265
			Upstream side of (third) Maryland-Pennsylvania Railroad bridge	*294
			Approximately 1,200 feet upstream of (third) Maryland-Pennsylvania Railroad bridge	*304
			Upstream side of State Route 74	*323
			Upstream side of Watson Road	*330
			Upstream side of (fourth) Maryland-Pennsylvania Railroad bridge	*345
			First upstream corporate limits	*362
			Upstream side of (fifth) Maryland-Pennsylvania Railroad bridge	*366
			Upstream side of Township Route 798	*378
			2nd downstream corporate limits	*380
			Approximately 2,000 feet upstream of 3rd downstream corporate limits	*400
			Approximately 380' downstream of 3rd upstream corporate limits	*406
			Third upstream corporate limits	*410
			Approximately 380 feet upstream of 3rd upstream corporate (State Boundary, Extended)	*415
		Michael Run	Approximately 125 feet downstream of Cooper Road	*269
			Upstream side of Cooper Road	*273
			Approximately 2,200 feet upstream of Cooper Road	*290
			Approximately 1,010 feet downstream of Flintville Road	*313
			Upstream of Flintville Road	*326
Maps available for inspection at the Peach Bottom Township Building, R. D. 2, Delta, Pennsylvania.				
Pennsylvania	Providence, Township Lancaster County (Docket No. FEMA-5845)		Upstream of Radcliff Road	*287
			Approximately 0.6 mile upstream of Radcliff Road	*293
			Approximately 900 feet downstream of Bysland Church Road	*295
			Downstream confluence of Huber Run	*296
			Upstream of State Route 272	*297
			Approximately 0.3 mile upstream of Township Route 493 (Herville Road) and corporate limits	*298
		Big Beaver Creek	Approximately 650 feet downstream of private lane	*353
			Upstream of private lane	*355
			Approximately 0.3 mile upstream of private lane	*361
			Approximately 0.3 mile downstream of Main Street	*366
			Downstream of Main Street	*373
			Downstream of confluence of Tributary B	*378
			Downstream of confluence of South Fork	*389
		South Fork	Upstream of confluence with Big Beaver Creek	*391
			Camargo Road (extended)	*395
			Approximately 0.4 mile upstream of Main Street	*400
			Approximately 0.63 mile upstream of Main Street	*405
			Downstream of confluence of Tributary C	*408
			Approximately 1600 feet upstream of confluence of Tributary C	*420
			Upstream of Farm Lane	*426
			Approximately 1600 feet upstream of Farm Lane	*434
			Upstream of L.R. 36172	*441
			Downstream of Conrail	*443
			Upstream of Conrail	*445
			Approximately 900 feet downstream of upstream corporate limits	*455
			Upstream corporate limits	*460
Maps available for inspection at the Providence Township Building, New Providence, Pennsylvania.				

## Final Base (100-Year) Flood Elevations—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)			
Pennsylvania	Schwenksville, Borough Montgomery County (Docket No. FEMA-5973)	Perkiomen Creek	Downstream Corporate Limits	*141			
			Confluence of Mine Run#144				
			Upstream Park Avenue	*146			
			Upstream Corporate Limits	*146			
Maps available for inspection at the residence of Ms. Patricia Katona, Borough Secretary, 806 Mountain Avenue, Schwenksville, Pennsylvania.							
Pennsylvania	Upper Mount Bethel, Township Northampton County (Docket No. FEMA-5955)	Delaware River	Downstream Corporate Limits	*255			
			Confluence of Allegheny Creek	*264			
			Confluence of Delawanna Creek (in New Jersey)	*263			
			Downstream Corporate Limits (Portland Borough)	*292			
			Upstream Corporate Limits (Portland Borough)	*296			
			Upstream side of Conrail Bridge	*303			
			Confluence of Stateford Creek	*307			
			Upstream corporate limits	*315			
			Downstream Corporate Limits	*346			
			Upstream side of Private Drive	*354			
			Upstream side of Jacoby Creek Road	*358			
			Approximately 130' upstream of Jacoby Road	*359			
			Approximately 900' upstream of Jacoby Creek Road	*372			
			Downstream Corporate Limits	*611			
			Confluence of Tributary to Martins Creek	*630			
			Approximately 3,420 feet upstream of downstream corporate limits	*650			
Approximately 5,800 feet upstream of downstream corporate limits	*670						
Maps available for inspection at the residence of the Township Secretary, Mrs. Lillian Lohman, R.D. 1, Bangor, Pennsylvania.							
Texas	City of Big Spring, Howard County (FEMA-5966)	Beals Creek	Just upstream of FM 700 (Marcy Drive)	*2,391			
			Just upstream of Birdwell Lane	*2,406			
			Just downstream of U.S. Highway 87 (Gregg Street)	*2,411			
			Just upstream of Baylor Boulevard	*2,412			
			Just upstream of Golad Street	*2,506			
			Just upstream of U.S. Highway 87 (upstream most crossing)	*2,603			
			Stream BSP 1	Just upstream of Parkway Road	*2,602		
			Stream BSP 2	At the southern corporate limits	*2,643		
			Big Sandy Draw	Just upstream of North Service Road to Interstate Highway 20 (U.S. Highway 80)	*2,403		
			Reeds Draw	Just upstream of North Service Road to Interstate Highway 20 (U.S. Highway 80)	*2,456		
			Stream BSP 3	Just upstream of North 8th Street	*2,443		
			Stream BSP 4	Just upstream of North Service Road to Interstate Highway 20 (U.S. Highway 80)	*2,495		
			Stream BSP 5	Just upstream of Missouri Pacific Railroad (Spur Track)	*2,433		
			Maps available for inspection at Housing and Community Development, Building 625, Big Spring, Texas 79720.				
			Pennsylvania	Venango, Township Erie County (Docket No. FEMA-5966)	West Branch French Creek	Approximately 0.1 mile downstream of Corporate Limits	*1,266
						Upstream of State Route 8 & 89 at Corporate Limits	*1,290
Upstream State Route 89	*1,295						
Approximately 1 mile upstream of State Route 89	*1,300						
Approximately 2 miles upstream of State Route 89	*1,306						
Upstream Page Road	*1,314						
Upstream Corporate Limits	*1,318						
Maps available for inspection at the Venango Township Building.							
Texas	Bellaire City Harris County (Docket No. FEMA-5966)	Brays Bayou	Southeast corner of community Corporate Limits	*52			
Maps available for inspection at the City Hall, 7008 South Rice Avenue, Bellaire, Texas.							
Texas	City of Breckenridge, Stephens County (FEMA-5966)	Gonzales Creek	Just upstream of Farm Market Road 267	*1,176			
			Just upstream of Dryer Street	*1,184			
			Just upstream of Hullum Street	*1,190			
			Stream BK-1	Just upstream of Lindsey Street and Court Avenue	*1,185		
			Just upstream of McArms Avenue	*1,189			
			Just upstream of Shelton Avenue	*1,201			
Stream BK-2	Just upstream of Miller Avenue	*1,192					
Approximately 200 feet upstream of Live Oak Avenue	*1,202						
Maps available for inspection at the City Hall, 120 West Elm Street, Breckenridge, Texas.							
Texas	City of Brownfield, Terry County (FEMA-5966)	Lost Draw	Just upstream of Webb Street	*3,275			
			Just upstream of U.S. Highways 62 and 385	*3,281			
			Just downstream of Bridges Street	*3,295			
			Playa No. 4	East of intersection of Main and Sage Streets	*3,297		
			Playa No. 3	Approximately 700 feet northeast of intersection of Tahoka Road and Cedar Street	*3,300		
			Playa No. 2	Approximately 700 feet northwest of intersection of Tahoka Road and Cedar Street	*3,301		
Maps available for inspection at the City Hall, 216 West Main Street, Brownfield, Texas 79316.							
Texas	Unincorporated areas of Coryell County (FEMA-5973)	Leon River	Just downstream of State Highway 36	*722			
			Just upstream of State Highway 36	*723			

## Final Base (100-Year) Flood Elevations—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground Elevation in feet (NGVD)
			Just downstream of Straw's Mill Road	*727
			Just upstream of Straw's Mill Road	*728
			Just downstream of U.S. Highway 84	*759
			Just upstream of U.S. Highway 84	*780
		Stream CG-1	Just downstream of the County Dirt Road	*744
			Just upstream of the County Dirt Road	*748
			Just downstream of FM 107	*779
			Just upstream of FM 107	*804
		Stream CG-2	At the corporate limits (Fort Gates)	*746
			Downstream of Highway 36	*804
			Upstream of Highway 36	*810
		Stillhouse Branch	At the confluence with the Leon River	*781
			Just downstream of Highway 36	*786
			Just upstream of Highway 36	*772
			At the confluence of Stream CG-4	*786
		Stream CG-4	Just downstream of Coryell City Road (FM 929)	*809
			Just upstream of Coryell City Road (FM 929)	*811
		Clear Creek	Just downstream of Echo Springs Road	*953
			Just upstream of Echo Springs Road	*956
			Just downstream of (Brinegar Road) Farm Market 3046	*1,005
			Just upstream of (Brinegar Road) Farm Market 3046	*1,010
		Stream CG-2	Just downstream of the Abandoned Road	*1,007
			Just upstream of the Abandoned Road	*1,008
		House Creek	Just downstream of FM 116	*958
			Just upstream of FM 116	*960
			Just downstream of the Atchison Topoka and Santa Fe Railway	*1,031
			Just upstream of the Atchison Topoka and Santa Fe Railway crossing	*1,042
		Stream CG-1	At a point 1550 feet above mouth	*888
		Turkey Run	Just downstream of Copperas Cove Road	*972
			Just upstream of Copperas Cove Road	*977
			Just downstream of the Atchison Topoka and Santa Fe Railway	*1,029
			Just upstream of the Atchison Topoka and Santa Fe Railway	*1,049
		Clark Creek	Just downstream of Cache Creek Drive	*967
			Just upstream of Cache Creek Drive	*968
			Just downstream of FM 3046	*975
			Just upstream of FM 3046	*981
Maps available for inspection at Coryell County Courthouse, Judge's Office, Gatesville, Texas 76528.				
Texas	City of Gatesville, Coryell County (FEMA-5973)	Leon River	Just downstream of Leon Street	*758
			Just upstream of U.S. Highway 84	*760
		Stream CG-2	Just downstream of State Highway 36	*810
		Stillhouse Branch	Just downstream of State Highway 36	*767
			Just upstream of State Highway 36	*772
		Stream CG-4	Just downstream of (FM 929) Coryell City Road	*810
Maps available for inspection at City Hall, 110 North Eighth Street, Gatesville, Texas 76528.				
Texas	City of Rogers, Bell County (FEMA-5973)	South Elm Creek Tributary 1	Just upstream of northern corporate limits	*510
Maps available for inspection at City Hall, Mesquite and Market Streets, Rogers, Texas 76589.				

(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 20, 1981.

Richard W. Krimm,

Acting Administrator, Federal Insurance Administration.

[FR Doc. 81-14038 Filed 5-11-81; 8:45 am]

BILLING CODE 6718-03-M

#### 44 CFR Part 67

#### California et al.; National Flood Insurance Program; Final Flood Elevation Determinations

**AGENCY:** Federal Insurance Administration, FIA.

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required either to 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).

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

**ADDRESS:** See table below.

#### FOR FURTHER INFORMATION CONTACT:

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

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determination of flood elevations for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection 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 Part 67). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided.

No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in

flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

#### Final Base (100-Year) Flood Elevations

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
California	King City (City), Monterey County FEMA-5978	San Lorenzo Creek	50 feet upstream of the intersection of Southern Pacific Railroad and San Lorenzo Creek	*323
		Salinas River	30 feet downstream of the intersection of U.S. Highway 101 (Southbound Lane) and Salinas River	*291
Maps available for inspection at City Hall, 212 S. Vander Hurst, King City, California.				
Illinois	(V) Burr Ridge, Du Page County (Docket No. FEMA-5749)	63rd Street Ditch	Eastern corporate limits	*641
			Just upstream of pond outlet	*647
			Just upstream of pond inlet	*653
		79th Street Ditch	Just downstream of County Line Road	*663
			Just upstream of County Line Road	*670
			Downstream side of Elm Avenue	*672
			About 150 feet downstream of Garfield Avenue	*681
			About 150 feet upstream of Garfield Avenue	*685
			About 150 feet upstream of Grant Street	*691
			About 700 feet upstream of Grant Street	*694
			About 200 feet downstream of Madison Street	*702
			Just downstream of Madison Street	*708
			At downstream corporate limits	*673
		Plainfield Road Ditch	Just downstream of private drive	*680
			Just upstream of private drive	*689
			Just upstream of County Line Road	*690
			Just upstream of Hamilton Avenue	*694
			About 1,000 feet upstream of Hamilton Avenue	*695
			Eastern corporate limits	*638
			About 1,100 feet downstream of Hillcrest Circle	*644
			Just downstream of Hillcrest Circle	*652
			Just downstream of Shady Lane Road	*657
			About 75 feet upstream of Shady Lane Road	*661
		Flagg Creek	Just downstream of County Line Road	*675
			Just upstream of County Line Road	*680
			About 300 feet upstream of County Line Road	*693
			Just downstream of International Harvester entrance road	*699
			Just upstream of International Harvester entrance road	*703
			About 3,950 feet upstream of International Harvester entrance road	*706
			At southern corporate limits	*621
			Just upstream of Wolf Road	*623
			Just upstream of U.S. Route 66	*635
			Just downstream of Interstate 294	*636
Tributary A	Just upstream of Wolf Road	*633		
	Just upstream of Forest Hill Road	*648		
Tributary B	At the upstream corporate limits	*663		
	Just upstream of Wolf Road	*629		
	About 100 feet upstream of 77th Street (downstream crossing)	*630		
Tributary C	About 300 feet upstream of 77th Street (downstream crossing)	*635		
	Just downstream of 77th Street (upstream crossing)	*645		
	Just downstream of Forest Hill Road	*647		
	About 1,570 feet upstream of Forest Hill Road	*656		
	Southern corporate limits	*672		
	Just downstream of County Line Road	*677		
	Just downstream of County Line Road	*677		
Maps available for inspection at the Village Hall, 220 West 75th Street, Burr Ridge, Illinois.				
Illinois	(C) Park City, Lake County (Docket No. FEMA-5978)	South Fork Gumees Tributary	At downstream corporate limit	*691
			Just downstream of Cornell Avenue	*697
		Shallow Flooding (ponding from rainfall)	About 800 feet upstream of Cornell Avenue	*700
			About 400 feet south of intersection of Eighth Street and Sharon Avenue	*695
			About 1,000 feet east of intersection of Mary Avenue and Teske Boulevard	*696
About 700 feet northeast of intersection of Howard Avenue and Teske Boulevard	*697			
Maps available for inspection at the Clerk's Office, Park City Municipal Building, 3420 Kahm Boulevard, Waukegan, Illinois.				
Illinois	(V) Rockton, Winnebago County (Docket No. FEMA-5966)	Rock River	Just upstream State Route 2	*725
			About 1,800 feet upstream Rockton Dam	*730
Maps available for inspection at the Village Hall, 215 West Main Street, Rockton, Illinois.				
Indiana	(T) Bremen, Marshall County (Docket No. FEMA-5973)	Yellow River	East 4th Road	*800
			About 300 feet downstream East 1st Road	*804
			About 1,000 feet upstream A Road	*807
Arney Ditch	Confluence with Yellow River	*803		

## Final Base (100-Year) Flood Elevations—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just upstream North Center Street.....	*807
			About 0.7 mile upstream North Dogwood Road.....	812
		Albert Zeiger Ditch.....	Confluence with Army Ditch.....	*808
			About 300 feet upstream U.S. Route 6 (easternmost crossing).....	*812
			About 1,400 feet upstream North Dogwood Road.....	*824
Maps available for inspection at the President's Office, Town Hall, 123 South Center Street, Bremen, Indiana.				
Indiana.....	(T) Cambridge City, Wayne County (Docket No. FEMA-5978).	West Fork Whitewater River.....	About 450 feet downstream of Conrail (main tracks).....	*926
			Just upstream of Conrail (spur track).....	*932
			Just upstream of Delaware Street.....	*935
		Cretz Creek.....	Just upstream of Front Street.....	*935
			About 300 feet upstream of Conrail.....	*951
Maps available for inspection at the Town Hall, 127 North Foote Street, Cambridge City, Indiana.				
Indiana.....	(T) Hagerstown, Wayne County (Docket No. FEMA-5876).	West Fork Whitewater River.....	At downstream extraterritorial jurisdiction.....	*966
			Just upstream of South Street.....	*976
			Just upstream of Conrail.....	*986
			Just upstream of Jones Road.....	*991
			About 160 feet downstream of Hoover Road.....	*1,014
		Nettle Creek.....	At mouth.....	*976
			About 250 feet upstream of Washington Street.....	*987
			Just upstream of Five Point Road.....	*996
			About 120 feet downstream of Leisvill Road.....	*1,013
			Just downstream of North Road.....	*1,032
Maps available for inspection at the Town Hall, 49 East College Avenue, Hagerstown, Indiana.				
Indiana.....	Merrillville, Town, Lake County (Docket No. FI-5047)	Deep River.....	Downstream Corporate Limits.....	*647
			Upstream side of Randolph Street.....	*654
			Upstream side of Grand Boulevard.....	*661
			Upstream side of Chessie System.....	*664
			Upstream side of Clay Street.....	*668
			Upstream side of Colorado Street.....	*672
			101st Avenue.....	*675
		Turkey Creek.....	Interstate Route 65.....	*613
			Upstream side 61st Avenue.....	*614
			Upstream side of State Route 53.....	*616
			Upstream side of Grand Trunk Western Railroad.....	*620
			Upstream Corporate Limits.....	*625
		Meadowdale Lateral.....	Confluence with Turkey Creek.....	*620
			Upstream side of Grand Trunk Western Railroad.....	*625
			61st Avenue.....	*625
		Chapel Manor Lateral.....	Confluence with Turkey Creek.....	*618
			Upstream side of 68th Place.....	*625
			Upstream side of Chessie System.....	*633
			Upstream side of State Route 53.....	*640
			Upstream side of Highland Road.....	*649
			Downstream side of Delaware Place.....	*654
			Upstream side of 80th Place.....	*654
			750' upstream of 80th Place.....	*666
		Kaiser Ditch.....	Confluence with Turkey Creek.....	*621
			Upstream side of 73rd Avenue.....	*628
			1,450' upstream of 73rd Avenue.....	*630
Maps available for inspection at the Planning and Building Department, Town Hall, 13 West 73rd Street, Merrillville, Indiana.				
Indiana.....	(T) Milton, Wayne County (Docket No. FEMA-5978).	West Fork Whitewater River.....	At downstream corporate limits.....	*906
			Just downstream of Main Street.....	*906
			Just upstream of Main Street.....	*912
			At the northeast corporate limits.....	*912
Maps available for inspection at the Town Hall, West Walnut Street, Milton, Indiana.				
Kansas.....	(C) Ogden, Riley County (Docket No. FEMA-5978).	Kansas River.....	Flooding within corporate limits.....	*1,045
		Dry Branch.....	Just downstream of Walnut Street.....	*1,048
			About 350 feet upstream of Fourteenth Street.....	*1,056
		Sevensmile Creek and Dry Branch Overflow.....	Just downstream of Walnut Street.....	*1,045
			Just upstream of Union Pacific Railroad.....	*1,052
Maps available for inspection at the City Hall, 224 Riley Avenue, Ogden, Kansas.				
Kentucky.....	City of Cynthiana, Harrison County (FEMA-5973)	South Fork Licking River.....	Just upstream of Pearl Street extended.....	*712
			Just upstream of Pleasant Road.....	*713
		Flat Run.....	Just upstream of U.S. Highway 62.....	*730
			Just upstream of Meadow Lane.....	*742
Maps available for inspection at City Hall, East Pleasant Street, Cynthiana, Kentucky 41031.				
Maine.....	Gorham, Town, Cumberland County (Docket No. FEMA-5947).	Presumpscot River.....	Downstream Corporate Limits.....	*77
			Downstream of South Windham Dam.....	*82
			Upstream of Mallison Street.....	*95
			Downstream of Little Falls Dam.....	*97
			Upstream of State Route 4.....	*115
			Downstream of Newhall Dam.....	*119
			Upstream of Newhall Bridge.....	*140
			Downstream of Dundee Dam.....	*144
			Upstream of Dundee Dam.....	*190
			Downstream of Great Falls Bridge.....	*193

## Final Base (100-Year) Flood Elevations—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream of North Gorham Dam.....	*225
			Upstream Corporate Limits.....	*226
Maps available for inspection at the Gorham Town Offices, 270 Main Street, Gorham, Maine.				
Maryland	Chesapeake City, Town, Cecil County (Docket No. FEMA-5973).	Chesapeake and Delaware Canal	Upstream Corporate Limits.....	*12
			U.S. Route 213.....	*12
			Downstream Corporate Limits.....	*12
Maps available for inspection at the Town Hall, Chesapeake City, Maryland.				
Maryland	Dorchester County (Docket No. FEMA-5817)	Higgins Creek	Higgins Millpond Dam.....	*6
			Linkwood Road.....	*9
			U.S. Route 50.....	*12
		Chesapeake Bay	Hunting Creek Shoreline.....	*6
			Shoreline of Choptank River.....	*6
			Mouth of Choptank River South to middle of Taylors Island.....	*6
			Slaughter Creek and Blackwater River.....	*6
			Maples Dam Road east to Guinea Marsh and Craft Neck south to Fishing Bay.....	*6
			Shoreline of Naticoke River.....	*6
			State Route 335 at Key Wallace Road.....	*6
			East side of Bloodworth Island.....	*6
			Shoreline of Honga River.....	*6
			Shoreline of Cabin Creek from mouth to State Route 16.....	*6
			Little Choptank River.....	*6
			Riggins Corner.....	*6
			Cokeland.....	*6
			Toddville.....	*6
			Bishops Head.....	*6
			Chesapeake Bay from middle of Taylors Island south to west side of Bloodworth Island.....	*6
			Crapo Road from Wingate to Church Creek Golden Hill Road south to Hongo River.....	*5
Maps available for inspection at the Dorchester County Courthouse, 510 Court Lane and at the City Library, Cambridge, Maryland				
Maryland	North East, Town, Cecil County (Docket No. FEMA-5973)	Chesapeake Bay (Tidal flooding affecting Northeast Creek)	Downstream Corporate Limits.....	*12
			Approximately 200' downstream of State Route 272 southbound (Main Street).....	*12
		Northeast Creek	Downstream of State Route 272 northbound (Mauldin Avenue).....	*13
			Approximately 825' upstream of State Route 272 northbound (Mauldin Avenue).....	*16
			Just upstream of Conrail tracks.....	*36
Maps available for inspection at the Town Hall, North East, Maryland.				
Massachusetts	Southborough, Town, Worcester County (Docket No. FEMA-5976)	Sudbury River	Downstream Corporate Limits.....	*226
			Approximately 500' downstream of Cordaville Road.....	*236
			Approximately 190' downstream of Cordaville Dam.....	*243
			Upstream of Cordaville Dam.....	*255
			Upstream Corporate Limits.....	*265
		Tributary to Sudbury River	Confluence with Sudbury River.....	*236
			Just upstream of Conrail.....	*241
			Just upstream of Cordaville Road.....	*253
		Stony Brook	Downstream Corporate Limits.....	*187
			Just downstream of Fayville Dam.....	*194
		Sudbury Reservoir	Just upstream of Fayville Dam.....	*256
			Just downstream of Deerfoot Road.....	*262
		Tributary to Sudbury Reservoir	Confluence with Sudbury Reservoir.....	*262
			Approximately 400' downstream of Meary School Footbridge.....	*272
			Approximately 320' upstream of Neary School Footbridge.....	*281
			Approximately 80' upstream of Deerfoot Road.....	*293
			Approximately 350' upstream of Deerfoot Road.....	*300
			Approximately 800' upstream of Deerfoot Road.....	*312
Maps available for inspection at the Office of the First Selectman, Town Hall, 17 Commons Street, Southborough, Massachusetts.				
Missouri	(C) Pierce City, Lawrence County (Docket No. FEMA-5955)	Clear Creek	At western corporate limit.....	*1,189
			Just upstream of South Walnut Street.....	*1,201
			At eastern corporate limit.....	*1,205
		Larkins Branch	Just upstream of St. Louis-San Francisco Railroad.....	*1,206
			About 800 feet upstream of Commercial Street.....	*1,213
Maps available for inspection at the City Hall, Pierce City, Missouri.				
Missouri	(C) Quin, Butler County (Docket No. FEMA-5966)	Menokenut Slough	About 150 feet downstream State Highway 53.....	*313
			About 1,150 feet upstream State Highway 53.....	*313
		Ditch No. 31	About 1,130 feet downstream County Road 659.....	*314
			Just downstream County Road 663.....	*314
Maps available for inspection at the City Hall, P.O. Box 85, Quin, Missouri.				
New Jersey	Gibbsboro, Borough, Camden County (Docket No. FEMA-5973)	Cooper River	Confluence with Millard Creek.....	*66
			Downstream of Norcross Road and Dam No. 5.....	69
			Upstream Corporate Limits.....	*70
		Nicholson Branch	Confluence with Millard Creek.....	*66

## Final Base (100-Year) Flood Elevations—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream of Kirkwood Road .....	*67
			Approximately 900' upstream of Kirkwood Road .....	*72
Maps available for inspection at the Borough Hall, Kirkwood Road, Gibbstown, New Jersey.				
New Jersey	Haworth (Borough) Bergen County (FEMA-5825)	Stein's Ditch .....	Intersection of Stein's Ditch and center of Contant Avenue .....	*29
			40 feet upstream from center of Haworth Avenue .....	*42
			40 feet upstream from center of Sunset Avenue .....	*54
		Kops Brook .....	40 feet upstream from center of Lake Shore Drive .....	*28
			50 feet upstream from center of Corral .....	*48
			150 feet northeast of intersection at Seneca Trace and Owatonna Street .....	*73
		Charles Creek .....	Intersection of Charles Creek and the downstream corporate limit .....	*75
			Intersection of Charles Creek and center of Delaware Avenue .....	*67
		Oradell Reservoir .....	200 feet northwest of intersection of Lake Shore Drive and Sunset Avenue .....	*25
Maps available for inspection at Municipal Center, 300 Haworth Avenue, Haworth, New Jersey.				
New Jersey	River Vale (Township), Bergen County (FEMA-5825)	Oradell Reservoir .....	200 feet east of the intersection of Marshall Road and Cambridge Road .....	*25
		Hackensack River .....	100 feet upstream from center of Westwood Avenue .....	*30
			50 feet upstream from center of Old Tappan Road .....	*40
			Intersection of Hackensack River (Lake Tappan Reservoir) and center of Poplar Road .....	*58
		Pascack Brook .....	100 feet upstream from center of Brookside Avenue .....	*32
			100 feet downstream from center of Demarest Avenue .....	*42
		Holdrum Brook .....	50 feet upstream from center of Piermont Avenue .....	*43
			150 feet upstream from center of Prospect Avenue .....	*75
			75 feet upstream from center of Rolling Hills Drive .....	*139
		Cherry Brook .....	25 feet upstream from center of Poplar Road .....	*48
			Intersection of Cherry Brook and center of Orangeburgh Road .....	*107
			50 feet downstream from center of Blue Hill Road .....	*168
		River Vale Brook .....	100 feet upstream from center of River Vale Road .....	*47
			50 feet upstream from center of Ridge Road .....	*87
Maps available for inspection at Town Hall, 628 River Vale Road, River Vale, New Jersey.				
New York	Alton, Village Chenango County (Docket No. FEMA-5978)	Kelsey Brook .....	Confluence with Susquehanna River .....	*970
			550' upstream of Main Street (S. R. 7) .....	*970
			1,675' upstream of Main Street (S. R. 7) .....	*975
			2,485' upstream of Main Street (S. R. 7) .....	*980
			3,135' upstream of Main Street (S. R. 7) .....	*985
			3,500' upstream of Main Street (S. R. 7) .....	*987
		Susquehanna River .....	1,200' downstream of Evelyn Avenue .....	*988
			Maple Street (S. R. 41) .....	*989
			1,800' upstream of Maple Street (S. R. 41) .....	*970
			4,000' upstream of Maple Street (S. R. 41) .....	*971
Maps available for inspection at Village Office, Main Street, Alton, New York.				
New York	Alton, Town Chenango County (Docket No. FEMA-5978)	Kelsey Brook .....	Village of Alton Corporate Limits .....	*987
			100' upstream of Algerine Street .....	*992
			900' upstream of Algerine Street .....	*996
			1,370' upstream of Algerine Street .....	*1,000
			1,980' upstream of Algerine Street .....	*1,004
			2,500' upstream of Algerine Street .....	*1,008
		Susquehanna River .....	Downstream Corporate Limits .....	*963
			2,800' upstream of Ives Hill Road (extended) .....	*966
			200' upstream of confluence with Landers Creek .....	*973
			Upstream Corporate Limits .....	*976
Maps available for inspection at the Alton Town Hall, Main Street, Alton, New York.				
New York	Grand View-On-Hudson, Rockland County (Docket No. FEMA-5973)	Village Hudson River .....	Entire Shoreline .....	*8
Maps available for inspection at Village Hall, 118 River Road, Grand View-On-Hudson, New York.				
New York	Mexico, Village, Oswego County (Docket No. FEMA-5973)	Little Salmon River .....	Downstream Corporate Limits .....	*347
			Confluence with Black Creek .....	*349
			Downstream of Dam .....	*357
			Upstream of Dam .....	*365
			Downstream of Dam at U.S. Route 104 .....	*374
			Upstream of U.S. Route 104 .....	*369
			Upstream Corporate Limits .....	*369
		Little Salmon River Tributary 1 .....	Confluence with Little Salmon River .....	*349
			Downstream of U.S. Route 104 .....	*358
			Downstream of Footbridge .....	*363
			Upstream Corporate Limits .....	*370
		Black Creek .....	Confluence with Little Salmon River .....	*349
			Downstream of Cemetery Road .....	*350
			Upstream of Academy Street .....	*354
			Upstream of High School Road .....	*365
			Upstream of U.S. Route 104 .....	*374
			Upstream of Spring Street .....	*376
			Upstream Corporate Limits .....	*377
Maps available for inspection at the Village Offices, 588 Main Street, Village of Mexico, New York.				

## Final Base (100-Year) Flood Elevations—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)						
New York	Mexico, Town, Oswego County (Docket No. FEMA-5973)	Black Creek	40' upstream of Munger Hill Road	*377						
			2,200' upstream of Munger Hill Road	*377						
			2,600' upstream of Munger Hill Road	*380						
			3,525' upstream of Munger Hill Road	*380						
			1,530' downstream of confluence with Black Creek Tributary 1.	*397						
			Confluence with Black Creek Tributary 1	*400						
			40' upstream of Pumphouse Road	*401						
			3,760' upstream of Pumphouse Road	*402						
			200' downstream of State Route 3 (Downstream crossing)	*403						
			60' upstream of State Route 3 (Downstream crossing)	*406						
			2,600' upstream of State Route 3 (Downstream crossing)	*411						
			50' downstream of State Route 3 (Upstream crossing)	*418						
			100' upstream of State Route 3 (Upstream crossing)	*427						
			1,370' upstream of State Route 3 (Upstream crossing)	*428						
			40' downstream of Gillette Road	*429						
			50' upstream of Gillette Road	*435						
			50' downstream of Pople Ridge Road	*435						
			50' upstream of Pople Ridge Road	*443						
			3,330' upstream of Pople Ridge Road	*443						
			3,420' upstream of Pople Ridge Road	*453						
			Confluence with Black Creek	*400						
			30' downstream of Larson Road	*401						
			30' upstream of Larson Road	*404						
			30' upstream of Pumphouse Road (Downstream crossing)	*406						
			30' downstream of Pumphouse Road (Upstream crossing)	*406						
			30' upstream of Pumphouse Road (Upstream crossing)	*412						
			1,490' upstream of Pumphouse Road (Upstream crossing)	*417						
			2,580' upstream of Pumphouse Road (Upstream crossing)	*423						
			Little Salmon River			Confluence with Lake Ontario	*249			
						800' upstream of confluence with Lake Ontario	*251			
						30' downstream of State Route 104B	*252			
						1,100' upstream of State Route 104B	*253			
						30' upstream of State Route 16	*254			
						1,200' upstream of State Route 16	*260			
						3,500' upstream of State Route 16	*270			
						4,600' upstream of State Route 16	*280			
						5,680' upstream of State Route 16	*290			
						6,350' upstream of State Route 16	*300			
						700' downstream of George Road	*310			
						100' upstream of George Road	*319			
						1,750' upstream of George Road	*325			
						4,170' upstream of George Road	*335			
						6,520' upstream of George Road	*345			
						8,150' upstream of George Road	*347			
						Little Salmon River Tributary 1			4,000' downstream of the Dam	*369
									2,440' downstream of the Dam	*370
									1,125' downstream of the Dam	*375
600' downstream of the Dam	*380									
130' downstream of the Dam	*385									
30' upstream of the Dam	*392									
570' upstream of the Dam	*392									
850' upstream of the Dam	*395									
1,410' upstream of the Dam	*400									
30' downstream of Hurlbut Road	*403									
30' upstream of Hurlbut Road	*412									
460' upstream of Hurlbut Road	*412									
Maps available for inspection at the Town Offices, South Jefferson Street, Mexico, New York 13114.										
New York	Sandy Creek, Town, Oswego County (Docket No. FEMA-5973)	South Pond Tributary	Wafels Drive	*249						
			450' downstream of Tryon Road	*251						
			50' downstream of Tryon Road	*254						
			30' upstream of Tryon Road	258						
Maps available for inspection at the Town Clerk's residence, 9129 East First Street, Sandy Creek, New York.										
Ohio	(V) Brookville, Montgomery County (Docket No. FEMA-5978)	Wolf Creek	At southern corporate limit	*986						
			Just downstream Conrail	*1019						
Maps available for inspection at the Village Clerk's Office, P.O. Box 8, 130 Main Street, Brookville, Ohio.										
Ohio	(V) Moraine, Montgomery County (Docket No. FEMA-5978)	Great Miami River	About 1400 feet downstream of Sellars Road	*722						
			About 1.6 miles downstream of Broadway	*727						
			Just upstream of dam	*734						
		Holes Creek	Mouth at Great Miami River	*722						
			Just downstream of Springboro Pike	*727						
			About 800 feet upstream of Springboro Pike	*729						
Maps available for inspection at the City Clerk's Office, City Hall, 4200 Dryden Road, Moraine, Ohio.										

## Final Base (100-Year) Flood Elevations—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
Ohio	(C) West Carrollton, Montgomery County (Docket No. FEMA-5978).	Owl Creek	At confluence with Great Miami River	*709	
			About 100 feet downstream Conrail	*712	
		Holes Creek	Just upstream Conrail	*718	
			Just upstream Alexandersville Road	*722	
		Great Miami River	Just downstream of Conrail	*722	
			Just upstream Conrail	*725	
		Shallow Flooding (Overflow from Holes Creek and Owl Creek).	About 100 feet downstream Springboro Pike Road	*726	
			About 1500 feet downstream of West Carrollton-Farmersville Road	*709	
				At the confluence of Holes Creek	*722
				Area bounded by Conrail, Interstate 75, Redbuff Drive, Alexandersville Bellbrook Pike, and Vernell Drive	*723
Maps available for inspection at the City Clerk's Office, 41 East Central Avenue, West Carrollton, Ohio.					
Pennsylvania	Chanceford, Township, York County (Docket No. FEMA-5973).	Susquehanna River	Downstream Corporate Limits	*190	
			Sale Harbor Dam (Upstream)	*227	
		North Branch Muddy Creek	Upstream Corporate Limits	*230	
			Confluence of Tributary 1	*412	
			L. R. 66012 (downstream)	*422	
			Maryland and Pennsylvania Railroad bridge, approximately 380' upstream of L. R. 66012 (Upstream)	*430	
			Maryland and Pennsylvania Railroad bridge, approximately 1,650' upstream of L. R. 66012 (Upstream)	*439	
			Maryland and Pennsylvania Railroad bridge, approximately 3,900' upstream of L. R. 66012 (Downstream)	*446	
			T. R. 573 (Upstream)	*470	
			Confluence of Carter Creek	*475	
			L. R. 66057 (Upstream)	*482	
			Private Drive approximately 3,300' upstream of L. R. 66057 (Upstream)	*491	
			Approximately 4,250' downstream of Corporate Limits	*501	
			Approximately 2,250' downstream of Corporate Limits	*512	
			Upstream Corporate Limits	*530	
			Otter Creek	Kline Road (Upstream)	*309
				Legislative Route 66059 (Downstream)	*327
			Pine Run	Mill Road, approximately 2,200' upstream from L. R. 60059	*344
				L. R. 66013 (Upstream)	*351
				Approximately 1,350' upstream of L. R. 66013	*380
		Downstream Corporate Limits		*552	
		Private Drive (Upstream)		*558	
		Maryland and Pennsylvania Railroad (Upstream)		*572	
		L. R. 66055 (Upstream)		*587	
		Carter Creek		Confluence with North Branch Muddy Creek	*475
				L. R. 66057 (Upstream)	*483
		Tributary 1		T. R. 669 (Upstream) approximately 1,850' upstream of L. R. 66057	*507
			T. R. 684 approximately 4,150' upstream of L. R. 66057 (Upstream)	*535	
			T. R. 684 approximately 5,850' upstream of L. R. 66057 (Upstream)	*562	
			T. R. 684 approximately 7,680' upstream of L. R. 66057 (Upstream)	*584	
			T. R. 684 approximately 9,100' upstream of L. R. 66057 (Upstream)	*602	
			Private Drive (Upstream)	*609	
			L. R. 66116 (Upstream)	*616	
			Approximately 90' upstream L. R. 66116	*620	
			Confluence with North Branch Muddy Creek	*412	
			Private Drive approximately 480' upstream of confluence with North Branch Muddy Creek (Upstream)	*417	
		Mill Branch	Private Drive approximately 1,400' upstream of confluence with North Branch Muddy Creek	*435	
			L. R. 66058 (Downstream)	*452	
			L. R. 66058 (Upstream)	*461	
			Duff Road approximately 1,300' upstream of L. R. 66059 (Upstream)	*476	
			Duff Road approximately 3,200' upstream of L. R. 66058 (Upstream)	*512	
			Private Road approximately 4,700' upstream of L. R. 66058 (Upstream)	*542	
			Approximately 1,925' downstream of T. R. 669	*568	
			T. R. 669 (Upstream)	*615	
			Confluence with Otter Creek	*399	
			Pickle Road (Upstream)	*403	
			Approximately 4,250 feet upstream of Pickle Road	*463	
			Shaw School Road (Downstream)	*454	
			Footbridge 60 feet upstream of Shaw School Road (Upstream)	*487	
			Approximately 3,610 feet upstream of Shaw School Road	*527	
Pamraning Road (Upstream)	*567				
Dettingers Road (Upstream)	*592				

Maps available for inspection at the Township Building, Chanceford, Pennsylvania.



## Final Base (100-Year) Flood Elevations—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. Elevation in feet (NGVD)
			Approximately 800 feet upstream of upstream Dutch Hollow Road.	*1,045
Maps available for inspection at the Penn Township Building, Joannette, Pennsylvania.				
Pennsylvania	Penn, Township, York County (Docket No. FEMA-5973)	Oil Creek	Downstream Corporate Limits	*536
			Upstream side of Dam	*543
			Approximately 60 feet downstream of Wilson Avenue	*550
			Upstream side of Wilson Avenue	*556
			Upstream side of Ridge Avenue	*563
			Upstream side of Chasie System	*568
			Approximately 440 feet downstream of York Road	*578
			Upstream side of York Road	*584
			Upstream side of Park Street	*586
			Approximately 50 feet upstream of Brezewood Drive	*592
		Plum Creek	Downstream Corporate Limits	*558
			Upstream side of Frederick Street	*562
			Approximately 650 feet downstream of confluence of Tributary 1.	*572
			Approximately 175 feet upstream of confluence of Tributary 1.	*576
		Gitts Run	Confluence with Oil Creek	*537
			Upstream side of Karan Lane	*545
			Downstream side of Maryland and Pennsylvania Railroad Bridge	*547
			Upstream side of Maryland and Pennsylvania Railroad Bridge	*557
			Upstream side of Township Route 338	*560
			Upstream side of Farm Avenue	*568
			Approximately 340 feet downstream of Moulstown Road	*575
			Upstream side of Moulstown Road	*579
		Tributary 1	Confluence with Plum Creek	*575
			Upstream side of Westminister Avenue	*582
			Upstream side of Sherman Street	*588
			Upstream side of Earl Street	*592
			Upstream side of Baugher Drive	*597
			Upstream side of Park Heights Boulevard	*609
			Approximately 490 feet upstream of Park Heights Boulevard	*618
			Approximately 970 feet upstream of Park Heights Boulevard	*629
			Approximately 310 feet downstream of Beck Mill Road	*639
			Downstream Beck Mill Road	*648
			Upstream side Beck Mill Road	*651
		Slagle Run	Downstream Corporate Limits	*537
			Upstream side of Carlisle Street	*543
			Approximately 2,000 feet upstream of Carlisle Street	*549
			Third downstream Corporate Limits	*565
			Upstream side Flickinger Road	*573
Maps available for inspection at the Penn Township Municipal Building, 1016 York Street, Hanover, Pennsylvania.				
Pennsylvania	Willstown, Township, Chester County (Docket No. FEMA-5841)	Crum Creek	Downstream Corporate Limits	*235
			Downstream of Bartram Covered Bridge	*242
			Upstream of Goshen Road	*244
			Upstream of Private Road	*258
			Upstream of Old Covered Bridge Road (Extended)	*282
			Upstream of Private Road (Extended)	*286
			Downstream of confluence of West Tributary to Crum Creek	*304
			Confluence of West Tributary to Crum Creek	*307
			Approximately 1,840' upstream of Confluence with West Tributary	*325
			560' upstream of Whitehorse Road	*338
			Upstream Foxchase Road (Extended)	*356
			Downstream of Whitehorse Road	*367
			Upstream of Whitehorse Road	*371
			Upstream of Davis Road	*375
			Downstream of Jaffery Road	*378
			Downstream of Private Drive	*389
			Evergreen Lane (Extended)	*407
			Downstream of Footbridge	*416
			Upstream of Footbridge	*417
			Downstream of Warren Avenue	*433
			Downstream of Vernon Lane	*441
			Upstream of Eisenhower Drive	*443
			Upstream of Marlin Drive	*446
			Upstream of Long Lane	*453
			Downstream of Paoli Pike	*461
		Tributary A	Confluence with Crum Creek	*437
			Upstream Corporate Limits	*448
		West Tributary to Crum Creek	Confluence with Crum Creek	*307
			Approximately 1,200' upstream of confluence	*320
			Approximately 1,800' upstream of confluence	*332
			Upstream of Hillview Road	*354
			Upstream of 1st Footbridge	*360
			Downstream of Warren Avenue	*383
			Downstream of Private Drive	*391



## Final Base (100-Year) Flood Elevations—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. Elevation in feet (NGVD)
			Upstream of Spring Road.....	*412
			Upstream of Laurel Circle (1st crossing).....	*419
			Upstream of Laurel Circle (2nd crossing).....	*424
			Downstream of Andrews Avenue.....	*436
			Upstream of Harvey Lane.....	*442
			Downstream of Sugartown Road.....	*466
			Downstream of Paoli Pike.....	*480
	Northeast Branch Ridley Creek.....		Upstream of Line Road.....	*450
			Upstream of Dam.....	*454
			Upstream of Forest Lane.....	*472
			Upstream of Monument Road.....	*486
			Approximately 2,000' upstream of Monument Avenue.....	*523
	East Tributary to Crum Creek.....		Confluence with Crum Creek.....	*392
			Upstream of Dam.....	*405
			Upstream of Grubb Road.....	*409
			Downstream of Private Drive.....	*428
			Downstream of Devon Road.....	*454
			Upstream of Devon Road.....	*458
			Upstream Corporate Limits.....	*467
	Tributary B.....		Confluence with East Tributary to Crum Creek.....	*405
			Downstream of Grubb Road.....	*410
			Downstream of Colonial Lane.....	*424
			Upstream of Colonial Lane.....	*428
			Downstream of Devon Road.....	*451
			Upstream of Devon Road.....	*461
			Spruce Lane (Extended).....	*478
			Lynnbrook Road (Extended).....	*492
			Fairview Road (Extended).....	*498
	Ridley Creek.....		Downstream Corporate Limits.....	*224
			Upstream of Delchester Road.....	*226
			Upstream Corporate Limits.....	*228
Maps available for inspection at the Willstown Township Municipal Building, Malvern Pennsylvania.				
Texas.....	City of Brady, McCulloch County (FEMA-5906)	Brady Creek.....	Just downstream of Atchison Topeka & Santa Fe Railway.....	*1662
			Just upstream of Main Street.....	*1663
			Just upstream of Bridge Street.....	*1667
			Just upstream of U.S. Highway 283.....	*1673
		Stream Brady 1.....	Just downstream of State Highway 2309.....	*1663
			Just upstream of State Highway 2309.....	*1667
		Post Oak Creek.....	Approximately 300 feet upstream of 11th Street.....	*1680
		Live Oak Creek.....	Approximately 600 feet upstream of White Street.....	*1676
Maps available for inspection at City Hall, Brady, Texas 76825.				
Vermont.....	Cavendish, Town, Windsor County (Docket No. FEMA-5973)	North Branch Black River.....	Downstream Corporate Limits.....	*650
			Approximately 580' upstream of Corporate Limits (downstream boundary).....	*660
			Approximately 1,070' upstream of Corporate Limits (downstream boundary).....	*670
			Downstream of Private Drive.....	*679
			Upstream Corporate Limits.....	*686
		Twentymile Stream.....	Upstream of confluence with Black River.....	*760
			Just upstream of State Route 131.....	*770
			Approximately 625' upstream of State Route 131.....	*778
			Approximately 1,090' upstream of State Route 131.....	*790
			Approximately 1,630' upstream of State Route 131.....	*802
		Black River.....	Downstream of Howard Hill Road.....	*720
			Approximately 1,800' upstream of Howard Hill Road.....	*730
			Approximately 3,400' upstream of Howard Hill Road.....	*740
			Approximately 2,300' downstream of confluence of Twentymile Stream.....	*750
			Just downstream of Carleton Road.....	*765
			Just upstream of Carleton Road.....	*773
			Approximately 3,000' upstream of Carleton Road.....	*777
			Approximately 1,220' downstream of CVPS Power Dam.....	*790
			Approximately 1,050' downstream of CVPS Power Dam.....	*800
			Approximately 885' downstream of CVPS Power Dam.....	*810
			Approximately 730' downstream of CVPS Power Dam.....	*820
			Approximately 580' downstream of CVPS Power Dam.....	*830
			Approximately 400' downstream of CVPS Power Dam.....	*840
			Approximately 230' downstream of CVPS Power Dam.....	*850
			Just downstream of CVPS Power Dam.....	*862
			Approximately 680' upstream of Williams Hill Road.....	*896
			Approximately 3,600' upstream of Williams Hill Road.....	*910
			Approximately 1,580' downstream of Green Mountain Railroad (downstream crossing).....	*920
			Approximately 250' upstream of State Highway Number 1.....	*930
			Upstream of Green Mountain Railroad (upstream crossing).....	*942
			Upstream Corporate Limits.....	*954
Maps available for inspection at Cavendish Town Clerk's Office, Cavendish Town Hall, Cavendish, Vermont.				
Wisconsin.....	(V) Cascade, Sheboygan County (Docket No. FEMA-5978)	North Branch Milwaukee River.....	Downstream corporate limit.....	*846

## Final Base (100-Year) Flood Elevations—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			About 300 feet downstream Milwaukee Avenue	*856
			Just upstream Milwaukee Avenue	*862
			Just upstream State Highway 29	*867
			Just upstream Francis Street	*873
			Just downstream North Avenue culvert	*884
			Just upstream Cascade Dam	*889
			Upstream corporate limit	*890
Maps available for inspection at the Village Clerk's Office, Village Hall, 515 Clark Street, Cascade, Wisconsin.				
	Chippewa River	At southern county boundary		*725
		About 2.8 miles upstream County Highway "H"		*762
	Eau Galle River	Just upstream of the Eau Galle Dam		*778
		About 2.4 miles upstream from the Eau Galle Dam		*790
	Red Cedar River	At confluence with Chippewa River		*730
		About 200 feet upstream County Highway "D"		*775
		At the downstream City of Menomonie corporate limits		*787
		At the upstream City of Menomonie corporate limits		*816
		Just downstream Cedar Falls Dam		*830
		Just upstream Cedar Falls Dam		*879
		Just upstream Soo Line Railroad		*908
		About 6.0 miles of Cofax corporate limits at the downstream side of Town Road		*941
		About 6.0 miles upstream Village of Cofax corporate limits at upstream side of Town Road		*946
		Just upstream State Highway 64		*982
		At northern county boundary		*1004
	Wilson Creek	Just upstream of City of Menomonie corporate limits		*828
		Just upstream of County Highway "K"		*861
		About 1,700 feet upstream County Highway "Q"		*811
	Hay River	At confluence with Red Cedar River		*880
		Just upstream Soo Line Railroad		*900
		Just upstream County Highway "FF"		*944
		Just upstream County Highway "F"		*964
		At northern county boundary		*1,011
	South Fork Hay River	At confluence with Hay River		*914
		About 600 feet downstream of confluence of Johns Creek		*962
		Just downstream of Town Road (about 2.1 miles upstream of State Highway 64)		*994
	Tiffany Creek	At confluence with South Fork Hay River		*933
		About 4,000 feet upstream confluence with South Fork Hay River		*939
	Eighteen Mile Creek	Just upstream County Highway "M"		*930
		Just downstream County Highway "A"		*966
	Eik Creek	Just upstream Elk Lake Dam		*814
		Just downstream County Highway "EE"		*852
Maps available for inspection at the Office of the Zoning Administrator, Dunn County Courthouse, 800 Wilson Avenue, Menomonie, Wisconsin.				
Wisconsin	(C) Port Washington, Ozaukee County (Docket No. FEMA-5978)	Sauk Creek	At mouth of stream	*584
			Approximately 100 feet upstream of South Wisconsin Street	*591
			Just upstream of footbridge, located approximately 1,400 feet downstream of Pierre Lane	*616
			Approximately 400 feet upstream of Pierre Lane	*636
			Approximately 0.55 mile upstream of Pierre Lane	*671
			Approximately 0.73 mile upstream of Pierre Lane	*675
		Sucker Brook	At mouth of stream	*586
			Approximately 275 feet upstream of Lake Street	*594
			Just downstream of Hales Trail	*644
			Just upstream of Hales Trail	*661
			Just downstream of Norport Drive	*672
			Just upstream of Norport Drive	*678
			At northern corporate limits	*690
		Sauk Creek Tributary	At mouth of stream	*589
			Just upstream of private road	*593
			Just upstream of Division Street	*610
			Approximately 50 feet upstream of West Oakland Avenue	*618
			Just downstream of abandoned dam	*636
			Just upstream of abandoned dam	*643
			Just upstream of South Ravine Street	*650
			About 75 feet downstream of South Park Street	*657
			Approximately 100 feet upstream of South Park Street	*664
			Just downstream of Sunset Road	*688
		Lake Michigan	Shoreline	*584
Maps available for inspection at the City Engineer's Office/Building Inspector, City Hall, 100 West Grand Avenue, Port Washington, Wisconsin.				

(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 28, 1981.

Richard W. Krimm,

Acting Administrator, Federal Insurance Administration.

[FR Doc. 81-14035 Filed 5-11-81; 8:45 am]

BILLING CODE 6718-03-M

## 44 CFR Part 67

[Docket No. FEMA-5944]

**Illinois; National Flood Insurance Program; Final Flood Elevation Determination****AGENCY:** Federal Insurance Administration, FEMA.**ACTION:** Deletion of final rule for the Village of Browning, Schuyler County, Illinois.

**SUMMARY:** The Federal Insurance Administration has erroneously published the final flood elevation determination for the Village of Browning, Schuyler County, Illinois. This notice will serve to delete that publication. Following an engineering analysis and review, a new notice of final flood elevation determination will be issued.

**EFFECTIVE DATE:** May 12, 1981.

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

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administration has determined that the notice of final flood elevation determination for the Village of Browning, published at 45 FR 73705, on November 6, 1980, should be deleted. After a technical evaluation, a revised

preliminary will be issued with a subsequent 21-day review period. A new final flood elevation determination will be instituted for the conversion of this community into the Regular Program of Flood Insurance.

(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 19387; and delegation of authority to Federal Insurance Administrator)

Issued: April 28, 1981.

Richard W. Krimm,

Acting Administrator, Federal Insurance Administration.

[FR Doc. 81-14034 Filed 5-11-81; 8:45 am]

BILLING CODE 6718-03-M

## 44 CFR Part 67

**Illinois et al.; National Flood Insurance Program; Final Flood Elevation Determinations****AGENCY:** Federal Insurance Administration, FEMA.**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the nation.

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).

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

**ADDRESSES:** See table below.

**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:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection 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 Part 67. An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

**Final Base (100-Year) Flood Elevations**

State	City/town/country	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Illinois	(C), Quincy, Adams County (Docket No. FI-4997)	Cedar Creek	At downstream corporate limits	*487
			Just upstream U.S. Route 24	*506
			Just downstream Sunset Cemetery Road	*529
		Curtis Creek	At upstream corporate limits	*553
			At downstream corporate limits	*491
			About 150 feet upstream of 8th Street	*506
			About 275 feet upstream of 12th Street	*541
			Just downstream of Hamson Street	*581
			Just downstream of Ridgewood Drive	*606
		Emery Creek	Just upstream of Ridgewood Drive	*615
			About 0.9 mile upstream State Route 96	*660
			At confluence with Curtis Creek	*583
			Just upstream of Monroe Street	*588
			About 100 feet upstream of State Street	*599
		Tributary 2	About 100 feet upstream of 30th Street	*618
			About 1,375 feet upstream of 33rd Street	*628
			At southern corporate limit	*583
			Downstream side of Woodside Drive	*585
		Tributary 3	Upstream side of Woodside Drive	*590
			Upstream side of Fox Run West	*616
			275 feet upstream of Fox Run West	*620
		Mississippi River	At eastern corporate limits	*636
			1,400 feet upstream of Burlington Northern Railroad	*606
			At corporate limit 2,120 feet upstream of 30th Street	*631
			1.2 miles downstream of Memorial Bridge	*486
			Confluence with Cedar Creek	*487
			1.7 miles upstream of confluence with Cedar Creek	*488

Maps available for inspection at the City Clerk's Office and City Engineer's Office, City Hall, Quincy, Illinois.

## Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Indiana	Evansville, City, Vanderburgh County (Docket No. FI-3055)	Ohio River	Downstream Corporate Limit	*378
			Cherry Street Extended	*378
			Upstream Corporate Limit	*378
		Pigeon Creek	Franklin Street	*378
			Maryland Street	*378
			Fifth Avenue	*378
			North First Avenue	*379
			Diamond Avenue	*379
			Stringtown Road	*379
			U.S. Highway 41	*380
			Oak Hill Road	*381
			Upstream Corporate Limit	*382
			Maps available for inspection at the City-County Building, Evansville Commission Office, Room 302, Evansville, Indiana.	
Kansas	(C), Derby, Sedgwick County (Docket No. FEMA-5843)	Arkansas River	About 900 Feet downstream of Washington Street	*1,248
			About 500 feet upstream of Washington Street	*1,249
		Spring Creek	About 900 feet downstream of State Highway 15	*1,246
			Just upstream of State Highway 15	*1,251
			At the confluence of Trail Creek	*1,255
			Just upstream of Woodland Boulevard	*1,258
		Trail Creek	About 0.45 mile upstream of confluence of Dry Creek	*1,268
			About 430 feet downstream of English Street	*1,256
			About 200 feet downstream of Kay Street	*1,264
			Just upstream of Kay Street	*1,270
		Dry Creek	Just upstream of Market Street	*1,275
			Just upstream of Madison Street	*1,285
			Just upstream Madison Street	*1,266
			Just upstream James Street	*1,280
			About 2,100 feet upstream Meadowlark Road	*1,293
		Dry Creek Tributary	At confluence with Dry Creek	*1,272
			Just upstream Brook Forest Road	*1,279
Just downstream Pond Dam	*1,294			
Just upstream Pond Dam	*1,296			
About 1,300 feet upstream Pond Dam	*1,300			
Maps available for inspection at the City Offices, 229 North Baltimore, Derby, Kansas.				
Louisiana	City of Denham Springs, Livingston Parish (FEMA-5835)	Amite River	Just upstream of U.S. Highway 190	*42
			Just upstream of Illinois Central Gulf Railroad	*45
		Long Slash Branch (Backwater flooding from Amite River)	Just upstream of River Road (Louisiana State Highway 1028)	*45
		Colton Creek (Backwater flooding from Amite River)	Just upstream of UNA Street	*46
		Gray's Creek	Just upstream of Wax Road	*33
			Just downstream of Florida Avenue (U.S. Highway 190)	*42
		Wax Ditch (Backwater Flooding from Gray's Creek)	Just upstream of Westfield Drive	*45
			Just downstream of Pete's Highway (Louisiana State Highway 16)	*40
		Folders Ditch (Backwater flooding from Gray's Creek)	Just downstream of Pete's Highway (Louisiana State Highway 16)	*38
		Millers Canal (Backwater flooding from Gray's Creek)	Just upstream of Wax Road	*32
Maps available for inspection at the City Engineers Office, 114 North Range Avenue, Denham Springs, Louisiana 70726.				
Texas	City of Gainesville, Cooke County (FEMA-5853)	Pecan Creek	Approximately 100 feet upstream of Old Denton Road	*710
			Just upstream of Mass Street	*721
			Just upstream of Garnett Street	*730
			Just upstream of Belcher Street	*741
			Just upstream of U.S. Highway 82	*750
			Just upstream of Weaver Street	*763
			Just upstream of Interstate Highway 35 West Frontage Road	*782
		Wheeler Creek	Just upstream of Woodbine Street	*733
		Elm Fork Trinity River	Just upstream of State Highway 35	*712
			Just upstream of FM Hgway 51	*724
		Maps available at City Hall, 200 South Rusk Street, Gainesville, Texas 76240.		

(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 28, 1981.

Richard W. Krimm,

Acting Administrator, Federal Insurance Administration.

[FR Doc. 81-14037 Filed 5-11-81; 8-45 am]

BILLING CODE 6718-03-M

## 44 CFR Part 67

## New Jersey, et al.; National Flood Insurance Program; Final Flood Elevation Determinations

**AGENCY:** Federal Insurance Administration, FIA.

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required either to 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).

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

**ADDRESS:** See table below.

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

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determination of flood elevations for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection 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 Part 67). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

## Final Base (100-Year) Flood Elevations

State	City/town/county (docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)		
New Jersey	Trenton City, Mercer County (Docket No. FEMA-5965)	Assunpink Creek	Confluence with Delaware River	*24		
			Upstream Stockton Street Culvert	*32		
			Upstream Wall Street	*36		
			Upstream Oak Street	*41		
			Upstream Corporate Limits	47		
		Delaware River	Downstream Corporate Limits	*16		
			Confluence with Assunpink Creek	*24		
			Upstream Corporate Limits	*36		
			Maps available for inspection at the Trenton City Planning Office, 10 Capitol Street, Trenton, New Jersey.			
			Pennsylvania	Wilkes-Barre, City, Luzerne County (Docket No. FEMA-5965)	Laurel Run	Downstream of Conrail (1st crossing)
Downstream of Parkin Street (Extended)	*562					
Upstream of Mill Street	*578					
Upstream of Tretheway Street (Extended)	*587					
Downstream of Scott Street	*594					
Mill Creek	Upstream of Chilwick Street (Extended)	*555				
	Downstream of Sidney Street	*560				
	Downstream of Mill Street	*567				
	Maps available for inspection at Wilkes-Barre City Hall, 40 East Market Street, Wilkes-Barre, Pennsylvania.					
	Texas	City of Copperas Cove, Coryell County (FEMA-5966)			Clear Creek	Just upstream of Farm Market 3046
Stream CC-2			Just upstream of Farm Market 118	*1,013		
Just upstream of Lynn Lane			*1,046			
At Deorsam Drive			*1,070			
Just upstream of Georgetown Road			*1,074			
House Creek			At 21st Street	*1,133		
			At Spillway Park Dam	*1,021		
			Approximately 60 feet downstream of Farm Market 1113	*1,025		
			Turkey Run	Just upstream of Atchison Topeka & Santa Fe Railroad	*1,049	
				At Robertson Avenue	*1,077	
At Amthor Avenue				*1,085		
At Bowen Avenue				*1,103		
Maps available for inspection at City Hall, 507 South Main Street, Copperas Cove, Texas 79522.						

(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 20, 1981.

Richard W. Krimm,

Acting Administrator, Federal Insurance Administration.

[FR Doc. 81-14028 Filed 5-11-81; 8:45 am]

BILLING CODE 6710-03-M

**INTERSTATE COMMERCE  
COMMISSION****49 CFR Ch. X**

[Ex Parte No. 355]

**Cost Standards for Railroads Rates****AGENCY:** Interstate Commerce Commission.**ACTION:** Notice of Decision Interpreting Statutory Provisions.**SUMMARY:** Upon review of responses to our request for comments and the Staggers Rail Act of 1980, Public Law 96-448, minimum rate provisions are interpreted. No changes in the Code of Federal Regulations are proposed.**DATES:** This decision is effective on May 12, 1981.**ADDRESS:** Office of Proceedings, Room 5356, Interstate Commerce Commission, Washington, D.C. 20423.**FOR FURTHER INFORMATION CONTACT:** Richard Felder or Jane Mackall, (202) 275-7656.**SUPPLEMENTARY INFORMATION:** The purpose of this proceeding is to determine the standards for rail minimum rates. By decision served July 9, 1980 and found at 362 I.C.C. 800, the Commission invited comments regarding its interpretation of the minimum rate provisions found at 49 U.S.C. 10701 (45 FR 44351; 45 FR 48676). Subsequently,

the minimum rate provisions were amended by Section 201 of the Staggers Rail Act of 1980, Public Law 96-448 and recodified at 49 U.S.C. 10701a.

The Commission analyzed the minimum rate provisions in light of comments and the new statutory language it concluded:

1. The objective of the minimum rate provisions at 49 U.S.C. 10701a is to accord rail carriers maximum flexibility lower rates in order to meet competition or otherwise attract traffic.

2. Under 49 USC 10701a, a rate that does not contribute to the going concern value of the proponent carrier is presumed not to be reasonable while a rate that does contribute to the going concern value is conclusively presumed reasonable.

3. The presumptive cost floor is defined as the sum of the line-haul cost of lading, applicable switching costs, and station clerical costs. A rate that does not equal or exceed the presumptive cost floor shall be presumed unreasonable.

4. The sum of the presumptive cost floor and any other costs that are proven by a protestant to vary directly with the particular movement to which a challenged rate is applicable is defined as directly variable cost.

5. A rate that equals or exceeds the directly variable cost of providing the

service is conclusively presumed to contribute to the going concern value and is thus reasonable.

6. A party wishing to challenge the minimum reasonableness of a rate must prove either that it is not at least equal to the presumptive cost floor or that it is equal to the presumptive cost floor but that there are other specific expenses that vary directly with the level of the particular movement. In either case available cost data from Rail Form A or other acceptable costing systems may be used to show that the challenged rate is unlikely to cover either PCF of DVC. This showing can be rebutted through the use of actual movement cost data.

7. This decision will not significantly affect either the quality of the human environment or the conservation of energy resources, or have an adverse economic effect on any small business.

The complete decision is available from the Secretary of the Commission, I.C.C., Washington, D.C. 20423.

(49 U.S.C. 10321, 10701a, and 5 U.S.C. 553)

By the Commission, Acting Chairman Alexis, Commissioners Gresham, Clapp, Trantum, and Gilliam.

Decided: April 28, 1981.

Agatha L. Mergenovich,  
Secretary.

[FR Doc. 81-14070 Filed 5-11-81; 8:45 am]

BILLING CODE 7035-01

# Proposed Rules

Federal Register

Vol. 46, No. 91

Tuesday, May 12, 1981

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

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 1076

[Docket No. AO-260-A24]

#### Milk in the Eastern South Dakota Marketing Area; Decision on Proposed Amendments to Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

**SUMMARY:** This final decision provides changes in the present Eastern South Dakota milk order provisions based on industry proposals which were considered at a public hearing held March 11, 1980. The changes provide plant operators and cooperative associations greater flexibility in handling and accounting for milk under the order. Also, the late-payment charge on overdue payments by handlers is increased and a marketing services payment by producers is instituted. The changes are necessary to reflect current marketing conditions and to insure orderly marketing in the area.

**FOR FURTHER INFORMATION CONTACT:** Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-6273.

**SUPPLEMENTARY INFORMATION:** This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Prior documents in this proceeding:  
Notice of Hearing: Issued February 21, 1980; published February 27, 1980 (45 FR 12823).

Recommended Decision: Issued February 17, 1981; published February 20, 1981 (46 FR 13222).

#### Preliminary Statement

A public hearing was held upon proposed amendments to the marketing

agreement and the order regulating the handling of milk in the Eastern South Dakota marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice (7 CFR Part 900), at Sioux Falls, South Dakota, on March 11, 1980. Notice of such hearing was issued on February 21, 1980 (45 FR 12823).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Acting Administrator, on February 17, 1981, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

#### Index of Changes

1. Issue No. 1. *The definition of a plant*—a new paragraph is inserted after paragraph 9.

2. Issue No. 2. *Pooling standards for supply plants*—a new paragraph is inserted after paragraph 15.

3. Issue No. 3. *Diversion of producer milk*—a new paragraph is inserted after paragraph 8.

4. Issue No. 5. *Application of location adjustments*—a new paragraph is added at the end.

5. Issue No. 9. *Base pricing points*—a new paragraph is added at the end.

The material issues on the record of the hearing relate to:

1. The definition of a plant.
2. Pooling standards for supply plants.
3. Diversion of producer milk.
4. Cooperative association as a handler.
5. Application of location adjustments.
6. Charges on overdue accounts.
7. Deductions for marketing services.
8. Reporting and payment dates.
9. Base pricing points.

#### Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *The definition of a plant.* A "plant" definition should be included in the order for the purpose of designating the type of handling facilities to which the

order provisions would apply. As defined a plant would be the land, buildings, facilities, and equipment that constitute a single operating unit at which milk or milk products are received, processed, or packaged. Separate facilities used solely as intermediary distribution points in the disposition of packaged fluid milk products would not be plants. Similarly, separate facilities at which milk is only reloaded from one tank truck to another would not be a plant as defined herein.

Under the present provisions of the order the term plant is used in describing the types of facilities involved in the handling of the milk supply for the market. The two principal types of plant operations subject to regulation under the order are distributing plants and supply plants. A distributing plant is defined as a plant which is approved by an appropriate health authority for the processing or packaging of Grade A milk and from which there is route disposition during the month in the marketing area. A supply plant is defined as a plant from which milk or skim milk acceptable to an appropriate health authority for distribution in the marketing area under a Grade A label is shipped during the month to a pool distributing plant.

Distributing plant operators in the market use facilities separate from their plants in the disposition of milk on routes to retail or wholesale outlets. Packaged fluid milk products processed at a distributing plant are in some cases moved to and stored in a distribution point en route to retail or wholesale outlets. In the case of milk assembly operations milk picked up at farms in tank trucks is sometimes reloaded into another tank truck at a reload point en route to a distributing plant or supply plant.

A cooperative association that operates both a distributing plant and a supply plant regulated under the order proposed the adoption of a "plant" definition in the order to specify that milk must be received, processed, or packaged at a plant and that separate facilities used as distribution points or reload points not be considered plants. Proponent operates reload points in its milk assembly and distribution points and distribution/operations in the market. These separate facilities are not considered plants under the current application of the order and proponent

desires that the terms of the order be made more specific in this regard. Otherwise, these types of handling facilities could conceivably be considered plants with respect to the application of the accounting, pricing, and pooling provisions of the order.

In accounting for disposition of fluid milk products on routes from a plant, it is not necessary to provide any different treatment under the order for milk that is distributed through distribution points than for milk delivered directly from the plant to retail or wholesale outlets. Handlers maintain fluid milk product disposition records for each distributing plant on the basis of retail or wholesale sales accounts served by the plant irrespective of whether the product is moved through distribution points or not. In the case of records of sales accounts served through a distribution point, the handler merely needs to assemble those records along with all other records of sales originating from the plant to conform with the plant accounting system provided in the order.

If a distribution point were to be treated under the order as a plant, it could unduly complicate the accounting and administrative procedures under the order. This would especially be so in the application of plant inventory and shrinkage provisions of the order. It is much simpler to account for inventory and shrinkage on the basis of each processing plant as opposed to extending inventory and shrinkage accounting to the several individual distribution points that may be associated with the processing plant. To separately account for inventory and shrinkage at distribution points would place an increase recordkeeping burden on handlers as well as an increased administrative burden on the market administrator in carrying out his duties of verifying the disposition of milk by handlers.

Similarly, if the accounting provisions of the order were to be made applicable at reload points, it could increase the recordkeeping burden on handlers and the verification work to be undertaken by the market administrator.

The proponent cooperative operates reload points in the assembly of milk at its supply plant as well as in moving milk from farms to pool distributing plants. Milk is picked up at farms by several tank trucks and moved to a reload point where the milk is transferred directly to a large over-the-road tank truck for movement to the processing plant. In this circumstance, the identity of the producer milk that is transhipped in the over-the-road tank truck is ascertainable. Thus, it is not necessary to consider milk received at a

reload point as being received at a plant for purposes of accounting for an individual producer's milk. Accordingly, any facility at which milk from farms is only reloaded onto another tank truck need not be considered a plant for purposes of proper application of the order's accounting provisions.

Under the present terms of the order, that portion of a plant that is physically apart from the Grade A portion of such plant, is operated separately and is not approved for the receiving, processing, or packaging of any fluid milk product for Grade A disposal, is not considered a part of a pool plant. The two pool supply plants in this market are operated in plants that have non-Grade A manufacturing facilities. This application of the order should be continued, as requested by the proponent of the previously described plant definition. It is customary for health authorities having jurisdiction in the order area to permit the operation of both Grade A and non-Grade A facilities in the same plant.

In connection with the proposal to adopt a plant definition there was a proposal in the notice of hearing to delete the word "physically" from the phrase "That portion of a plant that is physically apart from the Grade A portion of such plant. . ." in the provisions that describe the conditions under which a portion of a plant would not be considered a part of a pool plant. In its brief and in comments on the recommended decision the proponent cooperative urged that the word "physically" be deleted from such provision of the order. The hearing record, however, does not reveal any problem with respect to the present administrative application of the term "physically" in such provision of the order. Accordingly, there is no need indicated on the record to change the order language with respect to the conditions under which a portion of a plant would not be considered a pool plant.

Cooperative association spokesmen testified to the desirability of recognizing the transfer of milk through a pipeline connecting a pool plant to an adjoining facility which is not approved for the handling of Grade A milk in lieu of transfer in a tank truck. The cooperative witnesses held that recognition of pipeline transfers would promote efficient handling of milk.

