

federal register

Tuesday
May 19, 1981

Highlights

Briefings on How To Use the Federal Register—For details on briefings in Washington, D.C., see announcement in the Reader Aids section at the end of this issue.

- 27357 Income Tax** Treasury/IRS proposes regulations relating to the voluntary withholding of income tax from annuity payments.
- 27437 Government Securities** Treasury/Secy invites tenders for approximately \$4,250,000,000 of United States securities, designated Treasury Notes of May 31, 1983, Series R-1983.
- 27358 Exposure to Lead** Labor/OSHA proposes to permit the use of specified forms of qualitative fit testing to measure the adequacy of the fit of negative pressure respirators under the occupational health standard regulating exposure to lead.
- 27333 Water Pollution Control** EPA provides guidance on how States may apply for approval and the criteria for approval and disapproval of applications under section 1425 for the State Underground Injection Control Programs.
- 27363 Hazardous Materials** EPA announces the availability of a report describing a study of waste characterization on the emissions control dusts from gray and ductile iron foundries, in order to determine if these wastes should be listed as hazardous.

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

Highlights

- 27324 Consumer Protection** DOE/CRE changes the test procedures for clothes dryers.
- 27355 Natural Gas** DOE/ERA gives notice that the appropriate action be provided for the continued authorization of the transportation of natural gas supplies purchased by end users to displace fuel oil.
- 27462 Manpower Training Programs** Labor/ETA provides for the distribution of Title VII incentive bonus funds through a competitive process which takes into account prime sponsors' efforts in coordinating CETA private sector activities with Federal, State or locally funded economic development activities. (Part II of this issue)
- 27328 Pensions** PBGC simplifies the definition of "participant" and streamlines the reporting requirements under the Employee Retirement Income Security Act.
- 27330 Pensions** PBGC establishes procedures for a special election concerning multiemployer plan status.
- 27361 Insurance** VA proposes to allow higher interest rates to be paid to beneficiaries of the United States Government Life Insurance (USGLI) and National Service Life Insurance (NSLI) where proceeds are paid in equal monthly installments over a limited period of months.

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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.

DEPARTMENT OF AGRICULTURE

Agriculture Marketing Service

7 CFR Part 905

[Orange, Grapefruit, Tangerine, and Tangelo Reg. 4, Amdt. 13]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Amendment of Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action lowers the minimum grade requirement for domestic shipments of Florida white seedless grapefruit and imports of white seedless grapefruit from Improved No. 2 to U.S. No. 2 Russet. It also lowers the minimum grade requirement for domestic shipments of Florida Temple oranges and Valencia oranges, including other late type oranges, from U.S. No. 1 to U.S. No. 2 Russet. These changes recognize current and prospective demand for such grapefruit and oranges and are consistent with the remaining crop in the interest of growers and consumers.

EFFECTIVE DATE: May 13, 1981 for Florida white seedless grapefruit and Florida Temple oranges. June 8, 1981, for Florida Valencia oranges.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures and Executive Order 12291 and has been classified "not significant" and not a major rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant

economic impact on a substantial number of small entities because it would not measurably affect costs for the directly regulated handlers. The regulation with respect to Florida white seedless grapefruit, Temple oranges, and Valencia and other late type oranges is issued under the marketing agreement and Order No. 905 (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines and tangelos grown in Florida.

The agreement and order are effective under the Agriculture Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon the recommendation and information submitted by the Citrus Administrative Committee and upon other information. The minimum grade requirements for imported seedless grapefruit are consistent with Section 8e of the act. This section requires that whenever specified commodities, including grapefruit, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirement as those in effect

for the domestically produced commodity. The grade requirements specified for imported white seedless grapefruit are the same as those for domestic shipments of Florida white seedless grapefruit. It is hereby found that this regulation will tend to effectuate the declared policy of the act.

It is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 533). It is necessary to effectuate the declared purposes of the act to make this regulatory provision effective as specified. This amendment relieves restrictions on shipments of Florida seedless grapefruit, imports of seedless grapefruit, Florida Temple oranges and Florida Valencia and other late type oranges.

Forms required for operation under this part are subject to clearance by the Office of Management and Budget and are in the process of review. They shall not become effective until such time as clearance by the OMB has been obtained.

Accordingly, it is found that the provisions of § 905.304 Orange, Grapefruit, Tangerine and Tangelo Regulation 4 (45 FR 67047; 76651; 79002; 80269; 81199; 83192; 46 FR 5859; 1089; 11655; 11656; 14115; 16237; 23916), should be and are amended by revising Table I paragraph (a), applicable to domestic shipments, to read as follows:

§ 905.304 Orange, Grapefruit, Tangerine and Tangelo Regulation 4.

(a) * * *

Table I

(1) Variety	(2) Regulation period	(3) Minimum grade	(4) Minimum diameter (inch)
Oranges: Valencia and Other Late Type	June 8, 1981, through August 23, 1981.	U.S. No. 2 Russet	2 1/2
	August 24, 1981, through October 18, 1981.	U.S. No. 1	2 1/2
Temple	May 13, 1981, through August 23, 1981.	U.S. No. 2 Russet	2 1/2
	August 24, 1981, through October 18, 1981.	U.S. No. 1	2 1/2
Grapefruit: Seedless, white	May 13, 1981, through August 23, 1981.	U.S. No. 2 Russet	3 1/2
	August 24, 1981, through October 18, 1981.	Improved No. 2	3 1/2

[Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674)]

Dated: May 13, 1981.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 81-14922 Filed 5-18-81; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

Office of Conservation and
Renewable Energy, Office of Assistant
Secretary

10 CFR Part 430

Energy Conservation Program for
Consumer Products; Amendments To
Test Procedures for Clothes Dryers

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) hereby prescribes amendments to its test procedures for clothes dryers. These test procedures are part of the energy conservation program for consumer products established pursuant to the Energy Policy and Conservation Act, (Pub. L. 94-163), as amended by the National Energy Conservation Policy Act, (Pub. L. 95-619), which requires that standard methods of testing be prescribed for covered products. Manufacturers, when voluntarily making energy representations, are required to use DOE test procedures.

The purpose of these amendments is to clarify sections concerning automatic termination controls, test cloths, dryer preconditioning, and to include technical revisions. These amendments reflect the fact that energy savings for automatic temperature sensing controls are equal to those for automatic moisture sensing controls. The amendments are designed to further reduce test variability under these procedures.

EFFECTIVE DATE: June 18, 1981.

FOR FURTHER INFORMATION CONTACT:

James A. Smith, U.S. Department of Energy, Office of Conservation and Renewable Energy, Consumer Products Efficiency Branch, Room GH-065, CS 113.1, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-9127

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Room 6B-128, GC-33, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-9510

SUPPLEMENTARY INFORMATION:

A. Background

On October 1, 1977, the Department of Energy (DOE) assumed the authority of the Federal Energy Administration (FEA) for the energy conservation program for consumer products, pursuant to Section 301 of the Department of Energy Organization Act (DOE Act) (Pub. L. 95-51). The energy conservation program for consumer

products was established by FEA, pursuant to title III, Part B of the Energy Policy and Conservation Act (Act) (Pub. L. 94-163).¹ Section 323 (42 U.S.C. 6293) of the Act requires that standard methods of testing be prescribed for covered products. Test procedures appear at 10 CFR Part 430, Subpart B.

Test procedures for clothes dryers were originally proposed by notice issued April 21, 1977 (42 FR 21589, April 27, 1977). Public hearings on the proposed test procedures were held on June 13, 1977. A final rule was prescribed on September 14, 1977 (42 FR 46145, September 14, 1977).

On December 28, 1978 (44 FR 49, January 2, 1979), DOE published an advance notice of proposed rulemaking which invited interested persons to present written data, views and arguments with respect to establishing energy efficiency standards for nine types of consumer products, including clothes dryers. On August 17, 1979 (44 FR 49696, August 24, 1979), DOE issued a Notice of Opportunity for Further Comment. Several comments were received recommending changes to the clothes dryer test procedure.

On the basis of analyses performed by the National Bureau of Standards (NBS) and additional information furnished by the Association of Home Appliance Manufacturers (AHAM), DOE published a proposed rule to amend its test procedures for clothes dryers on July 10, 1980 (45 FR 46762). A hearing was held on September 4, 1980, and comments were received. Comments on the clothes dryer test procedures were also received during the public comment period for the proposed rule for energy efficiency standards for nine types of consumer products (45 FR 43976, June 30, 1980).

B. Discussion

Comments were received from industry, trade associations and members of the public. The major issues raised are discussed below.

1. Automatic Termination Controls

A "Temperature Sensing Control" is a system which monitors dryer exhaust air temperature and automatically terminates the drying cycle. A "Moisture Sensing Control" is a system which utilizes a moisture sensing element within the dryer drum that monitors the amount of moisture in the clothes and automatically terminates the drying cycle.

¹ Subsequently, the Act was amended by the National Energy Conservation Policy Act (NECPA) (Pub. L. 95-619). References in this notice to "the Act" or to sections of the Act refer to the Energy Policy and Conservation Act as amended by NECPA.

The field use factor (FU in section 4 of Appendix D) is a multiplier to modify laboratory test results for energy use that approximates actual consumer use. Commenters stated that the field use factor unfairly penalizes temperature sensing automatic termination control systems, as opposed to moisture sensing automatic controls. Data from AHAM Dryer Energy Field Tests for the years 1977 through 1979 confirm these comments by indicating that the energy savings for clothes dryers, having either temperature sensing or moisture sensing automatic termination control systems, are approximately the same.

An NBS analysis of field test data on automatic termination controlled dryers shows that dryers with indicators or marks on their controls had a 13% energy savings over dryers without indicators or marks. This analysis also showed that the automatic controls, when available on the dryers, are used 90% of the time. Based on this usage DOE amends the field use factor to: $1.18 [1 - (0.13 \times 0.9)] = 1.04$ for both temperature and moisture sensing automatic controls. The field use factor for time termination controlled dryers remains at 1.18.

Section 3.5 in today's notice states that the field use factor for automatic termination controls can be used for any dryer which has an automatic termination control and an appropriate mark or detent, where the mark or detent indicates a preferred automatic termination setting for reducing energy consumption. Also, definitions of the two types of automatic termination controls—"temperature sensing control" and "moisture sensing control"—have been added as sections 1.12 and 1.13.

2. Test Cloth Specification

Today's notice changes the current test procedure by adding a tolerance to the weight factor specified for "energy test cloths" used in testing. A 10 percent variation in density still allows an accurate prediction of the resulting energy factor.

NBS conducted a number of tests on 12 samples of cloth furnished by various manufacturers and textile suppliers. Results from these tests indicated that the conditioned cloth density varied by more than 10% from 5.75 ounces per square yard and that the spin time required to reach the initial moisture content of between 66.5% and 73.5% varied from 12 to 150 seconds. Even with these wide test cloth variations, the resulting energy factor was within a spread of $\pm 1.5\%$. Results from the above tests can be used to modify the existing test procedures to improve the

repeatability of the results. In order to maintain the same density, today's notice also specifies that for the test cloths, one energy test cloth can replace six energy stuffer cloths. (No more than five energy stuffer cloths can be used in one test load.)

3. Dryer Preconditioning

Today's notice adds a section to require the operation of dryers to be tested in the nonheat mode in order to bring them to the ambient temperature and humidity of the test area.

AHAM and other commenters pointed out that the temperature of the dryer at the start of a test run will have a measurable effect on test to determine the dryer energy use. NBS has been following the procedure in section 2.8 and has experienced an extremely small variation in test results, even for the first run of the day.

4. End Point Moisture Retention

The majority of the comments received stated that clothes dryers with automatic termination controls adjusted to satisfy the criterion proposed for use of the field use factor would not satisfactorily dry a typical household laundry load. That is, a clothes dryer which terminated a standard test load at an end point moisture content greater than 1.8% would leave a typical household load of mixed items feeling wet to the touch. ("Moisture content" means the ratio of the weight of water contained by the test load to the bone-dry weight of the test load, expressed as a percent.) With the test cloth used in the existing test procedure, it would be necessary to specify an end point moisture content of less than 1% in order for mixed household loads, including collars, cuffs, and waistbands, to be reliably dried to the point that all items feel dry. Placing the end point at 1% or less (defined as bone dry in section 1.2) would result in an unacceptably high level of uncertainty in test repeatability. Therefore, this proposal was rejected.

NBS also investigated the feasibility of a test procedure based on the use of a specifically defined "typical household load." However, the additional requirement would increase the burdensomeness of the test procedure and considerable effort by both NBS and the industry has led to no clear indication of what the content of the ideal test cloth or test load should be. Therefore, DOE is not including in today's notice of final rulemaking the end point moisture content requirement of 1.8% which was proposed in section 3.5 of Appendix D of the July 10, 1980 proposed rule.

5. Test Load Preparation

One commenter suggested that the tolerance for the initial moisture content of the test cloth load be reduced. On the basis of NBS tests, the variation in energy factor resulting from the existing tolerance and use of the correction factor for the initial moisture content is within 0.5%. Further, an experienced technician can easily obtain an initial moisture content within the existing tolerance by following the test procedure. NBS also determined that a procedure of over extraction of moisture by spinning and then rewetting to obtain the moisture content required by section 2.7 can produce a $\pm 5\%$ variation in test results. Rewetting does not disperse the moisture throughout the test load as uniformly as does spinning. Based upon NBS analysis of the above matters, DOE concludes that the tolerance for the initial moisture content of the test load cannot be reduced without making the test procedure unduly burdensome. Therefore, DOE has not changed the tolerance.

An issue closely related to initial moisture content retention (after wetting and spinning) is that of test cloth preconditioning prior to wetting. NBS determined, while investigating the effects of rinse water temperature on energy use, that the initial moisture content of the cloth prior to wetting affects the value of the energy factor resulting from the test procedure. It is possible to obtain repeatable results only when starting from the bone dry condition. When a bone dry test cloth is stored overnight or longer, its moisture content will come into equilibrium with that of the surrounding air. It must be again bone dried immediately preceding wetting in order to obtain repeatable results.

6. Laboratory Temperature and Relative Humidity Levels

Several commenters recommended that, in order to reduce the burdensomeness of the test procedure, larger tolerances for laboratory temperature and relative humidity be specified and that the test results be adjusted by correction factors, as is currently done for the initial and final moisture retention.

The NBS test results show that for the specified test condition tolerance on temperature, the uncertainty interval (or band) is less than $\pm 1\%$ on energy factor, and for relative humidity the uncertainty interval on energy factor is less than $\pm .5\%$. However, NBS does not presently have a data base adequate to develop universally applicable correction factors

and therefore no change is made in the test procedure.

7. Overall Test Procedure Uncertainty

One manufacturer supplied data that indicated that a 9% variation in test results could result if all of the test conditions were taken to the extremes. An NBS uncertainty analysis indicates that it is highly unlikely that all test conditions will be in the most adverse state allowed by the test procedure. Further, NBS's analysis indicates that the resulting uncertainty would be approximately $\pm 2\%$. No changes to the test procedures have been made regarding this comment.

8. Number of Test Runs on a Single Machine

Several commenters suggested that the test procedures be changed to require three test runs on each machine and the results averaged. DOE does not require any more than one test to characterize to given machine and sees no reason to change this requirement.

9. Miscellaneous

After careful consideration of all the comments and further consultation with NBS, DOE has made some editorial and minor technical changes (for example, the insertion of the word "meter" after the word "Kilowatt-hour" in section 2.4.2 and the deletion in section 2.4.2 of "for any demand greater than 0.16 kilowatt-hours per hour" and in section 2.4.3 of "for any demand greater than 0.2 cubic feet per hour"—references to ranges in which the meter accuracy requirements do not apply), and incorporated them in the final rule prescribed today.

C. Regulations Prescribed

1. Test Procedures

The amendments to the test procedures for clothes dryers prescribed today are included in Subpart B of Part 430 and are substantially the same as those proposed, with the exception of the changes discussed above.

2. Regulatory and Environmental Review

In accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 et seq.), DOE has evaluated this rulemaking amending test procedures for clothes dryers to determine if an environmental assessment or an environmental impact statement is required. The test procedures will be used only to standardize the measurement of energy usage for clothes dryers. The action of prescribing these

amended test procedures will not result in any environmental impact. Because it is clear that the rulemaking is not a major Federal action significantly affecting the quality of the human environment, DOE has determined that neither an environmental assessment nor an environmental impact statement is required.

This rule has been reviewed in accordance with Executive Order 12291. It was determined that this rule was not significant and did not have major impacts to manufacturers and consumers imposing annual economic costs of \$100 million or more.

In consideration of the foregoing, Part 430 of Chapter II of Title 10, Code of Federal Regulations, is amended as set forth below, effective June 18, 1981.

Issued in Washington, D.C., May 12, 1981.

Frank DeGeorge,

Acting Assistant Secretary, Conservation and Renewable Energy.

Appendix D to Subpart B of Part 430 is revised to read as follows:

**Appendix D to Subpart B of Part 430—
Uniform Test Method for Measuring the
Energy Consumption of Clothes Dryers**

1. Definitions

1.1 "AHAM" means the Association of Home Appliance Manufacturers.

1.2 "Bone dry" means a condition of a load of test clothes which has been dried in a dryer at maximum temperature for a minimum of 10 minutes, removed and weighed before cool down, and then dried again for 10-minute periods until the final weight change of the load is 1 percent or less.

1.3 "Compact" or compact size" means a clothes dryer with a drum capacity of less than 4.4 cubic feet.

1.4 "Cool down" means that portion of the clothes drying cycle when the added gas or electric heat is terminated and the clothes continue to tumble and dry within the drum.

1.5 "Cycle" means a sequence of operation of a clothes dryer which performs a clothes drying operation, and may include variations or combinations of the functions of heating, tumbling and drying.

1.6 "Drum capacity" means the volume of the drying drum in cubic feet.

1.7 "HLD-1" means the test standard promulgated by AHAM and titled "AHAM Performance Evaluation Procedure for Household Tumble Type Clothes Dryers", June 1974, and designated as HLD-1.

1.8 "HLD-2EC" means the test standard promulgated by AHAM and titled "Test Method for Measuring Energy Consumption of Household Tumble Type Clothes Dryers," December 1975, and designated as HLD-2EC.

1.9 "Standard size" means a clothes dryer with a drum capacity of 4.4 cubic feet or greater.

1.10 "Moisture content" means the ratio of the weight of water contained by the test load to the bone-dry weight of the test load, expressed as a percent.

1.11 "Automatic termination control" means a dryer control system with a sensor

which monitors either the dryer load temperature or its moisture content and with a controller which automatically terminates the drying process. A mark or detent which indicates a preferred automatic termination control setting must be present if the dryer is to be classified as having an "automatic termination control." A mark is a visible single control setting on one or more dryer controls.

1.12 "Temperature sensing control" means a system which monitors dryer exhaust air temperature and automatically terminates the dryer cycle.

1.13 "Moisture sensing control" means a system which utilizes a moisture sensing element within the dryer drum that monitors the amount of moisture in the clothes and automatically terminates the dryer cycle.

2. Testing Conditions

2.1 *Installation.* Install the clothes dryer, in accordance with manufacturer's instructions. The dryer exhaust shall be restricted by adding the AHAM exhaust simulator described in 3.3.5 of HLD-1. All external joints should be taped to avoid air leakage. Disconnect all console light or other lighting systems on the clothes dryer which do not consume more than 10 watts during the clothes dryer test cycle.

2.2 *Ambient temperature and humidity.* Maintain the room ambient air temperature at $75 \pm 2^\circ\text{F}$ and the room relative humidity at 50 ± 10 percent relative humidity.

2.3 *Energy supply.*

2.3.1 *Electrical supply.* Maintain the electrical supply at the clothes dryer terminal block within 1 percent of 120/240 or 120/208Y or 120 volts as applicable to the particular terminal block wiring system and within 1 percent of the nameplate frequency as specified by the manufacturer. If the dryer has a dual voltage conversion capability, conduct test at the highest voltage specified by the manufacturer.

2.3.2 *Gas supply.*

2.3.2.1 *Natural gas.* Maintains the gas supply to the clothes dryer at a normal inlet test pressure immediately ahead of all controls at 7 to 10 inches of water column. If the clothes dryer is equipped with a gas appliance pressure regulator, the regulator outlet pressure at the normal test pressure shall be approximately that recommended by the manufacturer. The hourly Btu rating of the burner shall be maintained within ± 5 percent of the rating specified by the manufacturer. The natural gas supplied should have a heating value of approximately 1,025 Btu's per standard cubic foot. The actual heating value, H_g , in Btu's per standard cubic foot, for the natural gas to be used in the test shall be obtained either from measurements made by the manufacturer conducting the test using a standard continuous flow calorimeter as described in 2.4.6 or by the purchase of bottled natural gas whose Btu rating is certified to be at least as accurate a rating as could be obtained from measurements with a standard continuous flow calorimeter as described in 2.4.6.

2.3.2.2 *Propane gas.* Maintain the gas supply to the clothes dryer at a normal inlet test pressure immediately ahead of all controls at 11 to 13 inches of water column. If

the clothes dryer is equipped with a gas appliance pressure regulator, the regulator outlet pressure at the normal test pressure shall be approximately that recommended by the manufacturer. The hourly Btu rating of the burner shall be maintained within ± 5 percent of the rating specified by the manufacturer. The propane gas supplied should have a heating value of approximately 2,500 Btu's per standard cubic foot. The actual heating value, H_p , in Btu's per standard cubic foot, for the propane gas to be used in the test shall be obtained either from measurements made by the manufacturer conducting the test using a standard continuous flow calorimeter as described in 2.4.6 or by the purchase of bottled gas whose Btu rating is certified to be at least as accurate a rating as could be obtained from measurement with a standard continuous calorimeter as described in 2.4.6.

2.4 *Instrumentation.* Perform all test measurements using the following instruments as appropriate.

2.4.1 *Weighing scale for test cloth.* The scale shall have a range of 0 to a maximum of 30 pounds with a resolution of at least 0.2 ounces and a maximum error no greater than 0.3 percent of any measured value within the range of 3 to 15 pounds.

2.4.1.2 *Weighing scale for drum capacity measurements.* The scale should have a range of 0 to a maximum of 500 pounds with resolution of 0.50 pounds and a maximum error no greater than 0.5 percent of the measured value.

2.4.2 *Kilowatt-hour meter.* The kilowatt-hour meter shall have a resolution of 0.001 kilowatt-hours and a maximum error no greater than 0.5 percent of the measured value.

2.4.3 *Gas meter.* The gas meter shall have a resolution of 0.001 cubic feet and a maximum error no greater than 0.5 percent of the measured value.

2.4.4 *Dry and wet bulb psychrometer.* The dry and wet bulb psychrometer shall have an error no greater than $\pm 1^\circ\text{F}$.

2.4.5 *Temperature.* The temperature sensor shall have an error no greater than $\pm 1^\circ\text{F}$.

2.4.6 *Standard Continuous Flow Calorimeter.* The Calorimeter shall have an operating range of 750 to 3,500 Btu per cubic feet. The maximum error of the basic calorimeter shall be no greater than 0.2 percent of the actual heating value of the gas used in the test. The indicator readout shall have a maximum error no greater than 0.5 percent of the measured value within the operating range and a resolution of 0.2 percent of the full scale reading of the indicator instrument.

2.5 *Lint trap.* Clean the lint trap thoroughly before each test run.

2.6 *Test cloths.*

2.6.1 *Energy test cloth.* The energy test cloth shall be clean and consist of the following:

(a) Pure finished bleached cloth, made with a momie or granite weave, which is a blended fabric of 50 percent cotton and 50 percent polyester and weighs within ± 10 percent of 5.75 ounces per square yard after test cloth preconditioning and has 85 ends on the warp and 57 picks on the fill. The

individual warp and fill yarns are a blend of 50 percent cotton and 50 percent polyester fibers.

(b) Cloth material that is 24 inches by 36 inches and has been hemmed to 22 inches by 34 inches before washing. The maximum shrinkage after five washes shall not be more than four percent on the length and width.

(c) The number of test runs on the same energy test cloth shall not exceed 25 runs.

2.6.2 Energy stuffer cloths. The energy stuffer cloths shall be made from energy test cloth material and shall consist of pieces of material that are 12 inches by 12 inches and have been hemmed to 10 inches by 10 inches before washing. The maximum shrinkage after five washes shall not be more than four percent on the length and width. The number of test runs on the same energy stuffer cloth shall not exceed 25 runs after test cloth preconditioning.

2.6.3 Test Cloth Preconditioning.

A new test cloth load and energy stuffer cloths shall be treated as follows:

(1) Bone dry the load to a weight change of ± 1 percent, or less, as prescribed in Section 1.2.

(2) Place test cloth load in a standard clothes washer set at the maximum water fill level. Wash the load for 10 minutes in soft water (17 parts per million hardness or less), using 6.0 grams of AHAM Standard Test Detergent, IIA, per gallon of water. Wash water temperature is to be controlled at $140^{\circ} \pm 5^{\circ} \text{F}$ ($60^{\circ} \pm 2.7^{\circ} \text{C}$). Rinse water temperature is to be controlled at $100^{\circ} \pm 5^{\circ} \text{F}$ ($37.7 \pm 2.7^{\circ} \text{C}$).

(3) Rinse the load again at the same water temperature.

(4) Bone dry the load as prescribed in Section 1.2 and weigh the load.

(5) This procedure is repeated until there is a weight change of one percent or less.

(6) A final cycle is to be a hot water wash with no detergent, followed by two warm water rinses.

2.7 Test loads.

2.7.1 Compact size dryer load. Prepare a bone-dry test load of energy cloths which weighs 3.00 pounds $\pm .03$ pounds. Adjustments to the test load to achieve the proper weight can be made by the use of energy stuffer cloths, with no more than five stuffer cloths per load. Dampen the load by agitating it in water whose temperature is $100^{\circ} \pm 5^{\circ} \text{F}$ and consists of 0 to 17 parts per million hardness for approximately two minutes in order to saturate the fabric. Then, extract water from the wet test load by spinning the load until the moisture content of the load is between 66.5 percent to 73.5 percent of the bone-dry weight of the test load.

2.7.2 Standard size dryer load. Prepare a bone-dry test load of energy cloths which weighs 7.00 pounds $\pm .07$ pounds. Adjustments to the test load to achieve the proper weight can be made by the use of energy stuffer cloths, with no more than five stuffer cloths per load. Dampen the load by agitating it in water whose temperature is $100^{\circ} \pm 5^{\circ} \text{F}$ and consists of 0 to 17 parts per million hardness for approximately two minutes in order to saturate the fabric. Then, extract water from the wet test load by spinning the load until the moisture content

of the load is between 66.5 percent to 73.5 percent of the bone-dry weight of the test load.

2.7.3 Method of loading. Load the energy test cloths by grasping them in the center, shaking them to hang loosely and then dropping them in the dryer at random.

2.8 Clothes dryer preconditioning. Before any test cycle, operate the dryer without a test load in the non-heat mode for 15 minutes or until the discharge air temperature is varying less than 1°F for 10 minutes, which ever is longer, in the test installation location with the ambient conditions within the specified rest condition tolerances of 2.2.

3. Test Procedures and Measurements

3.1 Drum capacity. Measure the drum capacity by sealing all openings in the drum except the loading port with a plastic bag, and ensure that all corners and depressions are filled and that there are no extrusions of the plastic bag through the opening in the drum. Support the dryer's rear drum surface on a platform scale to prevent deflection of the dryer, and record the weight of the empty dryer. Fill the drum with water to a level determined by the intersection of the door plane and the loading port. Record the temperature of the water and then the weight of the dryer with the added water and then determine the mass of the water in pounds. Add or subtract the appropriate volume depending on whether or not the plastic bag protrudes into the drum interior. The drum capacity is calculated as follows:

$$C = w/d$$

C = capacity in cubic feet.

w = weight of water in pounds.

d = density of water at the measured temperature in pounds per cubic feet.

3.2 Dryer loading. Load the dryer as specified in 2.7.

3.3 Test cycle. Operate the clothes dryer at the maximum temperature setting and, if equipped with a timer, at the maximum time setting and dry the test load until the moisture content of the test load is between 2.5 percent to 5.0 percent of the bone-dry weight of the test load, but do not permit the dryer to advance into cool down. If required, reset the timer or automatic dry control.

3.4 Data recording. Record for each test cycle:

3.4.1 Bone-dry weight of the test load described in 2.7.

3.4.2 Moisture content of the wet test load before the test, as described in 2.7.

3.4.3 Moisture content of the dry test load obtained after the test described in 3.3.

3.4.4 Test room conditions, temperature and percent relative humidity described in 2.2.

3.4.5 For electric dryers—the total kilowatt-hours of electric energy, E_e , consumed during the test described in 3.3.

3.4.6 For gas dryers:

3.4.6.1 Total kilowatt-hours of electrical energy, E_{ep} , consumed during the test described in 3.3.

3.4.6.2 Cubic feet of gas per cycle, E_{gp} , consumed during the test described in 3.3.

3.4.6.3 On gas dryers using a continuously burning pilot light—the cubic feet of gas, E_{ppl} , consumed by the gas pilot light in one hour.

3.4.6.4 Correct the gas heating value, GEF, as measured in 2.3.2.1 and 2.3.2.2, to standard

pressure and temperature conditions in accordance with U.S. Bureau of Standards, circular C417, 1938. A sample calculation is illustrated in Appendix E of HLD-1.

3.5 Test for automatic termination field use factor credits. Credit for automatic termination can be claimed for those dryers which meet the requirements for either temperature-sensing control, 1.12, or moisture sensing control, 1.13, and having present the appropriate mark or detent feed defined in 1.11.

4. Calculation of Derived Results From Test Measurements

4.1 Total per-cycle electric dryer energy consumption. Calculate the total electric dryer energy consumption per cycle, E_{ec} , expressed in kilowatt-hours per cycle and defined as:

$$E_{ec} = [66/W_w - W_d] \times E_{et} \times FU$$

E_{ec} = the energy recorded in 3.4.5.

66 = an experimentally established value for the percent reduction in the moisture content of the test load during a laboratory test cycle expressed as a percent.

FU = Field use factor.

= 1.18 for time termination control systems.

= 1.04 for automatic control systems which meet the requirements of the definitions for automatic termination controls in 1.11.1, 1.12 and 1.13.

W_w = the moisture content of the wet test load as recorded in 3.4.2.

W_d = the moisture content of the dry test load as recorded in 3.4.3.

4.2 Per-cycle gas dryer electrical energy consumption. Calculate the gas dryer electrical energy consumption per cycle, E_{ep} , expressed in kilowatt-hours per cycle and defined as:

$$E_{ep} = [66/(W_w - W_d)] \times E_{eg} \times FU$$

E_{ep} = the energy recorded in 3.4.6.1

FU , 66 , W_w , W_d as defined in 4.1

4.3 Per-cycle gas dryer gas energy consumption. Calculate the gas dryer gas energy consumption per cycle, E_{gp} , expressed in Btu's per cycle as defined as:

$$E_{gp} = [66/(W_w - W_d)] \times E_{eg} \times FU \times GEF$$

E_{gp} = the energy recorded in 3.4.6.2

GEF = corrected gas heat value (Btu per cubic feet) as defined in 3.4.6.4

FU , 66 , W_w , W_d as defined in 4.1

4.4 Per-cycle gas dryer continuously burning pilot light gas energy consumption. Calculate the gas dryer continuously burning pilot light gas energy consumption per cycle, E_{ppl} , expressed in Btu's per cycle and defined as:

$$E_{ppl} = E_{ppl} \times (8760 - 140/416) \times GEF$$

E_{ppl} = the energy recorded in 3.4.6.3

8760 = number of hours in a year

416 = representative average number of clothes dryer cycles in a year

140 = estimated number of hours that the continuously burning pilot light is on during the operation of the clothes dryer for the representative average use cycle for clothes dryers (416 cycles per year) GEF as defined in 4.3

4.5 Total per-cycle gas dryer gas energy consumption expressed in Btu's. Calculate the total gas dryer energy consumption per cycle, E_{cp} , expressed in Btu's per cycle and defined as:

$$E_{cp} = E_{cp1} + E_{cp2}$$

E_{cp1} as defined in 4.3
 E_{cp2} as defined in 4.4

4.6 Total per-cycle gas dryer energy consumption expressed in kilowatt-hours. Calculate the total gas dryer energy consumption per cycle, E_{cp} , expressed in kilowatt-hours per cycle and defined as:

$$E_{cp} = E_{cp1} + (E_{cp2}/3412 \text{ Btu/k Wh})$$

E_{cp1} as defined in 4.2
 E_{cp2} as defined in 4.5

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PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2602

Payment of Premiums

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation ("PBGC") issued a final rule on August 5, 1976 relating to the payment of premiums by pension plans covered under Title IV of the Employee Retirement Income Security Act ("ERISA"). This amendment is intended to simplify and clarify the definition of "participant" without substantively altering its meaning, to streamline the reporting requirements of ERISA by changing the filing deadline of the PBGC premium payment form (PBGC-1) to conform, where possible, with the date by which the Form 5500 series (Annual Report) must be submitted to the Internal Revenue Service, and to update the rate of interest for late payment of premiums. Other minor technical changes are made to clarify filing requirements.

EFFECTIVE DATE: This regulation is effective on May 19, 1981.

FOR FURTHER INFORMATION CONTACT: David Weingarten, Special Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20008; 202-254-3010. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Employee Retirement Income Security Act, 29 U.S.C. 1001, *et seq.*, as amended by the Multiemployer Pension Plan Amendments Act of 1980, Pub. L. 96-364, 94 Stat. 1208, provides for a comprehensive pension plan insurance program in Title IV. Under the statutory scheme, plans pay a stated dollar

amount per participant in premiums annually to help finance the program. At plan termination, the PBGC guarantees payment of benefits in accordance with §§ 4022, 4022A and 4022B.

To implement these statutory requirements, the PBGC published the Payment of Premiums regulation on August 5, 1976, 41 FR 32710, which prescribes the form for payment of premiums (PBGC-1) and sets forth rules relating to premium payment and the penalties and interest for failure to comply with these requirements. The regulation was last amended on December 8, 1980, 45 FR 80822, to reflect a statutory increase in the rate of premiums for multiemployer plans.

The definition of "participant" in § 2602.2 has been reorganized and clarified in this amendment, although it is not substantively changed. It is rewritten here and in the instructions to the form prescribed by the regulation, the PBGC-1 form, to make it easier for plan administrators to understand. The number of participants counted under the amended definition will still be the same as it would have been under the prior regulation, and, as the instructions to the PBGC-1 form make clear, the same as the number recorded on the Annual Report Form 5500 series, filed with the Internal Revenue Service for use by the IRS, the Department of Labor and the PBGC. We note that the definition of the term "participant" as defined in this regulation is not necessarily the same as the definition of "participant" in section 3(7) of ERISA, or the definition of "participant" under the Internal Revenue Code.

Another change made in the rule allows a plan administrator to file the PBGC-1 form at the same time he or she makes his or her Form 5500 series filing. Under the current regulation, the deadline for filing the PBGC-1 form is precisely 7 months after the last day of the prior plan year. The Form 5500 series filing must be made by the last day of the seventh month following the close of the prior plan year. Thus, for example, if a plan year ends on December 15, a plan currently must file the PBGC-1 form by July 15 of the following year, and must make its Form 5500 series filing by July 31 of that year. Because much of the information needed to complete both forms is the same, the PBGC has determined that to minimize the administrative burden on plan administrators, the forms should have the same filing deadline. Accordingly, § 2602.3 is amended to permit the forms to be filed concurrently on the date the Form 5500 series is due. However, an extension of the due date granted by the

IRS for filing the IRS/DOL/PBGC Form 5500 (Annual Return/Report of Employee Benefit Plan) will not result in an extension of the due date for the PBGC-1 premium filing.

A new provision has been added to clarify the filing dates for plans which change plan years. The rule provides that the filing deadline is the later of seven months following the close of the short plan year or 30 days after the date on which an amendment was adopted to change the plan year. For example, a plan that changes its plan year from a calendar year plan year to a plan year beginning on July 1, must file its PBGC-1 form by the later of seven months after June 30, the close of the short plan year, or 30 days after the adoption of the amendment changing the plan year. In addition, a new § 2602.5(d) is added to clarify that plans that change their plan year must pay an annual premium based on the number of plan participants on the last day of the short plan year. Section 2602.3 has also been amended to make clear that the obligation to pay premiums continues until a plan's assets are distributed under a termination procedure or a trustee is appointed under section 4042 of the Act, whichever occurs earlier. A technical change has been made in § 2602.5(c) to clarify the filing deadline for newly covered plans.

Three changes are made to clarify the filing deadlines in the regulation. In § 2602.10, the current regulation treats the PBGC-1 form and premium payment as being filed on the date on which it is postmarked by the United States Postal Service or three days prior to the date it is received by the PBGC if it is not postmarked. The PBGC has interpreted the "three days prior to receipt" standard to apply when the form or payment is either not postmarked or when the postmark is illegible. This section of the regulation is amended to add the circumstance of an illegible postmark to the three day standard set forth in the regulation in order to advise the public of the agency's interpretation. The other changes are in § 2602.11, which relates to computation of time for determining the filing deadline and other purposes. To conform this regulation to other PBGC regulations and to clarify the filing deadline, the section is amended to specify that: (1) in counting days, every calendar day is counted, including federal holidays and Saturdays and Sundays, but where a due date falls on a federal holiday or Saturday or Sunday, the deadline for filing is the next business day, and (2) Saturdays, Sundays and federal holidays are counted after the due date

for purposes of computing late payment charges.

The final changes in the regulation relate to late payment interest charges. In the current regulation, interest imposed on the unpaid amount is specified for each of the past years in which premium payments were due. The PBGC has determined that this is not the most appropriate method of informing the public of the applicable interest rates because of changes in the rates and the corresponding necessity to amend the regulation continually. Accordingly, § 2602.7, relating to late payment interest charges, is changed to parallel the statutory language in section 4007(b) of the Act which references the rate established under section 6601(a) of the Internal Revenue Code. That rate is readily available to the public and updated periodically. In addition, Appendix A is added to the regulation to specify the interest rates in effect for specific time periods in the past (e.g., the current late payment interest charge is 12%).

This amendment makes only technical changes to clarify the final rule, and does not substantively affect the public except to extend filing deadlines. Because this regulation relates to agency procedures and practices, it is being issued in final form without notice and opportunity for public comment. In addition, the PBGC has determined that it would be impractical and contrary to the public interest to delay the effective date of the regulation because the forms that must be filed for the 1981 plan year are due as early as July 31, 1981. Accordingly, the PBGC finds that good cause exists for making this regulation effective immediately.

The PBGC has also determined that this rule is not a "major rule" within the meaning of Executive Order 12291 because it will not have an annual effect on the economy of \$100 million or more; nor will it create a major increase in costs or prices for consumers, individual industries, or geographic regions; nor will it have significant adverse effects on competition, employment, investment, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Because no general notice of proposed rulemaking is required for this regulation, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

In consideration of the foregoing, Part 2602 of Chapter XXVI of Title 29, Code of Federal Regulations, is hereby amended as follows:

1. Section 2602.2 is amended by revising the definition of "Participant" to read as follows:

§ 2602.2 Definitions.

* * * * *

"Participant" means any individual who is included in one of the categories below:

(a) *Active.* (1) Any individual who is currently in employment covered by the plan and who is earning or retaining credited service under the plan. This category includes any individual who is currently below the integration level in a plan that is integrated with Social Security.

(2) Any non-vested individual who is not currently in employment covered by the plan but who is earning or retaining credited service under the plan. This category does not include a non-vested former employee who has incurred a break in service the greater of one year or the break in service period specified in the plan.

(b) *Inactive.*—(1) *Inactive Receiving Benefits.* Any individual who is retired or separated from employment covered by the plan and who is receiving benefits under the plan. This category does not include an individual to whom an insurance company has made an irrevocable commitment to pay all the benefits to which the individual is entitled under the plan.

(2) *Inactive Entitled to Future Benefits.* Any individual who is retired or separated from employment covered by the plan and who is entitled to begin receiving benefits under the plan in the future. This category does not include an individual to whom an insurance company has made an irrevocable commitment to pay all the benefits to which the individual is entitled under the plan.

(c) *Deceased.* Any deceased individual who has one or more beneficiaries who are receiving or entitled to receive benefits under the plan. This category does not include an individual if an insurance company has made an irrevocable commitment to pay all the benefits to which the beneficiaries of that individual are entitled under the plan.

Provided that, for plan years beginning before September 2, 1975, a retiree or former employee for whom a fully paid-up immediate or deferred annuity has been purchased shall be treated as a "participant" if such individual retains a legal claim against the plan for benefits or if the plan retains a participating interest in the annuity policy.

2. In § 2602.3, paragraphs (a)(3), (a)(4), (a)(5), and (a)(6) are revised to read as follows:

§ 2602.3 Filing requirement.

(a) * * *

(3) For any plan year beginning on or after January 1, 1978 and ending on or before December 30, 1981: seven months after the close of the prior plan year.

(4) For any plan year beginning on or after January 1, 1981: the last day of the seventh month following the close of the prior plan year.

(5) Notwithstanding the provisions of paragraphs (1), (2), (3) and (4), for any plan newly covered by § 4021 of the Act, the later of:

(i) Seven months after the beginning of the plan year;

(ii) 30 days after the date of the plan's adoption;

(iii) 30 days after the date on which the plan became effective for benefit accruals for future service; or

(iv) 30 days after the date on which the plan becomes covered by § 4021 of the Act.

(6) Notwithstanding the provisions of paragraphs (1), (2), (3) and (4), for any plan which changes its plan year, the later of:

(i) The last day of the seventh month following the close of the short plan year; or

(ii) 30 days after the date on which an amendment was adopted to change the plan year.

3. In § 2602.3, paragraph (d) is redesignated as paragraph (e), paragraph (c) is redesignated as paragraph (d) and a new paragraph (c) is added to read as follows:

§ 2602.3 Filing requirement.

* * * * *

(c) The obligation to file the form prescribed by this part and pay any premiums due continues until plan assets are distributed under a termination procedure or until a trustee is appointed under § 4042 of the Act, whichever occurs earlier.

4. In § 2602.5, paragraph (c) is revised and a new paragraph (d) is added to read as follows:

§ 2602.5 Premium rate.

* * * * *

(c) For any plan not previously covered by § 4021 of the Act, the plan shall pay the applicable premium under paragraphs (a) or (b) of this section for each individual who is a participant in such plan on the date the plan becomes covered by § 4021 of the Act.

(d) For any plan that changes its plan year, the plan shall pay the applicable premium under paragraphs (a) or (b) of this section for each individual who is a

participant in such plan on the last day of the short plan year.

5. In § 2602.7, paragraph (a) is revised to read as follows:

§ 2602.7 Late payment interest charges.

(a) If any premium payment due under this part is not paid by the last date prescribed for payment in § 2602.3, an interest charge shall be imposed on the unpaid amount at the rate imposed under § 6601(a) of the Internal Revenue Code of 1954, for the period from the date payment is due to the date payment is made.

§ 2602.10 [Amended]

6. Section 2602.10 is amended in paragraph (b), by removing the words "if not postmarked by the United States Postal Service" and substituting the words "if it does not contain a legible United States Postal Service postmark".

7. Section 2602.11 is revised to read as follows:

§ 2602.11 Computation of time.

In computing any period of time prescribed by this part, the day of the act, event, or default from which the designated period of time begins to run is not counted. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or federal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or a federal holiday. For the purpose of computing late payment interest charges under § 2602.7 and late payment penalty charges under § 2602.8, a Saturday, Sunday or federal holiday referred to in the previous sentence shall be included.

8. Part 2602 is amended by adding an Appendix at the end thereof to read as follows:

Appendix A—Late Payment Interest Charges

The following table lists the late payment interest charges under § 2602.7(a) for the specified time periods:

Time period	Interest rate (per cent)
Sept. 2, 1974 to June 30, 1975	6
July 1, 1975 to Jan. 31, 1976	9
Feb. 1, 1976 to Jan. 31, 1978	7
Feb. 1, 1978 to Jan. 31, 1980	6
Feb. 1, 1980 to Jan. 31, 1982	12

(Secs. 4002(b)(3) and 4007, Pub. L. 93-406, 88 Stat. 1004, as amended by Secs. 403(1), 402(a)(3) and 403(b), Pub. L. 96-364, 94 Stat.

1208, 1302, 1296, 1300 [1980] (29 U.S.C. 1302(b), 1307))

Issued at Washington, D.C., on this 1st day of May 1981.

Robert E. Nagle,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 81-14905 Filed 5-18-81; 8:45 am]

BILLING CODE 7708-01-M

29 CFR Parts 2670 and 2671

Election of Single-Employer Plan Status

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This rule establishes implementing procedures for a special election concerning multiemployer plan status which may be made under Title IV of the Employee Retirement Income Security Act of 1974 (ERISA), as amended by the Multiemployer Pension Plan Amendments Act of 1980. Under these procedures, an eligible single-employer plan, whose plan status would otherwise change to multiemployer due to the new definition of that term in ERISA, may irrevocably elect to be considered a single-employer plan for all purposes under ERISA and the Internal Revenue Code.

In the Multiemployer Act, Congress expanded the definition of "multiemployer plan" to include some plans which under prior law were single-employer plans. The election permits certain plans affected by this change in definition to elect single-employer status.

EFFECTIVE DATE: May 19, 1981.

FOR FURTHER INFORMATION CONTACT: James M. Graham, Office of the Executive Director, Policy and Planning, Suite 7300, 2020 K Street, N.W., Washington, D.C. 20006; 202-254-4860.

SUPPLEMENTARY INFORMATION: The Multiemployer Pension Plan Amendments Act of 1980, Pub. L. No. 96-364, 94 Stat. 1208 (the "Multiemployer Act"), became law on September 26, 1980 and amended the Employee Retirement Income Security Act of 1974. (The Act as amended is hereafter referred to as "ERISA".)

The Statute

An Expanded Definition of "Multiemployer Plan"

In the Multiemployer Act, Congress amended ERISA to expand the definition of "multiemployer plan". The basic Congressional purpose was to eliminate uncertainties created by prior law, and to ensure that all collectively

bargained plans which have more than one contributing employer are treated as multiemployer plans.

As amended, sections 3(37)(A) and 4001(a)(3) of ERISA define a "multiemployer plan" as a plan—

(1) To which more than one employer must contribute;

(2) Which is maintained under one or more collective bargaining agreements between one or more unions and more than one employer; and

(3) Which satisfies other requirements established by the Secretary of Labor.

The new definition deletes previous limitations on the annual contributions made to a plan by one employer. Under the prior definition, a plan was not a multiemployer plan if one of its employers contributed 50% or more of the total annual contributions (section 3(37)(A)(iii)). There was an exception to that rule. Section 3(37)(B)(i) provided that if a plan was multiemployer within the meaning of section 3(37)(A) for any plan year, the 50% cap was raised to 75% for subsequent plan years. Thus, once a plan passed the 50% test, it would remain a multiemployer plan as long as no employer contributed 75% or more of the total contributions for a single plan year.

As a determinant of plan status, the percentage cap created uncertainty: a plan might be classified multiemployer one year, then single-employer the next, depending on how the level of contributions by each employer varied. The new definition eliminates this problem.

Election of Plan Status

Under ERISA, section 4303 provides that a single-employer plan,¹ which would otherwise become multiemployer under the new definition, can elect to continue its single-employer status. Under section 4303 of ERISA, such a plan may elect to be a single-employer plan for all purposes under ERISA and the Internal Revenue Code, provided that PBGC procedures are followed and the election is made on or before September 26, 1981. The election is irrevocable. If such a plan does not make the election, it automatically becomes a multiemployer plan on the first day of the first plan year that begins after September 26, 1980 (ERISA section 3(37)(D)).

In order to be eligible for the election, a plan must meet two tests. The first test requires that, for each of the last three plan years ending before September 26,

¹ The term "single-employer plan" was added to ERISA by the Multiemployer Act. It includes both single employer and multiple employer plans.

1980, the plan must show that it was not a multiemployer plan because the contributions of one of its employers met or exceeded the annual contribution limit, either 50% or 75% as applicable. Section 4303(a)(1).

The second test for eligibility also concerns plan status before enactment of the Multiemployer Act. Section 4303(a)(2) requires that, for each of the last three plan years ending before September 26, 1980, the plan must have identified itself as a non-multiemployer plan (*i.e.*, as either a single employer or multiple employer plan) in substantially all its filings with the PBGC, the Department of Labor and the Internal Revenue Service.