It is essential to the proper operation of the order that movements of milk from a pool plant be fully and accurately reported to the market administrator and that reported movements be readily verifiable. Thus, the flexibility to be accorded handlers with respect to the

manner of movements of milk is necessarily an administrative matter that must be left to the discretion of the market administrator. Accordingly, no specific changes in the order provisions are made in this regard.

**2. Pooling standards for supply plants.** Several modifications should be made in the pooling standards for supply plants.

*First*, producer milk that is delivered by the operator of a supply plant directly from producers' farms to pool distributing plants should count as qualifying shipments from the supply plant for purpose of determining the supply plant's pooling status. However, such direct deliveries should count as qualifying shipments only from plants located in the marketing area or any county adjacent to the marketing area.

*Second*, the months of automatic pooling on the basis of shipment of 50 percent or more of a supply plant's receipts during each of the prior months of September through November should be extended from March through June to March through July.

*Third*, an optional shipping standard of 35 percent of a supply plant's receipts during the 12-month period immediately preceding the current month should be adopted.

Presently, a supply plant must transfer 35 percent of its receipts of milk to pool distributing plants during the month to qualify as a pool plant. However, if a supply plant transfers 50 percent of its milk receipts to pool distributing plants in each of the months of September through November, it need only make one or more shipments in each of the months during the next March through June period.

Several proposals dealing with supply plant performance standards were considered at the hearing. All such proposals were made by a cooperative association representing most of the producers supplying the market. One proposal would count that milk moved directly from farms to pool distributing plants by a supply plant operator as qualifying shipments in meeting the supply plant shipping performance standards. In support of this proposal, the witness for the cooperative stated that its adoption could result in more efficient milk handling practices because in certain cases milk associated with supply plants could be moved most efficiently directly from farms to distributing plants.

Another proposal by the cooperative would add the month of July to the present March through June period during which a supply plant is automatically qualified as a pool plant on the basis of shipments of 50 percent



or more during the prior months of September through November. Additionally, the proposal would modify this pooling standard to include a minimum shipping percentage of 15 percent during each of the months of March through July. The cooperative's witness stated that July should be included as a month of lower shipping requirements because the market's Class I utilization in July is significantly lower than during the months of August through February. However, the witness contended that at least 15 percent of supply plant's milk receipts should be shipped during March through July to meet pool distributing plant requirements for milk.

The operator of a proprietary pool supply plant opposed the adoption of a 15 percent shipping requirement during March through July. He contended that this would require increased shipments from his supply plant at a time when milk produced on farms located nearer to pool distributing plants normally is used to meet the needs of the distributing plants.

An additional proposal by the cooperative would include a 12-month moving average pooling standard for a plant operated by a cooperative association. Specifically, a cooperative would have the alternative of meeting the pooling performance requirement for a plant that it operates on either the basis of shipments during the current month or shipments made during the prior 12-month period. The cooperative's witness stated that this modification to the pooling standards would facilitate the pooling of milk of its member producers in the event of a sudden change in supply-customer relationships, since it would allow the cooperative time to make any necessary changes in market outlets for its milk supplies.

The hearing evidence supports the adoption of the cooperative's pooling performance proposals with certain modifications. The proposal to count direct movements of milk from farms to pool distributing plants as qualifying shipments, in meeting pooling standards for supply plants, should be adopted. However, it should be limited to those supply plants located in the present production area for the market.

Presently, there are two supply plants pooled under the order. One is located at Lake Norden, South Dakota, in the northern segment of the marketing area and is operated by a cooperative association. The other supply plant is located at Mitchell, South Dakota, in the western edge of the marketing area and is operated by a proprietary handler. The pool distributing plants served by the two supply plants are located at

Sioux Fall, South Dakota, in the southern portion of the marketing area. The production area for the market encompasses that territory within the marketing area plus the counties bordering on the marketing area. A major proportion of the production area is located closer to the pool distributing plants at Sioux Falls than are the supply plants at Lake Norden and Mitchell. Thus, a majority of the farms of producers on the market are either located closer to the pool distributing plants that the pool supply plants or are located between the pool supply plants and the pool distributing plants.

The majority of the farm bulk tank truck routes serving the market are located either between the pool distributing plants at Sioux Falls and the pool supply plants or closer to the distributing plants. Thus, in this circumstance, milk transportation mileage can be minimized by moving milk directly from farms to pool distributing plants. For example, the milk assemble route for the supply plant at Mitchell operates primarily in the area between Mitchell and Sioux Falls. Thus, as stated by the plant operator, transportation savings can be realized by moving the milk on this route to Sioux Falls directly from the farms rather than through the supply plant at Mitchell.

The proponent cooperative association has followed the practice of serving pool distributing plants primarily on a direct-shipped basis. Under the present terms of the order, a cooperative may pool a plant, other than a distributing plant, on the basis of counting direct shipments of member producer milk to pool distributing plants as qualifying shipments. This type of plant is commonly referred to in the industry as a cooperative association balancing plant. Thus, the proposal to count direct shipments as qualifying shipments for supply plants will enable a proprietary supply plant operator to pool its plant by the same shipment method permitted for a cooperative association balancing plant.

Adoption of the proposal, however, would make the separate cooperative association balancing plant pooling provision redundant. This provision calls for a shipping percentage of 50 percent while the proposal would be applicable to the regular supply plant pooling provision which has a 35 percent shipping requirement. Thus any cooperative association balancing plant pooling under the 50 percent shipping requirement would also be qualified for pool status under the regular supply plant pooling standard. Accordingly, the

cooperative association balancing plant provision is no longer needed.

The adoption of the direct-shipment method of qualifying a supply plant for pool plant status should be accompanied by a geographical plant location limit to insure that the milk pooled at the plant is reasonably associated with the market. Presently, the production area for the market encompasses that territory within the marketing area plus the counties located adjacent thereto. Moreover, all of the plants (both pool and nonpool plants) to which producer milk is delivered are located within the production area. However, a milk manufacturing plant located in territory remote from the production area could be pooled primarily on the basis of direct shipments of milk from within the production area. Thus, without some appropriate limitation on the area within which a plant can pool on the basis of direct shipments from the farm, there would be a possibility of milk being pooled that is produced in an area remote from the market which is not a practicable source of milk supply for pool distributing plants. This could in turn detract from the basic purpose of the pooling provisions, which is to aid in insuring that adequate milk supplies will be made available to pool distributing plants. Accordingly, the option of pooling a plant on the basis of direct shipments should be limited to those plants located within the normal production area, which is the marketing area or those countries adjacent to the marketing area. This limitation would not preclude, however, a supply plant located outside the current production area from being able to qualify as a pool plant on the basis of shipments of milk from the plant to pool distributing plants.

The cooperative association that proposed pooling a plant on the basis of direct shipments urged in its exceptions to the recommended decision that this method of pooling be limited to plants located within the marketing area rather than the production area. The cooperative's exceptions raised no new points not already considered in determining the appropriate geographic location of plants that may pool on the basis of direct shipments. No departure from the recommended decision should be made with respect to this matter.

The cooperative's proposal to add July to the March through June period of reduced shipping requirements for a pool supply plant that shipped at least 50 percent of its receipts to pool distributing plants in the prior months of September through November should be

adopted. However, the cooperative's companion proposal to require at least a 15 percent monthly shipping requirement during March through July for a plant qualifying for pool status under this pooling option should not be adopted.

There is a wide seasonal variation in the Class I utilization percentage in this order market. For example, during 1979 the market's Class I utilization percentage varied from a seasonal low of 38 percent in June to a seasonal high of 58 percent in October. With a Class I utilization percentage pattern of this seasonal nature in the market, it can be expected that there would be a wide seasonal variation in the need for shipments of milk from supply plants to distributing plants. This is particularly the case when distributing plants obtain a large proportion of their milk supplies from producers that deliver their milk to the distributing plants on a year-round basis.

Supply plants tend to serve the function of balancing the milk requirements of distributing plants. Typically, distributing plants in the market obtain a major proportion of their milk requirements directly from farms. During the months of seasonally high production, receipts of producer milk supplies associated with the distributing plants fulfill a much larger proportion of the milk requirements of the distributing plants than is the case during the months of seasonally low milk production. Consequently, the seasonal variation in the amount of milk needed from supply plants as supplemental supplies is much more pronounced than the seasonal variation in Class I utilization in the market. The supply plant pooling option of virtually automatic pool plant status during the flush production months for a plant that shipped 50 percent or more of its receipts during the prior short production months of September through November is intended to accommodate this type of milk procurement situation.

To adopt increased shipping requirements, as proposed, for supply plants in the flush production months could tend to encourage displacement of direct-delivered nearby milk supplies with distant supply plant milk. This would tend to increase total milk transport costs in supplying distributing plants, as was contended by a proprietary pool supply plant operator.

Witnesses for the supply plant operators in the markets stated that it is a practice in the market for supply plant operators to make milk shipping agreements with distributing plant operators on a yearly basis. In this circumstance, it is not necessary nor

desirable to adopt additional shipping requirements under the order. Supply plant and distributing plant operators can negotiate on the level of supply plant shipments to be made during the flush production months. The adoption of additional shipping requirements under the order could detract from the flexibility in shipping performance that plant operators may desire to arrange between themselves to best serve their particular marketing situation.

In this regard, the addition of July to the period of no specified shipping percentage under the order would afford greater flexibility in milk shipping arrangements between supply plant and distributing plant operators. Moreover, reduced shipping requirements for July would be desirable since, as pointed out by proponent, it is one of the months of seasonally lower Class I utilization in the market. For example, in 1979 Class I utilization in the market was lower in July than in all other months except May and June.

The cooperative's proposal to adopt an additional alternative supply plant pooling performance standard of a 12-month moving average shipping percentage will provide an increased degree of flexibility in the shipping arrangements that can be negotiated between supply plant and distributing plant operators. In addition, it will afford the supply plant operator an opportunity to retain pool plant status for a month or more in the event of an unexpected change in supply-sales arrangements. As noted by proponent, there is always a possibility that a distributing plant operator could lose a major sales account that would significantly reduce his milk requirements from a supply plant. In such an event the supply plant operator may need time to arrange for an alternative pooling outlet for its milk supply that has been associated with the market on a regular basis. Appropriately, producers who have been regularly supplying the market should be afforded the opportunity to retain pooling status during the time it takes to make necessary adjustments in outlets for milk supplies.

3. *Diversion of producer milk.* Rules concerning the diversion of producer milk from a pool plant to another plant should be modified. The order should provide that a handler may divert milk from any pool plant to any other plant except a producer handler plant. The order should also provide that at least one day's production of a producer must be physically received at a pool plant during each month in order to be eligible for diversion. A handler's diversions of

milk to nonpool plants should be limited during the months of August through February to 35 percent of the handler's producer milk supplies. Also, the provisions with respect to the identification of milk diverted in excess of the 35 percent limit (commonly referred to in the industry as "overdiverted" milk) should be modified to account for such milk on the basis of that milk last diverted during the month, if the handler fails to designate those producers whose milk constitutes excess diversions.

Presently, the order provides that milk may be diverted only from pool distributing plants to nonpool plants. To be eligible for diversion, the order now requires that a producer's milk must be delivered to a pool plant on at least 3 days during the month. Diversions to nonpool plants are now limited during the months of July through February to 35 percent of the volume of milk received at pool plants.

Several changes in the order's diversion provisions were proposed by a cooperative association and were supported by another cooperative association at the hearing. The proposals would (1) permit the diversion of producer milk from pool supply plants to nonpool plants and between pool plants in addition to the present allowable diversions of milk from pool distributing plants to nonpool plants, (2) provide that only one day's production of a producer must be received at a pool plant during the month in order for the milk of such producer to be eligible for diversion, and (3) limit the proportion of a handler's total producer milk supply that may be diverted to nonpool plants to 50 percent during each month in the March through July period and to 35 percent in any other month of the year.

The cooperatives' witnesses supported these modifications to the order primarily on the basis that they would facilitate greater efficiency in milk handling and hauling. With respect to permitting diversions from supply plants, one witness stated that his cooperative operates a pool supply plant in conjunction with a nonpool manufacturing plant at which reserve pool milk supplies transferred from the supply plant are processed. He reasoned that it would be a more efficient handling practice for the cooperative to divert the reserve milk supplies directly from farms to the nonpool manufacturing plant rather than first receiving such milk at the pool supply plant. In addition, he stated that the same milk handling situation exists for the proprietary pool supply plant operator in the market. Moreover, he

pointed out that the proprietary supply plant operator could realize transportation savings by diverting milk from his supply plant to pool distributing plants, as was mentioned previously in this decision.

In connection with the proposal that only one day's production of a producer be required to be received at a pool plant each month, instead of three deliveries per month, a witness stated that his cooperative could reduce its farm bulk tank truck mileage by about 400 miles per month if the proposal were adopted. This, he said, would be accomplished by making increased deliveries to pool distributing plants from its bulk tank truck route that is located closest to the distributing plants and less frequent deliveries from its more distant bulk tank truck route. The other cooperative witness stated that the proposal would permit his cooperative to reduce milk assembly mileage since milk of its Grade A producers that is not needed for fluid use could be transported to manufacturing plants more frequently on the same bulk tank trucks hauling milk of its Grade B dairy farmers.

The proposal to change the percentage limit on a handler's diversion from pool plants to nonpool plants to 35 percent of his total producer milk supplies rather than 35 percent of that volume received at pool plants would increase total allowable diversions during the months of August through February. This is because 35 pounds of milk could be diverted for each 65 pounds received at pool plants compared to the present 35 pounds for each 100 pounds received. Proponents contended that this relaxation of diversion limits could also facilitate reductions in hauling mileage in milk assembly operations.

The proponent cooperative supported the adoption of a 50 percent diversion limit in the months of March through July on the basis that it would encourage handlers on the market to serve the fluid milk needs of distributing plants as opposed to making one delivery per month and diverting the remainder for manufacturing use.

Except for this proposal to adopt diversion limits during the flush production months, the cooperatives proposed changes in diversion provisions should be adopted. As pointed out by the witnesses for the cooperatives, and proposals would allow for more flexibility in milk assembly operations and, thus, better enable handlers to effect increased efficiency in handling milk, particularly in the disposition of the market's reserve milk supplies. Pool supply plant operators will be able to avoid moving

reserve milk supplies through their pool plants en route to manufacturing plants. Also, they will be able to divert milk directly from farms to pool distributing plants and avoid reloading it at the supply plant (except for one occasion per month).

In its exceptions to the recommended decision the proponent cooperative pointed out that under the order language contained in the recommended decision it was not clear that in the case of diversions between pool plants that milk of each producer had to be received once each month at the pool plant from which it is being diverted. Accordingly, the order language is revised to be more specific in this regard.

The requirement that each producer's milk be received at a pool plant each month will tend to insure that milk pooled on the market can be relied on as a source of milk to meet the needs of fluid milk processors. Also, it will encourage the use of quality control measures with respect to all producer milk, since it must be marketed in fluid milk channels each month.

Increased diversion allowance in the months of August through February will more closely reflect that proportion of the market's reserve milk supplies that must be disposed of in manufacturing use, which takes place at nonpool plants. For example, Class III utilization in the market during such months of 1979 ranged between 29 and 40 percent of producer milk on the market. The 35 percent diversion limit will enable handlers to move virtually all of the milk for Class III use directly from farms to nonpool manufacturing plants.

A further modification of the diversion provisions concerning any overdiverted milk of a handler was suggested by cooperatives and should be adopted. Under the present terms of the order, a handler who overdiverts milk may designate those producers whose milk is overdiverted. If he fails to do so, all of the milk that the handler diverts to nonpool plants is disqualified from being producer milk. It was proposed that only that milk last diverted during the month, starting with the last day of the month, then the second to last day, until all the overdiverted milk is accounted for, be disqualified as producer milk. This proposal would have less severe impact on handlers who may mistakenly overdivert milk and, therefore, is a much preferable provision.

The proposal to adopt diversion limits during the flush production months would tend to detract from the efficient handling of reserve milk supplies on the market. This would especially be the

case with respect to a supply plant that pools under the option of making shipments of 50 percent or more during the months of September through November and is thereby entitled to pool plant status the following March through July by meeting the supply plant definition, which simply requires that a milk shipment be made to a pool distributing plant each month. If diversion limits were to be made applicable to such a plant it would require that milk be received at the supply plant before being transferred to a nonpool manufacturing plant. This is directly opposite to the intent of the cooperatives' proposal to allow diversions from supply plants. In view of these circumstances, the proposal is not adopted.

At the hearing, a proprietary distributing plant operator proposed a modification to the cooperatives' proposed limit on diversions of milk to nonpool plants. The modification would permit a handler to divert to nonpool plants a quantity of producer milk equivalent to 35 percent of his producer milk supply and milk purchased from a cooperative supply plant located in the marketing area. In support of this modification the handler stated that it would enable him to divert the milk of the nonmember producers associated with his plant to a nonpool plant closer to the producers' farms and thereby reduce the hauling cost paid by such producers. The handler stated that he could increase his milk purchases from the cooperative to replace the increased diversions of his producer milk.

The cooperative supplying this handler opposed the proposal, in its brief, on the basis that its supply plant is located more distant from the handler's pool distributing plant than the location of the farms from which the handler purchases nonmember milk. Consequently, the cooperative contended, the proposed modification could result in increased trucking costs in supplying milk to the market.

The handler's proposed modifications to the method of computing diversion limits should not be adopted. The proposal would increase a pool distributing plant operator's allowable diversions during August through February by an amount equivalent to 35 percent of the volume of milk purchased from a supply plant operated by a cooperative. In a situation where the distributing plant purchases a large proportion of its milk supply from a cooperative association supply plant, the proposal would tend to permit the distributing plant operator to divert its supply of producer milk on a year-round

basis, except for one day's production of each producer each month. Consequently, the proposal could be used to circumvent the diversion limits with respect to certain handlers' supplies of producer milk. Such nonuniform application of diversion limits among handlers would not be appropriate.

4. *Cooperative association as a handler.* The order should be modified with respect to the treatment of milk which a cooperative moves from the farm to a pool plant in a tank truck owned and operated by, or under the control of, such cooperative. Specifically, a cooperative should be permitted to act as a bulk tank handler with respect to milk of a producer who is not a member of the cooperative and with respect to milk that it delivers to a pool plant operated by the cooperative. In addition, cooperative association bulk tank handler milk should be transferred between pool handlers on the basis of the uniform price.

Presently, the order provides that a cooperative may be a bulk tank handler only with respect to milk of member producers and only on that milk transferred to the plant of another handler. Such transfers of milk between handlers are accounted for on a classified use basis.

The largest cooperative in the market proposed that a cooperative be permitted to be a bulk tank handler for milk on routes under its control that is produced by nonmember as well as member producers. Also, it proposed that the cooperative be permitted to report in its capacity as a bulk tank handler rather than a plant operator on milk that it delivers to its own pool plant, in addition to being a bulk tank handler on milk delivered to a pool plant of another handler. Another proposal by the cooperative would provide that cooperative bulk tank handler milk transfers be accounted for on the basis of the uniform price.

In support of its proposals, the cooperative stated that on occasion it picks up the milk of a nonmember producer on a bulk tank truck route that it operates. Also, milk from its bulk tank truck routes is delivered to its own pool plants as well as to pool plants operated by other handlers. The cooperative's witness indicated that its plant operations and its milk procurement operation are separate divisions within the association and separate milk accounting systems are maintained with respect to each division. In this circumstance, the cooperative would prefer to account for bulk tank milk delivered to its own pool plants on the same basis as that delivered to pool

plants of other handlers. One benefit pointed out by the cooperative's witness is that the cooperative would be able to maintain one payroll for all its milk deliveries to pool plants as opposed to maintaining a separate payroll for those producers whose milk is received at its own pool plants. With respect to the payment procedure for cooperative bulk tank handler milk, proponent witness contended that accounting for such interhandler transfers at the uniform price rather than class prices would facilitate administration of the order with respect to the matter of financial responsibility and audit adjustments.

A cooperative should be the handler with respect to any milk which it receives for its account from the farm of a producer for delivery to a pool plant in a tank truck owned and operated by, or under the control of, such cooperative. When the milk of any producer is commingled in a tank truck with that of other producers, the identity of the individual producer's milk is lost. The amount of the producer's milk in the truck and the butterfat content thereof can be determined only from measurement of the milk at the farm and from milk samples taken from the farm tank. After the milk has been pumped from the individual producer's farm tank into the tank truck of the handler and commingled with the milk of other producers, there is no opportunity to measure, sample, or reject the milk of an individual producer.

Much of the milk received at pool plants in the market is picked up at the farm in trucks owned or operated by, or under the control of, cooperative associations. In this case, it is only the association that has the opportunity to measure and sample the milk of individual producers that is received at the pool plant. In the absence of any agreement by the plant operator to be the handler for the milk, the association necessarily must be the responsible handler for the milk as it leaves the farm. However, if there is a mutual arrangement between the cooperative and the plant operator, noticed to the market administrator, whereby the plant operator agrees to purchase such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, either the cooperative or the pool plant operator may be the reporting handler for such milk, according to the agreement reached between them. The order should afford all cooperatives in the market flexibility in the arrangements under which they sell milk to pool plants.

If it so chooses, a cooperative should be able to pick up the milk of nonmember producers along with the milk of its member producers for delivery to a pool plant. This procedure will enable the cooperative to act as the marketing agent for a nonmember producer who, although he has not become a member of the cooperative, has contracted with the cooperative to act as the marketing agent for his milk. In the event a cooperative does market the milk of a producer who is not a member of the association, a question arises about the appropriate method of paying such producer. If the nonmember producer has signed a contract with the cooperative whereby he authorizes the cooperative to market his milk and collect payments therefor, the cooperative may pay the nonmember in accordance with the contract. If such marketing functions occur in the absence of a written contract, the cooperative would be required to pay the nonmember producer not less than the prices prescribed by the order.

Transfers of bulk tank milk by a cooperative handler to a pool plant operator should be made at the uniform price rather than at class prices as is now the case. The purchase of such milk by the pool plant operator should be treated as an interhandler transfer but would be classified pro rata with producer milk that the pool plant operator may receive. The pool plant operator would be obligated to the producer-settlement fund for the milk received by transfer from bulk tank cooperative handlers at its classified use value. The cooperative in turn would be reimbursed by the handler at the uniform price. Under the present procedure where the plant operator settles with the cooperative at class prices and the cooperative settles with the producer-settlement fund, an unnecessary third party is involved in the transaction. Also, the adopted procedure will facilitate the handling of audit adjustments that might result from verification of a plant's utilization of milk. An error in the reported classification of milk at the pool plant, for example, would not require a related adjustment in the cooperative's classification of milk and, thus, its obligation to the pool for such milk.

5. *Application of location adjustments.* The order should be modified with respect to the application of location adjustments on bulk milk transferred between pool plants. The present provision that assigns to a distributing plant's Class I use 95 percent of any direct receipts from producer farms before any assignment

of receipts from supply plants for location adjustment purposes should be changed to a 10 percent "set-aside" for unavoidable Class II and Class III utilization at pool distributing plants. Also, the assignment of Class I location adjustment credits among supply plants should be on a pro rata basis rather than in sequence beginning with the plant at which the least location adjustment would apply.

The major cooperative in the market proposed that transportation credits from the pool be provided under the order with respect to all movements of milk from supply plants to pool distributing plants. Specifically, the proposal would accomplish this by pricing all bulk milk transfers at the uniform price applicable at the location of the transferee plant. Proponent contended that the order should provide the same location pricing incentive to move milk to pool distributing plants irrespective of whether it is received directly from producers' farms or from another pool plant.

To encourage the efficient movement of milk between plants under Federal orders, it is generally necessary, either through the allocation procedure in the assignment of milk receipts to classes of utilization or in the application of location adjustment credits, to protect the pool from bearing the costs of unnecessarily moving milk to the central market for other than Class I use. Otherwise, the net return to producers is reduced by the amount of any location adjustment credit assigned to other than Class I milk, since no location adjustments apply to Class II or Class III use. This principle is reflected under the present time of the order and it should not be completely abandoned by allowing unlimited transfers of milk between plants for which location adjustment credits from the pool would be provided.

As an alternative to the proposal to provide location adjustment credits with respect to all transfer of milk from supply plants to pool distributing plants, proponent proposed that a 15 percent "set-aside" be adopted under the order to cover unavoidable Class II and Class III use at pool distributing plants. In addition, the proposal would prorate a pool distributing plant's Class I use plus a 15 percent "set-aside" to all sources of fluid milk receipts in computing location adjustment credits to be given to pool supply plant operators.

In support of its proposed 15 percent "set-aside" to cover unavoidable Class II and Class III use, proponent related that there are several types of non-Class I uses that are unavoidable at distributing plants, namely, cream from

standardization, shrinkage, route returns, milk disposed of for animal feed or dumped, and inventory at the end of the month. He stated that such uses could represent as much as 14 percent of a plant's utilization of milk receipts.

In further support of the proposed increase in the "set-aside" provision of the order, a proprietary pool distributing plant operator offered into evidence certain figures with respect to non-Class I use at his plant. He stated that for the four-month period preceding the hearing he averaged 1.25 percent shrinkage and 0.5 percent dumped milk. In addition, he sold significant quantities of cream from standardization of his milk receipts and had variation in inventories of fluid milk products at the end of each month. Consequently, his Class I utilization averaged 92 percent for the four-month period.

It is concluded on the basis of the evidence presented that a "set-aside" allowance of 10 percent should be provided under the order. A 10 percent allowance should accommodate the necessary Class II and Class III use experienced by pool distributing plants in most months. An allowance above 10 percent, as proposed, is clearly excessive and should not be adopted.

The aggregate amount of Class I milk assigned to transferor pool plants for location adjustment credit purposes should be prorated to each transferor pool plant based on the proportion of receipts from each plant. This will assure that each transferor pool plant gets a proportionate share of the Class I location adjustment credit, instead of, as is presently being done, giving preference first to the closest plant and then to successively more distant plants.

The latter procedure was adopted to encourage milk to come from the closest source of production, thereby eliminating unnecessary transportation. However, changes in milk marketing have made this procedure impractical in this market.

Whereas, in the past, a handler would bottle a fairly even amount of milk six or seven days a week, now handlers bottle on only 4 or 5 days a week, and there is a wide variation in the amount bottled from one day to the next. Accordingly, on certain days handlers may require more milk than can be supplied from the nearest supply plant. However, if a handler purchases milk from more than one supply plant, the more distant supply plant may not be allocated its proportionate share of Class I location adjustment credits. To avoid this problem, a handler would have the incentive to purchase all his milk from a larger, but more distant, supply plant, thereby being assured that all of the

milk purchased from the supply plant would get the maximum amount of Class I location adjustment credits available. Under these circumstances, the provision now in the order would result in greater transportation costs from the pool, which is the opposite of what it is intended to do.

The proposed pro rata assignment of Class I use at a pool distributing plant to all sources of fluid milk product receipts for the purpose of computing location adjustment credits should not be adopted. Such procedure would result in granting some location adjustment credits to supply plants irrespective of the Class I utilization percentage at the transferee plant. It was argued by proponent cooperative, that Class II products are a part of a distributing plant operator's regular product line and such operators expect to receive a regular supply of milk for Class II use as well as Class I.

It would not be appropriate under the order to encourage the movement of milk for Class II use unless handlers paid for such transportation under the order. Otherwise, the handlers would get free transportation of this milk at the expense of all producers in the market. If handlers want milk at deficit production locations for Class II use, they should be willing to pay the transportation costs involved. Under the order, this could be accomplished by increasing the Class II price. Location adjustments could then be incorporated in the order to accommodate the movement of milk for this use. It appears that any accommodation for the movement of milk for Class II use should be accompanied by some restructuring of the classification and pricing provisions for such milk under the order, which is beyond the scope of this hearing.

In its exceptions to the recommended decision the proponent cooperative urged reconsideration of this issue. The cooperative contended that, since location adjustments to the uniform price enable distributing plants to obtain direct shipped milk for Class II use, the order should provide an equivalent transportation incentive for a distributing plant to obtain milk from other plants for Class II use. The cooperative reasoned that this would tend to insure greater equity among handlers in the costs of milk procurement. Even though greater equity among handlers could possibly be achieved, it still remains that it would be uneconomic to provide a transportation credit under the order to move milk that has already been received at a plant where it could be

processed, to another plant for manufacturing use. In such circumstance, if it should become necessary to insure greater equity among handlers with respect to the cost of procuring milk for Class II use it could well be that the more appropriate approach may be to consider removing the impact that the location adjustments to the uniform price has on the assembly of milk for manufacturing use. This, however, would go beyond the scope of the proposals considered at the hearing. Under these circumstances it is concluded that no departure from the revisions contained in the recommended decision should be made on the basis of this hearing.

6. *Charges on overdue accounts.* The order should be revised to extend the application of the charge on overdue accounts to all handler obligations to the market administrator. Also, the rate of the charge should be increased to 1 percent per month.

Presently, under the order a late payment charge of 0.5 percent per month is applicable to any overdue obligation of a handler to the producer-settlement fund.

The application of the late-payment charge to all handler obligations to the market administrator and the increase in the rate charged was proposed by a cooperative. In support of such amendments the cooperative's witness stated that they are needed to better assure equity among handlers. There was no opposition to these proposed amendments.

The charge on overdue payments to the producer-settlement fund is intended to encourage handlers to make such payments on time. If the charge is to have any impact on handlers in terms of encouraging prompt payments, it must be an amount that is reasonably comparable to what a delinquent handler would be charged by commercial banks for money borrowed for short-term purposes. If this is not so, handlers who may have financial problems would be encouraged to delay their payments, knowing that the charge under the order is cheaper than borrowing money commercially at a higher loan rate. The record testimony indicates that a monthly charge of 1 percent more nearly reflects the current cost of borrowed money. Thus, the rate charged under the order should be increased to 1 percent to provide more reasonable assurance that order obligations do not represent a cheap source of money.

With respect to handler obligations to the market administrator, the amounts owed to the producer-settlement fund account for the major portion of such

obligations. However, handlers are also obligated to make payments to the market administrator for his costs of administration of the order and for any adjustments to a handler's obligation based on audit of handler's reports. In addition, provision is made in this decision to adopt a marketing service program under the order whereby handlers will be obligated to make deductions from payments to producers who are not members of a cooperative and remit such money to the market administrator. Such other handler obligations to the market administrator also should be made subject to the late-payment charge, as proposed, to better insure compliance with the payment provisions of the order.

The present order language with respect to the late-payment charge is redrafted to make it more specific that the full charge is to be assessed on the first day an obligation is overdue and on the same day of each succeeding month until the obligation is paid. There was discussion on the record concerning whether the charge of 1 percent per month should be apportioned on a daily basis, such as  $\frac{1}{30}$  of 1 percent if the obligation is paid one day late. This latter procedure should not be adopted. If late-payment charges were treated strictly on a money market basis, the order would merely represent a banking service for handlers who desire to use order obligations as a source of borrowed funds. This is not the intended purpose of the late-payment charge. Rather, it is to be an inducement for handlers to pay their obligations under the order on time.

7. *Deductions for marketing services.* Provision should be made under the order to conduct a marketing services program for producers supplying the market. Such services should include providing marketing information to producers and providing for the verification of the weights, samples, and tests of milk of producers. The program should be financed by handlers' deductions from payments to producers. In the case of producers for whom a cooperative association is actually performing the services set forth above, each handler should make deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between the cooperative and such producers. In the case of other producers, the market administrator performs the specified marketing services. The order should provide for a maximum deduction of 6 cents per hundredweight for marketing services furnished by the market administrator.

Handlers should remit marketing service deductions to the market administrator and cooperatives by the 15th day after the end of the month.

This marketing service program was proposed by a cooperative association representing most of the producers supplying the market. A witness for the cooperative stated that cooperative associations in the market are providing marketing services for member producers and the member producers pay the cooperatives to provide the service. In the case of nonmember producers, he stated that the market administrator is performing the specified services; however, administrative expense funds are being used for this purpose rather than deductions from producers. Proponent stated that nonmember producers should be charged for the services performed for their benefit.

It is essential to the proper application of the order that weights and butterfat tests of all producer milk be accurate. Otherwise, a handler could gain a competitive advantage at the expense of producers if reported producer milk weights and butterfat tests are understated.

The Agricultural Marketing Agreement Act, as amended, under which milk orders are issued, expressly provides that a marketing service program may be included in an order. Most Federal milk orders now in effect contain marketing service provisions. The neighboring order markets of Nebraska-Western Iowa, Upper Midwest, and Iowa have marketing service provisions.

Until recent years a marketing service provision was not needed in the Eastern South Dakota order, since all of the producers on the market were members of cooperative associations that provided the services for their members. A few years ago the order area was expanded to include Brookings, South Dakota, at which a plant supplied by nonmembers producers was located. The plant has since closed, but the producers are still marketing their milk under the order to proprietary pool distributing plant in Sioux Falls. More recently a proprietary pool supply plant at Mitchell became associated with the order market. This handler's supply of milk is from nonmembers producers.

Since these nonmember milk supplies became associated with the market, the market administrator has performed milk weight and butterfat test verification services with respect to the milk pool handlers buy from the nonmembers. Such activities are necessary to insure that the handlers are

accounting properly for the milk received from the producers. Appropriately, the nonmembers producers should be assessed for the performance of these services as is done under the neighboring orders.

The market administrator for the Eastern South Dakota order is also the market administrator for the neighboring Nebraska-Western Iowa and Iowa orders, as well as the Great Kansas City order. Each of these other orders has a marketing service program with a maximum producer assessment rate of 6 cents per hundredweight. In the administration of the several orders under a single agency, a joint marketing services budget is maintained. This is because there are agency employees engaged in performing marketing services activities for the several markets being administered by the one agency. In this circumstance, it is appropriate that the marketing service assessment be maintained at the same rate under the several orders administered by the same market administrator. Accordingly, the maximum rate of assessment should be set at 6 cents, the same as the other orders administered by the market administrator.

**8. Reporting and payment dates.** Several of the reporting and payment dates provided in the order should be set at a later date. Handler's reports of milk receipts and utilization should be changed from the 7th day to the 8th day after the end of the month. Handler obligations to the producer-settlement fund should be made due on the 15th rather than the 13th day after the end of the month. Payments from the producer-settlement fund should be set back two days also.

With respect to handler payments to cooperatives for milk received from the cooperative during the first 15 days of the month, payment should be made by the 28th day rather than the 26th day of the month. Final payment to cooperatives by handlers should be moved from the 13th to the 15th day after the end of the month. Final payments to individual producers should be on or before the 18th day after the end of the month rather than the 15th.

These changes in the order's reporting and payment dates were proposed by a cooperative association which represents most of the producers supplying the market. The cooperative is the reporting handler with respect to most of the producer milk on the market. It also operates two of the five pool plants regulated under the order. The basic reason given by the cooperative in support of the proposed later dates was

that the cooperative is experiencing delays in delivery through the mail of its milk receipts and sales reports from its several reload points, distribution points, and plants to its central bookkeeping office located in Minneapolis. Such mail delays have made it extremely difficult for the cooperative to file its report of receipts and utilization by the 7th day after the end of the month.

The date by which the market administrator is required to announce a uniform price based on handler reports is not until the 12th day after the end of the month. Consequently, an allowance of an extra day, to the 8th, for handlers to file reports should not cause any undue burden for the market administrator in processing reports and announcing the uniform price on time. In this circumstance, and since a reporting date of the 8th would provide some relief for handlers in their bookkeeping operations, the proposal should be adopted.

With respect to setting back the due dates for handler's payments, proponent stated that the proposed dates would better align such payment dates among orders in the region. Proponent is a regional cooperative that markets milk under neighboring orders as well as the Eastern South Dakota order. Its payments to all member producers throughout the order areas in the region are coordinated on the same date. The cooperative's witness stated that it is the cooperative's policy to pay its members by the 20th day after the end of the month.

Under the neighboring orders the final date for payments to individual producers by handlers is the 18th day after the end of the month. Thus, the proposal to change the final payment date under the Eastern South Dakota order from the 15th to the 18th day after the end of the month would coordinate the producer payment dates throughout the region. There is a significant degree of overlapping of milk procurement areas for the Eastern South Dakota market and neighboring order markets. For example, there is nearly as much milk produced in South Dakota pooled on the Nebraska-Western Iowa market as is pooled on the Eastern South Dakota market. In addition to intermarket procurement competition, there is a significant amount of intermarket sales competition among handlers regulated under the orders in the region. Consequently, adoption of the proposed producer payment date will provide a more uniform intermarket competitive situation among both producers and handlers in the region.

Adoption of a later payment date for payments to producers will enable setting later dates for payments into and out of the producer-settlement fund. This should tend to benefit handlers with respect to their cash flow position and, thus, should be adopted.

**9. Base pricing points.** The proposal to delete Mitchell, South Dakota, as a base pricing point under the order should not be adopted.

Presently, the order provides a plant location adjustment for milk received from producers at a plant located in Minnesota, North Dakota, or that portion of South Dakota north of U.S. Highway 90. At a plant located in such territory Class I and uniform prices are reduced 1.5 cents for each 10 miles or fraction thereof that such plant is located from the nearer of the Post Offices in Mitchell or Sioux Falls, South Dakota. Mitchell and Sioux Falls are located on U.S. Highway 90 that crosses the southern portion of the marketing area in an east-west direction.

The major cooperative association in the market proposed that Mitchell should be deleted as a base pricing point for the purpose of plant location adjustment and that all plant location adjustments be based on the distance that the plant is located from Sioux Falls. Proponent stated that the proposal would reduce Class I and uniform prices at plants in Mitchell, which is 70 miles west of Sioux Falls, by 10.5 cents per hundredweight. In support of the proposal, the witness for proponent stated that his cooperative operates a reload point at Mitchell through which milk produced on farms located north of Mitchell is moved to pool distributing plants at Mitchell and Sioux Falls. The witness indicated that the majority of this milk supply is moved to Sioux Falls, which is the primary milk processing and consumption center in the market. He argued that a reduction in the order prices at Mitchell would better encourage milk to be moved from the market's production areas to the primary processing and consumption center of the market.

The operator of a pool supply plant and a nonpool manufacturing plant, both located at Mitchell, opposed the proposal. He stated that the proposal would reduce the order price to his producers below the price that the proponent cooperative would be able to pay its producers in his procurement area and, thus, he would be forced to pay a premium to his producers to stay competitive in obtaining his milk supply.

The proposed 10.5-cent reduction in the order's Class I and uniform prices at Mitchell relative to Sioux Falls raises

the question of whether the pool distributing plant located at Mitchell would be adversely affected with respect to its ability to attract a supply of milk under the order's price structure. The adoption of a single base pricing point at Sioux Falls would tend to attract all the market's milk supplies to such location relative to any other plant location unless the other plant were located at or near a point through which milk would be transported en route from the farm to Sioux Falls. Mitchell is located on the western edge of the milk production area for the market. On the basis of December 1979 data, less than 20 of the market's 449 producers are located in Davison County, where Mitchell is located, and the nearby counties of Aurora, Jerauld, Douglass and Charles Mix. In this circumstance, there is serious question whether the order price structure would attract adequate supplies of milk to the pool distributing plant at Mitchell if the order prices at such plant were reduced 10.5 cents relative to plants in Sioux Falls.

Intermarket procurement competition could be disrupted if the order prices were reduced at the Mitchell location. The Nebraska-Western Iowa market is supplied in part by milk produced on farms in the general vicinity of Mitchell. Thus, the pool plants at Mitchell are in procurement competition with Nebraska-Western Iowa handlers.

Presently, there is close alignment of Class I prices at Mitchell and Sioux Falls under both orders. The Eastern South Dakota Class I differential is \$1.40 at Mitchell and Sioux Falls. The Nebraska-Western Iowa Class I differential adjusted for location is \$1.39 at Sioux Falls and \$1.375 at Mitchell. The proposal would provide a differential of \$1.295 at Mitchell, or 8 cents under the Class I differential at such location under the Nebraska-Western Iowa order.

A 10.5-cent reduction in the location adjustment at Mitchell would reduce the uniform price by the same amount relative to Sioux Falls. With an overlapping of procurement areas under the Eastern South Dakota and Nebraska-Western Iowa orders, it could be expected that, until the uniform prices under the two orders at the Sioux Falls location become essentially equal through changes in market utilization, producers would be attracted to the market with the higher uniform price. In such circumstance, the uniform price under the Nebraska-Western Iowa order would be 9 cents higher than the Eastern South Dakota uniform price at a plant in Mitchell. Thus, it could be expected that producers in the vicinity of Mitchell

would be attracted to the Nebraska-Western Iowa market before alignment of the respective order prices is realized at the Sioux Falls location.

In view of the above considerations, it is concluded that the proposed elimination of Mitchell as a base point could threaten the availability of milk supplies for the pool distributing plant at Mitchell on the basis of both intramarket and intermarket procurement competition. Accordingly, it should not be adopted.

The cooperative association that proposed the elimination of Mitchell as a base point filed an exception to the denial of the proposal. In its exceptions the cooperative reiterated its reasons stated at the hearing in support of the proposal. Moreover, the cooperative states that it is desirable to have intermarket alignment as a first priority in determining location adjustments. In this regard the exceptions fail to refute the above reasoning that continuation of both Mitchell and Sioux Falls as base points provides better intermarket price alignment than would the use of Sioux Falls alone as a base point. Accordingly, the exception is denied.

#### **Rulings on Proposed Findings and Conclusions**

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

#### **General Findings**

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

#### **Rulings on Exceptions**

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

#### **Marketing Agreement and Order**

Annexed hereto and made a part hereof are two documents, a **MARKETING AGREEMENT** regulating the handling of milk, and an **ORDER** amending the order regulating the handling of milk in the Eastern South Dakota marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

*It is hereby ordered.* That this entire decision, except the attached marketing agreement, be published in the **Federal Register**. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

#### **Determination of Producer Approval and Representative Period**

February 1981 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Eastern South Dakota marketing area is



approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on May 6, 1981.

C. W. McMillan,

Assistant Secretary for Marketing and Transportation Services.

*Order<sup>1</sup> Amending the Order, Regulating the Handling of Milk in the Eastern South Dakota Marketing Area*

**Findings and Determinations**

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Eastern South Dakota marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of

industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

*Order relative to handling.* It is therefore ordered that on and after the effective date hereof the handling of milk in the Eastern South Dakota marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Acting Administrator, of February 17, 1981, and published in the Federal Register on February 20, 1981 (46 FR 13222) shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein subject to the following modification: § 1076.13(c)(1) is revised.

1. Add a new § 1076.4 to read as follows:

**§ 1076.4 Plant.**

"Plant" means the land, buildings, facilities, and equipment constituting a single operating unit or establishment at which milk or milk products (including filled milk) are received, processed or packaged. Separate facilities used only as a distribution point for storing packaged fluid milk products in transit for route disposition or separate facilities used only as a reload point for transferring bulk milk from one tank truck to another shall not be a "plant" under this definition.

2. In § 1076.7 paragraphs (b), (c) and (d) are revised to read as follows:

**§ 1076.7 Pool plant.**

(b) A supply plant from which the volume of fluid milk products, except filled milk, transferred to pool distributing plants is not less than the applicable percentage, specified in paragraph (b)(1)(i), (ii) or (iii) of this section, of Grade A milk received at such supply plant from dairy farmers (including milk diverted therefrom by the plant operator) and handlers described in § 1076.9(c).

(1) The applicable percentage for the purpose of this paragraph shall be:

(i) 35 percent for the current month;

(ii) 35 percent for the 12-month period immediately preceding the current month; or

(iii) One or more shipments in each of the months of March through July if shipments were not less than 50 percent during each of the immediately preceding months of September through November.

(c) Any plant located in the marketing area or in any county adjacent to the marketing area that meets an applicable shipping standard described in paragraph (b) of this section, subject to the following conditions:

(1) A cooperative association that operates a supply plant may include as qualifying shipments its deliveries to pool distributing plants directly from farms of producers pursuant to § 1076.9(c).

(2) A proprietary handler may include as qualifying shipments milk diverted pursuant to § 1076.13 to pool distributing plants.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A plant qualified as a pool plant pursuant to this section:

(i) From which a lesser volume of fluid milk products, except filled milk, is disposed of in the Eastern South Dakota marketing area either as route disposition or to pool plants qualified on the basis of route disposition than in the marketing area of another order issued pursuant to the Act or to other order plants qualified on the basis of route disposition; and

(ii) Such milk would be subject to the class price and producer payment provisions of the other order upon being made exempt from this part;

(3) For the period of March through July, inclusive, if the operator of a plant qualified pursuant to paragraph (b)(1)(iii) of this section submits a request to the market administrator in writing that such plant not be a pool plant, such nonpool status will be effective the first month following such notice and such plant shall thereafter be a nonpool plant until it again qualifies as a pool plant on the basis of the shipping requirements of 35 percent or more as set forth in this section;

(4) That portion of a plant that is physically apart from the Grade A portion of such plant, is operated separately and is not approved by any health authority for receiving, processing, or packaging of any fluid milk product for Grade A disposition; and

(5) A governmental agency plant.

3. In § 1076.9 paragraph (c) is revised to read as follows:

**§ 1076.9 Handler.**

(c) Any cooperative association with respect to milk that it receives for its account from the farm of a producer which is delivered to a pool plant in a tank truck owned and operated by, or under the control of, such cooperative

<sup>1</sup>This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

association. If the milk is delivered to the pool plant of another handler, the plant operator may be the handler for such milk if both the cooperative association and the operator of the pool plant notify the market administrator prior to the time that such milk is delivered to the pool plant that the plant operator will purchase such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples. Milk for which the cooperative association is the handler pursuant to this paragraph shall be deemed to have been received by the cooperative association at the location of the pool plant to which such milk is delivered;

4. Section 1076.13 is revised to read as follows:

**§ 1076.13 Producer milk.**

"Producer milk" of each handler means the skim milk and butterfat in milk of a producer that is:

(a) Received at a pool plant directly from such producer by the operator of the plant;

(b) Received by a handler described in § 1076.9(c); or

(c) Diverted from a pool plant, for the account of the handler operating such plant or for the account of a handler described in § 1076.(b), to another plant (other than a producer-handler plant) subject to the following conditions:

(1) Milk of a dairy farmer shall not be eligible for diversion under this section unless during the month at least one day's production of milk of such dairy farmer is physically received at the pool plant from which diverted;

(2) The total quantity of milk diverted by a cooperative association during the months of August through February may not exceed 35 percent of the producer milk that the cooperative association causes to be delivered to or diverted from pool plants during the month;

(3) The total quantity of milk diverted by a proprietary operator of a pool plant during the months of August through February to a nonpool plant may not exceed 35 percent of the milk received at or diverted from such pool plant (excluding any milk under control of a cooperative association that diverted milk during the month pursuant to paragraph (c)(2) of this section);

(4) Any milk diverted in excess of the limits prescribed in paragraph (c)(2) and (3) of this section shall not be producer milk. The diverting handler may designate the dairy farmers whose diverted milk will not be producer milk. Otherwise, the total milk diverted on the last day of the month, then the second-to-last day, and so on in daily

allotments will be excluded until all of the milk diverted in excess of the limit is accounted for; and

(5) Diverted milk shall be priced at the location of the plant to which diverted.

**§ 1076.30 [Amended]**

5. In the preamble of § 1076.30 the number "7th" is changed to "8th".

6. In § 1076.41 paragraph (b)(2) is revised to read as follows:

**§ 1076.41 Shrinkage.**

(b) . . .

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1076.9(c) and in milk diverted to such plant from another pool plant, except that, in either case, if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage shall be 2 percent;

7. In § 1076.42 paragraph (a) is revised and a new paragraph (e) is added to read as follows:

**§ 1076.42 Classification of transfers and diversions.**

(a) *Transfers and diversions to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers or diversions shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant or diveree-plant after the computations pursuant to § 1076.44(a)(12) and the corresponding step of § 1076.44(b);

(2) If the transferor-plant or diveree-plant received during the month other source milk to be allocated pursuant to § 1076.44(a)(7) or the corresponding step of § 1076.44(b), the skim milk or butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler or diveree-handler received during the month other source milk to be allocated pursuant to § 1076.44(a) (11) or (12) or the corresponding step of § 1076.44(b), the skim milk or butterfat so transferred

or diverted, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee plant or diveree plant.

(e) *Transfers by a handler described in § 1076.9(c) to pool plants.* Skim milk and butterfat transferred in the form of bulk milk by a handler described in § 1076.9(c) to a pool plant shall be classified pursuant to § 1076.44 pro rata with producer milk received at the transferee-handler's plant.

8. In § 1076.43 the preamble and paragraph (a) are revised to read as follows:

**§ 1076.43 General classification rules.**

In determining the classification of producer milk, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1076.30 and shall compute separately for each pool plant, and for each cooperative association with respect to milk for which it is the handler pursuant to § 1076.9 (b) or (c) that was not received at a pool plant, the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1076.40, 1076.41 and 1076.42. The combined pounds of skim milk and butterfat so determined in each class for a handler described in § 1076.9 (b) or (c) shall be the classification of producer milk for such handler;

9. In § 1076.44 the preamble, paragraph (a) (13) and (14), and paragraph (c) are revised to read as follows:

**§ 1076.44 Classification of producer milk.**

For each month the market administrator shall determine for each handler described in § 1076.9(a) for each of its separate pool plants the classification of producer milk and milk received from a handler described in § 1076.9(c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) . . .

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1076.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceeds the

pounds of skim milk in producer milk and milk received from a handler described in § 1076.9(c), subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(c) The quantity of producer milk and milk received from a handler described in § 1076.9(c) in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

10. In § 1076.52 paragraphs (a) and (b) are revised to read as follows:

**§ 1076.52 Plant location adjustments for handlers.**

(a) For milk received at a plant from producers or from a handler described in § 1076.9(c) at a plant located in Minnesota, North Dakota, or that portion of South Dakota north of U.S. Highway 90, and which is classified as Class I milk without movement in bulk form to a pool plant at which a higher Class I price applies, the price specified in § 1076.50(a) shall be reduced 1.5 cents for each 10 miles or fraction thereof (by shortest hard-surfaced highway distance as measured by the market administrator) that such plant is located from the nearer of the Post Offices of Mitchell or Sioux Falls, South Dakota.

(b) For fluid milk products transferred in bulk from a pool plant to another pool plant at which a higher Class I price applies and which is classified as Class I, the price shall be the Class I price applicable at the location of the transferee-plant subject to a location adjustment credit for the transferor-plant determined by the market administrator as follows:

(1) Subtract from the pounds of Class I milk remaining at the transferee-plant after the computations pursuant to § 1076.44 (a)(12) and (b) the pounds of packaged fluid milk products from other pool plants;

(2) Multiply the remaining pounds of milk by 110 percent;

(3) Subtract the pounds of bulk fluid milk products physically received at the transferee-plant from the following sources:

- (i) Producers;
- (ii) Handlers described in § 1076.9(c);
- (iii) Pool plants at which the same or a higher Class I price applies; and
- (iv) Receipts of diverted milk from pool plants;

(4) Assign any pounds remaining pro rata to bulk receipts of fluid milk

products from each transferor-plant at which a lower Class I price applies; and

(b) Multiply the pounds computed for each transferor-plant in paragraph (b)(4) of this section by the difference in the Class I prices applicable at the transferee-plant and transferor-plant.

11. In § 1076.60 the preamble and paragraph (a) are revised to read as follows:

**§ 1076.60 Handler's value of milk for computing uniform price.**

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1076.9 (b) and (c) with respect to milk that was not received at a pool plant as follows:

(a) Multiply the pounds of producer milk and milk received from a handler described in § 1076.9(c) in each class as determined pursuant to § 1076.43(a) and § 1076.44(c) by the applicable class prices and add the resulting amounts.

12. In § 1076.71 paragraph (a) is revised to read as follows:

**§ 1076.71 Payments to the producer-settlement fund.**

(a) On or before the 15th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1076.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1076.75, of such handler's receipts of producer milk and milk received from a handler described in § 1076.9(c) for which a value is computed pursuant to § 1076.60(a); and

(ii) The value at the uniform price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1076.60(f).

**§ 1076.72 [Amended]**

13. In § 1076.72 the number "14th" is changed to "16th".

14. Section 1076.73 is revised to read as follows:

**§ 1076.73 Payments to producers and to cooperative associations.**

(a) Each handler shall pay for milk received from producers for whom payment is not made to a cooperative

association pursuant to paragraph (b) or (c) of this section as follows:

(1) On or before the last day of each month, for producer milk received during the first 15 days of the month, at not less than the Class III price for the preceding month; and

(2) On or before the 18th day after the end of each month, for milk received during such month, an amount computed at not less than the uniform price per hundredweight, as adjusted pursuant to §§ 1076.74 and 1076.75, plus or minus adjustment for errors made in previous payments to such producer, less the following amounts:

- (i) Payments made pursuant to paragraph (a)(1) of this section;
- (ii) Location adjustment deductions pursuant to § 1076.75;
- (iii) Proper deductions authorized by such producer; and
- (iv) Deductions for marketing services pursuant to § 1076.86.

(b) Except as provided in paragraph (c) of this section each handler shall make payment to a cooperative association for producer milk which it caused to be delivered to such handler, if such cooperative association is authorized to collect such payments for its members and exercises such authority, an amount equal to the sum of the individual payments otherwise payable for such producer milk, as follows:

(1) On or before the 28th day of each month an amount equal to not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (a)(1) of this section; and

(2) On or before the 15th day after the end of each month, an amount equal to not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (a)(2) of this section.

(c) Each handler shall pay a cooperative association for receipts of milk for which such cooperative association is the handler pursuant to § 1076.9(c) as follows:

(1) On or before the 28th day of the month, for milk received during the first 15 days of the month an amount per hundredweight equal to not less than the uniform price for the preceding month; and

(2) On or before the 15th day after the end of each month not less than the value of such milk at the uniform price, as adjusted by the butterfat differential specified in § 1076.74, applicable at the location of the receiving handler's plant, less the amount paid pursuant to paragraph (c)(1) of this section.

(d) Each handler shall pay a cooperative association for fluid milk products received by transfer from a pool plant operated by the cooperative association as follows:

(1) On or before the 28th day of the month, the handler shall pay for each hundredweight of fluid milk products received during the first 15 days of the month not less than the uniform price for the preceding month, adjusted by the butterfat differential pursuant to § 1076.74 for the preceding month; and

(2) On or before the 15th day after the end of the month not less than the value of such milk at the class prices, as adjusted by the butterfat differential specified in § 1076, that are applicable at the location of the transferee plant, less payment made pursuant to paragraph (d)(1) of this section.

(e) In making payments for producer milk pursuant to paragraphs (a) and (b) of this section, each handler shall furnish each producer or cooperative association with a supporting statement in such form that it may be retained by the recipient, which shall show:

(1) The month and identity of the handler and of the producer;

(2) The pounds per shipment, the total pounds and the average butterfat content of milk received from the producer;

(3) The minimum rate or rates at which payment to the producer is required pursuant to the order;

(4) The rate that is used in making the payment, if such rate is other than the applicable minimum rate;

(5) The amount or rate per hundredweight and nature of each deduction claimed by the handler, including any deduction claimed pursuant to § 1076.86; and

(6) The net amount of payment to such producer or cooperative association.

15. In § 1076.75 paragraph (a) is revised to read as follows:

**§ 1076.75 Plant location adjustments for producers and on nonpool milk.**

(a) The uniform price pursuant to § 1076.61 for producer milk shall be adjusted according to the location of the plant of actual receipt at the rates set forth in § 1076.52; and

16. Section 1076.78 is revised to read as follows:

**§ 1076.78 Charges on overdue accounts.**

Any unpaid obligation of a handler pursuant to § 1076.71(a), 1076.77(a), 1076.85 or 1076.86 shall be increased 1 percent beginning on the day after the due date, and on the same day of each succeeding month until such obligation is paid.

**PART 1076 [AMENDED]**

17. The centerheading immediately preceding § 1076.85 is revised to read: "Administrative Assessment and Marketing Service Deduction"

18. A new § 1076.86 is added to read as follows:

**§ 1076.86 Deduction for marketing services.**

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer (other than himself) pursuant to § 1076.73, shall deduct 6 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to all milk received from the producer's farm during the month, and shall pay such deductions to the market administrator on or before the 15th day after the end of such month. Such moneys shall be expended by the market administrator to provide for market information and to verify the weights, samples, and tests of milk of producers who are not receiving such services from a cooperative association.

(b) In the case of producers for whom a cooperative association is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers and on or before the 15th day after the end of each month shall pay such deductions to the cooperative association rendering such services, accompanied by a statement showing the quantity of milk for which a deduction was computed for each producer.

[FR Doc. 81-14274 Filed 5-11-81; 8:45 am]  
BILLING CODE 3410-02-M

**Food Safety and Quality Service**

**9 CFR Part 381**

[Docket No. 81-017P]

**Young Chicken Slaughter Inspection Rate Maximums; Modified Traditional Poultry Inspection**

**AGENCY:** Food Safety and Quality Service, USDA.

**ACTION:** Notice for comments on interim rules.

**SUMMARY:** On April 13, 1979, the Food Safety and Quality Service (FSQS) published immediately effective emergency rules establishing maximum

inspection rates for young chickens and establishing an alternate method of post mortem inspection of young chickens known as "modified traditional inspection." The Agency's action was required by a court injunction directing the Department to establish uniform inspection rate standards for young chickens and to apply and enforce the rates uniformly in all federally inspected poultry slaughtering plants in the United States. On March 18, 1981, the U.S. Court of Appeals for the District of Columbia Circuit upheld the aforementioned rules as final interim rules, but ordered the Department to institute rulemaking procedures for the promulgation of permanent rules. Therefore, this document solicits comments on the interim rules for the purpose of determining whether they should be made permanent regulations.

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

**ADDRESSES:** Written comments to: Regulations Coordination Division, Attn: Annie Johnson, FSQS Hearing Clerk, Room 2637, South Agriculture Building, Food Safety and Quality Service, Compliance Program, U.S. Department of Agriculture, Washington, DC 20250. Oral comments to: Dr. John C. Prucha (202) 447-3219. (See also "Comments" under Supplementary Information.)

**FOR FURTHER INFORMATION CONTACT:** Dr. John C. Prucha, Director, Slaughter Inspection Standards and Procedures Division, Technical Services, Meat and Poultry Inspection Program, U.S. Department of Agriculture, Washington, DC 20250 (202) 447-3219.

**SUPPLEMENTARY INFORMATION:**

**Executive Order 12291**

This action is issued in conformance with Executive Order 12291, and has been determined to be not a "major rule." It will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or 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.

**Comments**

Interested persons are invited to submit comments concerning this notice. Written comments must be submitted in duplicate to the Regulations Coordination Division. Comments

should reference the docket number located in the heading of this document. Any person desiring opportunity for oral presentation of views must make such request to Dr. Prucha so that arrangements may be made for such views to be presented. A transcript shall be made of all views orally presented. All comments submitted pursuant to this notice will be made available for public inspection in the Regulations Coordination Division between 8 a.m. and 4:30 p.m., Monday through Friday.

#### Background

On April 13, 1979, to comply with a court order, FSQS published in the *Federal Register* a final rule, effective immediately, establishing national uniform maximum inspection rates for young chickens under the traditional inspection procedure (44 FR 22047-22049). At the same time, FSQS published accompanying final rules, also effective immediately, establishing an alternate method of post mortem inspection of young chickens known as "modified traditional inspection" (44 FR 22049-22051).

Although the Federal poultry products inspection regulations were amended by the emergency final rules without waiting for public comment, comments concerning the amendments were requested at the time of their publication. The comment period closed July 12, 1979. On February 15, 1980, and April 25, 1980, FSQS published in the *Federal Register* notices responding to the comments received on the final rules (Young Chicken Slaughter Inspection Rate Maximums, 45 FR 10319-10321; Modified Traditional Poultry Inspection, 45 FR 27917-27919).

On March 18, 1981, the United States Court of Appeals for the District of Columbia Circuit ruled, in the case of *American Federation of Government Employees, AFL-CIO et al. v. John R. Block, Secretary of Agriculture, et al.*, C.A. No. 79-1724 (D.C. Cir., March 18, 1981), that although the Department possessed good cause to publish the aforementioned regulations, justification did not exist for their promulgation as "permanent" regulations without the public procedures required under the Administrative Procedures Act. The Court further determined these final regulations were effective as interim regulations, but directed the Department to institute rulemaking proceedings forthwith.

The operations conducted under the regulations promulgated for young chicken inspection rates and modified traditional inspection have resulted in efficient and uniform inspection procedures. Therefore, it appears that

these "interim" regulations, as originally issued in the April 13, 1979, *Federal Register* (44 FR 22047-22051), should be made "permanent" final regulations.

In addition to the comments received as a result of this notice, FSQS will also consider all comments previously received in response to the rules published on April 13, 1979.

Therefore, for these reasons and for the reasons outlined in the preamble to the previously published rules, FSQS is soliciting public comments on the interim amendments to §§ 381.36, 381.67, and 381.76 (9 CFR 381.36, 381.67, and 381.76) of the Federal poultry products inspection regulations as set forth below.

Done at Washington, DC, on May 6, 1981.

Donald L. Houston,

Administrator, Food Safety and Quality Service.

1. A new paragraph (c) is added to § 381.36 (9 CFR 381.36) to read as follows:

#### § 381.36 Facilities required.

(c) Facilities for modified traditional inspection. The following requirements for lines operating under the modified traditional inspection procedures are in addition to the normal requirements to obtain a grant of inspection. The requirements for modified traditional inspection in § 381.76(b) also apply.

(1) The following provisions shall apply to every inspection station:

(i) It shall consist of 4 feet of horizontal line space for each inspector and 4 feet for each inspector's helper.

(ii) The conveyor shall be level for the entire length of the inspection station.

(iii) A minimum of 150 footcandles of shadow-free lighting shall be available at the inspection surfaces of the bird to facilitate inspection, notwithstanding the requirement of § 381.52(b).

(iv) A trough complying with § 381.53(g)(4) of this Part shall extend beneath the conveyor at all places where processing operations are conducted from the point where the carcass is opened to the point where the viscera have been completely removed, provided, however, that in those cases in which outside inspection is conducted before the opening cut is performed, such a trough shall also be placed at the outside carcass inspection station.

(v) On-line handwashing facilities shall be provided for the inspector and for the inspector's helper.

(vi) Hangback racks shall be provided for the inspector's helpers.

(vii) Each inspection station shall be provided with receptacles for condemned carcasses and parts. Such

receptacles shall conform to the requirements of § 381.53(m).

(viii) Each inspector's station shall have a platform which covers the entire floor area of the station and is adjustable so that it can be raised to the proper inspection position.

(2) The following provisions, in addition to the requirements in § 381.36(c)(1) above, also apply to the outside carcass inspection station:

(i) A glass, distortion-free mirror, at least 3 feet wide and 2 feet high shall be mounted so that it can be adjusted between 5 and 15 inches behind the shackles, tilt up and down, tilt from side to side, and be raised and lowered. The mirror shall be positioned in relation to the inspection platform so that the inspector can position himself opposite it from 8 to 12 inches from the downstream edge.

(ii) To steady the birds for inspection, a horizontal shackle guide bar shall be located 7 inches above the bottom of the shackle and approximately 1 inch toward the inspector from the vertical plane of the moving line, extending the full length of the inspection station.

(iii) The bottom of the shackle shall be at least 52 inches higher than the inspector's adjustable platform in its lowest position.

(3) The following provisions, in addition to the requirements in § 381.36(c)(1) above, also apply to the inside carcass/viscera inspection station:

(i) A guide bar to steady the shackle shall be provided. It shall run the entire length of the inside carcass/viscera inspection station and shall maintain the lower edge of the shackle above the trough or water rail and approximately 8 inches from the edge.

(ii) The line shall be equipped with selection devices so that each inspector has the birds he is to inspect presented to him for inspection 12 inches apart and physically isolated from other birds.

(iii) The bottom of the shackle shall be at least 48 inches higher than the inspector's adjustable platform in its lowest position.

2. The Table of Contents is changed accordingly, and the title and text of § 381.76 is revised to read as follows:

#### § 381.76 Post-mortem inspection, when required; extent; traditional and modified traditional post-mortem inspection; rate of inspection.

(a) A post-mortem inspection shall be made on a bird-by-bird basis on all poultry eviscerated in an official establishment. No viscera or any part thereof shall be removed from any poultry processed in any official

establishment, except at the time of post-mortem inspection, unless their identity with the rest of the carcass is maintained in a manner satisfactory to the inspector until such inspection is made. Each carcass to be eviscerated shall be opened so as to expose the organs and the body cavity for proper examination by the inspector and shall be prepared immediately after inspection as ready-to-cook poultry. If a carcass is frozen, it shall be thoroughly thawed before being opened for examination by the inspector. Each carcass, or all parts comprising such carcass, shall be examined by the inspector, except for parts that are not needed for inspection purposes and are not intended for human food and are condemned.

(b)(1) There are two systems of post-mortem inspection: traditional inspection and modified traditional inspection. Modified traditional inspection shall be used only for young chickens<sup>1</sup> and in the following circumstances:

(i) if the operator requests it and the Administrator determines that the system will result in no loss of inspection efficiency; or

(ii) if the Administrator determines that modified traditional inspection will increase inspector efficiency.

(2) The requirements of paragraph (a) of this section are applicable to both traditional and modified traditional inspection.

(3) The following requirements are also applicable to modified traditional inspection:

(i) The facility must meet the requirements for modified traditional inspection in § 381.36(c).

(ii) The inspection stations shall consist of one outside carcass inspection station, at which one inspector inspects the outside of all birds and two inside carcass/viscera inspection stations at which each of two inspectors inspects the inside and viscera of half the birds processed. The outside carcass inspector shall be presented each bird with the breast side toward the inspector. The inside carcass/viscera inspector shall be presented each bird he is to inspect with the back side toward the inspector.

(iii) The maximum inspection rate for modified traditional inspection shall be 70 birds per minute per 3 inspector team.

(Sec. 14.71 Stat. 447, as amended 21 U.S.C. 463; 42 FR 35625, 35626, 35631)

3. The Table of Contents is amended to reflect the following change, and the heading and text of a new § 381.67 are added to Subpart I to read as follows:

**§ 381.67 Young chicken slaughter inspection rate maximums under traditional inspection procedure.**

The maximum birds to be inspected by each inspector per minute under the traditional inspection procedure for the different young chicken slaughter line configurations are specified in the following table. These maximum rates shall not be exceeded. The inspector in charge shall be responsible for reducing production line rates where in the inspector's judgment the prescribed inspection procedure cannot be adequately performed within the time available, either because the birds are not presented by the official establishment in such a manner that the carcasses, including both internal and external surfaces and all organs, are readily accessible for inspection, or because the health conditions of a particular flock dictate a need for a more extended inspection procedure. The standards in § 381.170(a) of this Part specify which classes of birds constitute young chickens. Section 381.76(b) specifies when either the traditional inspection procedure or the modified traditional inspection procedure can or must be used.

**Maximum Production Line Rates—Young Chickens—Traditional Inspection Procedures**

Line configuration <sup>1</sup>	Number of inspection stations	Birds per inspector per minute
6-1	1	25
12-1	2	23
12-2	2	21
18-1	3	19
18-2	3	19
18-3	3	18
24-1	4	16½
24-2	4	16
24-4	4	15½

<sup>1</sup>Birds are suspended on the slaughter line at 6-inch intervals. The first number indicates the interval in inches between the birds that each inspector examines. The second number indicates how many of the birds presented, the inspector is to inspect. I.e., "1" means inspect every bird, "4" means inspect every fourth bird, etc.

(Sec. 14.71 Stat. 447, as amended, 21 U.S.C.

463; 42 FR 35625, 35626, 35631)

(FR Doc. 81-14290 Filed 5-11-81; 8:45 am)

**BILLING CODE 3410-DM-M**

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

**18 CFR Part 282**

[Docket No. RM 81-27]

**Incremental Pricing: Adoption of Single-Tier Alternative Fuel Price Ceiling; Notice of Public Hearing**

Issued May 8, 1981.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Notice of Public Hearing.

**SUMMARY:** On April 22, 1981, the Federal Energy Regulatory Commission (Commission) issued a Notice of Proposed Rulemaking (46 Fed. Reg. 23947) in Docket No. RM81-27 proposing to amend §§ 282.402 and 282.403 to permanently establish a single-tier, high-sulfur No. 6 alternative fuel price ceiling under the Natural Gas Policy Act of 1978. The Commission has received a request for a public hearing wherein interested persons would have the opportunity to make oral presentations of their views on the proposed rule. Pursuant to this request, the Commission has scheduled a public hearing to be held on May 28, 1981, at 10:00 a.m. at the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 [Room to be announced].

**DATES:** The public hearing will be held on May 28, 1981 at 10:00 a.m.

**ADDRESSES:** The public hearing will be held at: (Room to be announced), Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

**FOR FURTHER INFORMATION CONTACT:**

Sandra Delude, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-5522.

Ronald L. Leach, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-5417.

**Kenneth F. Plumb,**  
Secretary.

[FR Doc. 81-14428 Filed 5-11-81; 8:45 am]

**BILLING CODE 6450-85-M**

<sup>1</sup>The standards in § 381.170(a) of the regulations (9 CFR 381.170(a)) specify which classes of chickens constitute young chickens.

**18 CFR Part 292**

[Docket No. RM 79-55]

**Regulations Under Sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978 With Regard to Small Power Production and Cogeneration; Request for a Declaratory Order****AGENCY:** Federal Energy Regulatory Commission, DOE.**ACTION:** Notice of Request for a Declaratory Order.

**SUMMARY:** On January 9, 1981, the Commonwealth of Massachusetts Department of Public Utilities filed with the Federal Energy Regulatory Commission a request for a declaratory order pursuant to § 1.7(c) of the Commission's rules. The Commonwealth of Massachusetts requests the Commission to issue a declaratory order clarifying the method of calculation of avoided cost which is currently set out in 18 CFR 292.303(d).

**DATE:** Written comments are due June 11, 1981.**ADDRESS:** File Comments with: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, Reference: Docket No. RM79-55.**FOR FURTHER INFORMATION CONTACT:** Glenn Berger, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 (202) 357-8033.**SUPPLEMENTARY INFORMATION:**

May 6, 1981.

In the matter of Commonwealth of Massachusetts Department of Public Utilities, Docket No. RM79-55.

On January 9, 1981, the Commonwealth of Massachusetts, Department of Public Utilities (Department) filed with the Federal Energy Regulatory Commission (Commission) a request for a declaratory order pursuant to § 1.7(c) of the Commission's rules.

The Department requests the Commission to issue a declaratory order clarifying the method of calculation of avoided cost which is currently set out in § 292.303(d) of the Commission's rules.

The Department states:

That the avoided costs of an all-requirements utility are at least the wholesale rate energy charge for energy and the wholesale demand charge for capacity, regardless of whether the supplying utility plans additions to capacity or not.

Further, if the all-requirements utility is an affiliate of the supplying utility, the state regulatory commissions should be allowed by base the avoided costs of the all-

requirements utility on the avoided costs of the affiliate supplying utility.