If a plan is eligible for the election, certain procedures must be followed pursuant to section 4303(b). First, the plan must be amended on or before September 26, 1981 to provide that it shall be treated as a single-employer plan for all purposes under ERISA and the Internal Revenue Code. Second, the plan must file a written notice of the amendment with the PBGC within 60 days after the amendment is adopted.

Once approved by the PBGC, section 4303(c) provides that an election shall be treated as being effective as of September 26, 1980. Thus, from that date on, the plan would be treated as having been a single-employer plan for all purposes, including payment of premiums.

The Regulation

Election Requirements

Section 2671.2(a) of this regulation provides that a plan which is eligible to make an election and which complies with the procedures and time limits set forth in this rule shall be deemed to be a single-employer plan for all purposes under ERISA and the Internal Revenue Code.

Section 2671.2(b) restates the statutory qualifications for making an election under section 4303 of ERISA. In order to be eligible for the election, a plan must show that it was not a multiemployer plan under ERISA prior to the Multiemployer Act amendments. In that regard, the plan must satisfy the contributions test discussed above.

In applying the contributions test to determine plan status during the 3 plan years before September 26, 1980, employer contributions in prior years may also be relevant. For example, if in the first year of the 3 plan year period, the plan had a 75 percent or greater contributor, and a 50 percent or greater contributor in each of the two subsequent years, then the plan may qualify for the election without regard to

the contributions in prior plan years. That is so, because under prior law, once a plan met or exceeded the 75 percent limit, it was a single-employer plan until a plan year in which no one employer contributed 50 percent or more of the total contributions. On the other hand, if during the relevant 3 year period, the plan had a 50 percent or greater contributor, but less than a 75 percent contributor, the statute requires that PBGC look to contributions in prior years to determine if the plan was in fact a single-employer plan during each of the relevant 3 years. In other words, one must know the plan status in years prior to the statutory 3 year period in order to know what the applicable contribution limitation is during the period. If under this example, a plan was a multiemployer plan prior to the relevant 3 year period, that status would not have changed until one employer contributed 75% or more in a single year. Thus, a strict application of 4303(a)(1) could necessitate an examination of the contribution records for all years of a plan's existence.

PBGC recognizes that requiring plans to produce contribution records for the entire life of the plan would impose a significant burden. Many plans may not have the necessary records, and it may be very difficult, if not impossible, to reconstruct the records. Such a requirement might also result in plans not being eligible for the election solely because they do not have records on contributions over the entire plan history. Therefore, for the purpose of the election, the regulation requires information on employer contributions only for the plan years since enactment of ERISA, *i.e.* for plan years ending after September 2, 1974.

In addition to the contribution test, in order to be eligible under § 2671.2(b), a plan must show that it identified itself as a non-multiemployer plan in substantially all of its ERISA filings in the three year period before September 26, 1980. Therefore, a mistaken filing is permitted. Provided that it was an exception, and that in a substantial number of filings the plan designated itself as single-employer, the plan would not be disqualified from the election on that basis alone.

Section 2671.2(c) of the regulation provides that, in order for an election to be effective, certain procedures must be followed. First, the plan must adopt on or before September 26, 1981 a plan amendment providing that it shall be treated as single-employer plan for all purposes under ERISA and the Code. Second, a written notice of the election that conforms with the requirements of

§ 2671.3 must be filed with the PBGC within 60 days after the amendment is adopted. The election must thereafter be approved by the PBGC.

Notice to PBGC

Section 2671.3 prescribes the procedures for giving notice of an election to the PBGC. Paragraph (a) of the section provides that a plan must give written notice to the PBGC of a plan amendment electing single-employer status. That notice must be received by the PBGC within 60 days after the adoption of the amendment.

Paragraph (d) of § 2671.3 lists the information which must accompany the notice to the PBGC. Under § 2671.3(d)(7), a plan must submit a list showing the name of each contributing employer, the amount of the contribution by each employer, and percentage of the contribution of each to the total annual contributions. This information generally must be provided for each plan year ending on or after September 2, 1974 but before September 26, 1980. However, if in the third plan year ending before September 26, 1980 or in an earlier year, a plan had one employer who contributed 75 percent or more of the total contributions, then the contribution information need only be submitted for that and each subsequent plan year.

PBGC Action

Section 2671.4(a) provides that the PBGC shall approve an election if the PBGC determines that a plan is eligible to make the election under § 2671.2(b) and that the procedures under § 2671.2(c) (1) and (2) have been followed. The PBGC will issue a written decision on a plan's request for approval of an election. If the PBGC disapproves an election, the decision will state the grounds on which the PBGC based its determination.

Adjusting Premium Payments Due to Election

The year following the date of enactment of the multiemployer Act will be a transition period for some plans. In that time, due to the new definition of "multiemployer plan" and the election process, some plans will become multiemployer only until such time as they elect to be single-employer plans. This change in plan status may necessitate some adjustment in premium payments.

Section 2671.5 covers the two possible situations where a premium adjustment will be required. The first involves a plan that pays its premium at the multiemployer rate and thereafter elects

single-employer status. In that case, the plan has underpaid its premium and owes the PBGC the difference between the lower multiemployer rate and the higher single-employer rate. PBGC will bill the plan for this amount. The amount shall be due 30 days after the date of the PBGC bill. Failure to pay within that time shall result in the assessment of penalties and interest accruing from the due date at the rates prescribed in section 4007 of the Act and Part 2602 of this chapter.

The second situation calling for adjustment of the premium payment is when a plan pays at the single-employer rate, but its election of single-employer status is thereafter disapproved by the PBGC. In that case, the plan has paid too much, and the PBGC will refund to the plan the difference between the single-employer rate and the multiemployer rate. If as a result of the disapproval of the election, a plan believes it made a premium overpayment in a prior plan year, it may request a refund by writing to the Branch of General Accounting, Division of the Controller, Pension Benefit Guaranty Corporation.

Under section 3(b) of Executive Order 12291, the Pension Benefit Guaranty Corporation has determined that this regulation is not a "major rule" for the purposes of the Order, because it will not have an annual effect on the economy of \$100 million or more; or create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Because this regulation deals only with matters of procedure, no general notice of proposed rulemaking is required. Because of the need to provide prompt guidance to plan sponsors who wish to exercise their statutory right of election before the deadline of September 26, 1981 and because this regulation does not require any action by plans, the PBGC finds that good cause exists for making this regulation effective immediately. Further, since no general notice of proposed rulemaking is required, the Regulatory Flexibility Act of 1980 has no application to this regulation. (5 U.S.C. 601(2)).

In consideration of the foregoing, Chapter XXVI of Title 29, Code of Federal Regulations is amended by adding new Parts 2670 and 2671, as follows:

PART 2670—DEFINITIONS

Sec.

2670.1 Purpose and scope.

2670.2 General definitions.

Authority: Sec. 4002(b)(3), Pub. L. 93-406, as amended by sec. 403(1), Pub. L. 96-364, 94 Stat. 1208, 1302 (1980) (29 U.S.C. 1302).

§ 2670.1 Purpose and scope.

This part sets forth the definitions of the terms used in Part 2671 of this chapter.

§ 2670.2 General definitions.

For purposes of Part 2671:

"Act" means the Employee Retirement Income Security Act of 1974, as amended.

"Code" means the Internal Revenue Code of 1954, as amended.

"Multiemployer Act" means the Multiemployer Pension Plan Amendments Act of 1980.

"Multiemployer plan" means a pension plan described in section 4001(a)(3) of the Act.

"PBGC" means the Pension Benefit Guaranty Corporation.

"Plan year" means the calendar, policy or fiscal year on which the records of the plan are kept.

"Single-employer plan" means a plan described in section 4001(b)(2) of the Act.

PART 2671—ELECTION OF SINGLE-EMPLOYER PLAN STATUS

Sec.

2671.1 Purpose and scope.

2671.2 Eligibility and requirements for election.

2671.3 Notice of election.

2671.4 PBGC action on election.

2671.5 Adjustment of premium payments due to election.

Authority: Sections 4002(b)(3) and 4303, Pub. L. 93-406, as amended by sections 403(1) and 108, Pub. L. 96-364, 94 Stat. 1208, 1302 and 1207 (1980) (29 U.S.C. 1302 and 1453).

§ 2671.1 Purpose and scope.

(a) *Purpose.* The purpose of this part is to establish procedures whereby certain plans that become "multiemployer plans" solely because of the change in the definition of that term under the Multiemployer Pension Plan Amendments Act of 1980 may irrevocably elect to be single-employer plans for all purposes under the Employee Retirement Income Security Act of 1974, as amended, and the Internal Revenue Code.

(b) *Scope.* This part applies to any plan covered under section 4021(a) of ERISA that was not a multiemployer plan under ERISA prior to enactment of the Multiemployer Act, and whose plan status changed to multiemployer

because the new definition of "multiemployer plan" under the Multiemployer Act deleted the percentage limitation on contributions by one employer (section 3(37)(A)(iii) and (B)(i) of ERISA, prior to amendment).

§ 2671.2 Eligibility and requirements for election.

(a) *General rule.* A plan that is eligible to make an election under paragraph (b) of this section and makes a valid election in accordance with the procedures and within the time limits specified in paragraph (c) of this section shall be deemed to be a single-employer plan for all purposes under the Act and the Code. An election made under this part is irrevocable.

(b) *Eligibility for election.* A plan may elect to be a single-employer plan if, for each of the last three plan years ending prior to September 26, 1980—

(1) The plan was not a multiemployer plan because it was not a plan described in section 3(37)(A)(iii) of the Act, as such provision was in effect before it was amended by the Multiemployer Act; and

(2) The plan had been identified as a plan that was not a multiemployer plan in substantially all its filings with the PBGC, the Department of Labor and the Internal Revenue Service.

(c) *Requirements for an effective election.* An election under this part is effective only if—

(1) The plan is amended on or before September 26, 1981 to provide that it shall be treated as a single-employer plan for all purposes under the Act and the Code;

(2) A written notice of the election that conforms with the requirements of § 2671.3 is filed by the plan with the PBGC on or before 60 days after the amendment is adopted; and

(3) The election is thereafter approved by the PBGC.

(d) *Effect of election.* An election approved by the PBGC shall be effective for all purposes under the Act and the Code as of September 26, 1980.

§ 2671.3 Notice of election.

(a) *General.* A written notice of election shall be filed with the PBGC no later than 60 days after the adoption of the plan amendment electing single-employer status.

(b) *Who shall file.* The plan sponsor, or a duly authorized representative acting on behalf of the plan sponsor, shall sign the notice.

(c) *Where to file.* The notice shall be delivered by mail or submitted by hand to the Division of Case Classification

and Control, Office of Program Operations, Pension Benefit Guaranty Corporation, Room 5300A, 2020 K Street, NW., Washington, D.C. 20006.

(d) *Content.* Each notice shall contain the following information:

(1) The name of the plan.
(2) The name, address and telephone number of the plan sponsor, and of the duly authorized representative, if any, of the plan sponsor.

(3) The date the amendment was adopted.

(4) A copy of the executed amendment.

(5) For each of the last three plan years ending prior to September 26, 1980, a copy of the plan's Form 5500 (Annual Report Form) (without attachments).

(6) A list showing the name of each employer who contributed to the plan, the amount of the contribution of each, and the percentage of the contribution of each to the total annual contributions made to the plan. Except as provided in the next sentence, this information shall be provided for each plan year ending on or after September 2, 1974 but before September 26, 1980. If in the third plan year ending before September 26, 1980 or in one of the prior plan years ending on or after September 2, 1974, one employer contributed 75 percent or more of the plan's total contributions, the information on contributions need not be provided for plan years prior to that year. In that situation, the information on contributions will be provided for the year in which the 75 percent contribution occurred and for each subsequent year.

(e) *Additional information.* In addition to the information described in paragraph (d) of this section, the PBGC may require the plan sponsor to submit any other information the PBGC determines it needs to review a notice of election.

(f) *Date of filing.* The notice of election is considered filed on the date of the United States postmark stamped on the cover in which the notice is mailed, *Provided, That—*

(1) The postmark was made by the United States Postal Service; and

(2) The notice was mailed postage prepaid, properly packaged and addressed to the PBGC. If the conditions stated in both paragraphs (1) and (2) are not met, the notice is considered filed on the date it is received by the PBGC. Notices received after regular business hours are considered filed on the next regular business day.

§ 2671.4 PBGC action on election.

(a) *General.* The PBGC shall approve an election if the PBGC determines that

the plan is eligible to make the election under § 2671.2(b) and that the plan has complied with the procedures set forth in § 2671.2(c).

(b) *PBGC decision.* PBGC's decision approving or disapproving an election shall be in writing. If the PBGC disapproves the election, the decision shall state the reasons for the determination.

§ 2671.5 Adjustment of premium payments due to election.

(a) *Underpayment.* If a plan has paid its premium for its first plan year beginning on or after September 26, 1980 at the rate payable for a multiemployer plan and thereafter effectively elects to be a single-employer plan, the plan will have underpaid its premium. In this case, the PBGC shall bill the plan for the amount due at the higher rate payable for a single-employer plan. The amount shall be due 30 days after the date of the PBGC bill. Failure to pay within that time shall result in the assessment of penalties and interest accruing from the due date at the rates prescribed in section 4007 of the Act and Part 2602 of this chapter.

(b) *Overpayment.* If a plan has paid its premium for its first plan year beginning on or after September 26, 1980 at the rate payable for a single-employer plan and thereafter makes an election which is not approved by PBGC, the plan will have overpaid its premium. In this case, the PBGC shall refund to the plan an amount equal to the difference between the amount owed by the plan for that plan year at the single-employer rate and the amount owed at the lower multiemployer rate.

Issued at Washington, D.C. on this 21st day of April 1981.

Robert E. Nagle,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 81-14917 Filed 5-18-81; 8:45 am]
BILLING CODE 7708-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[WH-FRL-1826-8]

State Underground Injection Control Programs

AGENCY: Environmental Protection Agency.

ACTION: Interim Final Guidance and Request for Public Comment.

SUMMARY: The Safe Drinking Water Act of 1974 (SDWA) was amended on December 5, 1980. Among other changes,

the amendments added a new Section 1425 to the Act. Section 1425 establishes an alternative method for a State to obtain primary enforcement responsibility for those portions of its Underground Injection Control (UIC) program related to the recovery and production of oil and gas. More specifically, " * * * in lieu of the showing required under subparagraph (A) of section 1422(b)(1) the State may demonstrate that such portion of the State program meets the requirements of subparagraphs (A) through (D) of section 1421(b)(1) and represents an effective program * * * to prevent underground injection which endangers drinking water sources."

Section 1422(b)(1) of the SDWA specifies that a State, in order to obtain approval for its UIC program, must make a satisfactory showing that it has adopted and will implement a program that meets the requirements of regulations issued by the Administrator. Such regulations have been promulgated at 40 CFR Parts 122, 123, 124 and 146.

This notice is intended to provide guidance for the implementation of the alternative demonstration provided for in the new Section 1425. It contains information on: (1) how States may apply for approval under Section 1425; and (2) the criteria the Environmental Protection Agency (EPA) will use in approving or disapproving applications under Section 1425.

DATES: Effective date: This guidance is issued as interim final. It becomes effective upon May 19, 1981.

COMMENT DATE: EPA will accept public comments on this document until July 20, 1981.

ADDRESS: Comments should be sent to Mr. Thomas E. Belk, Chief, Ground Water Protection Branch, Office of Drinking Water (WH-550), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

Such comments, together with other relevant materials, will be maintained at the same address.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas E. Belk (202) 426-3934.

OMB Approval: This guidance has been cleared for publication by the Office of Management and Budget.

Dated: May 11, 1981.

Walter C. Barber, Jr.,
Acting Administrator.

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1.0 Purpose and Scope

The 1980 amendments to the Safe Drinking Water Act (SDWA) added a new Section 1425 which provides an alternative means for States to acquire primary enforcement responsibility for the control of underground injection related to the recovery and production of oil and natural gas. This document contains guidance on: (1) how States may apply for approval under Section 1425; and (2) the criteria EPA will use in approving or disapproving applications under Section 1425.

EPA is mindful of the fact that, in enacting Section 1425, Congress intended that States be offered an alternative to the detailed requirements of the regulations promulgated at 40 CFR Parts 122, 123, 124 and 146, and that State programs to control injections related to oil and gas production be considered on their merits. Nevertheless, Section 1425 does require a State to demonstrate that such portion of its Underground Injection Control (UIC) program: (1) meets the requirements of Section 1421(b)(1) (A) through (D); and (2) represents an effective program to prevent injection which endangers drinking water sources. Further, Section 1425 requires the Administrator of EPA to approve or disapprove such portion of a State's UIC program for primary enforcement responsibility based on his judgment of whether the State has succeeded in making the required demonstrations.

Consequently, EPA believes that States are entitled to guidance on the

implementation of Section 1425. The procedures and criteria contained in this document were developed in consultation with interested States. They represent a "model" State application and program which, in EPA's view, meet the requirements of the amended SDWA. A State application which conforms to these procedures and meets the suggested criteria should be approvable under Section 1425.

A State may choose to apply in a different form and make demonstrations different from those suggested in this document. EPA will consider such applications. However, they will have to be reviewed on a case-by-case basis to determine whether they meet the requirements of the Act. Such reviews may involve additional requests for information, more time and less assurance of ultimate approval.

This guidance and the regulations promulgated at 40 CFR Parts 122, 123, 124 and 146 are both aimed at achieving the same fundamental objective: the protection of underground sources of drinking water from endangerment by well injection. There are, however, some significant differences between them.

The most immediate difference is that one is a regulation and the other is guidance. This was a deliberate choice on the part of the Agency because it does not view the new Congressional mandate as requiring another set of detailed regulations for its implementation. In any event, there is insufficient time to develop such regulations in light of the short time remaining before State program submissions are due under Section 1422(b)(1)(A) of the SDWA.

A further difference is that State program submissions under Section 1422(b)(1) of the SDWA are required to meet a different legal standard from State program submissions under Section 1425. Under Section 1422(b)(1)(A), the State is required to make a showing that its UIC program "meets the requirements of regulations in effect under section 1421; * * *". Under Section 1425, the State is required to demonstrate that the Class II portion of its UIC program meets the requirements of Section 1421(b)(1) (A) through (D) and represents an effective program to prevent underground injection which endangers drinking water sources.

As a consequence of these differences, this guidance is much less detailed than the regulations and leaves a great deal more discretion to the State to develop and EPA to approve State UIC programs under Section 1425.

2.0 Applications

2.1 Definition

For the purposes of Section 1425 of the SDWA:

1. The underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production; and

2. Any underground injection for the secondary or tertiary recovery of oil or natural gas; and

3. Any injection for the storage of hydrocarbons which are liquid at standard temperature and pressure; shall be defined as "Class II" injections or wells.

2.2 Need for an Underground Injection Control (UIC) Program

Any State which has Class II wells must have an UIC program to assure that such wells do not endanger underground sources of drinking water (USDWs). A State may submit its Class II program to EPA for approval. If EPA approves the program, the State has primary enforcement responsibility for that portion of its UIC program.

If a State chooses not to apply, or if its program is disapproved, or if subsequent to approval the State loses primary enforcement responsibility because the Administrator determines, under Section 1425(c)(2), that the demonstration is no longer valid, EPA must prescribe and implement a program in that State. When EPA implements a Class II program for a State, it will do so in accordance with the requirements of 40 CFR Parts 122, 124 and 146.

A State which does not have any Class II wells need not develop a Class II control program in order to qualify for primacy under the UIC program. Under the regulations at 40 CFR 123.51(d), such a State only needs to demonstrate that Class II wells cannot legally occur until the State has developed an approved program to regulate such injections.

2.3 Applications Under Section 1425

Any State which has Class II wells may, at its option apply for primacy for its Class II UIC program either: (1) under the regulations at 40 CFR Parts 122, 123, 124 and 146; or (2) under Section 1425 of the SDWA.

2.4 When Should Application be Made?

House Report No. 96-1348, accompanying the 1980 amendments, states on page 5 that: "The Committee expects that alternative demonstrations will be submitted on the same schedule. Accordingly, as demonstrations required for state programs meeting Federal regulations promulgated under Section

1421(b)." States have 270 days from July 24, 1980 to submit applications, or until April 20, 1981.

This period may be extended by up to another 270 days by the Regional Administrators for "good cause", or until January 15, 1982.

A State need not wait until it is ready to submit its application for all classes of wells. EPA will entertain partial applications for primacy as long as the program for which approval is sought covers: (1) all elements of a program to regulate a particular class or classes of injection practices even if the class or classes involve the jurisdiction of more than one State agency; or (2) all elements of a program to regulate all the classes or types of wells within the jurisdiction of a single State agency. However, if a State submits a partial application, the alternative demonstration under Section 1425 may be used only for the Class II portion of the application. The portion of the program covering types of practices other than Class II will have to meet the requirements of 40 CFR Parts 122, 123, 124 and 146.

2.5 Effects of a Partial Application

The recent amendments have changed Section 1443 of the SDWA so that a State may receive grant support until July 1982. After that date, it must have achieved full primacy in order for grant eligibility to continue. As a consequence, a State may receive partial primacy for its Class II control program and continue to receive grants: (1) if it has obtained an extension for submitting the remainder of its application; (2) until it declares its intention not to file any further applications; (3) until EPA terminates its grant for cause; or (4) until July 1982, whichever is soonest.

If a State receives full primacy, its eligibility for grants will, of course, continue.

3.0 Elements of an Application for Primacy under Section 1425

3.1 Elements of a State Application

A complete State submission should contain the following elements:

- a. a letter from the Governor;
- b. a description of the program;
- c. a statement of legal authority;
- d. copies of the pertinent statutes and regulations;
- e. copies of the pertinent State forms; and
- f. a signed copy of a Memorandum of Agreement.

The nature of these elements is described further below.

3.2 Letter From the Governor

The letter from the Governor should:

- a. request approval of the State's program for primacy under the UIC program;

- b. specify whether approval is sought under Section 1425 of the SDWA or under 40 CFR Parts 122, 123, 124, and 146; and

- c. affirm that the State is willing and able to carry out the program described.

3.3 Program Description

A State's application is expected to contain a full description of the program for which approval is sought, in sufficient detail to enable EPA to make the judgments outlined in Section 5 below. Such a description should:

- a. Specify the structure, coverage and scope of the program;

- b. Specify the State permitting process and address, to the extent applicable, the following elements:

1. Who applies for the permit or the authorization by rule;
2. Signatories required for permit application and reports;
3. Conditions applicable to permits, including: duty to comply with permit conditions, duty to reapply, duty to halt or reduce activity, duty to mitigate, proper operation and maintenance, permit actions, property rights, inspection and entry monitoring, record keeping, and reporting requirements;

4. Compliance schedules;

5. Transfer of permits;

6. Termination of permits;

7. Whether area permits or project permits are granted;

8. Emergency permits;

9. The availability and use of variances and other discretionary exemptions to programmatic requirements; and

10. Administrative and judicial procedures for the modification of permits.

- c. Describe the operation of any rules used by the State to regulate Class II wells;

- d. Describe the technical requirements applied to operators by the State program;

- e. Include a description of the State's procedures for monitoring, inspection and requiring reporting from operators;

- f. Discuss the State's enforcement program, e.g.:

1. Administrative procedures for dealing with violations;

2. Nature and amounts of penalties, fines and other enforcement tools;

3. Criteria for taking enforcement actions; and

4. If the State is seeking approval for an existing program, summary data on:

- A. Past practice in the use of enforcement tools;

- B. Current compliance/non-compliance with State requirements;

- C. Repeat violations at the same well or by the same operator at different wells;

- D. Well failure rates; and

- E. USDW contamination cases based on actual field work and citizen complaints.

- g. Detail the State's staffing and resources, and demonstrate that these are sufficient to carry out the proposed program;

- h. If more than one State agency is involved in the Class II program, describe their relationships with regard to carrying out the Class II program;

- i. Contain a reasonable schedule for completion of an inventory of Class II wells in the State;

- j. Include the procedures for exempting aquifers, a list of the aquifers or portions of aquifers proposed for exemption at the time of application, and the reasons for the proposed exemptions, unless these have been described in the partial applications made by the State;

- k. Contain a plan (including the basis for assigning priorities) for the review of all existing Class II wells in the State within five years of program approval to assure that they meet current non-endangerment requirements of the State (this may include permit modification and reissuance, if appropriate);

- l. Describe State requirements for ensuring public participation in the process of issuing permits and modifying permits in the case of substantial changes in the project area, injection pressure or the injection horizon; and

- m. Describe State procedures for responding to complaints by the public.

3.4 Statement of Legal Authority

The statement of legal authority is intended to assure EPA that the State has the legal authority to carry out the program described. It may be signed by a competent legal officer of the State, for example, the Attorney General, the Counsel for the responsible State agency, or any other officer who represents the Agency in legal matters.

The statement may, at the option of the State, consist of a full analysis of the legal basis for the State program, including case law as appropriate. Or the statement may consist of a simple certification by the legal representative that the State has adequate authority to carry out the described program. If the State chooses to submit a certification, the program description should detail

the legal authority on which the various elements of the State's program rest.

3.5 Copies of Statutes and Regulations

The application should contain copies of all applicable State statutes, rules and regulations, including those governing State administrative procedures.

3.6 Copies of State Forms

The application should contain examples of all forms used by the State in administering the program, including application forms, permit forms and reporting forms.

3.7 Memorandum of Agreement

The head of the cognizant State agency and the EPA Regional Administrator shall execute a memorandum of agreement which shall set forth the terms under which the State will carry out the described program and EPA will exercise its oversight responsibility. A copy of such an agreement signed by the Director of the State agency, shall be submitted as part of the application.

At a minimum, the memorandum of agreement should:

- a. Include a commitment by the State that the program will be carried out as described and be supported by an appropriate level of staff and resources;
- b. Recognize EPA's right of access to any pertinent State files;
- c. Specify the procedures (e.g., notification to the State and participation by State officials) governing EPA inspections of wells or operator records;
- d. Recognize EPA's authority to take Federal enforcement action under Section 1423 of the SDWA in cases where the State fails to take adequate enforcement actions;
- e. Agree to provide EPA with an annual report on the operation of the State program, the content of which may be negotiated between EPA and primacy States from time to time;
- f. Provide that aquifer exemptions for Class II wells be consistent with aquifer exemptions for the rest of the UIC program;
- g. When appropriate, may include provisions for joint processing of permits by the State and EPA for facilities or activities which require permits from both EPA and the State under different programs; and
- h. Specify that if the State proposes to allow any mechanical integrity tests other than those specified or justified in the program application, the Director will notify the cognizant Regional Administrator and provide enough information about the proposed test that

a judgment about its usefulness and reliability may be made.

4.0 Process for Approval or Disapproval of Application

4.1 Public Participation by States

Section 1425 relieves States of the responsibility to hold public hearings or afford an opportunity for public comment prior to submitting an application to EPA. Therefore, when application is made by a State under Section 1425, it may, but need not, provide an opportunity for public hearings or comments.

4.2 Complete Applications

Within 10 working days of the receipt of a final application, EPA will determine whether the application is complete or not and so notify the State in writing. If the application is found to be incomplete it will be returned to the State with specific requests for additional material or changes. However, the State may, at its option, insist that EPA complete its review of an application as submitted.

4.3 EPA Review

a. EPA has 90 days to approve or disapprove an application. If EPA finds that the application is complete, the review period will be deemed to have begun on the date the application was received in the cognizant Regional Office. If an application has been found to be incomplete and the State insists that EPA proceed with its review of the application as submitted, the review period will begin on the date that EPA receives the State's request to proceed in writing. The review period may be extended by the mutual consent of EPA and the State.

b. Within the 90-day period, EPA will request public comments and provide an opportunity for public hearing on each application, in the applying State, in accordance with 40 CFR 123.54(c) and (d). If the State has not done so, EPA will hold at least one public hearing in the State.

c. If a State's application is approved, the State shall have primary enforcement responsibility for its Class II program.

d. If a State's application is disapproved, EPA intends within 90 days of disapproval or as soon thereafter as feasible, prescribe a Class II program for the State in accordance with Section 1422(c) of the SDWA and 40 CFR Parts 122, 124 and 146.

5.0 Criteria for Approving or Disapproving State Programs

5.1 General

Section 1425 of the SDWA states that: " * * * the State may demonstrate that [the Class II] portion of the State program meets the requirements of subparagraphs (A) through (D) of Section 1421(b)(1) and represents an effective program (including adequate recordkeeping and reporting) to prevent underground injection which endangers drinking water sources."

Thus Section 1425 requires that a State, in order to receive approval for its Class II program under the optional demonstration, make a successful showing that its program meets five conditions:

a. Section 1421(b)(1)(A) requires that an approvable State program prohibit any underground injection in such State which is not authorized by permit or rule.

b. Section 1421(b)(1)(B) requires that an approvable State program shall require that:

1. The applicant for a permit must satisfy the State that the underground injection will not endanger drinking water sources; and

2. No rule may be promulgated which authorizes any underground injection which endangers drinking water sources.

c. Section 1421(b)(1)(C) requires that an approvable State program include inspection, monitoring, recordkeeping, and reporting requirements.

d. Section 1421(b)(1)(D) requires that an approvable State program apply to: (1) underground injections by Federal agencies; and (2) underground injections by any other person, whether or not occurring on property owned or leased by the United States.

e. Section 1425(a) requires that an approvable State program represent an effective program to prevent underground injection which endangers drinking water sources.

The following sections provide guidance to EPA personnel for making the required judgments with respect to these five conditions in the review of an application for approval under Section 1425.

5.2 Section 1421(b)(1)(A)

The question of whether a State program prohibits unauthorized Class II injections is a function of the State's statutory and regulatory authority. A determination of whether the State program meets this condition should be made from a review of the coverage and scope of the program, the statement of

legal authority submitted by the State, and of the statutes and regulations themselves. One important consideration is whether the State has an appropriate formal mechanism for modifying permits in cases where the operation has undergone significant change.

5.3 Section 1421(b)(1)(B)

The determination of whether a State program is adequate in requiring that the applicant demonstrate that the proposed injection will not endanger drinking water sources turns on two elements: (1) whether the State program places on the applicant the burden of making the requisite showing; and (2) the extent of the information the applicant is required to provide as a basis for the State agency's decision. Whether the burden of making the requisite showing is on the applicant should be determined from the State's description of its permitting process. If the necessary information is available in State files, the Director need not require it to be submitted again. However, as a matter of principle, the applicant should not escape ultimate responsibility for assuring that the information about his operation is accurate and available. One consideration in this regard is whether the well operator has a responsibility to inform the permitting authority about any material change in his operation, or any pertinent information acquired since the permit application was made.

With regard to the extent of the information to be considered by the Director, the State program should require an application containing sufficiently detailed information to make a knowledgeable decision to grant or deny the permit. Such information should include:

a. A map showing the area of review and identifying all wells of public record penetrating the injection interval;

b. A tabulation of data on all wells of public record within the area of review which penetrate the proposed injection zone. Such data should include a description of each well's type, construction, date of drilling location, depth, record of plugging and/or completion, and any additional information the Director may require;

c. Data on the proposed operation, including:

1. Average and maximum daily rate and volume of fluids to be injected;

2. Average and maximum injection pressure; and

3. Source, and an appropriate analysis of injection fluid if other than produced water, and compatibility with the receiving formation;

d. Appropriate geological data on the injection zone and confining zones including lithologic description, geological name, thickness, and depth;

e. Geologic name, and depth to bottom of all underground sources of drinking water which may be affected by the injection;

f. Schematic drawings of the surface and subsurface construction details of the system;

g. Proposed stimulation program;

h. All available logging and testing data on the well; and

i. The need for corrective action on wells penetrating the injection zone in the area of review.

There are two circumstances under which the director may require less information from the applicant. First, the Director need not require an applicant to resubmit information which is up-to-date and readily available in State files. Second, a State's application may outline circumstances or conditions where certain items of information may not be required in a specific case. Such circumstances may include situations where, based upon demonstrable knowledge available to the director about a specific operation, the Director proposes to permit that operation without requiring corrective action or alternatives to it. Examples of such circumstances are gravity or vacuum injections and injections through zones of plastic heaving shales.

Section 1421(b)(1)(B) also requires a State which authorizes Class II injections by rule to show that such rules do not allow any underground injection which endangers drinking water sources. The determination of whether the State program meets this requirement may be made from the program description, statement of legal authority, the text of the rules themselves, and the manner in which the State has administered such rules.

5.4 Section 1421(b)(1)(C)

This section of the SDWA requires that an approvable State program contain elements for inspection, monitoring, recordkeeping and reporting. The adequacy of the State program in these respects may be assessed with the use of the following criteria.

a. Inspection.

An approvable State program is expected to have an effective system of field inspection which will provide for:

1. Inspections of injection facilities, wells, and nearby producing wells; and

2. The presence of qualified State inspectors to witness mechanical integrity tests, corrective action operations, and plugging procedures.

An adequate program should insure that, at a minimum, 25% of all mechanical integrity tests performed each year will be witnessed by a qualified State inspector.

b. Monitoring, Reporting and Recordkeeping.

1. The Director should have the authority to sample injected fluids at any time during injection operation.

2. The operator should be required to monitor the injection pressure and injection rate of each injection well at least on a monthly basis with the results reported annually.

3. The Director should require prompt notice of mechanical failure or downhole problems in injection wells.

4. The State should assure retention and availability of all monitoring records from one mechanical integrity test to the next (i.e., 5 years).

5.5 Section 1421(b)(1)(D)

An approvable State program must demonstrate the State's authority to regulate injection activities by Federal agencies and by any other person on property owned or leased by the United States. The adequacy of the State's authority in these regards may be assessed on the basis of the program description and statement of legal authority submitted by the State. Such authority and the programs to carry it out must be in place at a time no later than the approval of the program by EPA. EPA will administer the UIC program on Indian lands unless the State has the authority and is willing to assume responsibility.

5.6 Section 1425(a)

In addition to the four demonstrations discussed above, Section 1425 requires a State to demonstrate that the Class II program for which it seeks approval in fact "represents an effective program to prevent underground injection which endangers drinking water sources."

Among the factors that EPA will consider in assessing the "effectiveness" of a State program are: (1) whether the State has an effective permitting process which results in enforceable permits; (2) whether the State applies certain minimum technical requirements to operators by permit or rule; (3) whether the State has an effective surveillance program to determine compliance with its requirements; (4) whether the State has effective means to enforce against violators; and (5) whether the State assures adequate participation by the public in the permit issuance process.

Evidence of the presence or absence of ground water contamination is important. However, it cannot serve as

the sole criterion of effectiveness. Not all States have collected such evidence systematically. More importantly, the absence of evidence of contamination, especially if based on an absence of complaints, is not necessarily proof that ground water contamination has not occurred.

Each of the five factors named above is discussed further in the following subsections. In its review of these factors, EPA is not necessarily looking for a minimum set or even any particular elements. The effectiveness of a State program will be assessed by reviewing the State's entire program. The absence of even an important element in a State program may not by itself mean that the program is ineffective as long as there is a credible program for detecting and eliminating injection practices which allow any migration which endangers drinking water sources.

a. Permitting Process.

Section 3.3b of the Program Description outlines the major elements of the permitting process. The listing of these considerations should not be viewed as Federally imposed minimum policy, but rather as an outline of the information which will be necessary for EPA to evaluate the effectiveness of the State's permitting process.

States may deal with permitting considerations, such as limitations on the transfer of permits, in a variety of ways. There are many permitting approaches which may be equally effective. EPA's review will turn on whether the permitting process, taken as a whole, represents an effective mechanism for applying appropriate and enforceable requirements to operators.

b. Technical Criteria.

Any approvable State program should have the authority to apply, by permit or rule, certain technical requirements designed to prevent the migration of injected or formation fluids into USDWs. Any State program adopting the language of 40 CFR 146 should be considered approvable on its face value for that portion of the program to which it applies. State applications not relying on the language of 40 CFR 146 should be reviewed for the presence and adequacy of the following kinds of technical requirements in the State program.

1. Siting.

Siting requirements should be considered in the placement and construction of any Class II disposal well. Such requirements should be designed to assure that disposal zones are hydraulically isolated from underground sources of drinking water (USDWs). Such isolation may be shown through information supplied by the applicant, or data, on file with the State,

which would be analyzed by qualified State staff.

2. Construction.

A. Effective programs should require all newly drilled Class II wells to be cased and cemented to prevent movement of fluids into USDWs. Specific casing and cementing requirements should be based on:

- the depth to the base of the USDW;
- the nature of the fluids to be injected; and
- the hydrologic relationship between the injection zone and the base of the USDW.

B. All newly converted Class II wells should be required to demonstrate mechanical integrity.

3. Operation.

A. Adequate operating requirements should establish a maximum injection pressure for a well which assures that the pressure in the injection zone during injection does not initiate new fractures or propagate existing fractures in the confining zone. Limitations on injection pressure should also preclude the injection from causing the movement of fluids into an underground source of drinking water.

Acceptable methods for establishing limitations on injection pressures include:

- Calculated fracture gradients;
- Injectivity tests to establish fracture pressure; or
- Other compelling geologic, hydrologic or engineering data.

B. An effective State program should have the demonstrated ability to detect and remedy system failures discovered during routine operation or monitoring so as to mitigate endangerment to USDWs.

4. Plugging and Abandonment.

Plugging and abandonment requirements should be reviewed for the presence of the following elements:

- That appropriate mechanisms are available in the State program to insure the proper plugging of wells upon abandonment;
- That all Class II wells are required, upon abandonment, to be plugged in a manner which will not allow the movement of fluids into or between USDWs; and
- That operators are required to maintain financial responsibility in some form, for the plugging of their injection wells.

5. Area of Review.

An effective State program is expected to incorporate the concept of an area of review defined as a radius of not less than ¼ mile from the well, field, or project.

Alternatively, a State program may substitute a concept of a zone of

endangering influence in lieu of this fixed radius. The zone of endangering influence should be determined for the estimated life of the well, field, or project through the use of an appropriate calculation, formula, or mathematical model that takes the relevant geologic, hydrologic, engineering and operational features of the injection well, field or project into account.

6. Corrective Action.

An approvable State program is expected to include the authority to require the operator to take corrective actions on wells within the area of review or zone of endangering influence.

A. Corrective action may include any of the following types of requirements:

- re-cementing;
- workover;
- reconditioning; or
- plugging or re-plugging.

B. A State program may provide the Director the discretion to specify the following types of requirements in lieu of immediate corrective action:

- Permit conditions which will assure a negative hydraulic gradient at the base of USDW at the well in question;
- Monitoring program (i.e., monitoring wells completed to the base of USDW within the zone of influence); or
- Periodic testing to determine fluid movement outside the injection interval at other wells within the area of review.

However, if monitoring or testing indicate the potential endangerment of any USDW, corrective action shall be required.

C. In cases where the Director has demonstrable knowledge of geologic, hydrologic, or engineering conditions, specific to a given operation, which assure that wells within the zone of endangering influence or area of review will not serve as conduits for migration of fluids into an USDW, a State program may provide the Director the discretion to permit a specific operation without requiring corrective actions or any of the alternatives specified in Subsection (B) above. Examples of such circumstances are gravity or vacuum injections and injections through zones of plastic heaving shales. However, under the statute the State program may, in no circumstances, authorize an injection which endangers drinking water sources.

7. Mechanical Integrity.

An approvable State program is expected to require the operator to demonstrate the mechanical integrity of a new injection well prior to operation and of all injection wells periodically, at least once every five years. For the purpose of assessing the State's mechanical integrity requirements:

A. An injection well has mechanical integrity if:

- i. there is no significant leak in the casing, tubing or packer; and
- ii. there is no significant fluid movement into an underground source of drinking water through vertical channels adjacent to the well bore.

B. The following tests are considered to be acceptable tests to demonstrate the absence of significant leaks:

- i. a pressure test with liquid or gas;
- ii. the monitoring of annulus pressure in those wells injecting at a positive pressure, following an initial pressure test; or
- iii. all other tests or combinations of tests considered effective by the Director.

C. The following are considered to be acceptable tests to demonstrate the absence of significant fluid movement in vertical channels adjacent to the well bore:

- i. cementing records (they need not be reviewed every five years);
- ii. tracer surveys;
- iii. noise logs;
- iv. temperature surveys; or
- v. any other test or combination of tests considered effective by the Director.

D. If the State program allows or specifies alternative tests under B(iii) or C(v) above, the program description should supply sufficient information so that the usefulness and reliability of such tests in the proposed circumstance may be assessed.

c. Surveillance.

The demonstration of an effective surveillance program has already been discussed in Section 5.4 above.

d. Enforcement.

A State's enforcement of its program is a crucial consideration in making the judgment of whether the State program is effective. States have used a number of enforcement tools to shift the economic incentive of operation more toward compliance with the law. Often State programs have employed civil penalties and, for repeat or willful violators, criminal fines or jail sentences. Other commonly used practices are administrative orders and court injunctions. In the area of oil and gas regulation, many States have found pipeline severance a powerful tool. In assessing a State's enforcement program, EPA will consider not whether a State has all or any particular enforcement tools but whether the State's program, taken as a whole, represents an effective enforcement effort. Certainly, there are many enforcement matrices which create effective programs. In addition, EPA will look at whether the State has exercised

its enforcement authorities adequately in the past.

e. Public Participation.

One factor to be used by EPA in assessing the "effectiveness" of a State program is the degree to which it assures the public an opportunity to participate in major regulatory decisions. It is assumed that most States already have legislation that governs public participation in State decision-making and defines such processes as appeals, etc. Therefore, the following represents only a minimal list of elements that EPA will consider:

1. Public Notice of permit application:

- A. The State may give such notice or it may require the applicant to give notice.
- B. The method of giving notice should be adequate to bring the matter to the attention of interested parties and, in particular, the public in the area of the proposed injection. This may involve one or more of the following:

- i. Posting;
- ii. Publication in an official State register;
- iii. Publication in a local newspaper;
- iv. Mailing to a list of interested persons; or
- v. Any other effective method that achieves the objective.

C. An adequate notice should:

- i. Provide an adequate description of the proposed action;
- ii. Identify where an interested party may obtain additional information. This location should be reasonably accessible and convenient for interested persons;
- iii. State how a public hearing may be requested; and
- iv. Allow for a comment period of at least 15 days.

2. The State program should provide opportunity for a public hearing if the Director finds, based upon requests, a significant degree of public interest.

A. The Director may hold a hearing of his own motion and give notice of such hearing with the notice of the application.

B. If a public hearing is decided upon during the comment period, notice of public hearing shall be given in a newspaper of general circulation. The hearing should be scheduled no sooner than 15 days after the notice.

3. The final State action on the permit application should contain a "response to comments" which summarizes the substantive comments received and the disposition of the comments.

6.0 Oversight

6.1 General

Once a Class II program is approved under Section 1425, the State has

primary enforcement responsibility for such portion of its UIC program. The Class II program is a grant-eligible activity and is subject to the same EPA oversight as other portions of the UIC program (e.g., State/EPA Agreements, Mid-course Reviews, grant conditions, etc.).

6.2 Mid-Course Evaluation

EPA will conduct a mid-course evaluation of Class II programs as envisioned in 40 CFR 122.18(C)(4)(ii) and 146.25. However, in lieu of a special reporting requirement, additional requirements have been added to the State's annual report to EPA. Should this mechanism prove unable to provide the necessary data, a special reporting requirement may be negotiated with the primary States at a later date.

6.3 Annual Reporting

As part of the Memorandum of Agreement, each State shall agree to submit an annual report on the operation of its Class II program to EPA. At a minimum the annual report shall contain:

- a. An updated inventory;
- b. A summary of surveillance programs, including the results of monitoring and mechanical integrity testing, the number of inspections, and corrective actions ordered and witnessed;
- c. An account of all complaints reviewed by the State and the actions taken;
- d. An account of the results of the review of existing wells made during the year; and
- e. A summary of enforcement actions taken.

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40 CFR Part 52

[A5 FRL 1807-2]

Approval and Promulgation of Indiana State Implementation Plan for Ozone and Carbon Monoxide

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: On December 9, 1980 (45 FR 81070) the U.S. Environmental Protection Agency (EPA) proposed approval of an invited public comment on revisions to the Indiana State Implementation Plan (SIP). The revisions provide for the attainment of the ozone and carbon monoxide (CO) standards by December 31, 1982 in Marion County, Indiana. On

January 7, 1981 the State responded to the notice of proposed rulemaking. One other public comment was received. This notice announces EPA's final rulemaking action to approve the transportation control plan and the ozone and CO attainment demonstrations for Marion County, Indiana.

EFFECTIVE DATE: This rulemaking becomes effective on June 18, 1981.

ADDRESSES: Copies of the SIP revisions, EPA's evaluation and public comments received are available for inspection during normal business hours at the following address: U.S. Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

In addition, copies of the SIP revisions are available for inspection at the following addresses:

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

Office of the Federal Register, 1100 L Street, N.W., Room 8401, Washington, D.C.

Indiana State Board of Health, Air Pollution Control Division, 1330 West Michigan Street, Indianapolis, Indiana 46208

FOR FURTHER INFORMATION CONTACT: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6029.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8962), pursuant to the requirements of section 107 of the Clean Air Act (Act) as amended, EPA designated certain areas in each State as not meeting the National Ambient Air Quality Standards (NAAQS) for ozone and CO. Marion County, Indiana, was designated as not attaining the NAAQS for ozone, and a portion of Marion County was designated as not attaining the NAAQS for CO. Part D of the Act, which was added by the 1977 Amendments, requires each State to revise its State Implementation Plan (SIP) to meet specific requirements for areas designated as nonattainment. These SIP revisions must demonstrate attainment of the primary standards as expeditiously as practicable, but no later than December 31, 1982. Under certain circumstances that date may be extended to no later than December 31, 1987, for ozone and CO.

On June 26, 1979, March 7, 1980, March 11, 1980, and May 19, 1980, and September 8, 1980, the State of Indiana submitted revisions to its SIP for ozone and CO. In addition, on October 9, 1980,

and October 15, 1980, the State submitted additional information and clarifications. On December 9, 1980 (45 FR 81070), EPA proposed approval of and solicited public comment on the transportation control plan and ozone and CO attainment demonstrations for Marion County, Indiana. EPA will propose action on the stationary source portion of these plans in a separate Federal Register notice.

In the December 9, 1980 Federal Register (45 FR 81070), EPA discussed the requirements for an acceptable transportation control plan and the details of the SIP revisions submitted by the State. On January 7, 1981, the State responded to the notice of proposed rulemaking. One other comment was received. The comments and EPA's responses are discussed in the following section.

Comment: The Washington Street corridor project is not a committed strategy of the SIP since the resulting emission reductions were not included in reduction totals. The notice of proposed rulemaking (45 FR 81070, 81073) contains a reference to this project as having been committed to by the Indianapolis Department of Transportation through the Indianapolis Regional Transportation Plan.

EPA Response: Since the State did not include the projected emission reductions from the Washington Street corridor project in its reduction totals, EPA agrees that this project should not be considered as a committed strategy of the SIP.

Comment: The table identifying CO strategies includes as a project the "TIP" to be conducted by the IPTC (Indianapolis Public Transportation Corporation). This TIP refers to Transit Improvement Program, not Transportation Improvement Program. The footnote key (45 FR 81070, 81074) should also be corrected.

EPA Response: The commentor is correct. The table identifying transportation control measures to be implemented in the period 1977-1982 for the reduction of CO emissions is reprinted below.

Project	Responsible agency	CO emission reduction (tons/year)
Signal interconnection	DOT, SED	997
IUPUI express	IPTC, DMD, HHC, DMA	13
Transit improvement program	IPTC	34

Project	Responsible agency	CO emission reduction (tons/year)
Carpool program	DMD, DPZ	206
Flexible work hour program	DMD, DPZ	12
Taxicab ordinance	IPD	5
Total CO emission reductions (tons/year)		667

DOT: Department of Transportation.
 SED: Street Engineering Department.
 IPTC: Indianapolis Public Transportation Corporation.
 DMD: Indianapolis Department of Metropolitan Development.
 HHC: Health and Hospital Corporation.
 DMA: Downtown Merchants Association.
 DPZ: Division of Planning and Zoning.
 IPD: Indianapolis Police Department.

Comment: The City has committed itself to study and implement other projects, such as bicycle lanes and parking controls, as necessary, to demonstrate attainment of the NAAQS. The Federal Register should be amended to reflect this wording, as this was the language and intent of this portion of the SIP revision.

EPA Response: Since the City has committed itself to the implementation of transportation control measures which are sufficient to show the necessary emission reductions required to attain the ozone and CO standards by 1982, this language is acceptable.

Comment: In the notice of proposed rulemaking (45 FR 81070, 81073), EPA published a schedule for the adoption of reasonably available control measures. That schedule lists January 7, 1981 as the scheduled date for final adoption of the transportation control measures (TCMs). The Indianapolis Department of Metropolitan Development, the agency responsible for the comprehensive analysis of alternative control measures, secured a contractor to undertake this task. Due to delays in contract approval, the schedule has been delayed. The state's submittal of December 31, 1980, contained a modified schedule as follows:

Event	Responsible agency	Date
Completion of Draft TCM Study	DMD	Dec. 12, 1980.
Review of Draft TCM Study	IAPCD and other agencies.	Dec. 12, 1980-Jan. 7, 1981.
Preliminary Resolution Endorsing Draft TCM Study	DMD	Dec. 17, 1980.
Preliminary Adoption of Draft TCM Study	IAPCD	Jan. 7, 1981.
Policy Committee Selection of TCMs for Implementation	DMD	Dec. 12, 1980-Jan. 7, 1981.

Event	Responsible agency	Date
Public Hearing	IAPCD	Mar. 4, 1981.
Final Adoption of TCMs	IAPCD	Mar. 4, 1981.

DMD: Indianapolis Department of Metropolitan Development.
 TCM: Transportation control measures.
 IAPCD: Indiana Air Pollution Control Division.

EPA Response: The modified schedule is acceptable to EPA.

Conclusion: EPA approves the transportation control plans and the ozone and CO attainment demonstrations for Marion County, Indiana.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this final 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 (date of publication). 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 USEPA to enforce these requirements.

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 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.

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

This notice of final rulemaking is issued under the authority of Sections 110 and 172 of the Clean Air Act, as amended.

Dated: April 23, 1981.

Walter C. Barber,
 Acting Administrator.

Title 40 of the Code of Federal Regulations, Chapter 1, Part 52 is amended as follows:

1. Section 52.770(c) is amended by adding paragraph (20) to read as follows:

§ 52.770 Identification of plan.

(c) * * *

(20) On June 26, 1979, the State of Indiana submitted to EPA revisions to the ozone and carbon monoxide portions (section 3.3.24) of its Marion County State Implementation Plan. On March 11, 1980, the state submitted revisions to the Marion County technical appendix to section 3.3.24. On May 19, 1980, the state submitted ozone and carbon monoxide

attainment demonstrations for Marion County (section 1.5). On September 8, 1980 the state submitted its memoranda of understanding. On October 9 and October 15, 1980, the state submitted documentation concerning interagency coordination and the analysis of transportation control measures. On January 7, 1981, the state submitted corrections and clarifications in

response to EPA's notice of proposed rulemaking (45 FR 81070).

2. Section 52.783 is amended by revising the table to read as follows:

§ 52.783 Attainment dates for national standards.

Air quality control region	Pollutant						
	Particulate matter		Sulfur oxides		Nitrogen dioxide	Carbon monoxide	Ozone
	Primary	Secondary	Primary	Secondary			
East Central Indiana Intrastate (AQCR 76):							
a. Primary and Secondary	m	m	h	f	m	m	m
b. Remainder of AQCR	a	a	a	a	e	e	e
Evansville (Indiana)-Owensboro-Henderson (Kentucky) Interstate (AQCR 77):							
a. Primary and Secondary	m	m	f	f	m	m	m
b. Remainder of AQCR	a	a	d	a	e	e	e
Louisville Interstate (AQCR 78):							
a. Primary and Secondary	m	m	f	f	m	m	m
b. Remainder of AQCR	a	a	a	a	e	e	a
Metropolitan Chicago Interstate (Indiana-Illinois) (AQCR 67):							
a. Primary and Secondary	m	m	h	f	m	m	m
b. Remainder of AQCR	a	c	a	c	a	a	a
Metropolitan Cincinnati Interstate (AQCR 79):							
a. Primary and Secondary	m	m	f	f	m	m	m
b. Remainder of AQCR	a	a	d	a	e	e	a
Metropolitan Indianapolis Interstate (AQCR 80):							
a. Primary and Secondary	m	m	h	f	m	h	h
b. Remainder of AQCR	a	a	a	f	a	kg	k
Northeast Indiana Intrastate (AQCR 81):							
a. Primary and Secondary	m	m	f	f	m	m	m
b. Remainder of AQCR	a	a	e	e	e	e	e
South Bend-Elihart (Indiana)-Benton Harbor (Michigan) Interstate (AQCR 82):							
a. Primary and Secondary	m	m	f	f	m	m	m
b. Remainder of AQCR	a	a	a	a	e	e	e
Southern Indiana Intrastate (AQCR 83):							
a. Primary and Secondary	m	m	f	f	m	m	m
b. Remainder of AQCR	a	a	a	a	e	e	e
Wabash Valley Intrastate (AQCR 84):							
a. Primary and Secondary	m	m	h	f	m	m	m
b. Remainder of AQCR	a	a	a	a	e	e	e

NOTE.—Dates or footnotes which are italicized are prescribed by the Administrator because the Plan did not provide a specific date or the date provided was not acceptable.

NOTE.—For actual nonattainment designations, refer to 40 CFR Part 81.

NOTE.—Sources subject to the plan requirement and attainment dates established under section 110(c)(2)(A) prior to the 1977 Clean Air Act Amendments remain obligated to comply with these requirements by the earlier deadlines. The earlier attainment dates are set out at 40 CFR 52.727.

[FR Doc. 81-15004 Filed 5-18-81; 8:45 am.]

BILLING CODE 6560-38-M

40 CFR Parts 60 and 61

[A-7-FRL-1830-2]

New Source Performance Standards; Delegation of Authority to the State of Missouri and Addition of Address

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The Missouri Department of Natural Resources (MDNR) has been delegated authority to implement and enforce the federal New Source Performance Standards (NSPS) regulations for 30 stationary source categories and national emission standards for five hazardous air pollutants. Notification of this delegation is published today elsewhere in the Federal Register. This document adds the address of the MDNR to which

all reports, requests, applications, submittals, and communications to the Administrator, as required by 40 CFR Part 60 and 40 CFR Part 61, must also be addressed.

EFFECTIVE DATE: May 19, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Whitmore, Air, Noise and Radiation Branch, U.S. Environmental Protection Agency, Region VII, 324 E. 11th Street, Kansas City, Missouri 64106, (816) 374-6525; FTS 758-6525.

SUPPLEMENTARY INFORMATION: The MDNR has been delegated authority to implement and enforce the federal New Source Performance Standards (NSPS) regulations for 30 stationary source categories and national emission standards for five hazardous air

pollutants. Notification of this delegation is published today elsewhere in the *Federal Register*. The amended 40 CFR 60.4(b)(AA), and 40 CFR 61.04(b)(AA) adds the address of the MDNR to which all reports, requests, applications, submittals, and communications to the Administrator, as required by 40 CFR Part 60 and 40 CFR Part 61, must also be addressed.

The Administrator finds good cause for foregoing prior public notice and for making this rulemaking effective immediately in that it is an Administrative change and not one of substantive content. No additional burdens are imposed upon the parties affected.

The delegation which influenced this Administrative amendment was effective on December 16, 1980, and it serves no purpose to delay the technical change of this address in the Code of Federal Regulations. This rulemaking is effective immediately, and is issued under the authority of Section 111 of the Clean Air Act, as amended, 42 U.S.C. § 7412.

Dated: May 4, 1981.

William W. Rice

Acting Regional Administrator, Region VII

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Part 60 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. In § 60.4, paragraph (b) is amended by revising subparagraph (AA) to read as follows:

§ 60.4 Address.

(b) * * *

(AA) Missouri Department of Natural Resources, Post Office Box 1368, Jefferson City, Missouri 65101.

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Part 61 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. In § 61.04, paragraph (b) is amended by revising subparagraph (AA) to read as follows:

§ 61.04 Address.

(b) * * *

(AA) Missouri Department of Natural Resources, Post Office Box 1368, Jefferson City, Missouri 65101.

[FR Doc. 81-14096 Filed 5-18-81; 8:45 am]
BILLING CODE 6560-38-M

40 CFR Part 62

[A-2-FRL-1829-1]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Correction

AGENCY: Environmental Protection Agency.

ACTION: Final rules; correction.

SUMMARY: This document corrects legal references contained in recently published final regulations which involve certification to exempt New Jersey, Puerto Rico and the Virgin Islands from the requirements of 40 CFR Part 60, Subpart B (Adoption and Submittal of State Plans for Designated Facilities) for the relevant pollutants. The regulations were published in the *Federal Register* on June 3, 1980 (45 FR 37431) for Puerto Rico and the Virgin Islands, and on December 8, 1980 (45 FR 80826) for New Jersey and the Virgin Islands, and erroneously cited "Part 62, Subpart A" instead of "Part 60, Subpart B."

FOR FURTHER INFORMATION CONTACT:

William S. Baker, (212) 264-2517.

(Secs. 111, 301(a), Clean Air Act, as amended (42 U.S.C. 7413 and 7601))

Dated: May 7, 1981.

Dick Dewling,

Acting Regional Administrator,
Environmental Protection Agency.

Accordingly, 40 CFR Part 62 is corrected as follows:

§§ 62.7601, 62.13101, 62.13351, and 62.13352 [Amended]

Sections 62.7601, 62.13101, 62.13351, and 62.13352 are corrected by removing the words "Part 62, Subpart A" and inserting "Part 60, Subpart B".

[FR Doc. 81-14096 Filed 5-18-81; 8:45 am]
BILLING CODE 6560-38-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1039

[Ex Parte No. 346 (Sub-No. 5)]

Rail General Exemption Authority; Miscellaneous Commodities

AGENCY: Interstate Commerce Commission.

ACTION: Final rule [exemption].

SUMMARY: The Commission adds to the list of exempt commodities identified in 49 CFR 1039.11 field seed beans, peas and lentils, onion sets and field dry ripe vegetable food seeds. This complements the exemptions in Ex Parte No. 346 (Sub-No. 2), *Rail General Exemption Authority—Miscellaneous Commodities*, served March 24, 1980, 45 FR 20484 (March 28, 1980).

EFFECTIVE DATE: The rule adopted here will take effect June 18, 1981.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder or Jane F. Mackall, (202) 275-7656.

SUPPLEMENTARY INFORMATION: In the Notice instituting this proceeding, dated January 2, 1981 (46 FR 134, February 2, 1981), proposed to exempt, under authority of 49 U.S.C. 10505, as amended by the Staggers Rail Act of 1980, Pub. L. 96-448, field seed beans, peas and lentils, onion sets, and field dry ripe vegetable food seeds from regulation. The STCC numbers for these commodities are as follows:

01	159	46	Austrian winter pea seeds.
01	159	48	Peas (seeds), calyx or singletary (wild) winter (seeds) peas.
01	159	70	Beans, velvet, dried, or in pods.
01	159	71	Seed beans.
01	159	74	Seed peas, nec.
01	349		Field dry ripe vegetable food seeds, nec.
01	917	10	Onion sets.

Comments were received from the Association of American Railroads (AAR), three individual railroads,¹ and from one shipper, Del Monte Corporation.

In Ex Parte No. 346 (Sub-No. 2) we exempted food seed beans, peas and lentils from regulation. Subsequently several railroads petitioned to include field seed beans, peas and lentils, onion sets and field dry ripe vegetable food seeds within the exemption provided in Sub-No. 2. Although we did not receive specific information pertaining to field seed in the Sub-No. 2 proceeding and could not therefore include these commodities within the exemption provided, the transportation characteristics of field seed were shown to be sufficiently similar to food seed to warrant this proceeding. This proceeding was instituted to consider whether field seed should similarly be made exempt.

As we stated in the notice opening this proceeding, the Staggers Rail Act of 1980 (Pub. L. 96-448) sets the new

¹The three railroads are Burlington Northern, Inc., Union Pacific Railroad Company, and Consolidated Rail Corporation. Chessie System Railroads also filed a letter in support of Union Pacific's comments.

standards for exemptions. Section 10505 allows the Commission to exempt certain traffic from regulation where (1) regulation is not necessary to carry out the national transportation policy and (2) either the transaction or service involved is of limited scope or regulation is not necessary to prevent the abuse of market power.

There is no question that regulation is not necessary in this situation to carry out the national transportation policy. That issue has been effectively resolved in Ex Parte No. 346, Sub-Nos. 1 and 2. Rather, we are concerned in this proceeding with the second standard; that is, whether the transportation of field seed is of limited scope or will not be subject to market power abuse in the absence of regulation.

We conclude that movements of these commodities are limited in scope and also will not be subject to market power abuse if this exemption is granted.

The railroads emphasize that from their perspective field seed and food seed are virtually indistinguishable. The primary difference is the intended end use of the commodity. Carriers generally rely on the shipper's assertion of the intended use to which the seed will be put in assigning the rate to the movement. Prior to the exemption of food seed, both food and field seed moved under identical rates. There was no need to distinguish between them and, thus, no data was collected identifying the specific nature of these shipments. These commodities move from the same origins to the same destinations and share the same transportation characteristics.

Del Monte, which itself moved less than 9,000 tons of field seed by rail in 1980, argues that this traffic is not limited. It bases this argument on the fact that its shipments move across the United States and into Canada, utilizing eleven railroads in the process. While such evidence may be relevant in some situations to an exemption determination under the limited scope provision of § 10505, the insignificant rail share of field and food seed tonnages moved is much more significant here. In addition, the AAR has presented figures from a 1978 study by our Bureau of Accounts which indicate that the movement of field seed constituted less than 1 percent of total rail movements of agricultural products. Clearly, the movement of field seed is of limited scope. The fact that Del Monte was the only shipper that expressed an interest in this proceeding lends additional weight to this finding.

This exemption is also unlikely to facilitate market power abuse. Field seed can be as easily transported by truck as by rail. There is no indication that rail carriers are able to exert any significant market power over this traffic. It is apparent that regulation is not necessary to prevent market power abuse in this situation.

Del Monte points out that 69% of its shipments were moved by rail in 1980, but it does not state that this is representative of other shippers in the industry nor does it state that adequate motor carrier alternatives are not available. Del Monte has not presented evidence that rail carriers are in a position to abuse market power in dealings with Del Monte or any other shipper. In any event, we may correct abuses of market power, if they occur, after an exemption has been granted.

§ 1039.11 [Amended]

Section 1039.11 is amended by adding the following to the list of exempt commodities:

01	159	46	Austrian Winter Pea Seeds.
01	159	48	Peas (Seeds), Caloy or Singlotary (Wild) Winter (Seeds) Peas.
01	159	70	Beans, Velvet, Dried, or in Pods.
01	159	71	Seed Beans.
01	159	74	Seed Peas, nec.
01	349		Field Dry Ripen Vegetable Food Seeds, nec.
01	917	10	Onion Sets.

(49 U.S.C. 10505 and 5 U.S.C. 553)

Del Monte would have us delay this exemption to facilitate negotiations with its joint-line carriers, but such a delay is unnecessary in view of the fact that procedures for the movement of exempt food seed have already been placed in operation by rail carriers and these procedures can easily be extended to exempt field seed.

Finally, although we requested additional proposals for the exemption of related commodities in the Notice of this proceeding, none were received. We repeat that new proposals for exemptions are encouraged.

We do not believe that this action will significantly affect either the quality of the human environment or conservation of energy resources.

Dated: May 6, 1981.

By the Commission, Acting Chairman Alexis, Commissioners Gresham, Clapp, Trantum, and Gilliam.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-14895 Filed 5-18-81; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1064

[Ex Parte No. MC-95 (Sub-No. 2)]

Practices of Motor Common Carriers of Passengers; Checked Baggage Liability Provisions; Deferral of Effective Date

AGENCY: Interstate Commerce Commission.

ACTION: Deferral of effective date of final rule.

SUMMARY: In a decision served April 22, 1981, and published in the Federal Register, 46 FR 22899, on that date, we adopted a final rule amending the present regulations at 49 CFR 1064.1 relating to the minimum permissible limitations for baggage liability. The final rule is to be effective May 22, 1981. We are granting a 90-day deferral of the effective date of the final rule.

EFFECTIVE DATE: The effective date of the final rule is now August 20, 1981.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder or Jane F. Mackall, (202) 275-7656.

SUPPLEMENTARY INFORMATION: In our decision served April 22, 1981 (46 FR 22899, April 22, 1981), we adopted a final rule amending the present regulations at 49 CFR 1064.1. The final rule is to be effective May 22, 1981, 30 days from the date of publication in the Federal Register. The National Bus Traffic Association, Inc., in a letter dated May 3, 1981, asserts that motor carriers of passengers will be unable to comply with our April 22 decision by May 22 because the carriers must print and distribute new baggage excess value declaration forms and take other actions in order to implement the declaration of excess value requirements. They request a 90-day deferral of the effective date of the final rule. We find the deferral request to be reasonable because of these compliance problems and we hereby defer the effective date of the final rule for 90 days until August 20, 1981.

This decision will not affect significantly the quality of the human environment or conservation of energy resources, nor will it have an adverse impact on small business.

(49 U.S.C. 10321, 5 U.S.C. 553)

Decided: May 8, 1981.

By the Commission, Marcus Alexis, Acting Chairman.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-14876 Filed 5-18-81; 10:27 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register

Vol. 46, No. 96

Tuesday, May 19, 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

Rural Electrification Administration

7 CFR Part 1701

Proposed Rescission of REA Bulletin 80-8: Construction, Operation, and Maintenance of Electric Lines on Lands Administered by the United States Forest Service

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration proposes to rescind REA Bulletin 80-8, "Construction, Operation and Maintenance of Electric Lines on Lands Administered by the United States Forest Service," issued May 9, 1956, and the File With to Bulletin 80-8 issued on January 27, 1964. The rescission of this bulletin is proposed since the material included in the bulletin is now obsolete and since the subject matter is not sufficiently useful to warrant revision of the bulletin.

DATE: Public comments must be received by REA no later than: July 20, 1981.

ADDRESS: Submit written comments to the Director, Engineering Standards Division, Rural Electrification Administration, Room 1270, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Mr. James C. Dedman, telephone (202) 447-7040. A Draft Impact Analysis has been prepared and is available from the Director, Engineering Standards Division, at the above address.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to amend Appendix A—REA Bulletins to provide for the rescission of REA Bulletin 80-8, "Construction, Operation and Maintenance of Electric Lines on Lands Administered by the United States Forest Service." This proposal has been issued in conformance with Executive Order No.

12291, Federal Regulations, and has been determined to be "not major." This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: May 12, 1981.

Joe S. Zoller,
Acting Administrator.

[FR Doc. 81-14642 Filed 5-18-81; 8:45 am]
BILLING CODE 3410-15-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 210

[Release Nos. 33-6316, 34-17790, 35-22045, IC-11768; File No. S7-885]

Separate Financial Statements Required by Regulation S-X; Proposed Revision of Rules

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rules.

SUMMARY: The Commission announces the proposal of amendments to Regulation S-X concerning the form and content of financial statements which would significantly modify requirements to include in filings with the Commission separate supporting financial statements of the parent company only; of unconsolidated subsidiaries and 50 percent or less owned persons accounted for by the equity method; and of consolidated subsidiaries engaged in diverse financial-type businesses. In addition, certain related amendments are proposed to revise the tests used for determination of a significant subsidiary. The proposed amendments would reduce the number of instances where separate supporting financial statements are required and are designed to place greater reliance on summarized and condensed financial information.

DATE: Comments should be received by the Commission on or before July 13, 1981.

ADDRESSES: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. Comment letters should refer to File No. S7-885. All comments received will be available for public

inspection and copying in the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT:

Lawrence C. Best or John W. Albert, Office of the Chief Accountant, Securities and Exchange Commission, Washington, D.C. 20549 (202-272-2130).

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission announces the proposal of amendments to Regulations S-X (CFR 17 Part 210), the regulation which prescribes the form and content of and requirements for financial statements, which would significantly revise the rules for filing separate supporting financial statements: (1) of the parent company only, (2) of subsidiaries not consolidated and 50 percent or less owned persons accounted for by the equity method, and (3) of consolidated subsidiaries engaged in diverse financial-type businesses. Also, certain related amendments are proposed to revise tests used for the determination of when an entity constitutes a significant subsidiary. The proposed revisions would reduce the number of instances where separate supporting financial statements are required and are designed to place greater reliance on the use of summarized and condensed financial information. If ultimately adopted, the proposed revisions would result in amendments to various provisions of Articles 1, 3, 4, 5 and 12 of Regulation S-X.

Background

In connection with its program to integrate disclosures required under the Securities Act of 1933 with those required under the Securities Exchange Act of 1934, the Commission initiated a broad project to reexamine its existing requirements for the preparation and presentation of financial statements. Designed to identify ways in which the rules may be improved, this project to date has resulted in significant changes to the disclosure system. A general revision of Articles 3, 5 and 12 of Regulation S-X has been accomplished and new uniform requirements governing the periods to be covered by financial statements have been adopted. Additionally, rules regarding the form and content of interim financial information included in both periodic

reports and registration statements have been standardized.

As an important part of this initiative, the Commission established a project to reconsider its requirements to file, in addition to consolidated financial statements, separate financial statements of various consolidated and unconsolidated entities. Currently, many registrants are required to include in their filings separate financial statements of the parent company only; of significant unconsolidated subsidiaries and 50 percent or less owned persons accounted for by the equity method; of significant consolidated subsidiaries engaged in diverse financial-type businesses; and of affiliated companies whose securities have been pledged as collateral. The requirements for these statements vary and many of them have not been reconsidered by the Commission in recent years.

The Commission, in connection with its January 1980 release on proposed uniform financial statement requirements, announced plans to revisit the requirements for separate financial statements.¹ In that release, the Commission identified the scope of the project and solicited the views of both users and preparers on the significance and utility of the various separate financial statements currently required. In response to this invitation to comment, the Commission received 49 letters of comment offering suggestions as to how the rules might be revised.² All comments received have been considered in the Commission's reconsideration of existing requirements.

The Commission has completed its review of the existing rules and is proposing in this release significant changes which it believes would simplify and improve the current disclosure system. The proposed amendments are designed to provide more meaningful disclosure in certain areas and to ease reporting burdens in general. In the following sections, existing requirements are described and proposed changes to them are discussed. Although many of the reporting issues regarding the significance and utility of the various separate statements have been addressed by commentators in responding to the initial request for comment, the Commission invites additional public comment on the specific amendments proposed herein.

Parent Company Only Financial Statements

Under existing requirements of Regulation S-X many registrants are required to file, in addition to consolidated financial statements, separate financial statements of the parent company only. These separate statements are required when the parent company is a holding company with no substantial operations of its own or when consolidated subsidiaries of an operating parent have minority equity interests or indebtedness to unaffiliated persons which in the aggregate exceed 5 percent of total consolidated assets.³

Historically, these separate statements have been required when an understanding of the financial condition of the parent company has been considered necessary for an analysis of investment risk. They have been required when a parent is a holding company to highlight the dependency the parent has on subsidiary funds to meet shareholder and creditor obligations. When subsidiaries have minority equity interests or indebtedness to unaffiliated persons separate statements of the parent have been required to reflect the ability of the parent itself to meet its maturing obligations. In this latter situation, outside interests in subsidiaries have been viewed as potential restrictions on the availability of subsidiary funds to meet parent company needs.

Requirements for separate parent company statements were the subject of many of the comments received in response to the recent invitation to comment. Emphasizing that consolidated financial statements are considered as the primary statements for financial reporting purposes, commentators criticized the rules as being contrary to the underlying premise upon which consolidated financial statements are presented. Commentators point out that consolidated financial statements are prepared primarily for the benefit of shareholders and creditors of the parent company and are based on a presumption that the parent and its subsidiaries operate as a single economic unit. Consolidated statements, they argue, presume that the parent company controls the affairs of its constituent companies and has the ability to manage their resources in the

best interests of shareholders and creditors.

Commentators contend that to require separate financial statements of the parent company when consolidated financial statements are presented is to deny the acceptability of the basic premise upon which consolidated financial statements are prepared. Commentators encouraged the Commission to reevaluate the need for separate parent company disclosures and to consider the elimination of existing rules.

In response to these views of commentators the Commission has reevaluated the disclosure value of parent company statements and has attempted to better identify the need for such statements where consolidated financial statements are presented. It has determined that in most cases when consolidated statements are presented separate parent company statements do not provide disclosures which are necessary for an investment decision. Generally, where consolidated statements are presented the parent company does exercise substantial control over the affairs and resources of its subsidiaries and as a consequence the presumption on the part of users of the consolidated statements that such control exists is warranted.

However, the Commission recognizes that not in all cases where consolidated statements are prepared does the parent company exercise the level of control presumed by users. In certain cases the level of control by the parent can be significantly restricted by the existence of outside interests.

The operations of subsidiaries engaged in banking or insurance, for instance, are in most cases subject to strict government regulation. The financial flexibility of these entities and the nature of their relationships with affiliated persons, including the parent company, are subject to broad regulatory restraints. Also, the operations of subsidiaries with indebtedness to unaffiliated persons many times are restricted by protective covenants of various financing arrangements. Subsidiaries are often restricted through such arrangements from transferring funds to a parent or other affiliated party or from entering into certain types of transactions with affiliates. And of course, where subsidiaries have significant minority equity interests, their operations may be subject to specified interests of these equity holders.

Because of the reliance users of consolidated financial statements in general place on the ability of a parent

¹ Securities Act Release No. 6179 (January 15, 1980) (45 FR 3963).

² Commentators responding to the invitation to comment on existing rules included members of industry (31), accounting firms or groups (9), and representatives of the banking community (9).

³ Section 210.3-05 (Regulation S-X) provides an exception for filing separate statements of the parent when the parent is so significant to the consolidated enterprise that it constitutes 75 percent of consolidated assets and consolidated sales and revenues.

to control the affairs of its subsidiary companies, the Commission believes disclosure should be made of certain events or circumstances which may partially render invalid the presumption of the parent company's ability to control. Where a parent company's ability to control may be restricted to the extent that substantial control over the flow of funds within an enterprise may be impaired, the Commission believes investors should be made aware of the significance of such restrictions. Also, investors under these circumstances should have information available to them regarding the financial condition of the parent company so as to enable them to better assess the impact of restrictions on the relative strength of the enterprise as a whole as well as on the security of their investments.

Under existing disclosure rules, the Commission does not believe adequate disclosure is being provided where significant restrictions exist on the ability of a parent company to control the flow of funds of its consolidated group. Also, existing rules do not appear to be triggering disclosures regarding the financial condition of parent companies in the appropriate circumstances. And where information regarding the financial condition of a parent company is deemed appropriate, the Commission believes that something less than complete financial statements of the parent may be adequate to meet needs of investors.

Accordingly, the Commission in this release is proposing significant changes to existing rules. A discussion of the specific disclosure requirements proposed is set forth in the following section.

Proposed Rules

To provide investors an understanding of restrictions which may exist on the flow of funds from subsidiary companies to the parent, the Commission is proposing disclosure requirements which, in certain circumstances, would impact the contents of footnotes to consolidated financial statements. Also, because of the impact restrictions may have on the ability of the parent company to meet its financial obligations to shareholders and creditors the Commission is proposing to require certain financial statement schedule information regarding the financial condition of the parent. Under the proposed amendments complete financial statements of the parent would no longer be required.

The proposed rules would require, among other things, that registrants identify and quantify restrictions on the ability of subsidiary companies to

transfer funds to the parent through intercompany loans, advances and cash dividends. To determine whether additional footnote disclosure and schedule information would be required, registrants would compute the total amount of net assets of subsidiary companies (including unconsolidated subsidiaries) which is restricted from being loaned or advanced up to the parent company.⁴ This amount would then be added to the amount of equity in undistributed earnings of 50 percent or less owned persons accounted for by the equity method,⁵ and the total compared to total consolidated net assets as of the end of the most recent fiscal year. If the total amount of restricted net assets of subsidiaries and undistributed earnings of 50 percent or less owned persons exceeds 25 percent of total consolidated net assets, additional footnote disclosure regarding funds flow restrictions and schedule information regarding the parent company would be required.

The disclosure which would be required in the footnotes to the consolidated financial statement would include a description of the restrictions on the ability of consolidated and unconsolidated subsidiaries to transfer funds to the parent in the form of loans, advances and cash dividends indicating the sources of the restrictions (i.e., borrowing arrangement, regulatory restraint, etc.), their pertinent provisions, and the significance of the aggregate amount restricted relative to total consolidated net assets as of the end of the most recent fiscal year. In addition, the undistributed earnings of consolidated subsidiaries, unconsolidated subsidiaries and 50 percent or less owned persons accounted for by the equity method would be disclosed separately as well as the respective amounts of such undistributed earnings of consolidated

⁴ This computation would focus solely on those restrictions which impact the flow of funds from subsidiaries to the parent in the form of loans or advances. For this purpose, the restricted net assets of subsidiaries would be considered to be the amount of the parent's proportionate share of net assets (after intercompany eliminations) which, as of the end of the most recent fiscal year, may not be loaned or advanced to the parent by subsidiaries without the consent of a third party (i.e., lender, regulatory agency, etc.). It should be noted that for purposes of the test, restrictions on cash dividends are not considered. Also, where assets of a subsidiary may be pledged as collateral under the provisions of a loan agreement, such assets would not be considered restricted for purposes of this test.

⁵ Because the registrant owns less than a controlling interest in 50 percent or less owned persons accounted for by the equity method the total amount of undistributed earnings of such persons would be considered outside its control for purposes of the test.

and unconsolidated subsidiaries which are restricted as to the payment of dividends to the parent company. Amounts of undistributed earnings would be required to be reconciled to the total consolidated retained earnings as of the end of the most recently completed fiscal year.

Disclosures which would be required in the proposed schedule to the financial statements would encompass disclosure regarding the financial condition of the parent company. A new Schedule III "Condensed Financial Information of Registrant" would provide investors financial information as to the financial position, changes in financial position and results of operations of the parent company as of the same dates and for the same periods for which consolidated statements are required. The financial data required could be provided in a condensed form similar to that currently required for condensed statements on Form 10-Q. Detailed footnotes normally required for complete financial statements could be omitted except for disclosure regarding any material contingencies and disclosures regarding long term obligations and guarantees.

The schedule would require certain disclosures regarding the parent company's financial obligations. A schedule of maturities of the parent's long term obligations for the next five years would be required and, if the long term obligations and guarantees of the parent are not identified in the consolidated statements, specific identification of such obligations and guarantees would be required as well as a description of the significant provisions of each. Further, to provide users with an indication of the level of dividends which have been paid to the parent company by the consolidated subsidiaries, unconsolidated subsidiaries and 50 percent or less owned persons, cash dividends paid by each of the respective groups would be required to be disclosed in the schedule for each of the last three fiscal years.

In addition to proposing the additional footnote disclosures and schedule information discussed above, the Commission is considering the proposal of a new instruction to paragraph (a) of Item 11 of Regulation S-K, "Management's Discussion and Analysis of Financial Condition and Results of Operations." To ensure that registrants discuss restrictions on the flow of funds within an enterprise and the impact such restrictions may have on the parent, the Commission is considering proposing an instruction to specify the nature of the discussion which would be appropriate.

The instruction would provide that where footnote disclosure of restrictions on the ability of subsidiaries to transfer funds to the parent in the form of cash dividends, loans or advances is required by Regulation S-X, the required discussion of liquidity would include a discussion of the nature and extent of the restrictions disclosed as well as the impact such restrictions have on the ability of the parent company to meet its cash obligations. The Commission believes that, while the current requirements of Item 11 encompass a consideration of the liquidity of the parent, clarification may be needed to specifically identify the obligation to focus on cash flow restrictions which, under the proposed rules, would be required to be disclosed elsewhere in a filing. Commentators are specifically invited to comment on the merit of the instruction being considered by the Commission.

General

The Commission believes that the proposed rules outlined above may provide more meaningful disclosure to investors than the existing rules for separate parent company financial statements. With disclosure of significant restrictions on the ability of subsidiaries to transfer funds to the parent and with financial data regarding the financial condition of the parent when such restrictions exist, users should be in a better position to assess a parent's liquidity and financial flexibility in terms of its ability to meet its own financial obligations to shareholders and creditors and its ability to take advantage of new opportunities for the benefit of the enterprise as a whole.

Although the Commission believes the rules proposed may achieve its desired reporting results, it requests commentators to specifically address certain of the more critical aspects of the proposed requirements. Commentators are requested to specifically address the appropriateness of using a specified amount of total consolidated net assets as a basis for determining when restrictions on the transfer of funds from subsidiaries to the parent are so great as to warrant disclosure of the restrictions and the presentation of certain parent company financial data. Where commentators believe the use of consolidated net assets is inappropriate they are encouraged to provide suggested alternatives.

Commentators who believe net assets is a reasonable base for purposes of the proposed test are also requested to express their views regarding the use of

25 percent as the level above which restrictions would be viewed as significant. While the Commission recognizes that the use of any percentage test is arbitrary, such percentage tests have historically been used as a practical means by which to define significance for financial disclosure purposes.

In the proposed rules, the Commission has also made a judgment regarding the incremental value of disclosures which would be included with complete financial statements versus the level of disclosure in condensed statements. It believes that for purposes of achieving the reporting objectives of the proposed rules condensed financial information of the parent company may be appropriate. However, commentators are invited to comment on whether complete financial statements as opposed to condensed should be required along with the other disclosures proposed. Also, commentators are requested to comment on whether any parent company financial data should accompany disclosure of restrictions in the footnotes to the consolidated statements either in a summarized or condensed form.

Unconsolidated Subsidiaries and 50 Percent or Less Owned Persons

Current rules require separate financial statements to be filed of an unconsolidated subsidiary or of a 50 percent or less owned person accounted for by the equity method when an individual unconsolidated subsidiary or 50 percent or less owned person is considered significant to a registrant and its subsidiaries consolidated. The separate financial statements, which must be audited and prepared in full compliance with Regulation S-X, are required when any one of the following tests are met:

Asset tests—

- The registrant's and its other subsidiaries' investments in and advances to the subsidiary or 50 percent or less owned person exceed 10 percent of the registrant's consolidated assets.

- The registrant's and its other subsidiaries' proportionate share of the total assets (after intercompany eliminations) of the subsidiary or 50 percent or less owned person exceeds 10 percent of the registrant's consolidated assets.

Sales test—

- The registrant's and its other subsidiaries' proportionate share of total sales and revenues (after intercompany eliminations) of the subsidiary or 50 percent or less owned person exceeds 10 percent of the registrant's total sales and revenues.

Income test—

- The registrant's and its other subsidiaries' equity in income before income taxes, extraordinary items and cumulative effect of a change in accounting principle of the subsidiary or 50 percent or less person exceeds 10 percent of such income of the registrant consolidated.

Historically, these separate financial statements have been required by the Commission because they have been considered meaningful to a detailed analysis of the financial condition of a registrant and its affiliated companies. In the Commission's view, these separate financial statements are necessary to inform users as to the financial condition of entities which are not included in the consolidated group but are nonetheless significant to the financial condition of the reporting entity as a whole.

The proposed rules announced in this release would modify the existing requirements for separate financial statements of unconsolidated subsidiaries and 50 percent or less owned persons to increase the tests for reporting these separate statements to 20 percent. In addition, the conditions requiring these separate statements, which are based on a significant subsidiary test, are proposed to be modified to eliminate use of the sales test for reasons discussed in a later section of this release. Since separate financial statements of these entities are only considered necessary to satisfy the information needs of sophisticated users, they are proposed to be required in registration and reporting forms filed with the Commission but not required in annual reports to security holders.

Many commentators on the Commission's existing disclosure requirements addressed the rules for separate statements of significant unconsolidated subsidiaries and 50 percent or less owned persons. Certain commentators suggested that reporting practices under generally accepted accounting principles ("GAAP") are adequate to meet the needs of investors and that the Commission's rules should therefore be eliminated. Other commentators expressed support for the presentation of these separate financial statements under certain circumstances but suggested that the conditions for requiring such separate statements be modified.

In response to these comments, the Commission has considered the guidance provided under GAAP as to the disclosures necessary when a registrant's investment in unconsolidated subsidiaries or 50 percent or less owned persons is

material. Although GAAP calls for the presentation of either separate financial statements or summarized financial information, guidance is not provided as to when either of these alternatives may be more appropriate. In practice, these requirements are generally being met by the furnishing of summarized data.

Since the Commission recognizes that not all users demand the detailed information provided by separate financial statements, summarized financial data has generally been considered adequate for disclosure purposes in annual reports to security holders. The Commission also believes that such summarized data may be adequate for even sophisticated users up to a point at which the financial impact of a subsidiary or person becomes so significant that more detailed disclosure becomes necessary to an evaluation of the overall financial condition of a reporting entity.

As a result, rules are being proposed which would place greater reliance on summarized financial information for significant unconsolidated subsidiaries and 50 percent or less owned persons and would require separate financial statements only when a higher level of significance is met. Although the Commission recognizes that quantifying that level of significance, like many percentage tests, involves an arbitrary determination, it believes that 20 percent may be a more appropriate test for determining when the more detailed disclosures provided by complete financial statements become necessary.

Summarized Financial Information

Under the proposed rules, summarized financial information, rather than separate financial statements, would be required for those subsidiaries or persons which meet the significant subsidiary test as revised by this proposal.⁶ Requirements would be established for summarized financial information in notes to consolidated financial statements and would apply not only to registration and reporting forms filed with the Commission but also to annual reports to security

⁶The proposed requirements for summarized financial information would be applied to the aggregate of all unconsolidated entities combined and therefore may require summarized information for entities which are individually nonsignificant. Where it is impracticable to furnish summarized information for all entities included in the aggregation, the proposed rules would permit the omission of information for one or more entities provided that the omitted entities, when aggregated, do not meet any of the tests using a 5 percent threshold. A foreign subsidiary, for example, which individually has only a 2 percent asset and a 1 percent income relationship based on these tests may be omitted.

holders furnished pursuant to the proxy rules.

While summarized financial information is currently furnished in annual reports of many registrants in compliance with GAAP, the reporting of this information has been noted to vary significantly as to form and degree of detail provided. For example, some registrants present condensed "Form 10-Q type" financial statements while others provide disclosure of only net tangible assets. To improve consistency in reporting, the Commission is also proposing rules to establish minimum standards for the content of this information.

Content of Summarized Financial Information

The proposed rules would generally indicate that whenever summarized financial information is required under Regulation S-X it would consist of summarized information as to assets, liabilities and results of operations of the entity or entities for which the information is required.⁷ Summarized financial information would be provided as of the same dates and for the same periods for which audited consolidated financial statements are required and would include certain minimum disclosures. A discussion of these disclosures follows.

The Commission has previously set forth its view as to the basic items to be included in a summarized results of operations through the adoption of rules requiring footnote disclosure of certain selected quarterly financial data.⁸ The Commission has reevaluated the components of the summarized data prescribed under these rules and believes that they would be relevant to a presentation of summarized operating results for most entities. As a result, the proposed rules would require presentation of the following items in a summarized results of operations:

- Net sales or gross revenues;
 - Gross profit (or alternatively, costs and expenses applicable to net sales or gross revenues);
 - Income or loss before extraordinary items and cumulative effect of a change in accounting principle;
 - Net income or loss.
- For specialized industries in which gross profit is not computed, the

⁷Where summarized financial information is referred to and required by § 210.10-01(b) for interim periods, it would consist of the proposed summarized information as to results of operations and related footnote disclosure.

⁸Adopted as § 210.3-19(1) in Accounting Series Release No. 177 (September 10, 1975). The rule has subsequently been transferred to Item 12 of Regulation S-K.

proposed rules would permit the substitution of information which is more meaningful to the nature of an entity's operations. A bank, for example, could present total interest income, total interest expense, provision for loan losses, and security gains or losses in lieu of sales and related costs and expenses. Similarly, an insurance company could present information as to net premiums earned, net investment income, underwriting costs and expenses, and realized gains or losses on investments.

In proposing rules for summarized financial information as to assets and liabilities, the Commission recognizes that differences exist in balance sheet presentations among different industries. In industries in which classified balance sheets are presented, the proposed rules would require disclosure of the amounts of current and noncurrent assets and liabilities. For industries in which classified balance sheets are not presented, the proposed rules would require information as to the nature and amount of the major components of an entity's assets and liabilities. A finance company, for example, would disclose the portion of its total assets represented by net loan receivables when that item represents one of that company's largest assets. In addition, whenever an entity has outstanding redeemable preferred stock as defined in § 210.5-02.28, a total of long-term liabilities and redeemable preferred stock would be required regardless of the type of balance sheet presented.

The proposed rules would also require that summarized financial information be accompanied by footnote disclosure necessary to make the information not misleading. The nature and extent of disclosure necessary for summarized information will differ from that required in complete financial statements. Although the Commission believes that specifying the nature and extent of the footnote disclosure that would be appropriate in all circumstances would be impractical, certain conditions have been noted which, in its view, may warrant footnote disclosure regardless of the nature of the financial information presented.

For example, whenever an entity's obligations under long-term debt and redeemable preferred stock are material, the Commission believes that disclosure of the future maturities of these obligations is essential to an assessment of that entity's future cash flow requirements. In addition, whenever a material contingency exists, disclosure would appear to be necessary to make

the financial information presented not misleading.

The proposed rules for footnote disclosure, therefore, would specify the presentation of a five year schedule of maturities and disclosure of any material contingencies as minimum disclosures. Although not specified within the proposed rules, other conditions such as an event of default or breach on a loan or similar covenant, the existence of restrictions on dividend distributions, or the existence of transactions with related parties may also warrant footnote disclosure whenever material amounts are involved. Commentators are specifically invited to express their views as to whether these or any other disclosures should be specified within any final rules resulting from this proposal.

Significant Subsidiary Test

The determination of when an entity is considered to be significant, and therefore to require additional financial disclosures, is based on certain conditions defined in Regulation S-X as the significant subsidiary test. The significant subsidiary test, which consists of certain 10 percent tests, was described in an earlier section of this release. In addition to its impact on the proposed rules already discussed, this test is used to trigger other financial disclosures including the separate financial statements of consolidated subsidiaries engaged in diverse financial activities and the financial statements of a business acquisition reported on in Form 8-K.

Amendments are being proposed which would eliminate use of the sales test from the definition of a significant subsidiary. These proposed amendments reflect the Commission's view that the presentation of additional financial disclosures of an affiliated entity may not be meaningful in instances in which the affiliate has a high sales volume but a relatively low profit margin, and therefore has little financial impact on the operating results of the consolidated group.

In addition the proposed rules would revise the existing definition to clarify the conditions under which an acquired entity is deemed to be significant. The proposed rules would indicate that whenever an entity has been or is proposed to be acquired in a business combination accounted for as a pooling of interests, that entity would constitute a significant subsidiary whenever the number of common shares exchanged by the registrant exceeds 10 percent of its total common shares outstanding at the date the combination is initiated.

General

The proposed rules reflect the Commission's view that 10 percent continues to be an appropriate test for determining a significant subsidiary and therefore whether additional financial disclosures are necessary. The Commission believes that the disclosure provided by summarized financial information may be adequate for unconsolidated subsidiaries and 50 percent or less persons meeting that test and that the more detailed disclosure provided by complete financial statements becomes necessary only at some higher level of significance. Commentators are specifically invited to express their views both as to the appropriateness of proposing dual levels of significance and as to the propriety of selecting 20 percent as a reporting threshold for separate statements.

The existing rules and proposed changes are both predicated on the view that conditions for determining when additional financial disclosures are necessary can be established under a uniform significant subsidiary test. Commentators also are specifically invited to express their views on this basic issue.

Consolidated Subsidiaries Engaged in Diverse Financial Activities

The Commission has long been an advocate of providing investors with financial information on a disaggregated basis to supplement the aggregated disclosures in consolidated financial statements. It has generally believed that disaggregated information regarding the various activities in which the enterprise participates can be useful to investors wishing to perform a detailed analysis of an enterprise. Such disclosures can provide users with a better understanding of the relative strengths and weaknesses of the various businesses which the enterprise operates and generally provide a better basis upon which to evaluate trends.

Despite its interest in such disclosures, however, the Commission has generally limited its requirements for the presentation of detailed disaggregated disclosures to registrants primarily engaged in diverse financial-type businesses.⁹ For registrants with significant subsidiaries engaged in such businesses as life insurance, fire and casualty insurance, banking, securities brokerage, savings and loan or finance,

⁹ Generally, financial-type subsidiaries engaged in such activities as insurance, banking or finance, operated by industrial concerns, are not included in consolidation. The rules for separate statements of consolidated subsidiaries have principally applied only to consolidated enterprises primarily engaged in providing diverse financial-type services.

the Commission has require separate supporting financial statements in filings with the Commission.

The Commission's principal reason for separating out registrants with diverse financial-type activities for purposes of requiring disaggregated disclosure has been that such enterprises generally are composed of businesses in a variety of specialized financial-type industries which often result in consolidated statements which are extremely complex and difficult to analyze. The operating characteristics of the various specialized companies many times are significantly different or unique and require separate presentation for purposes of a detailed analysis of the enterprise. Frequently contributing to the complexity of a consolidated presentation is the fact that certain of the consolidated entities operate in highly regulated environments. The portion of the consolidated entity to which regulatory restraints relate and the impact such restraints have on the enterprise as a whole are often difficult to ascertain from the consolidated statements.

The Commission's interest in disaggregated disclosures was clearly stated in Accounting Series Release ("ASR") No. 154 issued in April 1974. This release announced the Commission's decision to retain its requirements for separate statements of consolidated financial-type subsidiaries and indicated that line-of-business disclosures should be considered for purposes of annual reporting to security holders. The Commission recognized that detailed disaggregations for nonfinancial-type activities were not required under its rules but encouraged registrants to include such disclosures in their financial reports to provide users with a better understanding of their operations.

In ASR No 154, the Commission noted that the Financial Accounting Standards Board ("FASB") was currently studying the reporting by diversified companies and the disclosure of line-of-business type information. The release announced the Commission's intention to reconsider its requirements for separate statements after standards for reporting line-of-business information had been adopted by the FASB.

In 1976, the project on reporting by diversified companies was completed, resulting in the issuance of Statement of Financial Accounting Standards ("SFAS") No. 14, "Financial Reporting for Segments of a Business Enterprise." The standard now requires companies to provide in their footnotes to financial statements certain disaggregated

disclosures regarding operations in different industries, foreign operations, export sales and major customers. Under the standard, companies are required to identify significant segments of their business and provide certain financial disclosures regarding each. The principal disclosures required for each reportable segment include revenues, operating profit or loss, identifiable assets, depreciation and capital expenditures. As stated by the FASB, the purpose of the required disclosures is to "assist financial statement users in analyzing and understanding an enterprise's financial statements by permitting a better assessment of the enterprise's past performance and future prospects."¹⁰

Commentators on the existing rules generally indicated that segments of business disclosures required by SFAS No. 14 are adequate for purposes of understanding the operations of the major segments of an enterprise's business and that the specific rules of the Commission requiring separate statements of significant consolidated financial-type subsidiaries should be eliminated.

The Commission believes that the disclosures required by SFAS No. 14 provide meaningful information regarding the principal segments of a business in which an enterprise operates and that the degree of disclosure provided is adequate for purposes of annual reports to security holders. However, the Commission does not regard the level of disclosure required by the standard as adequate to meet the needs of sophisticated investors wishing to undertake a more detailed analysis where the subject enterprise is engaged in providing diverse financial-type services.

As a consequence, the Commission is proposing to retain requirements for separate detailed disaggregated information for purposes of filings with the Commission where registrants, through their consolidated subsidiaries, are engaged in financial-type activities. The Commission recognizes that it can be argued that, if separate additional disclosures for financial-type entities are needed, similar disclosures should be required for nonfinancial-type businesses. The Commission believes, however, that important distinctions exist between these two general categories of registrants, due primarily to regulatory restraints and the unique operating characteristics of financial-type companies, and that it would be inappropriate because of these distinctions and relative needs of

investors to propose to require any additional detail regarding nonfinancial-type companies at this time.

The Commission is, however, sensitive to the reporting burdens placed on registrants by the existing rules and has therefore questioned whether complete financial statements for the disaggregated presentations are necessary. Generally, the details which the Commission believes are most important to investors in performing a more detailed analysis appear on the face of the respective separate financial statements required. Considering that separate statements are required only when the underlying entities are significant to the total enterprise, the Commission believes that the most critical footnote disclosures are generally contained in the consolidated statements. The Commission further believes that such footnote disclosures, due to the inherent differences in the nature of the various activities, are usually distinguishable as to which activity they relate.

Therefore, the Commission believes that the separate financial disclosures needed to satisfy the needs of sophisticated investors may be able to be provided in condensed financial statements. Accordingly, the Commission is proposing to revise the existing rules to require the separate financial information regarding the various financial-type activities to be presented in a schedule to the consolidated financial statements in the form of condensed financial statements.