Any person desiring to be heard on this matter should file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with § 1.8 of the Commission's Rules of Practice and Procedure. All such petitions must be filed on or before June 11, 1981, and must be served on the Applicant. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 81-14254 Filed 5-11-81; 8:45 am]

BILLING CODE 6450-85-M

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[A-9-FRL 1817-2]

**Rule Revisions for Two Air Pollution Control Districts in the State of California; Approval and Promulgation of Implementation Plans****AGENCY:** Environmental Protection Agency.**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** Rule revisions for the South Coast Air Quality Management District (AQMD) and the San Diego County Air Pollution Control District (APCD) have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board for incorporation into the California State Implementation Plan (SIP). The intended effect of these revisions is to update the rules and regulations and to correct deficiencies in the SIP. These rules have been evaluated and found to be in conformance with the requirements of 40 CFR Part 51 and EPA policy. Therefore, this notice proposes to approve the rule revisions and incorporate them into the SIP. The EPA invites public comments on this action.

**DATES:** Comments may be submitted up to July 13, 1981.**ADDRESSES:** Comments may be sent to: Regional Administrator, Attn: Air & Hazardous Materials Division, Air Programs Branch State Implementation Plan Section (A-4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

Copies of the proposed revisions and evaluation reports are available for public inspection during normal

business hours at the EPA Region IX office at the above address and at the following locations:

California Air Resources Board, 1102

"O" Street, Sacramento, CA 95814;

South Coast Air Quality Management

District, 9150 Flair Drive, El Monte,

CA 91731;

San Diego County Air Pollution Control

District, 9150 Chesapeake Drive, San

Diego, CA 92123;

Public Information Reference Unit,

Room 2922 (EPA Library), 401 "M"

Street, SW., Washington, D.C. 20460.

**FOR FURTHER INFORMATION CONTACT:**

Douglas Grano, Chief, State

Implementation Plan Section, Air

Programs Branch, Environmental

Protection Agency, Region, IX, 215

Fremont Street, San Francisco, CA 94105

(415) 556-2938.

**SUPPLEMENTARY INFORMATION:**

The California Air Resources Board, as the Governor's designee, submitted the following rules and regulations on the indicated dates, as revisions to the California SIP.

*South Coast AQMD*

July 25, 1979

Rule 218 Stack Monitoring

Rule 219 Equipment Not Requiring a Permit

Rule 401(b) and (c) Visible Emissions

Rule 431 Sulfur Content of Fuels (Deletion)

Rule 431.1 Sulfur Content of Gaseous Fuels

Rule 431.2 Sulfur Content of Liquid Fuels

Rule 431.3 Sulfur Content of Fossil Fuels

Rule 1120 Asphalt Pavement Heaters

Rule 1206 Appearances

Rule 1207 Service and Filing

Rule 1208 Rejection of Documents

Rule 1212 Continuances

Rule 1213 Requests for Continuances or

Time Extensions

Rule 1215 Conduct of Hearing

Rule 1216 Presiding Officer

Rule 1218 Ex Parte Communications

Rule 1219 Evidence

Rule 1222 Order of Procedures

Rule 1225 Conduct of Cross-examination

Rule 1228 Oral Argument

Rule 1227 Briefs

Rule 1228 Motions

Rule 1229 Decisions

Rule 1230 Proposed Decision and Exception

December 17, 1979

Rule 404 Particulate Matter Concentration

Rule 442 Usage of Solvent

Rule 501.1 Assistance to Small Business

Rule 502 Filing Petitions

Rule 504.1(b), (c) and (d) Rules from Which

Variances Are Not Allowed

Rule 1124 Aerospace Assembly and

Component Coating Operations

February 7, 1980

Rule 466 Pumps and Compressors

April 2, 1980

Rule 107 Determination of Volatile Organic

Compounds in Coating Material

Rule 401(d) Visible Emissions  
 Rule 709(c) First Stage Episode Actions  
 Rule 1111 NO<sub>x</sub> Emissions From Natural Gas-Fired Fan Type Central Furnaces  
 Rule 1121 Control of Nitrogen Oxides From Residential Type Natural Gas-Fired Water Heaters  
 Rule 1140 Abrasive Blasting  
 April 23, 1980  
 Rule 301 Permit Fees  
 Rule 405 Solid Particulate Matter—Weight  
 Rule 431.2(c)(5) Sulfur Content of Liquid Fuels  
 Rule 701 General  
 Rule 702 (a), (d), (e), (f), (h) and (i) Definitions  
 Rule 703 Episode Criteria  
 Rule 704 Episode Declaration  
 Rule 705 Termination of Episodes  
 Rule 706 Episode Notification  
 Rule 708.3 (a), (b)(8)–(b)(10) Traffic Abatement Plans  
 Rule 708.4 (g) and (h) Procedural Requirements for Plans  
 Rule 709(a) First Stage Episode Actions  
 Rule 710 (a) and (b)(4) Second Stage Episode Actions  
 Rule 711 (a)(1), (a)(4), (b)(1) and (b)(4) Third Stage Episodes  
 Rule 713 Interdistrict Coordination  
 Rule 714 Source Inspections  
 Rule 715 Burning of Fossil Fuel on Episode Days  
 June 2, 1980  
 Rule 471 Asphalt and Coal Tar Equipment (Deletion)  
 July 25, 1980  
 Rule 1119 Petroleum Coke Calcining Operations—Oxides of Sulfur  
 August 15, 1980  
 Rule 401(e) Visible Emissions  
 Rule 702(b) Definition  
 Rule 707 Radio Communication System  
 Rule 708 Plans  
 Rule 708.3 (a)(2) and (c) Traffic Abatement Plans  
 Rule 708.4 (a) and (b) Procedural Requirements for Plans  
 Rule 709(e) First Stage Episode Actions  
 Rule 710 (b)(1)(D), (b)(2)(D), (b)(3)(B) and (c)(3)(B) Second Stage Episode Actions  
 Rule 711 (a)(1)(E), (a)(2)(D), (a)(3)(B), (a)(4)(F), (b)(3)(B) and (b)(4)(F) Third Stage Episode Actions  
 Rule 712 Sulfate Episode Actions  
 Rule 1102 Petroleum Solvent Dry Cleaners  
 November 3, 1980  
 Rule 1113 Architectural Coatings  
*San Diego County APCD*  
 October 13, 1977  
 Rule 2(v) Definition—Southeast Desert Air Basin (Deletion)  
 May 7, 1979  
 Rule 10(h) Permits Required  
 Rule 43 Orchard or Citrus Grove Heaters (Deletion)  
 May 23, 1979  
 Rule 19.2(d)(4) Continuous Emission Monitoring Requirements  
 Rule 50 Visible Emissions

Rule 62(a) Sulfur Content of Fuels  
 Rule 66 (P) and (W) Organic Solvents  
 Rule 95 Requirement for Hearing  
 Rule 98 Breakdown Conditions: Emergency Variance  
 June 2, 1980  
 Rule 1 Title  
 Rule 2 (a), (b), (f), (v), (u), (x) and (y) Definitions  
 Rule 14 Applications  
 Rule 17 Cancellation of Applications  
 Rule 18 Action on Applications  
 Rule 67.0 Architectural Coatings  
 Rule 67.1 Purchase and Use of Architectural Coatings by Government Agencies and Public Districts  
 August 15, 1980  
 Rule 2 (z) and (aa) Definitions  
 Rule 40 Permit Fees (including Fee Schedules 1 to 103)  
 September 5, 1980  
 Rule 19 Provision of Sampling and Testing Facilities and Emission Information  
 September 15, 1980  
 Rule 10 (f) and (i) Permit to Sell or Rent and Change of Location

All the rules listed above have been evaluated and determined to be in accordance with the Clean Air Act, 40 CFR Part 51 and EPA policy. Therefore, it is the purpose of this notice to propose to approve all the rule revisions listed above and to incorporate them into the California SIP.

No action is proposed to be taken on Rule 712, *Sulfate Episode Action* of the South Coast AQMD, because sulfate is a non-criteria pollutant. Thus, the rule is not appropriate for inclusion in the SIP under Section 110 of the Clean Air Act.

No action is proposed to be taken at this time on the following rules: South Coast AQMD's Rules 219, 401, and 466; and San Diego County APCD's Rule 18. Those rules are being evaluated in accordance with the requirements of the Clean Air Act and will be addressed in the future Federal Register notice.

The State also submitted regulations concerning New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) on December 17, 1979 for the South Coast AQMD and January 2, 1979, for the San Diego County APCD. These NSPS and NESHAPS regulations implement Sections 111 and 112 of the Clean Air Act, and are not appropriate for inclusion in a State Implementation Plan under Section 110 of the Act. Therefore, these regulations will be neither approved nor disapproved by EPA as part of an applicable implementation plan. They will, however, be reviewed in determining whether to delegate authority to implement and enforce the NSPS and NESHAPS regulations in the

APCD under the appropriate provisions of Sections 111 and 112. Announcement of such delegation would appear in a separate Federal Register notice.

Under Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove rules submitted as SIP revisions. The Regional Administrator hereby issues this notice setting forth these revisions, including rule deletions caused thereby, as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Comments received on or before 60 days after publication of this notice will be considered. Comments received will be available for public inspection at the EPA Region IX Office and the EPA Public Information Reference Unit.

The Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been met.

The Administrator's decision to approve or disapprove the proposed revisions will be based on the comments received and on a determination whether the amendments meet the requirements of the Clean Air Act and 40 CFR Part 51.

Pursuant to the provisions of 5 U.S.C. 605(b) the Administrator Certified (46 FR 8709) that the attached rule will not have a significant economic impact on a substantial number of small entities. This action only approves state actions and imposes no new requirements. In addition, 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 requirements of a Regulatory 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.

(Sections 110 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7410 and 7601(a)))

Dated: February 25, 1981.

Louise P. Giersch,  
 Acting Regional Administrator.

[FR Doc. 81-14263 Filed 5-11-81; 8:45 am]

BILLING CODE 6560-35-M



## 40 CFR Part 61

[A-2-FRL-1816-5]

**Designations of Areas for Air Quality Planning Purposes—Massachusetts; Proposed Rulemaking: Redesignation of Attainment Areas—Primary and Secondary Sulfur Dioxide Standards**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** On November 6, 1980, the Commissioner of the Massachusetts Department of Environmental Quality Engineering (the Massachusetts Department) submitted for EPA approval, its request that each of the 351 cities and towns in Massachusetts be designated as separate Section 107 attainment areas with respect to primary and secondary sulfur dioxide (SO<sub>2</sub>) National Ambient Air Quality Standards (NAAQS). The entire state was originally designated as one attainment area on March 3, 1978 (43 FR 9037).

The purpose of this proposed redesignation is to minimize the analysis of changes in ambient air levels of SO<sub>2</sub> resulting from construction of new sources or from relaxations of sulfur-in-fuel limits, required by the August 7, 1980 Prevention of Significant Deterioration of Air Quality (PSD) regulations. Since data submitted to EPA show that no violations of the standards have been recorded at any of the Massachusetts Department's SO<sub>2</sub> air quality monitors (data are available through June 30, 1980), EPA is proposing to approve this request to designate each city and town as a separate Section 107 attainment area. However, some cities and towns will be grouped together as one attainment area for reasons explained below.

**DATES:** Comments must be received on or before June 11, 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 the Department of Environmental Quality Engineering, 1 Winter Street Boston, Massachusetts 02110.

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

**FOR FURTHER INFORMATION CONTACT:** Margaret McDonough, Air Branch, EPA Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203, (617) 223-4448.

**SUPPLEMENTARY INFORMATION:** On March 3, 1978 (43 FR 9037) EPA designated the entire state of Massachusetts as attainment with respect to primary and secondary sulfur dioxide (SO<sub>2</sub>) NAAQS as required by Section 107(d)(2) of the Clean Air Act Amendments of 1977. Section 107(d)(5) allows states to revise and resubmit the list of designated attainment areas subject to EPA approval. In view of EPA's new Prevention of Significant Deterioration of Air Quality (PSD) regulations published on August 7, 1980 (45 FR 52676) the Massachusetts Department proposes to revise its list of designated attainment areas such that each city and town, separately, is treated as a Section 107 attainment area with respect to the primary and secondary SO<sub>2</sub> NAAQS. This redesignation will not change the attainment status of any portion of the state with respect to SO<sub>2</sub>. It will simply change the geographic boundaries of the State's attainment areas for purposes of SO<sub>2</sub> PSD calculations. It will also minimize the analysis of changes in ambient air pollutant concentrations required by the new PSD regulations as explained below.

EPA's PSD regulations limit the increases in ambient pollutant concentrations over baseline levels. The baseline level, as defined by the August 7, 1980 PSD regulations (40 CFR 52.21(b) (13), (14), (15)), is the ambient concentration of a pollutant existing in a Section 107 designated attainment area on the date after August 7, 1977, on which the first PSD permit application in that area was filed with EPA by a source subject to the PSD regulations as amended on August 7, 1980, and includes emission increases and decreases at major stationary sources (see definition of "major", 45 FR 52735, August 7, 1980) resulting from construction that began after January 6, 1975. The increase in ambient SO<sub>2</sub> levels allowed over the baseline level in Class II areas (there are no Class I or Class III areas in Massachusetts) are limited to increments of 20 µg/m<sup>3</sup> based on an annual average; 91 µg/m<sup>3</sup> based on a 24-hour average; and 512 µg/m<sup>3</sup> based on a 3-hour average. After the baseline date has been set, each new major source and each sulfur-in-fuel relaxation consumes a portion of these increments.

According to the attainment area designations promulgated by EPA on March 3, 1978, the baseline date for SO<sub>2</sub>

has now been set for the entire state of Massachusetts by the PSD permit application filed by the Massachusetts Municipal Wholesale Electric Company located in Ludlow, Massachusetts, on August 4, 1978. However, if each city and town were designated as a separate Section 107 attainment area, the baseline date would be set only in cities or towns in which is constructed a source or modification which is subject to PSD review and which emits significant amounts of sulfur dioxide (40 tons per year; see 40 CFR 52.21(b)(14)(ii)(b), 52.21(b)(23)), or in cities or towns on which such a source would have an impact greater than or equal to 1 µg/m<sup>3</sup> on an annual basis. (Mathematical modeling performed by EPA was used to determine where a source would have an impact greater than or equal to 1 µg/m<sup>3</sup> on an annual basis.)

If the baseline date is set in more than one city or town by a source, then these two or more cities or towns must be designated as one attainment area. Therefore, EPA is proposing to redesignate as separate Section 107 attainment areas with respect to the SO<sub>2</sub> NAAQS, the cities and towns (or groups of cities and towns) listed below in which a baseline date would be set under this proposal by sources which have been issued PSD permits and are subject to PSD review under the new regulations. The date in parentheses is the baseline date.

1. West Groton (June 15, 1979)
2. Lawrence (December 21, 1979)
3. Boston and Milton (July 13, 1979)
4. Ludlow, So. Hadley, Granby, Belchertown, Palmer and Wilbraham (August 4, 1978)

As of April 1, 1981, EPA had received complete applications from three additional sources. However, as of April 1st, permits had not yet been issued to these sources, and modeling to determine the baseline area has thus not been completed. As a minimum, the baseline date will be established in the city or town in which the source is located. These three sources and their locations are listed below. The date in parentheses is the date the PSD application was submitted (the baseline date).

1. Natick Paperboard, Natick (February 5, 1980)
2. Medical Area Total Energy Plant, Boston (August 7, 1978)
3. Rochester Resource Recovery Facility, Rochester (August 4, 1980)

EPA is also proposing to designate all the other cities and towns in Massachusetts (where no baseline dates have been set) as separate Section 107

attainment areas. Baseline dates will be established in additional cities and towns as new complete PSD applications are submitted.

Ambient air quality monitoring data collected through June 30, 1980 show no violations of the SO<sub>2</sub> NAAQS throughout the entire state. SO<sub>2</sub> levels cannot be measured in every city and town due to the resources required; however, air quality monitors have been placed in areas of expected maximum SO<sub>2</sub> concentrations. Under the August 7, 1980 PSD regulations, ambient air quality monitoring data requirements for new PSD sources are the same for attainment and unclassifiable areas. Therefore, it is not necessary to distinguish between these two classifications.

This proposed redesignation will minimize the number of cities and towns in which a PSD baseline date is established. Sources seeking a relaxation of sulfur in fuel regulations will be required to comply with PSD increment consumption regulations only if they are located in an area where a baseline date has been established.

Pursuant to the provision of 5 U.S.C. Section 605(b) the Administrator has certified that attainment area redesignations under Section 107(d) 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). The attached rule, if promulgated, constitutes an attainment area redesignation under section 107(d) within the terms of the January 27 certification. This action imposes no regulatory requirement but only redesignates attainment area boundary lines.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because this action imposes no regulatory requirement but only redesignates attainment area boundary lines.

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

The Administrator's decision to approve or disapprove the redesignation will be based on whether it meets the requirements of section 107(d)(5) of the Clean Air Act, as amended.

Dated: April 23, 1981.

Leslie A. Carothers,  
Acting Regional Administrator.

[FR Doc. 81-14232 Filed 5-11-81; 8:45 am]

BILLING CODE 5560-30-M

#### 40 CFR Part 192

[RH-FRL-1824-9]

#### Proposed Remedial Action Standards for Inactive Uranium Processing Sites; Extension of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Extension of comment period.

**SUMMARY:** EPA has proposed remedial action standards (40 CFR Part 192) for inactive uranium processing sites (45 FR 27370, April 22, 1980, and 46 FR 2556, January 9, 1981), and announced public hearings on the proposals (46 FR 16278, March 12, 1981). These notices stated that written comments on the proposals should be received by May 11, 1981, and that the period for submitting comments related to material presented at the hearings would be set by the presiding officer. We announce here the termination date of the post-hearing comment period and an extension of the written comment period.

**DATE:** Written comments on proposed 40 CFR Part 192 and post-hearing comments should be received on or before June 15, 1981. Persons wishing to testify at the hearings to be held on May 14 and 15, 1981, in Washington, D.C., should follow instructions given in 46 FR 16278 or contact Dr. Stanley Lichtman as indicated below.

**ADDRESS:** Comments should be submitted to Docket No. A-79-25, which is located at the Environmental Protection Agency, Central Docket Section (A-130), West Tower Lobby, 401 M Street, S.W., Washington, D.C. 20460.

**FOR FURTHER INFORMATION CONTACT:** Dr. Stanley Lichtman, Criteria and Standards Division (ANR-460), Office of Radiation Programs, U.S. Environmental Protection Agency, Washington, D.C. 20460; telephone number (703) 557-8927.

Dated: May 6, 1981.

Edward F. Tuerk,  
Acting Assistant Administrator for Air, Noise,  
and Radiation.

[FR Doc. 81-14272 Filed 5-11-81; 8:45 am]

BILLING CODE 5560-26-M

#### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Parts 31, 33, 34, and 35

[CC Docket No. 81-273; RM-3806; FCC 81-189]

#### Amendment of the Uniform System of Accounts To Increase the Dollar Limit for Expensing Minor Items

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

**SUMMARY:** The Commission is proposing to amend its accounting rules for all carriers subject to Parts 31, 33, 34 and 35 of the Rules and Regulations to increase the dollar limit for expensing minor items from the current limit of \$50. This action is taken in response to a petition filed by GTE Service Corporation.

**DATE:** Comments are due on or before June 10, 1981 and replies on or before June 25, 1981.

**ADDRESS:** Submit comments and replies to Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554

**FOR FURTHER INFORMATION CONTACT:** Gary Oddi, Common Carrier Bureau, (202) 632-3863

#### SUPPLEMENTARY INFORMATION:

In the matter amendment of the Uniform System of Accounts to increase the dollar limit for expensing minor items.

Adopted: April 23, 1981.

Released: May 1, 1981.

By the Commission:

1. On November 7, 1980, the GTE Service Corporation (GTE) on behalf of itself and its affiliated domestic telephone companies filed a Petition for Rulemaking (RM-3806).<sup>1</sup> GTE requested that the Commission amend its system of Accounts for Class A and Class B telephone companies (Section 31.2-20(d)), and for wire-telegraph and ocean-cable carriers (Section 35.1-1(d)), to increase from \$50 to not less than \$200 the cost of individual items of equipment that shall be charged to an appropriate operating expense or clearing account rather than to a plant account.<sup>2</sup> GTE proposed that the changes be implemented on a going-forward-basis. Such a change, it was stated, would increase 1981 expenses, in total interstate and intrastate revenue requirements for all the GTE domestic telephone companies, by about \$4,000,000 or about \$.35 per subscriber.

2. In support of its request, GTE referred to the accelerated inflationary trends since 1974, when the monetary limit was raised from \$25 to \$50 in Docket 20110, 49 FCC 2d 1153. GTE further stated that the effect of such an increase would be to allow telephone companies to expense a broader range of relatively low-cost items, thereby

<sup>1</sup> In Report No. 1263, dated December 17, 1980, Public Notice of the Petition's filing was given.

<sup>2</sup> GTE suggested that the Commission might consider making the same change in Section 33.31(d) for Class C telephone companies and Section 34.1-1(c) for radiotelegraph carriers.

avoiding the more detailed recordkeeping requirement associated with capitalization and reducing the cost to the consumer by minimizing carrying charges associated with unnecessary rate base. GTE stated that the Cost Accounting Standards Board raised its minimum amount for capitalization of tangible assets from \$500, established in 1973, to \$1000. See 4 CFR § 4.04.40(b)(1) and 43 FR 13723 (March 3, 1980). Similarly, the Canadian Radio-television and Telecommunication Commission increased its capitalization minimum to \$1500. See TELECOM. DECISION CRTC 78-1 (January 13, 1978).

3. Timely comments were submitted by the American Telephone and Telegraph Company (AT&T), the Rochester Telephone Corporation (Rochester) and the United States Independent Telephone Association (USITA). Continental Telephone Company (Continental) filed a "Concurring Petition for Rulemaking" beyond the deadline established for such comments. While all respondents expressed basic agreement with respect to raising the monetary limits for tools and office equipment having a short life, they were in disagreement with respect to the level at which the limit should be set. USITA urged prompt and affirmative action on the GTE petition. Rochester, however, used the \$1,000 limit set by the Cost Accounting Standards Board as a basis to raise the limit to at least \$500. AT&T, on the other hand, found that the \$200 limit requested by GTE to be too large a step to be taken at this time. AT&T asserted that this increase is not supported by the increase in the general price level that has occurred since the last expense limit change in 1974. It therefore proposed that the present limit of \$50 be raised to \$100.

4. AT&T also stated that the GTE proposal to implement the rule change on a "going-forward basis only" would require time consuming and costly inventory procedures to maintain a dual system whereby some items of equipment are capitalized while other identical items are expensed. AT&T suggested that a five year period be employed to amortize the embedded investment between the \$50 and the \$100 limit. AT&T maintains that amortization over five years would spread the resulting additional revenue requirements and therefore smooth the impact on the ratepayers. AT&T estimated that the revenue requirement would increase under a \$100 limit on a going-forward only basis, by \$14 million or 16 cents per subscriber line in 1982. If recovery of the embedded investment

were accomplished in one year, the estimated additional revenue requirements would be \$106 million or \$1.24 per subscriber line in 1982. If a 5 year amortization period were used, the revenue requirements due to both new and embedded plant is estimated to be \$30 million or 35 cents subscriber line, decreasing ratably to the final year revenue requirement of \$11 million or less than 13 cents per subscriber line.

5. The insufficiency of the \$50 limit on the expensing of minor items is undisputed by the parties. The real question is the level at which the expense limit should be set. In setting a new limit, the Commission believes it appropriate to consider the effect that inflation has had on general price levels since the \$50 limit was established in 1974. We likewise believe we should consider the recordkeeping and inventory burdens carriers sustain under the present rules prescribing capitalization of items of minor value. However, we also intend to carefully weigh the impact any change will have on rates charged to consumers.

6. Two alternative approaches appear to accomplish these objectives. The first method, and the tentatively preferred one, is to select a fixed dollar limit which would continue to apply until changed by further order of the Commission. The rate of inflation since the last increase in the expense limit would not appear to be the sole criterion by which to judge the reasonableness of the new limit.

7. Under this method, the principle effects on the ratemaking process will occur in the year of implementation. To evaluate this method, the Commission needs data reflecting the impact on rates if the expense limit were set at the following alternative levels: \$100, \$150, \$200, and \$250. We request AT&T and GTE and other interested carriers to provide in their comments 1982 incremental revenue requirement impact estimates (both on a system-wide aggregate basis and per subscriber line) at each of these levels.

Commenting parties are requested to evaluate the relative merits of setting the expense limit at one of these levels, or any other level they believe to be appropriate.

8. The second method involves the use of a moving expense limit. The expense limit would rise from a predetermined level in one of two ways: by predetermined steps at given time intervals (e.g., 1982-\$100, 1983-\$150, 1984-\$200, 1985-\$250), or at a rate determined by an inflation index. The first alternative could be used to phase in a significant increase in the expense limit, while the second would more

appropriately be used to retain relative price level consistency for items that are to be expensed. We recognize that the use of a moving expense limit may result in additional pressures on the ratemaking process, or may create additional recordkeeping burdens. Parties are requested to comment on whether a moving expense limit would provide benefits to the Commission or the carriers commensurate with any additional burdens that may result with respect to the recordkeeping or the ratemaking process. Any commenting party favoring this approach should delineate the benefits and the burdens of this approach. Commenting parties favoring this approach should also discuss the appropriate steps and the appropriate inflation index that should be used in implementing the method.

9. In its comments, AT&T suggested that carriers be allowed to amortize the embedded investment between the current \$50 limit and the new limit over a reasonable period. No other party commented on this issue. We ask parties to comment on the following questions. How significant are the recordkeeping burdens if prospective application of a new expense limit were selected? Could these recordkeeping burdens, if any, be eliminated or reduced by using a first-in first-out inventory method? If a moving expense limit is selected, is the amortization of embedded investment feasible, and if so, at what cost? What amounts of embedded investment would be amortized at each expense limit noted in paragraph 7 above? Finally, is there a possible trade-off between the expense limit and the amortization of embedded investment?

10. The Commission proposes to make any amendments to Parts 31, 33, 34, and 35 of our Rules adopted as a result of this proceeding effective not less than six months after issuance of a final order with respect to this rulemaking as required by Section 220(g) of the Communications Act.

11. In compliance with the provisions of Section 603(b) of the Regulatory Flexibility Act, 5 U.S.C. 603(b), we believe the above discussion sets forth the purpose of the proposed amendment. We believe the accounting change can be readily implemented by all carriers subject to Parts 31, 33, 34 and 35 without significant economic impact and, in fact, will ease the recordkeeping requirements of these carriers, both large and small.

12. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission

adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, Section 1.1231 of the Commission's rules, 47 CFR § 1.1231.

13. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and providing that the fact of the Commission's reliance on such information is noted in the Report and Order.

14. Accordingly it is ordered, That pursuant to the provisions of Sections 4(i) and 220(a) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 220(a), there is hereby instituted a notice of proposed rulemaking into the foregoing matters in response to the Petition for Rulemaking (RM-3806) filed by GTE Service Corporation.

15. It is further ordered, That all interested person MAY FILE comments on the specific proposals discussed in this Notice on or before June 10, 1981. Reply comments shall be filed on or before June 25, 1981. In accordance with the provisions of Section 1.419 of the Commission's Rules and Regulations, 47 CFR § 1.419, an original and five (5) copies of all comments shall be furnished to the Commission. Copies of the comments will be available for

public inspection in the Commission's Docket Reference Room, 1919 M Street, N.W., Washington, D.C.

16. It is further ordered, That the Secretary shall cause this Notice of Proposed Rulemaking to be published in the Federal Register.

17. It is further ordered, Pursuant to Section 220(i) of the Communications Act, 47 U.S.C. § 220(i), that the Secretary shall cause a copy of this Notice to be served on each state commission.

(Secs. 1, 2, 4, 201-205, 208, 215, 218, 220, 313, 314, 403, 404, 410, 602; 48 Stat. as amended; 1064, 1066, 1070, 1071, 1072, 1073, 1076, 1077, 1087, 1094, 1098, 1102; 47 U.S.C. 151, 152, 154, 201-205, 208, 215, 218, 313, 314, 403, 404, 410, 602)

Federal Communications Commission.

William J. Tricarico,  
Secretary.

[FR Doc. 81-14365 Filed 5-11-81; 8:45 am]

BILLING CODE 6712-01-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 159

[Docket No. 21725; Notice No. 81-7]

#### Metropolitan Washington Airports

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

**SUMMARY:** This notice sets forth a proposed rule which would codify current practice that turbojet air carrier aircraft may not be operated into or out of Washington National Airport on a scheduled flight segment of more than 850 statute miles except for nonstop flights of less than 1,000 miles operating to or from certain cities historically excepted from the 850-mile limitation. This proposal is necessary in order to maintain operational restrictions that have been in existence for approximately 15 years at National Airport while the Metropolitan Washington Airport's Policy and implementing regulations are reviewed by the Secretary of Transportation in accordance with Executive Order 12291 as announced in a previous rulemaking action.

**DATES:** Comments must be received on or before May 19, 1981.

**ADDRESSES:** Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn.: Rules Docket (AGC-204), Docket No. 21725, 800 Independence Avenue, S.W.,

Washington, D.C. 20591, or delivered in duplicate to: Room 916, 800 Independence Avenue, S.W., Washington, D.C.

Comments delivered must be marked: Docket No. 21725. Comments may be inspected at Room 916 between 8:30 a.m. and 5:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** Edward P. Faberman, Assistant Chief Counsel (AGC-200), Regulations and Enforcement Division, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; telephone (202) 426-3073.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

Interested persons are invited to participate in the marking of the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impact that might result from adoption of the proposals contained in this notice are invited. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address above. All communications received on or before the date specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons. A report summarizing each substantive public contact with DOT/FAA personnel concerned with this rulemaking will be filed in the docket. The DOT/FAA requests that interested persons, when submitting comments, refer to the proposal by the sections to which they relate.

Commenters wishing to have the FAA acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments on Docket No. 21725." The postcard will be dated, time stamped, and returned to the commenter.

##### Availability of This Notice

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this

NPRM. Persons should request a copy of Advisory Circular No. 11-2 which describes the application procedures.

#### Background

On May 5, 1981, R. L. Crandell, President of American Airlines, advised the Federal Aviation Administration (copy of the letter is in the docket) that on June 11, 1981, American Airlines will commence nonstop service between Dallas/Fort Worth and Washington National Airport (DCA). Since receiving that letter, the FAA has been advised that other air carriers are considering new long distance nonstop service between DCA and other cities. In fact, Braniff Airlines has announced it will begin similar service on June 1. In the letter to the FAA, Mr. Crandell states the following:

There are no rules, regulations or operational considerations that preclude a nonstop operation of Boeing 727-200 aircraft between Washington National and Dallas/Fort Worth Airport. Perimeter rules, such as the one that was briefly adopted by carrier agreement in the mid-1960's and the one more recently proposed by the FAA during the Carter Administration, would serve to preclude such a service, but would at the same time exacerbate the competitive inequities already noted.

Although there is no Federal Aviation Regulation setting forth a mileage limitation for operations into and out of National Airport, such a restriction has existed by agreement and understanding for approximately 15 years. No air carrier has, during that period of time, attempted to or conducted flights that were not consistent with the accepted limitation. Since October 1974, the Notices to Airmen issued by the FAA have stated the following:

Turbojet aircraft described in paragraph B (9-13), may not be operated into or out of airport on flight segments of more than 650 statute miles except for nonstop flights of less than 1,000 miles operating to or from the following cities:

Miami, Florida; Memphis, Tennessee; Minneapolis, Minnesota; Orlando, Florida; St. Louis, Missouri; Tampa, Florida; and West Palm Beach, Florida.

Notices to Airmen (NOTAM's) are distributed by the FAA to notify airmen of current changes in navigational or procedural rules, or other information vital to flight safety. Class Two NOTAM's, such as the one used to state the 650-mile limitation at Washington National, are distributed on a biweekly basis to all FAA facilities, and to a large number of interested private subscribers, including air carriers. As part of their preflight planning, pilots are trained to check the NOTAM publications for information relating to their planned flight.

Because the Washington National perimeter was expected to remain in effect for a long period of time and since it had been in effect and known to all for a number of years, its publication was transferred from the NOTAM system to another FAA publication, *Graphic Notices and Supplemental Data*. This publication receives the same dissemination as the NOTAM's, but is published only on a quarterly basis.

Since 1966, there have been numerous regulatory and policy documents (including several in which the public has been given ample opportunity to comment) which have made it clear that the 650-mile nonstop limitation at Washington National Airport was in existence and adhered to by all parties.

On May 25, 1966, the Civil Aeronautics Board approved an agreement submitted by the Air Transportation Association (ATA) on behalf of 12 air carriers, including American Airlines, in which the air carriers agreed that they would not operate turbojets into and out of National on nonstop segments of more than 650 statute miles, except on those nonstop route segments of more than 650 statute miles and less than 1,000 statute miles being operated by any parties thereto on a nonstop basis by schedules in effect December 1, 1965 (the seven "grandfathered" cities listed above in the NOTAM).

On July 27, 1966, the Director of the Bureau of National Capital Airports issued Notice of Proposed Rulemaking 66-29 (31 FR 10199; July 28, 1966) in which it was stated that the FAA is considering methods of affecting limitations on the number of air carrier operations at Washington National Airport as part of the general policy to provide the maximum service to the flying public. Included in the NPRM was a 650-mile limitation.

On February 2, 1972, the Acting Manager of National Capital Airports withdrew Notice 66-29 (31 FR 3059; 21172) stating that the agency had determined that the proposed rulemaking action was no longer appropriate since the objective of that notice had been accomplished by air carrier agreement and the high density air traffic rules.

The Metropolitan Washington Airport Policy draft Environmental Impact Statement issued in March 1978, reiterated the understanding that Washington National Airport was designated as the area's short-haul airport with nonstop flights limited to a radius of 650 miles (except for seven cities). These cities had nonstop services with propeller aircraft prior to 1966 and are still provided nonstop services under

the provisions of a "grandfather" clause.

On January 21, 1980, the FAA issued an NPRM (45 FR 4314; January 21, 1980) which proposed to adopt rules to implement the DOT/FAA policies to guide the future operations and development of Washington National and Dulles International Airports. One of the proposals contained in the NPRM dealt with nonstop service restrictions to and from Washington National Airport. The NPRM contained the following paragraph:

The FAA believes that for the time being a perimeter restriction is necessary to preserve National Airport's "medium" and "short haul" and local service role and keep it distinct from the "long haul" and international role of Dulles Airport. FAA views the perimeter restriction on National as an important element to an effective managed growth policy at National.

The preamble further discussed the effects of limitation of the perimeter rule and, in fact, specifically talked about nonstop service from Washington to Dallas. The NPRM proposed extension of the perimeter rule to 1,000 miles. Although numerous comments were submitted concerning the proper extent of any perimeter requirement, all comments recognized the existence of the current 650-mile limitation. On September 15, 1980, a final rule was issued by the Administrator which established the nonstop perimeter at National at 1,000 statute miles.

This rule was to become effective on January 5, 1981. As a result of language in the DOT and Related Agency's Appropriation Acts of 1981, Pub. L. 96-400, the effective date was postponed until April 26, 1981.

On February 27, 1981, the Secretary of Transportation proposed a new effective date of October 25, 1981, for the Metropolitan Washington Airports Policy and implementing regulations. The proposed change in the effective date was necessary to ensure compliance with Executive Order 12291 (46 FR 13193; February 19, 1981), which provided new government-wide standards for the promulgation of rules. In addition, the change in the effective date was necessary to complete the Department's permanent rulemaking on slot allocations at Washington National Airport, and was consistent with both a request by the Senate Commerce Committee to the Secretary that the policy be reviewed and with Congressional concerns expressed in the action that led to the initial delay of the policy until April 26.

On March 24, 1981, in order to provide adequate time to review the Metropolitan Washington Airports Policy, the effective date of the

regulation was postponed. The Secretary further stated that after the policy was reviewed, any changes to it that might be developed would be published in July.

The perimeter limitation has been discussed in detail in rulemaking actions taken within the Department of Transportation during the past several years. In each case, the public has been given extensive opportunity to comment on the subject of proposed changes to the perimeter restrictions. A major element of the policy delayed by the Secretary of Transportation was the establishment of a 1,000 statute mile perimeter rule for National Airport. It should also be noted that the nonstop service planned by American Airlines from Dallas to DCA would violate this 1,000-mile restriction which is currently being reviewed. Therefore, the proposed actions by American Airlines and others to commence nonstop service between Dallas and Washington National Airport would not only overturn practices of 15 years duration relating to the character of service available at National Airport, but would also interfere with the orderly review process announced by the Secretary.

Therefore, the FAA is proposing to insert into the Federal Aviation Regulations this longstanding 650-mile limitation with specific exceptions pending review of the entire Metropolitan Washington Airports Policy.

This proposal is not intended to be an ultimate solution for the type of service to be provided to National Airport nor does it reflect a final Departmental decision on whether there should be a perimeter or the extent of any decided upon restriction. Rather, it is merely intended as an interim measure to preserve the status quo at National Airport while permitting the Department of Transportation the opportunity to consider fully all aspects of a potential policy for the Metropolitan Washington Airports.

The FAA is seeking the input of interested persons concerning the desirability of maintaining the status quo at National Airport until a final decision is reached on a new Policy for National and Dulles Airports.

Comments are not solicited on whether there should be a perimeter or what the length should be for any perimeter. Those questions have been thoroughly discussed in previous rulemakings.

#### Comment Period

Since this proposal simply codifies the existing method of operations at Washington National Airport, a 7-day

comment period from date of publication is determined to be sufficient. Any longer comment period would create unnecessary uncertainty.

#### The Proposed Amendment

Accordingly, the FAA proposes to amend Part 159 of the Federal Aviation Regulations (14 CFR 93) as follows:

By adding to Part 159 a new § 159.60 to read as follows:

#### § 159.60 Nonstop operations.

No person may operate an air carrier aircraft nonstop between Washington National Airport and any airport that is more than 650 statute miles away from Washington National Airport, except for nonstop flights to or from the following cities: Miami, Florida; Memphis, Tennessee; Minneapolis, Minnesota; Orlando, Florida; St. Louis, Missouri; Tampa, Florida; or West Palm Beach, Florida.

(Secs. 103, 307 (a), (b), and (c), 313(a), of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1303, 1348, and 1354); secs. 2 and 5 of the Act for the Administration of Washington National Airport, 54 Stat. 688, as amended by 61 Stat. 94; sec. 4 of the Second Washington Airport Act, 64 Stat. 94; sec. 4 of the Second Washington Airport Act, 64 Stat. 770; sec. 6 of the Department of Transportation Act (49 U.S.C. 1655))

*Note.*—Since this document does not affect any operations currently in existence, the FAA has determined that: (1) It is not a major regulation under Executive Order 12291; (2) It is not significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) It does not warrant a preparation of a regulatory evaluation as the impact is so minimal; and (4) It will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on May 8, 1981.

James A. Wilding,

Director, Metropolitan Washington Airports.

[FR Doc. 81-14463 Filed 5-11-81; 10:00 am]

BILLING CODE 4910-13-M

# Notices

Federal Register

Vol. 46, No. 91

Tuesday, May 12, 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

### Federal Grain Inspection Service

#### Request for Comments on Applicants for Designation in the Area Currently Serviced by the Idaho Department of Agriculture

**AGENCY:** Federal Grain Inspection Service, USDA.

**ACTION:** Notice.

**SUMMARY:** This notice requests comments from interested parties on the applicants for designation as the official agency in the area currently serviced by the Idaho Department of Agriculture.

**DATE:** Comments to be postmarked on or before May 27, 1981.

**ADDRESS:** Comments should be submitted to USDA, FGIS, Issuance and Coordination Staff, Room 1127, Auditors Building, 1400 Independence Avenue, S.W. Washington, D.C. 20250.

**FOR FURTHER INFORMATION CONTACT:** J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service; (202) 447-8262.

**SUPPLEMENTARY INFORMATION:** This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291; therefore, the Executive Order does not apply to this action.

The April 8, 1981, issue of the Federal Register (46 FR 21044) contained a notice from the Federal Grain Inspection Service (FGIS) requesting applications for designation to provide official services under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (Act), for the area currently serviced by the Idaho Department of Agriculture (Idaho), Boise, Idaho. Idaho requested voluntary cancellation of its designation effective 12 p.m., May 31, 1981. Applications were to be postmarked by April 23, 1981. Two qualified applications were received.

The names of the applicants for designation are as follows: Mr. Edwin T. Matchey, Owner and Chief Inspector, Lewiston Grain Inspection Service, Inc., 1450 3rd Avenue North, Lewiston, Idaho 83501; and Mr. T. Edward Buttars, Owner, Idaho Grain Inspection (a proposed agency), 4647 South 2475 West, Roy, Utah 84067.

In accordance with § 800.206(b)(2) of the regulations under the Act, this notice provides interested persons the opportunity to present their views and comments concerning the applicants. All comments must be submitted to the Issuance and Coordination Staff, specified in the address section of this notice, and postmarked not later than May 27, 1981.

The Administrator of FGIS has determined that a 15-day comment period would not impose any undue obligations on others and, under the circumstances, provides a sufficient period of time for comments while expediting the designation process.

Consideration will be given to all comments filed and to all other information available to the Administrator of FGIS before a final decision is made with respect to this matter. Notice of the final decision will be published in the Federal Register and the applicants will be informed of the decision in writing.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79))

Done in Washington, D.C. on May 7, 1981.

J. T. Abshier,

Director, Compliance Division,

[FR Doc. 81-14242 Filed 5-11-81; 8:45 am]

BILLING CODE 3410-02-M

### Forest Service

#### Forest Land and Resource Management Plan; Salmon National Forest, Idaho, Lemhi, and Valley Counties, Idaho; Revised Notice of Intent To Prepare an Environmental Impact Statement

A Notice of Intent to Prepare an Environmental Impact Statement for the Salmon National Forest Land and Resource Management Plan was published in the Federal Register, Volume 45, No. 198, p. 67115, October 9, 1980.

The estimated dates for filing the Draft and Final Environmental Impact Statements with the Environmental

Protection Agency and release to the public have been postponed. The Draft Environmental Impact Statement is now expected in January 1983, and the Final Environmental Impact Statement is proposed for release in July 1983.

All other conditions of the original Notice of Intent remain the same.

Dated: May 4, 1981.

Jeff M. Sirmon,

Regional Forester.

[FR Doc. 81-14215 Filed 5-11-81; 8:45 am]

BILLING CODE 3410-11-M

### Rural Electrification Administration

#### South Mississippi Electric Power Association, Alabama Electric Cooperative, Inc.; Draft Environmental Impact Statement Notice

Notice is hereby given that the Rural Electrification Administration (REA) as lead Federal agency has prepared a Draft Environmental Impact Statement (DEIS) in accordance with Section (102)(2)(c) of the National Environmental Policy Act of 1969 (NEPA), in connection with potential financial assistance to South Mississippi Electric Power Association (SMEPA), P.O. Box 1589, Hattiesburg, Mississippi 39401, and Alabama Electric Cooperative, Inc., P.O. Box 550, Andalusia, Alabama 36420. The U.S. Department of Interior (U.S. Fish and Wildlife Service) has acted as cooperating agency during the NEPA process.

The anticipated financial assistance would allow SMEPA and AEC to secure funds required for the construction of a proposed project consisting of a 52.8 km (32.8 mile) 230 kV transmission intertie connecting the two grid systems between Chatom, Alabama, and Waynesboro, Mississippi.

Additional information on the proposed project may be secured from Mr. Frank W. Bennett, Director, Power Supply Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447-6183.

Persons wishing to comment upon the environmental impact of the proposed project are invited to respond in writing within 45 days of this notice or EPA's notice of availability of the DEIS, whichever is later. Comments are invited from the public, from State and local agencies which are authorized to



develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved from which comments have not been requested specifically.

Copies of the Federal Draft Environmental Impact Statement have been sent to various Federal, State, and local agencies, as outlined in the Council on Environmental Quality regulations. Limited supplies of the DEIS are available upon request to Mr. Bennett at the address given above. The DEIS may be examined during regular business hours at the following locations:

Rural Electrification Administration,  
14th and Independence Avenue SW.,  
Room 5188, Washington, D.C. 20250

South Mississippi Electric Power  
Association, Highway 49 North, P.O.  
Box 1589, Hattiesburg, Mississippi  
39401

Alabama Electric Cooperative, Inc.,  
Highway 29 North, P.O. Box 550,  
Andalusia, Alabama 36420.

#### Libraries

Waynesboro Memorial Library, 710  
Wayne Street, Waynesboro,  
Mississippi 39367

Chatom Public Library, Chatom,  
Alabama 36518.

Persons, organizations and agencies wishing to comment should do so in writing within the 45-day period indicated above and address their correspondence to Mr. Bennett of REA at the address given above. All comments received within the 45-day period will be considered in the formulation of final determinations regarding the approval of REA financial assistance for the project, and the Final Environmental Impact Statement.

Final REA action, with respect to this matter (including any release of funds), will be taken only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 and requirements of other environmentally related statutes, regulations, and Executive Orders have been met. This Federal assistance program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 4th day of May, 1981.

Joe S. Zoller,  
*Acting Administrator, Rural Electrification  
Administration.*

[FR Doc. 81-14243 Filed 5-11-81; 8:45 am]  
BILLING CODE 3410-15-M

#### Northeast Missouri Electric Power Cooperative, Palmyra, Mo.; Proposed Loan Guarantee

Under the authority of Public Law 93-32 (87 Stat. 65), and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of \$14,300,000 to Northeast Missouri Electric Power Cooperative (Northeast), of Palmyra, Missouri. This loan guarantee will be used to finance the construction of approximately 95 miles of 69 kV transmission line, substations, other transmission system improvements and an addition to the existing headquarters facility in Palmyra, Missouri.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed program, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Ralph E. Shaw, Manager, Northeast Missouri Electric Power Cooperative, P.O. Box 191, Palmyra, Missouri 63461.

In order to be considered, proposals must be submitted on or before June 11, 1981 to Mr. Shaw. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received as Northeast and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 7th day of May 1981.

Joe S. Zoller,  
*Acting Administrator, Rural Electrification  
Administration.*

[FR Doc. 81-14244 Filed 5-11-81; 8:45 am]  
BILLING CODE 3410-15-M

#### CIVIL AERONAUTICS BOARD

[Order 81-5-20]

#### Agreements Proscribing Agent Commissions on Sales of Official Government Travel

**AGENCY:** Civil Aeronautics Board.

**ACTION:** Final order disapproving the agreements order 81-5-20, May 6, 1981.

**SUMMARY:** The Board has decided to make final the tentative findings and conclusions set out in Order 80-12-91 and disapprove the Air Traffic Conference of America (ATC) and International Air Transport Association (IATA) agreements which proscribe the payment of agency commissions for the sale of official government travel. It has concluded that the objections filed in response to the show cause order have not raised arguments that would justify continued approval of the agreements. ATC and IATA argued that their agreements only proscribe agents from earning commissions on government air transportation sales where air carriers extend their credit to the government. Specifically, they stated that air carriers extend their credit to the government every time carriers accept Government Travel Requests and then must wait prolonged periods for actual payment. After examining the evidence, the Board concluded that any credit cost incurred is not significantly different than those incurred in other types of commissionable sales involving credit cards and that even if the costs were different that that would not be a sufficient reason to continue the provisions. Moreover, regardless of the purpose of the provisions, their effect is essentially to foreclose travel agents from dealing with the government, particularly official travel, but non-official as well.

All other arguments raised dealt, in one way or another, with the prospect that permitting air carriers to commission travel agents for official government sales will raise government travel costs. The Board found that argument to be fundamentally flawed. First, it found that to the extent that the carriers provide interest free credit to the government other system users must bear those costs which is not in the

public interest. Second, the Board concluded that the argument ignores the fact that both the government and air carriers have a vested interest in purchasing and selling air transportation in the most cost efficient way possible. The Board concluded that its action will not result in immediate freedom for travel agents to earn commissions. Instead, its action will only open the door to experimentation. If, in fact, SATOs are the most cost efficient means of handling DOD transportation they will be continued. Finally, the Board found that it should not continue to approve a joint carrier agreement that binds air carriers, the government and travel agents to that judgment.

The complete text of the order is available as noted below.

**DATE:** Adopted May 6, 1981.

**FOR FURTHER INFORMATION CONTACT:** Mr. George S. Baranko, Office of the General Counsel, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-6011.

**SUPPLEMENTARY INFORMATION:** The complete text of Order 81-5-20, is available from the Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 81-5-20 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: May 6, 1981.

Phyllis T. Kaylor,  
*Secretary.*

[FR Doc. 81-14247 Filed 5-11-81; 8:45 am]

BILLING CODE 6320-01-M

**[Order 81-5-26; Docket 39183]**

**Air New England, Inc.; Order To Show Cause**

**AGENCY:** Civil Aeronautics Board.

**ACTION:** Notice of Order to Show Cause: Order 81-5-26.

**SUMMARY:** The Board proposed to issue a certificate to Air New England, Inc., Docket 39183.

**Authority Sought:** Authority to engage in the foreign air transportation of persons, property and mail between the coterminal points Hartford, Connecticut and Portland, Maine, and the terminal point Toronto, Canada; Authority to engage in the foreign air transportation of property and mail between the terminal point Boston, Massachusetts, and the terminal point Montreal, Canada.

**OBJECTIONS:** All interested persons having objections to the Board's

tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall, no later than June 2, 1981 file a statement of such objections with the Civil Aeronautics Board (20 copies, addressed to Docket 39183, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428) and mail copies to the applicant, the Department of Transportation and the Department of State. Copies of the objections should also be sent to the Ambassador of Canada and US Air, Inc. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no obligations are filed, the Board will issue an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed certificate.

Addresses for objections: Docket 39183, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Air New England, Inc., c/o Mr. Charles F. Butler, Nix & Wendell, 1101 Connecticut Avenue NW., Washington, D.C. 20036.

To get a copy of the complete order, request it from C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

**FOR FURTHER INFORMATION CONTACT:** Glenn M. Datnoff (202-673-5203), Bureau of International Aviation, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: May 6, 1981.

Phyllis T. Kaylor,  
*Secretary.*

[FR Doc. 81-14248 Filed 5-11-81; 8:45 am]

BILLING CODE 6320-01-M

**[Order 81-4-186]**

**Braniff Airways, et al.; Order To Show Cause**

**AGENCY:** Civil Aeronautics Board.

**ACTION:** Notice of Order to Show Cause: Order 81-4-186.

**SUMMARY:** The Board proposes to issue an order asking interested parties to show cause why the applications of Braniff Airways, Pan American World Airways, Transamerica Airlines and Trans World Airlines for scheduled authority to the Middle Eastern points of Bahrain, Egypt, Greece, Kuwait, Oman, Qatar, and the United Arab Emirates should not be granted.

**OBJECTIONS:** All interested persons having objections to the Board's tentative findings and conclusions granting this authority, as described in the order cited above, shall, NO LATER THAN June 12, 1981, file a statement of such objections with the Civil Aeronautics Board (20 copies, addressed to Docket 39610, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428) and mail copies to the applicants, the Departments of State and Transportation and the Attorney General.

A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Board will issue an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed certificate.

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

**FOR FURTHER INFORMATION CONTACT:** Ira Leibowitz, (202) 673-50325, Bureau of International Aviation, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: April 30, 1981.

Phyllis T. Kaylor,  
*Secretary.*

[FR Doc. 81-14249 Filed 5-11-81; 8:45 am]

BILLING CODE 6320-01-M

**[Dockets 33362, 39083, and 39084]**

**Former Large Irregular Air Service Investigation; Applications of Michigan Peninsula Airways, Ltd., d.b.a. MPA International Airways; Postponement of Hearing**

Notice is hereby given that the hearing in the above-entitled proceeding now assigned to be held on May 11, 1981 at 10:00 a.m. (46 FR 21214 April 9, 1981), is postponed until further notice.

Dated at Washington, D.C., May 6, 1981.

William A. Pope, II,  
*Administrative Law Judge.*

[FR Doc. 81-14246 Filed 5-11-81; 8:45 am]

BILLING CODE 6320-01-M

**DEPARTMENT OF COMMERCE****International Trade Administration****Computer Systems Technical Advisory Committee; Notice of Partially Closed Meeting**

**AGENCY:** International Trade Administration, Commerce.

**ACTION:** Notice.

**SUMMARY:** The Computer Systems Technical Advisory Committee was initially established on January 3, 1973, and rechartered on August 29, 1980 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical specifications and policy issues relating to those specifications which are of concern to the Department, (B) worldwide availability of products and systems, including quantity and quality, and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems or technology, and (D) exports of the aforementioned commodities subject to unilateral and multilateral controls which the United States establishes or in which it participates including proposed revisions of any such controls.

**TIME AND PLACE:** May 27, 1981, at 9:30 a.m. The meeting will take place at the Main Commerce Building, Room 3708, 14th Street and Constitution Ave., NW., Washington, D.C. The meeting will conclude on May 28, in Room 6802, Main Commerce Building.

**AGENDA:****General Session**

- (1) Open remarks by the Chairman.
- (2) Presentation of papers or comments by the public.
- (3) Report on the current work program of the subcommittees:
  - (a) Foreign Availability;
  - (b) Hardware; and
  - (c) Licensing Procedures.
- (4) Nomination and election of a new chairman.

**Executive Session**

(5) Discussion of matters properly classified under Executive Order 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

**PUBLIC PARTICIPATION:** The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits members of the public may

present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

**SUPPLEMENTARY INFORMATION:** The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 16, 1980, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12065.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, Telephone: 202-377-4217.

**FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT:**

Mrs. Margaret A. Cornejo, Office of the Director of Licensing, Office of Export Administration, Room 1609, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202-377-2583.

Dated: May 7, 1981.

Saul Padwo,

*Director of Licensing, Office of Export Administration.*

[FR Doc. 81-14218 Filed 5-11-81; 8:45 am]

**BILLING CODE 3510-25-M**

**DEPARTMENT OF DEFENSE****Department of the Navy****Application Technologies, Inc.; Limited Exclusive Patent License Granted**

Pursuant to the provision of Part 746 of Title 32, Code of Federal Regulations (41 FR 55711-55714, December 22, 1976), the Department of the Navy announces that on April 14, 1981, it granted to Application Technologies, Inc., a corporation of the State of Maryland, a revocable, nonassignable, limited exclusive license until August 31, 1983, under Government-owned United States Patent Number 3, 273, 376 issued September 20, 1966, entitled "Static and Dynamic Calibration Vessel for Pressure Gages," inventors, Philip M. Aronson and Robert H. Waser.

Copies of the patent may be obtained for fifty cents (\$.50) from the

Commissioner of Patents and Trademarks, Washington, D.C. 20231.

For further information concerning this notice, contact: Dr. A. C. Williams, Staff Patent Adviser, Office of Naval Research (Code 305), Ballston Tower No. 1, 800 North Quincy Street, Arlington, Virginia 22217, Telephone number (202) 696-4005.

Dated: May 6, 1981.

P. B. Walker,

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

[FR Doc. 81-14210 Filed 5-11-81; 8:45 am]

**BILLING CODE 3810-71-M**

**Office of the Secretary****Privacy Act of 1974; Notice of System of Records: Amendment**

**AGENCY:** Office of the Secretary of Defense (OSD).

**ACTION:** Notice of amendment to system of record notice.

**SUMMARY:** The Office of the Secretary of Defense proposes to amend a system notice for one system of records subject to the Privacy Act of 1974. The specific amendments and the complete system notice as amended are set forth below.

**DATES:** This notice shall be amended as proposed without further notice on June 8, 1981, unless comments are received which would result in a contrary determination.

**ADDRESSES:** Send any comments to the System Manager identified in the system notice.

**FOR FURTHER INFORMATION CONTACT:**

Norma Cook, Privacy Act Officer, ODASD(A), Room 5C-315, Pentagon, Washington, D.C. 20301. Telephone: 202/695-0970.

**SUPPLEMENTARY INFORMATION:** The Office of the Secretary of Defense systems or records notices as prescribed by the Privacy Act have been published in the *Federal Register* at:

- FR Doc. 81-897 (48 FR 6427) January 21, 1981  
 FR Doc. 81-6491 (46 FR 14154) February 25, 1981  
 FR Doc. 81-7597 (46 FR 18114) March 11, 1981  
 FR Doc. 81-7938 (46 FR 16628) March 16, 1981  
 FR Doc. 81-8127 (46 FR 17074) March 17, 1981  
 FR Doc. 81-8282 (46 FR 17243) March 18, 1981  
 FR Doc. 81-10201 (46 FR 20280) April 3, 1981  
 FR Doc. 81-10722 (46 FR 21228) April 9, 1981  
 FR Doc. 81-12892 (46 FR 23967) April 29, 1981

The Office of Secretary of Defense has submitted a new system report dated April 10, 1981, for this system

under the provisions of 5 U.S.C. 552a(o) of the Privacy Act.

M. S. Healy,

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

May 6, 1981.

#### DHA 04

##### System Name:

Variable Incentive Pay for Medical Officers-Data Management System (46 FR 6427, January 21, 1981).

##### Changes:

##### System Name:

Delete the above system name, and insert: "Special Pay for Military Health Professionals—Data Management System".

##### Categories of Individuals Covered by the System:

Delete the entry under the above heading, and insert: "Selective extracts of master personnel records such as SSN, grade, etc., plus information concerning professional education and special pay status".

##### Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Uses:

Delete the entry under the above heading and insert:

##### Internal Users, Uses, and Purposes:

Used by Office of Planning and Policy Analysis, Office of the Assistant Secretary of Defense (Health Affairs), to meet statutory reporting requirements of section 303a of, Title 37 the United States Code.

##### External Users, Uses, and Purposes:

Employees of Research, Inc., 2361 S. Jefferson Davis Highway, Arlington, VA under DoD contract to assist in meeting reporting requirements."

##### Safeguards:

Delete the entry under the above heading, and insert: "Access only by authorized user number."

##### Retention and Disposal:

Delete the entry under the above heading, and insert: "Maintained until expiration of reporting requirement in section 303a of Title 37, United States Code.

##### System Manager(s) and Address:

Delete the entry under the above heading, and insert: "Director, OPPA, OASD(HA), Pentagon, Washington, D.C. 20301."

##### Notification Procedure:

Delete the entry under the above heading, and insert: "Information may be obtained from the Executive Assistant, Office of the Assistant Secretary of Defense (Health Affairs), Room 3E-346, Pentagon, Washington, D.C. 20301; telephone 202/694-2115."

#### DHA 04

##### SYSTEM NAME:

Special Pay for Military Health Professionals-Data Management System.

##### SYSTEM LOCATION:

Air Force Data Services Center, Headquarters, United States Air Force, Pentagon, Washington, D.C. 20330.

##### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military physicians and dentists on active duty during the reporting period.

##### CATEGORIES OF RECORDS IN THE SYSTEM:

Selective extracts of master personnel records such as SSN, grade, etc., plus information concerning professional education and special pay status.

##### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 37, United States Code, Section 303a.

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

##### Internal Users, Uses, and Purposes:

Used by Office of Planning and Policy Analysis, Office of the Assistant Secretary of Defense (Health Affairs), to meet reporting requirements of Title 37, U.S.C. Section 303a(c).

##### External Users, Uses, and Purposes:

Employees of Research, Inc., 2361 S. Jefferson Davis Highway, Arlington, VA., under contract to assist in reporting requirements.

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

##### STORAGE:

Magnetic tapes in Air Force Data Services Center Tape Library.

##### RETRIEVABILITY:

By Social Security Number.

##### SAFEGUARDS:

Access only by authorized user number.

##### RETENTION AND DISPOSAL:

Maintained until expiration of reporting requirements in 37 U.S.C. 303a.

##### SYSTEM MANAGER(S) AND ADDRESS:

Director, OPPA, OASD(HA), Pentagon, Washington, D.C. 20301.

##### NOTIFICATION PROCEDURE:

Information may be obtained from: Executive Assistant, Office of the Assistant Secretary of Defense (Health Affairs), Room 3E-346, Pentagon, Washington, D.C. 20301, Telephone number: 202-697-2115.

##### RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: Office of the Assistant Secretary of Defense (Health Affairs), Room 3E-346, Pentagon, Washington, D.C. 20301, Telephone number: 202-697-2115.

##### CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

##### RECORD SOURCE CATEGORIES:

Central personnel files of the Military Services.

##### SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 81-14226 Filed 5-11-81; 8:45 am]

BILLING CODE 3810-70-M

## DELAWARE RIVER BASIN COMMISSION

### Comprehensive Plan; Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Tuesday, May 26, 1981, commencing at 2 p.m., in the Goddard Conference Room at the Commission's offices, 25 State Police Drive, West Trenton, New Jersey. The subject of the hearing will be the application for approval of the following project as an amendment to the Comprehensive Plan and pursuant to Section 3.8 of the Compact:

Warrington Township Municipal Authority (D-80-50 CP). A well water supply project to provide replacement service in Warrington, Bucks County, Pennsylvania. Designated as Well No. 5, the new facility is expected to yield 216,000 gallons per day, and partially replace water from two wells which have been taken out of service because of contamination.

Documents relating to the above-listed project may be examined at the Commission's offices. Persons wishing to testify at this hearing are requested to

register with the Secretary prior to the date of the hearing.

W. Brinton Whitall,

Secretary.

May 6, 1981.

[FR Doc. 81-14209 Filed 5-11-81; 8:45 am]

BILLING CODE 6380-01-M

## DEPARTMENT OF ENERGY

### TRW, Inc.; Proposed Subcontract Awards

AGENCY: Department of Energy.

ACTION: Notice of proposed subcontract awards.

**SUMMARY:** In accordance with the Department of Energy (DOE) Procurement Regulations, DOE gives Public Notice that it intends to approve the subcontract awards by a DOE prime contractor (TRW, Inc.), after taking into account the existence of potential organizational conflicts of interest, because the exercise of this option is determined to be in the best interest of the United States.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Lee Brennan, Office of Naval Petroleum and Oil Shale Reserves, Room 6448, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, (202) 633-8667.

### Determination and Findings

Upon the basis of the following findings and determination, the proposed approval of the subcontracts described below is being given after taking into account the existence of potential organizational conflicts of interest, because this action is determined to be in the best interest of the United States, pursuant to the authority of Department of Energy Procurement Regulations 41 CFR 9-1.5409(a)(3).

### Findings

(1) The Department of Energy (DOE), Office of Environmental Protection, Safety, and Emergency Preparedness has completed two years of a five year pre-development program for Naval Oil Shale Reserves (NOSR) Nos. 1 and 3 located in Garfield County, Colorado. This pre-development program is undertaken pursuant to the authority contained in 10 U.S.C. Chapter 641. 10 U.S.C. 7422 provides the Secretary of Energy with the authority to explore, prospect, conserve, develop, use and operate the Naval Oil Shale Reserves in his discretion, subject to other provisions of the law. As now constituted, the pre-development

program provides for the preparation of all necessary environmental, preliminary engineering, and economic analysis required to support the leasing of NOSRs 1 and 3, should the Government determine that such action is desirable.

(2) In connection with the completion of the pre-development program, it is necessary for Environmental Protection, Safety, and Emergency Preparedness to retain skilled and experienced professionals to manage and analyze the information and data obtained regarding, among other things, a complete oil shale resource definition of NOSRs 1 and 3, a programmatic environmental impact statement, and assessment of various technologies which are applicable to the NOSRs. For the past two years, TRW Inc. (TRW) has served as a management support and systems engineering contractor to Environmental Protection for this pre-development program.

Tosco Foundation previously performed the gathering of socioeconomic impact data under a subcontract to the TRW Contract. This subcontract to the Tosco Corporation, under which Tosco Foundation performed its fact gathering tasks, has been discontinued and Tosco Foundation will become a subcontractor under the TRW contract.

WH Engineering will provide engineering services to aid TRW in setting the boundaries of potential lease tract options for the NOSR.

(3) In accordance with 41 CFR 9-1.5405, Tosco Foundation and WH Engineering provided a statement disclosing relevant information concerning their interests related to the work performed for DOE and bearing on whether they have possible organizational conflicts of interest (1) with respect to being able to render impartial, technically sound and objective assistance or advice, or (2) which may give it an unfair competitive advantage. Numerous questions were asked of Tosco Foundation and WH Engineering regarding the relationship of their clients and business activities to the scope of the work to be performed under the contract.

(4) Based on an evaluation of the facts contained in the disclosure statement, it has been determined that Tosco Foundation and WH Engineering have potential organizational conflicts of interest with regard to the work required by Environmental Protection, Safety, and Emergency Preparedness regarding the pre-development program of NOSRs 1 and 3.

(5) Due to the substantial socioeconomic work Tosco Foundation has previously performed on this project since its inception, only Tosco Foundation has the capability and staff to perform the work for Environmental Protection, Safety, and Emergency Preparedness within the time constraints allowed.

WH Engineering has the relatively minor but important subtask to aid TRW in setting the boundaries of potential lease tract options for the NOSRs. WH Engineering was selected by TRW for their expertise in this field and their ability to perform this work within the time constraints allowed.

Accordingly, it is not feasible to disqualify these contractors pursuant to 41 CFR 9-1.5409(a)(1). Furthermore, it is not possible to avoid the potential organizational conflicts of interest by the inclusion of appropriate conditions in the resulting subcontracts, in accordance with 41 CFR 9-1.5409(a)(2).

(6) The completion, in a timely manner, of the pre-development program for NOSRs 1 and 3 will have far reaching benefits in terms of the necessary data available for DOE to determine whether or not to proceed with development and production of the hydrocarbon resources of NOSRs 1 and 3 through the leasing mechanism. The work performed by Tosco Foundation and WH Engineering is critical to the timely completion of the pre-development program.

### Mitigation

Mitigation, to the extent feasible, under 41 CFR 9-1.5409(a)(3) will be obtained by independent staff review by DOE Officials of contractor reports, as well as through administrative procedures through which the reception of public comment will allow mitigation of potential conflicts in the data and analysis. Additionally, the Organizational Conflicts of Interest special clause entitled "Organizational Conflicts of Interest", 41 CFR 9-1.5409(2)(b), contained in the Government's prime contract with TRW will be included in the subcontracts, modified as necessary to meet the specific circumstances involved.

### Determination

In light of the above Findings and Mitigation, and in accordance with 41 CFR 9-1.5409(a)(3), I hereby find that the approval of these subcontracts would be in the best interest of the United States.

Dated: May 4, 1981.

Barton R. House,

Acting Assistant Secretary, Environmental Protection, Safety, and Emergency Preparedness.

[FR Doc. 81-14296 Filed 5-11-81; 8:45 am]

BILLING CODE 6450-01-M

## Bonneville Power Administration

### Procedure for Public Participation in Major Regional Power Policy Formulation

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

**ACTION:** Revision of procedure for public participation in major regional power policy formulation.

**SUMMARY:** The Bonneville Power Administration is revising its procedure to comply with the public participation requirements of Pub. L. 96-501, the Pacific Northwest Electric Power Planning and Conservation Act (Regional Act) enacted on December 5, 1980. The revision expands the scope of the procedure to include major regional power policies as stated in Section 4(g)(1) of Pub. L. 96-501.

**EFFECTIVE DATE:** The procedure will be effective May 12, 1981.

**FOR FURTHER INFORMATION CONTACT:** Ms. Donna L. Geiger, Public Involvement Coordinator, P.O. Box 12999, Portland, Oregon 97212, 503-234-3361, extension 4261. Oregon callers may use the toll-free number 800-452-8429; callers in California, Idaho, Montana, Nevada, Utah, Wyoming, and Washington may use 800-547-8048.

**SUPPLEMENTARY INFORMATION:** Since enactment of Pub. L. 96-501, the Pacific Northwest Electric Energy Power Planning and Conservation Act (Regional Act), BPA has greatly enlarged its public participation activities. This expansion is in recognition of the Regional Act's directive that in the interest of insuring widespread public involvement in the formulation of major regional power policies, the Administrator maintain comprehensive programs to inform the public in the Northwest of major regional power issues, to obtain public views, and to secure the advice and consultation of the Administrator's customers and others. These procedures are one means by which the Administrator will seek to comply with this directive.

BPA is revising its existing Procedure for Public Participation in Marketing Policy Formulation as published November 5, 1980. The new procedure

follows and more accurately depicts the Regional Act's requirements in the public involvement area. The scope of activities covered by the procedure is broadened from Major Power Marketing Policy Formulation to development of Major Regional Power Policies. Policies may include BPA activities in addition to the power marketing activities covered by the earlier procedure. In addition, the revised procedure recognizes that public meetings and other activities may be appropriate means for achieving public consultation where public comment is important but in which no major regional power policy is involved.

The direction of the revision provides flexibility for time periods, transcription of Information Forums, and the content of Notices. BPA believes that the revised procedure comports with the public participation directives of the Regional Act while preserving BPA's ability to plan public participation activities for major regional power policies. In addition, the revised procedure makes clear the policies for which this procedure would be required. Other policies or matters may involve a simplified public meeting process where appropriate and where circumstances permit. BPA will make use of other procedures as required and provided by law.

The text of the revised procedure is as follows: *Procedure for Public Participation in Major Regional Power Policy Formulation.*

1. *Purpose and Scope.* The purpose of this procedure is to permit interested persons to participate in the development of BPA Major Regional Power Policies, as required by section 4(g)(1) of Pub. L. 96-501, the Pacific Northwest Electric Power Planning and Conservation Act (Regional Act). This procedure is limited to such major regional power issues as identified by BPA. This procedure shall not apply to:

- policies for which any other procedure is provided by law;
- interpretive rulemaking and general statements of policy which do not involve major regional power issues; or
- rules of agency organization, procedure, or practice; or
- policies which are appropriate for the public meeting procedures described in Section 5.

#### 2. *Definitions.*

a. *Administrator.* The Bonneville Power Administrator.

b. *Area Managers/District Managers.* BPA line officials responsible for BPA activities in designated geographical areas, including but not limited to Power Management, Engineering and Construction, Operation and

Maintenance, and policy implementation and administration. The Area and District Managers are local contact points for persons interested in BPA matters.

c. *Bonneville Power Administration.* A power marketing administration of the Department of Energy referred to in the Bonneville Project Act of 1937, the Federal Columbia River Transmission System Act of 1974, the Department of Energy Organization Act of 1977, and the Pacific Northwest Electric Power Planning and Conservation Act of 1980.

d. *Customer.* A person or entity having a direct relationship with BPA as the result of contractual arrangements for the purchase, exchange, transfer, assignment, or sale of electric power and energy, related services, or transmission capability to, with, or from BPA.

e. *Evaluation of the Record.* A written evaluation by the Responsible Official which includes (1) a summary of the major comments, criticisms, support, and alternatives offered to the Proposed Policy; (2) a summary of available information discussing the need for and anticipated effect of such Policy and the alternatives offered; and (3) an analysis and recommendation regarding the Proposed Policy, the alternatives offered, and the reasons therefor.

f. *Interested Person.* Any person, group, or entity with an interest in the Proposed Policy.

g. *Major Regional Power Policy (Policy).* An agency statement of future effect and general applicability designed to implement or prescribe policy which the Administrator identifies as involving major regional power issues. Major Regional Power Policy does not include the development and execution of particular agreements, contracts, or other instruments between BPA and its customers.

h. *Notice.* A notification required by this procedure and published in the Federal Register or elsewhere where actual and timely notice of the proposed Policy can be assured. Most Notices will be published in the Federal Register. However, Notices of a restricted nature or Notices of a limited or local applicability may be published elsewhere if (1) directed by the Administrator, and (2) if reasonably calculated to give actual and timely notice. By Federal Register Notice, or as otherwise herein provided, BPA will (1) give notice of its intent to develop a new Policy; (2) present a Proposed Policy; (3) announce opportunities for interested persons to comment on the Proposed Policy; and (4) promulgate the Policy as adopted by the Administrator.