Under the proposal, the required schedule (or schedules, depending on the number of separate presentations necessary) would require condensed financial information as to financial position, changes in financial position and results of operations as of the same dates and for the same periods covered by the consolidated financial statements. The financial information would not have to be presented in any greater detail than is required for condensed statements in interim reports filed on Form 10-Q and in most registration statements. Detailed footnotes which would normally be required for complete financial statements could be omitted.

The Commission believes that the level of detail proposed may provide sophisticated investors the information needed for an analysis of the enterprise while reducing the reporting burdens on registrants. The Commission invites commentators to specifically address the appropriateness of condensed financial information for purposes of meeting the stated reporting objectives. Where commentators believe that

complete statements are necessary, they are requested to identify their reasons for viewing the incremental disclosures which would accompany complete statements as significant considering the nature and scope of disclosure generally provided in consolidated statements.

Along with the comments received regarding the necessity for separate statements of consolidated subsidiaries, comments have been received regarding the complexity of the existing rules. Many have indicated that the rules are difficult to understand and continue to be a source of confusion to those attempting to understand what disclosures are required.

In response to these comments, the Commission has rewritten the requirements regarding the circumstances under which separate disclosures regarding financial-type subsidiaries are required. The Commission believes that the proposed rules are more simplified and should reduce the confusion associated with the current rules.

The only substantive changes proposed to the rules, in terms of the circumstances under which separate financial data is required, relate to individually nonsignificant subsidiaries not otherwise included in one of the other groupings of subsidiaries for which a separate presentation is provided and to the 90 percent asset, revenue and income test. The requirement to provide a separate presentation for all individually nonsignificant and diverse financial-type consolidated subsidiaries, when the registrant's investment in them exceeds 10 percent of its total assets, has been dropped. The Commission believes that this facet of the existing rules may not provide information which is critical to an analysis of the enterprise. Also, consistent with the proposal to remove the revenue test from the determination of a significant subsidiary, revenue is proposed to be eliminated from the existing "90 percent asset, revenue and income test."

As previously indicated, a new schedule, Schedule XIV, is proposed to require condensed financial information of the reporting entity for which the schedule is required to be filed. This new schedule would be required to be filed for each consolidated subsidiary or group of consolidated subsidiaries engaged in the business of life insurance, fire and casualty insurance, banking, savings and loan, securities brokerage, or finance.¹¹ Under the proposed rules,

¹¹ For classification purposes the "finance" group would include subsidiaries in the business of

Continued

¹⁰ SFAS No. 14, paragraph 5.

however, the schedule could be omitted if any one of the following conditions was met:

- The consolidated subsidiary is not "primarily" engaged in one of the above listed businesses (for purposes of this determination, a subsidiary is deemed to be primarily engaged in one of the above listed businesses if more than 50 percent of its revenues is derived from designated businesses);
- The consolidated subsidiary or group of consolidated subsidiaries in the designated business does not meet the tests of a significant subsidiary;
- The registrant and each of its consolidated subsidiaries are primarily engaged in the same business;
- The assets and pretax income (after intercompany eliminations) of the consolidated subsidiary or group of consolidated subsidiaries in the designated business each exceed 90 percent of the respective amounts reflected in the consolidated financial statements for the most recently completed fiscal year; or
- In excess of 90 percent of the sales and revenues of the consolidated subsidiary or group of consolidated subsidiaries in the designated business is derived from the registrant and its other subsidiaries.

Affiliates Whose Securities are Pledged as Collateral

Financial statements of affiliates are required under current rules to be included in filings with the Commission when the securities of the affiliate constitute a substantial portion of the collateral of any class of securities registered or being registered. For purposes of compliance with this rule, an affiliate's securities are deemed to constitute a substantial portion of collateral if the greater of aggregate principal amount, par value, book value as carried by the registrant, or market value of such securities equals 20 percent or more of the principal amount of the secured class of securities.

These financial statements are generally required to be audited as of the same dates and for the same periods as of the consolidated statements and must be presented in full compliance with Regulation S-X. However, financial statements of affiliates are not required when they are otherwise filed on an individual, consolidated or combined basis.

The filing of separate financial statements pursuant to this rule is

providing financing services including lease financing; however, subsidiaries with only nonfinancing leases would be excluded as well as those subsidiaries which are primarily engaged in one of the other industry groups identified.

relatively infrequent, being limited by the specific terms of a particular securities offering. Under these limited circumstances, the Commission has viewed the presentation of separate financial statements of affiliates whose securities are used as collateral as necessary for an assessment of the ability of that entity to satisfy its commitment in the event of default by the registrant.

The issue of presenting separate financial statements of affiliates under these circumstances was addressed by very few commentators on the existing disclosure requirements. Those commentators who did respond expressed support for the continued presentation of separate financial statements of affiliates but suggested that the specific financial statement

requirements be modified. These commentators agree that such statements are necessary to provide information regarding the company's ability to satisfy its commitments.

Having reexamined this requirement, the Commission continues to believe that when securities of affiliates are used as collateral for a securities offering, separate financial statements of the affiliates are necessary for an evaluation of the underlying collateral. The Commission further believes that when such financial statements are required, they should be as comprehensive as those presented by the registrant. As a consequence, the existing requirements for separate financial statements of affiliates whose securities are pledged as collateral are proposed to be retained.

Summarization of Existing Rules and Proposed Changes

The table which follows is presented as a guide to assist the reader in understanding the more significant changes proposed. This table should be used as a supplement to the discussion of the existing rules and proposed changes provided in earlier sections of the release.

Existing rules	Proposed changes
<p><i>Parent company only</i></p> <p><i>When required</i></p> <p>—Parent is a holding company; or</p> <p>—Parent is an operating company whose consolidated subsidiaries have minority equity interests or indebtedness to unaffiliated persons in amounts which exceed 5 percent of total consolidated assets; however, if the parent's total assets, exclusive of investments in and advances to its consolidated subsidiaries, constitute 75% or more of total consolidated assets, and its total sales and revenues, exclusive of interest and dividends received from or its equity in earnings of consolidated subsidiaries, constitute 75 percent or more of total consolidated sales and revenues, separate statements may be omitted.</p> <p><i>Information required</i></p> <p>—Separate audited financial statements as of the same dates and for the same periods as consolidated financial statements.</p>	<p>—The proposed rules would focus on the existence of restrictions on the ability of subsidiaries to loan or advance funds to the parent company. Under the proposed rules, disclosure requirements would be triggered when the proportionate share of net assets of subsidiaries (after intercompany eliminations) restricted from being loaned or advanced to the parent company and equity in undistributed earnings of 50 percent or less owned persons accounted for by the equity method, together, exceed 25 percent of consolidated net assets as of the end of the most recent fiscal year.</p> <p>—Separate parent company financial statements (§§ 210.3-03, 3-04 and 3-05) would no longer be required.</p> <p>—Disclosure would be required in footnotes to consolidated financial statements of the existence of restrictions on the ability of both consolidated and unconsolidated subsidiaries to transfer funds to the parent company in the form of cash dividends, loans or advances (proposed § 210.4-06(e)).</p> <p>—Undistributed earnings of consolidated subsidiaries, unconsolidated subsidiaries, and 50 percent or less owned persons accounted for by the equity method would be shown separately and the amounts restricted as to dividends disclosed. Undistributed earnings amounts would be reconciled to total consolidated retained earnings.</p> <p>—The significance of the aggregate amount of restricted net assets to consolidated net assets as of the end of the most recent fiscal year would be disclosed.</p> <p>—Footnote disclosure would be supplemented by the presentation of condensed financial information as to financial position, changes in financial position and results of operations of the parent company only in a schedule to consolidated financial statements (proposed §§ 210.5-04 and 12-04).</p>
<p><i>Unconsolidated subsidiaries and 50 percent or less owned persons</i></p> <p><i>When required</i></p> <p>—When any one of the following tests are met:</p> <p><i>Asset test</i>—Registrant's investment in subsidiary or person, or registrant's proportionate share of total assets (after intercompany eliminations) of subsidiary or person exceed 10 percent of registrant's consolidated assets.</p> <p><i>Sales test</i>—Registrant's proportionate share of total sales or revenues (after intercompany eliminations) of the subsidiary or person exceeds 10 percent of registrant's consolidated sales and revenues.</p>	<p>—When any one of the following tests are met:</p> <p><i>Asset test</i>—Registrant's investment in subsidiary or person, or registrant's proportionate share of total assets (after intercompany eliminations) of subsidiary or person exceed 10 percent of registrant's consolidated assets.</p> <p>[Deleted]</p>

Existing rules	Proposed changes
<p>Income test—Registrant's equity in income before income taxes, extraordinary items and cumulative effect of an accounting change of the subsidiary or person exceeds 10 percent of such income of the registrant consolidated.</p> <p><i>Information required</i></p> <ul style="list-style-type: none"> —When the test is met by an individual subsidiary or person; —Separate audited financial statements as of the same dates and for the periods as consolidated financial statements; —When the test is met on an aggregate basis by a group of unconsolidated subsidiaries or 50 percent or less owned persons; —Summarized financial information as to assets, liabilities and results of operations. <p>Consolidated subsidiaries engage in diverse financial activities</p> <p><i>When required</i></p> <ul style="list-style-type: none"> —Consolidated subsidiary or group of consolidated subsidiaries meet the significant subsidiary test and is engaged in the business of life insurance, fire and casualty insurance, banking, savings and loan, securities brokerage or finance; —Investment in all nonsignificant financial-type consolidated subsidiaries not included above exceeds 10 percent of registrant's total assets; —Notwithstanding above, no additional information required if any one of the following conditions are met: —Consolidated subsidiary or group does not meet the significant subsidiary test; —Consolidated subsidiary's or group's assets, revenues, and pre-tax income each exceed 90 percent of consolidated amounts; —Ninety percent of consolidated subsidiary's or group's revenues are derived from registrant and its other subsidiaries. <p><i>Information required</i></p> <ul style="list-style-type: none"> —Separate audited financial statements of the subsidiary or subsidiaries as of the same dates and for the same periods as the consolidated financial statements. <p>Affiliates whose securities are pledged as collateral</p> <p><i>When required</i></p> <ul style="list-style-type: none"> —Securities of an affiliated company constitute a substantial portion of the collateral for any class of securities being registered; —An affiliate's securities are deemed to constitute a substantial portion of collateral if the greater of aggregate principal amount, par value, book value as carried by the registrant, or market value of such securities equals 20 percent or more of the secured class of securities. <p><i>Information required</i></p> <ul style="list-style-type: none"> —Audited separate financial statements as of the same dates and for the same periods as the consolidated financial statements of the registrant. 	<p>Income test—Registrant's equity in income before income taxes, extraordinary items and cumulative effect of an accounting change of the subsidiary or person exceeds 10 percent of such income of the registrant consolidated.</p> <p><i>Information required</i></p> <ul style="list-style-type: none"> —When the test is met on an individual or aggregate basis, summarized financial information would be required in notes to consolidated financial statements (§ 210.4-09(g)). Separate financial statements would be required in filings only when an individual subsidiary or person meets the tests based on a 20 percent reporting threshold (§ 210.3-09). —To improve consistency in reporting, standard content requirements for summarized financial information would also be established (§ 210.1-02(w)). <p>—Consolidated subsidiary or group of consolidated subsidiaries meet the significant subsidiary test and is engaged in the business of life insurance, fire and casualty insurance, banking, savings and loan, securities brokerage or finance. [Deleted]</p> <ul style="list-style-type: none"> —Notwithstanding above, no additional information required if any one of the following conditions are met: —Consolidated subsidiary or group does not meet the significant subsidiary test; —Consolidated subsidiary's or group's assets and pre-tax income each exceed 90 percent of consolidated amounts; —Ninety percent of consolidated subsidiary's or group's revenues are derived from registrant and its other subsidiaries; —Consolidated subsidiary is not "primarily engaged in one of designated businesses" (would codify an administrative practice); —The registrant and each of its consolidated subsidiaries are primarily engaged in the same business (would codify an administrative practice). <p><i>Information required</i></p> <ul style="list-style-type: none"> —Separate financial statements of consolidated subsidiaries would no longer be required. Disclosure would be provided of condensed financial information as to financial position, changes in financial position and results of operations of the consolidated subsidiary in a schedule (prescribed by § 210.12-30) to the consolidated financial statements. Footnote disclosure would not be required. <p>—No changes proposed to existing rules.</p> <p>—No changes proposed to existing rules.</p>

Regulatory Flexibility Certification

Section 603(a) of the Administrative Procedure Act, as amended by the Regulatory Flexibility Act ("Flexibility Act"), generally requires the Commission to undertake a regulatory flexibility analysis of all proposed rules, or proposed rule amendments, to determine the impact of such rulemaking on small entities as defined under the Flexibility Act. Section 605(b) of the Flexibility Act, however, specifically exempts from this requirement and proposed rule, or proposed rule amendment, which, if adopted, would not "have a significant economic impact on a substantial number of small entities." The Commission believes that the proposed amendments announced in this release would not impose an additional regulatory burden on entities subject to the rules. Accordingly, the Chairman of the Commission has certified that the proposed amendments, if adopted,

would not have a significant impact on a substantial number of small entities.

Text of Proposed Rules

Part 210 of Title 17 CFR Chapter II is proposed to be amended as follows:

PART 210—FORM AND CONTENT OF AND REQUIREMENTS FOR FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, INVESTMENT COMPANY ACT OF 1940, AND ENERGY POLICY AND CONSERVATION ACT OF 1975

1. By removing paragraph (f) of § 210.1-02, redesignating paragraphs (g) through (w) as paragraphs (f) through

(v); revising redesignated paragraph (u) and adding new paragraph (w) as follows:

§ 210.1-02 Definitions of terms used in Regulation S-X.

(u) *Significant subsidiary*. The term "significant subsidiary" means a subsidiary, including its subsidiaries, which meets any of the following conditions:

(1) The registrant's and its other subsidiaries' investments in and advances to the subsidiary exceed 10 percent of the total assets of the registrant and its subsidiaries consolidated as of the end of the most recently completed fiscal year (where a company has been or is proposed to be acquired in a business combination accounted for as a pooling of interests, this condition is also met when the number of common shares exchanged by the registrant exceeds 10 percent of its total common shares outstanding);

(2) The registrant's and its other subsidiaries' proportionate share of the total assets (after intercompany eliminations) of the subsidiary exceeds 10 percent of the total assets of the registrant and its subsidiaries consolidated as of the end of the most recently completed fiscal year; or

(3) The registrant's and its other subsidiaries' equity in the income before income taxes, extraordinary items and cumulative effect of a change in accounting principle of the subsidiary exceeds 10 percent of such income of the registrant and its subsidiaries consolidated for the most recently completed fiscal year.

Computational note: For purposes of making the prescribed income test the following guidance should be applied:

1. When a loss has been incurred by either the parent and its subsidiaries consolidated or the tested subsidiary, but not both, the equity in the income or loss of the tested subsidiary should be excluded from the income of the registrant and its subsidiaries consolidated for purposes of the computation.

2. If income of the registrant and its subsidiaries consolidated for the most recent fiscal year is at least 10 percent lower than the average of the income for the last five fiscal years, such average income should be substituted for purposes of the computation. Any loss years should be omitted for purposes of computing average income.

(w) *Summarized financial information*. (1) With the exception of § 210.10-01, "summarized financial information" referred to in this regulation shall mean the presentation of summarized information as to the assets, liabilities and results of

operations of the entity for which the information is required. When required, the summarized financial information shall be provided as of the same dates and for the same periods for which audited consolidated financial statements are required (unless otherwise specified by this regulation) and shall include the following disclosures:

(i) Current assets, noncurrent assets, current liabilities, noncurrent liabilities, and, when applicable, redeemable stock (see § 210.5-02.28) (for specialized industries in which classified balance sheets are normally not presented, information shall be provided as to the nature and amount of the major components of assets and liabilities);

(ii) Net sales or gross revenues, gross profit (or alternatively, costs and expenses applicable to net sales or gross revenues), income or loss before extraordinary items and cumulative effect of a change in accounting principle, and net income or loss (for specialized industries, other information may be substituted for sales and related costs and expenses if necessary for a more meaningful presentation); and

(iii) Footnote disclosure necessary to make the information presented not misleading. Footnote disclosure shall, at a minimum, include a schedule of maturities of long-term obligations for each of the next five years as well as disclosure of any material contingencies.

(2) Summarized financial information referred to in and required by § 210.10-01(b) for interim periods shall include the information required by paragraphs (w)(1) (ii) and (iii) of this section applicable to summarized results of operations.

§§ 210.3-03, 210.3-04 and 210.3-05
[Removed]

2. By removing §§ 210.3-03, 210.3-04 and 210.3-05.

3. By revising § 210.3-09 to read as follows:

§ 210.3-09 Financial statements of subsidiaries not consolidated and 50 percent or less owned persons.

(a) If any of the conditions set forth below are met in relation to a majority-owned subsidiary not consolidated by the registrant or a subsidiary of the registrant, separate financial statements of such subsidiary shall be filed. Similarly, if any of the conditions set forth below are met in relation to a 50 percent or less owned person for which the investment is accounted for by the equity method either by the registrant or a subsidiary of the registrant, separate financial statements of such 50 percent or less owned person shall be filed. The

conditions referred to above, to base the determination of whether separate financial statements are required, are as follows:

(1) The registrant's and its other subsidiaries' investments in and advances to the subsidiary or 50 percent or less owned person exceed 20 percent of the total assets as shown in the consolidated balance sheet as of the end of the most recently completed fiscal year;

(2) The registrant's and its other subsidiaries' proportionate share of the total assets (after intercompany eliminations) of the subsidiary or 50 percent or less owned person exceeds 20 percent of total assets as shown in the consolidated balance sheet as of the end of the most recently completed fiscal year; or

(3) The registrant's and its other subsidiaries' equity in income before taxes, extraordinary items and cumulative effect of a change in accounting principle of the subsidiary or 50 percent or less owned person exceeds 20 percent of such income as shown in the consolidated statement of income for the most recently completed fiscal year. For purposes of computing the above income test see computational note in § 210.1-02(u).

(b) Insofar as practicable, the separate financial statements required by this section shall be as of the same dates and for the same periods as the audited consolidated financial statements required by §§ 210.3-01 and 210.3-02. For purposes of a filing on Form 10-K, if the fiscal year of any majority-owned subsidiary not consolidated or any 50 percent or less owned person ends within 90 days before the date of filing, or after the date of filing, the required financial statements may be filed as an amendment to the report within 90 days after the end of such subsidiary's or person's fiscal year.

(c) Notwithstanding the requirements for separate financial statements in paragraph (a) of this section, where financial statements of two or more majority-owned subsidiaries not consolidated are required, combined or consolidated statements of such subsidiaries may be filed subject to principles of inclusion and exclusion which clearly exhibit the financial position, changes in financial position and results of operations of the combined or consolidated group. Similarly, where financial statements of two or more 50 percent or less owned persons are required, combined or consolidated statements of such persons may be filed subject to the same principles of inclusion or exclusion referred to above.

§ 210.3A-02 [Amended]

§§ 210.3A-03, 210.3A-05 and 210.3A-07
[Removed]

4. By removing paragraph (e) of § 210.3A-02, and removing §§ 210.3A-03, 210.3A-05 and 210.3A-07.

§§ 210.3A-04, 210.3A-06 and 310.3A-08
[Redesignated as §§ 210.3A-03—210.3A-05]

5. By redesignating §§ 210.3A-04, 210.3A-06 and 210.3A-08 as §§ 210.3A-03, 210.3A-04 and 210.3A-05, respectively.

6. By revising paragraph (e) of § 210.4-08, redesignating paragraphs (g) through (k) as paragraphs (i) through (m), and adding new paragraphs (g) and (h) as follows:

§ 210.4-08 General notes to financial statements.

(e) *Restrictions which limit the payment of dividends by the registrant.*

(1) Describe the most significant restrictions, other than as reported under paragraph (d) of this section, on the payment of dividends by the registrant, indicating their sources, their pertinent provisions, and the amount of retained earnings or net income restricted or free of restrictions.

(2) Disclose the amount of consolidated retained earnings which represents undistributed earnings of 50 percent or less owned persons accounted for by the equity method.

(3) Where restrictions exist on the transfer of funds from subsidiaries to the registrant which would result in the conditions for filing Schedule III under § 210.5-04 to be met the following disclosure shall be provided:

(i) Describe the restrictions on the ability of both consolidated and unconsolidated subsidiaries to transfer funds to the registrant in the form of cash dividends, loans or advances indicating the sources of the restrictions (i.e., borrowing arrangements, regulatory restraint, etc.), their pertinent provisions, and the significance of the aggregate amount restricted relative to total consolidated net assets as of the end of the most recently completed fiscal year.

(ii) In addition to the disclosure of undistributed earnings of 50 percent or less owned persons required by paragraph (e)(2) of this section, disclose separately the undistributed earnings of consolidated subsidiaries and unconsolidated subsidiaries, respectively, as well as the portions of such undistributed earnings of subsidiaries which are restricted as to the payment of cash dividends to the registrant. The amounts of undistributed

earnings disclosed shall be reconciled to total consolidated retained earnings as of the end of the most recently completed fiscal year.

(g) *Summarized financial information.*

(1) Summarized information as to assets, liabilities and results of operations shall be presented on an individual or group basis in notes to the financial statements for all subsidiaries not consolidated and for all 50 percent or less owned persons accounted for by the equity method by the registrant or a subsidiary of the registrant if any of the following conditions, applied to the aggregate of both subsidiaries not consolidated and 50 percent or less owned persons, are met:

(i) The registrant's and its other subsidiaries' investments in and advances to such subsidiaries and 50 percent or less owned persons exceed 10 percent of the total assets as shown in consolidated balance sheet as of the end of the most recently completed fiscal year;

(ii) The registrant's and its other subsidiaries' proportionate share of the total assets (after intercompany eliminations) of such subsidiaries and 50 percent or less owned persons exceeds 10 percent of the total assets as shown in the consolidated balance sheet as of the end of the most recently completed fiscal year; or

(iii) The registrant's and its other subsidiaries' equity in the income before income taxes, extraordinary items and cumulative effect of a change in accounting principle of such subsidiaries and 50 percent or less owned persons exceeds 10 percent of such income as shown in the consolidated statement of income for the most recently completed fiscal year. For purposes of computing the above income test see computational note in § 210.1-02(u).

(2) Summarized financial information shall be presented insofar as is practicable as of the same dates and for the same periods as the audited consolidated financial statements provided and shall include the disclosures prescribed by § 210.1-02(w). Summarized information of subsidiaries not consolidated shall not be combined with the summarized information of 50 percent or less owned persons. If the above conditions are met on an aggregate basis by any combination of subsidiaries not consolidated and 50 percent or less owned persons, the summarized financial information required by paragraph (g)(1) of this section shall be provided for all individually significant and nonsignificant subsidiaries and persons.

Where it is impracticable to furnish summarized information for all subsidiaries and persons otherwise required information may be omitted for one or more entities provided that the omitted entities, when aggregated, do not meet any of the tests set forth in paragraphs (g)(1) (i), (ii) or (iii) of this section applied using a 5 percent threshold.

(h) *Reconciliation of investment and related equity in net assets.* Disclosure shall be provided of the amount and accounting treatment of any difference between the carrying amount of the registrant's and its other subsidiaries' investments and their underlying equity in net assets of subsidiaries not consolidated and 50 percent or less owned persons accounted for by the equity method.

7. By revising paragraph (a) of § 210.5-04, removing Schedule III, and adding new Schedules III and XIV as follows:

§ 210.5-04 *What schedules are to be filed.*

(a) Except as expressly provided otherwise in the applicable form—

(1) The schedules specified below in this section as Schedules I, VII, XI, XII and XIII shall be filed as of the date of the most recent audited balance sheet for each person or group.

(2) Other schedules specified below in this section as Schedules II, IV, V, VI, VIII, IX and X shall be filed for each period for which an audited income statement is required to be filed for each person or group.

(3) Schedule III and XIV shall be filed as of the dates and for the periods specified in the respective schedules.

Schedule III—Condensed financial information of registrant. The schedule prescribed by § 210.12-04 shall be filed when (1) the restricted net assets of subsidiaries and (2) equity in the undistributed earnings of 50 percent or less owned persons accounted for by the equity method, together, exceed 25 percent of consolidated net assets as of the end of the most recently completed fiscal year. For purposes of the above test, restricted net assets of subsidiaries shall mean that amount of the registrant's proportionate share of net assets of subsidiaries (After intercompany eliminations) which as of the end of the most recent fiscal year may not be loaned or advanced to the registrant by subsidiaries without the consent of any third party (i.e., lender, regulatory agency, etc.).

Schedule XIV—Condensed financial information of consolidated subsidiaries engaged in financial-type businesses. Subject to the provisions for omission set forth in this paragraph, the schedule prescribed by § 210.12-30 shall be filed for each consolidated subsidiary or group of

consolidated subsidiaries engaged in the business of life insurance, fire and casualty insurance, banking, savings and loan, securities brokerage, or finance (for classification purposes the "finance" group shall include subsidiaries in the business of providing financing services, including lease financing; however, subsidiaries with only nonfinancing leases are excluded as well as those subsidiaries which are primarily engaged in one of the other industry groups identified). This schedule may be omitted if:

(1) The consolidated subsidiary is not "primarily" engaged in one of the above listed businesses (for purposes of this determination, a subsidiary is deemed to be primarily engaged in one of the above listed businesses if more than 50 percent of its revenues is derived from such designated business);

(2) The consolidated subsidiary or group of consolidated subsidiaries in the designated business does not meet the tests of a significant subsidiary (see § 210.1-02(u));

(3) The registrant and each of its consolidated subsidiaries are primarily engaged in the same business;

(4) The registrant's and its other subsidiaries' proportionate share of total assets and income before income taxes, extraordinary items and cumulative effect of a change in accounting principle (after intercompany eliminations) of the consolidated subsidiary or group of consolidated subsidiaries in the designated business exceed 90 percent of the corresponding amounts reflected in the consolidated financial statements for the most recently completed fiscal year. If the proportionate share of income (or loss) of the subsidiary or group of subsidiaries and the corresponding consolidated amount are not both income or loss, the schedule may not be omitted. Also, if the average income (or loss) amount on a consolidated basis for the last five fiscal years is less than such amount for the most recent fiscal year then the average income or loss may be used for purposes of the above computation; or

(5) In excess of 90 percent of the sales and revenues of the consolidated subsidiary or group of consolidated subsidiaries in the designated business is derived from the registrant and its other subsidiaries.

8. By removing § 210.12-04 and adding a new § 210.12-04 as follows:

§ 210.12-04 *Condensed financial information of registrant.*

(a) Provide condensed financial information as to financial position, changes in financial position and results of operations of the registrant as of the same dates and for the same periods for which audited consolidated financial statements are required. The financial information required need not be presented in greater detail than is required for condensed statements by § 210.10-01(a) (2), (3) and (4). Detailed footnote disclosure which would normally be included with complete financial statements may be omitted

with the exception of disclosures regarding material contingencies, long term obligations and guarantees. Descriptions of significant provisions of long term obligations and guarantees of the registrant shall be provided along with a five-year schedule of maturities. If the material contingencies, long term obligations and guarantees of the registrant have been separately disclosed in the consolidated statements, they need not be repeated in this schedule.

(b) Disclose separately the amounts of cash dividends paid to the registrant for each of the last three fiscal years by consolidated subsidiaries, unconsolidated subsidiaries and 50 percent or less owned persons accounted for by the equity method, respectively.

9. By adding § 210.12-30 as follows:

§ 210.12-30 Condensed financial information of consolidated subsidiaries engaged in financial-type businesses.

Provide condensed financial information as to financial position, changes in financial position and results of operations as of the same dates and for the same periods for which audited consolidated financial statements are required. The financial information required need not be presented in greater detail than is required for condensed statements by § 210.10-01(a) (2), (3) and (4). Detailed footnote disclosure which would normally be included with complete financial statements may be omitted. If the disclosures required by this schedule are included in the footnotes to the audited consolidated financial statements, such disclosures need not be repeated in this schedule.

(Secs. 6, 7, 8, 10 and 19(a) (15 U.S.C. 77f, 77g, 77h, 77j, 77s) of the Securities Act of 1933; secs. 12, 13, 15(d) and 23(a) (15 U.S.C. 781, 78n, 78o(d), 78w) of the Securities Exchange Act of 1934; Sections 5(b), 14 and 20(a) (15 U.S.C. 79e, 79n, 79t) of the Public Utility Holding Company Act of 1935; secs. 8, 30, 31(c) and 38(a) (15 U.S.C. 80a-8, 80a-29, 80a-30(c), 80a-37(a)) of the Investment Company Act of 1940)

The Commission is mindful of the cost to registrants and others of its proposals and recognizes its responsibilities to weigh with care the costs and benefits which result from its rules. Accordingly, the Commission specifically invites comments on the costs to registrants and others of the adoption of the proposals published herein.

Pursuant to Section 23(a)(2) of the Securities Exchange Act of 1934, the Commission specifically invites comments as to the competitive impact of these proposals, if adopted.

These amendments are proposed to be effective for filings made after December 15, 1981, with the provision that registrants may, at their option, apply the amended rules upon adoption.

By the Commission.

George A. Fitzsimmons,
Secretary.

May 11, 1981.

I, John S. R. Shad, Chairman of the Securities and Exchange Commission, hereby certify, pursuant to 5 U.S.C. 605(b), that the proposed amendments contained in Securities Act Release No. 6316, "Separate Financial Statements Required by Regulation S-X; Proposed Revision of Rules," which would reduce the number of instances in which various types of separate financial statements are presented will not, if promulgated, have a significant economic impact on any entity subject to its provisions and, therefore, will not have a significant economic impact on a substantial number of small entities. The reason for this certification is that it is anticipated that the effects of the proposed amendments, if adopted, will not be significant for any class of registrants because the compliance burden is not being increased and the required information is generally available from existing accounting records or otherwise available to the affected companies.

John S. R. Shad,
Chairman.

May 11, 1981.

(FR Doc. 81-15015 Filed 5-18-81; 8:45 am)

BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

18 CFR Part 284

Transportation Certificates for Natural Gas for the Displacement of Fuel Oil

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of a Rulemaking Proposal to the Federal Energy Regulatory Commission.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy pursuant to Section 403 of the Department of Energy Organization Act proposes that the Federal Energy Regulatory Commission (Commission) take appropriate action to provide for the continued authorization of the transportation of natural gas supplies purchased by end users to displace fuel oil. Transportation for these end-user purchases is currently authorized by the Commission's Order No. 30 program (18

CFR Part 284, Subpart F) which expires May 31, 1981. Unless the Order No. 30 or some similar program is adopted prior to May 31, 1981, the opportunity to use certified volumes of approximately 180 billion cubic feet of gas to displace up to 30 million barrels of fuel oil between June, 1981, and the expiration of the current ERA certificates of eligible use, will be lost and surplus natural gas deliverability will increase. Therefore, ERA is requesting the Commission to extend the Order No. 30 program the amount of time necessary for the Commission to establish a comprehensive long-term policy to deal with the disposal of surplus natural gas deliverability. The Commission will announce by Notice in the Federal Register the comment and public hearing procedures to be followed in connection with the promulgation of any regulations necessary to implement this proposal concerning transportation of fuel oil displacement gas.

DATES: Dates for comments and public hearings will be determined by the Commission and published in a notice in the Federal Register.

FOR FURTHER INFORMATION CONTACT:

Albert F. Bass (Division of Natural Gas), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 7108, RG-55, Washington, D.C. 20461 (202) 653-3286;

Michael T. Skinker (Office of General Counsel), Department of Energy, 1000 Independence Avenue, S.W., Room 5E-064, GC-15, Washington, D.C. 20585 (202) 252-2900;

Jack C. Vandenberg (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B-110, RG-91, Washington, D.C. 20461 (202) 653-4055.

I. Background

Because of an urgent national need to reduce reliance on oil imports and to increase stocks of middle distillate fuel oils, the economic Regulatory Administration (ERA) of the Department of Energy (DOE) on March 18, 1979, proposed a rule to the Federal Energy Regulatory Commission (Commission) under Section 403 of the Department of Energy Organization Act (DOE Act, Pub. L. 95-91, 91 Stat. 585, 42 U.S.C. 7173) designed to encourage and facilitate the granting of applications filed by interstate pipelines requesting authorization to transport natural gas to displace fuel oil. The basic premise underlying that proposal was DOE's finding that there existed a temporary surplus of natural gas deliverability that

could be utilized for the dual purposes of reducing our reliance on foreign oil and helping to alleviate a middle distillate fuel oil shortage that existed at that time. DOE made that proposal only as a short-term response to the problem. The proposed rule provided that as a prerequisite to each authorization by the Commission ERA would certify to the Commission that the gas to be transported would be used to displace fuel oil and not coal.

On April 5, 1979, ERA published an interim-final rule (44 FR 20398) which established the procedures and criteria under which ERA would certify that the use of the gas was "eligible." On May 25, 1979, the Commission published Order No. 30 (44 FR 30323) authorizing transportation of certified fuel oil displacement gas until June 1, 1980 [18 CFR Part 284, Subpart F]. ERTA issued a final rule concerning certifications of eligible use on August 16, 1979 (10 CFR Part 595) (44 FR 47920). Order No. 30 was amended by Order No. 30-A, Order on Rehearing, published September 20, 1979 (44 FR 54472) and further rehearing was denied.

On May 22, 1980, the Economic Regulatory Administration proposed to the Commission that the Order No. 30 program be continued for another year because of a continuing need to reduce oil imports. The Commission issued Order No. 30-B on May 22, 1980 (45 FR 34264), providing for an interim extension of the program through August 31, 1980, pending receipt and review of public comments on the ERA proposed extension. An application for rehearing of Order No. 30-B, was filed by the Process Gas Consumers Group, *et al.*, and was denied by Commission Order No. 30-C, issued on July 14, 1980. After the receipt of comments and a public hearing, Order No. 30-D was published on August 22, 1980 (45 FR 56046), which extended the program until May 31, 1981. The Process Gas Consumers Group, *et al.*, filed an application for rehearing of Order No. 30-D which are denied by the Commission on September 26, 1980 (45 FR 66784), in Order No. 30-E.

The Process Gas Consumers Group and the Georgia Industrial Group petitioned the United States Court of Appeals for the District of Columbia Circuit to review the Commission's fuel oil displacement orders (The Process Gas Consumers Group, *et al.* v. FERC, *et al.*, D.C. Cir., No. 79-2336). On March 6, 1981, the court affirmed the Commission's orders stating that these orders were "reasoned policy decisions under the Natural Gas Act and the Natural Gas Policy Act of 1978."

Furthermore, the court asserted that "[t]he judgment adopted by the Commission . . . has not been shown to be arbitrary or capricious."

II. Need for Continuation of a Program Authorizing End-Use Purchases of Fuel Oil Displacement Gas

On August 15, 1980 the Commission, in Order No. 30-D, recognized the continuing need for a program using surplus natural gas supplies to displace fuel oil. The Commission stated that it expected "to implement more effective programs to dispose of excess natural gas deliverabilities." Furthermore, the Commission explained that its objective was to "reassess current policies and programs and to develop a comprehensive long term policy [to dispose of excess gas deliverabilities] prior to May 31, 1981."

The reasons expressed by the Commission in Order No. 30-D for extending the fuel oil displacement gas transportation program still exist. These reasons are essentially the national dependence on foreign oil and the existence of surplus natural gas supplies that can be utilized to displace fuel oil. Therefore, ERA is proposing that the Commission take the necessary action to continue authorization of the transportation of end-use purchases of excess natural gas to displace fuel oil. In order to provide continuity with the Order No. 30 program, ERA is requesting the Commission to extend the "fuel shortage emergency period" (18 CFR Chapter I, Subpart F, Section 284.201(e)) until such time as the Commission takes appropriate action to establish a comprehensive long-term policy to deal with disposal of excess natural gas deliverabilities.

The Nation has had some success in reducing its reliance on imported oil, but not the economic impact of these imports. During the four-week period ending March 14, 1979—the period immediately prior to ERA's initial proposal of a fuel oil displacement transportation rule—gross petroleum imports (crude oil and products) averaged 8.44 million barrels per day or 44 percent of our total average daily petroleum supply of 19.1 million barrels for that period. For the same four-week period in 1981, average daily imports were 6.2 million barrels or 27 percent less than in 1979. Total petroleum supply has decreased about 9 percent to 17.4 million barrels per day.¹

However, imports are still approximately 35 percent of our total

supply. Moreover, although imports of petroleum are lower in volume than a year ago, the economic impact of those imports on our balance of payments and national inflation rate is even greater. In 1979, the total cost of imported oil was about \$57 billion, rising to nearly \$74 billion in 1980.² Furthermore, the world price of internationally traded oil has increased by 143 percent from \$14.55 per barrel in March 1979 to \$35.47 per barrel in March 1981.³ In light of these figures, it is clear that the need to reduce oil imports still exists.

On the other hand, the general picture of gas supply availability is relatively encouraging for the near future, thereby dispelling any concern that continuation of Order 30 type transactions may result in curtailing higher priority users. During 1980, the number of successful oil and gas wells drilled increased by 25 percent over the number of wells drilled during 1979. Almost 30 percent of the reported proved reserves of natural gas in the U.S. is associated or dissolved natural gas in oil reservoirs. The number of successful gas wells drilled during 1980 was over 7 percent higher than during 1979 and was the highest number of successful gas wells ever reported. Even greater drilling activity is predicted for 1981.

Furthermore, the Commission staff report concerning "The Impact of 1980-81 Winter Gas Supply for Twenty-Eight Pipeline Companies" that was issued in September, 1980, reported that the interstate natural gas pipeline companies and their customers estimated that curtailments of natural gas service would not result in any significant industrial or commercial dislocation or shutdown during the 1980-81 winter, even if weather was colder than normal. The report stated that these pipelines transport "approximately 99 percent of the gas handled by interstate pipelines." Monitoring of interstate pipelines by the FERC staff this past winter indicates that, except for a local problem in New England related to peak-shaving supply, none of the monitored pipelines reported any significant storage or curtailment problems.

Surveys of surplus natural gas conducted by ERA over the past two years have indicated the availability of surplus supplies of natural gas for short term sales. The most recent survey conducted during March 1981 of over 230 producers, local distribution

¹Department of Commerce, Bureau of Economic Analysis—Survey of Current Business, March, 1981.

²Energy Information Administration—Weekly Petroleum Status Report, March 14, 1980, and May 1, 1981, "World Crude Oil Prices."

³Energy Information Administration—Weekly Petroleum Status Report, March 21, 1980, and March 20, 1981, "U.S. Petroleum Balance Sheet."

companies, and interstate and intrastate pipelines indicated that at least 437 billion cubic feet of surplus natural gas supplies would be available for sale during the six month period ending in September, 1981. If the Order No. 30 program is terminated, even larger volumes of surplus gas would exist.

ERA has issued 88 certifications and recertifications authorizing the displacement of fuel oil with natural gas purchased by end-users since the beginning of the Order No. 30 program in March, 1979. Through February, 1981, approximately 114 Bcf of natural gas was reported by certified users as displacing approximately 19 million barrels of fuel oil, much of which was very low sulfur residual fuel oil imported into the east coast states. A program for authorizing transportation of gas to displace fuel oil plays a particularly significant role in the Nation's overall oil displacement effort, because it allows large volume users who do not have access to enough gas supplies from their historic suppliers to purchase surplus gas to use in displacing large amounts of fuel oil. In many cases, the oil displacement has had the concurrent benefit of substantially reducing or preventing increases in the fuel bills of customers of these electric utilities participating in the program.

ERA has indications of a continuing desire of end-users to utilize an Order No. 30 type program. For example, on April 13, 1981, ERA granted Consolidated Edison Company of New York, Inc. (Consolidated Edison) a one year recertification (Docket No. 81-CERT-005, 46 FR 22425, April 17, 1981) for the use of 62 billion cubic feet of natural gas to displace approximately 10 million barrels of fuel oil over a one year period ending on April 26, 1982. Consolidated Edison's application states that the savings to the electric rate and steam consumers in Consolidated Edison's service territory since the inception of the fuel oil displacement program have exceeded 124 million dollars, while residual oil prices have doubled. Including the Consolidated Edison volumes, ERA has recently certified the use of approximately 180 billion cubic feet of natural gas which has the estimated potential to displace up to 30 million barrels of fuel oil between June 1, 1981, and the expiration date of the ERA certificates. Unless the transportation of this natural gas continues to be authorized after May 31, 1981, this potential for oil displacement will be lost.

III. Discussion of Proposal

The ERA is not proposing a specific rule to the Commission to authorize

transportation of natural gas to end-users for the displacement of fuel oil. The Commission should have the flexibility to develop the appropriate regulatory structure to incorporate the policy behind the Order No. 30 program into a more comprehensive long term approach to deal with the disposal of surplus natural gas deliverability. The following, however, briefly outlines some of the elements that ERA believes should be included in any such regulatory program.

First, applicants for authorization to use natural gas transported under the program should still be required to certify that the gas will be used to displace fuel oil and not coal. Under the current Order No. 30 program, the Commission's regulations require certifications of "eligible use" from ERA as a prerequisite for granting authorization to transport gas for fuel oil displacement. ERA believes that it would be a simpler and less time consuming process if the Commission made whatever findings are appropriate to determine that fuel oil will be displaced. Eligible use certifications have been issued by ERA, for the most part, solely on the basis of affidavits filed by the applicants. This procedure could be easily adopted by the Commission and incorporated into the administrative procedures developed to authorize the transportation.

Second, in determining how to structure the continuation of an Order No. 30 type program, consideration should be given to the need of interstate pipelines for the short-term supplies of natural gas that are targeted for fuel oil displacement. Direct sales of natural gas for boiler fuel uses, such as those under the Order No. 30 program, are not appropriate if these sales would deprive interstate pipelines of capacity to transport gas for their regular customers. The system supplies of interstate pipelines should be adequately protected by providing that the direct end-user purchases are interruptible and that first priority is given to pipeline system supplies.

Third, to assure the maximum amount of fuel oil displacement, the program should provide for the transportation of gas to displace all types of fuel oil, including middle distillates and both high and low sulfur residual oil.

Fourth, the program should provide interstate pipelines with more incentives for transporting oil displacement gas.

Finally, the authorization for the transportation of the fuel oil displacement gas should be self-implementing or on a "blanket" certification basis in as many

circumstances as possible to expedite action.

Issued in Washington, D.C., May 12, 1981.

Barton R. House,

Acting Administrator, Economic Regulatory Administration.

[FR Doc. 81-14084 Filed 5-18-81; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 31 and 32

[LR-157-80]

Voluntary Withholding From Annuity Payments

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to voluntary withholding of income tax from annuity payments. Changes to the applicable tax law were made by the Tax Reform Act of 1969 and the Act of December 24, 1980 (Pub. L. 96-601). The regulations would provide guidance to payors and payees of annuities with respect to such withholding.

DATES: Written comments and requests for a public hearing must be delivered by July 20, 1981. The amendments to the regulations are proposed to be effective for payments of annuities made after December 31, 1970.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-157-80), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Barry L. Wold of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3459).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed Employment Tax Regulations (26 CFR Part 31) under section 3402(o) of the Internal Revenue Code of 1954. The regulations are proposed to conform the existing regulations to section 805 (g) and (h)(3) of the Tax Reform Act of 1969 (83 Stat. 708, 709) and to the portions relating to annuities of section 4 of the Act of December 24, 1980 (Pub. L. 96-601; 94 Stat. 3495). The proposed regulations when adopted will supersede § 32.1 of the Temporary

Regulations under the Tax Reform Act of 1969 (T.D. 7056). Accordingly, 26 CFR Part 32 will be deleted upon adoption of the proposed regulations. These regulations are proposed to be issued under the authority contained in sections 3402(o) (3) and (4) and 7805 of the Internal Revenue Code (26 U.S.C. 3402(o) (3) and (4), 94 Stat. 3495; 26 U.S.C. 7805, 68A Stat. 917).

General Rule

The proposed regulations would permit a payee of an annuity to request that the payor of the annuity withhold a specific whole dollar amount from each annuity payment. The payor must comply with this request until the payee terminates the request.

Regulatory Flexibility Act

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Drafting Information

The principal author of these proposed regulations is Barry L. Wold of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, on matters of both substance and style.

Proposed Regulations

The proposed amendments to 26 CFR Parts 31 and 32 are as follows:

PART 31—EMPLOYMENT TAXES: APPLICABLE ON AND AFTER JANUARY 1, 1955

Paragraph 1. Section 31.3402(o)-1 (relating to extension of withholding to certain payments other than wages) is amended by revising the caption for the section and for paragraph (a), to read as follows:

§ 31.3402(o)-1 Extension of withholding to supplemental unemployment compensation benefits.

(a) *In general.* * * *

PART 32—TEMPORARY EMPLOYMENT TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1969

§ 32.1 [Redesignated as § 31.3402(o)-1]

Par. 2. Section 32.1 (relating to extension of withholding of income tax at source on wages to annuity payments if requested by payee) is redesignated as § 31.3402(o)-2, and such redesignated section is inserted after § 31.3402(o)-1. Section 31.3402(o)-2 as so redesignated is amended by deleting the word "payer" and inserting the word "payor" in every place where the word "payer" appears, and by revising the caption for the section to read as follows:

§ 31.3402(o)-2 Extension of withholding to annuity payments if requested by payee.

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue,
[FR Doc. 81-14824 Filed 5-18-81; 9:45 am]
BILLING CODE 4830-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H-049A]

Occupational Exposure to Lead; Quantitative Fit Testing Provision

AGENCY: Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

ACTION: Notice of proposed rulemaking on interim rule.

SUMMARY: The Occupational Safety and Health Administration proposes to issue an interim rule permitting the use of specified forms of qualitative fit testing to measure the adequacy of the fit of negative pressure respirators under the occupational health standard regulating exposure to lead. The present standard

requires that quantitative fit testing be performed on all users of negative pressure respirators; however, the Agency will be undertaking a reevaluation and reconsideration of that requirement. The reconsideration has been prompted by new evidence concerning the comparative efficacy of the two types of fit testing, as well as by complaints that quantitative fit testing is unduly burdensome for some employers. The interim rule proposed herein would be in effect until the reconsideration process is completed.

DATES: Comments must be received no later than July 6, 1981.

ADDRESSES: Written comments should be submitted to the OSHA Docket Office, Docket No. H-049A, Room S-8212, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, Telephone 202-523-7894.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Tipton, Room N3718, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210; telephone (202) 523-7174.

SUPPLEMENTARY INFORMATION:

1. Background

On November 14, 1978, the Occupational Safety and Health Administration (OSHA) promulgated a standard regulating occupational exposure to lead (43 FR 52952) pursuant to section 6(b) of the Occupational Safety and Health Act. The standard requires employers to provide employees with respirators where engineering and work practice controls do not reduce employee exposure below the permissible exposure level of 50 $\mu\text{g}/\text{m}^3$ (micrograms of lead per cubic meter of air). Respirators are a primary means of protecting employees under the rule because the engineering controls and work practice requirement is phased in over periods extending up to ten years. In order to help assure that respirators will provide employees with the necessary protection, the standard requires employers periodically to perform quantitative face fit tests (QNFT) on all users of negative pressure respirators. Briefly, a quantitative fit test is a method for numerically measuring any leakage of the seal between the respirator facepiece and the wearer's face. The fit test is used to determine if the respirator assigned to the employee provides the protection factor specified in the rule's respirator selection table. 29 CFR 1910.1025(f)(3)(ii). The Agency chose to require QNFT rather than the alternative means of measuring fit, qualitative fit testing (QLFT), based on its conclusion

that the former is more accurate than the latter, which relies upon the employee's subjective response to pressure, an irritant fume, or a substance with a characteristic odor or taste.

While numerous parties sought pre-enforcement review of the lead standard, none of the petitioners challenged the QNFT provision on the merits.¹ In February 1980, however, the Minnesota Mining and Manufacturing Company (3M) petitioned OSHA to reconsider or modify the provision, and to stay its enforcement pending reconsideration. The Agency denied both requests on May 16, 1980.

For the reasons discussed below, OSHA has now concluded that the QNFT provision should be reconsidered. Accordingly, in a separate document, OSHA will announce its intention to conduct rulemaking pursuant to section 6(b) of the Occupational Safety and Health Act that will include consideration of QNFT and QLFT as part of a general revision of the respiratory protection provisions in § 1910.134. By this notice, OSHA proposes to issue an interim rule permitting employers to use specified forms of QLFT as alternatives to QNFT, pending the section 6(b) rulemaking. The rulemaking on this interim rule will be conducted in accordance with the requirements of sections 6 (b) (7) and 8 (g) of the Act, and Section 4 of the Administrative Procedure Act.

2. Reasons for Reconsidering the QNFT Requirement

Although the expert testimony in the original record amply supported the decision to require QNFT, OSHA has concluded that a fresh look at the issue is warranted in the particular circumstances presented. First, there are several new and conflicting studies on the subject. One of the studies, performed at the Lawrence Livermore Laboratories by Hardis, *et al.*, was submitted by 3M with its petition for reconsideration to support the contention that QLFT is essentially equivalent to QNFT. Another study performed by Dr. Nelson Leidel at Harvard University, concluded that QLFT is less accurate than QNFT in measuring the adequacy of the fit of a respirator. OSHA has concluded that these studies should be subjected to close scrutiny in a public proceeding. This will permit the Agency to resolve, on the basis of the best available

evidence, the question of which type of fit testing should be required under different circumstances. Moreover, additional scientific studies on this issue—either by governmental or private organizations—may well be completed in the near future, and shed additional light on this issue.²

Second, reevaluation of the QNFT requirement is also appropriate because a recent study of the National Cancer Institute suggested that a substance which is used in one type of QNFT instrumentation, di-2-ethyl hexyl phthalate (DEHP), may be a potential carcinogen. Although OSHA's preliminary assessment is that there exist feasible substitutes to DEHP, OSHA has concluded that this issue should be fully aired in a public forum. Moreover, OSHA is concerned that, because the regulation does not preclude the use of DEHP, employers may continue to expose their employees to this substance. Thus, even if it is ultimately determined that QNFT alone should be permitted under some conditions, the question of whether to permit the continued use of DEHP needs to be resolved. The general rulemaking will address this question as well.

3. The Reasons for an Interim Rule

Whatever the ultimate outcome of the planned rulemaking on § 1910.134, including consideration of the merits of QNFT versus QLFT, OSHA has decided that it may be inappropriate to require employers to conduct QNFT pending completion of that rulemaking proceeding. QNFT is more expensive than QLFT because it requires sophisticated equipment and trained operators. The Agency believes that this burden should not be borne by employers unless and until the need for QNFT has been established on the basis of a more complete evidentiary record. Moreover, the Agency believes it is inappropriate to expose employees to the health hazard of DEHP—exposure which the present QNFT standard may inadvertently be encouraging—absent determinations either that (1) the health risk presented by DEHP is minimal, and far outweighed by the benefits of QNFT, or (2) that feasible substitutes to DEHP exist, and that the use of DEHP should not be permitted by the regulation.

Thus, by this notice, the Agency is proposing to permit alternatives to QNFT pending completion of the general section 6(b) rulemaking. However, OSHA believes that the qualitative fit testing which employers may use during

this interim period must meet certain requirements. There are several different types of QLFT, which vary in sensitivity and reliability depending on how the tests are performed. For example, many types of QLFT depend on the user's detection of the odor or taste of substances such as isoamyl acetate or saccharin to determine whether the respirator fits properly. Because each individual's sense of smell or taste has a different threshold, some employees may falsely "pass" the QLFT (*i.e.*, not smell or taste the test agent while wearing the respirator) merely because they have high detection thresholds. For this reason, unless employees are pre-screened to ensure that they can detect the test agent at the tested concentrations, the results of the QLFT cannot be considered reliable. Similarly, if the airborne concentration of the test agent is too low when the respirator wearer is being tested, the wearer may falsely pass the test simply because an insufficient amount of the test agent was present for the wearer to detect it.

Because of these considerations, OSHA proposes to permit the use of QLFT as an alternative to QNFT only if the employer follows strict protocols which are designed to increase the accuracy of these tests. In brief, the Agency believes that an adequate QLFT protocol should contain the following steps: (1) a respirator selection procedure so that a respirator which fits most comfortably is selected (because respirators which fit comfortably are likely to be those which fit best); (2) an odor or taste sensitivity pre-screening (for the reasons discussed above); (3) a procedure to ensure constant generation of an adequate amount of the test atmosphere (for the reasons discussed above); and (4) test exercises, *e.g.* deep breathing, talking (to test whether the respirator still fits during the user's regular activities).

Two protocols which appear to meet these requirements have already been submitted to the Agency. Dupont has submitted a test protocol using isoamyl acetate as the test agent; 3M has submitted a protocol using saccharin as the test agent. These protocols are set forth as appendices to this notice. They may be included in the interim rule, and should be regarded as the primary reference point in submitting comments and data concerning the questions discussed below. Reference may also be made to any other protocol which is believed to provide a reliable indication of the adequacy of fit of respirators.

¹ Several parties alleged the provision was issued without adequate notice. The court of appeals rejected this contention. *United Steelworkers of America v. Marshall*, 1980 OCH OSHD ¶24,717 at p. 3,352 (D.C. Cir. 1980).

² For example, we are informed that Dupont is presently conducting such a study, and that the study will be completed shortly.

4. Public Participation

Interested persons are invited to submit written data, views, and arguments with respect to this proposal. Any hearing requests submitted will be given appropriate consideration. These comments must be submitted, in quadruplicate, to the Docket Officer, Docket H-049A, Room S-6212, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, and must be received in the Docket Office no later than July 6, 1980. The data, views and arguments that are submitted will be available for public inspection and copying at the above address. All timely submissions received will be made a part of the record of this proceeding and will be considered by the Assistant Secretary in making decisions on this proposal. Information previously submitted on fit testing of respirators will be considered by the agency and need not be resubmitted.

Specifically, OSHA invites comments on the following questions concerning the protocols in Appendices I and II, and any other possible protocols:

1. Will the implementation of these protocols for QLFT in lieu of QNFT in the lead industries provide less, more, or the same assurance of employee health protection as QNFT? Provide data and rationale to the extent possible.

2. How likely is it that the use of such QLFT protocols will result in the assignment of an inadequate respirator?

3. Are these improved QLFT protocols sufficiently precise to assure that the protection factors of assigned respirators will be in excess of the cut-off points assumed by the protocols?

4. Will the designed cut-off point assure that the in-use protection factors of assigned respirators are at least 10 for half mask facepieces and at least 100 for full facepiece respirators, as required by the lead standard?

5. Is the validation data now available on each of these improved QLFT protocols sufficient to establish that each protocol reliably distinguishes acceptable from unacceptable respirator fits?

6. Should the interim rule permit other protocols to be used that are deemed equivalent to the method specified in the stay by (a) the employer, (b) OSHA, (c) other specified organizations?

7. In view of the fact that concern has been raised about the use of DEHP in QNFT because of an NCI study that showed DEHP to be a potential carcinogen, is it advisable to employ saccharin in a substitute test method? What is the comparative health hazard posed by these agents? (OSHA will

provide for the record the information on the probable exposure-levels of the two agents).

8. What reasons are there to support the position that QNFT should not, or need not, be used for respirator fit testing under the lead standard?

9. What reasons are there against such a position?

10. One of the major benefits of QNFT is the ability to select the best fitting facepiece. Can the improved QLFT also provide this capability?

11. Should the protocols specify a particular number of models from which employees may choose? If so, how many?

5. Regulatory Impact Analysis; Regulatory Flexibility Analysis

OSHA, in accordance with Executive Order 12291 (46 FR 13193), hereby states that this rulemaking does not constitute a "major rule" since its effect will not meet any of the definitional elements in § 1(b) of the Executive Order.

In particular, the cost of the interim rule is expected to be lower than the present QNFT requirement. Available information indicates the minimum cost of a QNFT system is \$7,000. OSHA recognizes that employers may choose not to purchase a QNFT system, and may use consultants, or rental systems. Since QLFT does not involve the purchase or rental of comparably sophisticated and expensive equipment, QLFT costs will be substantially lower. Specific costs of administering the QLFT protocols described herein are unavailable, but are expected to be relatively low. OSHA also certifies that this proposal does not require a regulatory flexibility analysis under the Regulatory Flexibility Act because, for the reasons stated above, it will not have a significant economic impact on a substantial number of small entities.

(Secs. 9(b) 8(g), Pub. L. 91-596, 84 Stat. 1593, 1600 (29 U.S.C. 655(b), 657(g); 5 U.S.C. 553; Secretary of Labor Order 8-76, 41 FR 25059))

Signed at Washington, D.C. this 14th day of May 1981.

Thorne G. Auchter,
Assistant Secretary of Labor.

Appendix I: Improved Isoamyl Acetate Test

This test protocol has been developed by the DuPont Company. Validation data are now being collected and the DuPont Company still considers the protocol subject to revision, as experience and data indicate. The protocol in summary form is described below. The complete text of the protocol as submitted to OSHA by the DuPont Co. can be obtained from the OSHA Docket Office.

Part I—Introduction

1. This test is designed for use with organic vapor filters.

2. The test depends on the detection of the odor of isoamyl acetate, so-called "banana oil" because of its odor, and also called isopentyl acetate.

3. The test chamber is a plastic enclosure about 24 inches in diameter that covers the head and upper body of the test subject. A clear 55 gallon drum liner suspended upside down on a suitable frame is adequate.

4. The test atmosphere is generated by evaporation of isoamyl acetate from a 4 in. by 5 in. piece of porous absorbent paper folded in half, wetted with one-half milliliter of isoamyl acetate, and hung inside the test chamber at the beginning of the test. The concentration will be approximately 150 ppm.

5. The test is performed on persons who have selected the most comfortable model from an array of several models of respirators. (DuPont used seven in evaluating the protocol.)

6. The test chamber should be in a well ventilated room separate from the room where the facepiece selection and sensitivity check are performed in order to avoid olfactory fatigue.

Part II—Respirator Selection Procedure

7. The user is first instructed in how to put a respirator on, how it should be positioned on the face, how to set strap tension and how to assess a "comfortable" respirator. A mirror should be available to assist the user in evaluating fit and positioning of the respirator.

8. The following points concerning assessment of comfort will be reviewed with the user:

- chin properly placed
- positioning of mask on nose
- strap tension
- fit across nose bridge
- compatibility with safety glasses and other required safety equipment
- distance from nose to chin
- room to talk
- tendency to slip
- cheeks filled out
- self observation in mirror
- adequate time for assessment.

9. The subject should understand that he is being asked to select the respirator which provides the most comfortable fit for him and that each model is slightly different in size and shape but will provide adequate protection if fitted properly.

10. The subject first holds each facepiece up to his face and eliminates those obviously not giving a comfortable fit.

11. The more comfortable facepieces are noted; the most comfortable model is donned and worn long enough to assess comfort. If the subject is not familiar with wearing a respirator, he should don the mask several times, adjusting the straps each time, to gain proficiency in adjusting strap tension.

12. The subject should also wear other required safety equipment to assess the compatibility.

13. The subject should perform a positive or negative pressure test after "Seating" the facepiece by rapidly moving the head side to side and up and down, taking a few deep breaths.

Part III—Odor Sensitivity Check

14. A stock solution of 1 milliliter of isoamyl acetate in 800 milliliter of odor free water is made up weekly.

15. A person is adequately sensitive to the odor of isoamyl acetate if he can correctly distinguish between two jars, one of which is a blank (i.e. 500 milliliters odor free water) and the other of which contains a solution of 0.5 milliliter of stock solution in 500 milliliters of water. Fresh jars are made up daily.

Part IV—Fit Check

16. The test subject (person taking the test) enters the test chamber and hangs the isoamyl acetate wetted paper on a hook in the top of the chamber.

17. Wait two minutes for the test agent concentration to build up. During this time explain the test and the exercises and demonstrate how to perform the exercises.

18. The test subject performs each of the test exercises for 30 seconds (see Part V).

19. The test is terminated if the odor of isoamyl acetate is detected at any time during the test because this indicates an inadequate fit.

20. The respirator fit is deemed adequate if the odor of isoamyl acetate is not detected at any time during the test.

21. If the test is not passed satisfactorily the entire test sequence is repeated with another facepiece. If the odor sensitivity check is failed, wait 5 minutes and recheck.

22. When the test subject leaves the test chamber, he should remove the wetted paper and put it in a closed container.

Part V—Test Exercises

Each exercise is performed for 30 seconds.

1. Normal breathing.
2. Deep breathing. Be certain breaths are deep and regular.

3. Turning head from side to side. Be certain movement is complete, with one turn about every second. Watch for bumping of the respirator on the shoulders.

4. Nodding head up and down. Be certain motions are complete and made about every second. Watch for bumping of the respirator on the chest.

5. Talking. Read a paragraph that incorporates the full range of speech sounds, such as the so-called "rainbow passage" of the speech therapists. Be certain the paragraph is read aloud and slowly.

6. Normal breathing.

Appendix II: Saccharin Test

This test protocol has been developed by the 3M Co. Validation data are now being collected and the 3M Co. still considers the protocol subject to revision, as experience and data indicate. The protocol in summary form is described below. The complete text of the protocol as submitted to OSHA by 3M Co. can be obtained from the OSHA Docket Office.

Part I—Introduction

1. This test is designed for use with particulate filters.

2. The test depends on the taste sensation of orally inhaled saccharin aerosol.

3. The test aerosol is produced by a hand operated medication nebulizer, such as DeVilbiss model 40 or equivalent. The size of the aerosol particles is approximately 2 microns.

4. The test agent is an aerosol of sodium saccharin in drinking water.

5. The test is performed on persons who have selected the most comfortable model from an array of several different models of respirators.

6. The test subject (person being fit tested) may not eat, drink, or chew gum for 15 minutes before the test.

7. The test is performed with the test subject wearing a hood-like enclosure approximately nineteen inches on a side that fits over the head and shoulders, or any other small enclosure that permits the head and neck movements required. The enclosure must have a $\frac{1}{4}$ " hole located in front of the test subject's mouth and nose to accommodate the nebulizer nozzle.

Part II—Respirator Selection Procedure

8. See Appendix I, Part II, above.

Part III—Taste Sensitivity Check

9. The test subject dons the test enclosure without a respirator.

10. The test subject breathes through his mouth.

11. The sensitivity check aerosol is of a solution of 0.83 grams of sodium saccharin in 100 milliliters of drinking water.

12. With the enclosure wall about 6 inches in front of the test subject's face, the sensitivity check aerosol is injected into the enclosure with 10, 20 or 30 squeezes of the nebulizer bulb.

13. The nebulizer bulb must be collapsed fully and allowed to fully expand on each squeeze.

14. After each set of squeezes the test subject is asked if he can detect the taste of saccharin.

15. The required number of squeezes to elicit a taste response is noted.

16. If 30 squeezes is inadequate, another test or type of respirator must be used.

17. The test subject removes the test enclosure, dons the respirator, and dons the test enclosure again.

Part IV—Fit Check

18. The test subject again breathes through his mouth.

19. The test atmosphere is an aerosol of a solution of 83 grams of sodium saccharin in 100 milliliters of drinking water.

20. With the wall of the enclosure about 6 inches in front of the test subject's face, the test aerosol is injected from a second nebulizer using the same number of squeezes as required in the sensitivity check. One-half this number of squeezes is repeated each 30 seconds.

21. After the initial aerosol is injected, the test subject performs the test exercises (see Part V) for 30 seconds each.

22. The test is terminated at any time the taste of saccharin is detected by the test subject, because this indicates an inadequate fit.

23. If the entire test is completed without the test subject detecting the taste of saccharin, the test is successful and the respirator fit is deemed adequate.

Part V—Test Exercises

24. See Appendix I, Part V, above.

[FR Doc. 81-14983 Filed 5-15-81; 10:13 am]
BILLING CODE 4510-26-M

VETERANS ADMINISTRATION

38 CFR Parts 6 and 8

United States Government Life Insurance and National Service Life Insurance; Interest Rates and Dividends

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: The Veterans Administration proposes new sections to allow higher interest rates to be paid to beneficiaries of United States Government Life Insurance (USGLI) and National Service Life Insurance (NSLI) where the proceeds are paid in equal monthly installments over a limited period of months. An amendment is also proposed to authorize the payment of dividends for Veterans Reopened Insurance. These proposed regulations are necessary to make the regulations conform to new legislation.

DATES: Comments must be received on or before June 18, 1981. It is proposed to make the amendments effective November 28, 1979.

ADDRESSES: Comments may be mailed to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Comments will be available for inspection at the address shown above during normal business hours until June 29, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Robert W. Carey, Assistant Director for Insurance, Veterans Administration Regional Office and Insurance Center, P.O. Box 8079, Philadelphia, PA 19101, (251-951-5260).

SUPPLEMENTARY INFORMATION: Proposed §§ 6.69c and 8.82 will allow a higher rate of interest to be paid to a beneficiary of United States Government Life Insurance and of National Service Life Insurance who receives the proceeds of such policy in equal monthly installments over a limited period of months. The higher rate will be paid on the unpaid balance of such monthly installments. The rates will be established by the Administrator of Veterans Affairs based upon what the Administrator determines to be administratively and actuarially sound for the program of insurance concerned. This change is authorized by sections 726 and 761, title 38, United States Code as added by Pub. L. 96-128.

Under present regulations affecting the payment of dividends for National Service Life Insurance, dividends are not payable for insurance issued under section 725 of title 38, United States Code. Policies under this insurance, commonly referred to as Veterans' Reopened Insurance, have the prefixes J, JR and JS. The proposed amendment to § 8.26(a) which implements Pub. L. 96-128 would authorize dividend payments.

The Agency has determined that this proposed regulation is non-major in accordance with the requirements of

Executive Order 12291, Federal Regulation. It has also been determined as required by the Regulatory Flexibility Act (Pub. L. 96-354) that it poses no compliance costs or reporting burdens upon the public and has no effect on businesses or State and local governments.

Additional Comment Information

Interested persons are invited to submit written comments, suggestions or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays) until June 29, 1981. Any person visiting Veterans Administration Central Office in Washington, D.C. for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: April 10, 1981.

Rufus H. Wilson,
Acting Administrator.

The Veterans Administration proposes to amend 38 CFR Parts 6 and 8 as set forth below:

PART 6—UNITED STATES GOVERNMENT LIFE INSURANCE**§ 6.58 [Amended]**

1. Section 6.58 is amended by adding the words "or her" after the words "his" and "him" in the first sentence.

§ 6.60 [Amended]

2. Section 6.60 is amended by adding the words "or her" after the word "his" in the third sentence.

§ 6.62 [Amended]

3. Section 6.62 is amended by removing the word "his" and adding the words "such person's" in the first sentence and adding the citation "(38 U.S.C. 718)" at the end of paragraph (a).

4. Section 6.69c is added as follows:

§ 6.69c Higher interest rates for amounts payable to beneficiaries.

Notwithstanding section 744, title 38, United States Code, where the beneficiary of an insurance policy issued in accordance with the provisions of subchapter II, chapter 19, title 38, United States Code receives the proceeds of such policy under a

settlement option under which such proceeds are paid in equal monthly installments over a limited period of months, the interest that may be added to each such installment may be at a rate that is higher than the interest rate prescribed in section 744 and that is established by the Administrator as, from time to time, the Administrator determines to be administratively and actuarially sound for the program of insured concerned. Such higher rates will be paid on the unpaid balance of such monthly installments. (38 U.S.C. 761)

§ 6.70 [Amended]

5. Section 6.70 is amended by adding the words "or her" after the word "his".

PART 8—NATIONAL SERVICE LIFE INSURANCE

6. In Part 8, § 8.26(a)(3) is revised as follows:

§ 8.26 How paid.

(a) Except as hereinafter provided in this paragraph, a National Service Life Insurance policy shall participate in and receive such dividends from gains and savings as may be determined by the Administrator of Veterans Affairs. Dividends becoming payable after January 1, 1952, shall be payable on the date preceding the anniversary of the policy unless the Administrator shall declare them payable on some other date. Dividends are not payable on insurance:

(3) Issued under sections 704(c), 722(a) and 723(b) of title 38, United States Code; (38 U.S.C. 725)

7. Section 8.82 is added as follows:

§ 8.82 Higher interest rates for amounts payable to beneficiaries.

Notwithstanding sections 702, 723 and 725 of title 38, United States Code, if the beneficiary of an insurance policy receives the proceeds of such policy under a settlement option under which such proceeds are paid in equal monthly installments over a limited period of months, the interest that may be added to each such installment may be at a rate that is higher than the interest rate prescribed in the appropriate section of subchapter I of chapter 19 of title 38, United States Code. The Administrator may from time to time establish a higher interest rate under the preceding sentence only in accordance with a determination that such higher rate is administratively and actuarially sound for the program of insurance concerned. Any such higher interest rate shall be

paid on the unpaid balance of such monthly installments. (38 U.S.C. 726)

[FR Doc. 81-14925 Filed 5-18-81; 8:45 am]
BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SWH-FRL-1830-5]

Hazardous Waste and Hazardous Waste Management; Availability of Information

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of information and request for comments.

SUMMARY: The Environmental Protection Agency recently conducted a waste characterization study of the emissions control dusts from gray and ductile iron foundries, in order to determine if these wastes should be listed as hazardous under the Resource Conservation and Recovery Act of 1976. A report describing this study has been prepared and the purpose of this notice is to make the public aware of this report and to solicit comments on the meaning and significance of the data.

DATE: Comments on this report are due no later than July 20, 1981.

ADDRESS: Comments should be directed to David Friedman, Manager, Waste Analysis Program, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460.

Copies of the report described in this notice are available for reading at the EPA Public Information Reference Unit (Room 2404) and the Subtitle C Docket Room (Room 2711) both located at 401 M Street, S.W., Washington, D.C. and at all EPA Regional Office Libraries during the hours of 9:00 a.m. to 4:30 p.m., Monday through Friday. A limited number of copies are available for free distribution. If the available copies run out, the Agency may have to charge \$0.20 per page for photocopying. Copies may be obtained by writing or calling Mr. Ed Cox, Solid Waste Information, U.S. Environmental Protection Agency, 26 West St. Clair Street, Cincinnati, OH 45268, (513) 684-5362.

SUPPLEMENTARY INFORMATION: Emission control dusts from gray and ductile iron foundry furnaces are generated when the heavy contaminants, coke dust, ash, etc., found in the raw material or generated during the manufacturing process, are entrained in the furnace

fumes. The particles are entrapped in air pollution control devices and the collected material disposed of. After evaluating the information available, the Agency tentatively determined that the dusts were hazardous wastes within the meaning of the RCRA. The Agency thus proposed on July 16, 1980 to list such material as hazardous waste.

In response to comments received and in acknowledgement of the impact of such a listing, EPA decided to postpone final action on this waste and to gather further information on these emissions control dusts, in order to determine if, in fact, the waste should not be listed. Thus, on January 16, 1981, the Agency deferred final action on listing these wastes pending the outcome of a joint EPA and American Foundrymen's Society characterization study of these wastes.

A report describing this study entitled *Sampling and Analysis of Wastes Generated by Gray Iron Foundries* has been prepared and is now available for public review and comment.

Dated: May 12, 1981.

James N. Smith,

Acting Assistant Administrator for Water and Waste Management.

[FR Doc. 81-14949 Filed 5-18-81; 8:45 am]
BILLING CODE 6560-30-M

Notices

Federal Register

Vol. 46, No. 96

Tuesday, May 19, 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

Rural Electrification Administration, Cooperative Power Association and United Power Association; Finding of No Significant Impact

Notice is hereby given that the Rural Electrification Administration (REA) has made a Finding of No Significant Impact in connection with proposed financing assistance to Cooperative Power Association and United Power Association (CU) headquartered in Minneapolis and Elk River, Minnesota, respectively.

The proposed financing assistance will be used by CU to complete construction of the Coal Creek Generating Station, Unit Nos. 1 and 2 (Project).

Construction of Unit No. 1 is complete and was put into commercial operation on August 1, 1979. Construction of Unit No. 2 is expected to be ready for commercial operation by July 1981.

In July of 1974, REA issued a Final Environmental Impact Statement (FEIS) On the Coal Creek Generating plant that considered a lesser generating capacity than that which was constructed. The larger generating capacity required modifications to be made to the boilers and stack design. Other changes were made to accommodate the environment.

The CU prepared a Borrower's Environment Report (BER) on the design change. The REA prepared an Environmental Assessment (EA) on the changes. After an independent evaluation of the BER and the EA, REA concluded that the design changes have not had and will not have a significant impact on the quality of the human environment and prepared a "Finding of No Significant Impact" (FONSI). This FONSI, REA's EA and CU's BER may be reviewed in the office of the Director, Power Supply Division, Rural Electrification Administration, Room 5168, South Agriculture Building,

Washington, D.C., 20250, and at the offices of the cooperatives, Cooperative Power Association, 3316 West 66th Street, Minneapolis, Minnesota, 55435, and United Power Association, Elk River, Minnesota, 55330.

This Program is listed in the catalog of the Federal Domestic Assistance 10.850 Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 13th day of May, 1981.

Joe S. Zoller,

Acting Administrator, Rural Electrification Administration.

[FR Doc. 81-14952 Filed 5-18-81; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 5-81]

Foreign-Trade Zone No. 22, Chicago; Application for Special-Purpose Subzone

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the Chicago Regional Port District (Port District), grantee of Foreign-Trade Zone No. 22, requesting authority to establish a special-purpose subzone at a steel plant in Chicago, Illinois, within the Chicago Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on May 11, 1981.

The Chicago zone was authorized by the Board on October 29, 1975 (Board Order 108). The Port District, created as a municipal corporation to promote commerce through Chicago's ports, has authority to make zone and subzone proposals under Illinois Law (Act of June 6, 1951, Sec. 8.01).

The application calls for the establishment of a 46-acre subzone at the steel tube manufacturing facility of the Unarco-Leavitt Division, Unarco Industries, Inc. The facility, located at 1717 West 115th Street, Chicago, currently consists of a 500,000 square foot manufacturing plant on a 19.1-acre parcel owned by Unarco. The company has leased an adjacent 26.5-acre parcel from Holco Corporation, a subsidiary of

Estel, N.V., a Dutch Steel Company, which is constructing a 240,000 square foot building on the site for Unarco-Leavitt operations. A Dutch subsidiary of Estel will supply at least 60 percent of the new facility's steel sheet requirements. Both parcels will be included in the proposed subzone.

The facility currently produces electric-welded steel tubing from carbon steel sheet and plate. The tubing consists of both mechanical and structural shapes and sizes up to 5 inches in width, or outer diameter, and up to .25 inches in the thickness. It is used in the manufacture of scaffolding, railings, agricultural machinery, automobiles, industrial boilers and condensers. The new 26.5-acre section of the plant will produce large, electric-welded structural steel tubing with diameters or widths ranging from 5 to 10 inches and thicknesses from .188 to .5 inches. The larger shapes are used in the production of farm and off-the-road equipment and in the construction of low and medium rise buildings. Plant capacity will be increased from the current 300,000 tons to 500,000 tons per year, and employment from 500 to 700 workers.

The applicant indicates that U.S. import duties are about \$22 a ton less for steel tubing than for steel sheet and plate, based on an average sheet and plate price of \$320 a ton. Subzone status would remove the cost disadvantage resulting from the inverted tariff and help Unarco-Leavitt compete in the domestic market with tubing imported directly from abroad at the lower rate, which in 1979 accounted for about one-third of U.S. consumption. In addition, the application indicates that there will be public economic benefits ranging from increased investment, business activity and employment in Chicago's depressed South-side area to positive effects on the U.S. balance of trade.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Ben L. Irvin, Deputy Director, Office of Compliance, Import Administration, U.S. Department of Commerce, Washington, D.C. 20230; Peter F. Gonzalez, Chicago District Director, U.S. Customs Service, Region IX, 610 South Canal Street, Chicago, Illinois 60607; and Lt. Colonel Christas A. Dovas, District Engineer, U.S. Army

Engineer District Chicago, 219 South Dearborn Street, Chicago, Illinois 60604.

As part of its investigation, the Examiners Committee will hold a public hearing on June 18, 1981, beginning at 9:00 a.m., in the Board Room of the Chicago Regional Port District Offices, 12800 Butler Drive, Chicago. The purpose of the hearing is to help inform interested persons about the proposal, to provide an opportunity for their expression of views, and to obtain information useful to the examiners.

Interested parties are invited to present their views at the hearing. They should notify the Board's Executive Secretary of their desire to be heard in writing at the address below or by phone (202/377-2862) by June 10, 1981. Instead of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary, at any time from the date of this notice through July 18, 1981. Evidence submitted during the post-hearing period is not desired unless it is clearly shown that the matter is new and material and that there are good reasons why it could not be presented at the hearing. A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

International Trade Administration
District Office, U.S. Department of
Commerce, 1406 Mid Continental
Plaza Building, 55 East Monroe Street,
Chicago, Illinois 60603;

Office of the Executive Secretary,
Foreign-Trade Zones Board, U.S.
Department of Commerce, Room 2006,
14th and E Street NW., Washington,
D.C. 20230.

Dated: May 11, 1981.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 81-14674 Filed 5-19-81; 6:45 am]

BILLING CODE 3510-25-M

COMMODITY FUTURES TRADING COMMISSION

Proposed Amendments of the Delivery Differentials Under the Chicago Board of Trade's Soybean Meal Futures Contract

AGENCY: Commodity Futures Trading
Commission.

ACTION: Notice of proposed contract
market rule amendment.

SUMMARY: The Chicago Board of Trade
("CBT") has submitted amendments
pertaining to its Soybean meal futures
contract to amend existing fixed

locational rates and to delete the
variable freight rate component used in
determining delivery differentials. The
amendments were proposed in response
both to anticipated effects of railroad
deregulation and the current problems
arising from frequent freight rate
revisions, which have led to changes in
delivery differentials and subsequent
alteration in the value of shipping
certificates. Therefore, the Commodity
Futures Trading Commission
("Commission") has determined that the
amendments are of major economic
significance and that, accordingly,
publication of the proposed amendments
is in the public interest, will assist the
Commission in considering the views of
interested persons, and is consistent
with the purposes of the Commodity
Exchange Act.

DATE: Comments must be received on or
before June 18, 1981.

ADDRESS: Interested persons should
submit their views and comments to
Jane K. Stuckey, Secretary, Commodity
Futures Trading Commission, 2033 K
Street NW., Washington, D.C. 20581.
Reference should be made to CBT
Soybean Meal Delivery Differentials.

FOR FURTHER INFORMATION CONTACT:
Muriel A. Caplan, Esq., Division of
Trading and Markets, Commodity
Futures Trading Commission, 2033 K
Street NW., Washington, D.C. 20581,
(202) 254-8955; or Blake Imel, Division of
Economics and Education, Commodity
Futures Trading Commission, 2033 K
Street NW., Washington, D.C., (202) 254-
3201.

SUPPLEMENTARY INFORMATION: The
Commodity Futures Trading
Commission, in accordance with section
5a(12) of the Commodity Exchange Act,
("Act"), 7 U.S.C. § 7a(12) (Supp. III 1979),
has determined that proposed
amendments to the Chicago Board of
Trade's ("CBT") regulation 1241.01 (a)-
(g) and deletion of subsection (h) of that
regulation, which concern delivery
differentials under the CBT'S Soybean
Meal futures contract, are of major
economic significance. The CBT intends
for the proposed revisions, if approved,
to apply only to new contract months
listed after Commission approval. The
text of CBT's proposed amendments is
printed below, using italics to indicate
additions and brackets to indicate
deletions:

Amend Regulation 1241.01. Shipping
Plants—Soybean Meal Shipping
Certificates shall specify shipment from
one of the plants currently regular for
delivery and located in Central
Territory, Northeast Territory, Mid
South Territory, Missouri Territory,

Eastern Iowa Territory or Northern
Territory as defined in this Regulation.

The Board may declare additional
shipping plants regular for delivery
which shall apply on all contracts
outstanding or made thereafter.

Shipping Plants

(a) All loadings of soybean meal
against Soybean Meal Shipping
Certificates shall be in bulk free on
board railroad cars at shipping plants.

(b) Payment for Shipping Certificates
issued in "Central Territory" (viz.:
shipping plants located in Illinois and
Kentucky) will be at contract price.

(c) Payment for Shipping Certificates
issued in "Northeast Territory" (viz.:
shipping plants located in Indiana and
Ohio) will be at a premium of \$3.50
[\$2.00] per ton over contract price.

(d) Payment of Shipping Certificates
issued in "Mid South Territory" (viz.:
shipping plants located in all of
Tennessee and Arkansas and that part
of Mississippi and Alabama north of a
line extending eastward from the
Arkansas-Louisiana border) will be at a
premium of \$4.50 [\$1.00] per ton over
contract price.

(e) Payment for Shipping Certificates
issued in "Missouri Territory" (viz.:
shipping plants located in Missouri) will
be at a discount of \$2.50 [\$2.00] per ton
under contract price.

(f) Payment for Shipping Certificates
issued in "Eastern Iowa Territory" (viz.:
shipping plants located in Iowa on and
South of the main line of the Illinois
Central Gulf RR from Dubuque, Iowa to
Iowa Falls, Iowa; and on and East of the
main line of the Chicago Rock Island RR
from Iowa Falls to Chicago,
Northwestern RR from Des Moines
through Blockton, Iowa) will be made at
a discount of \$7.00 [\$3.00] under contract
price.

(g) Payment for Shipping Certificates
issued in "Northern Territory" (viz.:
shipping plants located in that portion of
Iowa not included in "Eastern Iowa
Territory") will be made at a discount of
\$9.00 [\$6.00] per ton under contract
price.

(h) When deliver is made at a point
other than Decatur, Illinois, the Seller
shall make an additional adjustment to
the Buyer by increasing or decreasing
the amount due on delivery notice by
the difference between the current 2000
ton trainload export rate or the single
car export rate, whichever is cheapest
from the delivery point to the basing
point, and the current 2000 ton trainload
export rate or the single car export rate,
whichever is cheapest from Decatur,
Illinois to the basing point as compared
to that differential that existed at the

time this Regulation went into effect. In the event that the 2000 ton trainload rate does not exist, the lowest multiple car export rate for a single shipment shall be used to make the additional adjustment. The basing point for plants located in Central, Mid South, Missouri, Eastern Iowa and Northern Territory shall be New Orleans, Louisiana and for plants located in Northeast Territory the basing point will be Baltimore, Maryland.

The Transportation Department of the Chicago Board of Trade will post on the Trading Floor the appropriate date to make the required adjustments as directed by the Soybean Meal Committee.] 2071

Other materials submitted by the CBT in support of its rule amendments may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145, as amended at 45 FR 26953-4 (April 22, 1980)), except to the extent they may be entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance staff of the Office of the Secretariat at the Commission's headquarters, in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed amendments, or with respect to other materials submitted by the CBT in support of its submission, should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, by June 18, 1981. Such comment letters will be publicly available except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C., on May 13, 1981.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 81-14910 Filed 5-18-81; 8:45 am]

BILLING CODE 6351-01-M

Proposed New Rules Relating to Minimum Capital Requirements for Clearing Members, the Guaranty Fund, Position Limits and Assessments of the CSC Clearing Corporation

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule proposals.

SUMMARY: The CSC Clearing Corporation is a recently organized corporation formed to take over the clearing functions now performed by the New York Coffee and Sugar Clearing Association and the New York Cocoa Clearing Association, thereby completing the merger of the Coffee, Sugar & Cocoa Exchange, Inc. As part of its new organization, CSC Clearing has proposed rules relating to minimum capital requirements for CSC Clearing members, the guaranty fund, position limits and assessments. The Commodity Futures Trading Commission ("Commission") has determined that those proposed rules are of major economic significance and that, accordingly, their publication is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before July 20, 1981.

ADDRESS: Interested persons should submit their views and comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Reference should be made to CSC Clearing Financial Protection Rules.

FOR FURTHER INFORMATION CONTACT: Muriel A. Caplan, Esq., Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, (202) 254-8955.

SUPPLEMENTARY INFORMATION: The CSC Clearing Corporation ("Corporation") has been formed to take over the clearing functions now performed by the New York Cocoa Clearing Association and the New York Coffee and Sugar Clearing Association, and thereby to complete the merger of the Coffee, Sugar & Cocoa Exchange, Inc. In this connection, a new rule book governing the CSC Corporation has been drafted and submitted to the Commission for its approval pursuant to section 5a(12) of the Commodity Exchange Act, ("Act") 7 U.S.C. 7a(12) (Supp. III 1979). The Corporation, in adopting its new rules, has revised many of the current rules and operating procedures now in effect on the New York Cocoa Clearing Association and the New York Coffee and Sugar Clearing Association.

Upon its initial review of the new rulebook, the Commodity Futures Trading Commission, in accordance with section 5a(12) of the Commodity Exchange Act, ("Act"), 7 U.S.C. 7a(12) (Supp. III 1979), has determined that certain of the Corporation's proposed new "Financial Protection Rules,"

specifically rules 213, 215, 216 and 302, are of major economic significance. These new rule proposals relate to minimum capital requirements for clearing members, the guaranty fund, position limits and assessments against members.

The Corporation proposes to require that a clearing member have and maintain a minimum working capital of \$1,000,000. The proposed rule would provide two ways for a clearing member to compute working capital, depending upon whether such member is, or is not a futures commission merchant ("FCM"). The Corporation also proposes to revise those rules currently imposed by the two separate Clearing Associations concerning clearing member position limits. Those proposed rules would set maximum position limits restricting the size of both net positions and offset positions which any clearing member could carry in all commodities and all delivery months combined and in any one commodity and in any one delivery month. These "basic" position limits would be set by the Board for each clearing member based on, among other factors, the Board's evaluation of the financial and operational capacity of each clearing member. Additionally, these "basic" position limits may not exceed a proposed schedule of maximum or "ceiling" limits, which levels would be based on a clearing member's working capital. Moreover, the Corporation is setting forth new rules pertaining to position limits for related organizations. In addition, the Corporation proposes to increase the deposits to the guaranty fund required of clearing members, such deposits to be equal to the lesser of (1) ten percent of a clearing member's working capital or (2) \$500,000, plus any additional amount the Board may from time to time prescribe. Finally, the Corporation proposes to compute assessments against clearing members according to a formula revised from that currently in effect and, further, to limit the amount assessed against clearing members in the event of a default.

The Corporation's proposed rules 213, 215, 216 and 302 are printed below:

Minimum Working Capital

Rule 213 (a) Each clearing member shall have and maintain minimum Working Capital of \$1,000,000.

(b) The term "Working Capital" shall mean:

(i) In the case of any clearing member which is a futures commission merchant, "adjusted net capital" computed in accordance with Commission regulation 1.17; and

(ii) In the case of any other clearing member, "adjusted net capital" as defined above or, at the election of the clearing member, the amount by which current assets exceed current liabilities, computed in accordance with generally accepted accounting principles.

Position Limits

Rule 215 (a) No clearing member may have a Total Combined Net Interest in excess of 21,000 contracts.

(b) No clearing member may have a Total Combined Offset Position in excess of 25,000 contracts.

(c) No clearing member may have an Aggregate Net Interest in excess of: 10,000 contracts, in the case of sugar futures contracts; 4,000 contracts, in the case of coffee futures contracts; and 7,000 contracts, in the case of cocoa futures contracts.

(d) No clearing member may have an Offset Position in excess of: 10,000 contracts, in the case of sugar futures contracts; 6,000 contracts, in the case of coffee futures contracts; and 9,000 contracts, in the case of cocoa futures contracts.

(e) No clearing member may have a Net Interest in any one delivery month in excess of: 4,000 contracts, in the case of sugar futures contracts; 1,500 contracts, in the case of coffee futures contracts; or 3,000 contracts, in the case of cocoa futures contracts.

(f) No clearing member may have a Total Combined Net Interest or Total Combined Offset Position in excess of the basic position limit established for such clearing member from time to time by the Board, except as provided in paragraph (g) of this Rule.

(i) Subject to paragraph (f)(ii) below, the basic position limit established for any clearing member shall be based on the Board's evaluation of the financial and operational capacity of such clearing member and such other factors as the Board, in its discretion, considers appropriate, including, but not limited to, (A) the business needs and financial condition of the clearing member, (B) the number of memberships on other clearing organizations held by the clearing member and the average number of contracts cleared through other clearing organizations each day by the clearing member, (C) the extent to which the clearing member trades and clears for either customer accounts, proprietary accounts, or both, (D) the length of time the clearing member has held a membership with the Clearing Corporation, (E) the total open positions of the clearing member regularly maintained with the Clearing Corporation and any other commodity clearing organizations, and (F) such

other factors as the Board, in its discretion, considers appropriate.

(ii) The basic position limit established for any clearing member shall not exceed the maximum Total Combined Net Interest or Total Combined Offset Position set forth in the chart below opposite the line showing the range including such member's Working Capital:

Position Limits		
Working capital	Total combined net interest ¹	Total combined offset position ¹
\$25,000,001 and over	21,000	25,000
20,000,001 to 25,000,000	14,000	18,000
15,000,001 to 20,000,000	12,500	15,000
10,000,001 to 15,000,000	11,500	13,000
9,000,001 to 10,000,000	10,000	10,000
8,000,001 to 9,000,000	9,000	9,000
7,000,001 to 8,000,000	8,000	8,000
6,000,001 to 7,000,000	7,000	7,000
5,000,001 to 6,000,000	6,000	6,000
4,000,001 to 5,000,000	5,000	5,000
3,000,001 to 4,000,000	4,000	4,000
2,000,001 to 3,000,000	3,000	3,000
1,000,001 to 2,000,000	2,000	2,000

¹ Subject to the limitation in these Rules on the number of contracts that may be held in any one commodity or any one delivery month of a futures contract.

For purposes of this paragraph (f), the Board, in its discretion, may treat as Working Capital an irrevocable letter of credit payable to the order of the Clearing Corporation, in a form and from a bank acceptable to the Clearing Corporation, and having an expiration date specified by the Clearing Corporation, subject to such other limitations on the use of such letters of credit as the Board, in its discretion, may establish in any particular case.

(iii) Any clearing member whose basic position limit is set at a level less than the maximum Total Combined Net Interest or Offset Position set forth in the chart above opposite the line showing the range including such member's working capital may file a written request with the Board for an increase of such limits, supporting such request with such evidence as the clearing member may desire. Thereupon, the Board of Directors, with or without a hearing as it may consider proper, shall take such action thereon as it may deem appropriate.

(g) Subject to the maximum position limits prescribed in paragraphs (a) through (e) of this Rule, a clearing member may exceed his basic position limit established pursuant to paragraph (f) of this Rule and have an expanded position limit up to, but not in excess of, the maximum Total Combined Net Interest or Total Combined Offset Position one level above such clearing member's basic position limit, as shown in the chart in paragraph (f) of this Rule, if such clearing member deposits with

the Clearing Corporation (in addition to all other deposits for margins, fees and other charges which may be required) a position deposit for each Net Interest or Offset Position in excess of such clearing member's basic position limit, as follows:

(i) Such position deposit shall be an amount equal to 50 percent of the original margin required for each contract in excess of the position limit (at the highest margin rate prescribed from time to time by the Clearing Corporation for any commodity futures contract carried by such clearing member).

(ii) Such position deposits may be made in cash or such other form as may be approved by the Board for deposits of original margin pursuant to Rule 404.

(iii) Such position deposits shall be deposited in a margin account.

(iv) Such position deposits shall be returned to the clearing member, upon request, when such clearing member no longer carries futures contracts in excess of its basic position limit or, subject to Rule 302, when such clearing member ceases to be a clearing member (whether as a result of voluntary withdrawal or expulsion). The Board may at any time limit the right of any or all clearing members to exceed their basic position limits by making position deposits under this Rule.

(h) For purposes of this Rule:

(i) A clearing member's Total Combined Net Interest shall be determined by computing the number of futures contracts constituting such member's Aggregate Net Interest in any commodity (whether long or short) and then adding such number of futures contracts to the number of futures contracts constituting the member's Aggregate Net Interest in every other commodity.

(ii) The Aggregate Net Interest of a clearing member in any commodity shall be the difference between the Total Net Interest for the proprietary account of such clearing member and the Total Net Interest for the customer account of such clearing member in such commodity: *Provided, however,* That if the Total Net Interest for the proprietary account and the Total Net Interest for the customer account are both either net long or net short, the Total Net Interest shall be computed by adding the the Total Net Interest for the proprietary account to the Total Net Interest for the customer account.

(iii) The Total Net Interest for the proprietary account of a clearing member shall be computed by combining the Net Interest in each

delivery month of a futures contract carried for the proprietary account, setting off long Net Interest against short Net Interests. The Total Net Interest for the customer account shall be computed by combining the Net Interest in each delivery month of a futures contract carried for the customer account, setting off long Net Interests against short Net Interests.

(iv) The Net Interest in any delivery month of a futures contract carried for the proprietary or the customer account of a clearing member shall be the difference between the total number of long futures contracts and the total number of short futures contracts for each such delivery month carried in such account by the clearing member.

(i) For purposes of this Rule:

(i) A clearing member's Total Combined Offset Position shall be determined by computing the number of futures contracts constituting such member's Offset Position in any commodity (whether long or short) and then adding such number of futures contracts to the number of futures contracts constituting the member's Offset Position in every other commodity.

(ii) The Offset Position of a clearing member in any commodity shall be the smaller of the Aggregate Net Long Position or the Aggregate Net Short Position of the clearing member in any commodity.

(A) The Aggregate Net Long Position of a clearing member in any commodity shall be computed by adding the Net Long Position, if any, carried in the proprietary account of the clearing member and the Net Long Position, if any, carried in the customer account of the clearing member.

(B) The Aggregate Net Short Position of a clearing member in any commodity shall be computed by adding the Net Short Position, if any, carried in the proprietary account of the clearing member and the Net Short Position, if any, carried in the customer account of the clearing member.

(iii) The Net Long Position carried in any account of a clearing member shall be computed by adding the net number of long contracts for all delivery months in each futures contract.

(iv) The Net Short Position carried in any account of a clearing member shall be computed by adding the net number of short contracts for all delivery months in each futures contract.

(v) The net number of long or short contracts in any delivery month of a futures contract shall be determined in accordance with Rule 404(a)(i).

(j) In the case of clearing members which are related organizations,

compliance with the position limits shall be determined by combining the positions held by all of the organizations, as follows:

(i) For purposes of paragraphs (a) through (g) of this Rule, the terms Total Combined Net Interest, Total Combined Offset Position, Aggregate Net Interest, and Offset Position shall mean, respectively, the "Group Total Combined Net Interest," "Group Total Combined Offset Position," "Group Aggregate Net Interest," and "Group Offset Position."

(A) Group Total Combined Net Interest shall be computed by combining the Total Combined Net Interest of each clearing member in the group of related organizations, without netting long positions held by one organization against short positions held by another organization.

(B) Group Total Combined Offset Position shall be computed by combining the Total Combined Offset Position of each clearing member in the group of related organizations, without netting long positions held by one organization against short positions held by another organization.

(C) Group Aggregate Net Interest or Group Offset Position in any one commodity or any one delivery month shall be computed by combining the Aggregate Net Interest or Offset Position of each clearing member in the group of related organizations in such commodity or delivery month, without netting long positions held by one organization against short positions held by another organization.

(ii) For purposes of paragraph (f) of this Rule, the term Working Capital shall mean either:

(A) The Working Capital of the clearing member in the group of related organizations which has the least Working Capital; or

(B) the Working Capital of all of the clearing members in the group of related organizations combined, provided that each clearing member has executed a guarantee in a form prescribed by the Clearing Corporation.

(k) The Clearing Corporation may refuse to clear any futures contracts of any clearing member in excess of the position limits for such clearing member established pursuant to this Rule: *Provided, however,* That the Clearing Corporation may clear such excess contracts if an officer of the Clearing Corporation determines that such excess is insubstantial in amount and a written report of any such event is prepared in accordance with Rule 103(b); *And provided further,* That where any such excess contracts have been so cleared, the clearing member involved shall

eliminate such excess on the next business day within such time as the Clearing Corporation may prescribe and shall report to the Clearing Corporation when such excess has been reduced.

Guaranty Fund

Rule 216 (a) The Clearing Corporation shall establish and maintain a Guaranty Fund. Each clearing member shall deposit and maintain in the Guaranty Fund an amount equal to the lesser of (i) 10 percent of the Working Capital of such clearing member as shown on its last financial statement filed with the Clearing Corporation pursuant to Rule 214(a), or (ii) five hundred thousand dollars (\$500,000), and any additional amount the Board may from time to time prescribe.

(b) Such deposit shall be made in the form of (i) a check payable to the order of the Clearing Corporation, certified by a bank acceptable to the Clearing Corporation, or (ii) certificates of deposit issued by a clearing bank, in a form acceptable to the Clearing Corporation, for delivery to the order of the Clearing Corporation of United States Treasury bills or Treasury notes which have a face value equal to at least 110 percent of the required amount of the Guaranty Fund deposit and have not less than twelve nor more than fifteen months to maturity at the time such certificate of deposit is issued, or (iii) an irrevocable letter of credit payable to the order of the Clearing Corporation, in a form and from a bank acceptable to the Clearing Corporation, and having an expiration date specified by the Clearing Corporation, or (iv) such other form as may be approved by the Board; *Provided, however,* That each clearing member shall deposit at least twenty thousand dollars (\$20,000) in the form of a check as provided in clause (i) above.