Notices shall be effective on date of publication unless otherwise stated. Wherever a time period is provided, the date of publication shall determine the commencement of the time period unless otherwise stated.

i. *Official Record.* Except as otherwise may be expressly provided by law, the compiled and indexed records which document the development of the Proposed Policy. The Official Record is the responsibility of the Public Involvement Coordinator and shall contain the following: (1) all Federal Register or other Notices provided for by these procedures; (2) a transcript of oral comments taken at public comment forums, including documents and exhibits; (3) written comments, data, and questions from interested persons, and BPA's replies; (4) Evaluation of the Official Record; (5) the Record of Decision; and (6) any other information the Responsible Official determines is relevant. The Official Record shall be available for inspection or copying.

j. *Proposed Policy.* A new Major Regional Power Policy which is under consideration for adoption.

k. *Public Involvement Coordinator.* The BPA employee responsible for monitoring the development of new Policies to assure the opportunity for and documenting the involvement of interested persons in Policy development. The Public Involvement Coordinator receives public comment, maintains the Official Record, and supplies pertinent information to interested persons.

l. *Record of Decision.* A concise summary of the decision stating the Proposed Policy, including any revisions thereto, and the reasons for the Administrator's decision. It may include the principal objections to and support for the Proposed Policy, findings of fact, statements of applicable policy, major areas of controversy, and alternatives considered with their respective evaluations.

m. *Responsible Official.* The BPA employee designated by the Administrator as responsible for the development of a Proposed Policy.

### 3. Procedure for Establishing a Policy.

a. *Decision to Formulate a Policy and Notice of Intent.* When the Administrator determines the need for a new Policy, BPA shall publish in the Federal Register, or elsewhere if so decided by the Administrator, a Notice of its intent to formulate the Policy. The purpose of the Notice of Intent is to offer to interested persons the opportunity to make recommendations on the Policy to be developed. Notice shall include the following: (1) the subject of the Proposed Policy; (2) a statement of the available

information discussing the need for and the probable effect of the Policy; (3) an indication of the extent to which other existing policies might be affected by the development of a new Policy; (4) a request for written recommendations for BPA's use in formulating or revising the Policy, and the time limit for the receipt of such recommendations; and (5) the name, address, and telephone number of the BPA official who will receive them.

The Administrator or the designated Responsible Official may send a written announcement to persons who have previously expressed an interest in the general subject area of consideration, or to persons who, in the opinion of the Responsible Official, could reasonably be expected to have such an interest. The Responsible Official may also direct that an announcement be made in one or more general circulation newspapers in the BPA marketing area or through other effective means of publicity, as necessary or desirable.

b. *Notice of Proposed Policy.* After the period for receipt of recommendations stated in the Notice of Intent, BPA shall publish in the Federal Register, or elsewhere if so decided by the Administrator, a Notice of the Proposed Policy. The Notice shall include (1) the text of the Proposed Policy; (2) an indication of the probable extent to which other existing policies will be affected by the Proposed Policy; (3) the dates, times, and locations of scheduled Public Information Forums or Public Comment Forums; (4) information on procedures by which interested persons may participate in the Forums; (5) a request for written comments on the Policy and the time limit for the receipt of such comments; (6) the name, address, and telephone number of the BPA official(s) to contact for further information; and (7) any other information considered necessary by the Responsible Official.

Announcement may also be made by mail to those persons who have requested in writing that they receive written material on the Proposed Policy. Further announcement may also be made in one or more general circulation newspapers in the BPA marketing area or through other effective means of publicity, as necessary or desirable.

c. *Combination of Notices.* The Administrator or the Responsible Official may combine the above Notices.

d. *Public Information Forum.* Public Information Forums are optional. The Responsible Official will determine the need for and scope of such meetings based on factors such as an assessment of actual or expected public interest in the Policy, the complexity of the subject, or the anticipated degree of impact.

The purpose of a Public Information Forum is to present information about a Proposed Policy to persons interested in that Policy. BPA will consider the use of two types of meetings: (1) Technical meetings for customers and other persons who would like the benefit of detailed staff briefings, and (2) more general meetings for other interested persons. One or more of both types of Public Information Forums may be scheduled based on the criteria stated above.

Meeting dates, times, and locations shall be announced in the Federal Register or elsewhere if so decided by the Administrator and may be announced in one or more general circulation newspapers in the BPA marketing area or through other effective means of publicity, as necessary or desirable. Meeting notices shall include a statement of the subject and purpose, dates, times, and places, for the forum. A 15-day notice will be provided whenever practicable.

The Responsible Official shall act as or appoint the Forum chairperson. A transcribed account may be kept of each Forum, and, if kept, the transcript shall be part of the Official Record. Questions raised at the Forum may be responded to at the Forum or later, but not later than the publication of the final Policy, either by letter or as a part of the Official Record. If kept, transcripts of Public Information Forums shall be available for review at the Area or District office in the locality where the Forum is held. Copies of the transcript of all transcribed Public Information Forums shall be available for review in the office of the Public Involvement Coordinator.

e. *Public Comment Forum.* One or more Public Comment Forums shall be scheduled on the Proposed Policy for the purpose of enabling interested persons to present their views on the Proposed Policy. The Responsible Official shall determine the number, dates, locations, and time of day of such Forums. Announcement of the Forums shall be published in the Federal Register or elsewhere, as the Administrator so directs, either in the Notice of Proposed Policy or in a separate Notice. The announcement shall include the name, subject, and purpose of the Policy; the dates; times, and places for the Forum, and an indication of the available information discussing the need for, in support of, or illustrating the probable effect of the Policy. The announcement shall also indicate the time period for receipt of comments, and the names, addresses, and telephone numbers of BPA officials from whom additional

information can be obtained. The Notice may contain additional material considered necessary by the Responsible Official. Additional Notice may be given in one or more general circulation newspapers in the BPA marketing area or through other effective means of publicity, as necessary or desirable.

The Responsible Official shall act as or appoint a chairperson of the Forum. At the beginning of a Forum, the chairman shall explain the procedures governing the proceedings.

BPA shall offer interested persons the opportunity for oral presentation of views, data, and arguments. Persons wishing to speak should notify the BPA Public Involvement Coordinator or the Area or District Manager of the locality in which the Forum will be held at least 3 days before a Forum to permit preparation of a tentative schedule of participants. The chairperson may establish time limitations for oral presentations to assure that all interested persons who desire to speak shall have an opportunity to do so. The chairperson may require that interested persons with similar views, data, and arguments consolidate their presentations. Forum proceedings shall be transcribed. Transcripts of Public Comment Forums shall be available for review at the Area or District office in the locality where the forum is held. Copies of the transcripts of all Public Comment Forums shall be available for review in the office of the Public Involvement Coordinator.

**f. Additional Opportunity for Comment.** Opportunity for interested persons to participate in Policy formulation through submission of written data, views, or arguments shall be provided. Written comments on the Proposed Policy will be received from the date of publication of the Notice of Proposed Policy or combined Notice for the period stated in the Notice.

**g. Evaluation of the Official Record.** Following the comment period, the Responsible Official shall prepare an Evaluation of the Official Record, which shall be submitted to the Administrator.

**4. Promulgation of the Policy.** After the submission of the Evaluation of the Official Record, the Administrator shall decide whether to adopt, modify and adopt, or reject the Proposed Policy.

The decision shall be documented in a Record of Decision which shall be signed by the Administrator and which will be a part of the Official Record.

BPA shall publish, in the *Federal Register* or elsewhere if so decided by the Administrator, a Notice of a final Policy. The Policy shall become effective

on the date of publication of the Notice unless otherwise specified.

**5. Public Meeting Procedures.** For policies other than those identified by BPA as major regional power policies, the Administrator may make use of a *Federal Register* Notice or other appropriate notice for announcement of a public meeting to obtain the views of interested persons. The Administrator may set the procedures for such meetings and the procedures may be made a part of the Notice.

**6. Emergency Policy Implementation.** The requirements of publication of Notice, comment period, opportunity for presentation of views, and promulgation of a Policy, as established by this procedure may be waived where those policies are (a) adopted on an interim basis, and (b) after a finding by the Administrator that strict compliance is likely to cause serious harm or injury to the public health, safety, or welfare, or for good cause shown, that such procedure is impractical, unnecessary, or contrary to the public interest. Such finding will be set out in detail in the interim policy. In the event that the procedure is waived, the requirements shall be satisfied within a reasonable period of time subsequent to the promulgation of the interim Policy by utilization of the procedure then in effect.

**7. Relationship to National Environmental Policy Act (NEPA) Requirements.** In those instances in which a Proposed Policy under consideration requires an environmental impact statement, the public participation procedure will be coordinated to the fullest extent possible with those required under NEPA. Joint Notices will be issued and meetings combined when possible.

Dated: May 6, 1981.

Earl E. Gjelde,

Acting Administrator.

[FR Doc. 81-14311 Filed 5-11-81; 8:45 am]

BILLING CODE 6450-01-M

## Economic Regulatory Administration

### Marion Corp.; Action Taken on Consent Order

**AGENCY:** Economic Regulatory Administration, DOE.

**ACTION:** Notice of action taken on consent order.

**SUMMARY:** The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces notice of a final Consent Order.

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

**FOR FURTHER INFORMATION CONTACT:** Stanley S. Mills, Program Manager for Entitlements, Department of Energy, Office of Enforcement, Economic Regulatory Administration, 2000 M Street, NW., Room 5114, Washington, D.C. 20461.

**SUPPLEMENTARY INFORMATION:** On October 28, 1980, 45 FR 71644 (1980), the Office of Enforcement of the ERA published notification in the *Federal Register* that it had modified a proposed Consent Order with Marion Corporation and that the modified proposed Consent Order would not become effective sooner than thirty days after publication. Interested persons were invited to submit comments concerning the terms, conditions or procedural aspects of the Consent Order.

Five comments were received. All commentors recommended that the refund should be effectuated through adjustment to the Entitlements Program. One of the commentors recommended that special refund procedures be implemented as an alternative remedy. Neither of these remedies is precluded by the modified Consent Order and DOE has thus determined to finalize the modified Consent Order and make it effective as of May 6, 1981.

Issued in Washington, D.C., on the 6th day of May 1981.

James J. Fenton,

Acting Director of Program Operations.

[FR Doc. 81-14287 Filed 5-11-81; 8:45 am]

BILLING CODE 6450-01-M

## Office of the Secretary

### Proposed Subsequent Arrangement; European Atomic Energy Community (EURATOM)

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 Switzerland Concerning Civil Uses of Atomic Energy, as amended, and 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.

This subsequent arrangement would give approval, which must be obtained under the above mentioned agreements, for the following transfer of special nuclear materials of United States origin, or of special nuclear materials produced through the use of materials of United States origin, as follows: From



Switzerland to France (the COGEMA facility) for the purpose of reprocessing 95 irradiated fuel assemblies containing 29,291 kilograms of uranium, enriched to 1.05% U-235, and 259 kilograms of plutonium from the Beznau Power Plants No. I and No. II, owned by the Nordostschweizerische Kraftwerke. This subsequent arrangement is designated as RTD/EU(SD)-34.

The Department of Energy has received letters of assurance from the Government of Switzerland that the recovered uranium and plutonium will be stored at the reprocessing facility and will not be transferred from that facility, nor put to any use, without the prior consent of the United States Government.

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 subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice and after fifteen days of continuous session of the Congress, beginning the day after the date on which the reports required by Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) are submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The two time periods referred to above shall run concurrently.

For the Department of Energy.

Dated: May 7, 1981.

Harold D. Bengelsdorf,

*Director for Nuclear Affairs, International Nuclear and Technical Programs.*

[FR Doc. 81-14264 Filed 5-11-81; 8:45 am]

BILLING CODE 6450-01-M

#### Proposed Subsequent Arrangement; Government of Switzerland

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 Switzerland Concerning Civil Uses of Atomic Energy, as amended, and 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.

This subsequent arrangement would give approval, which must be obtained under the above mentioned agreements,

for the following transfer of special nuclear materials of United States origin, or of special nuclear materials produced through the use of materials of United States origin, as follows: From Switzerland to France (the COGEMA facility) for the purpose of reprocessing 71 irradiated fuel assemblies containing 12,635 kilograms of uranium, enriched to 0.99% U-235, and 100 kilograms of plutonium from the Muhleberg Power Plant, owned by the Bernische Kraftwerke AG. This subsequent arrangement is designated as RTD/EU(SD)-33.

The Department of Energy has received letters of assurance from the Government of Switzerland that the recovered uranium and plutonium will be stored at the reprocessing facility and will not be transferred from that facility, nor put to any use, without the prior consent of the United States Government.

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 subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice and after fifteen days of continuous session of the Congress, beginning the day after the date on which the reports required by Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) are submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The two time periods referred to above shall run concurrently.

For the Department of Energy.

Dated: May 7, 1981.

Harold D. Bengelsdorf,

*Director for Nuclear Affairs, International Nuclear and Technical Programs.*

[FR Doc. 81-14265 Filed 5-11-81; 8:45 am]

BILLING CODE 6450-01-M

#### ENVIRONMENTAL PROTECTION AGENCY

[EN-FRL 1814-7]

#### California State Motor Vehicle Pollution Control Standards; Waiver of Federal Preemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Waiver of Federal preemption.

SUMMARY: This decision grants California a waiver of Federal preemption pursuant to section 209(b) of

the Clean Air Act to enforce amendments to its 1982 and subsequent model year exhaust emission standards and test procedures for heavy-duty engines limiting adjustability of the idle air/fuel mixture mechanism, and to its 1981 and later model year evaporative emission standards and test procedures for gasoline-powered motor vehicles eliminating the 1.0 gram per test background allowance for non-fuel hydrocarbon emissions.

ADDRESS: Information relevant to this decision is available for public inspection during normal working hours (8:00 a.m. to 4:00 p.m.) at: U.S. Environmental Protection Agency, Central Docket Section, Gallery I, 401 M St., SW., Washington, D.C. 20460 (Docket EN-80-22).<sup>1</sup>

FOR FURTHER INFORMATION CONTACT: Michael Chernekoff, Attorney/Advisor, Waivers Section, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, Washington, D.C. 20460 (202) 472-9421.

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction

By this decision, issued under section 209(b) of the Clean Air Act, as amended (hereinafter "Act"),<sup>2</sup> I am granting the State of California a waiver of Federal preemption to enforce the following:

(1) Amendments to exhaust emission standards and test procedures for 1982 and later model year heavy-duty engines and vehicles, as set forth in section 1956.7 of Title 13 of the California Administrative Code and in "California Exhaust Emission Standards and Test Procedures for 1981 and Subsequent Model Heavy-Duty Engines and Vehicles" adopted October 5, 1976, as amended April 23, 1980.<sup>3</sup>

(2) Amendments to evaporative emission regulations as set forth in section 1976(c) of Title 13, California Administrative Code and in "California Evaporative Emission Standards and Test Procedures for 1978 and Subsequent Model Year Gasoline-Powered Motor Vehicles" adopted April 16, 1975, as amended April 23, 1980.<sup>4</sup>

Under section 209(b) of the Act when California requests a waiver of Federal preemption as to accompanying enforcement procedures which relate to

<sup>1</sup> The Docket number was previously listed erroneously as EN-80-16 in the hearing notice EPA published at 45 FR 57171 (August 27, 1980).

<sup>2</sup> 42 U.S.C. 7543(b)(1977), as amended.

<sup>3</sup> These amended regulations are applicable to 1982 and subsequent model year heavy-duty gasoline-powered engines and vehicles.

<sup>4</sup> These amended regulations apply to all 1981 and subsequent model year gasoline-powered vehicles, except motorcycles.

standards for which a waiver has already been granted and is still in effect, I must grant the requested waiver unless I find that (1) the procedures may cause the California standards, in the aggregate, to be less protective of public health and welfare than the applicable Federal standards or (2) the accompanying enforcement procedures are not consistent with section 202(a) of the Act.<sup>6</sup> With regard to the first finding, if the public record of the proceedings before me contains plausible evidence that the California enforcement procedures may cause the California standards, in the aggregate, to be less protective than the corresponding Federal standards, then I must deny the waiver if: (1) California did not make a positive determination as to the relative protectiveness of the standards when coupled with the new enforcement procedures or (2) California did make such a determination, and the record contains clear and compelling evidence that its determination is arbitrary and capricious.<sup>6</sup> With regard to the second finding, State enforcement procedures are deemed not to be consistent with section 202(a) if there is inadequate lead time to permit the development of the technology necessary to implement the new procedures, giving appropriate consideration to the cost of compliance within the time frame, or if the Federal and California test procedures impose inconsistent certification requirements.<sup>7</sup>

On the basis of the record before me, I have concluded that I cannot make the findings required for the denial of the waivers under section 209(b) for these California regulations. Accordingly, I am granting the requested waivers of Federal preemption.

## II. Background

### A. Amendments To Exhaust Emission Standards and Test Procedures for 1982 and Subsequent Model Heavy-Duty Engines

On April 23, 1980, the California Air Resources Board (CARB) adopted regulations limiting idle air/fuel mixture adjustability for 1982 and subsequent model year heavy-duty gasoline-powered engines. The regulations provide that the mixture adjustment mechanism must not be visible, even with the air cleaner removed, and must require special tools and/or procedures to make adjustments. Alternatively, CARB may require that the certification test of an engine family or vehicle be conducted with the idle air/fuel mixture

adjusted to any setting which CARB finds corresponds to settings likely to be encountered in actual use. The manufacturer must choose between these methods of compliance at the time of preliminary application for certification.

These regulations are nearly identical to CARB's parameter adjustment regulations applicable to 1980 and subsequent model year passenger cars and 1981 and subsequent model year light-duty trucks and medium-duty vehicles for which EPA granted a waiver of Federal preemption on July 10, 1978.<sup>8</sup> CARB anticipated that these regulations would present little technical difficulty to manufacturers of heavy-duty gasoline engines because of the adaptability of the design for tamper-resistant carburetors currently used in passenger cars, light-duty trucks, and medium-duty vehicles to the carburetors that manufacturers will use in heavy-duty trucks.<sup>9</sup> For those heavy-duty engines which use carburetors substantially different in design from those used in light-/or medium-duty vehicles, the regulations for which California has requested the present waiver provide that a one-year exemption may be granted by the Executive Officer of CARB, on a case-by-case basis, for the 1982 model year only. The exemption may be granted only if the Executive Officer finds the manufacturer has not had sufficient lead time to comply with the regulation by model year 1982.

### B. Amendments to Evaporative Emission Standards and Test Procedures for 1981 and Subsequent Model Year Gasoline-Powered Motor Vehicles

On April 23, 1980, CARB amended its evaporative emission enforcement procedures as they apply to 1981 and subsequent model year gasoline-powered vehicles. The amendments eliminate the 1.0 gram per test background allowance which CARB was required to subtract from individual test results in determining compliance with its evaporative emission standard. CARB initially intended this procedure to account for non-fuel hydrocarbon (HC) emission sources such as paints, plastics, and rubber components.<sup>10</sup> The 2.0 gram per test evaporative emission

<sup>8</sup> 42 FR 29615 (July 10, 1978). The only difference between the two regulations is the class of vehicles covered.

<sup>9</sup> Transcript of Waiver Hearing on Amendments to California Evaporative Emissions Standards and Test Procedures and California Exhaust Emission Standards and Test Procedures for Heavy-Duty Engines, September 16, 1980, pp. 22-23, 25-26 (hereinafter referred to as "Tr.").

<sup>10</sup> Tr. at p. 9.

standard remains in place for all motor vehicle classes except motorcycles.

On June 13, 1980, California requested a waiver of Federal preemption to enforce these two sets of amended regulations. EPA held a public hearing in San Francisco on September 16, 1980, pursuant to a notice published by EPA in the Federal Register.<sup>11</sup>

## III. Discussion

The following discussion will evaluate separately each of the two sets of regulations for which California is seeking a waiver of Federal preemption pursuant to section 209(b) of the Act.

### A. Amendments to Exhaust Emission Standards and Test Procedures for 1982 and Subsequent Model Heavy-Duty Engines

#### 1. Public Health and Welfare.

California's regulations limiting idle air/fuel mixture adjustability constitute "accompanying enforcement procedures" under section 209(b)(1) of the Act.<sup>12</sup> The criteria for my review of the public health and welfare issue as it pertains to accompanying enforcement procedures have been set forth in the introduction.

All exhaust emission standards to be enforced by the new test procedures under consideration here have received waivers of Federal preemption which are still in effect.<sup>13</sup> The public record does not contain evidence that this adjustment limitation regulation would cause the California exhaust emission standards, in the aggregate, to be less protective of public health and welfare than the applicable Federal standards. If anything, these regulations most likely would cause the California standards to be more protective because requiring manufacturers to restrict adjustability of the mixture mechanism should reduce incidents of misadjustment, thereby reducing emissions.

This regulation is the equivalent of Federal regulations covering the same subject matter but which regulations are not scheduled to take effect until the 1984 model year.<sup>14</sup> The California regulation which is the subject of this waiver decision will affect 1982 and subsequent model year heavy-duty engines. Thus, manufacturers would have to comply with requirements in California two years before substantially the same requirements would be enforced nationally. Further, similar requirements are already in

<sup>11</sup> 45 FR 57171 (August 27, 1980).

<sup>12</sup> See 42 FR 3192, 3194 (January 17, 1977). See also 43 FR 29615 (July 10, 1978).

<sup>13</sup> 42 FR 31637 (June 22, 1977).

<sup>14</sup> Tr. at p. 22; 45 FR 4136 (January 21, 1980).

<sup>6</sup> See, e.g., 43 FR 29615 (July 10, 1978).

<sup>7</sup> 43 FR 9344, 9345, 9346 (March 7, 1977).

<sup>8</sup> 43 FR 29615 (July 10, 1978).

effect, and I have previously granted a waiver under section 209(b) of the Act, for the enforcement of those requirements in conjunction with emission standards for light- and medium-duty vehicles.<sup>15</sup> Therefore, I can find no basis for denying the waiver for these amended enforcement procedures on this issue.

2. *Consistency.* Once I have determined that enforcement procedures covered by a California waiver request do not cause California's standards to be, in the aggregate, less protective than Federal standards, I must grant the waiver request covering the enforcement procedures unless, under section 209(b)(1)(C), I find that the California enforcement procedures in question are not consistent with section 202(a) of the Act.<sup>16</sup>

a. *Lead Time and Technology.* CARB testified that the amended regulation is clearly technologically feasible; passenger cars currently are equipped with the technology needed to comply, and 1981 light- and medium-duty vehicles will employ that technology as well.<sup>17</sup> CARB maintains that manufacturers will only have to make minor carburetor casting modifications in order to comply and that manufacturers will have approximately 20 months of lead time from the time it adopted the amendment to transfer existing technology to heavy-duty engines.<sup>18</sup> This time period, according to CARB, is adequate lead time to comply.<sup>19</sup> To further ensure that there is adequate lead time to comply, the CARB regulation provides for one-year only exemptions, to be decided on a case-by-case basis, for those heavy-duty engines that currently use carburetors which are substantially different in design from carburetors currently in use on light- or medium-duty vehicles and which the manufacturer demonstrates cannot be made to comply within the available lead time.<sup>20</sup>

Comments submitted to EPA by General Motors Corporation (GM)<sup>21</sup> and

Ford Motor Company (Ford)<sup>22</sup> state that compliance within the available lead time is possible. In addition, CARB indicated at the September 16, 1980 hearing which EPA held on this matter that Ford currently does not require any adjustment of the idle mixture on carburetors for their light-duty engines; adjustments made on the carburetor are made on the flowbench prior to being installed in the vehicle.<sup>23</sup> CARB anticipates that this same approach would be carried over on heavy-duty vehicles. This, according to CARB, would place Ford in automatic compliance with the regulation.<sup>24</sup> GM testified at the CARB hearing held on April 23, 1980, that it expects to have some compliance problems only with carburetors other than the Rochester Products Division quadrajet. However, GM installs the quadrajet model in 92 percent of all GM heavy-duty vehicles sold in California, leading CARB to contend that GM is presently in almost complete compliance.<sup>25</sup> GM's subsequent comments<sup>26</sup> to EPA suggest that it does not foresee any substantial compliance problem with its four other carburetor models which comprise the remaining 8 percent of California sales, especially if the one-year exemption is available to engines using these models. Comments submitted to CARB by International Harvester (IH) indicate the IH also does not foresee substantial technological problems in order to comply with the regulation, especially if it can take advantage of the one-year exemption.<sup>27</sup>

Because the record contains no significant evidence tending to controvert CARB's showing of technological feasibility for this enforcement procedure in question, I cannot conclude that manufacturers cannot develop and apply the requisite technology within available lead time in order to achieve compliance with the amendment limiting the adjustability of the idle air/fuel mixture for heavy-duty engines.

b. *Cost of Compliance.* With regard to cost of compliance, CARB testified that the total amortized cost of compliance would amount to only \$7.00 additional

cost per carburetor.<sup>28</sup> The only indication by manufacturers that cost would be a problem in achieving compliance came from IH in its testimony before CARB. In that testimony, IH stated that new carburetors and the associated new certification program that would ensue for the 1982 and 1983 model years would be difficult to justify for IH, since all new heavy-duty carburetors would again be required for 1984 and later model years.<sup>29</sup> IH has not, however, submitted any information as to specific costs and modifications required. Thus, it has not met its burden of persuasion to establish that the costs of compliance will create a significant problem. I, therefore, cannot find that the cost of compliance with this amendment is so excessive as to warrant a denial of the waiver on this ground.

c. *Consistency of Certification Procedures.* As previously noted, EPA promulgated final regulations concerning the adjustability of certain parameters including idle mixture adjustability, during certification testing for 1984 and later model heavy-duty engines on January 21, 1980.<sup>30</sup> At this time there can be no inconsistency between Federal and California certification requirements for 1981 through 1983 model years as the Federal requirements are not yet in effect. Also, no one identified for the record any inconsistencies between these requirements, even for model years beyond 1983. Therefore, I cannot deny the waiver on this basis. However, in the event that an interested party finds an inconsistency to exist when the Federal requirements become enforceable, that party may file a petition with me, setting forth the grounds on which it requests a reconsideration of the waiver granted herein.

No other issues were raised in opposition to California's waiver request.

## B. Amendments to the Evaporative Emission Standards and Test Procedures for 1981 and Subsequent Model Year Gasoline-Powered Motor Vehicles

1. *Public Health and Welfare.* California's regulations eliminating the 1.0 gram per test background allowance constitute "accompanying enforcement procedures" under section 209(b)(1) of the Act.<sup>31</sup> The criteria for my review of

<sup>15</sup> Letter from H. O. Petruskas, Ford Motor Company, to Jerry Schwartz, EPA, September 10, 1980.

<sup>16</sup> Tr. at pp. 26-27.

<sup>17</sup> Tr. at p. 26.

<sup>18</sup> Tr. at p. 30. See also Statement of GM referred to at note 21 *supra*.

<sup>19</sup> *Supra* note 21 and accompanying text.

<sup>20</sup> Statement of International Harvester in Response to CARB Proposed Amendments to Title 13 California Administrative Code Regarding Parameter Adjustment of Idle/Fuel Mixtures on Heavy-Duty Engines, April 14, 1980.

<sup>21</sup> Tr. at p. 30.

<sup>22</sup> *Id.*

<sup>23</sup> 45 FR 4136 (January 21, 1980).

<sup>24</sup> I have characterized this regulation for which California is seeking a waiver as an enforcement

<sup>15</sup> 43 FR 29615 (July 10, 1978).

<sup>16</sup> See Introduction, *supra*, for discussion of section 202(a).

<sup>17</sup> Tr. at p. 22.

<sup>18</sup> *Id.* The amendment was adopted by CARB on April 13, 1980, and applies to 1982 and later model year vehicles.

<sup>19</sup> *Id.*

<sup>20</sup> Tr. at p. 23.

<sup>21</sup> Statement of General Motors at the Environmental Protection Agency Waiver Hearing on Amendments to the California Evaporative Emission Standard and Test Procedures and the 1982 and Later Model Year Heavy-Duty Engine Test Procedures, San Francisco, California, September 16, 1980.

the public health and welfare issue as it pertains to accompanying enforcement procedures has been set forth in the introduction of this decision.

California's evaporative emission standards to be enforced by the amended procedures which are the subject of this waiver request have received waivers of Federal preemption which are currently in effect.<sup>32</sup> CARB has made a determination that this amendment will result in its evaporative emission standard for gasoline-powered engines being at least as protective, in the aggregate, of public health as comparable Federal regulations.<sup>33</sup> CARB based this determination on the fact that its evaporative emission standard, without the previously allowed background allowance, is still numerically identical to the Federal standard for the motor vehicle and engine classes at issue.<sup>34</sup> However, the CARB regulations provide for a one-year extension in eliminating the background allowance at issue for which the comparable Federal regulations do not similarly provide. CARB will grant this extension, on a case-by-case basis, only if the Executive Officer finds that a manufacturer has had insufficient lead time to comply with this amendment. CARB does not believe that the allowance for a one-year delay makes its evaporative emission standard less stringent than the Federal standard because CARB believes that its method of testing the durability of evaporative control systems is more stringent than the Federal method, and thus CARB compensates for any one-year delays which it may allow.<sup>35</sup>

The record fails to show, by clear and compelling evidence, that California's determination that its amendment to its enforcement procedures does not reduce the protectiveness to the public health and welfare of the standards was arbitrary and capricious. Therefore, I cannot find a basis for denying the waiver on this issue.

procedure as opposed to a standard. This regulation does not attempt to establish a new maximum numerical limitation for evaporative emissions—the California standard is, and remains, 2.0 grams per test. Rather, this regulation amends the enforcement procedures used by California to determine whether or not the manufacturer can be said to be in compliance with the 2.0 gram per test standard.

<sup>32</sup> 43 FR 1533 (January 10, 1978).

<sup>33</sup> State of California Air Resources Board Resolution 80-6, April 23, 1980.

<sup>34</sup> Tr. at pp. 10-11.

<sup>35</sup> Tr. at p. 11. CARB testified that Federal regulations allow usage of a system deterioration factor derived either from bench testing or durability vehicle testing, while California requires that the deterioration factor be determined by combining the results of both bench testing and durability vehicle testing. Tr. at p. 11.

2. *Consistency.* The determination I must make in order to deny a waiver of Federal preemption, on grounds of inconsistency under section 209(b)(1)(c), for an enforcement procedure such as the regulation before me has previously been described in the discussion herein of the amendment to the exhaust emission standards and test procedures for heavy-duty engines.<sup>36</sup>

a. *Lead Time and Technology.* CARB contends that the technology to comply with this regulation is available and feasible and anticipates that no redesign or new hardware will be required.<sup>37</sup> CARB bases this contention on the fact that 96 percent of the 1980 California certification fleet did not need the background allowance in order to meet the evaporative emission standard.<sup>38</sup> CARB further notes, that in order to ensure that adequate lead time is available to all manufacturers, the regulation includes a provision for a one-year extension of the imposition of the amended regulation, on a case-by-case basis, if a manufacturer can demonstrate that it has not had sufficient lead time to comply by the 1981 model year.<sup>39</sup> There were no contrary claims asserting infeasibility by any other party.

Based on this record, I cannot conclude that manufacturers cannot develop and apply the requisite technology within the available lead time in order to achieve compliance with the standards and test procedures which have been amended in order to eliminate the use of the 1.0 gram per test evaporative emission background allowance.

b. *Cost of Compliance.* CARB testified that it does not anticipate manufacturers will need to redesign or install new hardware in order to achieve compliance with the standard even without the background allowance.<sup>40</sup> Therefore, it does not anticipate any additional costs. CARB, however, did state that some heavy-duty engines may require an inexpensive piece of hardware which it claims would have no

<sup>36</sup> See also, Introduction, *supra*.

<sup>37</sup> Tr. at pp. 9-10.

<sup>38</sup> Tr. at p. 9. These findings were based on a sampling of 161 vehicles—111 passenger cars, 24 light-duty trucks, and 26 medium-duty vehicles. Of these, only seven vehicles failed—two passenger cars, one light-duty truck, and four medium-duty vehicles. CARB contends that of the seven vehicles that failed, four failed for reasons other than background emissions, and CARB concludes that it is not certain that these emissions, were a factor in the failure of the other vehicles. Tr. at pp. 16-18. See also CARB Staff Report on Public Hearing to Consider Changes to Evaporative Emission Regulations for 1981 and Subsequent Model Year Vehicles, March 7, 1980.

<sup>39</sup> Tr. at p. 10.

<sup>40</sup> Tr. at pp. 9-10.

real impact on cost.<sup>41</sup> There were no contrary claims by any other party that costs would be so excessive as to warrant a denial of the waiver on these grounds. Therefore, based on the record before me, I cannot deny the waiver on this ground.

No other issues were raised in opposition to this request.

#### IV. Finding and Decision

Having given due consideration to the public hearing of September 16, 1980, and all other material included in the record for these waiver proceedings, I find that I cannot make the determinations required under section 209(b) of the Act for a denial of the waiver California has requested, and therefore I am waiving application of section 209(a) of the Act with respect to the following enforcement procedures adopted by California:

(1) Amendments to exhaust emission standards and test procedures for 1982 and later model year heavy-duty engines and vehicles, as set forth in section 1956.7 of Title 13 of the California Administrative Code and in "California Exhaust Emission Standards and Test Procedures for 1981 and Subsequent Model Heavy-Duty Engines and Vehicles" adopted October 5, 1976, as amended April 23, 1980;

(2) Amendments to evaporative emission regulations as set forth in section 1976(c) of Title 13, California Administrative Code and in "California Evaporative Emission Standards and Test Procedures for 1978 and Subsequent Model Year Gasoline-Powered Motor Vehicles" adopted April 16, 1975, as amended April 23, 1980.

Section 3(b) of Executive Order 12291, 46 FR 13193 (February 19, 1981) requires EPA to initially determine whether a rule that it intends to propose or issue is a major rule and to prepare Regulatory Impact Analyses for all major rules. Section 1(b) of the Order defines "major rule" as any regulation (as defined in the Executive Order) that is 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 the United States-based enterprises to compete with foreign-

<sup>41</sup> Tr. at pp. 14-15. The piece of hardware CARB referred to is a solenoid valve. Tr. at p. 14.

based enterprises in domestic or export markets.

EPA has determined that these waiver determinations are not major rules. As determined in the discussions on costs herein, this action will result in only minor, if any, increase in costs or prices for consumers, individual industries, governmental agencies or geographic regions, will not have significant adverse effects on competition (domestic and foreign), employment, investment, productivity, or innovation, and will not have a net annual effect on the economy of \$100 million or more.

Accordingly, a Regulatory Impact Analysis is not being prepared for these waiver determinations.

My decision will affect not only persons in California but also the manufacturers located outside the State who must comply with California's standards in order to produce motor vehicles for sale in California. For this reason I hereby determine and find that this decision is of nationwide scope and effect.

Pursuant to the provisions of 5 U.S.C. 505(b) I hereby certify that this action under section 209(b) of the Clean Air Act will not have a significant impact on a substantial number of small entities. The attached waiver decision only constitutes an approval under section 209(b) of the Clean Air Act of State action. It imposes no new requirements. Moreover, due to the nature of the Federal-State relationship, Federal inquiry into the economic reasonableness of the State's action would serve no practical purpose and could well be improper.

Dated: May 7, 1981.

Walter C. Barber, Jr.,  
Acting Administrator.

[FR Doc. 81-14200 Filed 5-11-81; 8:45 am]

BILLING CODE 6560-33-M

[PF-196A; PH-FRL 1824-7]

**E. I. du Pont de Nemours and Co.;  
Filing of Pesticide Petition;  
Amendment**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The notice amends a notice of filing that published in the Federal Register of August 19, 1980 (45 FR 55268) proposing tolerances for the combined residues of the herbicide hexazinone (3-cyclohexyl-6-(dimethylamino)-methyl-1,3,5-triazine-2,4 (1H,3H)-dione and its metabolites (calculated as hexazinone).

**FOR FURTHER INFORMATION CONTACT:** Richard F. Mountfort, Product Manager (PM) 23, Registration Division (TS-

767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 412D, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7070).

**SUPPLEMENTARY INFORMATION:** EPA issued a notice that published in the Federal Register of August 19, 1981 (45 FR 55268) announcing that E. I. du Pont de Nemours and Co., Inc., Wilmington, DE 19898, had submitted a petition (PP OF2382) proposing that 40 CFR Part 180 be amended by establishing tolerances for the combined residues of the herbicide hexazinone (3-cyclohexyl-6-(dimethylamino)-methyl-1,3,5-triazine-2,4 (1H,3H)-dione and its metabolites (calculated as hexazinone) in or on certain raw agricultural commodities.

E. I. du Pont de Nemours and Co., Inc., has submitted an amendment to the petition proposing the following:

Commodities	Previously proposed tolerances	Proposed tolerances
Alfalfa, forage	5	2
Alfalfa, hay	5	8
Meat, fat, and meat byproducts (except liver) of cattle, goats, horses, hogs, and sheep	0.05	0.1
Milk	0.05	0.1
Liver of cattle, goats, horses, hogs, and sheep	0.01	0.1
Eggs	—	0.1

The proposed analytical method for determining residues is by nitrogen selective gas chromatography.

(Sec. 408(d)(1), 68 Stat. 512, (7 U.S.C. 135)

Dated: May 4, 1981.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 81-14199 Filed 5-11-81; 8:45 am]

BILLING CODE 6560-32-M

**FEDERAL MARITIME COMMISSION**

**Agreements Filed**

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto

Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before June 1, 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 has been done.

Agreement No.: 8240-17.

Filing Party: Wade S. Hooker, Esquire  
Burlingham, Underwood & Lord, One Battery Park Plaza, New York, New York 10004.

Summary: Agreement No. 8240-17 modifies the basic agreement of the Atlantic and Gulf-Singapore, Malaya and Thailand Conference by empowering the conference to authorize its agents to collect freight or other charges at destination ports. Present collection authority is limited to demurrage charges.

Agreement No.: 10270-2.

Filing Party: Mr. Howard A. Levy, Attorney  
for Agreement No. 10270, 17 Battery Place, Suite 727, New York, New York 10004.

Summary: Agreement No. 10270-2, among the members of the Gulf European Freight Association Agreement, would extend the term of the basic agreement, as amended, for an indefinite period beyond its present termination date of September 8, 1981.

Agreement No.: 10418.

Filing Party: Mr. R. J. Finnan, Chief Tariff  
Publishing Officer, Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, Louisiana 70130.

Summary: Agreement No. 10418, between Lykes Bros. Steamship Co., Inc. (Lykes) and Caldwell Shipping Company (Caldwell), provides that Lykes will appoint Caldwell as its agent in respect to services provided by and controlled by Lykes for intermodal traffic destined to or originating from Savannah, Jacksonville, Port Everglades and Miami. Compensation and fees will be as agreed upon from time to time by the parties.

By Order of the Federal Maritime Commission.

Dated: May 7, 1981.

Joseph C. Polking,  
Acting Secretary.

[FR Doc. 81-14214 Filed 5-11-81; 8:45 am]

BILLING CODE 6730-01-M

### Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C., 20573.

A & A International Freight Forwarders, Inc., 4200 N. 29th Terrace, Hollywood, FL 33020; Officers: Alexander Krugs, Secretary/Treasurer, Julio P. Diaz, President;

Worldwide Freight Forwarders, Inc., 925 Market Street, Paterson, NJ; Officers: Gerald Delaurentis, President, Martin Zager, Secretary, John Delaurentis, Vice President;

Robert Gage Marshall, d.b.a. Robert G. Marshall, CHB, 1600 Talleyrand Avenue, Port Services Bldg., P.O. Box 40082, Jacksonville, FL 32203;

National Cargo Services, Inc., 4741 N.W. 72nd Avenue, Miami, FL 33166; Officers: Arcadio Hernandez, President, Piedad Ygualada, Secretary/Treasurer.

By the Federal Maritime Commission.  
Dated: May 7, 1981.

Joseph Polking,  
Acting Secretary.

[FR Doc. 81-14213 Filed 5-11-81; 8:45 am]  
BILLING CODE 6730-01-M

### [Independent Ocean Freight Forwarder License No. 2055-R]

#### Anthony Transportation Service, Inc.; Vacating Revocation

By Order served April 24, 1981, Anthony Transportation Service, Inc. (ATS) was notified that its Independent Ocean Freight Forwarder License No. 2055-R was automatically revoked pursuant to section 44(c) of the Shipping Act, 1916, as amended (46 U.S.C. 841(b)), and section 510.9 of Federal Maritime Commission General Order 4 (46 CFR 510) because ATS had failed to maintain a valid surety bond on file with the Federal Maritime Commission.

ATS has now come forth with evidence that it had, in fact, maintained a valid surety bond.

Therefore by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1

(Revised), section 9 dated August 8, 1977;

Notice is hereby given, that the Order of Revocation served April 24, 1981, revoking Anthony Transportation Service, Inc. Independent Ocean Freight Forwarder License No. 2055-R, is hereby vacated.

It is ordered, that a copy of this Notice be published in the Federal Register and served upon Anthony Transportation Service, Inc.

Francis C. Hurney,  
Acting Managing Director.

[FR Doc. 81-14207 Filed 5-11-81; 8:45 am]  
BILLING CODE 6730-01-M

### DEPARTMENT OF HEALTH AND HUMAN SERVICES

#### Food and Drug Administration

##### 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 Gerald L. Roach, Laboratory Director, and Lois M. Meyer, Consumer Affairs Officer, Buffalo District Office, Buffalo, NY.

**DATE:** The meeting will be held 10 a.m., Wednesday, May 27, 1981.

**ADDRESS:** The meeting will be held at the U.S. Federal Bldg., Rm. 1440, W. Huron St. and Delaware Ave., Buffalo, NY 14202.

**FOR FURTHER INFORMATION CONTACT:** Lois M. Meyer, Consumer Affairs Officer, Food and Drug Administration, 599 Delaware Ave., Buffalo, NY 14202, 716-846-4483.

**SUPPLEMENTARY INFORMATION:** The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's Buffalo District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: May 6, 1981.  
William F. Randolph,  
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-14219 Filed 5-11-81; 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 George D. Tilroe, Supervisory Consumer Safety Officer, Albany Resident Post, and Lois M. Meyer, Consumer Affairs Officer, Buffalo District Office, Buffalo, N.Y.

**DATE:** The meeting will be held 10 a.m., Friday, May 15, 1981.

**ADDRESS:** The meeting will be held at the Leo W. O'Brien Federal Bldg., Rm. 38 (Lower Level), Clinton Ave. and N. Pearl St., Albany, N.Y. 12207.

**FOR FURTHER INFORMATION CONTACT:** Lois M. Meyer, Consumer Affairs Officer, Food and Drug Administration, 599 Delaware Ave., Buffalo, N.Y. 14202, 716-846-4483.

**SUPPLEMENTARY INFORMATION:** The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's Buffalo District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: May 6, 1981.

William F. Randolph,  
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-14220 Filed 5-11-81; 8:45 am]  
BILLING CODE 4110-03-M

[Docket No. 81-N-0038]

### Brandenfels Scalp and Hair Applications and Massage; Denial of Hearing and Withdrawal of Approval of New Drug Application

#### Correction

In FR Doc. 81-12621, appearing at page 23811, in the issue of Tuesday, April 28, 1981, on page 23814, make the following corrections:

- (1) In the first column, the first paragraph, first line, correct "estimonials" to read "testimonials";
- (2) In the first column, the first paragraph, line thirteen, "412 U.S." is corrected to read "472 F. 2d.";
- (3) In the first column, the first paragraph, line nineteen is corrected by changing "1961" to "1962";
- (4) In the last column, the last paragraph, the next to the last line, under the heading of "References" correct "Rook" to read "Rock".

BILLING CODE 1505-01-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 Robert L. Hart, Supervisory Consumer Safety Officer, Albany Resident Post, and Lois M. Meyer, Consumer Affairs Officer, Buffalo District Office, Buffalo, NY.

**DATE:** The meeting will be held 10 a.m., Wednesday, May 13, 1981.

**ADDRESS:** The meeting will be held at the State University of New York College at New Paltz, Lecture Center, Rm. 112, New Paltz, NY 12562.

**FOR FURTHER INFORMATION CONTACT:** Lois M. Meyer, Consumer Affairs Officer, Food and Drug Administration, 599 Delaware Ave., Buffalo, NY 14202, 716-846-4483.

**SUPPLEMENTARY INFORMATION:** The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's Buffalo District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: May 6, 1981.

William F. Randolph,  
*Acting Associate Commissioner for  
Regulatory Affairs.*

[FR Doc. 81-14222 Filed 5-11-81; 8:45 am]

BILLING CODE 4110-03-M

**Social Security Administration****Iceland; Finding Regarding Foreign Social Insurance or Pension System****AGENCY:** Social Security Administration, HHS.**ACTION:** Notice of Finding Regarding Foreign Social Insurance or Pension System—Iceland.

**FINDING:** Section 202(t)(1) of the Social Security Act (42 U.S.C. 402(t)(1)) prohibits payment of monthly social security benefits to any individual who is not a U.S. citizen or national for any month after he or she has been outside the United States for six consecutive months. This prohibition does not apply to such an individual where one of the exceptions described in sections 202(t)(2) through 202(t)(5) of the Social Security Act (42 U.S.C. 402(t)(2) through (t)(5)) affects his or her case.

Section 202(t)(2) of the Social Security Act provides that the prohibition against payment shall not apply to any individual who is a citizen of a country which the Secretary of Health and

Human Services finds has in effect a social insurance or pension system which is of general application in such country and which:

(a) Pays periodic benefits, or the actuarial equivalent thereof, on account of old-age, retirement, or death; and

(b) Permits individuals who are U.S. citizens but not citizens of that country and who qualify for such benefits to receive those benefits, or the actuarial equivalent thereof, while outside the foreign country regardless of the duration of the absence.

The Secretary of Health and Human Services has delegated the authority to make such a finding to the Commissioner of Social Security. The Commissioner has redelegated that authority to the Director, Office of International Policy. Under that authority the Director, Office of International Policy, has approved a finding that Iceland, beginning December 1, 1980, has a social insurance system of general application which:

(a) Pays periodic benefits, or the actuarial equivalent thereof, on account of old-age, retirement, or death; and

(b) Permits U.S. citizens who are not citizens of Iceland to receive such benefits, or their actuarial equivalent, at the full rate without qualification or restriction while outside Iceland.

Accordingly, it is hereby determined and found that Iceland has in effect, beginning December 1, 1980, a social insurance system which meets the requirements of Section 202(t)(2) of the Social Security Act (42 U.S.C. 402(t)(2)).

**FOR FURTHER INFORMATION CONTACT:** Duane Heaton, Room 4234, West High Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594-5551.

(Catalog of Federal Domestic Assistance Programs No. 13.802 Social Security—Disability Insurance; 13.803 Social Security—Retirement Insurance; 13.805 Social Security—Survivors Insurance)

Dated: May 6, 1981.

Ronald L. Davis,  
*Director, Office of International Policy.*

[FR Doc. 81-14211 Filed 5-11-81; 8:45 am]

BILLING CODE 4110-07-M

**DEPARTMENT OF THE INTERIOR****Heritage Conservation and Recreation Service****National Register of Historic Places; Pending Nominations**

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before May 1, 1981.

Pursuant to section 1202.13 of 36 CFR Part 1202, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by May 27, 1981.

Carol Shull,  
*Chief, Registration Branch.*

**ALABAMA***Mobile County*

Mobile, *Carlen House*, 54 S. Carlen St.

**CONNECTICUT***New Haven County*

Waterbury, *Benedict-Miller House*, 32 Hillside Ave.

**GEORGIA***Cherokee County*

Canton, *Georgia County Courthouses Thematic Resources (Cherokee County Courthouse)* (Addition) 100 North St.

**INDIANA***Boone County*

Whitestown, *Neese, Ambrose, House*, 7 S. Barnes St.

*Marion County*

Indianapolis, *McCormick Cabin Site*, Off U.S. 40

Indianapolis, *Whittier, John Greenleaf, School*, No. 33, 1119 N. Sterling St.

**LOUISIANA***East Baton Rouge Parish*

Scotlandville, *Southern University Archives Building*, Southern University campus

*Rapides Parish*

Alexandria, *Rapides Opera House*, 1125 3rd St.

**NEW HAMPSHIRE***Merrimack County*

Boscawen, *Boscawen Public Library*, King St.

**NEW YORK***Livingston County*

North Bloomfield, *North Bloomfield School*, 7840 Martin Rd.

**TEXAS***Hays County*

Kyle vicinity, *Kyle, Claiborne, Log House*, SW of Kyle

*Hill County*

Hillsboro, *Hill County Jail*, N. Waco St.

*Travis County*

Austin, *Fischer House*, 1008 West Ave.

[FR Doc. 81-13894 Filed 5-11-81; 8:45 am]

BILLING CODE 4310-03-M

## Bureau of Land Management

## New Orleans Outer Continental Shelf Office; Availability of Outer Continental Shelf Official Protraction Diagrams

1. Notice is hereby given that, effective with this publication, the following OCS Official Protraction Diagrams, last approved or revised on the dates indicated, are on file and available, for information only, in the New Orleans Outer Continental Shelf Office, Bureau of Land Management, New Orleans, Louisiana. In accordance with Title 43, Code of Federal Regulations, these protraction diagrams are the basic record for the description of mineral and oil and gas lease offers in the geographic areas they represent.

## Outer Continental Shelf Official Protraction Diagrams

Description	Latest approval or revision date
South Atlantic Area	
Ni 18-6	March 3, 1981.
Ni 18-9	March 3, 1981.
Ni 18-11	March 3, 1981.
Gulf of Mexico Area	
NG 16-12	April 8, 1981.
NG 17-10	Dry Tortugas April 8, 1981.

2. Copies of these protraction diagrams may be purchased for \$2.00 each from the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, Suite 841, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 70130. Checks or money orders should be made payable to the Bureau of Land Management.

Dated: May 4, 1981.

John L. Rankin,

Manager, New Orleans Outer Continental Shelf Office.

[FR Doc. 81-14190 Filed 5-11-81; 8:45 am]

BILLING CODE 4310-84-M

[OR 17390]

## Oregon; Termination of Proposed Withdrawal and Reservation of Land

Notice of application, OR 17390, filed by the Bureau of Land Management, U.S. Department of the Interior, for withdrawal and reservation of land was published as FR Doc. 79-4273 on Page 8028 of the issue of February 8, 1979. The withdrawal was proposed for protection of the Rock Corral Historic Site. The applicant agency has cancelled its application in its entirety. The land involved is described as follows:

## Willamette Meridian

Revested Oregon and California Railroad Grant Land

T. 2 S., R. 6 E.,

Sec. 21, E $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$  and SW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ .

The area described contains 30 acres in Clackamas County, Oregon.

Therefore, pursuant to the regulations contained in 43 CFR 2310.2-1(c), such land will be at 10 a.m. on June 15, 1981, relieved of the segregative effect of the above-mentioned application.

Dated: May 1, 1981.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-14206 Filed 5-11-81; 8:45 am]

BILLING CODE 4310-84-M

[OR 11327]

## Oregon; Termination of Exchange Classification

1. By Order of the Oregon State Director, Bureau of Land Management, which was published in the Federal Register on August 16, 1974 (39 FR 29605), the following described public land was classified for disposal through exchange pursuant to Section 7 of the Taylor Grazing Act of June 28, 1934, as amended (43 U.S.C. 315g):

## Willamette Meridian

T. 3 N., R. 21 E.,

Sec. 12, SE $\frac{1}{4}$ .

T. 2 N., R. 22 E.,

Sec. 2, Lots 1, 2, 3, and 4, S $\frac{1}{2}$ N $\frac{1}{2}$  and S $\frac{1}{2}$ ;

Sec. 3, Lots 1, 2, 3, and 4, S $\frac{1}{2}$ N $\frac{1}{2}$  and S $\frac{1}{2}$ ;

Sec. 8, SE $\frac{1}{4}$ ;

Sec. 10, All;

Sec. 11, All;

Sec. 12, All;

Sec. 14, N $\frac{1}{2}$ ;

Sec. 15, N $\frac{1}{2}$ N $\frac{1}{2}$ .

T. 3 N., R. 22 E.,

Sec. 4, S $\frac{1}{2}$ ;

Sec. 14, W $\frac{1}{2}$ ;

Sec. 22, NE $\frac{1}{4}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ E $\frac{1}{2}$ , and W $\frac{1}{2}$ ;

Sec. 26, SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;

Sec. 27, S $\frac{1}{2}$ SW $\frac{1}{4}$ ;

Sec. 34, All.

The areas described aggregate 5,921.44 acres in Gilliam County, Oregon.

2. The above-described public land has been eliminated from any exchange proposal; accordingly, pursuant to 43 CFR 2470.1, the classification is terminated May 12, 1981.

3. At 10:00 a.m., on June 15, 1981, the above-described public land will be relieved of the segregative effect of the above-mentioned classification order.

Dated: May 1, 1981.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-14207 Filed 5-11-81; 8:45 am]

BILLING CODE 4310-84-M

## INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 334]

## Car Service Compensation—Basic Per Diem Charges—Formula Revision in Accordance With the Railroad Revitalization and Regulatory Reform Act of 1976

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Approval of Updated Car-Hire Charges for Railroads.

**SUMMARY:** The Interstate Commerce Commission requires the U.S. railroads to update car-hire charges in accordance with the Commission formula and with the Commission approval, no less than once a year. This notice approves the railroads' petition requesting an update of car-hire charges. This notice also approves minor modifications to the Commission's formula as recommended by the U.S. railroads.

**DATE:** The approved car-hire rates will be made effective June 1, 1981.

**FOR FURTHER INFORMATION CONTACT:** William T. Bono, (202) 275-7354.

**SUPPLEMENTARY INFORMATION:** A petition was filed by the Association of American Railroads (AAR) on January 31, 1981, and subsequently modified by petition on March 13, 1981. The petition requested the Commission to approve updated car-hire charges for the U.S. railroads. Car-hire charges are those payments made between railroads for the use of another railroad's cars. The railroads are required by the Commission to update car-hire charges in accordance with the Commission formula and with Commission approval no less than once a year. See 358 I.C.C. 716 (1977) and decision on reconsideration served April 3, 1978.

The AAR's petition also requested that the Commission make minor modifications in Rail Form H, as indicated in Appendix A.

We have reviewed the table of car-hire charges and supporting data submitted by the AAR with its petition, and find that the table is properly calculated in accordance with the methodology set forth in prior decisions in this proceeding. We also find that these car-hire charges will provide a just



and reasonable level of compensation for the nation's railroads.

The AAR data used is based on the most current expenses and statistics available at this time. The modifications proposed in the AAR petition are minor in nature and will be included as permanent changes to the formula.

This proceeding shall remain open so that refinements and modifications of adopted procedures may be made where warranted.

This decision does not significantly affect the quality of the human environment or the conservation of energy resources.

Decided: May 5, 1981.

By the Commission, Acting Chairman Alexis, Commissioners Gresham, Clapp, Trantum, and Gilliam.  
Agatha L. Mergenovich,  
Secretary.

#### Appendix A—Refinements and Modifications to Rail Form H

##### 1. Summary 2—Statistical and Repair Summary

The problem that existed for the study year 1978 in reconciling the Average Number of Cars (Worksheet 4, Line 9) with the Total Line-Haul Car Miles (Summary 2, Sheet 1 of 1, Line 9) reported for mechanical refrigerator cars has been corrected. For the study year 1979, the total mileage accrued by mechanical refrigerator cars with SPFE and UPFE markings was reported to the AAR as 356,601,389 miles. These miles were deducted from the Total Line-Haul Car Miles because the SPFE and UPFE ownerships of this car type are not reflected in Worksheet 4, Line 9. Furthermore, the repair costs for such cars are not included on Summary 1, Sheet 1 of 1, Line 9. The Total Line-Haul Car Miles for this type of car are shown in Summary 2 as 156,467,000 miles, representing the actual mileage accrued by the average number of mechanical refrigerator cars reported on Worksheet 4, Line 9.

##### 2. Summary 3—Computation of Three-Year Averages for Use in Car Hire Rate Tables

a. On each Summary 3 table for 15 car types the labor and material proportions of Line 1 have been revised from the current 50-50 percent split to reflect the actual material and labor split as calculated from the material and labor figures reported on Line 221, Schedule 410 of Annual Report, R-1. The percentage which have been applied as follows:

Line 2, Labor Proportion of Line 1

Source: Line 1 × 49.25%

Line 3, Material Proportion of Line 1

Source: Line 1 × 50.75%

b. In addition the format for indexing car repairs has been modified. The car repairs for years 1978 and 1979 have been indexed for labor and material individually, following which the total indexed repair costs per car were averaged for the two years. This is a more correct method of indexing car repair

costs than the present methodology because each year is weighted individually.

c. Another modification made to Summary 3 is the use of the AAR's annual index (Series Q-MPW) for the most recent study year rather than the AAR's latest available quarterly index as shown in Summary 3 of the Commission's format. This modification was deemed appropriate because all other factors of the formula are based upon annual studies used to develop ultimately a three-year moving average. Since actual cost and operating data are available only for the most recent study year (i.e., currently 1979), it would be inconsistent to use a current quarterly index for indexing beyond the study year level without providing for comparable adjustments in the remaining factors of the formula. Using the latest available quarterly index would cause a significant overstatement of the repair monies which would actually be expended subsequent to the study year 1979.

##### 3. Worksheet 1—Computation of Percentages Used to Distribute Way and Structures Expenses, Equipment Expenses (Other than Freight Train Cars) and General and Administrative Expenses in Schedule 1, Sheet 1

Worksheet 1 was updated to reflect the latest available five years (1974-1978) of Rail Form H source data. The latest available five years of source data should be used in each update of the car hire charges.

##### 4. Footnote 1 to Worksheet 1, Sheet 2 of 2, Computation of Percentages for Use to Apportion Shop Buildings—Freight Cars Between Ownership Costs, Other Expenses and General Overhead

This footnote was also updated to reflect the latest five years (1974-1978) of Rail Form H source data. For the year 1978 Rail Form H (8-76) no longer has footnote 9 to identify the Total Amount for Account 235-Shop and Enginehouse Repairs. In the previous years (1974-1977), this figure was reported and then proportioned based on a percentage factor developed in the 1960 Per Diem Cost Study. This is no longer necessary as the information required on Line 2 of footnote 1 is now available in the Annual Report (R-1), Schedule 410, Line 33, Column F. Again the latest five years of source data should be used.

##### 5. Worksheet—Computation of Percentages to Use to Distribute Transportation Expenses Between Ownership Costs, Other Expenses and General Overhead in Schedule 1, Sheet 1

Worksheet 2 was updated to reflect the latest four years (1975-1978) of Rail Form H source data. For the year 1978, none of the sources shown on Worksheet 2 are available from the Annual Report (R-1), Schedule 410, Line 520, Column F. Total Transportation Expenses, Worksheet 2, line 8, is available from Rail Form H, Schedule 1, Sheet 1, Line 15. The Total Transportation Expenses were prorated to Lines 2 through 6 based on the three-year average for the years 1975, 1976 and 1977. Line 7 is the result of Line 8 minus the sum of Lines 1 through 6.

##### 6. Worksheet 3—Computation of Percentage of Expenses Not Applicable to

##### Non-Revenue freight

Worksheet 3 was updated to reflect the latest five years (1974-1978) of Rail Form H source data.

##### 7. Worksheet 4—Computation of Active Per Diem Car Days and Per Diem Days Payable

The figures shown on Worksheet 4, Column 2, Time Mileage Cars, for December 31, 1978 were adjusted to remove cars of Rock Island ownership, since that railroad no longer exists and filed no Annual Report (R-1) for the study year 1979. The inclusion of such cars in the study would have overstated the average number of time-mileage cars shown in Column 4 of Worksheet 4.

[FR Doc. 81-14198 Filed 5-11-81; 8:45 am]

BILLING CODE 7035-01-M

#### [Ex Parte No. 311]

#### Expedited Procedures for Recovery of Fuel Costs

Decided: May 6, 1981.

In our decisions of April 21, and 28, 1981, an 18.5-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

The weekly figure set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 18.5-percent. Accordingly, we are authorizing that the surcharge for this traffic remain at 18.5-percent. All owner-operators are to receive compensation at this level.

No change is authorized on the 3.2-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not using owner-operators, the 2.1-percent surcharge for United Parcel Service, or the 6.9-percent surcharge for the bus carriers.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commission or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection and by delivering a copy to the Director, Office of the Federal Register for publication therein.

It is ordered:

This decision shall become effective Friday 12:01 a.m. May 8, 1981.

By the Commission, Acting Chairman Alexis, Commissioners Gresham, Clapp, Trantum, and Gilliam.

Agatha L. Mergenovich,

Secretary.

May 4, 1981.

#### Appendix—Fuel Surcharge

Base date and price per gallon (including tax)	
January 1, 1979	53.5¢
Date of current price measurement and price per gallon (including tax)	
May 4, 1981	132.9¢

	Transportation performed by—			
	Owner-operators <sup>1</sup>	Other <sup>2</sup>	Bus carriers	UPS
	(1)	(2)	(3)	(4)
Average percent fuel expenses (including taxes) of total revenue	16.9	2.9	6.3	3.3
Percent surcharge developed	18.5	3.2	6.9	* 2.9
Percent surcharge allowed	18.5	3.2	6.9	* 2.1

<sup>1</sup> Apply to all truckload rated traffic.

<sup>2</sup> Including less-than-truckload traffic.

<sup>3</sup> The percentage surcharge developed for UPS is calculated by applying 81 percent of the percentage increase in the current price per gallon over the base price per gallon to UPS average percent of fuel expense to revenue figure as of January 1, 1979 (3.3 percent).

\* The developed surcharge is reduced 0.8 percent to reflect fuel-related increases already included in UPS rates.

[FR Doc. 81-14191 Filed 5-11-81; 8:45 am]

BILLING CODE 7035-01-M

#### Motor Carriers; Finance Applications 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 CFR 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 CFR 1100.241(d).

*Amendments to the request for authority will not be accepted after the date of this publication.* However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

*We find*, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application or to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: May 4, 1981.

By the Commission, Krock, Joyce and Dowell.

MC-F-14313, filed January 28, 1980. (supplemental publication) (previously published in the *Federal Register* issue of April 20, 1981). SUNFLOWER

CARRIERS, INC. (Sunflower) (14th and Division, P.O. Box 583, York, NE 68467)—Purchased—UNIVERSAL DEVELOPMENT, INC. (Universal) (Rural Route 1, York, NE 68467). Representative: Scott E. Daniel, 800 Nebraska Savings Bldg., 1623 Farnam Street, Omaha, NE 68102. The purpose of this supplemental publication is to show the change in ownership and control of Sunflower. On April 3, 1980, the transaction authorized in MC-F-14308F was consummated, and the Commission was notified April 20, 1981. As a result of that transaction, Sunflower is now controlled by LRC, Inc., a non-carrier which in turn, is controlled through majority stock ownership by Duane W. Acklie. LRC, Inc., owns all of the stock of Crete Carrier Corporation, a motor carrier operating pursuant to authority issued in MC-128375 and MC-126118. Duane W. Acklie also controls Trans Corp., a non-carrier which owns all of the stock of Shaffer Trucking, Inc., a motor carrier operating pursuant to authority issued in MC-114569.

Note.—Because of the change of control of Sunflower, the condition in the *Federal Register* publication of April 20, 1981, is null and void.

MC-F-14620, filed April 10, 1981. 2-G TRANSPORTATION, INC. (2-G) (12515 Pennsylvania Avenue, Savage, MN 55378)—purchase (portion)—CHIPPEWA MOTOR FREIGHT, INC. (Chippewa) (P.O. Box 850, Sioux Falls, SD 57101). Representatives: Wayne W. Wilson, 150 E. Gilman Street, Madison, WI 53703; and Carl L. Steiner, 39 S. LaSalle Street, Chicago, IL 60603. 2-G seeks authority to purchase a portion of the interstate operating rights of Chippewa. David J. Gilligan, the sole stockholder of 2-G, seeks authority to acquire control of said rights through the transaction. 2-G is purchasing Chippewa's rights as follows:

MC-109538 (Portion): *General commodities* (with usual exceptions) between Minneapolis, MN, and Chicago, IL, over U.S. Hwy 12 via St. Paul, serving the intermediate and off-route points of Chemolite Siding (formerly Scotch-lite), MN, Chicago Heights, IL, those in the Minneapolis-St. Paul, MN, Commercial Zone, as defined by the Commission in Commercial Zones and Terminal Areas, 48 M.C.C. 95, South St. Paul, Inver Grove Heights (formerly Inver Grove), West St. Paul, Newport, North St. Paul, Columbia Heights, Robbinsdale, St. Louis Park, Hopkins, Edina, Richfield, Red Rock, Roseville (formerly McCarron Lake), Fort Snelling, and State Fair Grounds, MN, and those in the Chicago, IL, commercial zone, as defined by the Commission in 1 M.C.C. 673,

unrestricted; and to and from the off-route point of Rusk, WI, restricted to the transportation of dairy products; and MC 109538 (Sub-8). *General commodities* (with usual exceptions) over an alternate route for operating convenience only in connection with carrier's otherwise authorized regular route operations, between Madison, WI, on the one hand, and, on the other, Chicago, IL, with service at Madison authorized solely for the purpose of joining this route with authorized regular routes held by carrier of on February 4, 1952: from Madison over U.S. Hwy 14 to junction IL Hwy 53, then over IL Hwy 53 to junction IL Hwy 72, then over IL Hwy 72, to junction IL Hwy 83, then over IL Hwy 83 to junction IL Hwy 55, then over IL Hwy 55 to Chicago, and return over the same route. 2-G holds authority to operate as a motor common carrier under MC-139023 and as a motor contract carrier under MC-134469.

Note.—Application for TA has been filed. Agatha L. Mergenovich, Secretary.

[FR Doc. 81-14196 Filed 5-11-81; 8:45 am]  
BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. OP1-138]

**Motor Carriers; Permanent Authority Decision-Notice**

Decided: May 5, 1981.

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of \$10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

**Findings**

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual

operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 1, Members Parker, Chandler and Taylor.  
Agatha L. Mergenovich,  
Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

MC 59150 (Sub-192), filed April 24, 1981. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose St., Jacksonville, FL 32206. Representative: Martin Sack, Jr., 203 Marine National Bank Bldg., 311 W. Duval St., Jacksonville, FL 32202 (904) 353-9707. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Lowe's Companies, Inc., of North Wilkesboro, NC.

MC 145791 (Sub-3), filed April 2, 1981, previously noticed in Federal Register issue of April 24, 1981. Applicant: J. B. MILLER ENTERPRISES, 405 Hansen Ave., Butler, PA 16001. Representative: Arthur J. Diskin, 806 Frick Bldg., Pittsburgh, PA 15219, (412) 281-9494. Transporting (1) *such commodities* as are dealt in or used by homeproducts manufacturers and distributors of cosmetics, toilet preparations and jewelry, and (2) *such commodities* as are distributed by hardware stores, between points in PA, OH, IN, IL, WV, MD, DE, NJ, NY, MA, VA, NC, SC, and DC. Condition: Issuance of a certificate in this proceeding is subject to the coincidental cancellation at applicant's written request, of its permits in MC-145791, MC-145791 (Sub-No. 1), and MC-145791 (Sub-No. 2F).

Note.—The purpose of this republication is to reflect DC in the territorial description of authority sought.

MC 146051 (Sub-5), filed April 24, 1981. Applicant: WITTENBURG TRUCK LINE, INC., Box 99, Readlyn, IA 50668. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309 (515) 245-4300. Transporting (1) *chemicals and related products*, between points in Bremer County, IA, on the one hand, and, on the other, points in CA, IL, MN, MO, NE, SD, WI, and WY, (2) *metal products*, between points in Kane County, IL, and Lake County, IN, on the one hand, and, on the other, points in the U.S., and (3) *machinery*, between points in Bremer County, IA, on the one hand, and, on the other, points in the U.S.

MC 146820 (Sub-15), filed April 27, 1981. Applicant: B & G TRUCKING, INC., 579 High St., P.O. Box 581, Worthington, OH 43085. Representative: James M. Burtch, 100 E. Broad St. Columbus, OH 43215, (614) 228-1541. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with International Paper Company of New York, NY.

MC 154121 (Sub-3), filed April 27, 1981. Applicant: TRAILNER CORP., P.O. Box 357, Old Chester Rd., Gladstone, NJ 07934. Representative: George A. Olsen (same address as applicant), (201) 234-0301. Transporting *general commodities* (except classes A and B explosives), between the facilities used by Union Camp Corporation, its subsidiaries, divisions, and vendors, in the U.S., on the one hand, and, on the other, points in the U.S.

MC 154121 (Sub-5), filed April 27, 1981. Applicant: TRAILNER CORP., P.O. Box 357, Old Chester Rd.,

Gladstone, NJ 07934. Representative: George A. Olsen (same address as applicant). Transporting *such commodities* as are dealt in or used by manufacturers of automotive care products, between Chicago, IL, on the one hand, and, on the other, points in the U.S.

MC 155040, filed April 27, 1981. Applicant: FRANK A. KAISER, III AND LENA KAISER, a Partnership, d.b.a. L & D TRANSPORT, 10383 Avenue 408, Dinuba, CA 93618. Representative: Dwight L. Koerber, Jr., 110 N. 2nd St., P.O. Box 1320, Clearfield, PA 16830, (814) 765-9611. Transporting *metal products*, between points in Santa Clara County, CA, on the one hand, and, on the other, points in the U.S.

MC 155471, filed April 24, 1981. Applicant: L & B TRUCKING, INC., 950 Washington Ave., Croyden, PA 19020. Representative: Brian S. Stern, North Springfield Professional Centre II, 5411-D Backlick Road, Springfield, VA 22151 (703) 941-8200. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of scaffolding, shoring, trusses and related products, between points in the U.S., under continuing contract(s) with Anthes Incorporated, of Bensalem, PA.