(c) Such deposits shall be held by the Clearing Corporation, or for its account by a bank, separate and apart from all other funds and securities held by the Clearing Corporation. The Clearing Corporation shall have the sole right to withdraw funds and sell or authorize the sale of securities held in each such bank account.

(d) The Clearing Corporation may draw against any letter of credit and may apply any funds and the proceeds from the sale of any securities held in the Guaranty Fund to the satisfaction of the obligations of any clearing member of the Clearing Corporation in accordance with the Rules. A clearing member's Guaranty Fund deposits shall be subject to claims made during the time such person is a clearing member and during a period of nine months

following the date on which such person ceases to be a clearing member on account of transactions made while such person is a clearing member, including amounts charged against the Guaranty Fund deposits of all clearing members as a consequence of any clearing member's default.

(e) Funds and securities held in the Guaranty Fund by or subject to the instructions of the Clearing Corporation shall, subject to the rights of the Clearing Corporation in respect thereof, remain the property of the respective clearing members depositing such funds and securities.

(f) The Clearing Corporation may invest cash in the Guaranty Fund in the following investments: securities issued or guaranteed as to principal and interest by the United States, repurchase agreements for securities issued by the United States, certificates of deposit, and time deposits or demand deposits of a bank or trust company organized under the laws of the United States or any state and having a combined capital and surplus of at least \$100 million, and such other investments as may be authorized by the Board from time to time. Any interest or gain received or accrued, and any loss incurred, on the investment of such funds shall belong to the Clearing Corporation and not to the clearing members making deposits in the Guaranty Fund.

Protection of Clearing Corporation

Rule 302 (a) If a clearing member fails promptly to discharge any obligation to the Clearing Corporation, its margins on deposit with the Clearing Corporation, its deposit in the Guaranty Fund, its position deposit, and any of its other assets under the control of the Clearing Corporation shall be applied by the Clearing Corporation to discharge the obligation. If the failure to discharge the obligation involves a default in the customer account of the clearing member, all of such assets (whether held for the proprietary or customer account) shall be available to discharge the obligation. If such failure involves a default in the proprietary account of the clearing member, only that portion of such assets as are held for the proprietary account shall be available to discharge the obligation. The clearing member shall immediately make up any deficiencies in its margin, its deposits in the Guaranty Fund or its position deposits resulting from such application.

(b) If the margin, deposits in the Guaranty Fund, position deposits and other assets of the clearing member under the control of the Clearing Corporation are insufficient to satisfy all of the clearing member's obligations to

the Clearing Corporation, and if the clearing member fails to pay the Clearing Corporation the amount of any such deficiency within one business day, the amount of deficiency shall be paid from the following sources of funds, each such source to be completely exhausted before the next following source is applied:

(i) First, such assets of a default contingency fund as may be eligible; (ii) Second, the Guaranty Fund deposit of each clearing member in equal shares; and

(iii) Third, such assets as may be available from assessments made against clearing members pursuant to paragraph (c) of this Rule.

Any amount so paid shall be deemed a loss to the Clearing Corporation and shall be a liability of the defaulting clearing member to the Clearing Corporation.

(c) Except as provided in paragraph (d) of this Rule, if there is a deficiency remaining after the Guaranty Fund has been exhausted as provided in paragraph (b) of this Rule, each clearing member (except the defaulting clearing member and any insolvent clearing member) shall be required, subject to the limitations in this Rule, to pay an assessment in an amount determined by the Board, in accordance with the following procedure:

(i) If such deficiency is attributable to futures contracts involving a particular commodity, each clearing member (except the defaulting clearing member and any insolvent clearing member) shall be required to pay an amount equal to the sum of (A) and (B) below:

(A) An amount equal to fifty percent of such remaining deficiency multiplied by a fraction, the numerator of which is the number of futures contracts involving that commodity cleared by such clearing member during the nine-month period preceding the default, and the denominator of which is the number of futures contracts involving that commodity cleared during such nine-month period by all clearing members (excluding the defaulting clearing member and any insolvent clearing member).

(B) An amount equal to fifty percent of such remaining deficiency multiplied by a fraction, the numerator of which is the average daily gross open position of such clearing member in futures contracts involving that commodity on each day during the nine-month period preceding the default, and the denominator of which is the average daily gross open position of all clearing members in futures contracts involving that commodity on each day during such nine-month period (excluding the defaulting clearing member and any insolvent clearing member).

(ii) If such deficiency is attributable to futures contracts involving more than

one commodity, each clearing member (except the defaulting clearing member and any insolvent clearing member) shall be required to pay an amount equal to the sum of (A) and (B) below:

(A) An amount equal to fifty percent of such remaining deficiency multiplied by a fraction, the numerator of which is the number of futures contracts involving any commodity cleared by such clearing member during the nine-month period preceding the default, and the denominator of which is the number of futures contracts involving any commodity cleared during such nine-month period by all clearing members (excluding the defaulting clearing member and any insolvent clearing member).

(B) An amount equal to fifty percent of such remaining deficiency multiplied by a fraction, the numerator of which is the average daily gross open position of such clearing member in all futures contracts on each day during the nine-month period preceding the default, and the denominator of which is the average daily gross open position of all clearing members in all futures contracts on each day during such nine-month period (excluding the defaulting clearing member and any insolvent clearing member).

(iii) Notwithstanding paragraphs (i) and (ii) of this Rule, no clearing member shall be required to pay, as an assessment, any amount in excess of (A) 25 percent of such clearing member's Working Capital as shown on its last financial statement filed with the Clearing Corporation pursuant to Rule 214(a), or (B) ten million dollars (\$10,000,000), whichever is less, during any period of ten consecutive business days (the "Maximum Assessment"). The difference, if any, between the amount that would be assessed against any clearing member pursuant to paragraph (i) or (ii) of this Rule and the Maximum Assessment for any such clearing member, shall be considered a deficiency and shall be assessed against clearing members (excluding the defaulting clearing member, any insolvent clearing member and any clearing member which has paid the Maximum Assessment) in accordance with paragraphs (i) or (ii) and this paragraph (iii) until the entire deficiency is paid or every clearing member (except the defaulting clearing member and any insolvent clearing member) has paid the Maximum Assessment, and any such assessment shall be considered part of a single assessment, without regard to the times when they are made, for purposes of determining the Maximum Assessment.

(iv) Notwithstanding paragraphs (i) and (ii) of this Rule and Rule 202(f)(iii), a clearing member which timely pays an assessment made pursuant to this

paragraph (c) and gives the Clearing Corporation written notice of withdrawal from membership within ten business days after such assessment is made shall not be subject to any further assessment after the date such notice is received by the Clearing Corporation, except that such clearing member shall continue to be liable for any assessment made pursuant to the second sentence of paragraph (iii) of this Rule, up to the Maximum Assessment.

(v) Any assessments made pursuant to this Rule shall be paid by each clearing member not more than one business day after written notice of any such assessment shall have been delivered to such clearing member.

(d) Notwithstanding paragraph (c) of this Rule, no clearing member shall be assessed if there would be a deficiency after all clearing members (excluding the defaulting clearing member and any insolvent clearing member) pay the Maximum Assessment.

(e) In the event it shall become necessary as provided in paragraph (b)(ii) of this Rule to apply all or part of the Guaranty Fund to meet any clearing member's obligations to the Clearing Corporation, each clearing member shall be liable to make good any deficit in its deposit upon demand by the Clearing Corporation.

(f) In the event that clearing members are assessed as provided in paragraph (c) of this Rule, any insolvent clearing member who has been excluded from the assessment shall nonetheless be liable to the Clearing Corporation for the amount of the assessment that otherwise would have been imposed on such clearing member.

(g) If a loss for which Guaranty Fund deposits have been applied or clearing members have been assessed is afterward recovered by the Clearing Corporation in whole or in part, the net amount of such recovery (after deducting legal fees and any other costs of collection incurred by the Clearing Corporation) shall be paid as follows:

(i) First, to clearing members who made payments to the Clearing Corporation pursuant to paragraphs (c) or (f) of this Rule, whether or not they are still clearing members, in proportion to the amounts so assessed, until all such clearing members shall have been repaid the full amount so assessed or the net amount of such recovery shall have been exhausted;

(ii) Second, to clearing members against whose Guaranty Fund deposits the deficiency was charged pursuant to paragraph (b)(ii) of this Rule, whether or not they are still clearing members, in proportion to the amounts charged

against their respective deposits but limited to the amounts so charged; and

(iii) The balance, if any, to any purpose the Board, in its discretion, may approve.

(h) For the purpose of this Rule, the term "clearing members" shall include any person from whom the Clearing Corporation accepted a futures contract for clearance within the nine-month period preceding the date on which the defaulting clearing member's contracts were closed, whether or not such person is a member of the Clearing Corporation at the time of the default or at the time when this Rule is applied to pay deficiencies or to allocate amounts recovered pursuant to paragraph (g) of this Rule.

In light of its responsibilities under sections 5a(12) and 15 of the Act,¹ the Commission invites comments from interested persons concerning the Corporation's proposed financial protection rules. Comments should be directed to whether the Corporation's proposed rules comply with the provisions of the Act and the Commission's regulations thereunder and should address specifically the manner in which these proposals would, or would not, further the public interest objectives and purposes of the act. The Commission also is soliciting comments on whether the proposals would represent the least anticompetitive means for the Corporation to achieve its objectives, and, if not, what other means the Corporation could employ to achieve its desired results. To the extent possible, comments should be supported by appropriate economic data and statistical or factual analysis which will demonstrate the effect of the Corporation's proposed rules on the business or financial operations of the commentator.

Interested persons should send written data, views or arguments on the rules proposed by the Corporation to Ms. Jane K. Stuckey, Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, by July 20, 1981. Such comment letters will be publicly available except to the extent they are

¹Pursuant to section 5a(12) of the Act, 7 U.S.C. 7a(12) (Supp. III 1979), the Commission is authorized to approve only those contract market rules which are "not in violation of the provisions of this Act or the regulations of the Commission."

Section 15 of the Act, 7 U.S.C. 19 (1976), directs the Commission "to take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the objectives of this Act, as well as the policies and purposes of this Act, in approving any bylaw, rule, or regulation of a contract market * * *

entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Finally, other materials submitted by the CSC Clearing in support of its rule proposals may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145, as amended at 45 FR 26953-4 (April 22, 1980)), except to the extent they may be entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance staff of the Office of the Secretariat at the Commission's headquarters, in accordance with 17 CFR 145.7 and 145.8.

Issued in Washington, D.C., on May 13, 1981.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 81-14911 Filed 5-18-81; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Navy

Privacy Act of 1974; Amendments and Deletions of Systems of Records

AGENCY: Department of the Navy (DON).

ACTION: Amendment of two systems and deletion of five systems of records notices.

SUMMARY: The Department of the Navy is amending two notices and deleting five notices of systems of records from its inventory of systems of records subject to the Privacy Act of 1974, Title 5 U.S. Code 552a (Pub. L. 93-579).

DATES: The proposed actions will be effective without further notice on June 18, 1981, unless comments are received which would result in a contrary determination.

ADDRESS: Any comments, to include written data, views or arguments concerning the actions proposed should be addressed to the systems managers identified in the systems notices.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Rhoads, Privacy Act Coordinator, Office of the Chief of Naval Operations (OP-09B1P), Department of the Navy, The Pentagon, Washington, DC 20350, Telephone: 202/694-2004.

SUPPLEMENTARY INFORMATION: The Department of the Navy inventory of systems of records notices as prescribed by the Privacy Act have been published in the Federal Register at:

FR Doc. 81-897 (46 FR 6696) January 21, 1981
 FR Doc. 81-3277 (46 FR 9693) January 29, 1981
 FR Doc. 81-10892 (46 FR 21226) April 9, 1981
 FR Doc. 81-13603 (46 FR 25337) May 6, 1981

M. S. Healy,

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

May 13, 1981.

Department of the Navy—Deletions

N00011 J01

System name:

Administrative Personnel
 Management System (46 FR 6699),
 January 21, 1981

Reason:

This system has been consolidated
 with system #N00011 J09.

N00022CIVPERSADMSYS

System name:

Civilian Personnel Administrative
 Services Record System (46 FR 6731),
 January 21, 1981

Reason:

This system has been consolidated
 with system #N00011 J09.

N00063NC09PS

System name:

Personnel Information System (46 FR
 6756) January 21, 1981

Reason:

This system has been discontinued.

N65872A14102

System name:

Project Analysis and Control System
 (PAC) (46 FR 6791) January 21, 1981

Reason:

This system has been discontinued.

N30460 (STUDENT)

System name:

Legal Diary (46 FR 6768) January 21,
 1981

Reason:

This system has been discontinued.

Amendments

N00011 J09

System name:

Administrative Civilian Personnel
 Management System (46 FR 6702)
 January 21, 1981

Changes:

System name:

Delete the second word
 " * * * Civilian * * * "

System location:

At the end of the entry, add the
 following sentence: "Official mailing
 addresses are in the Navy's Address
 Directory in the appendix to the Navy
 Department's systems notices appearing
 in the Federal Register".

Categories of individuals covered by the system:

Delete the entire entry and substitute
 with the following: "All Civilian,
 (including former members and
 applicants for civilian employment),
 military and contract employees".

Categories of records in the system:

Delete the entire entry and substitute
 with the following: "Correspondence/
 records concerning identification,
 location, routine and emergency
 assignments, functional responsibilities,
 clearance, educational and experience
 characteristics, travel, retention group,
 vehicle parking, disaster control,
 community relations, (blood donor, etc.),
 employee recreation programs, grade
 and series or rank/rate, retirement
 category, awards, property custody,
 personnel actions/dates, violation of
 rules, physical handicaps and health
 data, veterans preference, mutual aid
 association memberships, union
 memberships, qualifications, and other
 data needed for personnel, line and
 security management, as appropriate."

Authority for maintenance of the system:

Delete entire entry and substitute with
 the following: "10 U.S.C., Section 5031"

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute
 with the following: "Officials and
 employees of the Department of the
 Navy in the performance of their duties
 relating to the management, supervision
 and administration of all Navy civilian
 and military personnel such as
 preparing rosters/locators; contacting
 appropriate personnel in emergencies;
 training; determining clearance for
 access control; controlling the budget;
 travel claims; manpower and grades;
 maintaining statistics for minorities;
 employment; labor costing; watch bill
 preparation; projection of retirement
 losses; verifying employment to
 requesting banking; rental and credit
 organizations; name change location;
 checklist prior to leaving activity;
 payment of mutual aid benefits; and
 similar administrative uses requiring
 personnel data. Arbitrators and hearing
 examiners in civilian personnel matters
 relating to civilian grievances and

appeals. Officials and employees of the
 Office of Personnel Management
 concerning information on civilian pay,
 leave, benefits, retirement deductions,
 and any other information necessary to
 carry out its legally authorized functions
 and studies.

Safeguards:

Delete the entire entry and substitute
 with the following: "Password
 controlled system, file, and element
 access based on predefined need to
 know. Physical access to terminals,
 terminal rooms, buildings and activities'
 grounds are controlled by locked
 terminals and rooms, guards, personnel
 screening and visitor registers".

Record source categories:

After the last word in the entry, add
 the following phrase: " * * * duty officer,
 investigators, OPM officials, and/or
 members of the American Red Cross".

N0001310

System name:

Physical Disability Evaluation
 Proceedings (46 FR 6718) January 21,
 1981.

Changes:

Storage:

Add to the end of the entry, the
 following phrase: " * * * Office of
 Naval Disability Evaluation * * * " and
 substitute with the following:
 " * * * Disability Evaluation System,
 Naval Council of Personnel
 Boards * * * "

N00011 J09

SYSTEM NAME:

Administrative Personnel
 Management System.

SYSTEM LOCATION:

Organizational elements of the
 Department of the Navy as indicated in
 the directory of Department of the Navy
 activities. Official mailing addresses are
 in the Navy's Address Directory in the
 appendix to the Navy Department's
 systems notices appearing in the Federal
 Register.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All civilian (including former members
 and applicants for civilian employment),
 military and contract employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence/records concerning
 identification, location, routine and
 emergency assignments, functional
 responsibilities, clearance, educational
 and experience characteristics, travel,

retention group, vehicle parking, disaster control, community relations (blood donor, etc.), employee recreation programs, grade and series or rank/rate retirement category, awards, property custody, personnel actions/dates, violation of rules, physical handicaps and health data, veterans preference, mutual aid association memberships, union memberships, qualifications, and other data needed for personnel, line and security management, as appropriate.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C., Section 5031.

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

Officials and employees of the Department of the Navy in the performance of their duties relating to the management, supervision and administration of all Navy civilian and military personnel such as preparing rosters/locators; contacting appropriate personnel in emergencies; training; determining clearance for access control; controlling the budget; travel claims; manpower and grades; maintaining statistics for minorities; employment; labor costing, watch bill preparation; projection of retirement losses; verifying employment to requesting banking, rental and credit organizations; name change location; checklist prior to leaving activity; payment of mutual aid benefits; and similar administrative uses requiring personnel data. Arbitrators and hearing examiners in civilian personnel matters relating to civilian grievances and appeals. Officials and employees of the Office of Personnel Management concerning information on civilian pay, leave, benefits, retirement deductions, and any other information necessary to carry out its legally authorized functions and studies.

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

STORAGE:

File folders, card files, and/or punched cards, magnetic tape, magnetic disc.

RETRIEVABILITY:

Name, SSAN, case number, organization.

SAFEGUARDS:

Password controlled system, file, and element access based on predefined need to know. Physical access to terminals, terminal rooms, buildings and activities' grounds are controlled by

locked terminals and rooms, guards, personnel screening and visitor registers.

RETENTION AND DISPOSAL:

Per SECNAV Records Disposal Manual.

SYSTEM MANAGER(S) AND ADDRESS:

Commanding Officer of the activity in question. See directory of Department of the Navy mailing addresses.

NOTIFICATION PROCEDURES:

Apply to system manager.

RECORD ACCESS PROCEDURES:

The agency's rules for access to records may be obtained from the System Manager.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Individual, employment papers, other records of the organization, official personnel jackets, supervisors, official travel orders, educational institutions, applications, duty officer, investigators, OPM officials, and/or members of the American Red Cross.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

N0001310

SYSTEM NAME:

Physical Disability Evaluation Proceedings

SYSTEM LOCATION:

Director, Naval Council of Personnel Boards, 801 North Randolph Street, Arlington, Virginia 22203

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Navy and Marine Corps personnel who have been considered by a Physical Evaluation Board for separation or retirement by reason of physical disability (including those found fit for duty by such boards).

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains medical board reports; statements of findings of physical evaluation boards; medical reports from Veterans Administration and civilian medical facilities; copies of military health records; copies of JAG Manual investigations; copies of prior actions taken in the case; transcripts of physical evaluation board hearings; rebuttals

submitted by the party; intra- and interagency correspondence concerning the case; correspondence from and to the party, members of Congress, attorneys, and other interested parties; and documents concerning the appointment of trustees for mentally incompetent service members.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 1216 and 10 U.S.C. 5148

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

Department of the Navy—Used by personnel in the performance of their official duties to determine fitness for duty or eligibility for separation or retirement due to physical disability of Navy and Marine Corps personnel, by establishing the existence of disability, the degree of disability, and the circumstances under which the disability was incurred.

Veterans Administration—To verify information of service connected disabilities in order to evaluate applications for veteran's benefits.

Office of the Judge Advocate General—Used by personnel in the performance of their official duties relating to legal review of disability evaluation proceedings; response to official inquiries concerning the disability evaluation proceedings of particular service personnel; to obtain information in order to initiate claims against third parties for recovery of medical expenses under the Medical Care Recovery Act (42 U.S.C. 2051-53); and to obtain information on personnel determined to be mentally incompetent to handle their own financial affairs, in order to appoint trustees to receive their retired pay. In addition, the information may be furnished to other components of the Department of Defense.

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

STORAGE:

Paper records in file folders and microfiche.

RETRIEVABILITY:

Filed by year of initial disability processing, and alphabetically by name within that year. Veterans' Administration to verify information of service connected disabilities in order to evaluate applications for veterans' benefits.

SAFEGUARDS:

Files are maintained in file cabinets or other storage devices under the control

of authorized personnel during working hours; the office space in which the file cabinets and storage devices are located is locked outside official working hours.

RETENTION AND DISPOSAL:

Records are permanent. They are retained by the Naval Council of Personnel Boards for six years. After that time, they are sent to the Federal Records Center, Suitland, Maryland.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Naval Council of Personnel Boards, 801 North Randolph Street, Arlington, Virginia 22203.

NOTIFICATION PROCEDURES:

Information may be obtained from the Naval Council of Personnel Boards, 801 North Randolph Street, Arlington, Virginia 22203.

Written requests for information should contain the full name of the individual, military grade or rate, and date of birth. Written request must be signed by the requesting individual.

For personal visits, the individual should be able to provide some acceptable identification, such as a military identification card (active duty or retired) or a driver's license.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: Director, Naval Council of Personnel Boards, 801 North Randolph Street, Arlington, Virginia 22203.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Military medical boards and medical facilities; Veterans Administration and civilian medical facilities; Physical Evaluation Boards and other activities of the Disability Evaluation System, Naval Council of Personnel Boards; the Bureau of Medicine and Surgery; the Fiduciary Affairs Section; Navy and Marine Corps local command activities; other activities of the Department of Defense; and correspondence from private counsel and other interested persons.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 81-14976 Filed 5-19-81; 8:45 am]

BILLING CODE 3810-71-M

Office of the Secretary

Defense Science Board Task Force on EW; Advisory Committee Meeting

The Defense Science Board Task Force on EW will meet in closed session 9 June 1981 at the Pentagon, Washington, D.C.

The mission of the Defense Science Board Task Force is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering and to provide long-range guidance in these areas to the Department of Defense.

The Task Force will provide an analysis of the electromagnetically controlled weapons employed or projected for employment by potentially hostile forces and identify electronic warfare countermeasures that might be of significant help if the Department of Defense were required to counter those forces.

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

M. S. Healy,

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

May 13, 1981.

[FR Doc. 81-14907 Filed 5-19-81; 8:45 am]

BILLING CODE 3810-70-M

Privacy Act 1974; Deletion of Six Systems Notices

AGENCY: Office of the Secretary of Defense (OSD).

ACTION: Deletion of six systems notices.

SUMMARY: The Office of the Secretary of Defense proposes to delete the system notices for six systems of records: DWHS P17, "Assignment Folders"; DWHS P19, "General/Flag Officer Files"; DWHS P21, "Duty Status Cards"; DWHS P22, "General/Flag Officer Roster"; DWHS P23, "Roster of Military Personnel"; and DWHS P36, "Award Records for Military SecDef Personnel", subject to the Privacy Act of 1974. It has been determined that these systems of records are adequately covered under Army's system A0708.02DAPC, Navy's systems N00022ENLMAUSTSYS and N00022OFFMAUSTSYS, Air Force's F01101DPXJB, and Marine Corps systems MMN00006 and MIS00001.

DATES: These deletions shall be effective June 18, 1981.

ADDRESS: Send any comments to the System Managers identified in the system notices (44 FR 74088) December 17, 1979.

FOR FURTHER INFORMATION CONTACT:

Norma Cook, Privacy Act Officer, ODASD(A), Room 5C315, Pentagon, Washington, D.C. 20301. Telephone: (202) 695-0970.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense (OSD) systems notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a) Public Law 93-579 were published in the Federal Register.

FR Doc. 81-897 (46 FR 6427) January 21, 1981

FR Doc. 81-5568 (46 FR 12772) February 16, 1981

FR Doc. 81-6246 (46 FR 14031) February 25, 1981

FR Doc. 81-6491 (46 FR 14154) February 26, 1981

FR Doc. 81-7597 (46 FR 16114) March 11, 1981

FR Doc. 81-8041 (46 FR 16926) March 16, 1981

FR Doc. 81-8127 (46 FR 17074) March 17, 1981

FR Doc. 81-8281 (46 FR 17243) March 18, 1981

FR Doc. 81-8282 (46 FR 17243) March 18, 1981

FR Doc. 81-10201 (46 FR 20260) April 3, 1981

FR Doc. 81-11473 (46 FR 22257) April 16, 1981

FR Doc. 81-11765 (46 FR 22632) April 20, 1981

FR Doc. 81-12892 (46 FR 23967) April 29, 1981

FR Doc. 81-13225 (46 FR 24620) May 1, 1981

M.S. Healy,

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

May 13, 1981.

[FR Doc. 81-14909 Filed 5-19-81; 8:45 am]

BILLING CODE 3810-70-M

Privacy Act of 1974; Deletions of Six Systems Notices

AGENCY: Office of the Secretary of Defense (OSD).

ACTION: Deletion of six systems notices.

SUMMARY: The Office of the Secretary of Defense proposes to delete the system notices for six systems of records: DWHS P03, "DoD Program for Stability of Civilian Employment"; DWHS P05, "Roster of When Actually Employed Employees"; DWHS P06, "DoD-Wide Civilian Career Program for Comptroller/Financial Management Personnel"; DWHS P07, "Incentive Awards Records"; DWHS P13, "Management Intern File"; and DWHS P34, "Non-Career Personnel Job Files", subject to the Privacy Act of 1974. Records systems DWHS P06, DWHS P07, DWHS P13, and DWHS P34 are adequately covered by OPM/GOVT-1 system of records. DWHS P03 is adequately covered by DMRA&L 06, and DWHS is no longer being maintained.

DATES: These deletions shall be effective June 18, 1981.

ADDRESS: Send any comments to the System Manager identified in the system notice (44 FR 74088) December 17, 1979.

FOR FURTHER INFORMATION CONTACT: Norma Cook, Privacy Act Officer, ODASD(A) Room 5C315, Pentagon, Washington, D.C. 20301. Telephone: (202) 695-0970.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense (OSD) systems notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a) Pub. L. 93-579 were published in the Federal Register.

FR Doc. 81-897 (46 FR 6427) January 21, 1981

FR Doc. 81-5568 (46 FR 12772) February 16, 1981

FR Doc. 81-6246 (46 FR 14031) February 25, 1981

FR Doc. 81-6491 (46 FR 14154) February 26, 1981

FR Doc. 81-7597 (46 FR 16114) March 11, 1981

FR Doc. 81-8041 (46 FR 16926) March 16, 1981

FR Doc. 81-8127 (46 FR 17074) March 17, 1981

FR Doc. 81-8281 (46 FR 17243) March 18, 1981

FR Doc. 81-8282 (46 FR 17243) March 18, 1981

FR Doc. 81-10201 (46 FR 20260) April 3, 1981

FR Doc. 81-11473 (46 FR 22257) April 16, 1981

FR Doc. 81-11765 (46 FR 22632) April 20, 1981

M. S. Healy,

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

May 13, 1981.

[FR Doc. 81-14075 Filed 5-18-81; 8:45 am]

BILLING CODE 3810-70-M

DELAWARE RIVER BASIN COMMISSION

Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, May 27, 1981, commencing at 1:30 p.m. The hearing will be a part of the Commission's regular May business meeting which is open to the public. Both the hearing and the meeting will be held 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 applications for approval of the following projects as amendments to the Comprehensive Plan pursuant to Article 11 of the Compact and/or as project approvals pursuant to Section 3.8 of the Compact.

1. *Schwenksville Borough Authority (D-78-33 CP Revised)*. A well water supply project to provide an emergency source of water to the system serving the Borough of Schwenksville and portions of Lower Frederick and Perkiomen Townships, Montgomery

County, Pa. Interim approval to use this new well was granted by the Commission in May 1978. High dissolved solids prevail and the well water supply must be restricted to emergency use. Designated as Well No. 6, the new facility is designed to yield 280,000 gallons per day.

2. *Pennsgrove Water Supply Company (D-81-19 CP)*. A well water supply project to augment public water supplies in the Company's service area in Carneys Point Township, Salem County, N.J. Designated as Well No. 4, the new facility has a capacity of 860,000 gallons per day and will supplement existing supplies to Penns Grove Borough and Carneys Point and Oldmans Townships.

3. *Palmer Water Company (D-81-24 CP)*. A well water supply project to augment public water supplies in Palmerton Borough and portions of Lower Towamensing Township, Carbon County, Pa. Designated as Well A, the existing facility will be utilized as a replacement well. The well has a capacity of 430,000 gallons per day.

4. *Village of Jeffersonville (D-80-85 CP)*. A sewage collection system and treatment plant to serve the Village of Jeffersonville, Sullivan County, New York. The treatment plant will be located in the Town of Delaware. The project is designed to remove 85% of BOD from a sewage flow of 120,000 gallons per day. Treated effluent will discharge to East Branch Callicoon Creek.

5. *City of Woodbury Water Department (D-80-62 CP)*. A well water supply project in Woodbury, Gloucester County, N.J. The well, with a capacity of 1.44 million gallons a day, would replace an existing well and provide increased pressure in the northern section of the City.

6. *Three-O-Nine Investments, Inc. (D-80-79)*. A sewage treatment plant serving the mobile home park known as Melody Lakes Country Club Estates in Richland Township, Bucks County, Pa. The existing facility provides removal of 97% of BOD from a sewage flow of 75,000 gallons per day. Treated effluent discharges to an unnamed tributary of Tohickon Creek.

Documents relating to the above-listed projects 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 13, 1981.

[FR Doc. 81-14016 Filed 5-18-81; 8:45 am]

BILLING CODE 6360-01-M

DEPARTMENT OF EDUCATION

National Advisory Council on Adult Education; Meeting

AGENCY: National Advisory Council on Adult Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATES: June 17, 1981, 6:00 p.m. to 10:00 p.m., Executive Committee meeting; June 18, 1981, 9:00 a.m. to 12:00 noon, full Council meeting; 1:30 p.m. to 6:00 p.m., joint meeting with State directors of adult education; June 19, 1981, 9:00 a.m. to 2:00 p.m., full Council meeting.

ADDRESSES: The Hotel Washington, 15th & Pennsylvania Ave., N.W., Washington, D.C., Executive Committee and Council meetings. Imperial 400 Motor Inn, 2201 Arlington Blvd., Arlington, Va., joint meeting with State directors of adult education.

FOR FURTHER INFORMATION CONTACT: Dr. Gary A. Eyre, Executive Director, National Advisory Council on Adult Education, 425 13th St., N.W., Washington, D.C. 20004, (202/376-8892).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under Section 313 of the Adult Education Act (20 U.S.C. 1201). The Council is established to:

Advise the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Council is open to the public. The proposed agenda includes: Joint Meeting with State Directors; Reauthorization Hearings; Block Grants and Consolidation; Federal

Appropriations; Presidential Reports; Council Budget; Election of Officers.

Records are kept of all Council proceedings, and are available for public inspection at the office of the National Advisory Council on Adult Education, 425 13th St., N.W., Suite 323, Washington, D.C. 20004.

Signed at Washington, D.C. on May 14, 1981.

Gary A. Eyre,

Executive Director, National Advisory Council on Adult Education.

[FR Doc. 81-14680 Filed 5-18-81; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Intent To Prepare an Environmental Impact Statement on the Flathead Valley Reinforcement 230-kV Transmission Project

The Bonneville Power Administration (BPA) hereby gives notice of its intent to prepare and consider an environmental impact statement (EIS) on a proposal to reinforce the electrical transmission system serving northwest Montana. The draft EIS is tentatively planned for completion in August 1982.

BPA proposes to construct a 230-kV double-circuit transmission line and associated facilities to provide support for the existing transmission system in the upper Flathead Valley. There are three possible construction plans ranging from 57 to 85 miles in length. Possible alternatives to the proposed action are local electrical generation, conservation, and no action.

Scoping for this EIS will involve consultation with: (1) Flathead Electric Cooperative, Lincoln Electric Cooperative, Pacific Power & Light Company, Montana Power Company, and the Anaconda Aluminum Company; (2) affected Federal, State, regional, and local agencies; (3) landowners and environmental organizations; and (4) the Flathead Indian Tribe. BPA will also hold public scoping meetings June 16, 1981, in Polson, Montana, at the Lake County Courthouse; June 17, 1981, in Kalispell, Montana, at The Outlaw Inn; and June 18, 1981, in Columbia Falls, Montana, at the City Council Chambers. The meetings will begin at 7:30 p.m.

Those desiring further information or wishing to submit written comments on the scope of the environmental impact statement should address their correspondence to John E. Kiley, Environmental Manager, Bonneville Power Administration, P.O. Box 3621-SJ, Portland, Oregon 97208.

Dated: May 12, 1981.

M. Klinger,

Acting Administrator.

[FR Doc. 81-14681 Filed 5-18-81; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

T-C Oil Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Action Taken on Consent Order.

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

DATE: Petition submitted to the Office of Hearings and Appeals: May 6, 1981.

FOR FURTHER INFORMATION CONTACT: Crude Producers Branch, Attn: John Marks, Office of Enforcement, Room 5002, 2000 M Street, N.W., Washington, D.C. 20461, Telephone Number (202) 653-3517.

SUPPLEMENTARY INFORMATION: On July 10, 1979, the Office of Enforcement of the ERA published notification in the *Federal Register* that it executed a Consent Order with T-C Oil Company (TCO) of San Antonio, Texas on July 6, 1979, 44 FR 40378 (1979).¹ Interested persons were invited to submit comments concerning the terms, conditions or procedural aspects of the Consent Order. In addition, persons who believe they have a claim to all or a portion of the refund of overcharges paid by TCO pursuant to the Consent Order were requested to submit notice or their claims to the ERA.

One comment was received which criticized the special refund procedures. These arguments were previously answered in the Preamble to Subpart V.

¹The *Federal Register* Notice incorrectly states that the Consent Order was executed on June 25, 1979. The correct date is July 6, 1979.

44 FR 8562 (1979). The Consent Order, therefore, was not modified.

Pursuant to the Consent Order, TCO refunded the sum of \$395,000 by certified check made payable to the United States Department of Energy on August 31, 1979. This sum has been placed into a suitable account pending determination of its proper distribution.

The following person submitted a claim to the ERA: Exxon Company, U.S.A.

ACTION TAKEN: The ERA is unable readily to identify the persons entitled to receive the \$395,000 or ascertain the amounts of refunds that such persons are entitled to receive. The ERA, therefore, has petitioned the Office of Hearings and Appeals (OHA) on May 6, 1981 to implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, 10 CFR 205.280 *et seq.* to determine the identity of persons entitled to the refunds and the amounts owing to each of them. Persons who believe they are entitled to all or a portion of the refunds should comply with the procedures of 10 CFR Part 205, Subpart V.

Issued in Washington, DC on the 13th day of May, 1981.

Robert D. Gerring,

Director, Program Operations Division.

[FR Doc. 81-14683 Filed 5-18-81; 8:45 am]

BILLING CODE 6450-01-M

Consolidated Edison Company of New York, et al.; Powerplant and Industrial Fuel Use Act Issuance of an Order Granting Temporary Public Interest Exemptions

The Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice that on May 7, 1981, it extended the duration, until December 31, 1983, of previously issued orders granting temporary public interest exemptions pursuant to the authorities granted it by section 311(e) of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act) and the implementing regulations (10 CFR 501.68 and 10 CFR Part 508) from the prohibitions of section 301(a)(2) and (3) of the Act to the following powerplants in order to displace low sulfur residual fuel oil:

Docket number	Petitioner	Generating station	Powerplant identification number
50653-2491-01-41	Consolidated Edison Company of New York	Astoria	1
50653-2491-02-41			2
50653-2491-03-41			3
50653-2491-04-41			4
50653-2491-05-41			5
50653-2500-01-41		Ravenwood	1
50653-2500-02-41			2

Docket number	Petitioner	Generating station	Powerplant identification number
50653-2500-03-41			3
50653-2493-05-41		East River	5
50653-2493-06-41			6
50653-2493-07-41			7
50653-2502-04-41		Waterside	4
50653-2502-05-41			5
50653-2502-06-41			6
51685-2513-04-41	Long Island Lighting Company	Far Rockaway	4
50490-8190-01-41	Central Louisiana Electric Company	Rodemacher	1

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

Petitions were received and filed with ERA, pursuant to 10 CFR Part 508 (Exemptions for Use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978, April 9, 1979, 44 FR 21230) for temporary public interest exemptions for the use of natural gas as a primary energy source. The original Orders granting the exemptions were issued on August 7, 1979 (44 FR 47398, August 13, 1979). A notice of the petitions and proposed order extending the duration of these temporary exemptions were issued on December 30, 1980, and published in the January 5, 1981, *Federal Register* (46 FR 1017). This presented an opportunity for public comments and for interested persons to request a hearing relating to extending the duration of these exemptions for a period of 3 years, from December 31, 1980, to December 31, 1983. No comments or requests for public hearings were received.

These temporary exemptions will allow the above-named units to burn natural gas, notwithstanding the prohibitions of section 301(a)(2) and (3) of FUA, to displace fuel oil.

Supplementary Information

On April 9, 1979, ERA issued a final rule implementing the authority granted to DOE by section 311(e) of FUA. This final rule, set forth in 10 CFR Part 508, establishes the policy ERA has adopted in implementing its authority under section 311(e) of FUA. Pursuant to section 311(e) of FUA and 10 CFR Part 508, the above listed petitioners filed for temporary public interest exemptions. Notices of the petitions and the proposed orders granting the temporary exemptions were published in the *Federal Register* on May 11 and June 1, 1979 (44 FR 27668 and 44 FR 31677). The Orders were issued on August 7, 1979, and noticed at 44 FR 47398, August 13, 1979. The previously issued temporary exemptions allowed the above-listed electric powerplants to use natural gas as a primary energy source in excess of the amounts which are permitted by section 301(a)(2) and (3) of FUA. The

natural gas use permitted by these temporary exemptions is displacing low sulfur residual fuel.

To the extent that the *near-term* choice of fuels for existing powerplants is limited to petroleum or natural gas, the use of natural gas is preferred. The expanded use of natural gas in these powerplants will be a significant step toward reducing the Nation's oil consumption in the short term. This increased use of natural gas will help the United States meet its international commitments to reduce its demand for imported petroleum products, protect the Nation from the effects of oil shortages, and cushion the impact of increasing world oil prices, which have had a detrimental effect on the Nation's balance of payments and domestic inflation rate.

To the extent that this increased use of natural gas will accomplish these goals, it will reduce the importation of petroleum and further the goal of national energy self-sufficiency. This is in keeping with purposes of FUA and is in the public interest.

The previously issued orders were granted until December 31, 1980. The orders had a provision that the exemption will be automatically extended for an additional three-year period upon the written acceptance by ERA of a system-wide fuel conservation

plan submitted pursuant to the third term and condition of the order. ERA has received and accepted system-wide fuel conservation plans from the above-listed owners/operators.

Since the increased use of natural gas for oil displacement is in keeping with the purposes of FUA and is in the public interest, and since the petitioners have submitted acceptable system-wide fuel conservation plans, ERA has extended the exemptions until December 31, 1983.

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

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

Decision and Order

The Economic Regulatory Administration (ERA) of the Department of Energy hereby issues this Decision and Order extending the duration of previously issued temporary public interest exemptions from the prohibitions of section 301(a)(2) and (3) of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 et seq. (FUA or the Act), pursuant to section 311(e) of FUA, and the implementing regulations (10 CFR 501.68 and 10 CFR Part 508) to the following powerplants:

Docket number	Petitioner	Generating station	Powerplant identification number	As extended maximum duration (date)
50653-2491-01-41	Consolidated Edison Company of New York	Astoria	1	12-31-83
50653-2491-02-41			2	
50653-2491-03-41			3	
50653-2491-04-41			4	
50653-2491-05-41			5	
50653-2500-01-41		Reverwood	1	12-31-80
50653-2500-02-41			2	
50653-2500-03-41			3	
50653-2493-05-41		East River	5	12-31-80
			6	
			7	
50653-2502-04-41		Waterside	4	12-31-83
50653-2502-05-41			5	
50653-2502-06-41			6	
51685-2513-04-41	Long Island Lighting Company	Far Rockaway	4	12-31-83
50490-8190-01-41	Central Louisiana Electric Company	Rodemacher	1	12-31-83

Duration of Temporary Exemptions

ERA extends the duration of these temporary public interest exemptions to

December 31, 1983; however, the temporary exemptions are subject to termination upon six months written

notice, if ERA determines such termination to be in the public interest.

Effective Date of Decision and Order

This Decision and Order shall become effective on the sixtieth calendar day following its publication in the Federal Register in accordance with section 702(a) of FUA. However, in accordance with the policy set forth in the notice implementing this Special Rule (44 FR 21230) ERA will take no action with respect to any natural gas used by the exempted powerplants during the pendency period prior to the date this Decision and Order becomes effective.

Terms and Conditions

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

(1) Petitioner will report to ERA for each six-month period during which the petition was pending, or in effect, the actual monthly volumes of natural gas consumed in each exempted powerplant, and an estimate of the number of barrels of each type of fuel oil displaced.

(2) Petitioner will submit annually to ERA, commencing with the calendar year ending December 31, 1981, a report on progress achieved in implementing the pertinent fuel conservation plan.

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

Issued in Washington, D.C., on May 7, 1981.

Robert L. Davies,

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

[FR Doc. 81-14927 Filed 5-19-81; 8:43 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 4442-000]

Capital Development Co.; Application for Preliminary Permit

May 13, 1981.

Take notice that Capital Development Company (Applicant) filed on March 27, 1981, an application for preliminary

permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 4442 to be known as Illabot Creek Project located on Illabot Creek in Skagit County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Robert L. Blume, President, Capital Development Company, #4 South Sound Center, P.O. Box 3487, Lacey, Washington 98503. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) a 10-foot high overflow concrete diversion dam; (2) an intake structure; (3) a 4-mile long covered canal; (4) a one-mile long steel penstock; (5) a powerhouse containing one generating unit rated at 28 MW; and (6) a one-mile long transmission line.

The Applicant estimates that the average annual energy output would be 111 million kWh.

Purpose of Project—The energy generated by the project would be sold to the Seattle City Light Department.

Proposed Scope and Cost of Studies Under Permit—Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it would conduct engineering, economic, feasibility, and environmental studies, consult with agencies, and prepare an FERC license application. No new roads would be required to conduct the studies.

The cost of the work to be performed under the preliminary permit is estimated to be \$225,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit

as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before July 22, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than September 21, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before July 22, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 4442. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory

Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-14053 Filed 5-18-81; 8:45 am]
BILLING CODE 6450-85-M

[Project No. 4328-000]

City of Beatrice, Nebr.; Application for Preliminary Permit

May 14, 1981.

Take notice that City of Beatrice, Nebraska (Applicant) submitted on March 12, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 4328 to be known as Paper Mill Dam Power Project located on the Big Blue River in Gage County, Nebraska. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Jim Bauer, General Manager, Board of Public Works, P.O. Box 279, Beatrice, Nebraska 68310. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) a proposed 12-foot high and 150-foot long earth filled dam to be constructed on an existing dam foundation; (2) a proposed reservoir with a nominal surface elevation of 1,232 feet, a 5 acre surface area and a 3,900 square mile drainage area; (3) a proposed powerhouse containing generating units having an installed capacity of 500 kW; (4) an existing 4.6-kV transmission line to be interconnected with an existing 12.5-kV transmission line passing within ½ mile of the project; and (5) appurtenant facilities. The proposed Project No. 4328 is not located on Federal lands. The Applicant estimates that the average annual energy output would be 2,500,000 kWh.

Purpose of Project—The Applicant proposes to utilize electric energy generated within the municipality to reduce their dependence on purchased energy.

Proposed Scope and Cost of Studies Under Permit—The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time

studies would be made to determine the engineering, environmental, and economic feasibility of the project. In addition, historic and recreational aspects of the project would be determined, along with consultation with Federal, State, and local agencies for information, comments and recommendations relevant to the project. The Applicant estimates that the cost of the studies would be \$100,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before July 2, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than August 31, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a

protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before July 2, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTESTS", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 4328. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-14064 Filed 5-18-81; 8:45 am]
BILLING CODE 6450-85-M

[Project No. 4344-000]

City of Cedar Rapids; Application for Preliminary Permit

May 14, 1981.

Take notice that the City of Cedar Rapids (Applicant) submitted on March 16, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 4344 to be known as the Five-In-One Dam located on the Cedar River in Linn County, Cedar Rapids, Iowa. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Michael E. Ament, P.E., Shive-Hattery and Associates, P.O. Box 1803, 800 First Street N.W., Cedar Rapids, Iowa 52406. Any person who wishes to

file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) an existing 19.8-foot high and 680-foot long concrete dam consisting of four 16-foot high by 62-foot wide tainter gates and six 15-foot high by 60-foot wide liftgates; (2) an existing reservoir with a 367 acre surface area, a 3,100 acre-foot storage area, a 717.4 m.s.l. normal pool, and a 6,150 square-mile drainage area; (3) a proposed channel and headrace; (4) a proposed powerhouse, substructure, and superstructure containing generating units having an installed capacity of 3 MW; (5) a proposed tailrace channel leading to the powerhouse and discharged back to the Cedar River; (6) a proposed transmission line owned by Iowa Electric Light and Power Company to be interconnected to an existing 34.5-kV transmission line, 0.4 mile from the project site; and (7) appurtenant facilities. The proposed project is not located on Federal lands.

Purpose of Project—The Applicant proposes to sell the generated output of energy to the Iowa Electric Light and Power Company.

Proposed Scope and Cost of Studies Under Permit—The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time studies would be made to determine the engineering, environmental, and economic feasibility of the project. In addition, historic and recreational aspects of the project would be determined, along with consultation with Federal, State, and local agencies for information, comments and recommendations relevant to the project. The Applicant estimates that the cost of the studies would be \$50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should

be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before July 2, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than August 31, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before July 2, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 4344. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent

to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-14905 Filed 5-18-81; 8:45 am]

BILLING CODE 8450-85-M

[Docket No. RA81-43-000]

Navajo Refining Co.; Termination of Proceeding

May 13, 1981.

On April 13, 1981, Navajo Refining Company filed, pursuant to § 1.11(d) of the Commission's Rules of Practice and Procedure,¹ a notice of withdrawal of its petition for review of an order issued by the Secretary of Energy partially denying Navajo exception relief from § 211.67 of the Mandatory Petroleum Allocation Regulations. Navajo made its withdrawal subject to the preservation of its right to have the Commission decide in future proceedings certain issues which Navajo raised in this proceeding but which are now moot because of the withdrawal.

Since no hearing had been held or convened in this proceeding, withdrawal of Navajo's petition for review will become effective as of May 13, 1981, thus terminating this proceeding. Termination of this proceeding by Navajo's withdrawal of its petition for review does not, of course, constitute a determination by the Commission of any issue Navajo raised in that petition for review.

Under § 1.40(c) of the Commission's rules, Navajo requested the nondisclosure of financial information contained in certain filings with the Commission in this docket. Since the Commission has decided not to retain documents for which nondisclosure was requested in cases it does not decide on the merits,² Navajo's request for nondisclosure is moot and need not be decided by the Commission.

¹18 CFR 1.11(d), which section is applicable to this proceeding pursuant to § 1.40(a)(2)(vi) of the Commission's regulations.

²See *Ron's Shell Station, Inc.*, Docket No. RA80-1, et al., Order Dismissing Petitions for Review and Requests for Confidential Treatment of Documents, Issued May 7, 1981.

By direction of the Commission.
Kenneth F. Plumb,
Secretary.

[FR Doc. 81-14956 Filed 5-18-81; 8:45 am]
BILLING CODE 6450-85-M

[Project No. 4459-000]

City of Marseilles, Ill.; Application for Preliminary Permit

May 14, 1981.

Take notice that the City of Marseilles (Applicant) filed on April 1, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791 (a)-825(r)] for proposed Project No. 4459 to be known as Marseilles Dam located on Illinois River in La Salle County, Illinois. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Michael A. Etscheid, City Engineer, City of Marseilles, 209 Lincoln Street, Marseilles, Illinois 61341. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) a proposed powerhouse located northeast of the existing lock. The generating units would be installed at the main river dam and adjacent to the navigation lock. Four generators are proposed, each rated at 2.65 MW, for a total installed capacity of 10.6 MW; (2) proposed transmission lines; and (3) appurtenant facilities. Applicant would utilize an existing dam owned by the U.S. Army Corps of Engineers, and the Applicant's facilities would be located partly on U.S. lands. The Applicant estimates that the average annual energy output would be 60,700,000 kWh.