[FR Doc. 81-14193 Filed 5-11-81; 8:48 am]

BILLING CODE 7035-01-M

#### [Decision Volume No. 422]

#### Motor Carriers; Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broaden grant of authority over that previously noticed in the *Federal Register*.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this *Federal Register* notice. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 1334 (Sub-22) (Republication) filed September 15, 1978, published in the *Federal Register* issue of November 2, 1978 and republished this issue. Applicant: RITEWAY TRANSPORT, INC., 2131 W. Roosevelt, Phoenix, AZ 85005. Representative: William H. Shawn, Suite 501, 1730 M St., NW., Washington, D.C. 20036. A Decision of the Commission, Joint Board No. 374, dated August 3, 1979, and served August 22, 1979 finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, transporting (1) over irregular routes, *general commodities* (except liquid acids, in bulk, in tank vehicles) (a) between all points within the territory bounded by a line commencing at the junction of Colorado Highway 141 and U.S. Highway 50, thence over U.S. Highway 50 to junction Colorado Highway 149, thence over Colorado Highway 149 to junction U.S. Highway 160, thence over U.S. Highway 160 to junction U.S. Highway 666, thence over U.S. Highway 666 to junction Colorado Highway 141, thence over Colorado Highway 141 to the point of beginning at junction U.S. Highway 50; and (b) between all points in the above-described area, on the one hand, and, on the other, points in Colorado; (2) *general commodities*, over regular routes, (a) between Grand Junction, CO, and Rico, Co, serving all intermediate points, from Grand Junction over U.S. Highway 50 to junction Colorado Highway 141, thence over Colorado Highway 141 to junction U.S. Highway 141 to junction U.S. Highway 666, thence over U.S. Highway 666 to junction U.S. Highway 160, thence over U.S. Highway 160 to junction Colorado Highway 145, thence over Colorado Highway 145 to Rico, and return over the same route; between Delta, CO, and Rico, CO, serving all intermediate points, from Delta over U.S. Highway 50 to junction U.S. Highway 550, thence over U.S. Highway 550 to junction U.S. Highway 666, at or near Shiprock, NM, thence north over U.S. Highway 666 to intersection U.S. Highway 160 and continuing north over combined U.S. Highways 666 and 160 to Cortez, CO, thence east over U.S. Highway 160 to intersection Colorado Highway 145, thence over Colorado Highway 145 to Rico, and return over the same route; (c) between Grand Junction, CO, and Rico, CO, serving all intermediate points and the off-route point of Telluride, CO, from Grand Junction over U.S. Highway 50 to intersection U.S. Highway 550, thence over U.S. Highway 550 to junction

Colorado Highway 62, thence over Colorado Highway 62 to junction Colorado Highway 145, thence over Colorado Highway 145 to Rico, and return over the same route. RESTRICTION: The authority granted herein is restricted against any service between points in Colorado located in and east of the Counties of Larimer, Boulder, Jefferson, Douglas, Teller, El Paso, Pueblo, Huerfano, and Las Animas, on the one hand, and, the other, points in San Juan County NM, located on the following routes: U.S. Highway 550 from the Colorado-New Mexico State line, via Aztec and Farmington to Shiprock; and New Mexico Highway 504 from Shiprock to the New Mexico-Arizona State line. To the extent the authority granted herein authorizes the transportation of classes A and B explosives, it will expire 5 years from the date its is issued; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. The purpose of this republication is to indicate that the applicant seeks conversion of the Certificate of Registration to a Certificate of Public Convenience and Necessity and certain restrictions now contained in the Certificate of Registration have been removed which were unacceptable under Commission's policy in a Certificate of Public Convenience and Necessity. The proceeding is directly related to MC-P-13545.

MC 117685 (Sub-4) (Republication) filed February 1, 1980 published in the *Federal Register* issue of April 22, 1980. Applicant: CONSOLIDATED TRUCK SERVICE, INC., 1 Scout Ave., South Kearny, NJ 07032. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. A Decision of the Commission, Review Board Number 4, decided February 3, 1981 and a Decision of the Division 2, Acting as an Appellate Division finds on reconsideration that the performance by applicant of the service described will be a useful public purpose, responsive to a public demand or need to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except classes A and B explosives) between New York NY, and Baltimore, MD, on the one hand, and, on the other, points in the United States; that applicant is fit, willing and able properly to perform such service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. The purpose of this

republishing is to reflect applicant's actual grant of authority.

By the Commission,  
Agatha L. Mergenovich,  
Secretary.

[FR Doc. 81-14192 Filed 5-11-81; 8:45 am]  
BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. 76]

**Motor Carriers; Restriction Removals; Decision-Notice**

Decided: May 6, 1981.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 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 647 (Sub-18)X, filed April 20, 1981. Applicant: EXHIBITORS SERVICE COMPANY, 85 Helen St., McKees Rocks, PA 15136. Representative: Samuel P. Delisi, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. Applicant seeks to remove restrictions in its lead and Sub-Nos. 3, 6, 7, 8, 12 and 14 certificates to: (1) remove all exceptions other than classes A and B explosives and household goods from its general commodities authority in the

lead; (2) broaden the commodity description (a) from motion picture film and accessories, magazines, milk cream, dry ice, gas cylinders or containers and yeast to "instruments and photographic goods, printed matter, food and related products, and metal products" in Sub-No. 3; (b) from frozen foods and foodstuffs and frozen fish and agricultural commodities in Sub-Nos. 6, 12 and 14, frozen foods in Sub-No. 7 and food and foodstuffs in Sub-No. 8 to "food and related products"; (3) delete the restriction requiring use of vehicles equipped with mechanical refrigeration in Sub-Nos. 6, 8, 12 and 14; (4) remove a restriction against the transportation of commodities in bulk in Sub-No. 12; (5) remove facilities limitations, expand city to county-wide service and broaden one-way to radial authority: between Moultrie County (Mottoon) IL and points in MD, NJ, NY, OH, PA, WV and DC in Sub-No. 7; between Lehigh County (Fogelsville) PA and points in MD, OH and WV in Sub-No. 8; (6) remove "originating at and destined to" restrictions in Sub-Nos. 6, 7, 8 and 12; and (7) authorize service at all intermediate points in connection with regular-route operations between Pittsburgh, PA and Weston, WV; Pittsburgh, PA and Sistersville, WV; Pittsburgh, PA and Wellsburg, WV; Pittsburgh, PA and Chester, WV; Pittsburgh, PA and Bellaire, OH; Pittsburgh, PA and Warren, OH; Pittsburgh, PA and Youngstown, OH; between specified points in PA, and in WV; and between East Palestine, OH and East Liverpool, OH in the lead; between Morgantown, WV and Valley Head, WV; Morgantown and Belington, WV; Morgantown and Grafton, WV; Clarksburg, WV, and Fellowsville, WV; Fairmont, WV and Wheeling, WV; Clarksburg, WV, and Weston, WV; and Sistersville, WV, and Parkersburg, WV, in Sub-No. 3.

MC 647 (Sub-18)X, filed April 20, 1981. Applicant: EXHIBITORS SERVICE COMPANY, 85 Helen St., McKees Rocks, PA 15136. Representative: Samuel P. Delisi, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. Applicant seeks to remove restrictions in its lead and Sub-Nos. 3, 6, 7, 8, 12, and 14 certificates to: (1) remove all exceptions other than classes A and B explosives and household goods from its general commodities authority in the lead; (2) broaden the commodity description (a) from motion picture film and accessories, magazines, milk cream, dry ice, gas cylinders or containers and yeast to "instruments and photographic goods, printed matter, food and related products, and metal products" in Sub-

No. 3; (b) from frozen foods and foodstuffs and frozen fish and agricultural commodities in Sub-Nos. 6, 12 and 14, frozen foods in Sub-No. 7 and food and foodstuffs in Sub-No. 8 to "food and related products"; (3) delete the restriction requiring use of vehicles equipped with mechanical refrigeration in Sub-Nos. 6, 8, 12, and 14; (4) remove a restriction against the transportation of commodities in bulk in Sub-No. 12; (5) remove facilities limitations, expand city to county-wide service and broaden one-way to radial authority: between Moultrie County (Mottoon) IL and points in MD, NJ, NY, OH, PA, WV and DC in Sub-No. 7; between Lehigh County (Fogelsville) PA and points in MD, OH and WV in Sub-No. 8; (6) remove "originating at and destined to" restrictions in Sub-Nos. 6, 7, 8 and 12; and (7) authorize service at all intermediate points in connection with regular-route operations between Pittsburgh, PA and Weston, WV; Pittsburgh, PA and Sistersville, WV; Pittsburgh, PA and Wellsburg, WV; Pittsburgh, PA and Chester, WV; Pittsburgh, PA and Bellaire, OH; Pittsburgh, PA and Warren, OH; Pittsburgh, PA and Youngstown, OH; between specified points in PA, and in WV; and between East Palestine, OH, and East Liverpool, OH, in the lead; between Morgantown, WV, and Valley Head, WV; Morgantown and Bellington, WV; Morgantown and Grafton, WV; Clarksburg, WV, and Fellowsville, WV; Fairmont, WV and Wheeling, WV; Clarksburg, WV, and Weston, WV; and Sistersville, WV, and Parkersburg, WV in, Sub-No. 3.

MC 1475 (Sub-2)X, filed April 14, 1981. Applicant: PETER DEL GRANDE, INC., d.b.a. JAMES GALLAGHER TRUCKING, 301 Jackson St., Camden, NJ 08104. Representative: Richard Rueda, 133 N. 4th St., Philadelphia, PA 19106. Applicant seeks to remove restrictions from its Certificate Nos. MC-1475 and Sub-No. 1, and MC-35706, issued pursuant to Nos. MC-FC-77554 and 78888 to delete all exceptions to its general commodity authority (except classes A and B explosives) in No. MC-1475 and Sub-No. 1; (2) authorize radial authority between (a) Philadelphia, PA, and specified points in PA, DE and NJ in No. MC-1475 (part 2); (b) specified counties in PA and Philadelphia, PA, in No. MC-1475 (Sub-No. 1); and (c) specified points in PA and NJ, and points in NY, DE, MD, PA, and DC in No. MC-35706; and (3) change Pennauken, NJ, to Camden County, NJ, in No. MC-35706.

MC 2202 (Sub-670)X, filed May 1, 1981. Applicant: ROADWAY EXPRESS, INC.,

P.O. Box 471, 1077 Gorge Boulevard, Akron, OH 44309. Representative: William O. Turney, 7101 Wisconsin Avenue, Suite 1010, Washington, DC 20014. Applicant seeks to remove restrictions from a portion of its Sub-No. 535 certificate which authorizes the transportation of general commodities, with exceptions, over irregular routes, between Roanoke, VA, and points in VA within 150 miles of Roanoke to expand its territorial authority from points in VA within 150 miles of Roanoke to points in VA in, west, and south of Southampton, Sussex, Prince George, Charles City, New Kent, King William, Caroline, Stafford, Fauquier, Warren, and Frederick Counties, VA in place of the 150 mile radius.

MC 8768 (Sub-38)X, filed April 28, 1981. Applicant: SECURITY VAN LINES, INC., P.O. Box 830, Kenner, LA 70063. Representative: Marshall Kragen, 1919 Pennsylvania Avenue, NW., Suite 300, Washington, DC 20006. Applicant seeks to remove restrictions in its Sub-No. 37F certificate to broaden the commodity description from household goods to "household goods and furniture and fixtures" and remove the exception of AK and HI in its authority between points in the U.S. (except ND).

MC 38481 (Sub-24)X, filed April 23, 1981. Applicant: FARRUGGIO'S BRISTOL & PHILA., AUTO EXPRESS, INC., P.O. Box 362, Bristol, PA 19007. Representative: Alan Kahn, 1430 Land Title Building, Philadelphia, PA 19110. Applicant seeks to remove restrictions in its Sub-No. 21F 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) eliminate the restriction requiring a prior or subsequent movement by rail, water or motor vehicle from its authority (a) between points in CT, DE, MD, NJ, NY, PA, and DC and (b) between points in VA, on the one hand, and, on the other, points, the States named in (a).

MC 29973 (Sub-5)X, filed April 30, 1981. Applicant: STANDARD TRUCKING COMPANY, 225 East Sixteenth Street, Charlotte, NC 28230. Representative: Harry J. Jordan, John D. Quinn, Suite 502, Solar Building, 1000 Sixteenth Street, NW., Washington, DC 20036. Applicant seeks to remove restrictions in its Sub-No. 1 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 restriction limiting service at points in

NC and SC against service at those portions of the commercial zones of such points which lie outside the States of NC and SC.

MC 48221 (Sub-32)X, filed April 30, 1981. Applicant: W. N. MOREHOUSE TRUCK LINE, INC., 4010 Dahlman Avenue, Omaha, NE 68107. Representative: Gerald C. Morehouse, Jr. (same as applicant). Applicant seeks to remove restrictions in its Sub-No. 28F certificate to broaden the commodity description to "food and related products" from meats, meat products, meat byproducts and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the *Descriptions* case.

MC 48807 (Sub-4)X, filed April 24, 1981. Applicant: STONEHILL EXPRESS CO., 3800 Orange Avenue, #44 Up, Cleveland, OH 41115. Representative: Daniel B. Johnson, 4304 East-West Highway, Washington, DC 20014. Applicant seeks to remove restrictions in its lead and Sub-No. 1 permits to (1) broaden the commodity description from butter, eggs, and food products to "food and related products" in its lead and Sub-No. 1; and from rubber products and such accessories as are dealt in by manufacturers of rubber goods to "rubber and plastic products, chemicals and related products, and such commodities as are dealt in by producers of rubber plastic products" in the lead, and (2) broaden the territorial description to between points in the U.S. under continuing contract(s).

MC 82861 (Sub-22)X, filed April 21, 1981. Applicant: BROOKS TRUCK LINE, INC., 609 14th St. SE (P.O. Box 40), Puyallup, WA 98371. Representative: Kenneth R. Mitchell, 2205 Pacific Hwy E, Tacoma, WA 98371. Applicant seeks to remove restrictions in its Sub-1, 8, 19 and 21 certificates to (1) broaden the commodity descriptions of (a) brick, tile and flue lining to "clay, concrete, glass or stone products" in Sub-1, 8 and 19; (b) dampers and fireplaces to "fabricated metal products" in Sub-19; and (c) lumber, lumber products and particle board to "lumber or wood products" in Sub-21; (2) expand Clay City, and Eatonville to Pierce County, WA; Newcastle to King County, WA; named ports of entry on the International boundary line between the US and CD located in WA to "ports of entry on the International boundary line between the US and CD in WA"; (3) remove the originating at and destined to restriction in Sub-19; (4) authorize radial service between specified points in WA, OR, MT, ID, and CA.

MC 95612 (Sub-7)X, filed March 23, 1981, previously noticed in the *Federal*

*Register* of April 3, 1981, republished as corrected in this issue. Applicant: M. W. LEAHY CO., INC., P.O. Box 187, Ayer, MA 01432. Representative: Joseph M. Klements, 84 State St., Boston, MA 02109. Applicant seeks to remove restrictions in its Sub-5 and 6 permits to: (1) broaden the commodity description in each from prestressed and precast concrete products to "clay, concrete, glass or stone products and commodities used in the manufacture and distribution of clay, concrete, glass or stone products"; (2) expand the territorial authority to "between points in the US" under continuing contract(s) with a named shipper. The purpose of this republication is to reflect the commodity broadening requested by applicant.

MC 97244 (Sub-5)X, filed March 30, 1981, previously noticed in the FR of April 16, 1981, republished as corrected this issue. Applicant: MASS. TRANSPORTATION, INC., 187 Sidney Street, Cambridge, MA 02139. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Applicant seeks to remove restrictions in its Sub-3F certificate (parts 2, 3, 4, 5 and 6) to (1) broaden the commodity descriptions to "food and related products" from liquid chocolate, corn syrup, liquid sugar, corn sweeteners, and vegetable oils and corn syrup; (2) remove the in bulk restrictions; (3) to replace (a) Mansfield, MA, with county-wide authority to serve Bristol County, MA, (b) Boston, MA with county-wide authority to serve Suffolk, Norfolk, Plymouth, Middlesex, and Essex Counties, MA, and (c) Cambridge, MA, with county-wide authority to serve points in Middlesex, Essex, and Suffolk Counties, MA; (4) change its one way authorities to radial authorities between points in the Northeastern part of the U.S. The purpose of this republication is to add to part (3), sections (b) and (c) to broaden Boston and Cambridge to county-wide authority as originally requested.

MC 98776 (Sub-9)X, filed April 20, 1981. Applicant: ELDRIDGE TRUCK LINE, INCORPORATED, P.O. Box 659, Somerset, KY 42501. Representative: Robert H. Kinker, 314 West Main St., P.O. Box 484, Frankfort, KY 40602. Applicant seeks to remove restrictions in its Sub-1, 5, 6F, 7F, and 8 certificates to (1) remove all exceptions to its general commodity authority except "classes A and B explosives" in each certificate, (2) in Sub-1 authorize intermediate point service between Louisville, KY and Somerset, KY, and remove restriction against service at Indiana points in the Louisville

commerical zone, (3) in sub-1 broaden commodity description from meat, meat products, etc. to "food and related products and empty containers used in the transportation thereof", (4) in Sub-1 substitute Pulaski County, KY for Somerset, KY, in its irregular route authority; (5) in Sub-1 authorize round trip service in place of one-way authority between specified KY counties; (6) in Sub-5, authorize service at all intermediate points between Lexington and Morehead, KY, and remove "serving Morehead, KY for purpose of joinder only" restriction; and (7) in Sub-8, authorize service at all intermediate points on service route between Cincinnati, OH and Morehead, KY and remove the restriction against service at Maysville, KY.

MC 105007 (Sub-78)X, filed April 22, 1981. Applicant: MATSON TRUCK LINES, INC., P.O. Box 328, 1407 St. John Ave., Albert Lea, MN 56007. Representative: Robert S. Lee, 1600 TCF Tower, Minneapolis, MN 55402. Applicant seeks to remove restrictions from its Sub-30, 33, 34, 52F, 61F, 62F, 63F, 64F, 69F, 70F, and unnumbered certificates resulting from consummated purchases in MC-F-13079, MC-F-13389 and MC-F-14292 to (1) broaden the commodity descriptions from (a) malt beverages to "food and related products" in Sub-30, (b) liquid fertilizer and materials used in the manufacture of liquid fertilizer to "chemicals and related products" in Sub-34, (c) paper and paper products to "pulp, paper and related products" in Sub-52F, (d) laminated beams and arches and wood decking to "building materials" in Sub-61F, (e) animal lard and grease to "food and related products" in Sub-62F, (f) frozen foods to "food and related products" in Sub-63F, (g) molded rubber inflations to "rubber and plastic products" in Sub-64F, (h) animal fat, grease and tallow to "food and related products" in Sub-69F, (i) iron and steel articles to "metal products" in Sub-70F, (j) steel sheets, steel coils and steel blanks to "metal products" and butter and cheese (except in bulk) to "food and related products" in MC-F-13079, (k) meat, meat products and meat by-products and articles distributed by meat packinghouses to "food and related products" in MC-F-13389 and (l) medicines, chemicals, toilet preparations, diet preparations, sweetening compounds, bandages and surgical dressings, except in bulk to "chemicals and related products, food and related products and instruments and photographic goods" and confectionary and cough drops to "food and related products" in MC-F-14292;

(2) by replacing authority to serve plant sites and points with county-wide city-wide authority as follows: Mankato with Nicollet and Blue Earth Counties, MN and Albert Lea with Freeborn County, MN in Sub-30, Alden, Armstrong, Hartland, Hollendale and Mansfield with Freeborn County, in Sub-34, Madisonville with Hopkins County, KY, Cresco with Howard County, IA and Lake Mills with Winnebago County, IA in Sub-52F, El Dorado Springs with Cedar County, MO in Sub-61F, Fort Dodge with Webster County, IA in Sub-62F, Plover with Portage County, WI in Sub-63F, Johnson Creek with Jefferson County, WI and Albert Lea with Freeborn County, MN in Sub-64F, Middletown with Butler County, OH, Pittsburgh with Allegheny County, PA, Grinnell with Powashie County, IA, Nicholasville with Jessamine County, KY, Chillicothe with Livingston County, MO, Dixon with Lee County, IL, Frankfort with Clinton County, IN, Cresco with Howard County, IA, Oelwein with Fayette County, IA and Kirksville with Adair County, MO in Sub-70F, facilities at Cresco and Oelwein, IA with Howard and Fayette Counties, IA, Decorah and Schley with Winneshiek County, IA in MC-F-13079, facilities at Albert Lea, MN and Cedar Rapids, IA with Freeborn County, MN and Linn County, IA in MC-F-13389, and facilities at Norwich and North Norwich, NY with Chenango County, NY in MC-F-14292; (3) by replacing all one-way authority with roundtrip authority between points throughout the U.S. or numerous specified states in Sub-30, 33, 34, 52F, 61F, 62F, 63F, 70F and authority purchased in MC-F-13079, MC-F-13389 and MC-F-14292; (4) by eliminating restrictions in Sub-69F requiring the use of tank vehicles; and in the authority purchased in MC-F-14292 requiring the use of vehicles equipped with mechanical refrigeration; (5) by eliminating the restrictions in Sub-33 and the authority purchased in MC-F-13079 limiting the service to traffic originating at the origin territory and destined to the destination territory; and (6) eliminating the restriction in Sub-61F against service to AK and HI.

MC 106884 (Sub-5)X, filed April 27, 1981. Applicant: FUCCY HAULING & EXCAVATING, INC., P.O. Box 687, New Cumberland, WV. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. Applicant seeks to remove restrictions from its MC 20981 and Sub-4 and 5 permits, and its MC 106884 certificate to: (1) broaden the commodity description from ladle brick and ladle brick on pallets to "clay, concrete, glass

or stone products" in MC 20981 and Sub-4 and 5; and from empty pallets to "lumber or wood products, containers, carriers or devices shipping returned empty" in MC 20981; from concrete blocks to "clay, concrete, glass or stone products"; from road building equipment to "such commodities as are dealt in or used by manufacturers and distributors of road building equipment" in certificate MC 106884; (2) expand the territorial descriptions to between points in the United States under continuing contract(s) with named shippers in MC 20981 and Sub-4 and 5; (3) expand the specific points of Martins Ferry, OH, to Belmont County, OH; Benwood, WV, to Marshall County, WV; Weirton, WV, to Hancock County, WV, in certificate MC 106884; and (4) expand its one-way authority to radial authority, in certificate MC 106884, between Ohio County, WV, and, Greene and Washington Counties, PA; between Ohio County, WV, and Marshall County, WV, and, Greene and Washington Counties, PA; between Belmont County, OH, and Hancock and Marshall Counties, WV, and, Greene and Washington Counties, PA; and between Hancock and Marshall Counties, WV, and Columbiana County, OH.

MC 106920 (Sub-130)X, filed April 27, 1981. Applicant: RIGGS FOOD EXPRESS, INC., P.O. Box 26, New Bremen, OH 45869. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW, Washington, DC 20001. Applicant seeks to remove restrictions in its Sub-Nos. 104, 105 and 109 certificates to (1) broaden the commodity description in Sub-No. 104 parts (1) and (2) from carpet strip and adhesives and nails to "metal products and chemicals and related products", in Sub-No. 105 from adhesives; cleaning, preserving and sealing compounds and products; solvents, stains, plastic carpeting, carpet strip and moldings to "chemicals and related products, textile mill products, and metal products"; and, in Sub-No. 109 from slit coiled metal to "metal products"; (2) broaden Asheville, NC to Buncombe County, NC, in Sub-No. 104 (part 2 will be subsumed in part 1) broaden Kalamazoo, MI and Dayton, OH to Kalamazoo County, MI, and Green and Montgomery Counties, OH respectively in Sub-No. 105; and broaden Minster, OH to Auglaize County, OH in Sub-No. 109; (3) broaden one-way authority to radial authority between the counties named in (2) above, and, points in eastern part of the U.S. and (4) remove the "except commodities in bulk" restriction in Sub-No. 105.

MC 111307 (Sub-17)X, filed April 24, 1981. Applicant: TNT CANADA INC., 2 Robert Speck Parkway, P.O. Box 3030, Station 'A' Mississauga, Ontario, Canada L5A 353. Representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. Applicant seeks to remove restrictions in its Sub-Nos. 13 and 14 certificates to (1) broaden the commodity description from general commodities, with exceptions to "general commodities (except classes A and B explosives)" in each certificate; (2) authorize service at all intermediate points and remove any joinder only restrictions between Tacoma, WA, and the port of entry on the US-CN boundary line at Blaine, WA; and junction Interstate Hwy. 5 and Washington Hwy. 539 at Bellingham, WA, and port of entry on the US-CN boundary line at Sumas, WA, in Sub-No. 13; and Detroit, MI, and the port of entry at Port Huron, MI, in Sub-No. 14, the regular route portion; (4) expand ports of entry at Port Huron, MI, Buffalo and Niagara Falls, NY, Windsor, CN-Detroit, MI, and Detroit and St. Clair Rivers in MI, to allow service at all ports of entry in NY or MI, in all irregular route portion of Sub-No. 14; (5) eliminate the facilities limitation at Plymouth Township and Romeo, MI, and change to county-wide authority of Wayne and Macomb Counties, MI, respectively, in Sub-No. 14; and (5) remove the restrictions limiting service to shipments moving to or from points in Canada or having a prior or subsequent movement by air.

MC 112588 (Sub-37)X, filed April 29, 1981. Applicant: RUSSELL TRUCKING LINE, INC., 2011 Cleveland Road, Sandusky, OH 44870. Representative: David A. Turano, 100 E Broad St. Columbus, OH 43215. Applicant seeks to remove restrictions in its lead and Sub-Nos. 3, 4, 5, 6, 7, 9, 11, 13, 14, 15, 17, 18, 20, 22, 24, 26, 27, 30F, 31F, 32F, 35F, and 36F certificates to (1) broaden the commodity description to (a) "clay, concrete, glass or stone products" from cement in lead and Sub-Nos. 4, 5, 6, 7, 9, 14, and 18, plaster in Sub-No. 3, gypsum and gypsum products in Sub-Nos. 11, 13, 24, and 26, insulating materials in Sub-No. 22, mineral fiber products in Sub-No. 26, and cement and mortar in Sub-No. 27; (b) "building materials" from plasterboard, plasterboard joint system and gypsum block plank in Sub-No. 3, roofing materials in Sub-Nos. 15, 17, and 22, composition board and gypsum board paper in Sub-No. 26, prefabricated metal building products, ventilators, ventilator parts, air louvers, and prefabricated building metal work in Sub-No. 36F; (c) "metal products" from

steel coils and sheets in Sub-No. 20, steel pipe in Sub-No. 32F, pipe in Sub-No. 35F, iron and steel articles in Sub-Nos. 30F and 31F, (d) "chemicals and related products" from adhesives and paint and paint products in Sub-No. 26; (2) replace facilities limitations and specific point authority with city-wide or county-wide authority to (a) Erie County, OH, from Baybridge, OH in lead, facilities at Avery, OH in Sub-Nos. 15 and 17, (b) Ottawa County, OH from facilities at Gypsum, OH in Sub-Nos. 3, 13, and 26, (c) Lawrence County, PA, from Wampum, PA, in Sub-Nos. 4, 5, 7, 9, 14, and 18, (d) Martin County, IN for facilities at Shoals, IN in Sub-No. 11, (e) Trumbull County, OH for facilities at Warren, OH in Sub-No. 20, (f) Granville County, NC for facilities at Granville County, NC in Sub-No. 22, (g) River Rouge, MI for facilities at River Rouge, MI in Sub-No. 24, (h) Muskingum County, OH for East Fultonham, OH, in Sub-No. 27, (i) Putnam County, WV for Nitro, WV in Sub-No. 27, (j) Allegheny County, PA for McKeesport, PA in Sub-No. 32F, (k) Lorain County, OH for Lorain, OH in Sub-No. 32F, (l) Mahoning County, OH for Youngstown, OH in Sub-No. 32F, (m) Beaver County, PA for Ambridge, PA in Sub-No. 36F, (n) Fayette County, IN for Connersville, IN in Sub-No. 36F, (o) Clermont County, OH for Batavia, OH in Sub-No. 36F, (p) Beaver County, PA for facilities at Aliquippa, PA in Sub-No. 30F, (q) Allegheny County, PA for facilities at Pittsburgh, PA in Sub-No. 30F, (r) Warren, MI for facilities at Warren, MI in Sub-No. 30F, (s) Louisville, KY for facilities at Louisville, KY in Sub-No. 31F, (t) Cleveland, OH for facilities at Cleveland, OH in Sub-No. 31F, (u) Mahoning County, OH for facilities at Youngstown, OH in Sub-No. 31F, (v) Trumbull County, OH for facilities at Warren, OH in Sub-No. 31F; (3) replace existing one-way authority with radial authority between cities and counties named in (2) above and points in several States throughout the U.S.; (4) delete restrictions (a) prior movement by rail in Sub-No. 6, (b) in bags or in bulk, in tank vehicles, in Sub-Nos. 5 and 7, (c) commodities in bulk, cement in packages and stone in Sub-No. 11, (d) iron and steel, portland cement and commodities in bulk in Sub-Nos. 15 and 17, (e) originating at and destined to facilities in Sub-No. 20, (f) iron and steel articles in Sub-No. 22, and (g) commodities in bulk in Sub-Nos. 22, 24, and 26.

MC 113106 (Sub-107)X, filed April 20, 1981. Applicant: THE BLUE DIAMOND COMPANY, 4401 East Fairmount Avenue, Baltimore, MD 21224.

Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth St., NW., Washington, DC 20005. Applicant seeks to remove restrictions in its Sub-Nos. 2, 14, 15, 16, 24, 26, 29, 30, 33, 35, 37, 45, 50, 55F and 87F certificates to (1) broaden the commodity descriptions from (a) fertilizer, fertilizer materials, sulphur, silica flourides, insecticides, herbicides, fungicides, applicators and parts thereof, for applying fertilizer, insecticides, herbicides, and fungicides, and advertising paraphernalia to be used in promoting the sale of the aforesaid commodities, when transported at the same time and in the same vehicles with fertilizer or fertilizer materials, monoammonium phosphate, salt, dry salt compounds, urea, dry fertilizer, pesticides, salt products, calcium chloride, and mixtures, agricultural chemicals and seed to "chemicals and related products" in Sub-Nos. 2 (pages 1, 2, and 3), 15, 16, 24, 26, 29, 30, 33, 37, 50, 55F, and 87F; (b) wire cloth, bronze and copper wire, and steel wire to "metal products" in Sub-No. 2 (page 2); (c) rock salt and rock salt compounds intended for use in the furtherance of the melting of ice and snow to "non-metallic minerals" in Sub-No. 2 (page 3); (d) pepper, in packages, in mixed shipments with salt to "food and related products" in Sub-Nos. 2 (page 4) and 14; (e) salt and pepper, and articles distributed by or used in agriculture, water treatment, food processing, wholesale groceries, and institutional supply firms, when shipped in mixed loads with salt and pepper to "chemicals and related products and articles distributed or used by agriculture, water treatment, food processing, wholesale groceries, and institutional supply firms" in Sub-No. 35 and "chemicals and related products and food and related products" in Sub-No. 45; and (f) articles distributed by or used in agriculture, water treatment, food processing, wholesale groceries, and institutional supply firms, when shipped in mixed loads with salt and pepper to "articles distributed by or used in agricultural supply firms" in Sub-No. 30; (2) remove the following restrictions: in bulk and in tank vehicles in Sub-No. 2; in bulk, in dump vehicles in Sub-Nos. 2 and 16; in containers in Sub-Nos. 2, 35, and 37; except feed ingredients, in bulk, in Sub-No. 15; in bags, in mixed loads with urea (feed grade) in Sub-No. 24; liquid or dry, in containers in Sub-No. 26; in bags in Sub-No. 29; in bulk, in tank or hopper-type vehicles in Sub-No. 30; and in packages in Sub-Nos. 50 and 55F; (3) eliminate the facilities limitations in Sub-Nos. 26, 29, 30, 35, 37, 50, and 55F; (4) expand city to



county-wide authority from York to York County, PA, Kearny to Hudson County, NJ, Whiteford to Harford County, MD, and Ludlowville to Tompkins County, NY, in Sub-No. 2; Perth Amboy to Middlesex County, NJ, in Sub-Nos. 2 and 87F; Claymont and North Claymont to New Castle County, DE, in Sub-Nos. 2, 16, 24, and 29; Silver Springs to Wyoming County, NY, in Sub-Nos. 2, 30, 35, 45, and 87F; Watkins Glen to Schuyler County, NY, in Sub-Nos. 2, 14, 35, 45, and 50; Glyndon and White Marsh to Baltimore County, MD, in Sub-Nos. 15 and 50; Lebanon to Lebanon County, PA, in Sub-No. 26; Milo to Yates County, NY, in Sub-Nos. 33; Retsof to Livingston County, NY, in Sub-Nos. 35 and 45; East Hempfield Township to Lancaster County, PA, in Sub-No. 37; and Horseheads to Chemung County, NY, in Sub-No. 45; (5) authorize radial authority for one-way authority between 12 specified States.

MC 115242 (Sub-21)X, filed April 27, 1981. Applicant: DONALD MOORE, 601 North Prairie Street, Prairie Du Chien, WI 53821. Representative: Michael S. Varda, 121 South Pinckney Street, Madison, WI 53703. Applicant seeks to remove restrictions in its lead and Sub-Nos. 1, 2, 3, 4, 6, 8, 10, 12, 14, 16F, 18F, and 19F certificates to (1) broaden the commodity descriptions from (a) rough lumber, rough sawn cooperage stock, and headings, and lumber, posts, and ties to "lumber and wood products" in the lead and Sub-Nos. 1, 2, 10, and 16F; (b) malt beverages to "food and related products" in Sub-Nos. 3, 4, 14, and 18F; (c) wood chips to "forest products" in Sub-Nos. 6, 8, and 12; and (d) lumber, construction board, and insulation to "construction materials" in Sub-No. 19F; (2) remove the restrictions "when transported on flat-bed trailers" in Sub-Nos. 1 and 2; "in bulk" in Sub-Nos. 6 and 8; and "originating at and destined to" in Sub-No. 16F; (3) eliminate the facilities limitation in Sub-No. 3; (4) expand city to county-wide authority from: (a) Dubuque, IA to Dubuque County, IA, Jo Daviess County, IL, and Grant County, WI, in the lead, and Sub-Nos. 4, 6, 8, 12, 14, and 18F; (b) Prairie du Chien to Crawford and Grant Counties, WI, and Clayton County, IA, in the lead, and Sub-Nos. 1, 2, 3, 6, 10 and 14; (c) Muscoda, WI to Grant and Richland Counties, WI, in the lead and Sub-Nos. 1 and 2; (d) Guttenberg and New Albin to Clayton and Allamakee Counties, IA; Waukon to Houston County, MN; and Jasper and Goshen to Dubois and Elkhart County, IN, in Sub-No. 1; (e) Onalaska to LaCrosse County, WI, and Omaha to Washington, Douglas, and Sarpy Counties, NE; (f) Belleville to St.

Clair County, IL, and Milwaukee to Milwaukee, Ozaukee, Racine, Washington, and Waukesha Counties, WI, in Sub-No. 4; (g) Fort Madison to Lee County, IA, Keokuk to Hancock County, IL, and Minneapolis to Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington Counties, MN, in Sub-No. 6; (h) Peoria to Peoria, Woodford and Tazewell Counties, IL, in Sub-Nos. 8 and 14; (i) Hamilton, Peoria, Tremont, and Murphysboro to Hancock, Peoria, Woodford, Tazewell, and Jackson Counties, IL; Jackson to Madison County, TN; and Louisville to Bullit, Jefferson, Oldham and Shelby Counties, KY, and Clark and Floyd Counties, IN; and Lebanon to Marion County, KY, in Sub-No. 10; (j) Fulton to Clinton County, IA, and Whiteside County, IL in Sub-No. 12; and (k) La Crosse to La Crosse County, WI and Houston County, MN, in Sub-No. 18F; and (5) change one-way to radial authority between specified points throughout the U.S. or combinations of specified States.

MC 115311 (Sub-405)X, filed April 27, 1981. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. Applicant seeks to remove restrictions in its Sub-224, 304F, 396F and 397F certificates to (A) broaden the commodity descriptions as follows: in Sub-224 and 304F, from lumber, and particleboard, crossties, composition board, poles, piling, pallets, and timbers, to "lumber and wood products"; in Sub-396F, part (1) from paper and paper products, and plastic and plastic articles, to "pulp, paper and related products and rubber and plastic products"; in Sub-397F, parts (1), (2) and (3), from malt beverages and beverages (except malt beverages), to "food and related products"; (B) broaden the territorial scope by replacing one-way with radial authority in Sub-224 and 304F to serve between named southern states and points in the U.S. in and east of named mid-western states; (C) remove the restrictions: (a) except in bulk, in tank vehicles, in Sub-396F; and (b) except AK and HI in Sub-396F and 397F.

MC 116133 (Sub-20)X, filed April 29, 1981. Applicant: POLLARD DELIVERY SERVICE, INC., Washington National Airport, Washington, D.C. 20001. Representative: Peter A. Greene, 1920 N Street, N.W., Suite 700, Washington, D.C. 20036. Applicant seeks to remove restrictions from its Sub-18 certificate to: (1) eliminate the restriction to traffic moving on bills of lading of freight forwarders; and (2) eliminate the

restriction against the transportation of articles weighing more than 100 pounds and shipments weighing more than 500 pounds from one consignor to one consignee on any one day.

MC 117883 (Sub-277)X, filed March 3, 1981, previously noticed in the Federal Register of March 23, 1981, published as corrected this issue. MC 117883 (Sub-277)X, filed March 3, 1981. Applicant: SUBLER TRANSFER, INC., 1 Vista Drive, P.O. Box 62, Versailles, OH 45380. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 11th Street, N.W., Washington, DC 20001. Applicant seeks to remove restrictions in its Sub-Nos. 93 and 247 certificates to: (1) broaden the commodity descriptions (a) to "food and related products" from groceries in Paragraph 3, and meats in Paragraphs 22 and 24, of Sub-93; (b) "pulp, paper and related products" from paper products in Paragraph 1, paper, paper products, and plupboard, in Paragraph 2, paper and paper products in Paragraph 13, and paper, paper products, pulpboard, and pulpboard products in Paragraphs 15 and 16, of Sub-99; (c) "clay, concrete, glass or stone products" from tile and refractory products in Paragraph 20 and brick, tile, and other refractory products in Paragraph 21 of Sub-93; (d) "metal product" from "steel strapping" in Paragraph 1 of Sub-93; (e) "such commodities as are dealt in by food business houses" from cleaning compounds washing compounds, soap, soap products, concentrated lye, chlorinated lime, shortening oleomargarine, and glycerine, in Paragraph 17 of Sub-93; (f) "metal products, transportation equipment, machinery, clay, concrete, glass or stone products, and pulp, paper and related products, "from wire, iron, brass, and steel products, automobile parts and appliances, electrical automobile equipment, electrical household appliances, refrigerators, cooling machinery supplies, and equipment, pottery insulators, and printing paper, paper products, in Paragraph 6 of Sub-93; and (g) "general commodities (except class A and B explosives)" for general commodities (with certain exceptions) in Sub-247; (2) expand authority to serve specified points or plant sites with authority to serve city or county-wide authority as follows: (a) Champaign, Hamilton, and Montgomery Counties, OH, for Dayton, Lockland, and Urbana, OH, in Paragraph 2 of Sub-93; (b) Hancock, Richland, and Seneca Counties, OH, for Findlay, Fostoria, Mansfield, and Tiffin, OH, in Paragraph 3 of Sub-93; (c) Bulter, Montgomery, Seneca, Warren, and Wayndot

Counties, OH, for Carey, Fostoria, Franklin, Middletown, and Moraine, OH, in Paragraph 6 of Sub-93; (d) Bulter County, OH, for Hamilton, OH, in Paragraph 13 of Sub-93; (e) Clark County, OH, for Springfield, OH, in Paragraph 15 of Sub-93; (f) Champaign County, OH, for Urbana, OH in Paragraph 16 of Sub-93; (g) Carroll County, OH, for Minerva, OH and Perry County, OH for Shawnee, OH, in Paragraph 20 of Sub-93; (h) Beaver County, PA for Beaver Falls, Darlington, West Darlington, and Eastvale, PA, in Paragraph 21 of Sub-93; (i) Nobles County, MN for a facility near Worthington, Minnesota, in Paragraph 22 of Sub-93; (j) Cherokee County, IA for facility at Cherokee, IA in Paragraph 24 of Sub-93; and (k) Louisville, KY for a facility at Louisville, KY, in Sub-247; (3) expand its "from and to" regular route authority to two-way authority and authorize service to all intermediate points between Hamilton, OH and Chicago, IL, in Paragraph 1, Sub-93; (4) in Sub-No.93, broaden its one-way authority to radial authority between Hamilton, Montgomery and Champaign Counties, OH, and, Chicago, IL, in Paragraph 2; between Chicago, IL, and, Hancock, Seneca, and Richland Counties, OH, in Paragraph 3; between Wyandot, Seneca, Warren, Butler, and Montgomery Counties, OH and Toledo, OH, and Chicago, IL, in Paragraph 6; between Butler County, OH, and, St. Louis, MO, and a part of IN (except Hammond, Muncie, and Richmond, IN), part of IL (except Chicago, De Kalb, La Salle, and Peoria, IL, and points within 30 miles of Chicago), in Paragraph 13; between Chicago, IL, and, points in a described portion of OH, in Paragraph 17; between Carroll, Perry, Hocking and Wyandot Counties, OH and that part of Franklin County, OH east of US Hwy 23 (except Columbus, OH), and, point in IL, in Paragraph 20; between Beaver and Lawrence Counties, PA, and points in IL, in Paragraph 21; between Nobles County, MN, and, points in IL, IN, and OH, in Paragraph 22; between Cherokee County, IA, and, points in IN and OH, in Paragraph 24; (5) remove the "originating at or destined to" restriction in Paragraphs 22 and 24, and in Sub-No. 247; (6) remove the tacking restriction in Sub-No. 93, Paragraph 17; and (7) remove the interlining restriction in Paragraph 22. The purpose of this republication is to add parts (6) and (7) in order to indicate the removal of a tacking and interlining restriction in Sub-No. 93.

MC 123797 (Sub-7)X, filed April 16, 1981. Applicant: ATLANTIC INTERSTATE MESSENGERS, INC., 200

Richmond Hill Avenue, Stamford, CT 06904. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Applicant seeks to remove restrictions in its Sub-Nos. 1, 2, and 5 certificates to (A) remove the "size and weight" limitations and all other restrictions in its general commodities authorities "except classes A and B explosives", and (B) remove restrictions prohibiting service at specified airports in Sub-No. 1, and against service at Old Saybrook, CT, in Sub-No. 5.

MC 124652 (Sub-3)X, filed April 28, 1981. Applicant: DUNCAN TRANSPORTATION CO., Box 1, Riverton, VA 22851. Representative: Daniel B. Johnson 4304 East-West Highway, Washington, DC 20014. Applicant seeks to remove restrictions in its Sub-No. 1 permit to (1) broaden the commodity description to "clay, concrete, glass or stone products" from masonry and mortar cement, and materials, equipment and supplies; and (2) expand the territorial description to between points in the U.S., under continuing contract(s) with a named shipper.

MC 125423 (Sub-6)X, filed April 27, 1981. Applicant: J. FRED SMITH, d.b.a. J. FRED SMITH TRUCKING COMPANY, 112 Nichols Street, Danville, KY 40422. Representative: Robert H. Kinker, 314 West Maine Street, P.O. Box 464, Frankfort, KY 40602. Applicant seeks to remove restrictions from its Sub-Nos. 1, 2, and 4 certificates to (1) broaden the commodity descriptions in Sub-Nos. 2 and 4 from general commodities, with exceptions, to "general commodities (except classes A and B explosives)", (2) in Sub-No. 1 substitute Clark County, KY for Winchester, KY; in Sub-No. 2 Boyle County, KY for Danville, KY, Franklin County, KY for Frankfort, KY, Pulaski County, KY for Somerset, KY, Lincoln County, KY for Stanford, KY, and Madison County, KY for Richmond, Ky; and in Sub-No. 4 Boyle County, Ky for Danville, KY, in Sub-No. 1, expand its one-way authority to radial authority between Clark County, KY, and, points in 8 southern States and OH; between London, OH, and, points in 8 southern States and KY (except 8 named counties); and between Columbus, OH, and, points in Clark County, KY; and (4) in Sub-Nos. 2 and 4 remove restrictions which limit service to traffic having a prior or subsequent movement by rail.

MC 129124 (Sub-34)X, filed April 22, 1981. Applicant: SAMUEL J. LANSBERRY, INC., P.O. Box 58, Woodland, PA 16881. Representative: John C. Fudesco, 1333 New Hampshire Avenue, N.W., Suite 960, Washington,

DC 20036. Applicant seeks to remove restrictions in its Sub-Nos. 1, 13, 15, 16F, 22F, 23F, 24, 28F, 29F, 31F, and 32F certificates to (1) broaden the commodity descriptions to (a) "clay, concrete, glass or stone products" from clay, in Sub-No. 1; (b) "clay, concrete, glass or stone products and related equipment materials and supplies" from clay and refractory products materials used in the manufacture of refractory products in Sub-No. 24; (c) "ores and minerals" from gannister rock in Sub-No. 1; from sand in Sub-Nos. 23F and 31F; (d) "commodities in bulk" from coal in Sub-Nos. 1, and 15, coal and fly ash in Sub-No. 28F and culler in Sub-no. 30F; (e) "coal and related products" from coal in Sub-Nos. 13, 22F, and 32F; (f) "chemicals and related products" from salt in Sub-No. 16F, and salt and salt products in Sub-No. 29F; (2) remove "in bulk" or "in bulk, in tank vehicle" or "in dump vehicle" restrictions in Sub-Nos. 1, 16F, 22F, 24, 28F, and 30F; (3) broaden city to county-wide authorization, remove facilities limitations and replace one-way with radial service where applicable; between Clearfield County (Bradford Township) PA and points in MD and DC, between Clearfield County and Trumbull County (Champion Heights Borough) OH, between Geauga County (Thompson) OH and Blair County (Sproul and Claysburg) PA, between Clearfield County, PA and points in DE, MD, NJ (except named points), and NY (except named points), between points in Centre, Clearfield and Clinton Counties, PA and points in CT, ME, MA, NH, NJ (except named counties), RI and VT in Sub-No. 1; between Centre County (facilities) PA and points in NY in Sub-No. 13; between Clearfield and Jefferson Counties, PA and points in VA in Sub-No. 15; between points in NY and points in Kanawah County, WV in Sub-No. 16F; between Elk, Jefferson and McKean Counties, PA and points in NY in Sub-No. 22F; between Huntingdon County, PA and points in NY in Sub-No. 23F; between points in MD and points in Centre, Clearfield and Jefferson Counties, PA in Sub-No. 28f; between Livingston County (facilities near Retsof) NY and points in PA in Sub-No. 29F; between Geauga County, OH and points in NY and PA in Sub-No. 31F; and between Northumberland County, PA and points in NJ in Sub-No. 32F; and (4) remove "originating at" restriction in Sub-No. 13.

MC 134645 (Sub-47)X, filed April 30, 1981. Applicant: LAKE STATE TRANSPORT, INC., P.O. Box 944, St. Cloud, MN 56301. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Applicant seeks to

remove restrictions in its Sub-No. 29F certificate to (1) broaden the commodity description from materials, equipment and supplies used in the manufacture and distribution of refrigerators, freezers, and cooling units (except commodities in bulk), to "electrical machinery or equipment"; and (2) broaden the territorial scope by (a) replacing the facility at St. Cloud, MN with county-wide authority; and (b) replacing one-way with radial authority to serve between points in Stearns County, MN, and, points in the U.S.; and (c) removing the exceptions of AK and HI.

MC 134783 (Sub-73)X, filed March 17, 1981 and noticed in the Federal Register of April 10, 1981, republished as corrected this issue. Applicant: DIRECT SERVICE, INC., P.O. Box 2491, 940 East 66th Street, Lubbock, TX 79408. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Applicant seeks to remove restrictions in its lead and Sub-Nos. 6, 7, 11, 12, 13, 14, 15, 16F, 18, 21, 23, 24, 27, 29, 30, 33, 37, 38, 40, 41, 42F, 46F, 47F, 49F, 51F, 54F, 55F, 59F, 61F, 62F, 63F, 65F, 66F, 68F, and 70 certificates to (1) broaden its commodity descriptions (a) to "food and related products, and materials, equipment and supplies used in the manufacture or distribution thereof," from meat, meat products, and meat by-products, and articles distributed by meat packinghouses, unfrozen bakery products and snack foods, inedible meats and inedible meat products and by-products, canned and preserved apple products and apple by-products, hides, liquid brown sugar, in containers, frozen foods, and citrus concentrates, animal feed and animal feed ingredients, additives, and supplements, foodstuffs, canned goods, in each of the above sub-numbers except Sub-Nos. 15, 27, 29, 33, 40, 41, 42F, 47F, and 70, (b) to "ores and minerals, and material, equipment and supplies used in the manufacture or distribution thereof," from refined copper and commodities of unusual value, in Sub-No. 15, (c) to "chemicals and related products, from toilet preparations, beauty aids, hair grooming, conditioning aids, cosmetics, shaving cream, washing compounds, and drugs (except commodities in bulk), in Sub-No. 27, (d) to "food and related products, and tannery products, and materials, equipment and supplies used in the manufacture or distribution thereof," from hides, chromes, and tannery products, in Sub-Nos. 29 and 40, (e) to "food and related products, and vending machines, and materials, equipment and supplies used in the

manufacture or distribution thereof," in Sub-No. 33, (f) to "metal products, and building materials, and materials, equipment and supplies used in the manufacture or distribution thereof," from baling wire, wire, steel strapping, paper clips, and fencing materials, in Sub-No. 41, (g) to "such commodities as are dealt in by manufacturers and distributors of building and insulation materials," from building, wall and insulating boards, and materials and supplies used in the installation of the foregoing, and insulating materials, in Sub-No. 42F, (h) in Sub-No. 47F, to "chemicals and related products, rubber and plastic products, and food and related products," from drugs, cosmetics, plastic boxes, weed killing compounds, and animal and poultry feed supplements, and (i) to "chemicals and related products, and such commodities as are dealt in by manufacturers and distributors of toilet preparations," from toilet preparations, in Sub-No. 70; (2) replace its cities and facilities with county-wide or commercial zone authority: in the lead certificate, Plainview, TX, with Hale County, TX; in Sub-No. 6, facilities at or near El Paso, TX, with El Paso County, TX; in Sub-No. 7, facilities at or near Burlington, IA, with Des Moines County, IA; in Sub-No. 11, facilities at or near Hereford, Tulsa, Friona, Stratford, Spearman, Muleshoe, and Amarillo, TX, with Deaf Smith, Swisher, Parmer, Sherman, Hansford, Bailey, Potter, and Randall Counties, TX; in Sub-No. 12, facilities at or near Clovis, NM, Plainview, Midland, and Albany, TX, Boise, ID, and Billings and Dillon, MT, with Curry County, NM, Hale, Midland, and Shackelford, Counties, TX, Ada County, ID, and Yellowstone and Beaverhead Counties, MT in Sub-No. 13, Gulfport, MS, with Harrison County, MS; in Sub-No. 14 facilities at or near Lubbock, TX, with Lubbock County, TX; in Sub-Nos. 15, 18, and 23, facilities at or near Amarillo, TX, with Potter and Randall Counties, TX; in Sub-No. 16, Martinsburg, WV, Lincolnton, NC, and Kent City, MI, with Berkeley County, WV, Lincoln County, NC, and Kent County, MI; in Sub-No. 21, facilities at or near Cactus, TX, with Moore County, TX; in Sub-No. 24, (a) Friona, Plainview, Lubbock, Abernathy, Pampa, and Amarillo, TX, with Parmer, Hale, Lubbock, Gray, Potter, and Randall Counties, TX, (b) facilities at or near Friona, TX, with Parmer County, TX, (c) facilities at or near Cactus, TX, with Moore County, TX, (d) facilities at or near Abernathy, TX, with Hale County, TX, (e) Guymon, OK and Clovis, NM, with Texas County, OK, and Curry

County, NM, and (f) Clovis, NM, Houston and Laredo, TX, with Curry County, NM, Houston, TX, and Webb County, TX; in Sub-No. 27, facilities at or near Cockeysville, MD and Holyoke, MA, with Cockeysville, MD, and Hampden and Hampshire Counties, MA; in Sub-No. 30, facilities at or near Friona and Plainview, TX, with Parmer and Hale Counties, TX; in Sub-No. 33, facilities at or near Akron, NY, with Erie County, NY, in Sub-No. 37, Timberville, VA, with Rockingham County, VA; in Sub-No. 38, Plainview, TX with Hale County, TX; in Sub-No. 41, facilities at Uniontown, PA, Lansing, IL, and Pittsburgh, PA, with Fayette County, PA, Cook County, IL, and Pittsburgh, PA; in Sub-No. 42F, facilities at or near Pensacola, FL, and Beaver Falls and Marietta, PA, with Escambia County, FL, and Beaver and Lancaster Counties, PA; in Sub-No. 46F, facilities at Corpus Christi, TX, with Neuces County, TX; in Sub-No. 47F, facilities at or near Clinton, Lafayette, and Indianapolis, IN, with Vermillion, Parke, and Tippecanoe Counties, IN, and Indianapolis, IN; in Sub-No. 49F, facilities at or near Columbus, OH, Mattoon, IL, and Terre Haute, IN, with Columbus, OH, Coles County, IL, and Vigo County, IN; in Sub-No. 51F, facilities at or near Wapakoneta, OH, with Auglaize County, OH; in Sub-No. 54F, facilities at or near Peach Glen, Orrtanna, and Chambersburg, PA, with Adams and Franklin Counties, PA; in Sub-No. 55F, facilities at or near Gonzales, TX, and Athens, AL, with Gonzales County, TX, and Limestone County, AL; in Sub-No. 59F, facilities at or near Montgomery, AL, with Montgomery County, AL; in Sub-No. 61F, facilities at or near Lakeland, FL, with Polk County, FL; in Sub-No. 62F, facilities at or near Shreveport, LA, with Shreveport, LA; in Sub-No. 63F, facilities at or near Plainview and Friona, TX, with Hale and Parmer Counties, TX; in Sub-No. 65F, facilities at or near Lubbock and El Paso, TX, with Lubbock and El Paso Counties, TX; in Sub-No. 66F, facilities at Winchester and Timberville, VA, Martinsburg, WV, Lincolnton, NC, and Delta, CO, with Winchester, VA, Rockingham County, VA, Berkeley County, WV, Lincoln County, NC, and Delta County, CO; in Sub-No. 68F, facilities at or near Holcomb, KS, with Finney County, KS; and in Sub-No. 70, facilities at or near Jacksonville, FL, with Jacksonville, FL; (3) change its one-way authority to radial authority between the above named cities and counties, and several States through the U.S.; (4) eliminate (a) the originating at and destined to restrictions in Sub-Nos.

6, 7, 11, 12, 14, 18, 21, 23, 30, 33, 37, 51F, 59F, 61F, 62F, 65F, and 70, and (b) the AK and HI exceptions in Sub-Nos. 15 and 49F; (5) remove equipment restrictions in Sub-Nos. 27 and 61F and (6) remove the limitation to the transportation of traffic in foreign commerce only in Sub-No. 29. The purpose of republication is to clarify that item 1c involves Sub-No. 27; that Dillon is expanded to Beaverhead County, MT in Sub-No. 12, that Shreveport is in LA in Sub-No. 62F; and to add items 5 and 6.

MC 136509 (Sub-3)X, filed April 14, 1981, previously noticed in the *Federal Register* of April 28, 1981, republished as corrected in this issue. Applicant: JAMES R. COLELLO, INC., 174 Plain St., Millis, MA 02054. Representative: William P. Sullivan, 818 Connecticut Ave. NW., Washington, DC 20006. Applicant 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, and petroleum products and 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.

Note.—This notice, originally published April 28, 1981, is being republished to add petroleum products which was inadvertently omitted.

MC 139649 (Sub-2)X, filed April 24, 1981. Applicant: ARLINGTON SALVAGE AND WRECKER COMPANY, 1203 Bernita Street, Jacksonville, FL 32211. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. Applicant seeks to remove restrictions in its lead certificate to (1) broaden the commodity description from wrecked and disabled vehicles and trailers and replacement vehicles for wrecked and disabled vehicles and trailers (except trailers designed to be drawn by passenger automobiles) to "transportation equipment," and (2) broaden its territorial description from city-wide service to county-wide authority: Duval County, FL, for Jacksonville, FL.

MC 143209 (Sub-14)X, filed April 13, 1981. Applicant: HOUSTON FREIGHTWAYS, INC., 10010 Clinton Drive, Galena Park, TX. Representative:

C. W. Ferebee, 720 N. Post Oak Rd., Suite 230, Houston, TX 77024. Applicant seeks to remove restrictions from portions of its lead certificate, Sub-No. 10F, and from No. MC-63792 Sub-Nos. 13, 14, 15, 20, 25, 26, 30F, and letter notice E-11 Acquired in MC-F-14320F to (1) broaden the commodity descriptions from iron and steel articles, pipe (except oil field and pipeline commodities as defined in Mercer Extension-Oilfield Commodities, 74, M.C.C. 459), iron and steel articles (except oilfield pipe or tubing), steel billets, bars and rods, slab zinc spelter, and iron and steel articles, which because of size and weight require the use of special equipment to "metal products" in all of the above-mentioned authorities; (2) to replace cities and plantsites with county-wide authority, and change one-way service to radial service: lead certificate, between Houston, TX and TX; Sub-No. 10; between Montgomery County, TX (for facilities at Conroe, TX) and the U.S.; Sub-No. 13 between Cook County, TX (for Gainesville, TX) and LA, MO, OK, and TX; Sub-No. 14 between Baytown, TX and AR, KS, LA, MS, NM, and OK; Sub-No. 15, between Fort Bend County, TX (for facilities at Rosenberg, TX) and TX, LA, MS, AR, OK and NM; Sub-No. 20, between Jefferson and Orange Counties, TX and LA; Sub-No. 25, between New Orleans, LA (for facilities at that point) and AR, LA, MS, NM, TX (except described portions), OK (except described portions), and KS (except described portions); Sub-No. 26, between Jefferson County, TX (for facilities at Beaumont, TX) and AL, AR, FL, and TN; Sub-No. 30F, between Washington and Osage Counties (for facilities at Bartlesville, OK) and AL, LA, MS, TX, KY, and TN; E-11, between Jefferson and Orange Counties, TX and AR and MS; and (3) remove restrictions limiting service to traffic originating at named plantsites in Sub-Nos. 13, 15, and 26; and (4) remove the AK and HI exception in Sub-No. 10.

MC 143501 (Sub-10)X, filed April 29, 1981. Applicant: R.G.C. CARGO CARRIERS, INC., 16651 South Vincennes Rd., P.O. Box 523, South Holland, IL 60473. Representative: Gerald K. Gimmel, 4 Professional Dr., Suite 145, Gaithersburg, MD 20760. Applicant seeks to remove restrictions in its lead and Sub-Nos. 1F, 4F, 5F, and 6F permits to (1) broaden the commodity description from (a) in the lead, fire fighting equipment and parts for fire fighting equipment and materials and supplies used in the manufacture, installation and repair of the commodities thereof (except commodities in bulk) to "such

commodities as are dealt in or used by manufacturers, installers or distributors of fire fighting equipment and parts for fire fighting equipment, and materials and supplies used in the manufacture, installation or repair of such fire fighting equipment"; (b) in Sub-Nos. 1F and 4F, foodstuffs to "food and related products"; (c) in Sub-No. 5F, plastic materials and chemicals in containers to "rubber and plastic products and chemicals and related products"; and (d) in Sub-No. 6F, paint, paint products, paint materials, painting supplies, and painting equipment to "textile mill products, lumber and wood products, chemicals and related products, machinery, miscellaneous products of manufacturing, waste or scrap materials not identified by industry producing"; (2) expand the territorial description to between points in the U.S., under continuing contract(s) with named shippers, in the lead, and Sub-No. 1F, 4F and 5F; and (3) eliminate the restriction prohibiting service to AK and HI, in the lead certificate.

MC 145408 (Sub-4)X, filed April 30, 1981. Applicant: WILLIAMS CARTAGE COMPANY, INC., P.O. BOX 897, Hartsville, SC 29550. Representative: Robert L. McGeorge, 1000 Potomac Street, NW., Washington, DC 20007. Applicant seeks to remove restrictions in its MC-144026F permit to (1) broaden the commodity description from prefabricated metal buildings, knocked down, iron and steel articles and prefabricated metal buildings, knocked-down, and parts, and iron and steel articles to "metal products" and (2) broaden the territorial description to between points in the U.S. under continuing contract(s) with a named shipper.

MC 145701 (Sub-18)X, filed April 16, 1981. Applicant: D.C. TRANSPORT, INC., 916 South Riverside Avenue, St. Clair, MI 48079. Representative: James J. Sheehan, (same as applicant). Applicant seeks to remove restrictions in its Sub-No. 14F and 16F certificates to (A) broaden the commodity description in Sub-No. 14 to "metal products, waste or scrap materials not identified by industry producing, machinery, clay, concrete, glass or stone products, rubber and plastic products, chemicals and related products, lumber and wood products, and pulp, paper and related products," from wire and wire products, clay, rubber and plastic articles, chemicals, silicones, spools, electrical assemblies, and materials, equipment and supplies, in its authority between points in the U.S., restricted to traffic originating at or destined to facilities of

a named shipper; and remove all restrictions in the general commodities authority "except classes A and B explosives" in Sub-No. 16; and (B) in Sub-No. 16 remove the restriction limiting service to traffic having a prior or subsequent movement by rail, and replace the named railroad facilities and towns with county-wide authority, between Ferndale, MI (facilities near Ferndale, MI), and Wayne County, MI (facilities near Dearborn, MI), and, points in MI.

MC 145997 (Sub-37)X, filed April 17, 1981. Applicant: JEM EQUIPMENT, INC., P.O. Box 396, Alma, AR 72921. Representative: Gerald K. Gimmel, 4 Professional Dr., Suite 145, Gaithersburg, MD 20760. Applicant seeks to remove restrictions in its MC-148220 Sub-No. 2F permit and MC-145997 Sub-Nos. 2F, 3F, 7F, 10F, 11F, 17F, 18F, 24F, 27F, 28F, 29F, 30F, and 31F, certificates to (1) broaden the commodity description in (a) MC-145997 Sub-No. 2F, from finished lumber, pallets, wooden boxes, and building materials to "Building materials", (b) Sub-No. 3F, from glass and blown glass components and parts for light fixtures, to "clay, concrete glass or stone products," (c) Sub-No. 10F, from fencing, fencing materials, and wire and wire products, and steel wire carriers, to "lumber and wood products and metal products," (d) Sub-No. 28F from new furniture, in cartons, and materials, equipment and supplies used in the manufacture thereof, to "furniture and fixtures and materials, equipment and supplies used in the manufacture thereof," (e) Sub-No. 7F, from heating and air conditioning equipment and parts to "metal products and machinery," (f) Sub-No. 17F, from iron and steel products to "metal products," (g) Sub-Nos. 18F and 24F, from alcoholic liquors and materials and supplies used in the manufacturing of beverage products to "food and related products and materials equipment and supplies used in the manufacture thereof" and Sub-No. 31F, from liquor and malt beverages to "food and related products," and (h) Sub-No. 30F, from household furniture in cartons, to "furniture of fixtures;" (2) remove the restriction limiting service to the transportation of traffic originating at or destined to named points, in MC-145997 Sub-Nos. 2F, 3F, 24F, 29F; (3) remove the restriction prohibiting the transportation of specified commodities in bulk in tank vehicles, in Sub-No. 2F and 24F; (4) replace facilities or city-wide authority with county-wide authority: (a) facilities at Charleston and Ozark, AR to Franklin County, AR and Brownsfield, TX, Mason city, IA, Columbia, MS, Arcadia, LA,

and Athens, AL, to Terry County, TX Cerro Gordo County, IA, Marion County, MS, Bienville County, LA, and Limestone County, AL, in Sub-No. 2F; (b) facilities at Van Buren, AR, Mayfield, KY, and Tyler, TX, to Crawford County, AR, Graves County, KY, and Smith County, TX, in Sub-No. 3F; (c) Milledgeville, GA, to Baldwin County, GA, in Sub-No. 7F; (d) facilities at or near Van Buren, AR, to Crawford County, AR, in Sub-No. 10F; (e) facilities at or near Bentonville and Scarcy, AR, to Benton and White Counties, AR, in Sub-No. 11F; (f) facilities at Reno, NV, in Sub-No. 17F; (7) Bardstown, Clermont, and Cox's Creek, KY, to Nelson and Bullitt Counties, KY, in Sub-No. 18F; (g) facilities at Bardstown, KY, and Plainfield, IL, to Nelson County, KY and Will County, IL, in Sub-No. 24F; (h) facilities at or near Louisville, KY, to Louisville, KY, in Sub-No. 27F; (i) facilities at or near Ft. Smith, AR, to Ft. Smith, AR in Sub-No. 28F; (j) facilities at Van Buren, AR, to Crawford County, AR, in Sub-No. 29F; (k) facilities at or near Waldron, AR, to Scott County, AR, in Sub-No. 30F; and, (l) facilities at or near Perrysburg, OH, to Wood County, OH, and from Dublin, LaGrange, and Rome, GA, and Aiken, SC to Laurens, Troup, and Floyd Counties, GA, and Aiken County, SC, in Sub-No. 31F; (5) eliminate the restriction prohibiting service to (1) AK and HI, in Sub-No. 10F, 17F, 24F, 27F, 28F and 29F, and (2) HI, in Sub-No. 7F; (8) authorize radial authority to replace existing one-way service between points in various combinations of States throughout the U.S., in Sub-Nos. 3F, 11F, 17F and 30F; and (7) broaden the territorial description to between points in the U.S. under continuing contract(s) with a named shipper, in MC-148220 Sub-No. 2F.

MC 146078 (Sub-41)X, filed April 17, 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. Applicant seeks to remove restrictions in its Sub-No. 34F certificate, which authorizes transportation of general commodities (with exceptions), to remove the exception excluding service in AK and HI, and to substitute county-wide authority in place of the named facilities: between Clinton and Scott Counties, IA (facilities at Clinton and Davenport, IA), Washoe County, NV (Sparks, NV), Coconino County, AZ (Flagstaff, AZ), Denver County, CO (Denver, CO), Oklahoma County, OK (Oklahoma City, OK), Hennepin County, MN (Minneapolis, MN), Fairfield and

Hamilton Counties, OH (Lancaster and Sharonville, OH), Fulton County, GA (Union City, GA), Chautauqua County, NY (Dunkirk, NY), Hudson County, NJ (Jersey City NJ), Beaver County, PA (Mechanicsburg, PA), San Diego County, CA (San Diego, CA), Jefferson County, KY (Louisville, KY), and Calhoun County, MI (Battle Creek, MI), and, points in the U.S.

MC 148653F (Sub-3)X, filed April 27, 1981. Applicant: MILTON WOODARD, d.b.a. WOODARD TRUCKING COMPANY, P.O. Box 308, Ripley, TN 38063. Representative: William L. Willis, 708 McClure Building, Frankfort, KY 40601. Applicant seeks to remove restrictions from its lead and Sub-No. 1 certificates: to (1) broaden the commodity descriptions from anhydrous ammonia urea and derivatives of anhydrous ammonia to "chemicals and related products"; (2) broaden the territorial authority in its lead to Beaver and Woodward Counties, OK for Mokane and Woodward, OK; and in its Sub-No. 1, to Mississippi County, AR, Colbert County, AL, and Shelby County, TN, for Amorel, AR, Vertagreen, AL, and Memphis, TN; and (3) expand its one-way authority to radial authority between the counties named in (2) above, and, several states throughout the U.S.

MC 148985 (Sub-3)X, filed April 27, 1981. Applicant: LUNDIN'S DRIVEBACK, LIMITED, R.R. #1, Trenton, Ontario, Canada K8V 5P4. Representative: Alex J. Miller, 555 S. Woodward Ave., Ste. 512, Birmingham, MI 48011. Applicant seeks to remove restrictions in its Sub-No. 2F certificate to (1) substitute all ports of entry of the U.S.-Canada international boundary line in NY, MI, ND, and WA, in lieu of ports of entry in Chamberlain and Thousand Island, NY, Detroit, MI, Pembina, ND, and Blaine, WA; and (2) remove the AK and HI exception.

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BILLING CODE 7035-01-M

#### Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

#### We Find

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a

major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following serve of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

By the Commission, Review Board Number, Members Krock, Taylor, and Williams.

MC-FC-78966. By decision of February 9, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 5 approved the transfer to ELDRED TRUCKING, INC. of Eldred, PA of Certificate No. MC-76416 issued March 5, 1941 to HERMAN SWANSON of Bradford, PA, authorizing the transportation of machinery, materials, supplies, and equipment, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum, over irregular routes, between Bradford, PA; and points and places in Pennsylvania and New York within forty miles of Bradford, PA. TA has not been filed. Transferee presently holds authority as granted in Docket No. MC-12441. Representative: Arthur J. Diskin, 806 Frick Building, Pittsburgh, PA 15219. Agatha L. Mergenovich, Secretary.

[PR Doc. 81-14258 Filed 5-11-81; 8:45 am]

BILLING CODE 7035-01-M

#### Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

#### We find

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

By the Commission, Review Board Number 3, The Motor Carrier Board, Members Krock, Joyce and Dowell.

MC-FC-78911. By Decision of March 24, 1981: issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132 Review Board Number 3 approved the transfer to BROKERS TRANSPORT, INC., of Richmond, CA of Certificate No. MC-146735 (Sub-No. 3)F issued November 4, 1980 to R. J. ANDERSON, INC., of San Francisco, CA, authorizing the transportation of general commodities (with the usual exceptions), between points in San Francisco, Alameda, Santa Clara, Marin, San Mateo, Solano, Sacramento, San

Joaquin, Monterey, Fresno, Sonoma, Contra Costa, and Santa Cruz Counties, CA. Representative is: William D. Taylor, 100 Pine St., Suite 2550, San Francisco, CA 94111. TA lease is not sought. Transferee is not a carrier.

MC-FC-78922. By Decision of March 26, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to ANDINCO TRANSPORTATION, INC., of DUNKIRK, NY of Certificate No. MC-139357 issued October 3, 1975 to A. SAM & SONS PRODUCE CO., INC. authorizing the transportation of commodities as are used by grower of horticultural products and commodities, the transportation of which is exempt under Section 203(b)(6) of the Interstate Commerce Act, when moving on the same vehicle at the Acme with commodities as are used by grower of horticultural products from and/or to points in the United States on and east of U.S. Highway 85. Representative: not shown.

MC-FC-78972. By decision of March 23, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to ARNOLD BERG, JR. d.b.a. BERG GRAIN AND PRODUCE of Moorhead, MN of Permit No. MC-129486 (Subs 2, 7 and 12) issued to PAGE TRUCKING COMPANY, INC. of Hines, MN. Sub. 2 authorizes generally the transportation of such merchandise as is dealt in by retail and wholesale food and grocery business houses (except in bulk, in tank vehicles), from points in the United States (except Alaska and Hawaii), to Thief River Falls, MN, under contract with L. B. Hartz Wholesale, Inc., of Thief River Falls, MN, and uncanned, unfrozen, processed fruits and vegetables, in packages, from Ortonville, MN, to points in the United States (except Alaska and Hawaii), under contract with Continental "NU" Process, Inc., of Crookston, MN. Sub. 7 authorizes the transportation of ground, mixed, and blended spices, from Grand Forks, ND, to points in the United States (except Alaska and Hawaii); and equipment, materials, and supplies used in the production of ground, mixed and blended spices, from points in the United States (except Alaska and Hawaii) to Grand Forks, ND, restricted against the transportation of liquid commodities, in bulk, under contract with Baltimore Spice Company, Grand Forks, ND. Sub. 12F authorizes the transportation of canned and preserved foodstuffs from the facilities of Heinz USA at or near Muscatine and Iowa

City, IA, to points in Minnesota, North Dakota, and South Dakota, under contract with Heinz USA of Pittsburg, PA. Representative: Charles E. Johnson, P.O. Box 2578, Bismarck, ND 58502. TA lease is sought. Transferee is not a carrier.

MC-FC-78992. By decision of February 24, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132 Review Board Number 5 approved the transfer to SOUTHEAST LEASING CORPORATION d.b.a. HALE DISTRIBUTING COMPANY of Certificate No. MC-118127, and sub numbered proceedings thereunder issued to Hale Distributing Company Inc. authorizing the transportation of Irregular routes: Frozen fruits, frozen berries, and frozen vegetables, and when transported in the same vehicle therewith, frozen fish and frozen poultry, from points in CA, to points in TX, with no transportation for compensation on return except as otherwise authorized. Frozen berries, and frozen vegetables, and, when transported in the same vehicle therewith, frozen poultry and frozen fish. From Providence, RI, New York, NY, and those points in MA, east of Worcester County, to Phoenix, AZ, El Paso, TX, Albuquerque, NM, and points in CA, with no transportation for compensation on return except as otherwise authorized. Frozen fruits, and frozen berries, and, when transported in the same vehicle therewith, frozen fish, from Chicago, IL, Green Bay, WI, and points in the lower Peninsula of MI, to points in CA, with no transportation for compensation on return except as otherwise authorized. Frozen fruits and frozen avocado dip, from points in Los Angeles, Riverside, San Diego, and Ventura Counties, CA, to Baltimore, MD, Boston, MA, Hartford, CT, Philadelphia, PA, New York, NY, Providence, RI, and Washington, DC, points in Bergen, Hudson, Essex, Union, Middlesex and Passaic Counties, NJ, and Rockland, Nassau, and Westchester Counties, NY, with no transportation for compensation on return except as otherwise authorized. Restriction: The service authorized herein is restricted to originating at plant sites and warehouses utilized by Calavo Growers of California and destined to the above-named destination points. Frozen foods, from Bridgeport, Monroe, and New Haven, CT, Gloucester, MA, Newark, NJ, and New York, NY, to Phoenix, AZ, Denver, CO, and Las Vegas, and Reno, NV, and points in CA, ID, MT, OR, UT, and WA, with no transportation for compensation on return except as otherwise authorized. Restriction: The

operations authorized herein are restricted to shipments originating at the above-named origins. Frozen poultry products, when moving in the same vehicle and at the same time with commodities, the transportation of which is otherwise exempt from economic regulations under section 203(b)(6) of the Interstate Commerce Act, as amended, and COMMODITIES, the Transportation of which is otherwise exempt from economic regulations under section 203(b)(6) of the act, when moving in the same vehicle and at the same time with the commodities authorized in (1) above, from Moorefield, WV, to points in AZ, CO, ID, MT, NV, NM, OR, UT, WA, and WY. Restriction: The authority granted in (1) above is restricted to the transportation of traffic originating at Moorefield, WV. Frozen poultry products, and commodities, the transportation of which is otherwise exempt from economic regulation under section 203(b)(6) of the Interstate Commerce Act, when moving in the same vehicle and at the same time with frozen poultry products, from Moorefield, WV, to points in OK, and TX. Frozen foods, from Blue Anchor and Garfield, NJ, Boston and Southboro, MA, and Philadelphia, PA, to Los Angeles County, CA. Frozen bakery products, from Hagerstown and Smithsburg, MD, and Ephrata Marysville, PA, to points in AZ, CA, CO, NV, NM, OR, WA, with no transportation for compensation on return except as otherwise authorized. Pretzel ovens, from Smithsburg, MD, and Ephrata, PA, to points in AZ, CA, CO, NV, NM, OR, and WA, with no transportation for compensation on return except as otherwise authorized. Frozen fruits and frozen rhubarb, from points in CA, to points in CT, MA, NJ, and NY. Frozen meat and frozen meat products, from Lawrence, MA, and Manchester, NH, to Alameda CA, Seattle, WA. Frozen seafood and frozen poultry, the transportation of which is otherwise exempt from economic regulation under section 203(b)(6) of the Interstate Commerce Act moving in the same vehicle and at the same time meat and frozen meat products, from Lawrence, MA, and Manchester, NH, to Alameda CA, Seattle, WA. Frozen meats and frozen meat products, and frozen commodities, the transportation of which is otherwise exempt from regulation under section 203(b)(6) of the Interstate Commerce Act, when moving in the same vehicle and at the same time with frozen meat and meat products, from Manchester, NH, to Ft. Carson and Denver, CO, Chicago, IL, Ft. Leonard Wood and Kansas City, MO, Ft. Riley,

KS, El Paso, Ft. Worth and San Antonio, TX, Ft. Campbell, Ft. Knox, KY, and Nashville, TN. From Lawrence, MA, to El Paso, Ft. Worth and San Antonio TX. Frozen bakery products, from points in Los Angeles and Orange Counties, CA, to points in MD, NJ, NY, PA, VA, and the District of Columbia. Frozen foods, from points in Los Angeles and Orange Counties, CA, to points in CT, DE, MD, MA, NJ, NY, PA, RI, VA, and the District of Columbia (except (a) frozen fruit and avocado dip from points in Los Angeles County, CA, to Baltimore, MD, Boston, MA, Hartford, CT, Philadelphia, PA, New York, NY, Providence, RI, and the District of Columbia; (b) frozen fruits and rhubarb from points in Los Angeles and Orange Counties, CA, to points in CT, MA, NY, and (c) frozen bakery products from points in Los Angeles and Orange Counties, CA, to points in MD, NJ, NY, PA, VA, and the District of Columbia), and commodities, the transportation of which is partially exempt pursuant to the provisions of section 203(b)(6) of the Interstate Commerce Act when moving in the same vehicle and at the same time with frozen foods, from points in CA, to points in CT, DE, MD, MA, NJ, NY, PA, RI, VA and the District of Columbia. Frozen foods, from Pomfret Center, Suffield, and South Windsor, CT, Syracuse, Livingston Manor, S. Fallsburg, and Monticello, NY, and points in MA, to points in WA, OR, CA, AZ, NV, UT, CO, restricted to traffic originating at the above-named origins and destined to the above-named destination States. Frozen foods (except in bulk, in tank vehicles), equipped with mechanical refrigeration, from points in VA to points in CA, CO, IL, IN, MO, OH and TX. Representative is: William J. Augello, Esq., Augello, Petold & Hirschmann, 120 Main Street, Huntington, NY 11743. Application has been filed for temporary authority under section 11349.

MC-FC-79014. By decision of March 27, 1981 issued under 49 U.S.C. 10924 and the transfer rules at 49 CFR 1133, Review Board Number 3 approved the transfer to BIG COUNTRY, INC. d.b.a. BIG COUNTRY TRAVEL of Pierre, SD, of License No. MC-130385 issued to BAD RIVER INDUSTRIES INC., d.b.a. BIG COUNTRY TRAVEL, of Pierre, SD, authorizing: Passengers and their baggage, in the same vehicle with passengers, in special and charter operations, beginning and ending at points in North Dakota and South Dakota and extending to points in the United States (including Arkansas; but excluding Hawaii). The above specified operations as a broker are authorized at

Pierre, SD. Review Board 3 also modified the license to include the State of Wyoming in its territorial scope. Representative: Patricia Clarke, P.O. Box 901, Pierre, SD 57501. Transferee is not a carrier.

MC-FC-79029. By decision of March 5, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132 Review Board Number 3 approved the transfer to KLEYSER TRANSPORT LTD. of Certificate No. MC-14093 and subs thereunder issued between August 25, 1977, and November 7, 1980, to CHEYENNE ROAD TRANSPORT LTD. a carrier whose shares are wholly owned by KTS TRANSPORT, LTD. authorizing the transportation generally of *fertilizer, feed, feed ingredients, lumber and lumber mill products, and soy bean meal*, to and from named ports of entry on the international boundary line between the United States and Canada to and from named points in the United States, subject to the following conditions: Representative is: Grant of Merritt, 444 IDS Center, 80 South Eighth Street, Minneapolis, Minnesota 55402.

MC-FC-79086. By decision of April 9, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to TEXAS-VERMONT TRANSPORT, INC. of Permit No. MC-117187 and (Sub-Nos. 2 and 3), issued to TEXAS-VERMONT TRANSPORT, INC. authorizing the transportation of (1) *granite monuments, markers, bases, mausoleums, materials and surface plates*, from Barre, VT, (a) to points in TX, LA, OK, AR, and MS, under continuing contract(s) with Rock of Ages Corporation, (b) to points in TN, AL, and GA, under continuing contract(s) with Rock of Ages Corporation, and (2) *granite and granite products*, from Barre, VT, to points in AL, AR, GA, LA, MS, OK, TN, and TX, under continuing contract(s) with Rock of Ages Corporation and the Barre Granite Association. Representative: William D. Lynch, P.O. Box 912, Austin, TX 78767.

Note.—(1) Transferee is a noncarrier. (2) application for temporary authority has been filed.

MC-FC-79091. By decision of April 9, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to JOHN E. KENNEY and BARBARA KENNEY, of Biddeford, ME, of Certificate No. MC-30469 issued October 27, 1952 to PETER J. FARLEY and JOHN R. FARLEY, a partnership, doing business as P. J. FARLEY EXPRESS, of Biddeford, ME, authorizing the transportation of household goods, as defined by the Commission over

irregular routes, between points in Maine, on the one hand, and, on the other, points in Massachusetts and New Hampshire. Representative is: Ms. Barbara Kenney, 172 Elm Street, Biddeford, ME 04005.

MC-FC-79099. By decision of April 16, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1141, Review Board Number 3 approved the transfer to CONAGRA TRANSPORTATION, INC. of Certificate No. W-1164 (Sub-No. 2) issued October 30, 1969, to A & O BARGE LINE, INC. authorizing the transportation as a common carrier by water, in interstate or foreign commerce, by non-self propelled vessels with the use of separate towing vessels, of *general commodities* (1) between ports and points on the Arkansas River from Dam No. 2 to its confluence with the Mississippi River; (2) between ports and points on the White River from the construction site of the Arkansas Post Canal and of Lock and Dam No. 1, to its confluence with the Mississippi River; (3) between ports and points in (1) and (2) above, on the one hand, and, on the other, ports and points on the Mississippi River from the mouth of the White River to Greenville, MS; (4) between ports and points along the Arkansas-Verdigris Waterway and (5) between ports and points along the Arkansas-Verdigris Waterway, on the one hand, and, on the other, ports and points along the Mississippi River from the mouth of the Arkansas-Verdigris Waterway to Greenville, MS, restricted to the transportation of traffic of which the water carrier portion originates at, or is destined to points on the Arkansas-Verdigris Water. Applicants' representative: Peter A. Greene, 1920 N Street, NW., Washington, D.C. 20036.

Notes.—(1) Transferee holds motor common carrier authority pursuant to docket No. MC-150422. (2) This application was originally docketed No. MC-F-14594.

MC-FC-79105. By decision of April 9, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to HUSKER TRANSPORT, INC. of Omaha, NE, Certificate No. MC-142849 (Sub-No. 2) issued to R.F. DEA TRANSPORT, INC. of Omaha, NE authorizing: the transportation of *meats, meat products, meat by-products, and articles distributed by meat packinghouses* from the facilities of Columbia Goods, Inc. at or near Wallula, WA to points in CT, DE, MD, MA, NJ, NY, OH, PA, RI, VA, WV, and DC. Representative: Scott E. Daniel, 800 Nebraska Savings Bldg., 1623 Farnam,

Omaha, NE 68102. TA lease is not sought. Transferee is not a carrier. Agatha L. Mergenovich, Secretary.

[FR Doc. 81-14259 Filed 5-11-81; 8:45 am]  
BILLING CODE 7035-01-M

#### [Volume No. 12]

#### Petitions, Applications, Alternate Route Deviations, Intrastate Applications, Gateways, and Pack and Crate

#### Republications of Grants of Operating Rights Authority Prior to Certification—Notice

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the Federal Register.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this Federal Register notice. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 112801 (Sub-223F) (republication), filed January 30, 1979, previously noticed in the Federal Register issue of August 28, 1979. Applicant: TRANSPORT SERVICE CO., a corporation, 2 Salt Creek Lane, Hinsdale, IL 60521. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh St. NW, Washington, DC 20001. A Decision by the Commission, Division 1, acting as an Appellate Division, decided February 19, 1981, and served February 26, 1981, finds on reopening and further consideration that applicant is authorized to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting commodities in bulk between points in the United States (except AK and HI). The purpose of this republication is to delete the restriction (in tank vehicles).

MC 127303 (Sub-63) (republication), filed May 25, 1979, published October



23, 1979, in the Federal Register and republished, this issue. Applicant: ZELMER TRUCK LINES, INC., P.O. Box 343, Granville, IL 61326. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th St. NW., Washington, DC 20011. A Decision of the Commission, *Review Board No. 2*, Decided July 23, 1979, and served August 19, 1980, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce, over irregular routes, as a *common carrier*, by motor vehicle, transporting glass containers from Chicago, IL, to points in Iowa, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, Wisconsin and Nevada; that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49 Subtitle IV, U.S. Code, and the Commission's regulations. The purpose of this republication is to broaden the scope of authority.

#### Motor Carrier Alternate Route Deviations—Notice

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Passengers (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this Federal Register notice.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

#### Motor Carriers of Passengers

MC 1515 (Deviation No. 759), GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077, filed March 20, 1981. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From San Antonio, TX, over Interstate Hwy 37 (using portions of US Hwy 281 and TX Hwy 9 where Interstate Hwy 37 is incomplete) to Corpus Christi, TX and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From San Antonio, TX over

US Hwy 181 to Corpus Christi, TX and return over the same route.

MC 2908 (Deviation No. 5), CAPITAL MOTOR LINES, 520 N. Court St., P.O. Box 1427, Montgomery, AL 36102, filed April 8, 1981. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From Alabaster, AL over Interstate Hwy 65 to Birmingham, AL, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Alabaster, AL over US Hwy 31 to Birmingham, AL, and return over the same route.

#### Motor Carrier Intrastate Application(s)—Notice

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

California Docket No. 92831, filed April 16, 1981. Applicant: JOHN O. MILLS, d.b.a. BIG VALLEY EXPRESS, P.O. Box 47, Lookout, CA 96054. Representative: Patricia M. Schweg, 1800 United California Bank Bldg., 707 Wilshire Blvd., Los Angeles, CA 90017. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: \* \* \* General Commodities Between Redding and Alturas, California; from Redding to Alturas over State Highway 299 to Alturas and return over the same route serving all intermediate points and off route points within fifteen (15) statute miles of State Highway 299. Except that pursuant to the authority herein granted, carrier shall not transport any shipments of: (1) Used household goods, personal effects and office, store and institution furniture,

fixtures and equipment not packed in salemen's hand sample cases, suitcases, overnight or boston bags, briefcases, hat boxes, valises, traveling bags, trunks, lift vans, barrels, boxes, cartons, crates, cases, baskets, pails, kits, tubs, drums, bags, (jute, cotton, burlap or gunny) or bundles (completely wrapped in jute, cotton, burlap, gunny, fibreboard, or straw matting). (2) Automobiles, trucks and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis, freight automobiles, automobiles chassis, trucks, trucks chassis, truck trailers, trucks and trailers combined, buses and bus chassis. (3) Livestock, viz.: barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine or wethers. (4) Liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or combination of such highway vehicles. (5) Commodities when transported in bulk in dump-type trucks or trailers or in hopper-type trucks or trailers. (6) Commodities when transported in motor vehicles equipped for mechanical mixing in transit. (7) Portland or similar cements, in bulk or packages, when loaded substantially to capacity of motor vehicle. (8) Logs. (9) Articles of extraordinary value. (10) Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper. (11) Explosives subject to U.S. Department of Transportation Regulations governing the Transportation of Hazardous Materials. In performing the service herein authorized, carrier may make use of any and all streets, roads, highways, and bridges necessary or convenient for the performance of said service. Intrastate, interstate and foreign commerce authority sought. Hearing: date, time and place not yet fixed. Request for procedural information should be addressed to the Public Utilities Commission State of California, 107 South Broadway, Los Angeles, CA 90012, and should be directed to the Interstate Commerce Commission.

Montana Docket No. T-5565, filed March 24, 1981. Applicant: MERGENTHALER TRANSFER & STORAGE CO., 1414 North Montana Ave., Helena, MT 59601. Representative: David L. Jackson, 203 North Ewing, Helena, MT 59601. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: \* \* \* General

Commodities, Class B, between the cities and towns of Helena, Winston, Townsend, Toston and White Sulphur Springs, Montana in interstate, intrastate and foreign commerce. Limitations: Transportation of the following is prohibited: (1) Heavy equipment and oilfield equipment, materials and supplies (Mercer Description Commodities); (2) Class A & B explosives; (3) Items of unusual value; (4) Commodities in bulk, in tank vehicles; (5) Household goods; and (6) Ashes, trash, waste, refuse, rubbish and garbage. Intrastate, interstate and foreign commerce authority sought. Hearing: date, time and place not yet fixed. Request for procedural information should be addressed to the Public Service Commission of The State of Montana, 1227 11th Avenue, Helena, MT 59601, and should not be directed to the Interstate Commerce Commission.

New York Docket No. T-320, filed February 2, 1981. Applicant: WATROUS MOTOR EXPRESS, INC., 300 East Molloy Road, Mattydale, NY 13211. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General Commodities—Between all points in the Counties of Madison, Oneida, Onondaga and Oswego. Intrastate, interstate and foreign commerce authority sought. Hearing: date, time and place not yet fixed. Request for procedural information should be addressed to Department of Transportation, 1220 Washington Avenue, State Campus, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

By the Commission,  
Agatha L. Mergenovich,  
Secretary.

[FR Doc. 81-14197 Filed 5-11-81; 6:45 am]  
BILLING CODE 7035-01-M

#### [Permanent Authority Decisions Volume No. 77]

#### Restriction Removals; Decision-Notice

Decided: May 6, 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 10397 (Sub-6)X, filed April 29, 1981. Applicant: FRED STOCK, INC., P.O. Box 367, Jersey City, NJ 07303. Representative: Robert B. Pepper, 168-Woodbridge Avenue, Highland Park, NJ 08904. Applicant seeks to remove restrictions in its lead permit to (1) broaden the commodity descriptions from (a) meat and packinghouse products, and (b) meat, meat products, meat by products, dairy products, and articles distributed by meat packinghouses as described in Appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, 766 to "food and related products" and (2) broaden the territorial descriptions to between points in the U.S. under continuing contract(s) with named shippers.

MC 47171 (Sub-215)X, filed April 30, 1981. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrew (same address as applicant). Applicant seeks to remove all exceptions in its general commodity authority except classes A and B explosives from its lead and Sub-Nos. 85, 87, 89, 90, 99, 108, 110, 114, 118, 128, 139F, 146F, 149F, 161F, 162F, 163F, 167F, 168F, 169F, 170F, 171F, 172F, 173F, 175F, 178F, 181F, 182F, 183F, 184F, 185F, 186F, 190F, and 192F certificates.

MC 66140 (Sub-8)X, filed April 17, 1981. Applicant: FYOCK MOTOR LINES, INC., 2700 E. Main St., Columbus, OH 43209. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215. Applicant seeks to remove restrictions in its lead and Sub-Nos. 4, 6F, and 7F certificates to (1) broaden the

commodity descriptions as follows: (a) in its lead, from brick and tile to "clay, concrete, glass or stone products", from petroleum and petroleum products to "petroleum, natural gas and their products", from empty containers for petroleum and petroleum products to "containers", from fertilizer to "chemicals and related products", from grain to "farm products", from coal to "coal and coal products", from canned foods, sugar and canned fruits and vegetables to "food and related products", from machinery for canneries to "machinery", from lumber to "lumber and wood products"; (b) in Sub-No. 4, from canned fruit and vegetable juices, except flowing syrup or fruit syrup to "food and related products"; (c) in Sub-No. 6F, from sugar (except liquid sugar) to "food and related products"; and (d) in Sub-No. 7F, from sugar (except in bulk), sugar and sugar products (except in bulk), and individual servings of condiments, dressings, spices, sauces, food flavoring, and individual servings of packaged food items to "food and related products"; (2) remove the container restriction in the lead and except in bulk restrictions in Sub-No. 7F; (3) replace authority to serve named points with country-wide authority as follows: (a) in the lead, Thornton, WV to Taylor County, WV; Mount Savage, MD to Allegany County, MD; Mountain Lake Park, MD, to Garrett County, MD; Friendsville, MD, to Garrett County, MD; Elkins, WV to Randolph County, WV; Frederick, MD to Frederick County, MD; Front Royal, VA, to Warren County, VA; Warrenton, VA, to Fauquier County, VA; Martinsburg, WV, to Berkeley County, WV; Mt. Airy, MD to Carroll County, MD; York, PA, to York County, PA; Reading, PA to Berks County, PA; Clarksburg, WV to Harrison County, WV; Bellaire, OH to Belmont County, OH; Butler, PA, to Butler County, PA; Chambersburg, PA, to Franklin County, PA; Uniontown, PA, to Fayette County, PA; (4) remove the facilities restrictions: at Baltimore, MD in Sub-No. 6F; and at Brooklyn, NY, Philadelphia, PA, and Pitman, NJ, in Sub-No. 7F; (5) remove the originating at and destined to restriction in Sub-No. 7F; and (6) authorize two-way service in place of one-way service in all the above certificates between various combinations of points in MD, WV, PA, OH, VA, MI, IN, IL, KY, NY, NJ, and DC.

MC 71652 (Sub-52)X, filed April 21, 1981. Applicant: BYRNE TRUCKING, INC., 4669 Crater Lake Highway, P.O. Box 280, Medford, OR 97501. Representative: James Hardy (same as applicant). Applicant seeks to remove restrictions from its Sub-Nos. 9, 10, 11,

12, 13, 14, 15, 19F, 20F, 21F, 22F, 25F, 27F, 28F, 29F, 30F, 31F, 32F, 35F, 36F, 37F, 38F, 40F, 43F, 44F, 46F, 48F, 49F, and 50F certificates to (1) broaden the commodity to (a) "clay, concrete, glass or stone products" from gypsum wallboard and materials used in the installation of gypsum wallboard in Sub-No. 9, flat glass in Sub-No. 12, fiberglass materials, fiberglass products, fibrous glass mineral wool products, fibrous glass textile materials, fibrous glass textile products in Sub-No. 21F, and buildings, complete, knocked down, or in sections, building sections and building panels, parts and accessories used in the completion of those commodities in Sub-No. 37F; (b) "metal products" from chain link fencing in Sub-No. 10, steel wire rope in Sub-No. 13, fencing, poultry, netting, wire and wire products in Sub-No. 19, iron and steel articles in Sub-Nos. 25F and 31F, aluminum and aluminum articles in Sub-No. 30F, metal prefabricated structural components in Sub-No. 37F, aluminum and aluminum products in Sub-No. 40F, iron and steel pipe, fence posts, and conduits in Sub-No. 46; and steel articles in Sub-No. 50F; (c) "building materials" from roofing and roofing materials in Sub-Nos. 15, and 22F; roofing materials in Sub-Nos. 21F and 36F, and building board in Sub-Nos. 27F and 43F; (d) "lumber and wood products" from compressed wood fiberboard in Sub-No. 20F, and composition board and wood fibre products in Sub-No. 38F; (e) "pulp, paper and related products" from building, roofing and sheathing paper in Sub-No. 19F; (f) "rubber and plastic products" from plastic pipe in Sub-No. 26F, and plastic sheet in Sub-Nos. 35F and 44F; (g) "construction materials and supplies" from structural building components in Sub-No. 28F; and (h) "lumber and wood products" from building, complete, knocked down, or in section in Sub-No. 37F; (2) replace authority to serve plantsites or cities with county-wide authority as follows: in Sub-No. 9, Contra Costa County, CA for facilities in Antioch, CA, in Sub-No. 10, Los Angeles County, CA for facilities at Whittier, CA; in Sub-No. 12, Fresno County, CA for facilities at Kingsburg, CA; in Sub-No. 14, San Joaquin County, CA for facilities at Stockton, CA; in Sub-No. 15, Contra Costa County, CA for facilities at Richmond, CA; in Sub-No. 19F, Los Angeles County, CA for facilities City of Commerce, CA, and City of Industry, CA, Alameda County, CA for facilities at Hayward, CA, and Riverside County, CA for facilities at Riverside, CA; and King County, WA for facilities at Kent, WA; in Sub-No. 20F, Columbia County, OR for facilities at St.

Helens, OR; in Sub-No. 21F, Santa Clara County, CA for facilities of Santa Clara, CA; in Sub-No. 22F, Contra Costa County, CA for facilities at Pittsburg, CA, and Los Angeles County, CA for facilities at Los Angeles, CA; in Sub-No. 25F, Yamhill County, OR for facilities at McMinnville, OR; in Sub-No. 26F, Umatilla County, OR for McNary, OR; in Sub-No. 27F, Mendocino County, CA for facilities at Ukiah, CA; in Sub-No. 28F, Santa Clara County, CA for facilities at San Jose, CA; in Sub-No. 29F, Kenn County, CA for facilities at Bakersfield, CA; in Sub-No. 30F, Spokane County, WA for facilities at Spokane, WA; in Sub-No. 32F, Yakima County, WA for Yakima, WA; in Sub-No. 35F, San Diego County, CA for facilities at San Diego, CA, and King County, WA for facilities at Seattle, WA; in Sub-No. 36F, Thurston County, WA for facilities at Tumwater, WA; in Sub-No. 37F, Kings County, CA for facilities at Tumwater, WA; in Sub-No. 37F, Kings County, CA for facilities at Hanford, CA; in Sub-No. 38F, Umatilla County, OK for facilities at Pilot Rock, OR; in Sub-No. 40F, Multnomah County, OR for facilities at Troutdale, OR and Cowlitz County, WA for facilities at Longview, WA; in Sub-No. 43F, Mendocino County, CA for facilities at Ukiah, CA; in Sub-No. 44F, San Diego County, CA for facilities at San Diego, CA; in Sub-No. 48F, Fresno County, CA for facilities at Kingsburg, CA; and, in Sub-No. 49F, Ada County, ID for Boise, ID; (3) remove plantsite restrictions in Sub-Nos. 9, 10, 12, 13, 14, 15, 19F, 20F, 21F, 22F, 25F, 26F, 27F, 28F, 29F, 30F, 31F, 32F, 35F, 36F, 37F, 38F, 40F, 43F, 44F and 48F; and (4) authorize radial service in place of existing one-way authority in Sub-Nos. 9, 10, 11, 12, 13, 14, 15, 19F, 20F, 21F, 22F, 25F, 27F, 28F, 29F, 30F, 31F, 32F, 35F, 36F, 37F, 38F, 40F, 43F, 44F, 48F, and 49F, generally between points in (2) above and points in the U.S.

MC 104421 (Sub-36)X, filed April 17, 1981. Applicant: ECONOLINES, INC., P.O. Box 623 DTS, Omaha, NE 68101. Representative: Roger W. Norris (same as applicant). Applicant seeks to remove restrictions in its Sub-Nos. 15, 16, 18M1F, 19, 23, 24F and 25F certificates to (1) broaden the commodity descriptions from (a) general commodities with exceptions, to "general commodities [except classes A and B explosives]" in Sub-Nos. 15 and 25F; (b) livestock, agricultural commodities, machinery, feed, household goods, and immigrant movables to "household goods, immigrant movables, and such commodities as are dealt in or used by manufacturers or distributors of farm products or machinery, and materials,

equipment and supplies used in the manufacture, distribution and sale of those commodities named above" in Sub-No. 16; (c) commodities used in the manufacture, operation, maintenance, and repair of motor vehicles to "such commodities as are used in the manufacture, operation, maintenance, and repair of motor vehicles, materials, equipment and supplies used in the manufacture, distribution and sale of the commodities named above" in Sub-No. 18M1F; (d) such commodities as are dealt in or used by banking and financial institutions, to "such commodities as are dealt in or used by banking and financial institutions, and materials, equipment and supplies used in the manufacture, distribution and sale of the commodities named above" in Sub-No. 19; (e) such commodities as are dealt in and used by manufacturers and distributors of irrigation systems to "such commodities as are dealt in and used by manufacturers and distributors of irrigation systems, and materials, equipment and supplies used in the manufacture, distribution and sale of the commodities named above" in Sub-No. 23; and (f) such commodities as are dealt in and used by manufacturers and distributors of motor vehicle parts, supplies, and accessories, to "such commodities as are dealt in and used by manufacturers and distributors of motor vehicle parts, supplies, and accessories, and, materials, equipment and supplies used in the manufacture, distribution and sale of the commodities named above" in Sub-No. 24F; (2) expand one-way to radial authority between (a) Denver, CO, and points within 25 miles thereof, and, points in Lincoln County, NE, in Sub-No. 16, page 2; and (b) points in OK and TX, and points in Mills, Montgomery, and Pottawattamie Counties, IA, in Sub-No. 19, page 2; (3) remove the restrictions: (a) except lumber and commodities in bulk in Sub-No. 18M1F; (b) except paper, paper products, plastic articles, and commodities in bulk in Sub-No. 19; (c) except commodities in bulk, in tank or hopper vehicles in Sub-No. 23; (d) except chemicals, paper, and commodities in bulk, in Sub-No. 24F; and (e) except AK and HI in Sub-Nos. 19 and 23.

MC 113459 (Sub-145)X, filed April 16, 1981. Applicant: H. J. JEFFRIES TRUCK LINE, INC., P.O. BOX 94850, Oklahoma City, OK 73143. Representative: Thomas L. Cook, 5801 Marvin D. Love Freeway, #301, Dallas, TX 75237. Applicant seeks to remove restrictions in its Sub-Nos. 9, 10, 11, 20, 24, 32, 39, 40, 43, 44, 53, 54, 55, 57, 58, 61, 62, 67, 68, 78, 79, 80, 82, 83, 85G, 86, 88, 89, 91, 92, 93, 94, 95, 96, 97, 98, 102, 107, 109, 110, 111, 113, 118, 120,

121, 122, 123, 124, 125, 126, 128, 129, 130, 133, 134, 135 and E2 letter notice to (1) broaden the commodity description to "metal products" from various commodities such as pipe in Sub-No. 9, iron and steel articles in Sub-Nos. 40, 53, 54, 124, 130, tubing, other than oilfield tubing in Sub-No. 57; metal tubing and pipe in Sub-No. 58; steel tubing, other than oilfield tubing in Sub-No. 61; iron and steel articles (except pipe used in, incidental to, or in connection with, the preservation, etc. of natural gas and petroleum and their products and by-products) in Sub-No. 62; refined copper in Sub-No. 89; rough castings in Sub-No. 92; iron and steel articles, aluminum articles, iron and steel tanks, and aluminum tanks in Sub-No. 97; metal tubing, other than oil field in Sub-No. 98; metal castings and pulleys in Sub-No. 111; iron and steel forgings (except those requiring the use of special equipment) in Sub-No. 129; to "machinery, Mercer commodities, and those commodities which because of their size or weight require special equipment" from machinery, equipment, materials and supplies used in, or in connection with the construction, etc. of natural gas and petroleum and their products and by-products; machinery, equipment, materials and supplies used, or in connection with construction, etc. of pipe lines and such commodities which because of size or weight require special equipment in Sub-No. 10; to "Mercer commodities and commodities which because of size or weight require special equipment" from machinery, equipment, materials and supplies used in, or in connection with the discovery, etc. of natural gas and petroleum and commodities which because of size or weight require special equipment in part 1 of Sub-No. 11; to "Mercer commodities" from machinery, equipment, materials and supplies used in or in connection with the discovery, etc. of natural gas and petroleum in part (2) of Sub-No. 11; to "machinery and metal products" from machinery, equipment, materials and supplies used in or in connection with the construction, etc. of pipe lines in Sub-No. 20; from refined copper and equipment, materials and supplies used in its mining and manufacture in Sub-No. 134; from structural poles and parts, attachments, and accessories and materials, equipment and supplies in Sub-No. 83; to "machinery and transportation equipment" from self-propelled articles, each weighing 15,000 pounds or more, and related machinery, tools and supplies in Sub-No. 24; from tractors (except tractors used in pulling commercial highway trailer), scrapers,

motor graders, wagons, engines (except aircraft and missile engines), generators, engines and generators combined, welders, road rollers, and off-highway trucks and/or lift trucks, excavators, pipelayers and dump trucks designed for off-highway use in Sub-Nos. 39, 126, 107 and 95 from material handling equipment, winches, compaction and roadmaking equipment, rollers, mobile cranes, and highway freight trailers in Sub-Nos. 43, 80 and 128; from lift and hoist trucks and tractors (other than truck tractors) and attachments and accessories in Sub-No. 44; from road construction machinery and equipment and parts, attachments and accessories in Sub-No. 88; to "chemicals and related products" from chemicals in Sub-No. 122; and from chemicals (except in bulk) in Sub-No. 135; to "chemicals and related products and rubber and plastic products" from plastic pipe, plastic tubing, plastic conduit, valves, fittings, compounds, joint sealers, bonding, cement, primer, coating, thinner, and accessories in Sub-No. 32; to "lumber and wood products" from particleboard in Sub-No. 55; from pre-cut, unassembled, log and wood buildings in Sub-No. 102; from prefabricated wood buildings in Sub-No. 120; to "machinery" from agricultural tractors and implements in Sub-No. 67, from agricultural implements, industrial mowers, scrapers, post hole diggers, and rakes in Sub-No. 78; and, from metal working machinery in Sub-No. 123; to "transportation equipment" from trailers and trailer chassis (other than those designed to be drawn by passenger automobiles) in Sub-No. 79; to "machinery and commodities because of size or weight require special equipment" from self-propelled articles, each weighing 15,000 pounds or more, and related machines, tools, parts and supplies when moving in connection therewith the transportation of which because of size or weight require the use of special equipment in Sub-No. 85 G and E letter notice E2; from dust collection systems and parts for dust collecting systems, grain handling equipment, and equipment, materials and supplies in Sub-No. 125; from mining machinery and equipment because of size or weight require special equipment in Sub-No. 91; to "building materials" from building panels in Sub-No. 82; to "metal products and building materials" from buildings, building sections and building panels, and metal prefabricated structural component in Sub-No. 88; to "machinery, metal products, transportation equipment, and commodities which because of size or weight require special equipment" from

contractor's, construction and mining machinery in Sub-No. 93; to "metal products and commodities which because of size or weight require special equipment" from buildings complete, knocked down or in sections, building sections and building panels and metal prefabricated structural components in Sub-No. 94; to "ores and minerals, metal products and waste or scrap materials not identified by industry producing" from aluminum ingots, alloys and slag, and zinc ingots and alloys and nonferrous metal scrap in Sub-No. 96; to "metal products and commodities which because of size or weight require special handling" from prefabricated buildings in Sub-No. 110; to "machinery, metal products and lumber and wood products" from cooling towers and cooling tower parts and accessories in Sub-No. 113; to "rubber and plastic products" from rubber and plastic railroad ties, flooring and decking in Sub-No. 118; and to "machinery, metal products, transportation equipment, and commodities which because of size or weight require special equipment" from metal buildings, complete, knock down or in sections and parts and accessories for metal buildings, off-highway vehicles, and parts and accessories, power plant components and accessories, fabricated steel structures, and materials, equipment and supplies for all the above listed commodities in Sub-No. 133; (2) remove facilities limitations (a) in Sub-No. 43 and replace Danville and Kenawee, IL with Vermilion and Henry Counties, IL, (b) in Sub-No. 44 and replace Mentor, OH with Lake County, OH (c) in Sub-Nos. 54, 79, 80, 82, 88, 94, 107, 109, 113, 120, 133, (d) in Sub-No. 57 and replace Rosenberg, TX with Fort Bend County, TX, (e) in Sub-No. 96 and replace Checotah, OK with McIntosh County, OK (f) in Sub-No. 102 and replace Missoula, MT with Missoula County, MT, (g) in Sub-No. 110 and replace Fort Collins, CO with Larimer County, CO, (h) in Sub-No. 111 and replace Blackwell, OK with Kay County, OK, (i) in Sub-No. 118 and replace Irving, TX with Dallas County, TX, (j) in Sub-No. 128 and replace Danville and Kenawee, IL with Vermilion and Henry Counties, IL, (3) change city to county-wide authority (a) from Corpus Christi and Galveston, TX to Nueces and Galveston Counties, TX in Sub-No. 40 (b) Mannford, and Sand Springs, OK to Creek and Tulsa Counties, OK in Sub-No. 98, (c) Columbia Falls, MT to Flathead County, MT in Sub-No. 121, (d) Moundridge, KS to McPherson County, KS in Sub-No. 123, (e) Hutchinson, KS to Reno County, KS in Sub-Nos. 124 and 125, (f) Claremore, OK to Rogers County,

OK in Sub-No. 129, (g) Springfield, MO to Greene County, MO in Sub-No. 130, (h) Garfield, UT and Hurley, NM to Salt Lake County, UT and Grant County, NM in Sub-No. 134, (4) remove the "originating at and/or destined to" restriction in Sub-Nos. 39, 43, 44, 61, 62, 68, 80, 83, 89, 93, 94, 95, 97, 98, 120, and 133, (5) remove the "in bulk" restriction in Sub-Nos. 83, 89, 93, 96, 98, 102, 122, 133, 134 and 135, (6) remove the restriction against interchange at named points in Sub-No. 9, (7) remove the restriction against service to the stringing and picking up of pipe in connection with main or trunk pipelines or commodities moving to main or trunk pipelines in Sub-Nos. 10, 11, 20, and 62, (8) remove restriction against transportation to AK in Sub-Nos. 57, 61, 62, 82, 88, 89, 92, 113, 118, 124, 126, 129, and 130, (9) remove restriction to traffic moving in interstate commerce or having a prior movement by water in Sub-No. 95 (10) remove the restrictions to transportation of traffic transported on trailers in Sub-Nos. 24 and 85G, and (11) change one-way to radial authority between various combinations of points throughout the U.S. in Sub-Nos. 9, 10, 11, 20, 24, 32, 39, 40, 44, 53, 54, 55, 57, 58, 61, 62, 67, 78, 79, 82, 86, 88, 89, 92, 93, 94, 95, 96, 97, 98, 102, 107, 109, 110, 111, 113, 118, 120, 121, 123, 124, 129, 130, and 135.

MC 114019 (Sub-266)X, filed April 13, 1981. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 5501 West 79th Street, Burbank, IL 60459. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. Applicant seeks to remove restrictions from its Sub-Nos. 62, 80, 97, 117, 170, 190, and 200 certificates, and letter-notices E64, E82, E178, E258, E385, and E429 to (1) broaden commodity descriptions (a) from frozen foods, chewing gum, food products, foodstuffs, edible oils, and animal fats, etc., to "such commodities as are dealt in by food business houses" in Sub-Nos. 62, 80, 117, 170, 190, 200, E64, E82, E178, E258, E385, and E429; (b) from petroleum products to "petroleum or coal products" in Sub-No. 97; (c) by removing all exceptions other than classes A and B explosives from general commodity authority in Sub-Nos. 173, and 200; (d) from liquid hog mucus to "commodities in bulk" in Sub-No. 190; and (e) in Sub-No. 200 as follows: from specific items such as drugs, toilet articles, and preparations, to "chemicals and related products and instruments, photographic goods, optical goods, watches or clocks", from printing paper, wallpaper, etc to "pulp, paper and related products," from iron and steel articles, wire, etc to "metal products," from rolling mill machinery, rigid

conduit, electric cable, armored cable, lanterns, lamp burners, and boat davits to "machinery," from rubber sheeting and equipment, materials, supplies, and advertising matter used or useful in the manufacture, processing or sale of rubber products; and scrap rubber to "rubber and plastic products" from office supplies, ink, typewriter ribbons, carbon paper, stamp pads, mucilage, adhesive paste, glue, paste, liquid cement, and metal polish destringer, to "office supplies and chemicals and related products," and "miscellaneous products of manufacturing" from petroleum products to "petroleum or coal products" (2) delete equipment restrictions such as "in mechanically refrigerated vehicles", and "in containers", etc., in Sub-Nos. 62, 97, 117, 170, 190, and E178; (3) remove restrictions against the transportation of bulk commodities and in tank vehicles, in Sub-Nos. 117, E64, and E82; (4) eliminate facilities limitations in Sub-No. 173; (5) replace one-way authority with two-way authority between points located throughout the United States; (6) allow service at all intermediate points in connection with the regular-route portions of the certificate in Sub-No. 200 between specified points located mainly in the eastern portion of the U.S.; (7) delete restrictions which prohibit (a) transportation of specified commodities between specified points or; (b) less than county-wide service; (8) eliminate the "originating at or destined to" restrictions in each certificate and (9) replace city-wide authority with county-wide authority wherever the following appear in each certificate: Rouseville, Oil City, Reno, Emlenton, Franklin, and Farmers Valley to Venago, County, PA; Bradford with McKean County, PA; St. Marys with Pleasants County, WV; Rochester with Monroe County, NY; Milan with Rock Island County, IL; Champaign with Champaign County, IL; Burns Harbor with Porter County, IN; Brocton, Westfield and Silver Creek with Chautauqua County, NY; Lawton and Mattawan with Van Buren County, MI; North East and Buffalo with Erie County, PA; Bay City with Bay County, MI; Syracuse with Onondago County, NY; Rochester and Fairport with Monroe County, NY; Utica with Oneida County, NY; Amsterdam with Montgomery County, NY; Schenectady with Schenectady County, NY; Albany with Albany County, NY; Troy with Rensselaer County, NY; Binghamton with Broome County, NY; Fulton and Oswego with Oswego County, NY; Blue Island with Cook County, IL; Effingham with Effingham County, IL; Eureka with Woodford County, IL; Morrisison with

Whiteside County, IL; Morton and Washington with Tazewell County, IL; Nappanee with Elkhart County, IN; Mishawaka with St. Joseph County, IN; Wilmington with New Castle County, DE; Boothbay Harbor with Lincoln County, ME; Portland with Cumberland County, ME; Rockland with Knox County, ME; Springdale with Washington County, AR; Coffeyville with Montgomery County, KS; Fort Dodge with Webster County, IA; Estherville with Emmet County, IA; Prairie du Chien with Crawford County, WI; Madison with Dane County, WI; Austin with Mower County, MN; Albert Lea with Freeborn County, MN; Owatonna with Steele County, MN; Faribault with Rice County, MN; Newport with Washington County, MN; South St. Paul with Dakota County, MN; Brockport and Webster with Monroe County, NY; Geneva with Ontario County, NY; Le Roy with Genesee County, NY; Medina and Morton with Orleans County, NY; Ontario, Ontario Center, and Sodus with Wayne County, NY; Ottumwa with Wapello County, IA; Lincoln with Lancaster County, NE; Marshall with Saline County, MO; Macon and Decatur with Macon County, MO; Milan with Sullivan County, MO; Carrollton with Carroll County, MO; Moberly with Randolph County, MO; Sharon and Farrell with Mercer County, PA; Pittsfield with Berkshire County, MA; Kankakee, Bradley, and Momena with Kankakee County, IL; Storm Lake with Buena Vista County, IA; Rochelle with Ogle County, IL; West Point with Cuming County, NE; Worthington with Nobles County, MN; Mansfield with Bristol County, MA; Darien with Walworth County, WI; Eagle Grove with Wright County, IA; Cedar Rapids with Linn County, IA; Monmouth with Warren County, IL; Spencer with Clay County, IA; Phelps City with Atchison County, MO; Cherokee with Cherokee County, IA; Grand Island with Hall County, NE; Fort Atkinson with Jefferson County, WI; Denison with Crawford County, IA; Fort Dodge with Webster County, IA; South Bend and Mishawaka with St. Joseph County, IN; Elkhart and Goshen with Elkhart County, IN; Holland with Dubois County, IN; Peru with Miami County, IN; Richmond with Wayne County, IN; Fort Wayne with Allen County, IN; Logansport with Cass County, IN; Indianapolis with Marion County, IN; La Porte with La Porte County, IN; Lafayette with Tippecanoe County, IN; Berne with Adams County, IN; Evansville with Vanderburgh County, IN; Carbondale with Jackson County, IL; Champaign with Champaign County, IL;

Danville with Vermillion County, IL; Joliet with Will County, IL; Streator with La Salle County, IL; Rockford with Winnebago County, IL; Peoria with Peoria County, IL; Springfield with Sangamon County, IL; Rock Island, Milan and Moline with Rock Island County, IL; Salem with Columbiana County, OH; Youngstown with Mahoning County, OH; Warren with Trumbull County, OH; West Richfield with Summit County, OH; Kimberton with Chester County, PA; Scranton with Lackawanna County, PA; Pittston with Luzerne County, PA; Schuylers with Colfax County, NE; Garden City with Finney County, KS; Sterling with Whiteside County, IL; Lafayette with Tippecanoe County, IN; Duryea with Luzerne County, PA; Mason City with Cerrito Gordo County, IA; Green Bay with Brown County, WI; Perry with Dallas County, IA; Worthington with Nobles County, MN; Mankato with Blue Earth County, MN; Albert Lea with Freeborn County, MN; Fairmont with Martin County, MN; Winnebago with Fairbault County, MN; Brockton with Plymouth County, MA; Beardstown with Cass County, IL; Bureau with Bureau County, IL; Sterling with Logan County, CO; Fort Morgan with Morgan County, CO; Fulton and Oswego with Oswego County, NY; Burlington with Racine County, WI; Springfield with Hampden County, MA; Logansport with Cass County, IN; Green Bay with Brown County, WI; Parkersburg with Wood County, WV; Orma with Calhoun County, WV; Barnsville with Belmont County, OH; Altoona with Blair County, PA; Harrisburg with Dauphin County, PA; Easton with Northampton County, PA; Barnesboro with Cambria County, PA; Waterford with Washington County, OH; Stamford with Fairfield County, CT; Clinton with Middlesex County, CT; Monticello with White County, IN; Ambler with Montgomery County, PA; Fieldsboro with Burlington County, NJ; Perth Amboy and New Brunswick with Middlesex County, NJ; Bloomington with Hennepin County, MN; Delaware City with New Castle County, DE; Port Newark with Essex County, NJ; Oakville with Litchfield County, CT; Waterloo with De Kalb County, IN; Northfield with Rice County, MN; South Bound Brook and Raritan with Somerset County, NJ; Bonner Springs and Loring with Wyandotte County, KS; Marcus Hook with Delaware County, PA; Glens Falls with Warren County, NY; Angola with Steuben County, IN; Sycamore with De Kalb County, IL; Sturgis with St. Joseph County, MI; Kalamazoo with Kalamazoo County, MI; Spring Grove with York County, PA; Troy with Miami

County, OH; Passaic with Passaic County, NJ; Neenah with Winnebago County, WI; Cambridge with Middlesex County, MA.

Note.—Carrier's authority to tack will be governed by 49 CFR 1042.10(b).

MC 123061 (Sub-140)X, filed April 20, 1981. Applicant: LEATHAM BROTHERS, INC., 46 Orange Street, P.O. Box 18026, Salt Lake City, UT 84116. Representative: Harry D. Pugsley, 940 Donner Way No. 370, Salt Lake City, UT 84108. Applicant seeks to remove restrictions in its Sub-Nos. 17 (part), 25, 34, 36, 37, 49, 52, 61, 69, 92, 94, 105F, 119F, and 135F certificates and E-1 letter notice, to (A) broaden the commodity description in each to "building materials and supplies" from lumber, lumber and mill products (except shingles and shakes), shingles, lime and lime products (in bulk or in bags), aggregate, brick and clay tile, and masonry products; (B) remove restrictions against the transportation of shipments originating at the names origins and destined to the named destinations in Sub-Nos. 36, 49, and 61; and (C) broaden the territorial descriptions from one-way service to radial service in all certificates.

MC 125687 (Sub-25)X, filed April 24, 1981. Applicant: EASTERN STATES TRANSPORTATION PA., INC., 1060 Lafayette Street, York, PA 17405. Representative: Jeremy Kahn, Suite 733 Investment Building, 1511 K Street, NW., Washington, DC 20005. Applicant seeks to remove restrictions in its lead and Sub-Nos. 2, 9, 10, 14, 19F, 20F and 21F certificates to (1) broaden the commodity descriptions as follows: in the lead and Sub-Nos. 2, 10, 14, and 19F, from malt beverages (some in containers), to "food and related products"; in the lead and Sub-Nos. 9, 20F and 21F, from paper and paper products, paperboard, printed or otherwise, and materials, equipment and supplies used in the manufacture and distribution of paper and paper products (except in bulk, in tank vehicles), to "pulp, paper and related products"; (2) broaden the territorial scope by replacing one-way radial authority in the lead and Sub-Nos. 2, 10, 14, 19F, 20F and 21F, and replacing named plantsite or city-wide authority with county-wide authority as follows: in the lead, Newark and points within 30 miles thereof with Essex, Hudson, Bergen, Union, Monmouth, Middlesex, Somerset, Morris, Sussex and Passaic Counties, NJ, New York, NY, and Nassau, Westchester, and Rockland Counties, NY, and Bordentown with Burlington County, NJ; in Sub-No. 2, Natick with Middlesex County, MA; in Sub-No. 9,

Lock Haven with Clinton County, PA; in Sub-No. 10, Williamsburg with James City County, VA, and Easton, Elkton, Frostburg and Berlin with, respectively, Talbot, Cecil, Allegany and Worcester Counties, MD; in Sub-No. 14, Lysander with Onondaga County, NY; in Sub-No. 19F, Rochester with Monroe County, NY; in Sub-No. 20F, Riegelsville with Bucks County, PA; and in Sub-No. 21F, Erie and Lock Haven with Erie and Clinton Counties, PA, and Oswego with Oswego County, NY.

MC 129526 (Sub-18)X, filed April 30, 1981. Applicant: FACTOR TRUCK SERVICE, INC., 2607 Old Rodgers Road, Bristol, PA 19007. Representative: Francis W. Doyle, 323 Maple Ave., Southampton, PA 18966. Applicant seeks to remove restrictions in its lead and Sub-Nos. 2, 3, 7, 10, 11, 12, 13, 14, 15, and 16 permits to (1) broaden the commodity descriptions from (a) in its lead and Sub-Nos. 2 and 3 from fluorescent lighting fixtures, electric transformers, plastic sheets and extrusions, and parts and accessories for fluorescent lighting fixtures to "machinery and rubber and plastic products"; (b) in Sub-No. 7, (1) from toys, bicycles, sporting goods and infant furniture to "furniture and fixtures, transportation equipment and miscellaneous products of manufacturing" and (2) from corrugated containers and materials used in the construction of corrugated containers to "pulp, paper and related products" and (3) from fluorescent lighting fixtures and parts and accessories thereof, plastic sheets and extrusions, fluorescent lamps, glass and electrical transformers to "machinery, rubber and plastic products and clay, concrete, glass or stone products"; (c) in Sub-Nos. 11 and 12, from electric lighting fixtures and parts for electric lighting fixtures and glass used in the manufacture of lighting fixtures to "machinery and clay, concrete, glass or stone products"; (d) in Sub-No. 13, from grinding wheels and materials used in the manufacture of grinding wheels to "machinery"; (e) in Sub-No. 14, from printed matter and catalogs to "printed matter"; (f) in Sub-No. 15, from bakery products (except commodities in bulk), seasoning powders and corn meal, in bags, to "food and related products"; (g) in Sub-No. 16, from footwear to "rubber and plastic products and leather and leather products"; and, (2) to broaden its territorial descriptions to between points in the U.S. under continuing contract(s) with named shippers.

MC 133666 (Sub-32)X, filed April 28, 1981. Applicant: JACOBSON TRANSPORT, INC., 1112 Second Ave.

So., Wheaton, MN 56296.

Representative: Thomas J. Burke, Jr., 1600 Lincoln Center, 1660 Lincoln Street, Denver, CO 80264. Applicant seeks to remove restrictions in its lead and Sub-Nos. 1, 2, 4, 13, 15, 20, 23F, 26F, 27, and 29F certificates to (1) broaden the commodities descriptions to "commodities in bulk" from: anhydrous ammonia, in bulk in the lead and Sub-Nos. 1, 13, and 15; liquefied petroleum gas, in bulk in Sub-No. 2; asphalt and road oils, in bulk in Sub-No. 4; liquid fertilizer, in bulk in Sub-No. 20; road asphalt and fuel oils in Sub-No. 23F; road asphalt, road oil, and fuel oils, in bulk in Sub-Nos. 26F and 27; and petroleum products, in bulk in Sub-No. 29F; (2) eliminate the in tank vehicle restriction wherever it appears in the above named certificates; (3) change its one-way authorities to radial authorities between points in central U.S.; (4) remove named-point authority and replace with county wide authority as follows: Whiting, Early and Garner with Monona, Sac and Hancock Counties, IA, and, Borger, with Hutchinson County, TX, in the lead; Spencer with Clay County, IA, in Sub-No. 1; Glenwood with Pope County, MN, in Sub-Nos. 2 and 13; Barnesville and Benson with Clay and Swift Counties, MN, in Sub-No. 15; Alexandria with Douglas County, MN, in Sub-No. 20; Casper and Cody with Natrona and Park Counties, WY; and Billings and Laurel with Yellowstone County, MT, in Sub-No. 27; and (5) remove the facilities limitations in the lead and Sub-Nos. 1, 13, and 15.

MC 136051 (Sub-5)X, filed April 29, 1981. Applicant: RPD, INC., 3600 N.W. 82nd Ave., Miami, FL 33166. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. Applicant seeks to remove restrictions from its Sub-No. 1 permit to: (1) broaden the commodity description from motor vehicle parts, materials and supplies, and equipment, materials, and supplies utilized in the manufacture thereof (except commodities in bulk) to "transportation equipment and equipment materials, and supplies used in the manufacture thereof; and (2) expand its territorial description to "between points in the U.S. under continuing contract(s) with a named shipper.

MC 143209 (Sub-11)X, filed March 9, 1981, previously noticed in the Federal Register of March 23, 1981, republished as corrected this issue. Applicant: HOUSTON FREIGHTWAYS, INC., 10010 Clinton Drive, Galena Park, TX. Representative: C. W. Ferebee, 720 N. Post Oak, Suite 230, Houston, TX 77024. Applicant seeks to remove restrictions

in its Sub-Nos. 3, 7F and 9F certificates to (1) broaden the commodity descriptions to "petroleum or coal products", from coal tar and coal tar products, rust preventive pipeline coating and petroleum pitch in Sub-Nos. 3, 7, and 9F; (2) remove the commodity restrictions in Sub-Nos. 3, 7, 9; (3) authorize county-wide service for city-wide authority; Morris County for Lone Star, TX; Larimer County for Fort Collins, CO; and Jefferson County for Birmingham, AL, in Sub-No. 7; Larimer County for Fort Collins, CO, and Canadian County for El Reno, OK, in Sub-No. 9; (4) authorize radial service in lieu of existing one-way authority between the above counties and points in CO, AL, OK, LA, AR, in all three Sub-Nos. The purpose of this republication is correct the commodity description to read to "petroleum or coal products" in all Sub-Nos.

MC 147647 (Sub-4)X, filed April 22, 1981. Applicant: LOUIE R. PARRISH, AND ALICE R. PARRISH, d.b.a. PARRISH TRUCK LINE, P.O. Box 762, Monticello, AR 71655. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. Applicant seeks to remove restrictions in its Sub-No. 3F certificate to (1) broaden the commodity description from general commodities (with exceptions) to "general commodities (except classes A and B explosives)." (2) authorize service at all intermediate points in its regular route authority on its regular routes in TN and AR and (3) to replace authority to serve a named facility as are off-route point with county-wide authority: facilities at or near Rohwer, AR and Hermitage, AR with off-route points in Desha County, AR and Bradley County, AR, respectively.

MC 148655 (Sub-14)X, filed April 22, 1981. Applicant: ERIEVIEW CARTAGE, INC., 100 Erieview Plaza, Cleveland, OH 44101. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. Applicant seeks to remove restrictions in its Sub-Nos. 5, 6, and 7 certificates to (1) broaden the commodity descriptions (a) from animal food, animal food ingredients, animal food supplements and additives and materials, and supplies used in their manufacture and distribution to "food and related products" in Sub-No. 5; (b) from carpet strip and carpet adhesives to "metal products, and chemicals and related products" in paragraph (1) of Sub-No. 6, and from nails to "metal products" in paragraph (2) of Sub-No. 6; (c) from adhesives, cleaning, preserving and sealing products, solvents, stains, plastic carpet, carpet strips and

mouldings and equipment and supplies used in their manufacture to "chemicals and related products, rubber and plastic products, metal products, and lumber and wood products", in Sub-No. 7; (2) replace authority to serve cities or shippers facilities at named points with county designations (a) Coles County, IL (Mattoon), in Sub-No. 5; (b) Buncombe County, NC (Asheville), Chatham and Bryan Counties, GA (Savannah) in Sub-No. 6; (c) Kalamazoo County, MI (Kalamazoo) and Montgomery and Greene Counties, OH (Dayton), in Sub-No. 7; (3) change its one-way authority to radial authority between points in the U.S. in and East of MT, WY, CO, and NM in Sub-Nos. 6 and 7; (4) eliminate except commodities in bulk restrictions in Sub-Nos. 5 and 7; (5) eliminate the except AK and HI restrictions in Sub-No. 5; and (6) eliminate the originating at or destined to restriction in Sub-No. 5.

MC 149308 (Sub-14)X, filed April 15, 1981. Applicant: VICTORY FREIGHTWAY SYSTEM, INC., P.O. Box "P", Sellersburg, IN 47172. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. Applicant seeks to remove restrictions in the lead, and Sub-Nos. 2F, 6F, and 7F certificates, and No. MC-142062 Sub-Nos. 1, 3, 4, 8, 14F, 21F, 23F, 29F, 35F, and 38F permits to (A) broaden the commodity descriptions to "food and related products" from bananas and sugar in Sub-Nos. 6 and 7 certificates; to "building and construction materials" from interior ceiling systems, and parts and accessories in Sub-No. 1 permit, to "clay, concrete, glass and stone products" from mineral wool and mineral wool products in Sub-No. 4 permit; to "metal products" from aluminum and aluminum products, and custom wheels and parts, in Sub-Nos. 8 and 23 permits; and to "Chemicals and related products" from cleaning and buffing compounds in Sub-No. 14 permit; and remove exceptions of "commodities in bulk" in Sub-Nos. 1, 3, 4, 14, 21, 29, 35, and 38 permits, and also frozen commodities and fresh meats in Sub-No. 3 permit; (B) broaden the territorial description in all permits to authorize service between points in the U.S., under continuing contract(s) with named shippers; and (C) remove the exception excluding service in AK and HI in the lead certificate, change one-way operations to radial service in all certificates, and substitute county-wide authority in place of the named facilities and cities, as follows: lead certificate, between Pima County, AZ (facilities near Tucson, AZ), and, points in the U.S.; and Sub-No. 6, between Charleston, SC, Mobile County, AL

(Mobile, AL), Tampa, FL, Harrison County, MS (Gulfport, MS), New Orleans, LA, Houston, TX, Galveston County, TX (Galveston, TX), and, Cincinnati, OH, and Louisville, KY.

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## INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

### Agency for International Development

#### Board for International Food and Agricultural Development; Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a),(2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the Forty-Third meeting of the Board for International Food and Agricultural Development (BIFAD) on May 28, 1981.

The purpose of the meeting is to receive and discuss reports on: Title XII in the 1980's; Public Education Efforts in A.I.D.; and activities of the Internal Work Group on University Relations and subsequent A.I.D. follow-up. A presentation also will be given on A.I.D. and the Challenge of World Hunger; and the BIFAD will meet with its support staff to discuss staff actions and operational procedures.

The meeting will begin at 9:00 a.m. and adjourn at 12:30 p.m., and will be held in Room 1105, New State Department Building, 22nd and C Street, N.W., Washington, D.C. The meeting with the BIFAD Support Staff will begin at 1:30 p.m. and adjourn at 3:00 p.m. This meeting will be held in Room 5941, New State Department Building, 22nd and C Street, N.W., Washington, D.C. The meetings are open to the public. Any interested person may attend, may file written statements with the Board before or after the meeting, or may present oral statements in accordance with the procedures established by the Board, and to the extent the time available for the meetings permit. An escort from the "C" Street Information Desk (Diplomatic Entrance) will conduct you to the meeting room.

Dr. Erven J. Long, Coordinator Title XII Strengthening Grants and University Relations, Development Support, Agency for International Development (A.I.D.), is designated as A.I.D. Advisory Committee Representative at this meeting. It is suggested that those desiring further information write to him in care of the Agency of International Development, State Department, International Development Cooperation Agency, Washington, D.C. 20523, or telephone him at (703) 235-8929.

Dated: May 7, 1981.

Curtis H. Barker,

Deputy Coordinator for Title XII Strengthening Grants and University Relations, Bureau for Development Support.

[FR Doc. 81-14262 Filed 5-11-81; 8:45 am]

BILLING CODE 4710-02-M

## DEPARTMENT OF JUSTICE

### Proposed Consent Decree in Action To Enjoin Emission of Air Pollutants

In accordance with Departmental Policy, 28 CFR § 50.7, 38 FR 19029, notice is hereby given that a proposed consent decree in *United States v. Watervliet Paper Company*, Civil Action No. K81-102 CA8, has been lodged with the United States District Court for the Western District of Michigan. The proposed consent decree would establish a compliance program for Watervliet Paper Company's pulp and paper plant at Watervliet, Michigan, to bring that facility into compliance with the Clean Air Act, 42 U.S.C. 7401 *et seq.*

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *United States v. Watervliet Paper Company*, D.J. Ref. No. 90-5-2-1-375.

The proposed consent decree may be examined at the office of the United States Attorney, Western District of Michigan, 544 Federal Building and U.S. Courthouse, 110 Michigan Street N.W., Grand Rapids, Michigan 49503; at the Region V office of the Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604; and the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 2644, Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 81-14204 Filed 5-11-81; 8:45 am]

BILLING CODE 4410-01-M

### Proposed Consent Judgments in an Action To Require Control of Air Pollutants at ASARCO Copper Smelter in Arizona

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed consent decree in *United States v. ASARCO Incorporated*, Civil Action No. CIV-81-110-TUC-ACM has been lodged with the District Court of Arizona. The proposed decree requires the defendant to comply with the Clean Air Act at its smelter in Hayden, Arizona. In particular the decree requires ASARCO to install innovative technology to modify existing process equipment in order to comply with sulfur dioxide and particulate regulations applicable to the smelter.

The Department of Justice will receive written comments relating to the proposed judgment until June 11, 1981. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C., 20530, and refer to *United States v. ASARCO Incorporated* (D.J. Ref. No. 90-5-2-1-469.)

The proposed decree may be examined at the Office of the United States Attorney, 3rd Floor, Acapulco Building, La Placida Village, 120 West Broadway, Tucson, Arizona, at the Region IX Office of the Environmental Protection Agency, Enforcement Division, 215 Fremont Street, San Francisco, California 94105, and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1254, Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In order to cover the reproduction costs, all requests for copies must be accompanied by a check or a money order made out for \$12.00 to the Treasurer of the United States.

The Department of Justice will receive written comments on the proposed settlements for thirty days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General for the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530.

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 81-14205 Filed 5-11-81; 8:45 am]

BILLING CODE 4110-01-M



## Office of Juvenile Justice and Delinquency Prevention

### Publication of Proposed Office of Juvenile Justice and Delinquency Prevention Funding Policy for the Balance of Fiscal Year 1981

**AGENCY:** Office of Juvenile and Delinquency Prevention, Justice.

**ACTION:** Publication of Proposed Office of Juvenile Justice and Delinquency Prevention Funding Policy for the Balance of Fiscal Year 1981.

**SUMMARY:** Notice is given that the Office of Juvenile Justice and Delinquency Prevention (OJJDP), in carrying out the continuation policy set out at 46 FR 7109 (January 22, 1981), and planning for implementation of the Administration's proposed phaseout of programs funded under Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 in Fiscal Year 1982, proposes to utilize remaining unobligated Fiscal Year 1981 categorical grant funds primarily to fulfill binding Fiscal Year 1981 grant continuation commitments. The Office will fund no new categorical programs or projects unless they are determined by the Administrator to be priorities consistent with the Administration's future plans or constitute an exceptional circumstance. The Catalog of Federal Domestic Assistance reference for Special Emphasis and Technical Assistance programs is 16.541, and for the National Institute for Juvenile Justice and Delinquency Prevention is 16.542.

This announcement does not require a Regulatory Impact Analysis under section 3d of Executive Order 12291, or a regulatory flexibility analysis under the Regulatory Flexibility Act, Pub. L. 354.

**DATES:** Comments must be submitted on or before June 11, 1981. An expedited comment period is required in light of the short time remaining in the fiscal year.

**FOR FURTHER INFORMATION CONTACT:** Charles A. Lauer, Acting Administrator, Office of Juvenile Justice and Delinquency Prevention, Telephone: 202/724-7751.

**SUPPLEMENTARY INFORMATION:** The Office of Juvenile Justice and Delinquency Prevention was established by Title II of the Juvenile Justice and Delinquency Prevention Act of 1974. The Title II grant program consists of formula grants to the States and categorical grants made directly by the Office. The Administration's budget proposal for Fiscal Year 1982 provides

no additional funds for new or continuation grants or other Title II program activities administered by the Office of Juvenile Justice and Delinquency Prevention. States may have authority to fund juvenile justice grants for the types of activities currently funded under the grant portion of the program through the Department of Health and Human Services' social service consolidated block grant program. If enacted, requests or competitive applications for funds would be directed to the State agency responsible for administration of the Social Services Block Grant Act. No continuations of the Office's categorical grant programs and projects, which would otherwise be eligible for continuation consideration in Fiscal Year 1982 or 1983, can be anticipated from direct Federal fund sources.

It is the intention of the Office to fulfill the public interest and to act in a manner consistent with the Administration's proposed budget with those Title II funds that remain available for the balance of Fiscal Year 1981. Of primary concern to the Office is the need to assure responsible financial accountability and administration of Fiscal Years 1979-81 funds which will continue to be available for obligation or expenditure in Fiscal Years 1982-83. Even without new appropriations for categorical programs on or after October 1, 1981, the Office will avoid premature grant termination actions (except for cause) and will attempt to make the best possible use of available funds. It is not in the best interest of the government to begin or continue projects which cannot be completed. To this end, the general funding plan will be to forego funding of new activities and to complete or bring to a useable stage as many ongoing activities as possible. This plan will be carried out as specified in this policy except to the extent that formal rescissions or deferrals of current spending authority are approved by Congress.

#### Policy

**Continuation Grants.**—The policy proposed below is consistent with the Office of Juvenile Justice and Delinquency Prevention continuation funding policy announced at 46 FR 7109 (January 22, 1981). The proposed fund allocations are based largely on OJJDP's interests in completing recent major successful programs and facilitating the orderly phaseout of the OJJDP program consistent with the Administration's

budget proposal which is pending before the Congress. The proposed selection of programs for continuation reflects criterion 6 of the previously published policy, "circumstances indicate that continued funding would be in the best interests of the government." The remaining criteria, which focus on which particular projects should be continued within an eligible program, will be applied to continuation decisions made during the balance of Fiscal Year 1981.

The categorical grant programs of the Office generally provide for a fixed term of activity under the "project period" system of award. Under this system, grant activities are approved for a fixed "project period" constituting the entire activity of the grant and are funded by separate awards under shorter "budget periods." The major Special Emphasis program slated for refunding of an additional budget period within an existing project period in Fiscal Year 1981 is the Restitution program. The final budget period for Restitution projects will be funded to the maximum extent funds have been allocated and are available for these commitments.

Miscellaneous Special Emphasis grant projects awarded outside of or prior to the adoption of the project system will not be considered for continuation funding unless there is a written commitment incorporated in the grant award to provide continuation funding beyond the current expiration date of the grant, or if the project meets the criteria set forth below for funding of new grant applications. This restriction is necessary because project period continuations have a higher funding priority under established agency policy and adequate Fiscal Year 1981 continuation funds are not available to be set aside for the refunding of all projects which were not awarded under the project period system.

Research and training programs of the National Institute for Juvenile Justice and Delinquency Prevention are undergoing review to determine those activities which are currently due for refunding and can be completed or brought to a useful stage with the remaining Fiscal Year 1981 funds available. No new activities will be started except as required by law or in accordance with competitive research grant programs announced in prior fiscal years. No training projects that have met their current objectives or completed their project period will be considered for refunding except those which

provide direct training of juvenile justice system personnel or law related education. Long range research or training efforts with no reasonable expectation of successful implementation without multi-year funding will not be refunded. These restrictions on eligibility for refunding of Institute categorical grants are necessary for the reasons set forth above.

**"No Cost" Extensions.**—No categorical grantee has a right to a "no cost" extension beyond the initial scheduled termination date of a grant. With the expected phaseout of Office staff and available support activities, it is the policy of the Office that "no cost" extensions will not normally be granted. However, for good cause, the Office will consider "no cost" extensions on a case-by-case basis. Good cause will include the potential for cost assumption by other fund sources or the completion of activities so that cost assumption can be given consideration by State budget offices, State legislatures, or other potential continuation fund sources.

**New Grant Applications.**—The Office does not anticipate the award of new categorical grants for the balance of this fiscal year. No program announcements for new grants are being issued. Exception will only be considered where the Administrator determines that there is a public safety emergency, a pre-existing legal commitment, or where significant program models or activities near completion should be completed. Grant or contract activities which are consistent with the Administration's budget proposal or which otherwise constitute a high priority of the Administration will also be considered for funding as a partial exception. Examples include programs relating to juvenile victims of crime, serious or violent criminal activity, and programs that were previously started and require completion or refinement so that the Administration can make decisions which may affect future activity in these areas. Activities requiring reprogrammed funds to phaseout State, Office of Juvenile Justice and Delinquency Prevention and Department of Justice responsibilities in the Title II formula grant program may also require funding and will be considered to the extent funds can be made available.

Dated: May 5, 1981.

Charles A. Lauer,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 81-14189 Filed 5-11-81; 8:45 am]

BILLING CODE 4410-18-M

## DEPARTMENT OF LABOR

### Office of Pension and Welfare Benefit Programs

[Application Nos. D-2414 and 2415]

#### Proposed Exemption for Certain Transactions Involving the Hancock Manufacturing Co., Inc., Salaried Employees Retirement Plan, and the Hancock Manufacturing Co., Inc.; Pension Plan Covering Employees in Local No. 3703, U.S.W., Located in Toronto, Ohio

**AGENCY:** Office of Pension and Welfare Benefit Programs (P&WBP), Labor.

**ACTION:** Notice of Proposed Exemption.

**SUMMARY:** This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt (1) a loan of \$160,000 and a loan of \$340,000 (the Loans) from, respectively, the Hancock Manufacturing Co., Inc. salaried Employees Retirement Plan (Salaried Plan) and the Hancock Manufacturing Co., Inc. Pension Plan Covering Employees in Local No. 3703, U.S.W. (Union Plan), (collectively, the Plans) to the Hancock Manufacturing Co., Inc. (the Employer), a party in interest with respect to the Plan; and (2) the personal guarantee of the Employer's obligations pursuant to each Loan by Messrs. David L. Brennan (Brennan), Richard M. Hamlin (Hamlin), and James F. McCready (McCready), parties in interest with respect to the Plans. The proposed exemption, if granted, would affect the participants and beneficiaries of the Plans, the Employer, and any other persons participating in the proposed transactions.