Purpose of Project—Energy produced at the project would be sold to Illinois Power Company, or used by the Applicant within their corporate limits.

Proposed Scope and Cost of Studies Under Permit—Applicant seeks issuance of a preliminary permit for a period of 36 months to study the feasibility of the project for industrial redevelopment, creation of new jobs, increased tax base, and improved public services. In addition, the engineering, environmental, and socio-institutional aspects of the project would be studied, along with consulting Federal, State, and local government agencies concerning the environmental effects of the project. Applicant estimates the cost of the studies would be \$50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to Mitchell Energy Company, Incorporated Project No. 3594 filed on October 22, 1980 under 18 CFR 4.33 (1980), and, therefore, no further competing applications or notices of intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before June 17, 1981.

Filing and Service of Responsive Documents—Any comments, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made a response to this notice of

application for preliminary permit for Project No. 4459. Any comments, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB Building, Washington, D.C. 20426. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-14956 Filed 5-18-81; 8:45 am]
BILLING CODE 6450-85-M

[Project No. 4279-000]

Energenics Systems, Inc.; Application for Preliminary Permit

May 14, 1981.

Take notice that Energenics Systems, Inc. (Applicant) filed on March 2, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 4279 to be known as Mississippi River Lock and Dam No. 14 located on Mississippi River in Scott County, Iowa. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Thomas H. Clarke, Jr., President, Energenics Systems, Inc., 1727 Q Street, N.W., Washington, D.C. 20009. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) a proposed powerhouse, located at the south end of the existing dam, containing generating units having a total installed capacity of approximately 15 MW; (2) proposed penstocks and intake structures; (3) proposed transmission lines; and (4) appurtenant facilities. Applicant would utilize an existing dam owned by the U.S. Army Corps of Engineers, and the Applicant's facilities would be located on U.S. lands. The Applicant estimates that the average annual energy output would be 129,000 MWh.

Purpose of Project—Energy produced at the project would be sold to Iowa-Illinois Gas and Electric Company.

Proposed Scope and Cost of Studies Under Permit—Applicant seeks issuance of a preliminary permit for a period of 36 months. During this time studies would be conducted to determine the engineering, economic, and environmental feasibility of the project, along with preparing an application for FERC license, and to develop preliminary and final designs of the project. In addition, Federal, State, and local government agencies would be consulted concerning the environmental effects of the project. Applicant estimates the cost of the studies would be \$50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to Mitchell Energy Company, Inc. Project No. 3597 filed on October 22, 1980, under 18 CFR 4.33 (1980), and, therefore, no further competing applications or notices of intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a

protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before June 17, 1981.

Filing and Service of Responsive Documents—Any comments, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 4279. Any comments, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB Building, Washington, D.C. 20426. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-14967 Filed 5-19-81; 8:45 am]
BILLING CODE 6450-85-M

[Project No. 4231-000 and Project No. 4477-000]

Energenics Systems, Inc., Springfield Utility Board; Application for Preliminary Permit

May 13, 1981.

Take notice that Energenics Systems, Inc. and Springfield Utility Board (Applicants) filed on February 23, and April 3, 1981, competing applications for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for proposed Projects Nos. 4231 and 4477 respectively to be known as the Fern Ridge Project located on the Long Tom River in Lane County, Oregon. The applications are on file with the Commission and are available for public inspection. Correspondence with the Applicants should be directed to: Mr. Thomas H. Clarke, Jr., President, Energenics Systems, Inc., 1727 Q Street, N.W., Washington, D.C. 20009 and Mr. Steve L. Loveland, Springfield Utility Board, 250 North "A" Street, P.O. Box 300, Springfield, Oregon 97477. Any

person who wishes to file a response to this notice should read the entire notice, must comply with the requirements specified for the particular kind of response that person wishes to file, and must indicate which application is being addressed.

Project Description—The proposed project would consist of: (1) a penstock joining the existing outlet structure to the Corps of Engineers' Fern Ridge Dam; (2) a powerhouse; and (3) associated electrical and transmission equipment. Project No. 4231 would have an estimated capacity of 3.6 MW and an average annual energy output of 6,040 MWh. Project No. 4477 would have an estimated capacity of 2.5 MW and an average annual energy output of 9,000 MWh.

Purpose of Project—Energy generated by Project No. 4231 would be sold. Energy generated by Project No. 4477 would be sold or used by the Springfield Utility Board.

Proposed Scope and Cost of Studies Under Permit—Applicants would conduct detailed studies to determine the technical, economic, financial, and environmental feasibility of the proposed project. The proposed studies and preparation of an application for license is estimated by Applicants to cost \$35,000 for Project No. 4231 and \$80,000 for Project No. 4477.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described applications for preliminary permit. (A copy of the applications may be obtained directly from the Applicants.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—These applications were filed as competing applications to Cascade Waterpower Development Corporation's Project No.

3380 filed on August 25, 1980, and Blachy-Lane County Cooperative Electric Association's Project No. 3406 filed on August 27, 1980, under 18 CFR (1980), and, therefore, no further competing applications or notices of intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about these applications should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before June 16, 1981.

Filing and Service of Responsive Documents—Any comments, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made a response to this notice of applications for preliminary permit for Projects Nos. 4231 and 4477. Any comments, protests or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy

Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB Building, Washington, D.C. 20426. A copy of any petition to intervene must also be served upon each representative of the Applicants specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-14955 Filed 5-18-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. C181-29-001 et al.]

General American Oil Co. of Texas, et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates¹

May 12, 1981.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person

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

desiring to be heard or to make any protest with reference to said application should on or before May 21, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft. ³	Pressure base
C181-29-001, Apr. 21, 1981	General American Oil Company of Texas Meadows Building, Dallas, Texas 75206	United Gas Pipe Line Company and ¹ Southern Natural Gas Company, West Cameron Area, South Addition, Block 537, Offshore Louisiana.	(F)	15.025
C181-50-001, Apr. 21, 1981	do	United Gas Pipe Line Company and ¹ Southern Natural Gas Company, West Cameron Area, South Addition, Block 552, Offshore Louisiana.	(F)	15.025
C181-53-001, Apr. 21, 1981	do	United Gas Pipe Line Company and ¹ Southern Natural Gas Company, West Cameron Area, Block 115, Offshore Louisiana.	(F)	15.025
C181-54-001, Apr. 21, 1981	do	United Gas Pipe Line Company and ¹ Southern Natural Gas Company, West Cameron Area, Block 116, Offshore Louisiana.	(F)	15.025
C181-55-001, Apr. 21, 1981	do	United Gas Pipe Line Company and ¹ Southern Natural Gas Company, West Cameron Area, Block 541, Offshore Louisiana.	(F)	15.025
C181-61-001, Apr. 21, 1981	do	United Gas Pipe Line Company and ¹ Southern Natural Gas Company, West Cameron Area, Block 560, Offshore Louisiana.	(F)	15.025

¹ Applicant is filing to indicate southern as an additional purchaser.

² By Assignment of Gas Purchase Contract dated January 9, 1981, United has assigned to Southern Natural Gas Company fifty percent of United's rights and obligations under the October 7, 1980, contract.

³ By Assignment of Gas Purchase Contract dated January 20, 1981, United has assigned to Southern Natural Gas Company fifty percent of United's rights and obligations under the October 21, 1980, contract.

Filing Code: A—Initial Service, B—Abandonment, C—Amendment to add acreage, D—Amendment to delete acreage, E—Fatal Succession, F—Partial Succession.

[FR Doc. 81-4968 Filed 5-18-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA81-50-000]

Navajo Refining Co.; Filing of Petition for Review

May 13, 1981.

Take notice that Navajo Refining Company on May 7, 1981, filed a Petition for Review under 42 U.S.C. 7194(b) (1977 Supp.) from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before May 28, 1981, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before May 28, 1981, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-14999 Filed 5-12-81; 8:45 am]

BILLING CODE 6450-95-M

[Project No. 4527-000]

North Valley Hydro, Inc.; Application for Preliminary Permit

May 13, 1981.

Take notice that North Valley Hydro, Inc. (Applicant) filed on April 14, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 4527 to be known as the

South Battle Creek Project located on South Fork Battle Creek in Tehama County, California. The application is on file with the Commission and is available for public inspection.

Correspondence with the Applicant should be directed to: Mr. C. Donald Nelson, 50 Wilshire Drive, Redding, California 96002. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) a 4-foot high diversion structure located on South Fork Battle Creek; (2) a 15,000-foot long conduit; (3) a 3,200-foot long, 40-inch diameter penstock; (4) a powerhouse containing a single 3,600-kW generating unit; and (5) associated electrical and transmission equipment.

The Applicant estimates that the average annual energy output would be 18,500 MWh.

Purpose of Project—Project energy would be sold.

Proposed Scope and Cost of Studies Under Permit—Applicant would conduct a detailed study to determine the technical, economic financial, and environmental feasibility of the proposed project. Applicant estimates that the studies and preparation of a license application would cost \$80,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or

before July 22, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than September 21, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's rules. Any comments, protest, or petition to intervene must be received on or before July 22, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 4527. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plum, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative

of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-14957 Filed 5-18-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-593-001]

Ohio Edison Co.; Filing

May 12, 1981.

The filing company submits the following:

Take notice that on March 17, 1981, Ohio Edison Company tendered for filing a revised Schedule B, Interchange Power and Energy to be substituted for Schedule B, Interchange Power and Energy, Amendment 9 to an Interchange Agreement dated October 17, 1968, transmitted October 20, 1980. The earlier filing, through clerical oversight, failed to include the provisions of §§ 1.2, 3.2, 3.21, and 3.22 which had been in effect since October 1, 1979 pursuant to an acceptance letter dated November 16, 1979 in Docket No. ER80-3. The parties did not intend to terminate these provisions and this filing corrects the clerical oversight.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 29, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-14958 Filed 5-18-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No 90.4526-000]

Shasta Mountain Hydro; Application for Preliminary Permit

May 14, 1981.

Take notice that Shasta Mountain Hydro (Applicant) filed on April 14, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 4526 to be known as Atkins Creek Hydroelectric Project

located on Atkins Creek in Shasta County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. C. Donald Nelson, 50 Wilshire Drive, Redding, California 96002. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of (1) a 3-foot high concrete diversion dam across Atkins Creek; (2) an intake structure within the west bank of the Creek; (3) a 960-foot long low pressure pipe and/or open ditch; (4) a 2,500-foot long, 30-inch diameter penstock; (5) a powerhouse containing a single generating unit with a rated capacity of 1,050 kW; and (6) appurtenant facilities. The Applicant estimates that the average annual energy output would be 15 million kWh.

Purpose of Project—Project energy would be sold to a private utility.

Proposed Scope and Cost of Studies Under Permit—Applicant has requested an 18-month permit to prepare a definitive project report including preliminary designs, results of geological, environmental, and economic feasibility studies. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with the Federal, State, and local agencies, preparing a license application, conducting final field surveys, and preparing designs is estimated by the Applicant to be \$60,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be

made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before July 23, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than September 21, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protest. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before July 23, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 4526. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of

any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-14671 Filed 5-18-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4451-000]

Somersworth Hydropower Associates, the City of Somersworth, New Hampshire; Application for Short-Form License (Minor)

May 13, 1981.

Take notice that Somersworth Hydropower Associates and the City of Somersworth, New Hampshire (Applicant) filed on April 1, 1981, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for construction and operation of a water power project to be known as the Lower Great Falls Project No. 4451. The project would be located on the Salmon Falls River in Strafford County, New Hampshire and York County, Maine. Correspondence with the Applicant should be directed to: Somersworth Hydropower Associates, P.O. Box 240, Manchester, New Hampshire 03105; and the City of Somersworth, 157 Main Street, Somersworth, New Hampshire 03878.

Project Description—The proposed project would consist of: (1) an existing 32-foot-high, 270-foot-long stone masonry dam with a 182-foot-long spillway. The Applicant proposes to install 4-foot flashboards and to repair the dam; (2) a reservoir having a surface area of 32 acres and a net storage capacity of 68 acre-feet; (3) a new 210-foot-long penstock leading to; (4) a proposed powerhouse to be constructed along the south bank of the river, and to contain turbines and generators with an installed capacity of 1,289 kW; and (5) appurtenant works. The estimated average annual generation is 6,000,000 kWh.

Purpose of Project—Project energy would be sold to a local public utility.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the

National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before July 22, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than November 19, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (as amended 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d), (as amended, 44 FR 61328, October 25, 1979).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before July 22, 1981. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-14659 Filed 5-18-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. E-8953 and ER76-20]

Superior Water Light and Power Co.; Filing

May 13, 1981.

The filing company submits the following:

Take notice that on January 9, 1981, Superior Water Light and Power Company (Superior) filed with this Commission refund reports indicating refunds made by Superior to Daliberg Light and Power Company in Docket Nos. E-8953 and ER76-20. The refund reports show the calculation of the refunds by month for each docket and the calculation of the interest accrued to December 19, 1980, for each docket. Also included was a schedule of the interest rates used after October 1, 1979.

Any person desiring to be heard to protest said refund reports should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 1, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-14670 Filed 5-18-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP70-185-009]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Petition To Amend

May 12, 1981.

Take notice that on May 1, 1981, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP70-185-009 a petition to amend the order of June 22, 1970,¹ as amended, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize Tennessee to continue to render natural gas service to Southern Connecticut Gas Company (Southern Connecticut), under a new gas sales contract, all as more fully set forth in the petition to amend on file with the

¹This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

Commission and open to public inspection.

It is indicated that pursuant to the order of June 22, 1970, as amended February 2, 1977, in the instant docket, Tennessee was granted authorization, *inter alia*, to render natural gas service to Southern Connecticut under Tennessee's Rate Schedule CD-6, pursuant to the terms of an associated gas sales contract dated February 2, 1977, between the two parties. Tennessee states that said contract provides for the sale and delivery by Tennessee of up to 38,178 Mcf of natural gas per day to Southern Connecticut, and for the delivery of natural gas at the following delivery points:

Delivery points	Daily volume limits (Mcf)
Westport	10,000
Bridgeport	30,000
Trumbull	12,000

Tennessee states that the total daily delivery volumes at these delivery points exceeds Southern Connecticut's contracted demand of 38,178 Mcf per day in order to provide Southern Connecticut with operational flexibility among delivery points; however, Southern Connecticut is not entitled to take on any day a total of more than 38,178 Mcf at all delivery points.

By letter dated April 11, 1980, Southern Connecticut requested that Tennessee increase the maximum daily volumes of gas which it delivers at the Westport delivery point from 10,000 Mcf per day to 15,000 Mcf per day. Southern Connecticut states that such increase is necessary in order to allow it to utilize more effectively the pipeline gas supply available to it from Tennessee. Therefore, Tennessee and Southern Connecticut entered into a precedent agreement dated April 1, 1981, whereby Tennessee agreed, upon receipt of Commission authorization, to increase its daily deliveries at the Westport delivery point pursuant to the terms of the new gas sales contract entered into between the two parties.

Consequently, Tennessee requests that the Commission amend the order of June 22, 1970, as amended, issued in the instant to provide for the above-mentioned change. Tennessee states that the revised service and the new gas sales contract would not permit Southern Connecticut to receive any more natural gas from Tennessee than Southern Connecticut is now authorized to receive under its present gas sales contract, and that the proposed change would not increase or decrease the

annual volumetric limitation imposed on Tennessee's system. Tennessee also states that the proposed change would not alter the end use profile used by it in determining the level of curtailment to such company. Therefore, there would be no impact on Tennessee's other customers as a result of the change in service, it is said.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 3, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-34990 Filed 5-18-81; 8:45 am]
BILLING CODE 6450-85-M

[Project No. 4482-000]

City of Highland, Illinois; Application for Preliminary Permit

May 13, 1981.

Take notice that the City of Highland, Illinois, (Applicant) filed on April 6, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for proposed Project No. 4482 to be known as the Shelbyville Lake Dam Project located on the Kaskaskia River in Shelby County, Illinois. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Douglas G. Williams, City Manager, 1115 Broadway, Highland, Illinois 62249. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize an existing U.S. Army Corps of Engineer's dam. The project would consist of: (1) a proposed 100-foot penstock running from the existing outlet structure to the powerhouse; (2) a proposed 34.5-kV

transmission line; (3) a proposed powerhouse with an installed generating capacity of 11.5 MW; and (4) appurtenant facilities. The project would be located on Federal lands. The Applicant estimates that the average annual energy output would be 20.7 GWh.

Purpose of Project—The Applicants market for the total energy output of the project is the existing demand and energy requirements of the Highland Electric Light Department.

Proposed Scope and Cost of Studies Under Permit—Applicant has requested a 36-month permit to prepare a definitive project report, including preliminary design and economic feasibility studies, hydrological studies, environmental and social studies, soils and foundation data. The cost of the aforementioned studies is estimated to be \$50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to Noah Corporation Project No. 3520 filed on October 2, 1980, under 18 CFR (1980), and, therefore, no further competing applications or notices of intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980).

Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests of other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before June 16, 1981.

Filing and Service of Responsive Documents—Any comments, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made a response to this notice of application for preliminary permit for Project No. 4482. Any comments, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB Building, Washington, D.C. 20426. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-14054 Filed 5-18-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4484-000 and Project No. 4491-000]

**Village of Winnetka, Illinois, and Commonwealth Edison Co.;
Application for Preliminary Permit**

May 14, 1981.

Take notice that the Village of Winnetka, Illinois and Commonwealth Edison Company (Applicants) both filed on April 6, 1981, applications for a mutually exclusive preliminary permit pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r) for proposed Projects Nos. 4484 and 4491, respectively, to be known as the Dresden Island Lock and Dam Project located on the Illinois River in Grundy County, Illinois. The application is on file with the Commission and is

available for public inspection. Correspondence with the Applicants should be directed to: Mr. Gary L. Zimmerman, 510 Green Bay Road, Winnetka, Illinois 60093, Harlan Dellsy, Commonwealth Edison Company, P.O. Box 767, Chicago, Illinois 60690. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed projects would utilize the existing U.S. Army Corps of Engineers' Dresden Island Lock and Dam. Both Proposed projects would consist of: (1) a proposed powerhouse containing an installed generating capacity of 17.6 MW; and (2) appurtenant facilities. Both projects would be located upon Federal lands.

The Village of Winnetka estimates that the average annual energy output would be 88.3 GWh. Commonwealth Edison Company estimates that the average annual energy output would be 93 GWh.

Purpose of Project—The Village of Winnetka, Illinois proposes to market the energy output of the project to supply municipal demand and energy requirements. Commonwealth Edison Company proposes to transmit all electrical energy generated from the proposed project to its customers.

Proposed Scope and Cost of Studies Under Permit—Both Applicants seek issuance of a preliminary permit for a period of 24 months, during which time the Applicant would accomplish hydrological, engineering, environmental, and economic feasibility studies on the project and prepare an application for FERC license. The Village of Winnetka estimates the cost of studies under the permit would approximate \$50,000. Commonwealth Edison Company estimates the cost of studies to be \$41,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly

from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—These applications were filed as competing applications to Mitchell Energy Company, Inc. Project No. 3569, filed on October 14, 1980 under 18 CFR 4.33 (1980), and, therefore, no further competing applications or notices of intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before June 17, 1981.

Filing and Service of Responsive Documents—Any comments, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Projects Nos. 4484 and 4491. Any comments, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB Building, Washington, D.C. 20426. A copy of any petition to intervene must also be served upon each

representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-14972 Filed 5-18-81; 8:45 am]
BILLING CODE 6450-85-M

[Project No. 4483-000]

**Village of Winnetka, Illinois;
Application for Preliminary Permit**

May 13, 1981.

Take notice that Village of Winnetka, Illinois (Applicant) filed on April 6, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 4483 to be known as Mississippi River Lock and Dam No. 14 located on Mississippi River in Rock Island County, Illinois. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Gary L. Zimmerman, 510 Green Bay Road, Winnetka, Illinois 60093. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) a proposed powerhouse, located downstream of the existing non-overflow section of the existing dam, containing 22 generating units rated at 1.05 MW each. An additional generating unit, rated at 1.05 MW, would be located in the existing power tunnel adjacent to the lock, giving the proposed project a total installed capacity of 24.15 MW; (2) proposed 69-kV transmission lines; and (3) appurtenant facilities. Applicant would utilize an existing dam owned by the U.S. Army Corps of Engineers, and the Applicant's facilities would be located mostly on U.S. lands. The Applicant estimates that the average annual energy output would be 152,200 MWh.

Purpose of Project—Energy produced at the project would be sold to the Applicant's customers within its own system.

Proposed Scope and Cost of Studies Under Permit—Applicant seeks issuance of a preliminary permit for a period of 24 months to perform the following studies: engineering and economic, hydraulic, transmission analysis, topographic and hydrographic surveys, cost estimates, and foundation investigations. In addition, Federal, State, and local agencies would be consulted concerning the environmental effects of the project, along with

preparing an application for FERC license. Applicant estimates the cost of the studies would be \$50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to Mitchell Energy Company, Inc. Project No 3597 filed on October 22, 1980, under 18 CFR (1980), and, therefore, no further competing applications or notices of intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before June 16, 1981.

Filing and Service of Responsive Documents—Any comments, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "PROTEST" or "PETITION TO

INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 4483. Any comments, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB Building, Washington, D.C. 20426. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-14983 Filed 5-18-81; 8:45 am]
BILLING CODE 6450-85-M

[Project No. 4447-000]

**Village of Winnetka, Illinois;
Application for Preliminary Permit**

May 13, 1981.

Take notice that the Village of Winnetka (Applicant) filed on April 1, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 4447 to be known as Starved Rock Lock and Dam located on the Illinois River in LaSalle County, Illinois. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Gary L. Zimmerman, 510 Green Bay Road, Winnetka, Illinois 60093. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers' Starved Rock Lock and Dam. The proposed project would consist of: (1) a proposed powerhouse containing an estimated installed generating capacity of 9 MW; and (2) appurtenant facilities.

The applicant estimates that the average annual energy output would be 57.7 GWh.

Purpose of Project—The Applicant proposes to market the total energy output of the project to meet existing municipal energy requirements.

Proposed Scope and Cost of Studies Under Permit—Applicant seeks issuance of a preliminary permit for a period of 24 months, during which time Applicant would accomplish hydrological, engineering, environmental, and economic feasibility studies on the project and prepare an application for FERC license. Applicant estimates cost of studies under its permit would be about \$50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to Mitchell Energy Company, Inc. Project No. 3568 filed on October 14, 1980, under 18 CFR 4.33 (1980), and, therefore, no further competing applications or notices of intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practices and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene

in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before June 18, 1981.

Filing and Service of Responsive Documents—Any comments, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 4447. Any comments, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB Building, Washington, D.C. 20426. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-14902 Filed 5-18-81; 9:45 am]

BILLING CODE 6450-65-M

[Project No. 4507-000]

**Washington Hydrogeneration Co.;
Application for Preliminary Permit**

May 14, 1981.

Take notice that Washington Hydrogeneration Co. (Applicant) filed on April 10, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 4507 to be known as Lost Lake Waterpower Project located at Lost Lake, a natural impoundment in Kittitas County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. William H. Holveck, P.E., 468 S.W. 175th Place, Seattle, Washington 98166. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) the existing Lost Lake with a surface area of approximately 170 acres at elevation

3,089 feet (mean sea level); (2) an intake structure within the southeast embankment of the lake; (3) a 5,000-foot long, 30-inch diameter penstock; (4) a powerhouse containing a single generating unit with a rated capacity of 2,000 kW, discharging into Keechelus Lake; and (6) appurtenant facilities.

The Applicant estimates that the average annual energy output would be 5.6 million kWh.

Purpose of Project—Project energy would be sold to a public or private utility.

Proposed Scope and Cost of Studies Under Permit—Applicant seeks issuance of a 24-month permit to prepare a definitive project report including preliminary designs, results of geological, environmental, and economic feasibility studies. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with the Forest Service and other Federal, State, and local agencies, preparing a license application, conducting final field surveys, and preparing designs is estimated by the Applicant to be \$25,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before July 23, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than September 21,

1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before July 23, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 4507. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-14973 Filed 5-18-81; 8:45 am.]

BILLING CODE 6450-85-M

[Docket No. CP75-110-010]

Washington Natural Gas Co.; Petition To Amend

May 12, 1981.

Take notice that on April 29, 1981, Washington Natural Gas Company (Washington Natural), 8515 Mercer Street, Seattle, Washington 98111, filed in Docket No. CP75-110-010 a petition to amend the order of September 26, 1975,¹ as amended, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize an increase in the level of cushion gas in the Jackson Prairie Storage Project (Storage Project) in Lewis County, Washington, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Washington Natural participates with Northwest Pipeline Corporation (Northwest) and the Washington Water Power Company (Water Power) in the Storage Project, which project provides an underground gas storage facility to support the rendition by Northwest of storage service under its Rate Schedule SCS-1 and to assist Northwest in rendering a special winter service under its Rate Schedule WS, it is stated.

Washington Natural states that by order of September 26, 1975, as amended January 18, 1976, November 13, 1979, and March 20, 1980, it was granted authorization to operate the Storage Project at the following levels of storage and service:

	1,000 cu. ft. ²
Seasonal Working Gas.....	10,800,000
Cushion Gas.....	18,100,000
Total Storage Gas.....	28,900,000
Firm Daily Delivery Rate.....	300,000
Daily "Best Efforts" Rate.....	71,800

It is stated that on September 20, 1979, in Docket No. CP79-404, Washington Natural was granted temporary certificate authorization to increase the seasonal working gas in the Storage Project to 12,800,000 Mcf, the total storage gas to 30,900,000 Mcf, and the firm daily delivery rate to 325,000 Mcf to assist Northwest in rendering a new winter service, beginning with the 1979/1980 winter season, under Rate Schedule WS as proposed by Northwest in Docket No. CP79-277.² It is further stated that on April 14, 1980, Washington Natural

¹ This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (18 CFR 1000.1), it was transferred to the Commission.

² Washington Natural asserts that the applications which it files cover operation of the Storage Project, in accordance with the revised capabilities, and the applications filed by Northwest covers rendition of the services made possible by the expanded capability.

requested authorization in the instant docket to increase the cushion gas in the storage Project to 19,000,000 Mcf and the total storage gas to 29,800,000 Mcf on a permanent basis and 31,800,000 Mcf on a temporary basis. On August 12, 1980, the Commission granted Washington Natural temporary certificate authorization to increase the volume of cushion gas in the Storage Project from 18,100,000 Mcf to 19,000,000 Mcf.

By the instant petition, Washington Natural is requesting authorization to increase the level of cushion gas in the Storage Project to a level of not less than 19,300,000 in order to maintain the delivery capability of the Storage Project to meet the seasonal and daily delivery requirements authorized in this proceeding and in Docket No. CP79-404, and to provide for possible future increases in storage capacity. Total storage gas would, accordingly, be increased to a level of 30,100,000 Mcf of a permanent basis and 32,100,000 Mcf on a temporary basis, it is said. Washington Natural states that injections are presently planned to be made into the Storage Project to attain the stated levels by October 1, 1981, and that the additional cushion gas would be provided one-third each by Northwest, Water Power and Washington Natural, in accordance with the terms of the Storage Agreement.

An analysis of reservoir performance indicates that continuation of water withdrawal would require the injection of an additional 300,000 Mcf of cushion gas in the Storage Project during 1981 in order to sustain the delivery of the 12,800,000 Mcf seasonal working gas at the daily delivery rates previously approved in this proceeding and in Docket No. CP79-404, it is stated. Consequently, Washington Natural proposes to increase the volume of cushion gas of the Storage Project to no less than 19,300,000 Mcf by the fall of 1981.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 3, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in

any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-14963 Filed 5-18-81; 8:45 am]
BILLING CODE 6450-95-M

Office of Nuclear Energy

State Planning Council on Radioactive Waste Management; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: The State Planning Council on Radioactive Waste Management
Date and time: Monday, June 8, 1981—9:00 a.m.—4:30 p.m.
Place: The Shoreham Americana Hotel, 2500 Calvert Street, N.W., Washington, D.C.
Contact: Georgia Hildreth, Deputy Advisory Committee Management Officer, Department of Energy, 1000 Independence Avenue, S.W., Forrestal Building, Room 8G087, Washington, D.C. 20585, Telephone: 202-252-5187

Purpose of the council: The State Planning Council on Radioactive Waste Management was established by Executive Order 12192 dated February 12, 1980, to provide advice and recommendations to the President and the Secretary of Energy on nuclear waste management (including interim management of spent fuel).

Tentative agenda: The agenda will include a discussion of a comprehensive national transportation policy resolution, storage capacity for spent nuclear fuel, a legislative action statement in the area of high-level waste disposal, and the Council's Report to the President.

Public participation: The meeting is open to the public. The Chairperson of the Council is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Council will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Advisory Committee Management Office at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Transcripts: Transcripts are available for public review and copying at the Public Reading Room, Room 1E190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Executive summary: An executive summary is available approximately 30 days following the meeting from the Advisory Committee Management Office.

Issued at Washington, D.C., on May 14, 1981.

Georgia Hildreth,
Deputy Advisory Committee Management Officer.

[FR Doc. 81-14926 Filed 5-18-81; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[A-6-FRL-1829-5]

Approval of PSD Permit to Exxon Chemical Co.; Correction

This Federal Register notice is to correct a statement made in the February 11, 1981, Federal Register notice (at 46 FR 11885) which states that a Prevention of Significant Deterioration (PSD) permit, Number PSD-TX-302, had been issued by the Environmental Protection Agency to the Exxon Chemical Company for approval to expand the olefins plant located at 3525 Decker Drive in Baytown, Harris County, Texas. That statement was incorrect; no decision has been made by the Agency on this permit application. Notice of issuance of any final permit determination will be published in the Federal Register at a later date.

Dated: April 30, 1981.
Frances E. Phillips,
Acting Regional Administrator.
[FR Doc. 81-14923 Filed 5-18-81; 8:45 am]
BILLING CODE 6560-38-M

[A-4-FRL-1830-6]

Standards of Performance for New Stationary Sources; Delegation of Authority to the State of South Carolina

AGENCY: Environmental Protection Agency.

ACTION: Information notice.

SUMMARY: Section 111(c) of the Clean Air Act permits EPA to delegate to the States the authority to implement and enforce the standards set out in 40 CFR Part 60, Standards of Performance for New Stationary Sources (NSPS). On January 29, 1981, the State of South Carolina asked EPA to delegate to it authority for NSPS source categories promulgated between October 19, 1976 and January 29, 1981. EPA granted the request on March 17, 1981. The State now has authority to implement and enforce NSPS for ferroalloy production facilities, kraft pulp mills, lime manufacturing plants, grain elevators, electric utility boilers, stationary gas turbines, glass manufacturing plants, ammonium sulfate plants, and

automobile surface coating facilities. Applications and reports required under these regulations should be sent to the State's Bureau of Air Quality Control rather than to EPA Region IV.

EFFECTIVE DATE: March 17, 1981.

ADDRESSES: Applications and reports required under all NSPS source categories promulgated prior to March 17, 1981, should be addressed to the South Carolina Department of Health and Environmental Control, Bureau of Air Quality Control, 2600 Bull Street, Columbia, South Carolina 29201, rather than to EPA Region IV.

FOR FURTHER INFORMATION CONTACT: Ray Gregory of the EPA Region IV, Air Programs Branch, telephone 404/881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION: On October 19, 1976, EPA delegated to South Carolina authority to implement and enforce the NSPS and NESHAPS promulgated as of October 19, 1976 (see 42 FR 4188, January 24, 1977). On January 29, 1981 the State requested that EPA delegate to it authority for the NSPS promulgated between October 19, 1976, and January 29, 1981. Delegation of these standards was made by the following letter on March 17, 1981:

Mr. William G. Crosby,
Chief, Bureau of Air Quality Control, S.C.
Dept. of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina.

Dear Mr. Crosby: On October 19, 1976, we delegated to the State of South Carolina the authority for implementation and enforcement of the Standards of Performance for New Stationary Sources (NSPS) and the National Emission Standards for Hazardous Air Pollutants (NESHAPS) that had been promulgated by EPA as of April 23, 1976.

In your letter of January 29, 1981, you requested that EPA delegate to the State of South Carolina the Authority for implementation and enforcement of specific NSPS source categories recently promulgated.

As stated in our letter of November 24, 1976, we have reviewed the pertinent laws of the State of South Carolina and your rules and regulations and have determined that they provide an adequate and effective procedure for implementing and enforcing NSPS in the State of South Carolina. Therefore, we hereby delegate our authority for the implementation and enforcement of the NSPS source categories to the State of South Carolina as follows:

Authority for all sources located or to be located in the State of South Carolina subject to the Standards of Performance for New Stationary Sources for ferroalloy production facilities, kraft pulp mills, lime manufacturing plants, grain elevators, electric utility boilers, stationary gas turbines, glass manufacturing plants, ammonium sulfate plants, and automobile and light-duty truck surface

coating facilities promulgated in 40 CFR Part 60 as of the date of this letter.

This delegation is based upon the same conditions as those stated in our letter of October 19, 1976, except for condition 4 regarding federal facilities. A copy of this letter was published in the Notices section of the *Federal Register* of January 24, 1977 (42 FR 4188), along with the associated rulemaking notifying the public that certain reports and applications required from operators of new sources shall be submitted to the State of South Carolina (42 FR 4124). All the conditions listed in the January 24, 1977 *Federal Register* except condition 4 are hereby incorporated into this delegation by reference. A notice announcing this delegation will be published in the *Federal Register* in the near future.

Since this delegation is effective immediately, there is no need for the State to notify EPA of its acceptance. Unless we receive from you written notice of objections within ten days of the date on which you received this letter, the State of South Carolina will be deemed to have accepted all of the terms of the delegation.

Sincerely yours,

Rebecca W. Hanmer,
Regional Administrator.

Effective immediately, all applications, reports, and other correspondence required under the NSPS for ferroalloy production facilities, kraft pulp mills, lime manufacturing plants, grain elevators, electric utility boilers, stationary gas turbines, glass manufacturing plants, ammonium sulfate plants, and automobile surface coating facilities should be sent to the South Carolina Department of Health and Environmental Control (see address above) rather than to the EPA Region IV Office in Atlanta.

(Sec. 111(c), Clean Air Act (42 U.S.C. 7411(c))

Dated: May 6, 1981.

John A. Little,
Acting Regional Administrator.

(PR Doc. 81-14948 Filed 5-18-81; 8:45 am)
BILLING CODE 6560-38-M

[A-7-FRL-1830-1]

Standards of Performance for New Stationary Sources (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS); Delegation of Authority to State of Missouri

Through December 1, 1979, pursuant to Sections 111 and 112 of the Clean Air Act, as amended, the Administrator of the Environmental Protection Agency (EPA) has promulgated regulations establishing standards of performance for 30 categories of new stationary sources, and national emission standards for five hazardous air pollutants. Sections 111(c) and 112(d)

direct the Administrator to delegate his authority to implement and enforce the NSPS and NESHAPS to any state which has submitted adequate procedures. Nevertheless, the Administrator retains concurrent authority to implement and enforce the standards following delegation of authority to the state.

On April 16, 1980, the Director of the Missouri Department of Natural Resources (MDNR) submitted to the EPA Regional Office a request for delegation of authority. Included in that request were copies of the State of Missouri regulations which incorporate by reference the federal emission standards and testing procedures set forth in 40 CFR Parts 60 and 61, with certain exceptions. Also included were copies of statutes which provide the state with the requisite authority to enforce the NSPS and NESHAPS. After a thorough review of that request, the EPA regional office has determined that for the source categories set forth in paragraphs A and B of the attached official letter to the Director of the MDNR, delegation is appropriate subject to the conditions set forth in paragraphs 1 through 8 of that letter.

Therefore, in a letter dated December 16, 1980, the EPA regional office notified the MDNR that its delegation request had been granted. The delegation letter is reproduced below.

December 16, 1980.

Fred A. Lafser, Director, Missouri
Department of Natural Resources, P.O.
Box 176, Jefferson City, Mo.

Dear Mr. Lafser: This is in response to your letter of April 16, 1980, requesting delegation of authority for implementation and enforcement of the Standards of Performance for New Stationary Sources (NSPS) and the National Emission Standards for Hazardous Air Pollutants (NESHAPS) to the state of Missouri. This letter supercedes the delegation letter dated July 28, 1980. It contains a new set of conditions negotiated in meetings and telephone conversations with your staff since that date.

We have reviewed the pertinent laws of the State of Missouri, and the rules and regulations of the Missouri Air Conservation Commission, Rules 10 CSR 10-6.070 and 10-6.080, and have determined that they provide an adequate and effective procedure for implementation and enforcement of the NSPS and NESHAPS by the Air Pollution Control Program. Therefore, we hereby grant delegation of the NSPS and NESHAPS to the State of Missouri as follows:

A. Authority for all sources located in the State of Missouri subject to the NSPS promulgated in 40 CFR Part 60 as of December 1, 1979. The two sections of administrative procedures, the 30 source categories, and the test procedures and the performance specifications covered by the delegation are:

- General Provisions, Subpart A

- Emission Guidelines & Compliance Times, Subpart C.
- Fossil-Fuel Fired Steam Generators, Subpart D
- Electric Utility Steam Generating Units, Which Commenced Construction After September 18, 1978 Subpart Da
- Incinerators, Subpart E
- Portland Cement Plants, Subpart F
- Nitric Acid Plants, Subpart G
- Sulfuric Acid Plants, Subpart H
- Asphalt Concrete Plants, Subpart I
- Petroleum Refineries, Subpart J
- Storage Vessels for Petroleum Liquids, Subpart K
- Storage Vessels for Petroleum Liquids Constructed After May 18, 1978, Subpart Ka
- Secondary Lead Smelters, Subpart L
- Secondary Brass & Bronze Ingot Production, Subpart M
- Iron & Steel Plants, Subpart N
- Sewage Treatment Plants, Subpart O
- Primary Copper Smelters, Subpart P
- Primary Zinc Smelters, Subpart Q
- Primary Lead Smelters, Subpart R
- Primary Aluminum Reduction Plants, Subpart S
- Phosphate Fertilizer Industry, Subparts T, U, V, W, X
- Coal Preparation Plants, Subpart Y
- Ferroalloy Production Facilities, Subpart Z
- Steel Plants: Electric Arc Furnaces, Subpart AA
- Kraft Pulp Mills, Subpart BB
- Grain Elevators, Subpart DD
- Gas Turbine Electric Generators, Subpart GG
- Lime Manufacturing Plants, Subpart HH
- Appendix A
- Appendix B

B. Authority for all sources located in the State of Missouri subject to the NESHAPS promulgated in 40 CFR Part 61 as of December 1, 1979, as follows:

- General Provisions, Subpart A
- Asbestos, Subpart B
- Beryllium, Subpart C
- Beryllium Rocket Motor Fuel, Subpart D
- Mercury, Subpart E
- Vinyl Chloride, Subpart F
- Appendix A

The EPA is in the process of repromulgating the work practice standards as a result of litigation. Until this repromulgation is finished, the work practice standards are not enforceable under Section 113 of the Clean Air Act as amended August 1977.

The delegation for NSPS and NESHAPS is based upon the following conditions:

1. All sources in the categories specified above shall provide all necessary notifications and conduct performance tests in accordance with the procedures specified at 40 CFR Part 60 Subpart A and 40 CFR Part 61 Subpart A. The Missouri Department of Natural Resources (MDNR) shall allow only the use of testing methods or procedures specified in each applicable Subpart of Part 60 and Part 61, unless the EPA has given prior approval to an alternative or equivalent method.

2. The MDNR will instruct each facility affected by the NSPS or NESHAPS to provide

copies of all required notifications, pursuant to 40 CFR Part 60 Subpart A and 40 CFR Part 61 Subpart A, to the Director of the Enforcement Division, EPA, Region VII, 324 East 11th Street, Kansas City, MO 64106.

3. All sources subject to the NSPS and NESHAPS must monitor emissions as specified by the applicable Subpart. In addition, continuous monitoring instruments must be tested according to the performance specifications at 40 CFR Part 60, Appendix B. If the MDNR finds that a testing method for emission monitoring equipment other than that specified in the applicable part of 40 CFR Part 60 or Part 61 is necessary, the EPA's concurrence shall be obtained prior to notifying the owner or operator of the acceptance of the alternative test method.

4. Upon prior approval of the Director of the Air and Hazardous Materials Division of the EPA, Region VII, the Director of the MDNR may sub-delegate the authority to implement and enforce the NSPS and NESHAPS to local air pollution control agencies in the state, when such agencies have demonstrated that they have equivalent or more stringent programs in force.

5. The MDNR shall notify the EPA of any request for a variance from the NSPS and NESHAPS requirements prior to any action on such request, and the MDNR will at no time grant a variance from any of the requirements of the NSPS or NESHAPS without the approval of the EPA.

6. Any requests for information pertaining to sources subject to the NSPS or NESHAPS with which the MDNR cannot comply because of its confidentiality requirements, must be forwarded to the EPA.

7. A new request for delegation will be required for any standards not included in the state's request of April 16, 1980. Any NSPS and/or NESHAPS promulgated by EPA, but not yet adopted by the state, will be enforced by the EPA.

8. If the Director of the Air and Hazardous Materials Division determines that a state procedure for enforcing or implementing the NSPS or NESHAPS is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or in part. If deficiencies are found in the MDNR program, the EPA will notify the MDNR of these deficiencies, will specify appropriate corrective measures, and will allow the MDNR a reasonable time to implement those measures. If these deficiencies continue to exist after the allotted time, the EPA may then revoke this delegation. The EPA will notify the state of its intent to revoke this delegation, and the reasons for revocation, at least 15 days prior to the effective date of the revocation. Any such revocation shall be effective as of the date specified in a "Notice of Revocation" to the State of Missouri.

The MDNR should obtain the concurrence of the EPA prior to issuing any determination of the applicability of the NSPS or NESHAPS when there is no clear precedent and it is necessary to interpret the regulations.

A notice announcing this delegation will be published in the *Federal Register* in the near future.

This delegation is effective immediately. Please acknowledge acceptance of this

delegation, in writing, within ten (10) days of receipt of this letter.

If the MDNR determines that it can no longer enforce or implement the NSPS and/or NESHAPS, it may request that the EPA revoke this delegation under Condition 8, above.

If you have any questions, please contact me at 816/374-5971. The member of my staff who is most familiar with this subject, Mr. Craig W. Smith, 816/374-6525, can also provide additional information.

Sincerely yours,

David A. Wagoner,
Director, Air and Hazardous Materials
Divisions

Copies of the request for delegation of authority are available for public inspection at the Environmental Protection Agency, Region VII, 324 East 11th Street, Kansas City, Missouri.

Effective immediately, all reports, requests, applications, submittals and other communications required pursuant to the NSPS and NESHAPS categories listed in the above letter should be submitted to the Missouri Department of Natural Resources, P.O. Box 1368, Jefferson City, Missouri 65101.

Copies of notifications required pursuant to 40 CFR Part 60, Subpart A and 40 CFR Part 61, Subpart A shall also be submitted to the Director, Enforcement Division at the EPA regional office mentioned above.

This Notice is issued under the authority of Sections 111 and 112 of the Clean Air Act, as amended (42 U.S.C. 7411 and 7412).

Dated: May 4, 1981.

William W. Rice,
Acting Regional Administrator, Region VII.

[FR Doc. 81-14995 Filed 5-18-81; 8:45 am]

BILLING CODE 6560-38-M

[WH-FRL-1832-7]

The National Contingency Plan; Draft Revision: Postponement of Meetings

AGENCY: Environmental Protection Agency.

ACTION: Notice of postponement of Public Meetings on the draft revision of the National Contingency Plan.

SUMMARY: Meetings scheduled to discuss and accept comment on the draft proposed National Contingency Plan have been postponed pending publication of the proposed National Contingency Plan in the *Federal Register*. Meetings postponed were scheduled for Boston: May 18, Chicago: May 20, Dallas: May 21, San Francisco: May 22, and Washington D.C.: May 28.

FOR FURTHER INFORMATION CONTACT: Steven Cohen, Office of Hazardous Emergency Response (WH548D), 401 M

Street, S.W., Washington, D.C. 20460, Telephone 202-382-2188.

May 11, 1981.

Michael B. Cook,
Deputy Assistant Administrator for
Hazardous Emergency Response.

[FR Doc. 81-1536 Filed 5-15-81; 8:45 am]

BILLING CODE 3560-29-M

FEDERAL RESERVE SYSTEM

American Ban Corp.; Formation of Bank Holding Company

American Ban Corporation, Boise, Idaho, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent, less directors' qualifying shares, of the voting shares of American Bank of Commerce, Boise, Idaho. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 13, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 13, 1981.

D. Michael Manies,
Assistant Secretary of the Board.

[FR Doc. 81-14950 Filed 5-18-81; 8:45 am]

BILLING CODE 6210-01-M

Springfield Bank Company, Inc.; Formation of Bank Holding Company

Springfield Bank Company, Inc., Springfield, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 96.67 percent or more of the voting shares of Springfield State Bank, Springfield, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Springfield State Bank Company, Inc., Springfield, Nebraska, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C.

1843(c)(8) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Springfield Insurance Agency, Springfield, Nebraska.

Applicant states that the proposed subsidiary would engage in the activities of providing general insurance services in a town with less than 5,000 total population. These activities would be performed from offices of Applicant's subsidiary in Springfield, Nebraska, and the geographic area to be served is Springfield, Nebraska. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, of unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than June 13, 1981.

Board of Governors of the Federal Reserve System, May 13, 1981.

D. Michael Manies,
Assistant Secretary of the Board.

[FR Doc. 81-14951 Filed 5-18-81; 8:45 am]
BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

[E-81-4]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in

proceedings before the New Mexico Public Service Commission involving an increase in natural gas rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the New Mexico Public Service Commission involving the application of the Gas Company of New Mexico for an increase in its natural gas rates. The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

d. The Department of Defense shall forward to the General Services Administration copies of its testimony and briefs within 60 days of formal submission.

Dated: May 8, 1981.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 81-14918 Filed 5-18-81; 8:45 am]

BILLING CODE 6820-AM-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act [Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)], and FDA regulations (21 CFR

Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel

Date, time, and place. June 8 and 9, 9 a.m., Auditorium, 200 Independence Ave., SW., Washington, D.C.

Type of meeting and panel section leader. Open public hearing, June 8, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 11 a.m.; closed committee deliberations, 11 a.m. to 5 p.m.; open public hearing, June 9, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 5 p.m.; Max W. Talbott, Bureau of Medical Devices (HFK-460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7536.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the panel section leader before May 22, 1981, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments. Time will be allocated to interested persons.

Open committee discussion. On June 8, the committee will discuss statistical/epidemiological questions pertaining to intraocular lenses. On June 9, the committee will discuss ultraviolet radiation and sunglasses, premarket approval applications, and other general issues relating to contact lens products.

Closed committee deliberations. The committee will conduct reviews of premarket approval applications for intraocular lenses on June 8. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Applications for reimbursement. Must be received by May 27, 1981.

Circulatory System Devices Panel

Date, time, and place. June 18 and 19, 8:30 a.m., Rm. 403A-425A, 200 Independence Ave. SW., Washington, DC.

Type of meeting and executive secretary. Open public hearing, June 18,

8:30 a.m. to 9:30 a.m.; open committee discussion, 9:30 a.m. to 10:30 a.m.; closed committee deliberations, 10:30 a.m. to 4 p.m.; open committee discussion, June 19, 8:30 a.m. to 4 p.m.; Glenn A. Rahmoeller, Bureau of Medical Devices (HFK-450), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

General function of the committee.

The committee review and evaluates available data on the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing.

Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the executive secretary before June 8, 1981, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On June 18, the Panel will review several premarket approval applications. On June 19, the Panel will review FDA's Pacemaker Registry with representatives from the Registry, the American Heart Association, the American College of Cardiology, the Veterans Administration, and the National Institutes of Health.

Closed committee deliberations. On June 18, the Panel will review several premarket approval applications. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Applications for reimbursement. Must be received by June 2, 1981.

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public

participation, and an open public hearing may last for whatever longer period the committee chairman determine will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94-409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in

certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Applications for reimbursement for participation in the meetings listed above should be sent to the Office of Consumer Affairs (HFE-1), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, rather than to the Dockets Management Branch as prescribed in § 10.210 of the regulations (21 CFR 10.210). If you wish to submit an application or wish more information regarding the reimbursement program, please call 301-443-5006.

FDA has established expedited procedures for review of any application for reimbursement for participation in the meetings announced in this notice. The Office of Consumer Affairs, FDA, will file any application for reimbursement for participation in the meetings announced in this notice in the docket for this notice.