**DATES:** Written comments and requests for a public hearing must be received by the Department on or before July 1, 1981.

**ADDRESS:** All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application Nos. D-2414, and 2415. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Stander of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

#### Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Salaried Plan and the Union Plan are defined benefit plans with, respectively, approximately 38 and 177 participants. Messrs. Brennan, Hamlin and L. L. Seese are the trustees (the Trustees) of each Plan and jointly maintain sole responsibility for the investment decisions of the Plans. Each Trustee is an officer and director of the Employer. As of December 31, 1980, the Salaried Plan and the Union Plan had assets having a market value of \$529,641 and \$1,157,641, respectively.

2. The Employer engages in metal stamping and the fabrication of steel products and assemblies. For the fiscal year ending October 31, 1980, the Employer's sales totalled approximately \$11.2 million. The Employer's net worth is approximately one-half million dollars.

3. The applicant is requesting an exemption for the Loans by the Plans to the Employer. The Loans from the Plans represent approximately 30 percent of each Plan's assets as valued on December 31, 1980. The proceeds from the Loans would be used as working capital by the Employer.

4. Each proposed Loan will be evidenced by a cognovit promissory note bearing interest payable quarterly

at the greater of 1 percent over the BancOhio National Bank's prime rate in effect as of the first day of each quarter, or 11 percent per annum. Each Loan will be repaid in five years with the original principal amount of each Loan to be repaid in twenty (20) equal quarterly installments.

5. The Loans will be secured by all of the Employer's raw material inventory, which consists of raw steel, presently owned or hereafter to be owned by the Employer (the Collateral). The Plans will maintain perfected first security interests in the Collateral through the execution and filing by the Employer of security agreements on behalf of the Plans. The Employer will incur all costs necessary to obtain and preserve the Collateral, including, but not limited to, paying all taxes, assessments, insurance premiums, repairs, rent and storage costs. The Employer will warrant to own throughout the terms of the Loans all Collateral free from any adverse claims, security interests (other than security interests granted to the Plans) or encumbrances. The Collateral will be kept fully insured throughout the terms of the Loans and the Plans will be the named insureds.

6. A complete appraisal by an independent appraiser, Joseph L. Connell (Connell) of Metals Co., McKees Rocks, Pennsylvania, determined that, as of December 31, 1980, the Collateral had a market value, based on the mill price of the Collateral to companies utilizing the Collateral for the same purpose as the Employer, of \$918,675. This value represents approximately 183% of the Loans. Connell represents that the current mill price of the Collateral is not expected to decrease appreciably over the next five (5) years, and that the Collateral would be marketable if it is to be resold.

7. The security agreements provide that the value of the Collateral shall be not less than 175 percent of the outstanding principal balance of the Loans during the first year of the Loans' terms and not less than 200 percent of the outstanding principal balance of the Loans during the remaining four years of the Loans' terms. The three shareholders of Hanco, Inc. (the parent company of the Employer), Brennan, Hamlin, and McCready, (the Guarantors) will personally guarantee to cure any default by the Employer which is not cured within thirty days from the receipt by the Employer of such notice of default. As of June 1980, the combined net worth of the Guarantors was in excess of ten million dollars.

8. The Harter Bank and Trust Company (the Bank) will enter into an agreement with the Employer to serve as

the fiduciary of each Plan with respect to the Loans. The applicant represents that the Bank is completely independent of the Employer and does not maintain any banking relationship with the Employer. The Bank has reviewed and examined all of the relevant documents pertaining to the proposed Loans, including the promissory notes, security agreements, the contracts of personal guarantee by the Guarantors as well as the financial statements of the Guarantors, the Employer, and Hanco, Inc. and has determined that the proposed Loans are appropriate and are in the best interests of the Plans and their participants and beneficiaries. The Bank will collect the required principal and interest payments pursuant to the Loans and will completely monitor the terms and conditions of the Loans. The Bank will take a physical inventory of the Collateral at least four times a year to ensure that the value of said Collateral is not less than 175 percent of the outstanding principal balance of the Loans during the first year of the Loans' terms, and not less than 200 percent of the outstanding principal balance of the Loans during the remaining four years of the Loans' terms. If the Bank resigns or is removed, there shall be appointed in its stead another corporate trust company, bank, or banking association which maintains no banking relationship with the Employer.

9. In summary, the applicant represents that the Loans will satisfy the criteria of section 408(a) of the Act because (a) the Plans' Trustees represent that the proposed Loans are in the best interests of the Plans; (b) the proposed Loans will enable the Plans to realize a high rate of return; (c) the Plans will have a perfected first security interest in insured Collateral having a value substantially in excess of the outstanding principal balances of the Loans; (d) the Guarantors will personally guarantee the repayment of the Loans; and (e) an independent party, the Bank, will serve as the fiduciary of the Plans with respect to the Loans and will completely monitor the terms and conditions of the Loans.

#### Notice to Interested Persons

Within twenty days after its publication in the Federal Register (June 1, 1981), a copy of this notice of pendency will be posted on bulletin boards at the Employer's place of business. Beneficiaries currently receiving benefits and former employees in a deferred, vested benefit status will receive such notice by ordinary mail. Such notice shall inform these persons of their right to comment on or request a

hearing regarding the requested exemption.

#### General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and Code, including statutory or administrative exemptions and transitional rules. Furthermore the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

#### Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application

for exemption at the address set forth above.

#### Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1), and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to (1) the Loans by the Plans to the Employer as described above provided that the terms and conditions of the Loans are not less favorable to the Plans than those obtainable in similar transactions with an unrelated third party; and (2) the personal guarantee of the Employer's obligations pursuant to the Loans by the Guarantors.

The proposed exemption, if granted, will be subject of the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 6th day of May 1981.

Ian D. Lanoff,

*Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.*

[FR Doc. 81-14260 Filed 5-11-81; 8:45]

BILLING CODE 4510-29-M

#### [Application No. D-2273]

#### Proposed Exemption for a Certain Transaction Involving the Pipe Fitters; Local 533 Pension Fund, Located in Kansas City, Mo.

**AGENCY:** Office of Pension and Welfare Benefit Programs (P&WBP), Labor.

**ACTION:** Notice of proposed exemption.

**SUMMARY:** This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (The Code). The proposed exemption would exempt a loan of \$1,200,000 by the Pipe Fitters Local 533 Pension Fund (the Plan) to the Pipe Fitters Association Local

Union No. 533 (Pipe Fitters Union) and the Plumbers Local Union No. 8 (Plumbers Union) to provide permanent financing for a joint union office building and meeting hall. The proposed exemption, if granted, would affect the Pipe Fitters Union, the Plumbers Union, participants and beneficiaries of the Plan, and other persons participating in the transaction.

**DATE:** Written comments and requests for a public hearing must be received by the Department of Labor on or before June 30, 1981.

**ADDRESSES:** All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-2273. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

#### FOR FURTHER INFORMATION CONTACT:

Gary H. Lefkowitz of the Department of Labor, telephone (202) 523-8881. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

#### Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a defined benefit plan for the benefit of the members of the Pipe Fitters Union. The Plan has approximately 850 participants. As of December 31, 1979, the Plan has assets of approximately \$16 million.

2. The Pipe Fitters Union was organized in 1913 and has jurisdiction over the Greater Kansas City area. It currently has 1,343 members. The Plumbers Union was organized in 1890. Its jurisdiction is also over the Greater Kansas City area, and it currently has 986 members.

3. The Pipefitters Union and the Plumbers Union (together, the Unions) have concluded that their current administrative offices and meeting facilities are totally inadequate given the fact that the current offices are located in less than desirable parts of the Kansas City area. Also, the office building occupied by the Plumbers Union has been sold, forcing it to move.

4. In 1971, the Unions jointly purchased land for the purpose of constructing joint union facilities in the future. Construction was commenced in September of 1979, and the building has now been completed. Construction financing for the project was obtained from Traders Bank of Kansas City, Missouri. Traders Bank, as construction lender, has monitored construction of the project in conjunction with Chicago Title Insurance Company, which will provide title insurance on the completed project.

5. The Plan proposes to loan not more than \$1,200,000 to the Unions in order to pay off the construction lender. The duration of the loan is to be 10 years. The initial rate of the loan will be ¼ percent above the prevailing rate for equivalent loans in the Kansas City Metropolitan Area for the first five years. At the end of five years, the interest rate shall be the higher of the initial rate or the prevailing rate in the Kansas City area as determined by Financial Counselors, Inc., the Plan's independent fiduciary.

6. The loan is to be collateralized by the subject property, which includes the land and the completed building. The property has been appraised by Rogers M. McCrae & Co., an independent appraiser. Mr. McCrae is a senior member in the American Society of Appraisers. Mr. McCrae updated his appraisal of the property after the completion of the building, and as of February 2, 1981, he estimates the total market value of the property to be \$1,822,924. This is in excess of 150 percent of the requested loan amount. The appraiser has also represented that the cost to adapt the building from the

current modified special use (office space with meeting hall) to a more common business use (general office space) would not be substantial. In addition to the collateral provided by the property, the Plan will receive the guarantees of the Unions.

7. Traders Bank of Kansas City has represented that it is prepared to extend permanent financing to the Unions on the same terms as the loan from the Plan, except that the interest rate would be at the prevailing interest rate for the Kansas City area. The Plan will be receiving  $\frac{1}{4}$  percent more as an initial interest rate.

8. Financial Counselors, Inc., is a wholly owned subsidiary of Kidder, Peabody Co., Inc., and is a registered investment adviser under the Investment Adviser's Act of 1940. Financial Counselors, Inc., as independent fiduciary for the Plan, has made a determination that the proposed loan would be appropriate for the Plan for the following reasons: (1) the rate of interest would be very attractive to the Plan; (2) repayment of the loan would be favorable to the Plan because of its cash flow potential since the loan provides for both interest and principal payments to be made on a regular monthly basis; and (3) the proposed loan would only constitute about 7 percent of the total assets of the Plan at market. Financial Counselors, Inc. will monitor the loan transaction throughout its duration and take whatever action is necessary to enforce the rights of the Plan and its participants and beneficiaries.

9. In summary, the applicant represents that the proposed transaction meets the statutory criteria for an exemption under section 408(a) of the Act because (1) the Plan will receive  $\frac{1}{4}$  percent greater interest than the prevailing rate for equivalent loans in the Kansas City Metropolitan Area; (2) the loan is secured by a parcel of improved real property with an appraised value that is more than  $1\frac{1}{2}$  times the amount of the loan, as well as the guarantees of the Unions; (3) the loan will be administered by an independent fiduciary investment adviser; and (4) the independent investment adviser has determined that the transaction is appropriate for the Plan and is in the best interests of its participants and beneficiaries.

#### Notice to Interested Persons

All members of the Pipe Fitters Union and the Plumbers Union will be notified in writing within 10 days of the publication of this proposed exemption in the *Federal Register*. The notice will be provided by the publication in *The Labor Beacon*, a union newsletter that is

regularly mailed to all current and retired union members, as well as by posting a copy at the current meeting halls of both unions. The notice will contain a copy of the notice of pendency of exemption and will specify the right of interested parties to comment and request a hearing with respect to the proposed exemption.

#### General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

#### Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments

will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

Comments received will be available for public inspection with the application for exemption at the address set forth above.

#### Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and (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 a loan by the Plan to the Unions of not more than \$1,200,000, based on the terms and conditions set forth above, provided that the terms of the transaction are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party at the time of consummation of the transaction.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 6th day of May 1981.

**Ian D. Lanoff,**

*Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.*

[FR Doc. 81-14201 Filed 5-11-81; 8:45 am]

BILLING CODE 4510-29-M.

#### Office of the Secretary

[TA-W-8409]

#### Eltra Corp., Prestolite Electronics Division, Decatur, Ala.; Negative Determination Regarding Application for Reconsideration, Correction

In FR Doc. 81-6210 appearing at page 13,862 in the *Federal Register* of February 24, 1981, the heading shown as "Notice of Affirmative Determination Regarding Application for Reconsideration" for the Eltra Corporation, Prestolite Electronics

Division, Decatur, Alabama (TA-W-8409), was inaccurate due to an editorial error. Therefore, the following change should be made:

1. On page 13,862, column 3, the heading is corrected to read, "Notice of Negative Determination Regarding Application for Reconsideration."

Signed at Washington, D.C., this 29th day of April 1981.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 81-14236 Filed 5-11-81; 8:45 am]

BILLING CODE 4510-28-M

#### [TA-W-11,950-1 and 12,506-8]

#### Ford Motor Co.; Ford Tractor Operations; Certifications Regarding Eligibility To Apply for Worker Adjustment Assistance

In the matter of General Office, Troy, MI; Northwestern District Sales Office, Bloomington, MN; Southwestern District Sales Office, Dallas, TX; Northeastern District Sales Office, Cohoes, NY; South Central District Sales Office, Memphis, TN.

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of investigations 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 investigations were initiated on December 22, 1980 and March 23, 1981 in response to petitions which were filed on behalf of workers at the General Office, Troy, Michigan (TA-W-11,950); the Northwestern District Sales Office, Bloomington, MN (TA-11,951); the Southwestern District Sales Office, Dallas, TX (TA-W-12,506); the Northeastern District Sales Office, Cohoes, NY (TA-W-12,507); and the South Central District Sales Office, Memphis, TN (TA-W-12,508). Workers at these facilities provide administrative and support functions to Ford Motor Company's production of primarily farm tractors and tractor-loader-backhoes.

Since workers at these facilities did not produce an article within the meaning of section 222(3) of the Trade Act, they may be certified only if their separation was importantly caused by a reduced demand for their services from either the parent firm or from a firm

related to Ford Motor Company by ownership or control. In either 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 directly and substantially relate to the product or products adversely impacted by imports.

The Department determined that increased imports contributed importantly to the decline in sales or production and to total or partial separations of workers at the Romeo, Michigan plant of Ford Tractor Operations of Ford Motor Company. Workers at this plant are engaged in the production of primarily farm tractors and tractor-loader-backhoes.

In 1979 Ford Motor Company began instituting cost efficiency programs throughout its corporate structure. In an effort to adjust production and inventory to demand, the number of shifts at assembly and component parts plants was reduced and many positions eliminated. Curtailed production operations have led to reductions in the need for support services and the elimination of many support positions. These support services are directly and

substantially related to the production of import-impacted farm tractors and tractor-loader-backhoe.

#### Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with farm tractors and tractor-loader-backhoes produced by Ford Tractor Operations of Ford Motor Company contributed importantly to the decline in sales or production and to the total or partial separation of workers at the facilities of Ford Tractor Operations of Ford Motor Company listed in the appendix. In accordance with the provisions of the Act, I make the following certification:

All workers of the facilities of Ford Tractor Operations of Ford Motor Company listed in the appendix who became totally or partially separated from employment on or after the impact dates and before the termination dates listed in the appendix are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this 5th day of May 1981.

James F. Taylor,

Director, Office of Management Administration and Planning.

#### Appendix

TA-W-	Office	Location	Impact date	Termination date
11,950	General Office	Troy, MI	12-11-79	None
11,951	Northwestern District Sales Office	Bloomington, MN	02-01-80	10-01-80
12,506	Southwestern District Sales Office	Dallas, TX	11-01-80	03-01-81
12,507	Northeastern District Sales Office	Cohoes, NY	11-01-80	03-01-81
12,508	South Central District Sales Office	Memphis, TN	11-01-80	03-01-81

[FR Doc. 81-14237 Filed 5-11-81; 8:45 am]

BILLING CODE 4510-28-M

#### [TA-W-9841-9842, 9844, 9846-9849, 9851-9858, 9862, 9866, 9869, 9872]

#### General Motors Corp.; Detroit, Mich.; Revised Determination on Reconsideration

On March 17, 1981, the Department made an Affirmative Determination Regarding Application for Reconsideration for workers and former workers for the instant truck centers and zone sales offices of the GMC Truck and Coach Division of General Motors Corporation, Detroit, Michigan. This determination was published in the Federal Register on March 27, 1981 (46 FR 19116).

A company official claims that the significant employment decline criterion of the Trade Act of 1974 was met for the 19 truck centers and zone sales offices of the GMC Truck and Coach Division

of the General Motors Corporation which was the basis for their denial.

The Department found in its reconsideration investigation that the significant employment decline criterion of the Act was met for all of the instant truck centers and zone sales offices of GMC Truck and Coach Division of General Motors except for the truck centers in Los Angeles, California; Miami, Florida; Chicago, Illinois; and Baltimore, Maryland, TA-W-9841, 9846, 9849 and 9851, respectively.

The Department has determined that increased imports contributed importantly to the decline in sales or production and to total or partial separations of workers at 20 of General Motors Corporation's car and truck assembly plants producing mid-size, standard and luxury/specialty cars, pick-up trucks, vans and general utility vehicles. The Department also certified workers at 70 GM component parts plants. The Department combined the worker certifications at the assembly

and component plants and published them in the Federal Register under one notice on September 9, 1980 (45 FR 59452).

On reconsideration, the Department found that the facilities listed in the appendix perform activities which primarily support the sales and production of GM vehicles which have been subject to import injury and that each of these facilities is substantially integrated into the production of import-impacted GM truck lines. Further, since U.S. auto manufacturers redesigned most of their vehicles and/or introduced completely new models from MY 1979 to MY 1981, the composition and distinguishable features of each market class of vehicles has changed substantially. As a result, the continuation of the recent impact of import competition that existed in MY 1979 and MY 1980 may not continue in MY 1981.

#### Conclusion

After careful review of the facts obtained on reconsideration, it is concluded that increased imports of articles like or directly competitive with vehicles and pick-up trucks produced at final assembly plants of General Motors Corporation contributed importantly to the decline in sales or production and to the total or partial separation of workers and former workers at the truck centers and zone sales offices of General Motors listed in the appendix. In accordance with the provisions of the Trade Act of 1974, I make the following revised determinations:

All workers of the support facilities of General Motors Corporation listed in the appendix who became totally or partially separated from employment on or after the impact date listed in the appendix and before November 1, 1980 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Further, I reaffirm after reconsideration, the original denial of eligibility to apply for adjustment assistance for all workers at GMC Truck and Coach Division's truck centers at Los Angeles, California, TA-W-9841; Miami, Florida, TA-W-9846; Chicago, Illinois, TA-W-9849 and Baltimore, Maryland, TA-W-9851.

Signed at Washington, D.C. this 30th day of April 1981.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 81-14234 Filed 5-11-81; 8:45 am]

BILLING CODE 4510-26-M

[TA-W-9792, 9793, 9800, 9806, 9809, 9822-9836, 9838, 9839, 9883, 9885-9890, 9893-9900, 9902, 9905-9909, 9915, 9918-9920, 9922, 9924-9930, 9932-9934, 9936, 9938-9940]

#### General Motors Corp.; Detroit, Mich.; Revised Determination on Reconsideration

On March 24, 1981, the Department made an Affirmative Determination Regarding Application for Reconsideration for workers and former workers for the instant regional and/or zone sales offices of the General Motors Corporation, Detroit, Michigan. This determination was published in the Federal Register on April 3, 1981 (46 FR 20325).

A company official claims that the significant employment decline criterion of the Trade Act of 1974 was met for the 82 instant regional and/or zone sales offices of the General Motors Corporation which was the basis for their denial.

The Department found in its reconsideration investigation that the significant employment decline criterion of the Act was met for all of the instant zone and regional sales offices of General Motors except for the Pacific Regional and Los Angeles, California zone sales office at Woodland Hills, California, TA-W-9883.

The Department has determined that increased imports contributed importantly to the decline in sales or production and to total or partial separations of workers at 20 of General Motors Corporation's car and truck assembly plants producing mid-size, standard and luxury/specialty cars, pick-up trucks, vans and general utility vehicles. The Department also certified workers at 70 GM component parts plants as eligible for trade adjustment assistance. The Department combined the worker certifications at the assembly and component plants and published them in the Federal Register under one notice on September 9, 1980 (45 FR 59452).

On reconsideration, the Department found that the facilities listed in the

appendix perform activities which primarily support the sales and production of GM vehicles which have been subject to import injury and that each of these facilities is substantially integrated into the production of import-impacted GM car and truck lines. Further, since U.S. auto manufacturers redesigned most of their automobiles and/or introduced completely new models from MY 1979 to MY 1981, the composition and distinguishable features of each market class of vehicles has changed substantially. As a result, the continuation of the recent impact of import competition that existed in MY 1979 and MY 1980 may not continue in MY 1981.

#### Conclusion

After careful review of the facts obtained on reconsideration, it is concluded that increased imports of articles like or directly competitive with mid-size, standard and luxury/specialty automobiles, vans, utility vehicles and pick-up trucks produced at final assembly plants of General Motors Corporation contributed importantly to the decline in sales or production and to the total or partial separation of workers and former workers at the zone and regional sales offices of General Motors listed in the appendix. In accordance with the provisions of the Trade Act of 1974, I make the following revised determinations:

All workers of the support facilities of General Motors Corporation listed in the appendix who became totally or partially separated from employment on or after the impact date listed in the appendix and before November 1, 1980, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Further, I reaffirm after reconsideration, the original denial of eligibility to apply for adjustment assistance for all workers of General Motors' Pacific Regional and Los Angeles, California zone sales office at Woodland Hills, California, TA-W-9883.

Signed at Washington, D.C. this 30th day of April 1981.

James F. Taylor,

Director, Office of Management Administration and Planning.

TA-W	Facility	Impact date
<b>Buick Motor Division</b>		
9792	Zone Sales Office, Atlanta, Georgia	Aug. 1, 1980.
9793	Chicago Zone Sales Office, Oak Brook, Illinois	Sept. 1, 1980.
9800	New York Zone Sales Office, White Plains, New York	Aug. 1, 1980.
9806	Zone Sales Office, Pittsburgh, Pennsylvania	Jan. 1, 1980.
9809	Dallas Zone Sales Office, Irving, Texas	Aug. 1, 1980.
<b>Cadillac Motor Car Division</b>		
9822	Los Angeles Zone Sales Office, Westlake Village, California	May 1, 1980.
9823	San Francisco Zone Sales Office, Fremont, California	May 1, 1980.
9824	Zone Sales Office, Denver, Colorado	May 1, 1980.
9825	Zone Sales Office, Jacksonville, Florida	June 1, 1980.

TA-W	Facility	Impact date
9826	Zone Sales Office, Atlanta, Georgia	June 1, 1980.
9827	Chicago Zone Sales Office, Oak Brook, Illinois	Aug. 1, 1980.
9828	Kansas City Zone Sales Office, Overland Park, Kansas	May 1, 1980.
9829	Washington, D.C. Zone Sales Office, Rockville, Maryland	June 1, 1980.
9830	Boston Zone Sales Office, Wellesley, Massachusetts	June 1, 1980.
9831	Detroit Zone Sales Office, Southfield, Michigan	June 1, 1980.
9832	Minneapolis Zone Sales Office, Edina, Minnesota	May 1, 1980.
9833	New York Zone Sales Office, Paramus, New Jersey	May 1, 1980.
9834	Philadelphia Zone Sales Office, Cherry Hill, New Jersey	May 1, 1980.
9835	Cleveland Zone Sales Office, Beachwood, Ohio	May 1, 1980.
9836	Zone Sales Office, Cincinnati, Ohio	May 1, 1980.
9838	Zone Sales Office, Memphis, Tennessee	May 1, 1980.
9839	Dallas Zone Sales Office, Irving, Texas	June 1, 1980.
<b>Oldsmobile Division</b>		
9885	Denver Zone Sales Office, Aurora, Colorado	June 1, 1980.
9886	Zone Sales Office, Jacksonville, Florida	July 1, 1980.
9887	Southeast Regional & Zone Sales Office, Atlanta, Georgia	June 1, 1980.
9888	Midwest Regional & Chicago Zone Sales Office, Oak Brook, Illinois	June 1, 1980.
9889	Zone Sales Office, Indianapolis, Indiana	June 1, 1980.
9890	Kansas City Zone Sales Office, Overland Park, Kansas	June 1, 1980.
9893	Central Regional & Detroit Zone Sales Office, Southfield, Michigan	June 1, 1980.
9894	Zone Sales Office, Minneapolis, Minnesota	July 1, 1980.
9895	St. Louis Zone Sales Office, Chesterfield, Missouri	June 1, 1980.
9896	Zone Sales Office, Omaha, Nebraska	July 1, 1980.
9897	Philadelphia Zone Sales Office, Moorestown, New Jersey	Dec. 1, 1979.
9898	Atlantic Regional & Zone Sales Office, Tarrytown, New York	July 1, 1980.
9899	Buffalo Zone Sales Office, Williamsville, New York	June 1, 1980.
9900	Zone Sales Office, Charlotte, North Carolina	June 1, 1980.
9902	Zone Sales Office, Cincinnati, Ohio	July 1, 1980.
9905	Zone Sales Office, Pittsburgh, Pennsylvania	July 1, 1980.
9906	Zone Sales Office, Memphis, Tennessee	June 1, 1980.
9907	Southwest Regional & Dallas Zone Sales Office, Irving, Texas	June 1, 1980.
9908	Zone Sales Office, Houston, Texas	June 1, 1980.
9909	Zone Sales Office, Milwaukee, Wisconsin	July 1, 1980.
<b>Pontiac Motor Division</b>		
9915	Pacific Regional & Los Angeles Zone Sales Office, Westlake Village, California	June 1, 1980.
9918	Zone Sales Office, Jacksonville, Florida	May 1, 1980.
9919	Zone Sales Office, Atlanta, Georgia	May 1, 1980.
9920	Chicago Zone Sales Office, Oak Brook, Illinois	May 1, 1980.
9922	Washington, D.C. Zone Sales Office, Rockville, Maryland	May 1, 1980.
9924	Detroit Zone Sales Office, Southfield, Michigan	July 1, 1980.
9925	Zone Sales Office, Minneapolis, Minnesota	May 1, 1980.
9926	Zone Sales Office, St. Louis, Missouri	May 1, 1980.
9927	Zone Sales Office, Omaha, Nebraska	June 1, 1980.
9928	Newark Zone Sales Office, Saddle Brook, New Jersey	May 1, 1980.
9929	Philadelphia Zone Sales Office, Cherry Hill, New Jersey	May 1, 1980.
9930	New York Zone Sales Office, Tarrytown, New York	May 1, 1980.
9932	Zone Sales Office, Charlotte, North Carolina	May 1, 1980.
9933	Zone Sales Office, Cleveland, Ohio	May 1, 1980.
9934	Zone Sales Office, Cincinnati, Ohio	May 1, 1980.
9936	Northwest Zone Sales Office, Portland, Oregon	June 1, 1980.
9938	Zone Sales Office, Memphis, Tennessee	April 1, 1980.
9939	Dallas Zone Sales Office, Irving, Texas	June 1, 1980.
9940	Zone Sales Office, Houston, Texas	May 1, 1980.

[FR Doc. 81-14235 Filed 5-11-81; 8:45 am]

BILLING CODE 4510-26-M

## [TA-W-9216]

**ITT Thompson Industries, Division;  
Plant No. 4, Lake City, Fla.,  
Certification Regarding Eligibility To  
Apply for Worker Adjustment  
Assistance**

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is determined in this

case that all of the requirements have been met.

The investigation was initiated on July 7, 1980 in response to a petition which was filed on behalf of workers at Plant #4, Lake City, Florida of ITT Thompson Industries, Division. Workers at Plant #4 produce exterior moldings for the auto industry.

U.S. imports of exterior moldings (trim) increased absolutely and relative to domestic production in MY 1979 compared to MY 1978 and in MY 1980 compared to MY 1979.

A Department survey revealed that some of the customers of ITT Thompson which decreased purchases of exterior moldings from the subject firm increased purchases of imported exterior moldings during the period under investigation.

## Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with exterior moldings produced at Plant #4 of ITT Thompson Industries, Division 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 certification:

All workers of Plant #4, Lake City, Florida of ITT Thompson Industries, Division who became totally or partially separated from employment on or after June 12, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this 5th day of May 1981.

James F. Taylor,

*Director, Office of Management  
Administration and Planning.*

[FR Doc. 81-14238 Filed 5-11-81; 8:45 am]

BILLING CODE 4510-26-M

## [TA-W-10,687]

**L & S Fashions, Inc., Amityville, N.Y.;  
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 September 8, 1980 in response to a petition which was filed on behalf of workers at L & S Fashions, Inc., Amityville, New York. The workers produce women's coats.

U.S. imports of women's, misses' and children's coats and jackets increased in 1980 compared to 1979.

The Department conducted a survey of all the manufacturers from whom L & S Fashions received contracts. The survey revealed that these manufacturers substantially increased their imports of women's coats in 1979 compared to 1978 and in the January-November 1980 period compared to the same period of 1979.



**Conclusion**

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's coats produced at L & S Fashions, Inc., Amityville, 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 certification:

All workers of L & S Fashions, Inc., Amityville, New York who became totally or partially separated from employment on or after August 18, 1980 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this 5th day of May, 1981.

Harry J. Gilman,

*Supervisory International Economist, Office of Foreign Economic Research.*

[FR Doc. 81-14229 Filed 5-11-81; 8:45 am]

BILLING CODE 4510-29-M

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

[81-45]

**NASA Advisory Council, Space Systems and Technology Advisory Committee; Meeting**

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems and Technology Advisory Committee, Subcommittee on Materials and Structures.

**DATE AND TIME:** June 8, 1981, 8:15 a.m. to 5 p.m.; June 9, 1981, 8:30 a.m. to 4 p.m.

**ADDRESS:** NASA Langley Research Center, Building 1229, Room 223, Langley Field, VA.

**FOR FURTHER INFORMATION CONTACT:** Dr. Leonard A. Harris, National Aeronautics and Space Administration, Code RTM-6, Washington, DC 20546 (202/755-2364).

**SUPPLEMENTARY INFORMATION:** The Informal Advisory Subcommittee on Materials and Structures was established to review programs for the development of advanced materials and structures technology for space systems application. It is to recommend program modifications, deletions, or changes in scope or emphases to support over all NASA future spacecraft systems

technology objectives. The Subcommittee, chaired by Dr. Bernard Budiansky, is currently comprised of seven members. The meeting will be open to the public up to the seating capacity of the room (approximately 40 persons including the Subcommittee members and participants).

**TYPE OF MEETING:** Open.

**Agenda**

June 8, 1981

8:15 a.m.—Introductory Remarks.

8:30 a.m.—Office of Aeronautics and Space Technology

Long Range Overview.

10 a.m.—Review of Materials and Structures Space Long Range Plan.

12:45 p.m.—Presentation of Proposed New Activities FY 82 and FY 83.

3 p.m.—Subcommittee Discussion of Plans.

5 p.m.—Adjourn.

June 9, 1981

8:30 a.m.—Review of Ongoing Programs.

1 p.m.—Subcommittee Discussion.

4 p.m.—Adjourn.

Dated: May 5, 1981.

Frank J. Simokaitis,

*Acting Associate Administrator for External Relations.*

[FR Doc. 81-14182 Filed 5-11-81; 8:45 am]

BILLING CODE 7510-01-M

**NATIONAL COMMISSION FOR EMPLOYMENT POLICY****Notice of Meeting**

**AGENCY:** National Commission for Employment Policy.

**ACTION:** Notice of Meeting.

**SUMMARY:** Under the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended) notice is given of a conference on vocational education issues and research held in Room 426, Marvin Center, George Washington University Campus, 800 21st Street, NW, Washington, DC.

**DATE:** May 28, 1981, 8:30 a.m. to 4:45 p.m. Matters to be considered: Participants will examine and evaluate the contribution of vocational education to the employment and training needs of the disadvantaged. The conference is intended to provide a forum for the discussion of research funded by the Commission together with other related research, with particular reference to their policy implications.

**FOR FURTHER INFORMATION CONTACT:** Dr. Daniel Saks, Director, National Commission for Employment Policy, 1522 K Street, NW, Suite 300, Washington, DC 20005 (202-724-1545).

**SUPPLEMENTARY INFORMATION:** The National Commission for Employment Policy was established as Title V of the

Comprehensive Employment and Training Act Amendments of 1978 (Pub. L. 95-524). The Act gives the Commission the broad responsibility of advising the President and the Congress on national employment issues. This meeting is open to the public.

Signed in Washington, D.C., this 6th day of May, 1981.

Daniel H. Saks,

*Director, National Commission for Employment Policy.*

[FR Doc. 81-14229 Filed 5-11-81; 8:45 am]

BILLING CODE 4510-30-M

**Notice of Meeting**

**AGENCY:** National Commission for Employment Policy.

**ACTION:** Notice of Meeting.

**SUMMARY:** Under the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended) notice is given of the twenty-second meeting of the National Commission for Employment Policy at the Hay-Adams Hotel, 800 16th Street, NW., Washington, DC.

**DATE:** May 29, 1981, 9:00 a.m. to 4:00 p.m.

**Status:** This meeting will be open to the public. Matters to be considered: Commission members will begin discussion of recommendations on vocational education. CETA reauthorization issues will be considered.

**FOR FURTHER INFORMATION CONTACT:** Dr. Daniel Saks, Director, National Commission for Employment Policy, 1522 K Street, NW., Suite 300, Washington, DC 20005 (202-724-1545).

**SUPPLEMENTARY INFORMATION:** The National Commission for Employment Policy was established as Title V of the Comprehensive Employment and Training Act Amendments of 1978 (Pub. L. 95-524). The Act gives the Commission the broad responsibility of advising the President and the Congress on national employment issues. Business meetings are open to the public. People wishing to submit written statements to the Commission that are germane to the agenda may do so, provided that such statements are in reproducible form and are submitted to the Director at least two days before the meeting and not more than seven days after the meeting.

In addition, members of the general public may request to make oral presentations to the Commission, time permitting. Such statements must be applicable to the announced agenda and written application must be submitted to the Director at least three days before the meeting. This application should

include: name and address of applicant, subject of presentation, relation to agenda, amount of time needed, individual's qualifications to speak on the subject and a statement justifying the need for an oral rather than written presentation.

The Commission Chairman has the right to decide to what extent public oral presentations may be permitted at the meeting. Oral presentations will be limited to statements of facts and views and shall not include any questioning of Commission members or other participants unless these questions have been specifically approved by the Chairman.

Minutes of the meeting and materials prepared for it will be available for public inspection at the Commission's headquarters, 1522 K Street, NW., Suite 300, Washington, D.C.

Signed in Washington, D.C., this 6th day of May 1981.

**Daniel H. Saks,**  
Director, National Commission for  
Employment Policy.

[FR Doc. 81-14230 Filed 5-11-81; 8:45 am]  
BILLING CODE 4510-30-M

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards, Subcommittee on Electrical Power Systems; Meeting

The ACRS Subcommittee on Electrical Power Systems will hold a meeting at 8:30 a.m. on May 28, 1981 in Room 1046, 1717 H Street, N.W., Washington, DC to discuss inadequate core cooling instrumentation with the emphasis on core water-level instrumentation. Notice of this meeting was published April 21.

In accordance with the procedures outlined in the *Federal Register* on October 7, 1980, (45 FR 66535), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions which will be closed to protect proprietary information (Sunshine Act Exemption 4). One or more closed sessions may be necessary to discuss such information. To the extent

practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

*Thursday, May 28, 1981, 8:30 a.m. until the conclusion of business*

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, members of industry, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Dr. Richard Savio (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EDT.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close portions of this meeting to public attendance to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: May 7, 1981.

**John C. Hoyle,**  
Advisory Committee Management Officer.

[FR Doc. 81-14208 Filed 5-11-81; 8:45 am]  
BILLING CODE 7590-01-M

[Docket No. 50-309]

### Maine Yankee Atomic Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 55 to Facility Operating License No. DPR-36, issued to Maine Yankee Atomic Power Company, which revised Technical Specifications for operation of the Maine Yankee Atomic Power Station (the facility) located in Lincoln County, Maine. The amendment is effective as of the date of issuance.

The amendment adds a flow test requirement to verify the normal Auxiliary Feedwater Flow System flow path and adds monthly inspections to verify that manual valves in the AFWs are locked in their proper positions to ensure flow from the demineralized

water storage tanks to the steam generators.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated February 22, 1980, (2) Amendment No. 55 to License No. DPR-36 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Wiscasset Public Library Association, High Street, Wiscasset, Maine. 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 30th day of April 1981.

For the Nuclear Regulatory Commission,  
**Robert A. Clark,**

Chief, Operating Reactors Branch No. 3,  
Division of Licensing.

[FR Doc. 81-14209 Filed 5-11-81; 8:45 am]  
BILLING CODE 7590-01-M

[Docket No. 50-286]

### Power Authority of the State of New York; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 35 to Facility Operating License No. DPR-64, issued to the Power Authority of the State of New York (the licensee), which revised Environmental Technical Specifications for operation of the Indian Point Nuclear Generating Unit No. 3 (the facility) located in Buchanan, Westchester

County, New York. The amendment is effective as of the date of issuance.

The amendment revises the Appendix B Environmental Technical Specifications to delete non-radiological environmental requirements, and to add a non-radiological environmental protection plan. The NRC will rely on the requirements of the State Pollutant Discharge Elimination System (SPDES) Permit issued by the State of New York for the protection of the aquatic environment.

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 February 27, 1981, and (2) Amendment No. 35 to License No. DPR-64 and (3) the Commission's related letter dated April 24, 1981. 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 White Plains Public Library, 100 Maritime Avenue, White Plains, New York. 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 24th day of April 1981.

For the Nuclear Regulatory Commission,  
Steven A. Varga,  
Chief, Operating Reactors Branch No. 1,  
Division of Licensing.

[FR Doc. 81-14279 Filed 5-11-81; 8:45 am]

BILLING CODE 7590-01-M

**ACTION:** Minor amendments of systems of records.

**SUMMARY:** The Nuclear Regulatory Commission has issued minor amendments to the NRC Notices of Systems of Records, NRC-24. The amendments clarify and update the information contained in the NRC Systems of Records, in order to facilitate planned direct interface with the NRC Accounting, Payroll and Personnel Systems. For control purposes, these systems must maintain the same key fields. The Social Security Account Number is the key for individual person identifiers.

**EFFECTIVE DATE:** The amendments to the NRC Notices of Systems of Records become effective on June 11, 1981.

**FOR FURTHER INFORMATION CONTACT:** Ms. Sarah N. Wigginton, FOI/PA Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-8133.

**SUPPLEMENTARY INFORMATION:** The Nuclear Regulatory Commission published a notice of proposed minor amendments to the NRC Notices of Systems of Records in the *Federal Register* on March 19, 1981 (46 FR 17691). The notice invited public comment on the proposed minor amendments by April 20, 1981. No comments were received on the proposed amendments.

The proposed amendments clarify and update the information contained in the Systems of Records, including "Categories of records in the system" and "Retrievability."

Notice is hereby given that the Commission has adopted the proposed amendments of the NRC Systems of Records. The text of the amendments is identical with the text of the amendments which were published on March 19, 1981 for public comment.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552, 552a and 553 of Title 5 of the United States Code, the following amendments to the NRC Systems of Records, NRC-24, are published as a document subject to publication in the annual compilation of Privacy Act Documents.

Dated at Bethesda, Maryland this 4th day of May 1981.

For the Nuclear Regulatory Commission,  
William J. Dircks,  
Executive Director for Operations.

**NRC-24**

**SYSTEM NAME: PROPERTY AND SUPPLY SYSTEM (PASS)—NRC.**

**CATEGORIES OF RECORDS IN THE SYSTEM:**

These records contain information about the equipment (type, make, model, serial number, etc.), and information about the custodians of the equipment (social security account number, office, and office location).

**RETRIEVABILITY:**

Accessed by social security account number, office, and office location.

[FR Doc. 81-14273 Filed 5-11-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-266 and 50-301]

**Wisconsin Electric Power Co.;  
Issuance of Amendments to Facility  
Operating Licenses**

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 48 to Facility Operating License No. DPR-24, and Amendment No. 54 to Facility Operating License No. DPR-27 issued to Wisconsin Electric Power Company (the licensee), which revised the licenses for operation of Point Beach Nuclear Plant, Unit Nos. 1 and 2 (the facilities) located in the Town of Two Creeks, Manitowoc County, Wisconsin. The amendments are effective as of the date of issuance and are to be fully implemented within 30 days of Commission approval in accordance with the provisions of 10 CFR 73.40(b).

The amendments revise License Condition 3.F. to include the NRC approved Safeguards Contingency Plan as the revised Chapter 8 to the Point Beach Nuclear Plant Physical Security Plan.

The licensee's filing, which has been handled by the Commission as an application, complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license 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

**Privacy Act of 1974; Systems of  
Records, Minor Amendments**

**AGENCY:** Nuclear Regulatory  
Commission (NRC).

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.

The licensee's filing dated March 6, 1981, is being withheld from public disclosure pursuant to 10 CFR 2.790(d). The withheld information is subject to disclosure in accordance with the provisions of 10 CFR 9.12.

For further details with respect to this action, see (1) Amendment Nos. 48 and 54 to License Nos. DPR-24 and DPR-27 and (2) the Commission's related letter dated April 30, 1981. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Joseph Mann Library, 1516 16th Street, Two Rivers, Wisconsin 54241. A copy of these items 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 30th day of April 1981.

For the Nuclear Regulatory Commission,  
Robert A. Clark,  
Chief, Operating Reactors Branch No. 3,  
Division of Licensing.

[FR Doc. 81-14271 Filed 5-11-81; 8:45 am]

BILLING CODE 7590-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 17778; SR-Amex-81-4]

### American Stock Exchange Inc.; Order Approving Proposed Rule Change

May 6, 1981.

On March 16, 1981, the American Stock Exchange Inc. ("Amex"), 86 Trinity Place, New York, New York 10006, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change which revises certain exchange procedures with respect to options opening rotations. Among other things the rule (1) standardizes in certain instances the use of a modified trading rotation wherein free trading is allowed in an options series once that series is opened; (2) requires specialists to announce to the trading crowd (i) prior to opening the first options series, any material imbalances of buy and sell

orders in any series to be opened, and (ii) prior to opening each option series, any material imbalance in each such series; (3) grants precedence to market orders of Registered Options Traders ("ROTs") left with the specialist prior to the opening over bids and offers of ROTs in the crowd; and (4) prohibits ROTs, after an opening indication has been announced in the first option series to be opened from leaving with the specialist any market or limit orders in any option series of the same underlying security or from modifying any orders previously left with the specialist, until the commencement of free trading in that series.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 17653, March 24, 1981) and by publication in the *Federal Register* (46 FR 19638, March 31, 1981). No written statements with respect to the proposed rule change were filed with the Commission.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 81-14224 Filed 5-11-81; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 22038; 70-6586]

### Northeast Utilities, et al.; Proposal To Issue and Sell Short-Term Notes and Commercial Paper

May 5, 1981.

In the matter of Northeast Utilities, 174 Brush Hill Avenue, West Springfield, Massachusetts 01089; The Connecticut Light and Power Company, Selden Street, Berlin, Connecticut 06037; The Hartford Electric Light Company, Selden Street, Berlin, Connecticut 06037; Western Massachusetts Electric Company, 174 Brush Hill Avenue, West Springfield, Massachusetts 01089; Holyoke Water Power Company, One Canal Street, Holyoke, Massachusetts 01040; and Northeast Nuclear Energy

Company, Selden Street, Berlin, Connecticut 06037, (70-6586). Notice of proposal to issue and sell short-term notes and commercial paper; proposal by parent to make capital contributions to subsidiaries; request for exemption from competitive bidding as to commercial paper.

The Connecticut Light and Power Company ("CL&P"), The Hartford Electric Light Company ("HELOC"), Western Massachusetts Electric Company ("WMECO"), Holyoke Water Power Company ("HWP") and Northeast Nuclear Energy Company ("NNECO"), wholly-owned subsidiaries of Northeast Utilities ("NU") have filed an application-declaration and an amendment thereto with this Commission pursuant to Sections 6, 7 and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 45, 50(a)(2) and 50(a)(5)(B) thereunder.

This application-declaration relates to (1) proposed short-term borrowings by applicants-declarants through the issuance of notes to banks and, with the exception of HWP and NNECO, the issuance of commercial paper to a dealer in commercial paper from time to time on or before June 30, 1982 and (2) proposed capital contributions and open account advances by NU to its subsidiary companies. The aggregate amount of all such notes at any time outstanding, whether issued to banks or to a dealer in commercial paper would not exceed \$80,000,000 in the case of NU, \$255,000,000 in the case of CL&P, \$160,000,000 in the case of HELOC, \$60,000,000 in the case of WMECO, \$20,000,000 in the case of HWP and \$80,000,000 in the case of NNECO. The aggregate amount of bank notes and commercial paper that will be outstanding at any time will, in the cases of CL&P, HELOC and WMECO, be reduced by the amount of loans which such company or companies may have outstanding on a revolving basis under the Revolving Credit/Term Loan Agreement dated August 25, 1980 to which such companies are parties (HCAR No. 21684). CL&P, HELOC and WMECO each have authorization from the holders of their respective preferred stocks to issue securities representing unsecured indebtedness up to a maximum of 20% of their respective capitalizations not later than March 31, 1984 in the case of CL&P and HELOC and February 10, 1984 in the case of WMECO.

The applicants propose to renew and extend any outstanding notes or to refund them with other similar notes issued to banks or to a dealer in commercial paper and to issue and sell

additional short-term notes (and to renew such notes) from time to time to meet portions of their capital requirements, subject to the applicable maximum limitations.

The bank notes will each be dated the date of issue, will have maximum dates of nine months with right of renewal, will bear interest at the prime rate or at the prime rate plus a fraction thereof (not, as of April 30, 1981, exceeding 110% of the prime rate for any of the applicants), will be issued no later than June 30, 1982 and will be subject to prepayment without premium at any time at the applicants' option.

With respect to the issuance of bank notes, the applicants have credit lines with a number of banks subject in some cases to commitment fees and/or compensating balance requirements. The effective cost of borrowings under such credit lines, based on a prime rate of 18%, ranges from 19.08% to 23.04%. The bank credit lines expire at various times in 1981 and 1982 and their continued availability is subject to continuing review by the banks involved. Bank credit lines of the applicants may be changed and additional lines may be obtained from other banks. As of April 30, 1981, the credit lines permitted maximum borrowings of \$176,655,000 at the prime rate; \$30,000,000 at 106% of the prime rate; \$30,000,000 at 107% of the prime rate; \$6,000,000 at 109% of the prime rate; and \$12,000,000 at 110% of the prime rate.

From time to time conditions in the capital markets are such that, in lieu of borrowing under their credit lines at interest rates based on the prime rate or the prime rate plus a fraction thereof, the applicants will find it advantageous to issue bank notes with interest rates determined with reference to other financial indices (such as the Federal Funds rates, bank certificate of deposit rates, Eurodollar rates or any combinations of these rates). In such cases, there may be prepayment penalties associated with the bank notes. The applicants will avail themselves of the option of issuing bank notes on this basis in circumstances in which they anticipate that their effective borrowing costs will be lower than for borrowings under their conventional credit lines. Of the banks with which the applicants had credit lines on April 30, 1981, banks having commitments aggregating \$225,500,000 have offered such terms to the applicants at varying times.

Commercial paper will be issued in the form of short-term promissory notes in denominations of not less than \$50,000 and not more than \$1,000,000, of

varying maturities, with no maturity more than 270 days after the date of issue and will not be repayable prior to maturity. The commercial paper will be sold directly to a dealer in commercial paper, Lehman Commercial Paper, Incorporated, at the discount rate per annum prevailing at the date of issuance for commercial paper of comparable quality and of the particular maturity sold by public utility issuers thereof to commercial paper dealers. No commercial paper shall be issued having a maturity of more than 90 days at an effective interest cost to the applicant in excess of the effective bank interest rate at which the applicant could obtain loans from banks in an amount at least equal to the principal amount of such commercial paper. No commission or fee will be payable in connection with the issuance and sale of the commercial paper. The purchasing dealer, as principal, will reoffer the commercial paper to institutional investors at the discount of not more than  $\frac{1}{8}$  of 1% per annum less than the prevailing discount rate to the applicant in such manner as not to constitute a public offering.

The commercial paper will be reoffered to not more than 200 identified and designated customers in a list (nonpublic) prepared for each applicant in advance by the purchasing dealer. No additions will be made to this customer list which includes commercial banks, insurance companies, corporate pension funds, investment trusts, foundations, colleges and universities, municipal and state benefit funds, eleemosynary institutions, finance companies and nonfinancial corporations purchasing such paper for the purpose of investing their funds on a short-term basis. It is anticipated that the commercial paper will be held by customers to maturity, but if such customers desire to resell prior to maturity, the purchasing dealer, pursuant to a verbal repurchase agreement, will repurchase the commercial paper and reoffer the same to others in the group of 200 customers.

NU expects to apply the new funds derived from the issuance and sale of the bank notes and the commercial paper during the period from June 1, 1981 to June 30, 1982 (1) to make capital contributions of \$30,000,000 to CL&P, (2) to make open account advances to HWP in amounts not to exceed in the aggregate \$6,000,000, to Rocky River Realty Company and The Quinnetuk Company, both wholly-owned real estate subsidiaries of NU, in amounts not to exceed in the aggregate \$2,500,000 and \$500,000, respectively, and (3) to supply funds as needed to other subsidiary companies as heretofore or

hereafter authorized by the Commission. All capital contributions to subsidiaries will be credited to their capital surplus accounts. NU may make additional capital contributions of up to \$10,000,000 to CL&P (or up to \$40,000,000 in the aggregate), up to \$30,000,000 to HELCO, and up to \$20,000,000 to WMECO, and it may elect to convert all or any portion of the estimated \$6,000,000 of planned open account advances to HWP to capital contributions. Such determinations will be made in light of such factors as the results of rate cases, the ability of such companies to complete planned long-term financings, the performance of nuclear units (in the cases of CL&P, HELCO and WMECO) and the financial condition of the subsidiary.

The funds to be derived by CL&P, HELCO and WMECO from their proposed transactions will be applied, together with other funds available to these companies, to provide working capital and to finance their respective construction expenditures (including Allowance for Funds Used During Construction but excluding nuclear fuel) in 1981 and 1982, which are estimated to be \$414,000,000, \$207,000,000 and \$118,000,000, respectively. Funds derived by HWP from their proposed transactions will be applied to the installation of a second hydro unit as its facility at Hadley Falls on the Connecticut River, to the Conversion of its Mt. Tom station from oil to coal (to the extent that funds from the other sources described below are insufficient) and to provide working capital. NNECO will apply funds derived from the sale of bank notes and other funds available to it, for nuclear fuel financing during 1981 and 1982 and for operating and maintenance expenses for the Millstone plants. NNECO's established total nuclear fuel expenditures and 1981 and 1982 total \$131,000,000.

HWP expects that it will finance most of the cost of conversion of its Mt. Tom station through an "oil conservation adjustment" rate mechanism that will be collected from customers once the plan begins to burn coal. The initial costs of conversion and any excess of costs over the rates so collected are expected to be financed through the sale of bank notes and capital contributions and/or open account advances from NU until a proposed revolving credit agreement between HWP and a group of banks is executed and receives necessary approvals. The proposed revolving credit agreement will be the subject of a separate application-declaration to this Commission.

Except as otherwise described herein and unless otherwise authorized by the Commission, any bank notes or commercial paper of NU, CL&P, HELCO, WMECO HWP and NNECO outstanding at June 30, 1982, will be repaid from internal cash resources or from the proceeds of long-term debt or equity financing.

The applicants-declarants request an exemption from the competitive bidding requirements of Rule 50 pursuant to paragraph (a)(5)(B) as to the issuance and sale of the commercial paper on the grounds that it is not practical to invite competitive bids for commercial paper and that current rates for commercial paper of borrowers such as applicants-declarants are published daily in financial publications.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by May 29, 1981, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on this applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 81-14223 Filed 5-11-81; 8:40]  
BILLING CODE 8010-01-M

[Release No. 34-17777; File No. SR-PSE-81-08]

**The Pacific Stock Exchange Inc.;  
Proposed Rule Change Relating to  
Options Allocation Plan; Self-  
Regulatory Organizations**

Comments requested on or before  
June 2, 1981.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on May 4, 1981, The Pacific Stock Exchange Incorporated ("self-regulatory organization" or "PSE") filed with the Securities and Exchange Commission the proposed rule change as described

in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's  
Statement of the Terms of Substance of  
the Proposed Rule Change**

The Pacific Stock Exchange Incorporated proposes to amend the agreement previously entered into by the options exchanges and approved by the Securities and Exchange Commission on May 30, 1980 (see SEC Release 34-16863), concerning selection and replacement of underlying securities for options trading. This agreement is also referred to as the "Allocation Plan." The American Stock Exchange Inc. ("AMEX"), the Chicago Board Options Exchange ("CBOE"), PSE and the Philadelphia Stock Exchange ("PHLX") have entered into an agreement to adopt the following amendments respecting the replacement of involuntarily delisted options.<sup>1</sup>

The text of the proposed amendments to the Allocation Plan (previously noted in SR-PSE-80-09) is set forth below. Italics indicate new material; brackets indicate material to be deleted.

- A. No change.
- B. No change.
- C. No change.
- D. No change.
- E. No change.
- F. No change.

G. Until this plan has been approved by the Commission and the initial allocation has been carried out, any options exchange which delists an option because the underlying stock no longer qualifies for options trading shall be eligible to select another underlying stock in accordance with the plan submitted to and approved by the Commission in its Release 14878, of June 22, 1978, as was done by the AMEX and PSE in April of 1980. After the initial allocation described above, such procedure for selecting substitute underlying stocks will be [terminated.] as follows:

*1. Involuntarily delisted options, delisted either because of failure to meet the maintenance standards and/or because of changes in the corporate structure of the issuer of the underlying securities, may be replaced by an exchange outside of the normal allocation procedure if the exchange observes the following procedure. The*

<sup>1</sup> Notice of the proposed rule changes submitted by Amex, CBOE, and Phlx was given by publication of Securities Exchange Act Release No. 17757 (April 27, 1981) and by publication in the Federal Register (46 FR 24352 (April 30, 1981)).

*exchange must select a replacement option within ten business days of the replacement priority date, must promptly notify the other parties to this agreement of the selection and must admit the selection to trading within 90 calendar days from the date of selection. Failure of an exchange to observe this procedure shall result in that exchange's forfeiting its right to replacement outside the normal allocation procedure unless all parties to this amendment waive the forfeiture.*

*2. Unless all parties to this amendment agree otherwise, the replacement priority date for involuntarily delisted options shall be the last day of trading of the involuntarily delisted options; provided however, that, when the involuntary delisting occurs as the result of a change in the corporate structure of the issuer of the underlying security, the replacement priority date shall be the effective date of the corporate action which causes the involuntary delisting. Excepting the determination based on volume that is described below in connection with options currently listed on more than one exchange, should a replacement priority date be the same for two or more exchanges, the exchanges shall use a random method to determine the order in which they select replacement options.*

*3. An exchange on which options are currently listed shall have the first right to select for options listing one of the following: a surviving entity or a new entity, including any spinoff, resulting from an involuntary delisting. Any selection must qualify for options listing. In the case of options currently listed on more than one exchange, the exchange having the greater public contract volume in the past calendar year with respect to those options (as per OCC statistics) shall have the first right described above. The exchange having the lesser public contract volume shall have the second such right.*

*4. This amendment is effective as of June 30, 1980, for the purpose of determining the replacement priority date for any exchange which involuntarily delisted an option class in the time period between June 30, 1980, and the date the Commission approves this amendment. Notwithstanding the time limits set forth in paragraph number one above, any exchange which involuntarily delisted an option within this time period for any reason shall be entitled to select, in the order of the replacement priority dates determined in accordance with this amendment, a replacement option for each delisted option provided the selection (a) is*

made within 20 business days following Commission approval of this amendment and (b) is admitted to trading within 90 calendar days from the date of selection. Under this exception, an exchange having an earlier replacement priority date shall not be able to select as a replacement an option on which another exchange has a first right of selection, unless that other exchange has expressed in writing its intent not to exercise that right.

H. No change.

I. No change.

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the PSE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The PSE has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

### (A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the Allocation Plan amendments is to provide a replacement plan, outside the normal allocation procedure, to replace involuntarily delisted options. At the present time, there is no plan in effect which covers the replacement of involuntarily delisted options. The amendments set forth in this filing are intended to fill the void in the current Allocation Plan.

This agreement sets forth replacement priority dates for involuntarily delisted options, the first right to select for options whose underlying security leaves a surviving entity or new entity and parameters for replacing involuntarily delisted options.

All the proposed changes are in furtherance of the Commission's request that the option exchanges create a plan that is agreed to by all option exchanges which provides for the equitable allocation of new options among the existing options exchanges. In addition, the changes are consistent with the requirements of the Securities Exchange Act of 1934 (the "1934 Act") and rules and regulations thereunder applicable to the Exchange in that they facilitate and standardize the method and procedure for replacing involuntarily delisted options in a fair and equitable manner. Therefore, the proposed rule changes

are consistent with Section 6(b)(5) of the 1934 Act, which provides in pertinent part, that the rules of the Exchange be designed to promote just and equitable principles of trade.

### (B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed changes will not have any impact on competition.

### (C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The proposed rule changes were considered and approved by the Exchange's Options Listing Committee which is comprised of PSE members and representatives of PSE member organizations.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

On or before June 16, 1981 or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change; or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before June 2, 1981.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

May 6, 1981.

[FR Doc. 81-14225 Filed 5-11-81; 8:45 am]

BILLING CODE 8010-01-M

## SMALL BUSINESS ADMINISTRATION

[License No. 05/07-0029]

### Adams Street Capital, Inc.; License Surrender

Notice is hereby given that Adams Capital, Inc., 1866 Sheridan Road, Highland Park, Illinois 60035, has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). Adams Street Capital, Inc. was licensed by the Small Business Administration on March 26, 1961.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender of the license was accepted on April 15, 1981, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 4, 1981.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 81-14186 Filed 5-11-81; 8:45 am]

BILLING CODE 8025-01-M

### [Delegation of Authority No. 15; Revision 1]

#### Delegation of Authority to the Associate Administrator for Data and Management Services

Delegation of Authority No. 15 (37 FR 20753) as amended, (39 FR 1897; 40 FR 18054; 42 FR 18320; and 43 FR 17434) is hereby revised to reflect internal organization changes.

Accordingly, Delegation of Authority No. 15, Revision 1 reads as follows:

I. Pursuant to the authority vested in the Administrator by the Small Business Act, 72 Stat. 384, as amended, and the Small Business Investment Act of 1958, 72 Stat. 689, as amended, there is hereby delegated to the Associate Administrator for Data and Management Services the following authority:

**A. Administrative Services**

1. To contract for supplies and services for the Agency pursuant to Chapter 4 of Title 41, U.S.C., subject to limitations contained in Section 257 (a) and (b) of that chapter.

2. To contract for printing services for the Agency pursuant to Chapter 4 of Title 41, U.S.C., as amended, subject to the limitations contained in Section 257 (a) and (b) of that Chapter and pursuant to Title 44, U.S.C.

3. To execute grants or cooperative agreements authorized by Federal statute except Section 7(j) of the Small Business Act subject to the limitations contained in Pub. L. 95-224, OMB Circular A-110 and OMB Circular A-102.

**B. Claims under the Federal Tort Claims Act**

To give final approval on actions resulting from any claims subject to the provisions of 28 U.S.C. 2672.

**C. Use of Seal of the Small Business Administration**

To certify true copies of any books, records, papers, or other documents on file with the Small Business Administration; to certify extracts from such material; to certify the non-existence of records on file; and to cause the Seal of the Small Business Administration to be affixed to all such certifications.

II. This delegation is not derogation of any authority residing in the Deputy Administrator.

III. The authority herein may be redelegated with the exception of I.B.

IV. All authority delegated herein may be exercised by an SBA employee designated as Acting Associate Administrator for Data and Management Services.

Effective date: May 12, 1981.

Dated: March 26, 1981.

Roger H. Jones,

*Acting Administrator.*

[FR Doc. 81-14186 Filed 5-11-81; 8:43 am]

BILLING CODE 8025-01-M

**[Delegation of Authority No. 3A]****Rescission of Delegation of Authority; Associate Deputy Administrator for Support Services**

Organizational changes within the SBA Central Office have resulted in the reassignment of printing contract authority, and the related graphics functions, to the Office of Administrative Services. Accordingly, Delegation of Authority No. 3A, (44 FR 50125) and subsequent Delegations of

Authority Nos. 19, (45 FR 71032) and 19-A, (45 FR 81349) are hereby rescinded without prejudice to actions taken prior to the date hereof.

Effective Date: May 12, 1981.

Dated: March 26, 1981.

Roger H. Jones,

*Acting Administrator.*

[FR Doc. 81-14187 Filed 5-11-81; 8:45 am]

BILLING CODE 8025-01-M

**OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE****Nonmember Import Quotas Under the International Sugar Agreement; Correction**

On April 23, 1981, a letter appeared on page 23186 of the Federal Register. The letter was to the Acting Commissioner of Customs from the Deputy U.S. Trade Representative Designate. The letter instructed the U.S. Customs Service to implement non-member import quotas under the International Sugar Agreement. The letter stated that the non-member import limitation was 74,384 tons as established by the International Sugar Organization. Subsequently, the International Sugar Organization informed the Office of the U.S. Trade Representative that the U.S. non-member import quota is 5,987 metric tons and not 74,384 tons as previously reported.

Donald M. Nelson,

*Assistant U.S. Trade Representative for Agricultural Affairs and Commodity Policy.*

[FR Doc. 81-14212 Filed 5-11-81; 8:45 am]

BILLING CODE 3190-01-M

**DEPARTMENT OF THE TREASURY****Customs Service**

[T.D. 81-127]

**American Manufacturer's Petition; Decision Denying American Manufacturer's Petition Requesting the Reclassification of Speedometers and Odometers Used on "Exercisers"; Petitioner's Desire To Contest This Decision**

**AGENCY:** Customs Service, Treasury.

**ACTION:** Notice of (1) decision on American manufacturer's petition, and (2) receipt of notice of petitioner's desire to contest the decision.

**SUMMARY:** In response to an American manufacturer's petition requesting that speedometers and odometers used on "exercisers" (stationary exercise cycles) be reclassified under the provision for bicycle speedometers and parts thereof

in item 711.93, Tariff Schedules of the United States (TSUS), rather than under the provision of parts of bicycles in item 732.42, TSUS, or under the provision for revolution counters or other speedometers in item 711.98, TSUS, or under the provision for sport, gymnastic, athletic, or playground equipment and parts thereof in item 735.20, TSUS, Customs advised the petitioner that for purposes of the tariff schedules, double-gear speedometers and odometers of a type chiefly used on "exercisers," would continue to be classified as speedometers other than bicycle speedometers in item 711.98, TSUS. Customs further advised the petitioner that standard single-gear speedometers of a type chiefly used on bicycles would continue to be classified under the provision for bicycle speedometers in item 711.93, TSUS. Upon being informed that its petition had been denied, the petitioner filed notice of its desire to contest the decision in accordance with section 516 of the Tariff Act of 1930, as amended.

**FOR FURTHER INFORMATION CONTACT:**

Simon Cain, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5727).

**SUPPLEMENTARY INFORMATION.****Background**

A petition was filed under section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), by Stewart-Warner Corporation of Chicago, Illinois, an American manufacturer, requesting that imported speedometers or odometers used on exercisers be reclassified under the provision for bicycle speedometers and parts thereof in item 711.93, Tariff Schedules of the United States (TSUS), (19 U.S.C. 1202), rather than under the provision for parts of bicycles in item 732.42, TSUS, or under the provision for revolution counters or other speedometers in item 711.98, TSUS, or under the provision for sport, gymnastic, athletic, or playground equipment and parts thereof in item 735.20, TSUS.

In support of its contention that speedometers or odometers used on "exercisers" are properly classifiable as bicycle speedometers under item 711.93, TSUS, the petitioner made the following arguments:

(1) Imported speedometers for use by original equipment manufacturers on so-called "exercisers" are indistinguishable for Customs purposes from bicycle speedometers in commerce, and, therefore, all such speedometers are properly classified under item 711.93, TSUS.



(2) Speedometers with double-gear hubs are not properly classified under item 711.98, TSUS.

(3) Current item 711.93, TSUS, covering "Bicycle speedometers and parts thereof" is not a use provision within the meaning of headnote 10(e)(1), TSUS, and

(4) "Bicycle speedometers" in item 711.93, TSUS, is an *eo nomine* designation.

In response to the notice of the petition which was published in the Federal Register on August 26, 1980 (45 FR 56961), two comments were received.

#### Decision of Petition and Receipt of Petitioner's Notice of Desire To Contest

After consideration of the comments and further review of this matter, it is Customs position that double-gear speedometers and odometers of a type chiefly used on exercisers are classifiable under item 711.98, TSUS, and that standard single-gear speedometers of a type chiefly used on bicycles are classifiable under item 711.93, TSUS.

Further, it is Customs position that double-gear speedometers chiefly used on exercisers are not of the same class or kind as standard single-gear speedometers chiefly used on bicycles, and that the channels of trade in which the merchandise moves also recognize the different uses of the two types of speedometers.

By letters dated January 8, 1981, file No. 063419, and January 19, 1981, file No. 067053, the petitioner was advised that Customs had recently ruled that speedometers and odometers of a type chiefly used on exercisers were classifiable as speedometers other than bicycle speedometers in item 711.98, TSUS, and that standard single-gear speedometers chiefly used on bicycles were classifiable under the provision for bicycle speedometers in item 711.93, TSUS, and, therefore, that its petition was denied.

In response, by letter dated January 23, 1981, the petitioner filed notice of its desire to contest this decision in accordance with section 516(c), Tariff Act of 1930, as amended (19 U.S.C. 1516(c)), and section 175.23, Customs Regulations (19 CFR 175.23). However, under section 516(d), Tariff Act of 1930, as amended (19 U.S.C. 1516(d)), the current Customs practice of classifying speedometers and odometers of a type

chiefly used on exercisers as speedometers other than bicycle speedometers in item 711.98, TSUS, and standard single-gear speedometers chiefly used on bicycles under the provision for bicycle speedometers in item 711.93, TSUS, will continue so long as no decision of the United States Court of International Trade or the United States Court of Customs and Patent Appeals not in harmony with this practice is published.

#### Authority

This notice is being published in accordance with section 516(c), Tariff Act of 1930, as amended (19 U.S.C. 1516(c)), and § 175.24, Customs Regulations (19 CFR 175.24).

#### Drafting Information

The principal author of this document was Barbara E. Whiting, Regulations and Information Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: May 6, 1981.

William T. Archey,

Acting Commissioner of Customs.

[FR Doc. 81-14217 Filed 5-11-81; 8:45 am]

BILLING CODE 4810-22-M

#### Performance Review Boards; Appointment of Members

**AGENCY:** Customs Service, Treasury.

**ACTION:** General notice.

**SUMMARY:** This notice announces the appointment of the members of the U.S. Customs Service Performance Review Boards (PRB's) in accordance with 5 U.S.C. 4313(c)(4). The purpose of the PRB's is to review senior executive employees' performance and make recommendations regarding performance and performance awards.

**DATE:** The Performance Review Boards become effective on May 1, 1981.

**FOR FURTHER INFORMATION CONTACT:** Alexander Faison, Director, Office of Human Resources, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 3417, Washington, D.C., (202) 566-5563.

**SUPPLEMENTARY INFORMATION:** There are two Performance Review Boards in the U.S. Customs Service as follows:

1. The Performance Review Board to review Senior Executives rated by the Commissioner and Deputy Commissioner (i.e., the Assistant to the Commissioner, the Special Assistants to the Commissioner, the Assistant Commissioners, and Regional Commissioners) is composed of the following members:

John Mangels—Director, Office of Operations, Department of the Treasury  
William Rhodes—Director, Office of Management and Organization, Department of the Treasury  
Myron Weinstein—Deputy Director, U.S. Secret Service  
Stephen Higgins—Deputy Director, Bureau of Alcohol, Tobacco and Firearms

2. The Performance Review Board to review all other Senior Executive is composed of the following members:

Charles C. Hackett—Assistant Commissioner, Office of Management Integrity, U.S. Customs Service  
George C. Corcoran, Jr.—Assistant Commissioner, Office of Border Operations, U.S. Customs Service  
Alfred R. DeAngelus—Assistant Commissioner, Office of Commercial Operations, U.S. Customs Service  
Jack T. Lacy—Comptroller, U.S. Customs Service  
William J. Griffin—Regional Commissioner, U.S. Customs Service, 100 Summer Street, Boston, Massachusetts 02110  
Dennis T. Snyder—Regional Commissioner, U.S. Customs Service, 6 World Trade Center, New York, New York 10048  
John A. Hurley—Regional Commissioner, U.S. Customs Service, 40 S. Gay Street, Baltimore, Maryland 21202  
Robert N. Battard—Regional Commissioner, U.S. Customs Service, 99 S.E. 5th Street, Miami, Florida 33131  
Peter J. Dispenziri—Regional Commissioner, U.S. Customs Service, 423 Canal Street, New Orleans, Louisiana 70130  
Donald Kelly—Regional Commissioner, U.S. Customs Service, 500 Dallas Street, Houston, Texas 77002  
Albert G. Bergesen—Regional Commissioner, U.S. Customs Service, 300 N. Los Angeles Street, Los Angeles, California 90053  
Edward M. Ellis—Regional Commissioner, U.S. Customs Service, 211 Main Street, San Francisco, California 94105  
Eugene H. Mach—Regional Commissioner, U.S. Customs Service, 55 E. Monroe Street, Chicago, Illinois 60603.

Dated: May 7, 1981.

William T. Archey,

Acting Commissioner of Customs.

[FR Doc. 81-14216 Filed 5-11-81; 8:45 am]

BILLING CODE 4810-22-M

**FEDERAL RESERVE SYSTEM****Continental Illinois Corp.; Proposed Acquisition of Certain Assets of Drillamex, Inc.***Correction*

In FR Doc. 81-12639, appearing on page 23808, in the issue of April 28, 1981, make the following correction:

On page 23808, third column, the last line reading: "Nebraska, New Mexico, Oklahoma," should read "Nebraska, Nevada, New Mexico, Oklahoma,".

BILLING CODE 1505-01-M

**DEPARTMENT OF COMMERCE****Maritime Administration**

[Docket No. S-689]

**Application for Section 804 Waiver; Moore McCormack Marine Enterprises, Inc.**

Notice is hereby given that Moore McCormack Marine Enterprises, Inc. (Moore McCormack), a subsidiary of Moore McCormack Resources, Inc., and an affiliate of Moore McCormack Bulk Transport, Inc., and Moore McCormack Lines, Inc., by letters dated January 30, 1981, and April 8, 1981, has applied for a waiver pursuant to section 804(b) of the Merchant Marine Act, 1936, as amended (the Act), to permit the acquisition of up to eight foreign-flag dry bulk carriers of Panamax size—50,000 DWT or larger.

Alternatively, Moore McCormack has requested a determination that the vessels will not compete with any existing American-flag services determined to be essential as provided in section 211 of the Act. Even if a determination is made that the proposed vessels are competitive with essential American-flag services pursuant to section 211 of the Act, Moore McCormack believes that special circumstances and good cause exist for the grant of a waiver.

The vessels would be acquired within a five-year period and would be used primarily in the coal trade worldwide, but would not be restricted to the trade. It is Moore McCormack's intention to employ the vessels pursuant to long-term commitments with international companies. While it is possible that the vessels will, from time to time, be offered on-the-spot market, this use of the vessels would be incidental to the primary purpose of the vessels. The proposed waiver would extend until the expiration of the vessels' economic lives. The dry bulk vessels to be acquired would be contained in a

separate entity from the subsidized operations of Moore McCormack Bulk Transport, Inc. and Moore McCormack Lines, Inc. and would operate in separate and distinct trades.

Interested parties may inspect the application in the Office of the Secretary, Maritime Administration, Room 3099-B, Department of Commerce Building, 14th and Pennsylvania Avenue, 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 Administration, should submit such views and comments in writing, in triplicate, to the Secretary, Maritime Administration, by the close of business on May 22, 1981. This notice of application is published as a matter of discretion. The Maritime Administration 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 Assistant Secretary for Maritime Affairs.

Dated: May 8, 1981.

**Georgia Pournaras Stamas,**  
*Assistant Secretary.*

[FR Doc. 81-14400 Filed 5-11-81; 10:45 am]

BILLING CODE 3510-15-M

# Sunshine Act Meetings

Federal Register

Vol. 46, No. 91

Tuesday, May 12, 1981

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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[M-315, Amdt. 2; May 5, 1981]

### CIVIL AERONAUTICS BOARD.

Notice of addition and closure of item to the May 6, 1981, board meeting.

**TIME AND DATE:** 10:30 a.m., May 6, 1981 (closed meeting).

**PLACE:** Room 1012, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

**SUBJECT:** 14. Recommended Negotiating Position for U.S.—Argentina talks scheduled to begin May 11 in Washington (Memo 489, BIA).

**STATUS:** Closed.

**PERSON TO CONTACT:** Phyllis T. Kaylor, the Secretary, (202) 673-5068.

[S-736-81 Filed 5-7-81; 4:18 pm]

BILLING CODE 6320-01-M

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[M-315, Amdt. 1; May 4, 1981]

### CIVIL AERONAUTICS BOARD.

Notice of addition of Item to the May 6, 1981, Board Meeting.

**TIME AND DATE:** 10:00 a.m., May 6, 1981.

**PLACE:** Room 1027, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

**SUBJECT:** 11a. Docket 38970, Application of Thomson Vacations, Inc, Arthurs Travel, Inc. and Unitours Inc., foreign-owned charter operator, for exemption authority to organize domestic and overseas tours. (BIA, OGC)

**STATUS:** Open.

**PERSON TO CONTACT:** Phyllis T. Kaylor, the Secretary, (202) 673-5068.

[S-737-81 Filed 5-7-81; 4:18 pm]

BILLING CODE 6320-01-M

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### NATIONAL TRANSPORTATION SAFETY BOARD.

[NM-81-17]

**TIME AND DATE:** 9 a.m., Wednesday, May 20, 1981.

**PLACE:** NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594.

**STATUS:** Open.

**MATTER TO BE CONSIDERED:** Briefing by Motor Vehicle Manufacturers Association on Activities in Truck Safety.

**CONTACT PERSON FOR MORE INFORMATION:** Sharon Flemming, 202-472-6022.

May 8, 1981.

[S-739-81 Filed 5-8-81; 3:21 pm]

BILLING CODE 4910-59-M

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### OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

**"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:** 46 FR 23868, April 28, 1981.

**PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING:** 10 a.m. on May 14, 1981.

**CHANGES IN THE MEETING:** This meeting has been rescheduled for 1 p.m. on May 12, 1981.

Dated: May 8, 1981.

[S-740-81 Filed 5-8-81; 3:21 pm]

BILLING CODE 7600-01-M

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### POSTAL SERVICE (BOARD OF GOVERNORS).

#### Notice of Vote To Close Meeting

At its meeting of May 4 and 5, 1981, the Board of Governors of the United States Postal Service voted to close to public observation two portions of its next meeting, currently scheduled for June 2, 1981. Each of the members of the Board voted in favor of closing these portions of the meeting, except that Mr. Sullivan voted against closing the second portion (concerning Red-Tag mail). The meeting is expected to be attended by the following persons: Governors Babcock, Camp, Ching, Hardesty, Hughes, Hyde, Jenkins, and

Sullivan; Postmaster General Bolger; Deputy Postmaster General Benson; Secretary of the Board Cox; and Counsel to the Governors Califano.

The first portion of the meeting to be closed will consist of a continuation of the discussion of the Postal Service's possible strategies and positions in connection with anticipated collective bargaining negotiations involving parties to the 1978 National Agreements between the Postal Service and four labor organizations representing certain postal employees, which are scheduled to expire in July of 1981.

The Board of Governors is of the opinion that public access to any discussion of possible strategies that Postal Service management may decide to adopt, or the positions it may decide to assert, in any collective bargaining sessions that may take place would be likely to frustrate action to carry out those strategies or assert those positions successfully. In making this

determination, the Board is aware that the effectiveness of the collective bargaining process in labor-management relations has traditionally depended on the ability of the parties to prepare strategies and formulate positions without prematurely disclosing them to the opposite party. The public has a particular interest in the integrity of this process as it relates to the Postal Service, since the outcome of the negotiations between the Postal Service and the various postal unions, and consequently the cost, quality and efficiency of postal operations, may be adversely affected if the process is altered.

Accordingly, the Board of Governors has determined that, pursuant to section 552b(c)(3) of title 5, United States Code, and § 7.3(c) of Title 39, Code of Federal Regulations, the portion of the meeting to be closed is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. § 552b(b)), because it is likely to disclose information prepared for use in connection with the negotiation of collective bargaining agreements under chapter 12 of title 39, United States Code, which is specifically exempted from disclosure by section 410(c)(3) of title 39, United States Code. The Board has determined further that, pursuant to section 552(c)(9)(B) of title 5, United States Code, and § 7.3(i) of Title 39, Code of Federal Regulations, the

discussion is exempt, because it is likely to disclose information the premature disclosure of which is likely to frustrate significantly proposed Postal Service action. Finally, the Board of Governors has determined that the public has an interest in maintaining the integrity of the collective bargaining process and that the public interest does not require that the Board's discussion of its possible collective bargaining strategies and position be open to the public.

The second portion of the meeting to be closed is to involve a discussion concerning Red-Tag mail. At the May 4, 1981, meeting, the members agreed that management should be directed to prepare a new Rate Commission filing on Red-Tag mail. The discussion is likely to include consideration of such a filing and of the administrative litigation that probably would ensue, as well as consideration of pending and potential judicial litigation, including appeals and

petitions for review now before the U.S. Court of Appeals for the Second Circuit.

The Board has determined that, pursuant to section 552b(c)(3) of title 5, United States Code, and § 7.3(c) of Title 39, Code of Federal Regulations, the second portion of the meeting to be closed is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. § 552b(b)), in that it is likely to disclose information prepared for use in connection with proceedings under chapter 36 of Title 39 (having to do with postal ratemaking, mail classification, and postal service), which is specifically exempted from disclosure by section 410(c)(4) of Title 39. The Board determined further that, pursuant to section 552b(c)(10) of title 5 and § 7.3(j) of Title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern the participation of the Postal Service in a civil action or proceeding, and the initiation of a particular case

involving a determination on the record after opportunity for a hearing. Finally, the Board of Governors has determined that the public interest does not require that the Board's discussion of its possible chapter 36 strategies and positions be open to the public.

In accordance with section 552b(f) of title 5, United States Code, and § 7.6(a) of Title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the portions of the meeting to be closed may properly be closed to public observation, pursuant to sections 552b(c)(3), (9)(B), and (10) of title 5 and section 410(c)(3) and (4) of title 39, United States Code, and § 7.3(c) and § 7.3(i) and (j) of Title 39, Code of Federal Regulations.

Louis A. Cox,

Secretary.

[S-741-81 Filed 5-8-81; 3:55 pm]

BILLING CODE 7710-12-M

# **federal register**

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Tuesday  
May 12, 1981

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**Part II**

**Department of  
Energy**

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Privacy Act of 1974; Proposal of New  
Systems

## DEPARTMENT OF ENERGY

## Privacy Act of 1974; Proposal of New Systems

**AGENCY:** Department of Energy.

**ACTION:** Proposal of three new systems of records.

**SUMMARY:** The Department of Energy is proposing three new systems of records subject to the Privacy Act of 1974 (Pub. L. 93-579; 5 U.S.C. 552a(o)).

**DATES:** Written comments on or before June 8, 1981.

**ADDRESSES:** Written comments should be directed to the following address: U.S. Department of Energy, Phillip M. Kannan, Attorney, Office of Chief Counsel, P.O. Box E, Oak Ridge, Tennessee 37830 (615) 576-1204.

**FOR FURTHER INFORMATION CONTACT:** U.S. Department of Energy, Milton Jordan, Director, Division of FOI and Privacy Acts Activities, Forrestal Building, Room 1G-051, Washington, DC 20585, (202) 252-5922.

#### A. Supplementary Information

I. Report on three New Systems of Records.

II. Comments Procedure.

III. System Notice DOE—The Radiation Accident Registry.

VI. System Notice DOE—The Department of Energy Radiation Study Registry.

V. System Notice DOE—The US-DTPA Registry.

1. **Background:** This Report of New Systems, consisting of three separate parts, is submitted by the Department of Energy as required by the Privacy Act of 1974, 5 U.S.C. 552a(o). The Office of Management and Budget requires a Report on New Systems by a Government agency whenever a new system of records is proposed or certain significant changes occur to previously established systems. The Department of Energy is submitting the Reports on New System required by OMB Circular A-108 concurrently with the publication of this Federal Register notice. At this time, the Department of Energy is proposing to establish three systems of records for which no notice has yet been published. Their proposed designations are as follows:

(a) The Radiation Accident Registry

(b) The Department of Energy Radiation Study Registry

(c) The US-DTPA Registry

2. **DOE-71, the Radiation Accident Registry:** (a) **Purpose:** This system will serve primarily to provide complete clinical and accident histories as basis

for clinical and epidemiological studies of the life-time morbidity of individuals accidentally exposed to acute dose of ionizing radiation, to provide data for comparative studies of the efficacies of the methods and regimens used in the diagnosis and therapy of acute radiation-induced injuries, and to serve as a resource of technical and medical data for the education of physicians, health physicists and allied health care personnel.

(b) **Authority:** This system is established under the authority vested in the Secretary contained in 5 U.S.C. 301 and Section 644 of the Department of Energy Organization Act, Pub. L. 95-91, to prescribe such procedural and administrative rules as he may deem necessary or appropriate to manage functions vested in him.

(c) Potential consequence on individual privacy, and;

(d) Safeguards against unauthorized access.

The data in the system of records will be available only to scientists and supporting staff. Any reports generated will not identify the individuals to whom the data pertains. Thus, there will be a minimal effect on the privacy of the individuals. There will be no other effect on any other personal or property right of the individuals. Thus, it is the evaluation of the Department that the proposed system will have no detrimental effect on federalism or separation of power.

The records will be maintained in locked file cabinets or on computer storage devices in locked security areas. These areas are not accessible to members of the public. Only scientists approved by the Department of Energy will have access to this information. Reports published based on this information will not identify the individuals. It is the Department's evaluation that the risk of unauthorized disclosure is minimal.

3. **DOE-72, The Department of Energy Radiation Study Registry:**

(a) **Purpose:** This system will provide complete clinical histories as a basis for life-time morbidity studies of civilians in a defined population whose exposure to ionizing radiation at one of DOE's (or its predecessor's) plant sites, laboratories, test stations, or nuclear naval bases was at least 5 REM in any calendar year.

(b) **Authority:** This system is established under the authority vested in the Secretary contained in 5 U.S.C. 301 and Section 644 of the Department of Energy Organization Act, Pub. L. 95-91, to prescribe such procedural and administrative rules as he may deem necessary or appropriate to manage functions vested in him.

(c) Potential consequences on individual privacy.

4. **DOE-73, The US-DTPA Registry:** (a) **Purpose:** This system will provide complete clinical histories of individuals treated with diethylenetriaminepentaacetic acid (DTPA) in either the calcium or zinc form and administered intravenously, intramuscularly, orally, or by inhalation of the aerosol preparation of the drug. Such histories will be the basis of studies by epidemiological methods to identify any long-term, adverse or side effects of DTPA.

(b) **Authority:** This system is established under the authority vested in the Secretary contained in 5 U.S.C. 301 and Section 644 of the Department of Energy Organization Act, Pub. L. 95-91, to prescribe such procedural and administrative rules as he may deem necessary or appropriate to manage functions vested in him.

#### B. Comments Procedure

As provided by Section 3(e)(11) of the Privacy Act of 1974 (5 U.S.C. 552a(e)(11)), interested persons are invited to submit written data, views or arguments related to these proposal to: Phillip M. Kannan, Attorney, U.S. Department of Energy, Office of Chief Counsel, P.O. Box E, Oak Ridge, Tennessee 37830, (615) 576-1204.

Comments should be identified on the outside of the envelope and on the documents submitted to the Department of Energy with the designation "Department of Energy Privacy Act Systems Proposals." These comments and all other relevant information will be considered by the Department of Energy before the various proposals are adopted in their final form.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The Department of Energy reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

If no comments to the contrary are received with respect to a particular proposed system, it is the intent of the Department of Energy to operate any such system as proposed at the expiration of the 60-day advance notice period for informing Congress and the Office of Management and Budget of proposed new systems, as defined in OMB Circular A-108.

The Department of Energy has determined that this document does not contain a proposal requiring preparation of a regulatory analysis under Executive Order 12044.

(Privacy Act of 1974, Pub. L. 93-579; Department of Energy Organization Act, Pub. L. 95-91; Executive Order 12009, 42 FR 46267; and those authorities vested in the Department's predecessor agencies which are incorporated by reference in Title III of the Department of Energy Organization Act)

In consideration of the foregoing, the measures described above are proposed. Set forth below as Sections III-V of SUPPLEMENTARY INFORMATION, respectively, is a listing of the three Department of Energy Systems as proposed.

Issued in Washington, D.C., April 23, 1981.  
William S. Heffelfinger,  
Director of Administration.

#### DOE 71

System name: The Radiation Accident Registry.

Security classification: Unclassified.  
System location: Oak Ridge Operations Office, P.O. Box E, Oak Ridge, Tennessee 37830.

#### Categories of Individuals Covered by the System:

1. Those persons accidentally exposed to acute doses of ionizing radiation as defined by exposure dose criteria agreed to by the Department of Energy and the Nuclear Regulatory Commission by an interagency agreement. The dose criteria established by this agreement include one or more of the following: (a) Greater than or equal to 25 REM (Roentgen Equivalent Man) to the whole body, active blood-forming organs or gonads; (b) greater than or equal to 600 REM to skin of whole body or extremities; (c) greater than or equal to 75 REM to other tissues or organs from an external source; (d) greater than or equal to 1/2 NCRP maximum permissible organ burden internally; all those medical misadministrations of radioisotopes that result in a dose or organ burden equal to or greater than those given above.

2. Those individuals known to have been involved in an event in which one or more other persons received a dose equal to or in excess of the DOE/NRC criteria but whose personal dose was less than these criteria. The histories of these individuals contribute control population data.

#### Categories of Records in the System:

1. Official accident reports including reports of those accidents that have occurred within the jurisdiction of the Nuclear Regulatory Commission and which have been transferred to the Department of Energy for the Accident Registry according to the Department of Energy/Nuclear Regulatory Commission agreement.

2. Names, addresses, social security numbers or other identifiers, and vital status information such as age, sex, race, etc.

3. Original or copied medical records compiled at the time of the accident. Such records include physician and hospital records, diagnostic and laboratory test reports, radiographs, EKGs, etc., and radiation exposure reports.

4. Original or copies of medical records of illnesses, examinations, including routine follow-up exams, investigations, etc., that have occurred since the radiation exposure.

5. Photographs or facsimiles of radiation-induced injuries.

6. Search and contact information for registrants as yet not identified and/or located.

7. Consent to release information forms completed by registrants.

8. Death certificates (copies).

9. Anecdotal information.

10. Correspondence relating to the accident and/or the individuals involved; originals and copies.

#### Authority for Maintenance of the System:

5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

#### Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Uses:

1. To provide a current record of radiation accidents for use by the Department of Energy, and its contractors and consultants.

2. To identify specific populations for use in epidemiological and clinical studies.

3. To conduct medical surveillance during the lifetime of the registrants.

4. Additional uses 4, 8, 9, 10, as listed in Appendix B to the Department of Energy publication of systems of records, 45 FR 51125, 8/30/79.<sup>1</sup>

#### Policies and Practices for Storing, Retrieving, Accessing, Retaining, and Disposing of Records in the System:

**Storage:** Paper records, computer tapes, computer printouts, punched cards, discs, magnetic tape and microfilm.

**Retrievability:** By name and social security number.

**Safeguards:** Records are maintained in locked security areas in locked file cabinets. Access is limited to

individuals whose official duties require access.

#### Retention and Disposal:

Records retention and disposal authorities are contained in the DOE Order 1324.1, "Records Disposition." Records within the Department of Energy are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

#### System Manager(s) and Address:

The Manager of the Oak Ridge Operations Office is the System Manager.

#### Notification Procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Privacy Act Officer, Department of Energy, P.O. Box E, Oak Ridge, Tennessee 37830 in accordance with the Department of Energy's Privacy Act regulations (10 CFR Part 1008, 45 FR 61576, September 16, 1980).

b. Required identifying information: Name, social security number, and time period.

#### Record Access Procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Privacy Act Officer, Department of Energy, P.O. Box E, Oak Ridge, Tennessee 37830 in accordance with the Department of Energy's Privacy Act regulations (10 CFR Part 1008, 45 FR 61576, September 16, 1980).

b. Required identifying information: Name, social security number, and time period.

#### Record Source Categories:

The individual, medical records, physicians, medical institutions, and reports of incident/accident investigations from private and public sources, radiation dosimetry records, security clearance records and employment records.

**Systems Exempted from Certain Provisions of the Act:** None.

#### DOE 72

System name: The Department of Energy Radiation Study Registry.

Security classification: Unclassified.

System location: Oak Ridge Operations Office, P.O. Box E, Oak Ridge, Tennessee 37830

<sup>1</sup>These routine uses are reprinted below.

*Categories of Individuals Covered by the System:*

Registrants are those present and former employees of contractors of the Department of Energy and its predecessor organizations including the Manhattan District, USAEC, and ERDA, and present and former civilian employees in the Department of Energy Naval Reactor Program who received a whole body exposure of ionizing radiation equal to or in excess of 5 REM in any one calendar year.

*Categories of Records in the System:*

1. Rosters of names of individuals meeting the above criteria for inclusion in the Registry submitted through the Department of Energy field operation offices from Department of Energy-owned and operated facilities and sites. In addition to names of such individuals, these rosters include social security number or other identifying information, sex, race, date of birth, date and/or place of death, first date of hire, last date of termination, continuity of hire, year in which they received first dose, greater than or equal to 5 REM, actual radiation dose in excess of 5 REM, total career radiation exposure dose.

2. Original or copied lifetime medical records from plant and private physicians and hospitals including routing physical examinations, reports of diagnostic and laboratory tests, radiographs, EKGS, etc., or abstracted portions of such records as are required for the purposes of the study.

3. Search and contact information for registrants who are no longer employed at qualified sites or who are deceased.

4. Death Certificates.

*Authority for Maintenance of the System:*

5 U.S.C. 301: Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

*Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Uses:*

1. To provide a current record of registrants for use by Department of Energy, and its contractors and consultants.

2. To identify specific populations for use in epidemiological and clinical studies.

3. To conduct medical surveillance during the lifetime of the registrants.

4. Additional uses 4, 8, 9, 10, as listed in Appendix B to the Department of

Energy publication of systems of records, 45 FR 51125, 8/30/79.<sup>1</sup>

*Policies and Practices for Storing, Retrieving, Accessing, Retaining, and Disposing of Records in the System:*

*Storage:* Paper records, computer tapes, computer printouts, punched cards, discs, magnetic tape and microfilm.

*Retrievability:* By name and social security number.

*Safeguards:* Records are maintained in locked security areas in locked file cabinets. Access is limited to individuals whose official duties require access.

*Retention and Disposal:* Records retention and disposal authorities are contained in the DOE Order 1324.1, "Records Disposition." Records within the Department of Energy are destroyed by shredding, burying, or burial in a sanitary landfill, as appropriate.

*System Manager(s) and Address:* The Manager of the Oak Ridge Operations Office is the System Manager.

*Notification Procedure:*

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Privacy Act Officer, Department of Energy, P.O. Box E, Oak Ridge, Tennessee 37830 in accordance with the Department of Energy's Privacy Act regulations (10 CFR Part 1008, 45 FR 61576, September 16, 1980).

b. Required identifying information: Name, social security number, and time period.

*Record Access Procedures:*

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Privacy Act Officer, Department of Energy, P.O. Box E, Oak Ridge, Tennessee 37830 in accordance with the Department of Energy's Privacy Act regulations (10 CFR Part 1008, 45 FR 61576, September 16, 1980).

b. Required identifying information: Name, social security number, and time period.

*Record Source Categories:*

The individual, medical records, physicians, medical institutions, and reports of incident/accident investigations from private and public sources, radiation dosimetry records, security clearance records and employment records

<sup>1</sup> These routine uses are reprinted below.

*Systems Exempted from Certain Provisions of the Act: None.*

**DOE 73**

System name: The US-DTPA Registry.  
Security classification: Unclassified.  
System location: Oak Ridge Operations Office, P.O. Box E, Oak Ridge, Tennessee 37830.

*Categories of Individuals Covered by the System:*

Registrants are those individuals who, because of real or suspected internal contamination with transuranic elements, have received diethylenetriaminepentaacetic acid (DTPA), in the calcium or zinc form during the course of chelation therapy. Administration of the agent DTPA is limited to physicians who are co-investigators with the Department of Energy contractor staff on the Investigative New Drug License of the Food and Drug Administration.

*Categories of Records in the System:*

1. The records compiled by the physician administering DTPA in the event of an exposure that was known to have or was suspected of having caused transuranic contamination internally requiring chelation therapy with DTPA. These records include a description of the exposure, the results of serial bioassays and investigations conducted to evaluate the level of internal contamination and the efficacy of subsequent chelation by DTPA. The form of DTPA and the route and frequency of administration are recorded together with an untoward effects of the therapy.

2. Names, social security numbers or other identifiers and vital status of treated persons. The last known addresses and the names of the private physicians of individuals who have relocated or who are no longer within the practice of the administering physician(s) are included in the DTPA Registry to facilitate the search and contact of these individuals.

3. Original or copies of medical records of illnesses, examinations, including routine followup examinations, investigations, etc., that have occurred since the initial administration of DTPA.

4. Death certification.

*Authority for Maintenance of the System:*

5 U.S.C. 301: Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.



*Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Uses:*

1. To provide a current record of individuals treated with DTPA for use by the Department of Energy and its contractors and consultants.
2. To identify by epidemiological methods any long-term untoward effects associated with DTPA therapy.
3. To provide information to FDA in accord with the I.N.D. license and issuances.
4. Additional uses 4, 8, 9, 10, as listed in Appendix B.<sup>1</sup>

*Policies and Practices for Storing, Retrieving Accessing, Retaining, and Disposing of Records in the System:*

*Storage:* Paper records, computer tapes, computer printouts, punched cards, discs, magnetic tape and microfilm.

*Retrievability:* By name and social security number.

*Safeguards:* Records are maintained in locked security areas in locked file cabinets. Access is limited to individuals whose official duties require access.

*Retention and Disposal:* Records retention and disposal authorities are contained in the DOE Order 1324.1, "Records Disposition." Records within the Department of Energy are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

*System Manager(s) and Address:*

The Manager of the Oak Ridge Operations Office is the System Manager.

*Notification Procedure:*

- a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Privacy Act Officer, Department of Energy, P.O. Box E, Oak Ridge, Tennessee 37830 in accordance with the Department of Energy's Privacy Act regulations (10 CFR Part 1008, 45 FR 61576, September 16, 1980).
- b. Required identifying information: Name, social security number, and time period.

*Record Access Procedures:*

- a. Requests by an individual for access to a system of records that

contains information about him or her should be directed to the Privacy Act Officer, Department of Energy, P.O. Box E, Oak Ridge, Tennessee 37830 in accordance with the Department of Energy's Privacy Act regulations (10 CFR Part 1008, 45 FR 61576, September 16, 1980).

b. Required identifying information: Name, social security number, and time period.

*Contesting Record Procedures:*

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Privacy Act Officer, Department of Energy, P.O. Box E, Oak Ridge, Tennessee 37830 in accordance with the Department of Energy's Privacy Act regulations (10 CFR Part 1008, 45 FR 61576, September 16, 1980).

*Record source Categories:*

The individual, medical records, physicians, medical institutions, and reports of incident/accident investigations from private and public sources, radiation dosimetry records, security clearance records and employment records.

*Systems Exempted from Certain Provisions of the Act:* None.

**Appendix B—Additional Routine Uses**

The following routine uses apply to and are incorporated by reference into each system of records as stated therein:

1. In the event that a record within this system of records maintained by this agency indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program pursuant thereto, the relevant records in the system of records may be referred as a routine use to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.
2. A record from this system of records may be disclosed as a routine use to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary, to obtain information relevant to an agency

decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

3. A record from this system of records may be disclosed, as a routine use, to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

4. A record from this system of records may be disclosed, as a routine use (a) to appropriate parties engaged in litigation or in preparation of possible litigation, such as potential witnesses, for the purpose of securing their testimony when necessary; (b) to courts, magistrates or administrative tribunals; (c) to parties and their attorneys for the purpose of proceeding with litigation or settlement of disputes; and (d) to individuals seeking information by using established discovery procedures, whether in connection with civil, criminal, or regulatory proceedings.

5. A record maintained by this agency to carry out its functions which relates to civil and criminal proceedings may be disclosed to the news media in accordance with guidelines contained in Department of Justice regulations 28 CFR 50.2.

6. A record maintained by this agency to carry out its functions may be disclosed to foreign governments in accordance with treaty obligations.

7. A record from this system of records may be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

8. A record from this system of records may be disclosed, as a routine use, to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

<sup>1</sup> These routine uses are reprinted below.

9. A record in this system of records may be disclosed, as a routine use, to a member of Congress submitting a request involving the individual when the individual is a constituent of the member and has requested assistance from the member with respect to the subject matter of the record.

10. A record in this system of records which contains medical and/or psychological information may be disclosed, as a routine use, to the physician or mental health professional of any individual submitting a request for access to the record under the Privacy Act of 1974 and DOE's Privacy Act regulations if, in its sole judgment and good faith, DOE believes that disclosure of the medical and/or psychological information directly to the individual who is the subject of the record could have an adverse effect upon that individual, in accordance with the provisions of 5 U.S.C. 552a(f)(3) and applicable DOE regulations.

[FR Doc. 81-14227 Filed 5-11-81; 8:45 am]

BILLING CODE 6450-01-M

# **federal register**

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Tuesday  
May 12, 1981

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**Part III**

**Department of the  
Interior**

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**Fish and Wildlife Service**

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**List of 77 Birds as Endangered or  
Threatened**

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 17

## Endangered and Threatened Wildlife and Plants

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice petition acceptance and status review.

**SUMMARY:** Notice is given that a petition submitted by the International Council for Bird Preservation, U.S. Section, Inc., to list 77 birds as Endangered or Threatened under the Endangered Species Act of 1973 has been accepted. Under provisions of Section 4(c)(2) of the Endangered Species Act and 50 CFR Part 424, the Director has determined that substantial evidence has been presented to support the petition. Data on these species are still required before the Service can consider proposing rules to list them. A status review has been conducted for each species and a brief summary is included in this notice as required by 50 CFR 424.14(c). Public comment is hereby requested. The Service is requesting information on environmental and economic impacts and effects on small entities that would result from listing these birds and information on possible alternatives to the listing of any of these 77 species.

**DATES:** Persons wishing to comment on this notice should submit their data or other relevant information to the Director by September 9, 1981.

**ADDRESSES:** Director (OES), U.S. Fish and Wildlife Service, Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (703/235-2771).

**SUPPLEMENTARY INFORMATION:** On November 28, 1980, a petition was received from Dr. Warren B. King, Chairman, United States Section, International Council for Bird Preservation, to add 77 foreign and native species of birds to the List of Endangered and Threatened Wildlife (50 CFR 17.11). This request is authorized under the provisions of Section (c)(2) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and 50 CFR Part 424. A detailed analysis of most of the existing scientific literature was provided in the petition for each species. Dr. King was the compiler for the Red Data Book, Volume 2 (AVES), published in 1978 and 1979 by the

International Union for Conservation of Nature and Natural Resources (IUCN, 1110 Morges, Switzerland). Citations to the relevant literature on the status of each of these 77 birds may be found in that publication.

The status has been reviewed and is summarized below for each of the 77 birds in this petition. The information summarized in these status reviews is based on information provided by the petitioner and other scientific data contained in the Service files. The Service will make independent evaluation of the status of the species after reviewing full public comment. Specific data requests for a particular species are identified in that summary.

The petition list has been divided into two groupings of 19 and 58 species: native (including Pacific Trust Territories) and foreign, respectively. Approximate historic distributional limits are indicated in brackets. The entries in each of the two groups are arranged in taxonomic sequence.

**Status Review—Native Species**

**Tule White-fronted Goose** (*Answer albifrons elgasi*) [Nests in south-central Alaska, winters in central California]. Until the summer of 1979 the precise nesting grounds of this goose were not known, but suspected to be in Alaska. The total population was previously estimated (1973-1974) at 1200-1500 birds wintering on various refuges in the Sacramento River valley approximately 30-75 miles north of Sacramento, California. In the summer of 1980 intensive field work was conducted on the Tule white-fronted geese nesting in Redoubt Bay, Cook Inlet, Alaska, by representatives of Alaska Department of Fish and Game, U.S. Fish and Wildlife Service, and the University of Alaska. The present population estimate of the Tule white-fronted goose is 2,000-3,000 birds. Accurate population trends and mortality/survivorship rates will not be available for several years (banding studies were only intensively started in Alaska in 1980). A more complete survey for other nesting colonies is planned around Cook Inlet in 1981. For the present, the Service does not believe the Tule white-fronted goose should be proposed to be listed under the Endangered Species Act of 1973. We do intend to monitor closely this bird's status on a continuing basis.

**Puerto Rican Sharp-shinned Hawk** (*Accipiter striatus venator*) [Puerto Rico]. Petitioner suggests that loss of habitat and bot fly infestations of nestlings have reduced the population of this hawk to approximately 100-200 birds (est. 1975). The montane forests in

which it occurs are only partially protected. The hawk is still found over most of its historical range, but in limited numbers. The Service needs more recent survey data on numbers and current threats to see if this hawk should be listed under the Endangered Species Act.

**Puerto Rican Broad-winged Hawk** (*Buteo platypterus brunnescens*) [Puerto Rico]. This non-migratory population of the common (sometimes abundant) broad-winged hawk is restricted to two montane forested areas of Puerto Rico. This hawk was thought to be extinct or very rare in 1927; it had been widespread in the inland forests of Puerto Rico in the last century. The precise causes of its present low numbers are poorly understood. A maximum of 75 individuals was estimated in 1974.

**Marianas Gallinule** (*Gallinula chloropus guami*) [Mariana Islands, western Pacific]. In serious trouble on Guam, Tinian, and Saipan where it was quite common up until 1945. The present status on Pagan is unknown. This gallinule was the subject of a previous notice of review (44 FR 29128).

**Guam Rail** (*Rallus oustoni*) [Guam, Mariana Islands, western Pacific]. A flightless bird which suffered an apparent major decline approximately 10 years ago. This species is also the subject of the same review as the previous species (44 FR 29128).

**Palau Nicobar Pigeon** (*Caloenas nicobarica pelewensis*) [Pacific Trust Territories, Palau Island group, southwest Pacific]. This bird was not recorded between 1880 and 1945. Illegal hunting during the legal hunting season for the common Micronesian pigeon (*Ducula oceanica*) seem to be the present threat to this confiding bird. This species is presently protected under the Trust Territories Endangered Species Act of 1975 but not by any U.S. Federal law.

**Radak Micronesian Pigeon** (*Ducula oceanica ratakensis*) [Marshall Islands, central Pacific]. Rats seem to have reduced the number of islands occupied by this pigeon to two atolls (total 8 square miles) in the Marshall Islands. This subspecies may not be distinct from the nominate race, *D. o. oceanica*. The Service needs more data on the current status and subspecific verification of this population before this pigeon can be proposed for inclusion on the list.

**Truk Micronesian Pigeon** (*Ducula oceanica teraoki*) [Caroline Islands, western Pacific]. This pigeon was last reported in 1957 on Tol, the largest island in the Truk Group. The bird was

very common until World War II when the blockade by Allied Forces forced the Japanese to utilize all food resources on the islands. Intensive hunting pressures continued after the war. This subspecies may not be distinct from *D. o. monacha* of Palau and Yap. More information on this point is needed by the Service.

**Marianas Fruit Dove** (*Ptilinopus roseicapillus*) [Mariana Islands, western Pacific]. This bird was the subject of a previous notice of review (44 FR 29128).

**Ponape Short-eared Owl** (*Asio flameus ponapensis*) [Ponape, Caroline Islands, western Pacific]. The estimated total population in 1956 was 50 individual owls. Although only one owl was seen in 1975 during a week of surveying birds, knowledgeable ornithologists do not think the size of this small population has changed from past levels. Present data suggests that the loss of its habitat might quickly cause its extinction.

**Virgin Islands Screech Owl** (*Otus nudipes newtoni*) [St. Croix, St. Thomas, St. Johns (American Virgin Islands), and Vieques Islands (Puerto Rico), Caribbean]. This owl was last recorded in 1966 on St. Croix. A calling owl on Tortola, British Virgin Islands, in 1966 was probably this species. This subspecies was never known to be common and current population levels are thought to be low: estimated in 1973 at 25 birds, maximum. This owl requires dry forests with cavities in older trees for roosting and nesting. Forests of the Caribbean Islands are being rapidly cut to provide fuel and farm land. Only a few forested preserves now seem available to the owl.

**Guam Micronesian Kingfisher** (*Halcyon cinnamomina cinnamomina*) [Guam, Mariana Islands, western Pacific]. This species was the subject of a previous notice of review (44 FR 29128).

**Truk Monarch** (*Metabolus rugensis*) [Truk group Caroline Islands, western Pacific]. Until World War II this small, but conspicuous, bird was found on most of the major islands of the Truk group. In 1945 it could not be found on several islands. By 1957 it had recovered slightly. It was still rare in 1975 and has now been placed on the U.S. Trust Territories list of endangered species. The original forest is now much reduced and other forests have been altered in species composition (e.g., by the planting of breadfruit and coconuts). Total population is unknown but possibly low.

**Rota Bridled White-eye** (*Zosterops conspicillata rotensis*) [Rota, Mariana Islands, western Pacific]. The nominate subspecies, *Z. c. conspicillata*, was part of the above notice of May 18, 1979 (44

FR 29128). The present status of the Rota population is unclear. This white-eye was reported as very common on Rota in 1946, but in 1976 a brief survey seemed to indicate a drastic decline (total population now on the order of only several hundred). Extensive clearing of the forests and the introduction of the songbird black drongo (*Dicrurus macrocercus*), which is now particularly common in the lowlands, may be the causes for serious concern over the continued existence of the Rota bridled white-eye.

**Truk Greater White-eye** (*Rukia ruki*) [Tol, Truk Islands, western Pacific]. This white-eye is reported from only the top 30 acres of Mt. Winibot on the 14 square mile Tol Island. This bird has been rarely seen, but was last reported (3 individuals) in 1975. All previous reports were prior to World War II.

**Amak Song Sparrow** (*Melospiza melodia amaka*) [Amak Island, Aleutians, Alaska]. This song sparrow may be extinct on the small island off the western tip of the Alaska Peninsula. Brief visits by Service biologists in July and August 1973 failed to demonstrate the presence of any song sparrows. The introduction of Arctic foxes onto Amak seems to have caused the sparrow's extinction. A more thorough and successful search is needed of the entire beach-front around the island, before the Service could start processing a proposal to list this subspecies.

**Palau Blue-faced Parrotfinch** (*Erythrura trichora pelewensis*) [Palau group, western Pacific]. This small bird is known only from the type specimen (described in 1922) collected on Babelthau and two recent sightings in 1976: Ngermeaus (4 birds) and Arekabesang (1 bird). The causes for its apparent rarity are unknown. Expeditions in 1931 and 1945 did not find any blue-faced parrotfinches.

**Palau white-breasted wood-swallow** (*Artamus leucorhynchus pelewensis*) [Palau group, western Pacific]. A conspicuous bird now reported rarely and locally on several islands in the Palau group. This bird seems to prefer the open savannahs of the more remote sections of Babelthau, in particular. Present information suggests that the loss of this limited habitat might cause the bird's immediate extinction.

**Marianas crow** (*Corvus kubaryi*) [Guam and Rota, Mariana Islands, western Pacific]. This species was part of the notice of May 18, 1979 (44 FR 29128).

#### Status Review—Foreign Species

**Columbian Grebe** (*Podiceps andinus*) [Colombia]. Formerly this grebe was found in several temperate lakes in

Colombia. Since the 1950's it has been found only on Lake Tota where 300 were observed in 1968, but less than 5 birds were seen in 1977. The introduction of trout in these lakes over the past 40 years is thought to be the principal cause for the decline. The trout reportedly may out-compete the grebes for food, i. e., small bait fish.

Disturbance of the nesting sites could also be a problem. Loss of habitat or hunting are not concerns at the present.

**Black Petrel** (*Procellaria parkinsoni*) [New Zealand]. This seabird is found in small colonies on two small islands off the north-east coast of North Island, New Zealand. The total population is estimated at less than 2,000 birds, including non-breeders. Present information indicates that the introduction of cats on the nesting islands, including North Island itself (no recent active colonies known there), has been the greatest cause of the decline. Between 1971 and 1975 there was a 42 percent decline in one study area and productivity was zero for 1974 and 1975. The former population size is unknown, but the petrel is thought to have been fairly common.

**Reunion Petrel** (*Pterodroma aterrima*) [Reunion Island, Indian Ocean]. This species was thought to be extinct before 1900, but in 1970 two specimens were collected on Reunion. Although there have been no other observations in this century, there could be a small population in some deep ravine or cliff in the higher elevations of Reunion. Introduced mammalian predators (rats, cats, and dogs) are common on the island. A closely related species (with probably a similar diet and also found in the Indian Ocean) is known to lay thin-shelled eggs with high organochlorine contamination. Other potential causes for the reported rarity of the Reunion petrel may include the past practice of human consumption of eggs, young, and adults.

**New Zealand Cook's Petrel** (*Pterodroma cookii cookii*) [New Zealand]. Predation on the few remaining colony islands has been reported to have reduced this population to a few thousand individuals. Rats take up to 30 percent of the eggs or chicks annually, while cats and other predators take an unknown, but sizeable, number of adults. Attempts to rid the islands of rats and cats have thus far (1978) failed. Subfossil evidence indicates this petrel once bred on North and South Islands of New Zealand. One small island had an estimated 20,000 active burrows in 1935 and has virtually none today.

**Chatham Island Petrel** (*Pterodroma hypoleuca axillaris*) [Chatham Islands,

southern Pacific]. This petrel is known only from one island in the Chatham Island group. This island was heavily grazed until 1961 by sheep and a few cattle. The reduced vegetation may have restricted the population and subjected it to more predation from avian predators. On the higher mountains there has recently been discovered nesting an apparent conspecific, the black-winged petrel (*P. h. nigripennis*). Competition and other interactions between these two populations need further study. The island is presently a reserve with no introduced or exotic animals. The total population of the Chatham Island petrel is apparently very small and restricted to one small low area.

**Magenta Petrel (*Pterodroma magentae*)** [Chatham Island, southern Pacific]. Prior to 1978 this bird was known to science only from a single specimen collected at sea in the South Pacific in 1887. In 1978 two birds were trapped, photographed, and released on a high brush-covered ridge of Chatham Island, near New Zealand. Local natives reported a petrel to be fairly common on this island until the end of the last century but the identity of the bird reported by the natives remained a mystery until 1978. The population is now thought by some observers to be quite small and severely threatened by introduced predators and herbivores. Nesting burrows have not been found. This petrel is also known as the Chatham Island Taiko.

**Galapagos Dark-rumped Petrel (*Pterodroma phaeopygia phaeopygia*)** [Galapagos Islands, eastern Pacific]. Reproductive failures caused by introduced mammalian predators have been reported to severely threaten this bird's continued existence. It is known to nest on four islands, possibly a fifth, and less likely on two more. In 1971, for example, 4,000 occupied burrows contained only 1,600 eggs with only 160 young being estimated to have fledged from this one colony. Also reported are some habitat loss or damage due to agricultural practices. A conspecific, the Hawaiian dark-rumped petrel (*P. p. sandwichensis*), has been listed as Endangered by the Department of the Interior since March 1967.

**Hermit Ibis (*Geronticus eremita*)** [eastern Europe to central Africa]. This bird is also known as the Waldrapp and is one of the few birds with recorded extirpations from Europe in historical times. Some 16 small colonies still remain: Turkey (1) and Morocco (15). Although never reported as common, it was recorded as breeding in the Italian Alps and Swiss Juras, as well as on the

upper Rhone and Danube until the 1600's. Last recorded in Syria, Iraq, and Algeria in the first third of this century. Of 33 historical colonies in Morocco only 15 remain. The colony on the upper Euphrates in Turkey was established in the mid-1800's and reached 3,000 pairs in 1890. This colony presently numbers less than 50 pairs. Less than 250 pairs remain in Morocco. The use of persistent pesticides apparently took heavy tolls in the 1950's when more than 600 dead ibises were reported found around the Turkish colony. Human disturbances at the various colonies are also reported to have contributed to poor production. Conservation measures have been taken by Turkey, Morocco, and private conservationists in the past 10 years.

**Madagascar Serpent Eagle (*Eutriorchis astur*)** [Madagascar]. This serpent eagle is known from only a few specimens and there have been no reports since 1930. It may be extinct. Loss of its forest habitat to clearing is cited by the petitioner as the probable cause. The bird was known only from the forests of eastern Madagascar.

**Madagascar Sea Eagle (*Haliaeetus vociferoides*)** [Madagascar]. Severe and constant persecution is reported to have reduced this sea eagle to only a few (perhaps a dozen) pairs. The bird was formerly widespread in all coastal regions and inland waterways. Little habitat destruction seems to have occurred. This sea eagle is now recorded from one small unprotected area in the central western part of the island.

**Utila Chachalaca (*Ortalis vetula deschauenseei*)** [Honduras]. The petition indicates that this bird has been hunted excessively on the single island from which it is known off the north coast of Honduras. Although some reports suggest the species may be extinct, it was thought to number as many as 75 individuals as recently as 1962. Utila Island is mostly covered by mangroves, the chachalaca's preferred habitat.

**White-winged Guan (*Penelope albigennis*)** [Peru]. The bird is reported only from the northwest coastal forests of Peru. Until September 1977 this species was known only by two specimens collected prior to 1877. A few hundred birds are now suspected to remain in scattered patches of forest. Deforestation and some hunting were given to be the principal causes of its current rarity. Further studies and possible conservation measures have been started since the rediscovery in 1977.

**Cauca Guan (*Penelope perspicax*)** [Colombia]. Formerly, this guan was recorded in reasonable numbers in the Cauca Valley region of Colombia. The subtropical forests of this region have

been largely removed and only a few guans are suspected of surviving in the Bosque de Yotoco. This latter forest is administered by a local college. Hunting and habitat losses are expected by the petitioner to continue. The total population size is unknown.

**Cantabrian Capercaillie (*Tetrao urogallus cantabricus*)** [Spain and Portugal]. This grouse is now recorded from small isolated pockets of undisturbed forest in a narrow strip in northern Spain. It was formerly observed from northern Portugal to Santander in northern Spain. In 1972 there were an estimated 300-400 males on their spring display grounds. The petitioner reports that severe habitat losses and past hunting practices have greatly reduced their numbers.

**Cheer Pheasant (*Catreus wallichii*)** [Pakistan to Nepal]. Except perhaps in Nepal, this pheasant has reportedly undergone severe reductions and local extirpations throughout most of its range. No estimate of the total wild population can be made. Birds are highly sedentary in family groups which make them very vulnerable to hunting pressures. At least 800 birds were thought to be in captivity in various collections around the world.

**Gorgeted Wood-quail (*Odontophorus strophium*)** [Colombia]. Except for a possible record in 1972, there have been no positive records since approximately 1915. This secretive species may still occur in isolated patches of remnant forest. The size of the present population is unknown; in fact, this species could be extinct.

**Italian Grey Partridge (*Perdix perdix italica*)** [Italy]. This partridge formerly occurred throughout most of the central mountains of Italy. Beginning about 1900 there has been a continuous decline to the point at which only a few coveys of pure wild birds are still being reported in central Italy.

Habitat losses and excessive hunting pressure have contributed to this decline according to the data provided by the petitioner. Grey partridges from captive stocks and from northern and eastern Europe have been released in large numbers. Interbreeding has reportedly eliminated the pure Italian grey partridge in nearly all areas. Competition with introduced pheasants may have also contributed to the species' problems.

**Takabe (*Notornis mantelli*)** [New Zealand]. Prior to the arrival of Europeans this rail became extirpated from North Island, New Zealand. In the late 1800's the bird was restricted to about 1,600 square miles of Fiordland, South Island, New Zealand. It is now

recorded from about 250 square miles within Fiordland National Park. Present (1970's) population estimates are about 250 birds. The population is reported to be barely stable in most areas. Data from the petitioner suggest past habitat destruction by introduced herbivores and current predation by introduced weasels pose a serious threat to its continued existence. Alpine grasslands and subalpine forests are reported to be used during the summer and winter, respectively. The long-term prognosis by the petitioner for the survival of this species is uncertain, but hopeful. The New Zealand Wildlife Service has been trying to conserve this species (as well as many other depleted endemics).

**Barred-wing Rail** (*Rallus poecilopterus*) [Fiji, south-central Pacific]. This rail was thought extinct for some 83 years. A single bird was seen in June 1973 in an old taro patch surrounded by secondary forest on the Nadrau Plateau, Viti Levu, Fiji. Estimates of its former abundance (or rarity) cannot be made because of its secretive nature. The introduction of the mongoose and cat coupled with possible habitat losses are reported in this literature to be the causes of this rail's precarious status.

**Chatham Island Oystercatcher** (*Haematopus chathamensis*) [Chatham Islands, southern Pacific]. See also the Chatham Island Petrel and Magenta Petrel summarized above. This large shorebird is now reported to be starting to recover slowly from near extinction. With the removal of the sheep from two islands in the Chatham Islands group in 1961, the bird is reported on the increase. Total population in 1973 was estimated at 50 birds. Status on other islands in the group is apparently still tenuous according to the data provided by the petitioner.

**Canarian black Oystercatcher** (*Haematopus moquini meadewaldoi*) [Canary Islands, eastern Atlantic]. There were no reports in the Canaries from 1940 until a single bird was observed in 1968 on Tenerife. A very tiny population may exist somewhere on these islands. This subspecies has always been reported to be rare and no nest has ever been reported.

**Black Stilt** (*Himantopus novaezelandiae*) [New Zealand]. This shorebird was widely distributed on both North and South Islands, New Zealand, but is now recorded from a single large valley on South Island. Water projects planned for this valley may further threaten this species' continued existence. The present (1975) population was estimated at 50-100 birds. Hybridization with a sympatric species of stilt (*H. himantopus*

*leucocephalus*) may further endanger the black stilt as the latter species finds it more difficult to find appropriate mates. The black stilt was never abundant but has shown a decrease from all reports.

**Laurel Pigeon** (*Columba junoniae*) [Canary Islands, eastern Atlantic]. This pigeon was formerly found to be quite common on two of the Canary Islands. The petitioner reports that excessive hunting and loss of its forest habitat have greatly decreased the total population. Only a handful of observations have been made in the past 40 years. The laurel forests are virtually gone and hunting is still occurring in the pigeon's range.

**Marquesas Pigeon** (*Ducula galeata*) [Marquesas Islands, Polynesia]. This pigeon has been found only on the western end of Nukuhiva. Hunting and habitat losses have been reported to have contributed to its decline. A 1972 estimate was only 75-105 birds, while a more recent estimate was 200-400 birds. An international jetport was planned less than a mile from the remaining habitat. Cattle, goats, and pigs may represent a continuing threat to the habitat according to the petitioner's data.

**Pink Pigeon** (*Nesoenas mayeri*) [Mauritius, Indian Ocean]. This pigeon is now recorded from the southwest corner of the island of Mauritius in the indigenous montane evergreen forest. The pink pigeon is thought by the petitioner to be one of the rarest birds in the world now with a population of less than 20 individuals in the wild. Rats and Macaque monkeys are suggested to be serious introduced predators.

**Seychelles Turtle Dove** (*Streptopelia picturata rostrata*) [Seychelles Islands, Indian Ocean]. This well marked subspecies may be extinct. As early as 1867 the introduction of the nominate subspecies, *S. p. picturata*, was causing massive interbreeding with the endemic subspecies on one of the islands. By 1975 none of the distinctive Seychelles turtle doves were found on any islands. All turtle doves seen were recorded as either intermediate "hybrids" or seemingly pure *S. p. picturata*. Habitat loss does not seem to have been a problem; only the competition with and the genetic swamping by the introduced relative have been suggested as the causes of this dove's present status.

**Red-tailed Parrot** (*Amazona brasiliensis*) [Brazil]. This parrot is reported only from the forests of southeastern Brazil. Deforestation in this region may pose a threat to the bird. Trade, although banned by Brazilian law, may also pose a problem. No current population estimate is available,

but a decline has been reported by the petitioner in the past twenty years. The species is no longer seen over most of its limited former range.

**Seychelles Lesser Vasa Parrot** (*Coracopsis nigra barklyi*) [Seychelles Islands, Indian Ocean]. This parrot is known only from Praslin Island, Seychelles, where it was a pest and common as recently as 1939. It is now largely restricted to a single valley where the population in 1965 was at least 17 birds. By 1976 the population was estimated at 70-110 birds concentrated in the remaining native fruit palm forest. A shortage of nesting holes in dead trees has been thought to be the most recent limitation for the parrot. Loss of the native forest was reported to be the principal cause leading to the current status of this species.

**Orange-fronted Parakeet** (*Cyanoramphus malherbi*) [New Zealand]. This parakeet is known only from South Island, New Zealand, and recent records are only from the north end of that island. The population was never large and reported to have declined dramatically around the end of the last century. Since 1900 it has been reported from only six localities. This parakeet might only be a color morph of the yellow-crowned parakeet (*C. a. auriceps*) with which it was nearly always seen. This latter parakeet has no known difference in morphology or behavior from the orange-fronted, except for the simple crown coloration which has separated them. The reported rarity of the orange-fronted may preclude ever determining its relationship with the yellow-crowned.

**Norfolk Island Parakeet** (*Cyanoramphus novaehollandiae cookii*) [Norfolk Island, southwest Pacific]. This once common parakeet is now known only from a single patch of 1,000 acres of native forest on Norfolk Island. No more than 20 individuals were thought to exist in 1969 and it was considered very rare as early as 1906. The petitioner suggests that the loss of the forest habitat and competition with an introduced parrot (Rosella, *Platycercus elegans*) for nest sites and food have apparently contributed to this bird's problem. Future lumbering and hunting may eliminate the few remaining birds based upon the petition.

**Uvea Horned Parakeet** (*Eunymphicus cornutus uvaensis*) [Loyalty Islands, southwestern Pacific]. As recently as 1939 this parakeet was reported throughout Uvea Atoll, Loyalty Islands, and estimated to number about 1,000 birds. The most recent (1974) estimate is less than 200 birds in a small remnant

forest patch. Attempts to transplant it to a nearby atoll were unsuccessful. There is a reported continuing loss of the native forest on Uvea Atoll.

**Southeastern Rufous-vented Ground Cuckoo** (*Neomorphus geoffroyi dulcis*) [Brazil]. This bird quickly vacates the native forests with any disturbance. Never common, this subspecies was found at several localities in southeastern Brazil, usually following army ant swarms. No birds of this species have been reported in the recent past. It may still survive in the few large patches of remaining forest.

**Soumagne's Owl** (*Tyto soumagnei*) [Madagascar]. This owl is known only from the eastern humid forest zone of Madagascar. The last positive record was in 1930, although an unconfirmed report was made in 1973. This owl was always considered rare. The reasons for its reported scarcity are not known; however, the decline in available native humid forests is a factor suggested by the petitioner.

**Lanyu Scops Owl** (*Otus elegans botelensis*) [Taiwan]. This small owl is known only from a small island off the coast of southeastern Taiwan. Almost the entire native forest has been lost and the few remaining owls are found in isolated clumps of remaining trees. This owl was observed to be fairly common throughout this small island as recently as 1969. By 1973 only 10 males could be heard calling.

**Chilean Woodstar** (*Eulidia yarrellii*) [Chile]. This hummingbird is known from only the northernmost province of Chile. It was considered common to abundant in this restricted range between 1935 and 1948. By 1971 it was reported to be scarce. An ornithologist residing in one of its former strongholds from April 1972 to July 1973 only saw this species three times. The species was formerly common in the gardens and towns of the fertile valleys of the region. The causes for this apparent decline are presently unknown.

**Klabin Farm Long-tailed Hermit** (*Phaethornis margarettae*) [Brazil]. This hummingbird was only recently discovered in a 10,000-acre area of forest in Espirito Santo, Brazil. A hermit of probably this same species was seen nearby in 1977. The primary rain forest that this bird may have originally occupied has been reduced to two tracts in Espirito Santo after decades of cutting. Eight other species or subspecies of birds occur on the same 10,000-acre tract and are also under reported threat of extinction. These remaining tracts of native forests appear to be very important to the continued existence of these birds (and other biota) as suggested by the petitioner.

**Black Barbthroat** (*Threnetes grizeki*) [Brazil]. This hummingbird was also recently discovered (1972) in southeastern Brazil in two areas (one tract is the same forest to which the preceding species is also apparently restricted). Of the millions of acres of original forest only two uncut tracts totaling about 74,000 acres are left in the state of Espirito Santo, Brazil. Only four specimens are known.

**Okinawa Woodpecker** (*Sapheopipo noguchii*) [Okinawa, south of Japan]. This species was known only from the forested hills of the northern area of about 3,700 acres and is now (1973) estimated to be reduced to 20-60 pairs. Since 1920 this species has been reported to be rare. The primary forest habitat has been greatly reduced and fragmented. This woodpecker prefers undisturbed forest, but has been seen foraging in nearby second-growth woodland.

**Black-headed Antwren** (*Myrmotherula erythronotos*) [Brazil]. This secretive species may be extinct. It has been reported in the past from only two areas in southeastern Brazil. Severe destruction of much of the primary forests in this region may have caused this species' reported decline.

**Fringe-backed Fire-eye** (*Pyrglana atra*) [Brazil]. This antbird is known only from a small area in southern Bahia, eastern Brazil. The total population is unknown but is suggested to be quite small by the petitioner. Most of the habitat of primary forest has been either totally removed or highly fragmented. Protection of the few remaining tracts of habitat is reported to be unlikely.

**Black-capped Bush Shrike** (*Malaconotus alius*) [Tanzania]. This shrike is said to be shy and difficult to find in the Ulugutu Mountain forests of Tanzania, the only known area where it has been recorded. The last report was in 1952 and subsequent visits have not produced any sightings. Habitat loss in some areas may have caused some of the reported decline.

**Van Dam's Vanga** (*Xenopirostris damii*) [Madagascar]. This species is now known only from Ankarafantsika Nature Reserve, but was known some 250 miles farther north on the northwestern tip of the island prior to 1900. It has always been considered very rare by past observers. Sightings were made in 1929, 1969, and 1971. Loss of the forests seems to have been the principal cause for the vanga's apparent decline.

**Pollen's Vanga** (*Xenopirostris polleni*) [Madagascar]. This vanga was locally distributed and reported to be more numerous in the past in the forests of

eastern Madagascar. Loss of forests may have caused the apparent decline. Two were seen in 1971 and another possibly in 1972.

**St. Lucia Forest Thrush** (*Cichlherminia iherminieri santaeluciae*) [St. Lucia, West Indies]. This thrush was formerly quite common in the forests of St. Lucia. With the great reduction in the forests the bird is now reported to be restricted to a few small forested ravines. The introduced mongoose had not as yet reached these locations by 1974. Rats and mongooses could easily prey upon the nests of the few remaining birds.

**Southern Ryukyu Robin** (*Erithacus komadori subrufa*) [Ryukyu Islands, south of Japan]. This bird has not been reported in recent years, but it was formerly noted on the three southernmost islands in the Ryukyu group. The native forests on these islands have been nearly eliminated and this appears to be the cause of the bird's apparent decline.

**Dappled Mountain-robin** (*Modulatrix o. orostruthus* and *M. o. amani*) [Mozambique and Tanzania, east Africa]. There have been no records of the nominate subspecies since 1932 (first and last specimens collected) in the montane forests of northern Mozambique. The subspecies *amani* was thought to number between 85 and 200 in 1977 in the small montane forests of the east Usanbara Mountains of northeastern Tanzania. It has always been considered rare by ornithologists since first collected in 1935. The total possible forest habitat was estimated not to exceed 20 square miles in 1977.

**Grey-headed Blackbird** (*Turdus poliocephalus poliocephalus*) [Norfolk Island, southwest Pacific]. This thrush was formerly found over the entire 14 square miles of Norfolk Island. It is now restricted to about 1,000 acres of the remaining indigenous forest habitat. In 1962, the thrush population was estimated at about 100 birds; by 1969 less than half were estimated to survive. Competition with an introduced relative (European blackbird, *Turdus merula*), loss of forest, and predation by rats have apparently caused the reported decline.

**Eiao Polynesian Warbler** (*Acrocephalus caffer aquilonis*) [Eiao, Marquesas Islands, Polynesia]. This Old World warbler is restricted to Eiao Island where it was common until 1952. Small numbers still existed in 1968. Intensive French military operations began in 1971. Grazing over the past many years has reduced the formerly forested island to a near barren desert with only a few remnant forest patches.



**Moorea Polynesian Warbler** (*Acrocephalus caffer longirostris*) [Society Islands, south Pacific]. This old world warbler is only found on Moorea in the Society Islands. It was formerly quite common but only a few individuals have been reported recently. The introduction of avian malaria seems to have been the principal cause for this apparent decline. It has been recorded only in the montane forests above 2,500 feet elevation, where mosquitos may not be present. Individuals of related subspecies are found at lower elevations on other islands in a greater variety of habitats, including non-native vegetation.

**Long-legged Warbler** (*Trichocichla rufa*) [Fiji, south Pacific]. Since first discovered in 1890, this bird has been reported only a few times from Fiji: 1894, 1967, 1973. This species has never been reported by ornithologists as common, yet the natives of Fiji have a specific name for it (Manu Kalo). This warbler was probably more widespread and common prior to its discovery by biologists. Cats and mongooses may pose a serious threat to this species.

**Codfish Island Fernbird** (*Bowdleria punctata wilsoni*) [New Zealand]. This bird is restricted to one small (3,700 acres) island off Stewart Island, New Zealand. The low scrub vegetation is rapidly being altered by introduced herbivores. The bird was quite common as recently as 1966, but in 1975 its population was thought to be only about 100 individuals. Introduced predators also pose a threat.

**Uapou Flycatcher** (*Pomarea mendozae mira*) [Marquesas Islands, south Pacific]. This subspecies is restricted to Uapou Island in the Marquesas. The woodlands that once covered 90 percent of Uapou now only cover 15 percent. Much of what remains has been severely degraded by introduced mammalian herbivores. This bird was reported to be common over the island, but by 1975 the total population was estimated at 100-200 pairs.

**Kabylian Nuthatch** (*Sitta ledanti*) [Algeria]. This nuthatch was discovered in 1975 on a small mountain ridge in Algeria. The total population was estimated at about 20 pairs in the forests on this one mountain (about 3,000 acres total habitat). The relict forest is isolated and has other endemic flora and fauna. Grazing by goats and cattle is reported to be preventing the regeneration of this small forest.

**Gizo White-eye** (*Zosterops luteirostris luteirostris*) [Solomon Islands, southwest Pacific]. This bird is known only from Gizo Island in the central Solomons. It was formerly thought to be common. In 1974 only a few birds could be seen in what remained of the once extensive native forest. Most of the forest has been either cleared or killed by poisoning. A review of the taxonomy of this population and others in the area is needed.

**Cherry-throated Tanager** (*Nemosia rourei*) [Brazil]. Petitioner indicates this species may be extinct in southeastern Brazil. No reports have been made in over 100 years. The State of Rio de Janeiro, Brazil, has been well explored and is the only known locality for this bird. Loss of the primary forest is thought by the petitioner to have caused the apparent loss of this species.

**Rodrigues Fody** (*Foudia flavicans*) [Mascarene Islands, Indian Ocean]. This species is restricted to Rodrigues Island in the Mascarene group. In the last century this species was reported to be common and widespread on this one island. By 1930 it was found only in the forested areas at the higher elevations. Surveys in 1974 resulted in population estimates of 45-70 birds. In 1978 the estimated population was about 200 birds, but a February 1979 cyclone apparently caused a 40 percent reduction. Loss of the native scrub woodland and some competition by another fody that has been introduced seem to be the major causes for the reported decline.

**Mauritius Fody** (*Foudia rubra*) [Mauritius, Indian Ocean]. This species was once observed to be common on

Mauritius, but the loss of the major portion of the native forests has seemingly reduced its numbers. By 1974 the total population was estimated at less than 300 birds. Introduced predators may also pose a problem.

**Lord Howe Currawong** (*Stephanomaria graculina crissalis*) [Lord Howe Island, southwest Pacific]. This bird is restricted to Lord Howe Island where it has always been reported in the scientific literature to be very rare. This bird was once observed to be common but by 1974 was estimated at only 30-50 birds. The causes for the apparent decline are undetermined. The bird is usually seen in the higher subtropical rainforest.

#### Information Requested

Any person, group, governmental unit, or other entity may submit any relevant information on the above species. In particular, the Service requests the most recent data on the status of any of these species and the degree and types of threats to their continued existence. Also, the Service is requesting information on environmental and economic impacts and effects on small entities (including small businesses, small organizations and small governmental jurisdictions) that would result from the listing of these birds as Endangered or Threatened species, and information on possible alternatives to listing. This information will aid the Service in complying with the requirements of the National Environmental Policy Act, Executive Order 12291 on Federal Regulation, and the Regulatory Flexibility Act, and in preparing any required analyses of effect.

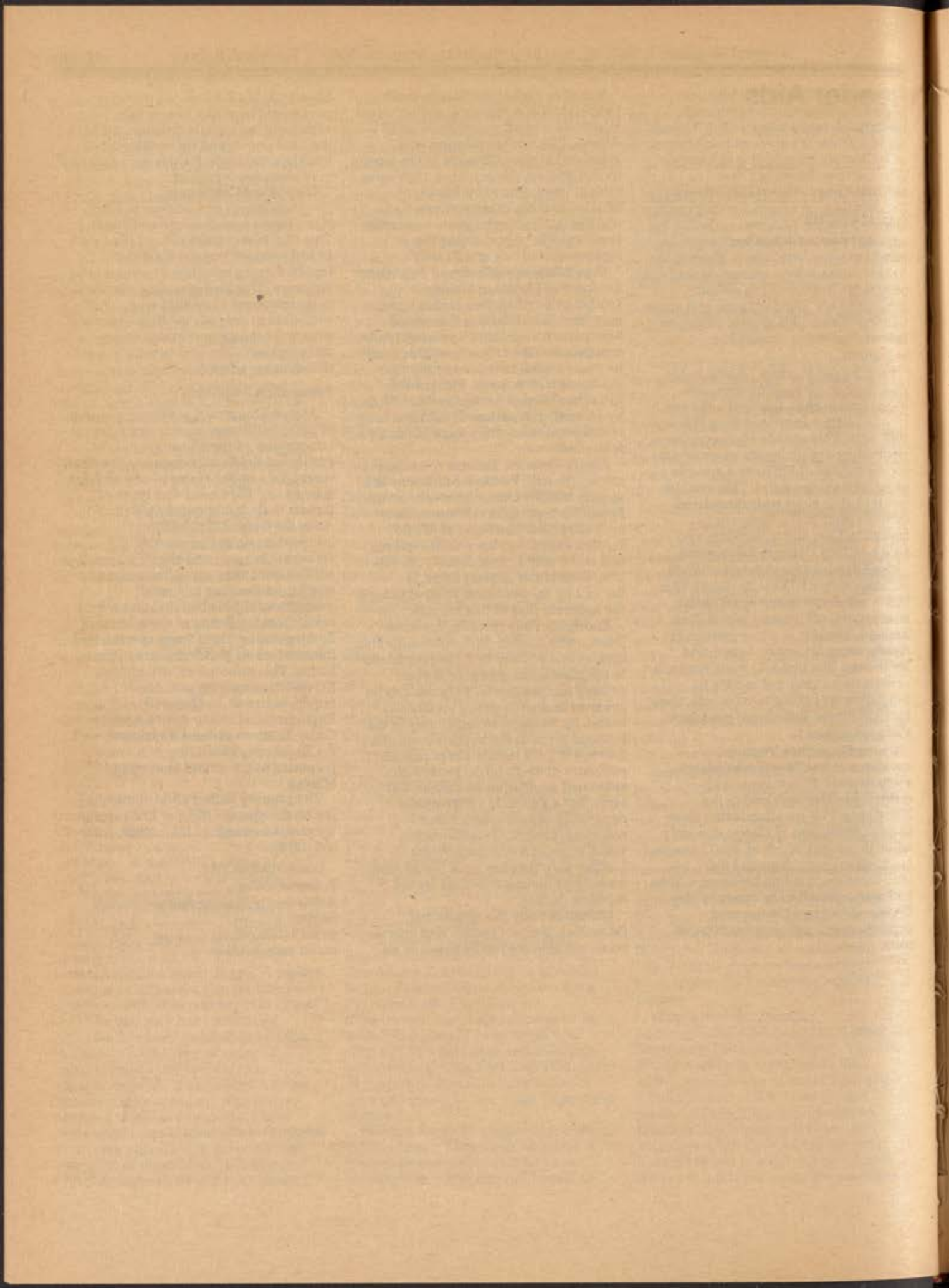
The primary author of this notice is Jay M. Sheppard, Office of Endangered Species, Washington, D.C. 20240, (703/235-1975).

Dated: April 29, 1981.

F. Eugene Hester,  
Acting Deputy Director, Fish and Wildlife Service.

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**AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK**

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

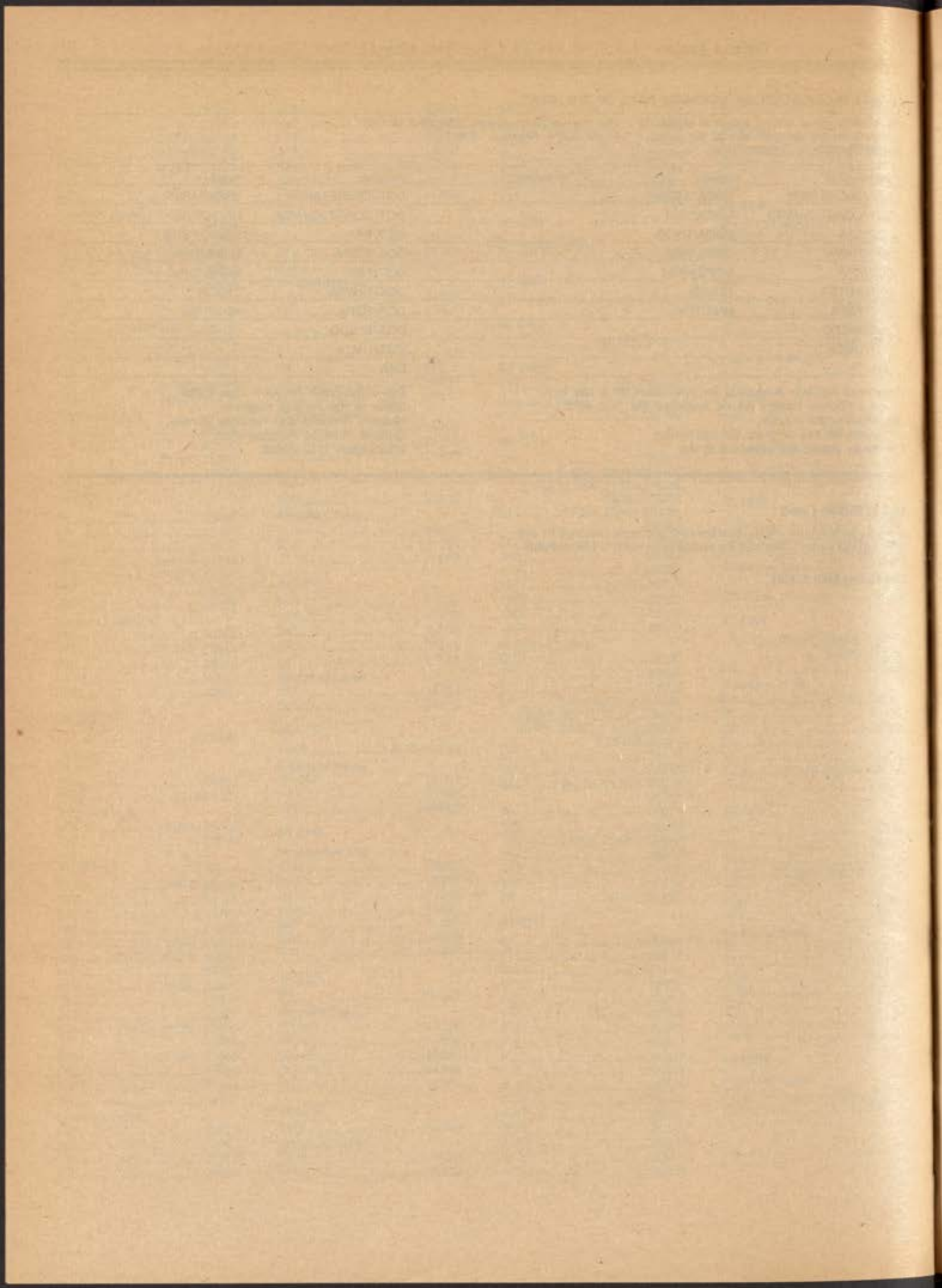
Comments on this program are still invited. Comments should be submitted to the

Day-of-the-Week Program Coordinator,  
Office of the Federal Register,  
National Archives and Records Service,  
General Services Administration,  
Washington, D.C. 20408.

**List of Public Laws**

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

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