Dated: May 12, 1981.
 Arthur Hull Hayes, Jr.,
 Commissioner of Food and Drugs.
 [FR Doc. 81-14748 Filed 5-18-81; 8:45 am]
 BILLING CODE 4110-03-M

Ophthalmic Device Section; Meeting Cancellation

AGENCY: Food and Drug Administration.
 ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces cancellation of a meeting of the Ophthalmic Device Section of the Ophthalmic, Ear, Nose, and Throat, and Dental Devices Panel scheduled for May 22, 1981. The meeting was announced by notice in the Federal Register of April 14, 1981 (46 FR 21823).

FOR FURTHER INFORMATION CONTACT: Max W. Talbott, Bureau of Medical Devices (HFK-460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7536.

Dated: May 12, 1981.
 William F. Randolph,
 Acting Associate Commissioner for
 Regulatory Affairs.

[FR Doc. 81-14873 Filed 5-18-81; 8:45 am]
 BILLING CODE 4110-03-M

[Docket No. 79P-0484]

Publication of "Paper NDA" Memorandum

AGENCY: Food and Drug Administration.
 ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs is publishing a memorandum, previously prepared by Marion J. Finkel, M.D., Associate Director for New Drug Evaluation, Bureau of Drugs, which sets forth the agency policy on "NDAs for Duplicate Drug Products of Post-1962 Drugs," popularly known as the "paper NDA" policy.

FOR FURTHER INFORMATION CONTACT: Carol A. Kimbrough, Bureau of Drugs (HFD-32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In the Federal Register of December 12, 1980 (45 FR 82052), the Commissioner of Food and Drugs announced his decision denying a petition seeking the withdrawal of the agency policy described in an agency memorandum on "NDAs for Duplicate Drug Products of Post-1962 Drugs." The memorandum was originally prepared July 31, 1978, by Dr. Marion J. Finkel, Associate Director for New Drug Evaluation, Bureau of Drugs, for distribution to staff.

In the December 12, 1980, Federal Register notice, the Commissioner also announced his determination that the policy stated in the memorandum does not require rulemaking procedures. That determination was upheld by the United States Court of Appeals for the Fourth Circuit in *Burroughs Wellcome Co. v. Schweiker*, Nos. 81-1071, 81-1128 (4th Cir., May 11, 1981). Subsequently, in separate litigation, the United States District Court for the Northern District of Illinois directed that the memorandum setting forth the "paper NDA" policy be published in the Federal Register. *American Critical Care v. Schweiker*, No. 81 C 252 (N.D. Ill., May 13, 1981). The court ruled that upon the publication of the memorandum in the Federal Register in the form set forth below, the agency's "paper NDA" policy can be implemented without rulemaking procedures.

Accordingly, the memorandum is published as follows:

Date: July 31, 1978.
 To: Division Directors/HFD-110-160
 From: Associate Director for New Drug Evaluation/HFD-100
 Subject: NDA's for Duplicate Drug Products of Post-1962 Drugs.

The purpose of this memorandum is to provide (1) guidance on the requirements that must be met by new manufacturers of approved post-62 drugs and (2) criteria for approval of such NDAs.

Duplicate drug products are defined as those which contain a drug(s) identical to an already marketed drug product, are in the same or closely related dosage form, and are offered for the same indications as those of the already marketed drug products.

If the Drug Regulation Reform Act is approved in the near future, then the problem of post-62 duplicate drug products will disappear. Similarly, the problem will disappear if the Agency adopts a policy of bringing post-62 drugs into the current DESI-ANDA system. Until one of these occurs, however, an interim policy is necessary.

Policy

NDA's for duplicate Drug Products of Post-1962 Drugs. A drug marketed for the first time after 1962 under an approved New Drug Application may be marketed by a second firm only after the second firm has received the approval of a full New Drug Application for that product. Current Agency policy does not permit ANDAs for this purpose. Present interpretation of the law is that no data in an NDA can be utilized to support another NDA without express permission of the original NDA holder. Thus, in the case of duplicate NDAs for already approved post-62 drugs, the Agency will accept published reports as the main supporting documentation for safety and effectiveness. The Agency will not interpret the "full reports of investigations" phrase in the law as requiring either case reports or an exhaustive review of all published reports on the drug. Depending upon the quality of the published data,

selected preclinical and perhaps additional clinical studies may be required of the new sponsor prior to NDA approval.

Attached are the following:

Attachment A: Recommendations for data to be submitted in duplicate NDAs for post-62 drugs. Attachment A may be sent as information to potential sponsors of such NDAs.

Attachment B: Criteria for approval of duplicate NDAs for post-62 drugs.

Marion J. Finkel, M.D.

Attachments:

Attachment A—Recommendations for Data To Be Submitted in Duplicate, NDAs For Post-62 Drugs

A new manufacturer desiring to market a drug which is identical to one which is already marketed and the subject of an approved new drug application should submit a full new drug application for that product.

A. Safety and Effectiveness

The NDA must be accompanied by published literature providing substantial evidence of effectiveness and appropriate evidence of safety for the claimed indication(s). Unpublished reports may also be submitted, when available and necessary. Published reports from scientific journals should encompass papers in which adequate and well-controlled clinical studies are described in detail. Abstracts, reviews, and anecdotal reports are not useful. For drugs to be administered chronically, clinical evidence of long-term safety and effectiveness should be included, if available. In addition, pertinent animal information, if available from published or unpublished literature, should be included. The compilation of published reports (preclinical and clinical) should be the major papers in the literature relating to the drug and should be "balanced" and include those demonstrating negative as well as positive findings. Each submitted paper (or unpublished report) of a clinical trial offered in support of effectiveness should be accompanied by a summary describing the protocol, the results and how the study meets 21 CFR Sec. 314.111(a)(5)(ii), i.e., the essentials of a controlled clinical investigation. Attention should be given to the appropriateness of the statistical methods used by the authors (when known). Statements in medical textbooks relative to a drug may be considered as supporting, but not primary, evidence. If the applicant believes that adequate and well-controlled investigations are not required to provide substantial evidence for safety and effectiveness, then he may petition for such a waiver, as provided by 21 CFR Sec. 314.111(a)(5)(ii).

The published and unpublished reports should, in the main, be relevant to the following areas of interest:

1. Animal Studies: Pharmacologic, toxicologic, reproduction and carcinogenicity studies.
2. Clinical Studies: a. Evidence to evaluate safety;

1. Data on short-term and, if administered for prolonged periods, long-term adverse effects.

2. Data which would necessitate warnings or precautions in the use of the drug.

3. Data, if any, on outcome of pregnancy, if the drug is to be utilized in women of childbearing age.

4. Data, if any, on use in nursing mothers.

5. Data, if applicable, on use in children.

b. Effectiveness: Evidence to support the claimed indications for adults and, if applicable, for children.

c. Drug Disposition: Evidence relative to absorption, distribution, metabolism and excretion of the drug in adults and, if applicable, in children.

d. Drug interaction: Data on any known clinical interactions.

In addition to that outlined under A, above, the following information should be submitted to the NDA:

B. Bioavailability and Bioequivalence Studies

Data to meet 21 CFR Part 320 (Subpart B of the regulations—Procedures for Determining the Bioavailability of Drug Products) or information to support a request for waiver from in vivo bioavailability requirements.

If required by FDA, data to establish the bioequivalence of the drug product to a specified reference product.

C. Manufacturing and Controls Information Full Information as Outlined Under 21 CFR Sec. 314.1, FD-356H

D. Labeling

The required labels and other labeling should be submitted. The professional labeling should be annotated with references to the submitted data for support of the statements therein.

ATTACHMENT B—Criteria for Approval of Duplicate NDA's for Post-62 Drugs

I. NDAs

a. Animal data. Often there will be little in the way of animal toxicity and reproduction data in the published literature and such data as may be available may be inadequately described for in-depth analysis. It can be assumed, however, that for drugs that have been widely marketed for a prolonged period (or, in the case of drugs for uncommon diseases, that have been marketed for a reasonable time), sufficient clinical data are usually available to characterize the pharmacologic and potential toxic effects of a drug. Therefore, depending upon the quality of the clinical data submitted and the FDA medical reviewers' own knowledge from the published literature of the clinical safety of the drug at issue, clinical information can be substituted for full reports of animal data should such reports not be available in the published literature or in any unpublished data submitted by the duplicate sponsor.

If the published clinical data and any unpublished clinical data submitted by the applicant are inadequate to substitute for sparsely reported animal toxicology studies, then the applicant will be required to perform his own animal studies. The nature of these studies will be governed by such data as are

already available (both preclinical and clinical) and by what animal studies the NDA holders of the marketed products performed.

No entirely new requirement for animal studies will be imposed upon a duplicate NDA sponsor unless such a requirement is imposed upon all manufacturers of the drug. For example, where a post-62 drug was approved at a time when carcinogenicity studies were not required, the duplicate NDA sponsor will not be required to perform such studies in order to obtain approval of his NDA. At any time that FDA decides that there is a requirement for such studies, then all approved NDA holders will be requested to participate in a mechanism for obtaining the studies.

b. Clinical data. Adequate published (and unpublished, if available) data derived ordinarily from two or more adequate and well-controlled clinical trials are required to support safety and effectiveness for the labeling claims. It is not necessary for each labeling claim to be supported by such data if the FDA has determined that it is reasonable to extrapolate safety and effectiveness data for one or more indications to other indications for use of the drug. For example, FDA has determined that data from studies of atopic dermatitis and psoriasis can be used to support safety and effectiveness for all corticosteroid-responsive dermatoses.

It may be possible to forego the requirement for at least two adequate and well-controlled individual studies in cases where the sponsor has submitted data from a multiclinic study and the data allow for separate analysis of several clinics. If these analyses are adequate to support the findings from the entire multiclinic study, then they may serve as the additional study required.

If the duplicate NDA sponsor has petitioned for a waiver from the requirement for submittal of data from adequate and well-controlled studies to support safety and effectiveness of a drug, and the reviewing Division is in agreement with this petition, then approval to grant a waiver must be obtained from the Bureau Director prior to approval of the NDA. If the reviewing Division is not in agreement with the petitioner, the petition must be forwarded to the Bureau Director for his decision on whether or not to grant the waiver.

In order to approve a duplicate NDA it is not necessary that the sponsor submit data which documents every adverse reaction, precaution and warning in the labeling for already marketed drug products of the same drug entity. The medical reviewer should utilize his own knowledge of the published literature and other sources to provide any missing information. This is consistent with current FDA policy which allows, in fact requires, that FDA utilize mechanisms which assure that all safety information pertinent to a drug, however such information is acquired, be included in the labeling of all manufacturers of that drug.

c. Bioavailability and Bioequivalence. Approval of the NDA is attendant upon approval of the required data to show that the drug is comparable in blood levels (or dissolution rate, as required) to the innovator's product, if applicable.

d. Manufacturing Controls. Approval of the NDA is attendant upon fulfillment of the requirements for a full NDA.

Dated: May 14, 1981.

Arthur Hull Hayes, Jr.,
Commissioner of Food and Drugs.

[FR Doc. 81-14994 Filed 5-18-81; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Notice of Receipt and Approval of Petition for Reassumption of Jurisdiction Over Indian Child Custody Proceedings by the Penobscot Indian Nation

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Receipt and Approval of Petition for Reassumption of Jurisdiction over Indian Child Custody Proceedings.

SUMMARY: The Indian Child Welfare Act of 1978 provides that, subject to certain specified conditions, Indian tribes may petition the Secretary of the Interior for reassumption of jurisdiction over Indian child custody proceedings.

The Penobscot Indian Nation has filed a petition with the Department of the Interior to reassume exclusive jurisdiction over child custody proceedings involving Indian children who reside or are domiciled on the Penobscot Indian Reservation in Maine. The Assistant Secretary-Indian Affairs has reviewed the petition and determined that tribal exercise of jurisdiction is feasible and that the tribe has a suitable plan for exercising such jurisdiction. This notice constitutes the official approval of the Penobscot Indian Nation's petition by the Department of the Interior.

EFFECTIVE DATE: The Penobscot Indian Nation reassumes exclusive jurisdiction on or before July 17, 1981.

FOR FURTHER INFORMATION CONTACT: Bureau of Indian Affairs, Social Services, 18th & C Sts. N.W., Washington, D.C. 20240 (703) 235-2756.

SUPPLEMENTARY INFORMATION: The authority for the Assistant Secretary—Indian Affairs to publish this notice is contained in 25 U.S.C. 1918(c), 25 CFR 13.14, and 209 DM 8.

The principal author of this document is Louise Zokan-Delos Reyes, Division of Social Services, Bureau of Indian Affairs, Department of the Interior, Washington, D.C.

Section 108 of the Indian Child Welfare Act of 1978, Pub. L. 95-608, 92

Stat. 3074, 25 U.S.C. 1918, authorizes Indian tribes that occupy a reservation, as defined in 25 U.S.C. 1903(10), over which a state asserts jurisdiction over Indian child custody proceedings, pursuant to federal statute, to reassume jurisdiction over such proceedings.

The reassume such jurisdiction, a tribe must first file a petition in the manner prescribed in 25 CFR Part 13. The petition is then reviewed by the Department of the Interior using criteria set out in 25 CFR 13.12. If the Department finds that the tribe has submitted a suitable plan and that tribal exercise of jurisdiction is feasible, the petition is approved by publication in the *Federal Register*.

The Penobscot Indian Nation has requested that the requirement in 25 CFR 13.14(a)(1), that the Department of the Interior wait at least 45 days after receipt of a petition before taking final action, not be applied to its petition. This requirement was established so that local agencies involved in child custody matters would have some advance notice that a change in jurisdiction was likely. With respect to the Penobscot Indian Nation, however, advance notice that such a change of jurisdiction was likely has been provided by Section 8 of the Maine Indian Claims Settlement Act of 1980, Pub. L. 96-420, 94 Stat. 1795, 25 U.S.C. 1727, which authorizes the Penobscot Indian Nation to assume exclusive jurisdiction over Indian child custody proceedings pursuant to the Indian Child Welfare Act. The Penobscot Indian Nation was exercising jurisdiction over Indian child custody proceedings prior to the effective date of the Maine Indian Claims Settlement Act, which granted exclusive jurisdiction to the state pending approval of the Secretary of the Nation's petition (25 U.S.C. 1727(f)). Expedited action on the petition has been requested in order to reduce the gap in tribal jurisdiction.

For these reasons, the requirement under 25 CFR 13.14(a)(1), that the Department of the Interior wait at least 45 days after receipt of a petition before taking final action, is waived. This waiver is granted pursuant to the authority of the Secretary of the Interior to waive Departmental regulations when such waiver is in the best interest of the Indians, 25 CFR 1.2, and pursuant to the delegation of that authority to the Assistant Secretary—Indian Affairs under 209 DM 8.

Notice: This is notice that a petition for tribal reassumption of jurisdiction over Indian child custody proceedings filed by the Penobscot Indian Nation is approved effective 60 days after publication of this notice in the *Federal Register*.

The geographic area subject to the reassumption of jurisdiction is the Penobscot Indian Reservation.

James F. Canan,

Acting Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 81-14915 Filed 5-19-81; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Canon City District Advisory Council; Meeting Location Change

AGENCY: Bureau of Land Management.

ACTION: Canon City District Advisory Council Meeting Change of Location.

SUMMARY: Notice is hereby given, in accordance with Pub. L. 94-579, that a meeting of the Canon City District Advisory Council originally scheduled at the Lamplighter Motel, 418 Main Street, Alamosa, Colorado (FR Doc. 81-12612, on page 23818, April 28, 1981) has been changed to the Alamosa Inn, 1919 Main Street, Alamosa, Colorado, at the same time and date. The meeting will be from 1:00 p.m. to 5:00 p.m. on May 28th and from 8:00 a.m. to noon on May 29th.

Dated: May 11, 1981.

Melvin D. Clausen,
District Manager.

[FR Doc. 81-14920 Filed 5-19-81; 8:45 am]

BILLING CODE 4310-04-M

[OR 6817]

Oregon; Termination of Disposal Classification

1. By Order of the Oregon State Director, Bureau of Land Management, which was published in the *Federal Register* on November 11, 1970 (35 FR 17363), the following described public land was classified for disposal through exchange pursuant to Section 2 of the Classification and Multiple Use Act of September 19, 1964 (43 U.S.C. 1412):

Willamette Meridian

T. 1 N., R. 19 E.,
Sec. 2, SW $\frac{1}{4}$ SE $\frac{1}{4}$.

The area described contains 40 acres in Gilliam County, Oregon.

2. The above-described public land has been eliminated from any exchange proposal; accordingly, pursuant to 43 CFR 2461.5(c)(2), the classification is terminated May 19, 1981.

3. At 10:00 a.m., on June 22, 1981, the above-described public land will be relieved of the segregative effect of the above-mentioned classification order.

Dated: May 11, 1981.

William G. Leavell,
State Director.

[FR Doc. 81-14919 Filed 5-18-81; 8:45 am]

BILLING CODE 4310-04-M

Roswell District Grazing Advisory Board; Meeting

AGENCY: U.S. Bureau of Land Management, Roswell District.

ACTION: Notice of advisory council meeting.

SUMMARY: In accordance with Pub. L. 94-579, this notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Roswell District Advisory Council.

DATE: June 18, 1981, beginning at 10 a.m. A public comment period will begin at 2 p.m.

ADDRESS: U.S. Bureau of Land Management, Roswell District Office, 1717 West Second Street, Roswell, New Mexico 88201.

FOR FURTHER INFORMATION CONTACT:

Richard W. Bastin, Acting District Manager, or Tim Kreager, Chief, Planning and Environmental Staff, U.S. Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201 (505-622-7670).

SUPPLEMENTARY INFORMATION: The proposed agenda will include: (1) Presentation of the Bureau of Land Management-Department of Energy Cooperative Agreement concerning the Waste Isolation Pilot Plant (WIPP) site, (2) discussion of the Roswell District's fiscal year 1982 budget, (3) an update on activities at Fort Stanton, (4) an update on the current status of the MX missile proposal, (5) other items chosen by council members. This meeting is open to the public. Interested persons may make oral statements to the council during the public comment period, or may file written statements. Anyone wishing to make an oral statement must notify the acting district manager by June 15, 1981. Summary minutes will be maintained in the district office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

Dated: May 11, 1981.

Richard W. Bastin,
Acting District Manager.

[FR Doc. 81-14921 Filed 5-18-81; 8:45 am]

BILLING CODE 4310-04-M

Florida; Resource Management Planning, Pine Island Sound-Sanibel Resource Management Plan

Pursuant to the responsibilities outlined in 43 CFR 1601.3(f) and 1601.3(i), the Eastern States Office (ESO) of the Bureau of Land Management, U.S. Department of the Interior, announces a public meeting of the Pine Island Sound-Sanibel Resource Management Plan (RMP) now being prepared for public lands and Federal mineral ownership under its jurisdiction in Lee, Charlotte, and Collier Counties, Florida.

The meeting will be held to inform interested parties of progress on the RMP, and to solicit public input into two current phases of the RMP process: analysis of the management situation, and formulation of management alternatives. Results of the initial wilderness inventory of the area also will be discussed, including designation of intensive wilderness study units.

The workshop is scheduled for June 3, 1981, in Fort Myers, Florida, at the Edison Junior College on College Parkway. For the convenience of the public, two sessions will be held, one from 2:00 p.m. to 3:30 p.m., the other from 7:00 p.m. to 8:30 p.m.

Further details regarding the public meeting or the RMP may be obtained from Ed Roberson, RMP Team Leader, Bureau of Land Management, 1315 McFarland Blvd., East, Tuscaloosa, AL 35405. Telephone: (205) 759-5441 or FTS 229-2933.

Roger L. Hildebeidel,
Eastern States Director.

[FR Doc. 81-14794 Filed 5-18-81; 8:45 am]

BILLING CODE 4310-84-M

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before May 8, 1981. Pursuant to § 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 June 3, 1981.

Carol Shull,
Chief, Registration Branch.

ALASKA

Kodiak Island

Kodiak vicinity, *Uganik Island Archeological District (KOD-203)*

CONNECTICUT

Hartford County

Hartford, *Connecticut State Library and Supreme Court Building*, 231 Capitol Ave.

ILLINOIS

Cook County

Western Springs, *Western Springs Water Tower*, 914 Hillgrove Ave.

DuPage County

Wheaton, *Adams Memorial Library*, 102 E. Wesley St.

Edgar County

Paris, *Edgar County Courthouse*, Main St.

INDIANA

Allen County

Cedarville vicinity, *Hursh Road Bridge (Bridge No. 38)* W. of Cedarville on Hursh Rd.

Howard County

Kokomo, *Kokomo City Building*, 221 W. Walnut St.

NEVADA

Clark County

Las Vegas, *Tule Springs Ranch*, 9200 Tule Springs Rd.

WISCONSIN

Ashland County

Glidden vicinity, *Marion Park Pavilion*, Marion Park

[FR Doc. 81-14514 Filed 5-18-81; 8:05 am]

BILLING CODE 4310-03-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 29633]

Burlington Northern, Inc.-Merger-Quanah, Acme & Pacific Railway Co.; Exemption

May 13, 1981.

On April 23, 1981, the Quanah, Acme & Pacific Railway Company (QAP) and Burlington Northern, Inc. (BN) jointly filed a notice of exemption of the proposed merger of QAP into BN, under 49 CFR 111.5(c)(3), as amended by *Railroad Consolidation Procedures*, 363 I.C.C. 200, 224, and 266 (1980), 45 FR 6299 (September 23, 1980).

QAP was a subsidiary of St. Louis-San Francisco Railway (SL-SF) prior to the November 21, 1980 merger of SL-SF

into BN, pursuant to the decision of the Commission in *Burlington Northern, Inc.-Control and Merger-St. Louis-San Francisco Railway Company*, 360 I.C.C. 783 (1980). Now QAP is a wholly owned subsidiary of BN. BN operates the 37 miles of QAP's line between Quanah and Paducah, TX, as an integral part of BN's system. BN also operates the 7.9 miles of QAP's trackage rights over BN's line between the south bank of the Red River and Quanah, which will be extinguished upon the consummation of the BN-QAP merger.

The BN-QAP merger is intended to simplify the BN corporate structure. It will involve no changes in operations and will have no impact on shippers or rail service. The merger benefits are limited to administrative and incidental savings resulting from corporate simplification, the elimination of separate recordkeeping, intercompany billing and accounting, and the administrative burden of maintaining the separate corporate existence of QAP. However, because all of QAP's administrative functions (other than train, engine, agency and maintenance service functions) are presently performed by BN's non-scheduled managerial personnel, no savings due to the elimination of managerial employees or duplicate officers will be involved.

This is a transaction within a corporate family which is exempt because it does not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family (49 CFR 111.5(c)(3)).

Under 49 U.S.C. 10505, as amended by section 213 of the Staggers Rail Act of 1980, Pub. L. No. 96-448 (1980), the Commission cannot exempt a transaction if it will relieve a carrier of its obligation to protect the interests of employees as required by 49 U.S.C. Subtitle IV. The Commission has determined that the employee protective provisions found in *New York Dock Ry.-Control-Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979), satisfy the statutory requirements for the protection of employees involved in merger transactions. Therefore, BN and QAP must comply with those provisions as a condition to exercise of this exemption.

Agatha L. Margenovich,
Secretary.

[FR Doc. 81-14885 Filed 5-18-81; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29561]

Goodwin Railroad, Inc.; Petition for Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts the discontinuance of service by Goodwin Railroad, Inc., of a line of railroad owned by the State of New Hampshire, from Concord to Lincoln, NH, from the requirements of prior Commission approval under 49 U.S.C. 10903.

DATES: This exemption is effective June 18, 1981. Petitions for reconsideration of this action must be filed on or before June 8, 1981.

ADDRESSES: Send pleadings to:

(1) Office of Proceedings, Section of Finance, Room 5414, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Daniel J. Callaghan, 1850 Elm Street, Box 719, Manchester, NH 03105

Pleadings should refer to Finance Docket No. 29561.

FOR FURTHER INFORMATION CONTACT: Ellen D. Hanson. (202) 275-7245.

SUPPLEMENTARY INFORMATION:

The Proposal

On December 2, 1980, Goodwin sought exemption under 49 U.S.C. 10505 from the provisions of 49 U.S.C. 10903-10906 with respect to a proposed discontinuance of service over a line of railroad owned by the State of New Hampshire. This rail line extends from Concord to Lincoln, NH, in Merrimack, Belknap, and Grafton Counties, NH, a distance of 76.4 miles. Goodwin is presently the operator of the Concord-Lincoln rail line under the terms and conditions of a contract between Goodwin and New Hampshire, entitled the "Goodwin Railroad Co., Inc., Operating Agreement Under Rail Service Continuation Subsidy With New Hampshire Public Utilities Commission." This Operating Agreement became effective on February 12, 1977, and on August 25, 1978, a Certificate and Decision was served in Finance Docket No. 28531, authorizing Goodwin to operate the Concord-Lincoln rail line.

Under the terms and conditions of the Operating Agreement, Goodwin is entitled to regularly scheduled subsidy payments and management fees from New Hampshire and the New Hampshire Transportation Authority (NHTA).

Presently, Goodwin is providing rail carrier service, 3 days each week, between Concord and Plymouth, NH, which is only fifty-one (51) miles of the Concord-Lincoln railroad line. This rail carrier regularly serves thirteen (13) shippers and seven (7) additional shippers on an infrequent basis. Goodwin employs only four persons: the president, an office administrator, and 2 field employees.

Goodwin wants to discontinue service over the Concord-Lincoln railroad line, contending that New Hampshire and NHTA are in breach of their obligations under the Operating Agreement because they have failed to pay the subsidies and fees due to Goodwin under the terms and conditions of the contract. Goodwin states it is suffering unnecessary and continuous hardships and that it is operating at a substantial loss due to the State's failure to make the proper subsidy payments.

The Statute

Discontinuance of rail transportation requires approval under 49 U.S.C. 10903. To seek Commission approval, an application must be filed in compliance with *Abandonment of Railroad Lines and Discontinuance of Service*, 49 CFR Part 1121 (1979) (discontinuance of service regulations). Petitioner has requested an exemption from 49 U.S.C. 10903 so that it will not have to file a formal application under the discontinuance of service regulations.

Under 49 U.S.C. 10505, as modified by section 213 of the Staggers Rail Act of 1980 (Pub. L. 96-448, 94 Stat. 1895, October 14, 1980), the Commission is authorized to exempt a transaction when it finds that (1) continued regulation is not necessary to carry out the Rail Transportation Policy of 49 U.S.C. 10101a; and (2) either the transaction is of limited scope, or the regulation is not necessary to protect shippers from the abuse of market power.

Discussions and Conclusions

Goodwin is operating its limited rail carrier service over the Concord-Lincoln railroad line at a monthly loss of approximately twelve thousand dollars (\$12,000). Under the terms of the operating agreement, Goodwin is entitled to receive regularly scheduled subsidy payments. Goodwin alleges that the State of New Hampshire and NHTA are in breach of that contract, and that from February 1977, through October 1980, payments in excess of two hundred twelve thousand dollars (\$212,000) are due and owing to

Goodwin.¹ Our grant of Goodwin's original certificate noted that Goodwin would "receive a rail continuance assistance payment from the State to cover operating deficits"; our finding that "the expenses of the operation would not impair the ability of applicant to perform its obligation" rested on the existence of the subsidy.

If we were to require this four-employee corporation to incur monthly losses after necessary monthly subsidies are discontinued, the result would be bankruptcy for the Goodwin Railroad and great reluctance on the part of small railroads to institute subsidized operations. Clearly such a policy would be contrary to the public interest and contrary to the provision of the rail transportation policy promoting "a safe and efficient rail transportation system by allowing rail carriers to earn adequate revenues." 49 U.S.C. 10101a(3).

We believe that a grant of Goodwin's petition will not have a significant adverse effect on shippers. First, in order to protect shipper interests, we will require Goodwin to serve a copy of the *Federal Register* publication within 5 days of that publication on all shippers it has served within the last six months and on the New Hampshire Transportation Authority. Goodwin shall certify to us that this notification has taken place. After the exemption is granted, but before it becomes effective, shippers can file a petition to reopen. Additionally, a new carrier theoretically could start operations immediately under the Commission's modified certificate procedures enunciated in *Common Carrier Status of States, State Agencies*, 363 I.C.C. 132 (1980), if a subsidy could be negotiated with New Hampshire or with the shippers.

Based on available information and particularly the fact that New Hampshire owns the subject rail line, our review of the proposal indicates that discontinuance of service will not significantly affect energy consumption or the quality of the human environment. However, in line with our recent decision in Finance Docket No. 29352, *Central of Georgia Railroad Company—Petition for Exemption from the Filing of an Abandonment Petition, 49 U.S.C. 10903-10906* (not printed), decided December 9, 1980, Goodwin

¹ Although a copy of Goodwin's petition was served on New Hampshire, we have not received its comments disputing Goodwin's allegations. In the event that New Hampshire wishes to comment on the exemption, they may do so, within the 20-day period following publication in the *Federal Register*, by filing a petition to reopen the proceeding for reconsideration.

shall notify the following state agencies, on or before May 28, 1981:

- Mr. I. C. Goode, Railroad Planner, N.H. Dept. of Transportation, 85 Lorida Road, John O. Morton Building, Concord, NH 03301
- Mr. Paul Doherty, Director, New Hampshire Division of Parks and Recreation, Post Office Box 856, Concord, NH 03301
- Mr. Ronald Poltak, Director, New Hampshire State Planning Office, 2½ Beacon Street, Concord, NH 03301
- Mr. Harold Norwell, Chief, Game Manager, Dept. of Fish and Game, 34 Bridge Street, Concord, NH 03301
- Jack Mettee, Office of State Planning, 2½ Beacon Street, Concord, NH 03301
- Mr. Howard Townsend, Commissioner, New Hampshire Dept. of Agriculture, Park Plaza, 85 Manchester Street, Concord, NH 03301
- Mr. George Gilman, Commissioner, Dept. of Resources and Economic Development, Post Office Box 856, Concord, NH 03301

The notification shall advise the agencies of their right to file comments in this proceeding on environmental grounds. Copies of correspondence and memoranda of communications with these agencies should be submitted for the record and will serve as evidence of compliance with this condition.

At least 2 employees will be laid off as a result of the abandonment. In granting an exemption under section 10505, we may not relieve a carrier of its obligations to protect the interests of employees as required by 49 U.S.C. Subtitle IV (See 49 U.S.C. 10505(g)(2)). Therefore, we will afford the same level of labor protection as is usually required in abandonment and discontinuance transactions and impose the employee protective conditions developed in *Oregon Short Line, R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

As noted above, we believe our detailed scrutiny of this proposal under the criteria of 49 U.S.C. 10903 is not necessary to carry out the objectives of section 10101a. Indeed, our approval of the exemption will be consistent with at least one of these objectives; to reduce regulatory barriers to entry into the exit from the industry. Therefore, we will grant Goodwin's petition, with the conditions stated above.

The exemption granted here will become effective June 18, 1981. Any party may file a petition to reopen this proceeding for reconsideration in accordance with 49 CFR 1100.98(d). Such petition must be filed no later than 20 days following the date of publication. The filing of a petition will not

automatically stay the effect of this action; we may, on our own motion or on petition, stay the effective date. A petition to stay must be filed no later than 10 days following the date of publication.

We find:

(1) The application of the requirements of 49 U.S.C. 10903 to discontinue service of a railroad line of Goodwin is not necessary to carry out the transportation policy of 49 U.S.C. 10101a.

(2) This transaction is of limited scope.

(3) This decision will not operate to (a) relieve any rail carrier from an obligation to provide contractual terms for liability and claims which are consistent with the provisions of 49 U.S.C. 11707, or (b) relieve a carrier of its obligation to protect the interests of its employees as required by 49 U.S.C., Subtitle IV.

(4) In light of the conditions imposed in the first ordering paragraph below, this decision will not significantly affect either energy consumption or the quality of the human environment.

It is ordered:

(1) Pursuant to 49 U.S.C. 10505, we exempt Goodwin Railroad, Inc., from the requirements of 49 U.S.C. 10903 for the limited purpose of discontinuing service over a line of railroad owned by the State of New Hampshire, extending from Concord to Lincoln, NH, in Merrimack, Belknap, and Grafton Counties, NH, a distance of 76.4 miles, subject to the conditions for the protection of employees embodied in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979), and subject to the further condition that all shippers served by Goodwin within the last six months, and the state agencies named in the body of this decision, be notified within 5 days of the date of publication in the **Federal Register**. Copies of correspondence and memoranda of communications with these shippers and agencies should be submitted for the record and will serve as evidence of compliance with this condition.

(2) Notice of our action shall be given to the general public by delivery of a copy of this decision to the Director, **Federal Register**, for publication.

(3) This exemption will lapse if unexercised within one year from the effective date of this decision. Goodwin must discontinue service over the line during that time in order to take advantage of this exemption.

(4) This decision shall be effective June 18, 1981.

(5) Petitions to stay the effective date of this decision must be filed no later than May 29, 1981.

(6) Petitions to reopen this proceeding for reconsideration of this decision must be filed no later than June 8, 1981.

Decided: May 8, 1981.

By the Commission, Acting Chairman Alexis, Commissioners Gresham, Clapp, Trantum, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-14896 Filed 5-18-81; 6:45 am]

BILLING CODE 7035-01-M

[Volume No. OPY-2-075]

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Decided: May 11, 1981.

The following applications, filed on or after February 9, 1981, are governed by Special Rule 251 of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of \$10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where

noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become 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 Fortier.

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 155052, filed March 31, 1981.
Applicant: RICHARD R. BARCUS, 68 Warren St., Glens Falls, NY 12801.
Representative: Richard R. Barcus (same address as applicant). Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S., under continuing contract(s) with Medline Corporation, of Chicago, IL.

MC 155603, filed April 28, 1981.
Applicant: ANTHONY P. FERMO, d.b.a. TRANSPORTATION AND DISTRIBUTION ASSOCIATES, 19 Montowese Ave., North Haven, CT 06473. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103, 413-781-8205. As a broker of

general commodities (except household goods), between points in the U.S.

MC 155603, filed April 30, 1981.
Applicant: ROGER T. BENCH, Brownfield Star Route, Richland, MO 65556. Representative: Roger T. Bench (same address as applicant). Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle between points in the U.S.

[FR Doc. 81-14886 Filed 5-18-81; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. OP3-231]

Motor Carriers; Permanent Authority; 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 broadened grant of authority over that previously noticed in the **Federal Register**.

An original and one copy of opposing verified statements must be filed with the Commission within 45 days after the date of this **Federal Register** notice. Applicant may file a verified statement in rebuttal within 60 days. Such pleadings shall comply with 49 CFR 1100.247 (renumbered 1100.251) addressing specifically the issue(s) indicated as the purpose for republication. Special Rule 247 (renumbered 251) was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

MC 152955 (republication), filed December 1, 1980, published in the **Federal Register** issue of December 18, 1980, and republished this issue.
Applicant: HEAVY HAULERS TRANSPORTATION, INC., 3822 La. Hwy. North, Port Allen, LA 70767.
Representative: Roy Maughan, 1755 Wooddale Blvd., Baton Rouge, LA 70806.
A Decision of the Commission, Review Board Number 2, finds that the performance by applicant of the service described will serve a useful 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 *commodities*, the transportation of which by reason of size or weight require the use of special equipment, between points in LA, TX, OK, AR, MS, AL, and FL; that applicant is fit, willing and able properly to perform the granted service and to

conform to statutory and administrative requirements. The purpose of this republication is to indicate that applicant has been granted radial authority.

By the Commission,
Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-14892 Filed 5-18-81; 8:45 am]
BILLING CODE 7035-01-M

[Permanent Authority Vol. OPY-2-073]

Motor Carriers; Decision-Notice

The following operating rights applications, filed on or after July 3, 1980, are filed in connection with pending finance applications under 49 U.S.C. 10926, 11343 or 11344. The applications are governed by Special Rule 252 of the Commission's General Rules of Practice (49 CFR 1100.252).

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Persons submitting protests to applications filed in connection with pending finance applications are requested to indicate across the front page of all documents and letters submitted that the involved proceeding is directly related to a finance application and the finance docket number should be provided. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of \$10.00.

Amendments to the request for authority are not allowed. However, the Commission may have modified the application to conform to the Commission's policy of simplifying grants of operating authority.

Finding

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that 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 properly 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 specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major

regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements as to the finance application or to the following operating rights applications directly related thereto filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except where the application involves duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice by effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

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.

Dated: May 7, 1981.

By the Commission, Review Board Number 1, Members Parker, Chandler, and Fortier.

MC 155523, filed April 27, 1981.

Applicant: PHOENIX MOTOR EXPRESS, INC., P.O. Box 246, Hasbrouck Heights, NJ 07604.
Representative: Gerald K. Gimmel, Esq., Suite 145, 4 Professional Dr., Gaithersburg, MD 20760, (301) 840-8565.
To operate as a common carrier, by motor vehicle, over irregular routes, transporting general commodities (except classes A and B explosives), between the facilities of Excell-Carson Chemical Corp., at points in the U.S., on the one hand, and, on the other, those points in the United States east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the United States and Canada.

Note.—(1) This application is directly-related to MC-F-14627, published in this same Federal Register issue.

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 7, 1981.

By the Commission, Review Board Number 1, Members Parker, Chandler, and Fortier.

MC F-14627, filed April 27, 1981.

CARRIER INDUSTRIES, INC. (Carrier) 1454 Main Ave., Wallington, NJ 07057—Continuing in control—PHOENIX MOTOR EXPRESS, INC. (Phoenix) (P.O. Box 246, Hasbrouck Heights, NJ 07604). Representative: Gerald K. Gimmel, 4 Professional Drive, Suite 145, Gaithersburg, MD 20760, (301) 840-8565. Carrier seeks authority to continue in control of Phoenix upon the institution by Phoenix of operations, in interstate or foreign commerce, as a motor common carrier. Myron P. Shevell, the sole stockholder of Carrier, seeks authority to acquire control of said rights through the transaction. Carrier is a non-carrier, but it controls New England Motor Freight, Inc., which holds authority issued by the Commission in Docket No. MC-112107 and subs thereto which authorizes the transportation of general and specified commodities, over regular, alternate, and irregular routes, in points in NJ, RI, CT, MA, NY, PA, and DE.

Note.—Phoenix has filed as a directly related application its initial common carrier application. That application, docketed No. MC-155523 is published in this same of Federal Register issue. It also seeks authority in No. MC-155523 (Sub-Nos. 1, 2, 3, and 4).

Condition: So far as can be ascertained from the evidence of record in this proceeding, Carrier Industries, Inc. is a non-carrier with its investments and functions primarily related to transportation. Accordingly, concurrently with consummation of the transaction authorized in this proceeding, Carrier Industries, Inc. will be considered a motor carrier within the meaning of 49 U.S.C. 11348. It will therefore, be subject to the applicable provisions of 49 U.S.C. Subtitle IV, subchapter III of chapter III relating to reporting and accounting, and of 49

U.S.C. 11302 relating to the issuance of securities.

Impediment: The operating rights of Phoenix Motor Express, Inc. would duplicate to a certain extent the operations authorized in the New England Motor Freight, Inc. certificates. Approval and authorization of this transaction is, therefore, conditioned upon applicants setting forth all duplications. In order to comply with the Commission's regulations at 49 CFR 1134.51, applicants will be required to submit cogent and acceptable reasons why the duplicate operating rights under common control should be permitted to continue, or submit a plan for the elimination of such duplications.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-14890 Filed 5-18-81; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OPY 5-60]

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Decided: May 12, 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 is 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. 3, Members Krock, Joyce and Dowell.

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 40978 (Sub-86), filed April 30, 1981. Applicant: CHAIR CITY MOTOR EXPRESS COMPANY, 3321 South Business Dr., Sheboygan, WI 53081. Representative: Daniel R. Dineen, 710 North Plankinton Ave., Milwaukee, WI 53203, 414-273-7410. Transporting *general commodities* (except classes A and B explosives), between the facilities of K.W. Muth Company, Inc., at Sheboygan, WI, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 67308 (Sub-6), filed April 29, 1981. Applicant: COLONIAL TRAILWAYS, 400 South Royal St., P.O. Box 2712, Mobile, AL 36601. Representative: Lawrence E. Lindeman, 425 13th St., N.W., Washington, DC 20004, 202-628-4600. To operate as a *broker*, at Mobile, AL in arranging for the transportation of passengers and their baggage, in special

and charter operations, between points in the U.S.

MC 83539 (Sub-543), filed April 28, 1981. Applicant: C & H TRANSPORTATION CO., INC., 9757 Military Parkway, Dallas, TX 75227. Representative: Thomas E. James, P.O. Box 270535, Dallas, TX 75227, 214-288-3000. Transporting *general commodities* (except classes A and B explosives), between points in the U.S. under continuing contract(s) with Ingersoll-Rand Company of New York, NY, and its subsidiaries.

MC 98478 (Sub-11), filed May 1, 1981. Applicant: ROBBINS TRUCK LINE, INC., Route 1, Hardinsburg, KY 40143. Representative: Peter A. Greene, 1920 N Street N.W., Suite 700, Washington, DC 20036, 202-331-8800. Transporting (1) *machinery*, (2) *furniture and fixtures*, (3) *rubber and plastic products*, and (4) *automotive accessories*, between points in Henry and Daviess Counties, KY; Hempstead County, AR; Leflore and Marshall Counties, MS; and Los Angeles and San Francisco Counties, CA.

MC 104149 (Sub-218), filed May 4, 1981. Applicant: OSBORNE TRUCK LINE, INC., 516 North 31st St., Birmingham, AL 35202. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210, 703-525-4050. Transporting (1) *building materials*, (2) *forest products*, (3) *metal products*, (4) *ores and minerals*, (5) *lumber and wood products*, (6) *furniture and fixtures*, (7) *rubber and plastic products*, (8) *clay, concrete, glass or stone products*, (9) *machinery*, (10) *transportation equipment*, and (11) *chemicals and related products*, between points in TX, OK, LA, AR, MO, IA, MN, WI, MI, IL, IN, OH, KY, TN, MS, AL, GA, FL, SC, NC, NY, VA, WV, MD, DE, PA, NJ, MA, CT, RI and DC.

MC 105289 (Sub-99), filed April 22, 1981. Applicant: GRAFF TRUCKING COMPANY, INC., 2110 Lake St., P.O. Box 986, Kalamazoo, MI 49005. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, 616-459-6121. Transporting *general commodities* (except classes A and B explosives), between the facilities used by Simplex Industries, Inc. of Constantine, MI, at points in the U.S. on the one hand, and, on the other points, in IL, IA, KY, MD, MI, MN, MO, NJ, OH, PA, WV and WI.

MC 109449 (Sub-59), filed May 1, 1981. Applicant: KUJAK TRANSPORT, INC., 6366 West 6th St., Winona, MN 55907. Representative: Francis Cisewski (same address as applicant), 507-452-1032. Transporting *general commodities* (except classes A and B explosives),

between points in St. Louis County, MN and Douglas County, WI on the one hand, and, on the other, points in AR, IL, IN, IA, KY, KS, LA, MI, MO, MS, NE, ND, OH, OK, SD, TN, TX and WI.

MC 112969 (Sub-141), filed April 28, 1981. Applicant: WEST COAST TRUCK LINES, INC., 85647 Hwy 99 S., Eugene, OR 97405. Representative: John T. Morgans (same address as applicant), 503-747-1283. Transporting *automotive air, oil and fuel filters, and pollution control devices*, between points in Salt Lake County, UT, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA and WY.

MC 113908 (Sub-524), filed April 28, 1981. Applicant: ERICKSON TRANSPORT CORPORATION, 2255 North Packer Rd., P.O. Box 10068 G.S., Springfield, MO 65804. Representative: John E. Jandera, 641 Harrison St., P.O. Box 1979, Topeka, KS 66601, 913-234-0565. Transporting *clay, concrete, glass and stone products*, between the facilities of Master Builders Division, Martin Marietta Corporation at points in the U.S. on the one hand, and, on the other, points in the U.S.

MC 114028 (Sub-38), filed April 28, 1981. Applicant: ROWLEY INTERSTATE TRANSPORTATION COMPANY, INC., 2010 Kerper Blvd., Dubuque, IA 52001. Representative: Carl L. Steiner, 39 LaSalle St., Chicago, IL 60603, 312-236-9375. Transporting *general commodities* (except classes A and B explosives), between the facilities of Dayco Corporation and its affiliates in the U.S. on the one hand, and, on the other, points in the U.S.

MC 114028 (Sub-39), filed April 28, 1981. Applicant: ROWLEY INTERSTATE TRANSPORTATION COMPANY, INC., 2010 Kerper Blvd., Dubuque, IA 52001. Representative: Carl L. Steiner, 39 South LaSalle St., Chicago, IL 60603, 312-236-9375. Transporting *pulp, paper and related products*, between points in the U.S. under continuing contract(s) with Sherwood Paper Corporation of New York City, NY.

MC 118838 (Sub-83), filed April 30, 1981. Applicant: GABOR TRUCKING, INC., RR #4, Detroit Lakes, MN 56501. Representative: Stephen F. Grinnell, 1600 TCF Tower, 121 South 8th St., Minneapolis, MN 55402, 612-333-1341. Transporting *building materials*, between points in ID, MT, OR, ND, SD, WA and WY on the one hand, and, on the other, points in IA, IL, IN, KS, MI, MN, MO, ND, NE, NY, OH, PA, SD and WI.

MC 118838 (Sub-84), filed April 30, 1981. Applicant: GABOR TRUCKING,

INC., RR #4, Detroit Lakes, MN 56501. Representative: Robert D. Givold, 1600 TCF Tower, Minneapolis, MN 55402, 612-333-1341. Transporting *general commodities* (except classes A and B explosives), between points in the U.S. under continuing contract(s) with Husky Industries, Inc., of Atlanta, GA.

MC 121489 (Sub-24), filed April 2, 1981. Published initially in the Federal Register on April 29, 1981. Applicant: NEBRASKA-IOWA XPRESS, INC., 3219 Nebraska Ave., Council Bluffs, IA 51501. Representative: James E. Ballenthin, 630 Osborn Bldg., St. Paul, MN 55102, (612) 227-7731. Transporting *general commodities* (except classes A and B explosives), between points in Richardson and Nemaha Counties, NE, on the one hand, and, on the other, points in the U.S.

Note.—Applicant intends to tack this irregular-route authority with its existing regular-route authority so as to provide direct operations. This application is republished to include tacking of authority.

MC 121589 (Sub-8), filed April 29, 1981. Applicant: N & W TRANSFER, INC., P.O. Box 188, Nehawka, NE 68413. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114, 402-397-9900. Transporting *equipment, materials, parts, and supplies dealt in or used in the construction, operation, and maintenance of railroads*, between points in NE, on the one hand, and, on the other, points in IL, IN, WI and IA.

MC 123389 (Sub-61), filed April 29, 1981. Applicant: CROUSE CARTAGE COMPANY, P.O. Box 151, Carroll, IA 51401. Representative: James E. Ballenthin, 630 Osborn Bldg., St. Paul, MN 55102, 712-792-1234. Transporting *food and related products*, between points in IA, IL, KS, MN, MO, NE, SD, Potter County, TX and WI, on the one hand, and, on the other, points in the U.S.

MC 126899 (Sub-141), filed April 28, 1981. Applicant: USHER TRANSPORT, INC., 3925 Old Benton Rd., Paducah, KY 42001. Representative: George M. Catlett, 708 McClure Building, Frankfort, KY 40601, 502-227-7384. Transporting *petroleum, natural gas and their products*, between points in KY and TN.

MC 128798 (Sub-9), filed April 28, 1981. Applicant: GALASSO TRUCKING, INC., 8 Kilmer Rd., Larchmont, NY 10538. Representative: Larsh B. Mewhinney, 555 Madison Ave., New York, NY 10022, 212-838-0600. Transporting *steam turbines, electric generators, and steam reducing machinery*, between points in the U.S., under continuing contract(s) with General Electric Company, of Lynn, MA.

MC 130089 (Sub-1), filed April 29, 1981. Applicant: PRAIRIELAND TOURS AND TRAVEL, INC., 202 Eldorado Rd., Bloomington, IL 61701. Representative: Lewis White (same address as applicant); 309-662-0515. To operate as a *broker* at Bloomington, IL, arranging for the transportation of *passengers and their baggage*, in special and charter operations, between points in the U.S.

MC 130799 (Sub-1), filed April 29, 1981. Applicant: TRAVEL ASSOCIATES, INC., P.O. Box 1608, Signal Hill Mall, Statesville, NC 28677. Representative: Dorothy J. Pendleton, 389 Oakwood Drive, Statesville, NC 28677, 704-873-7725. To operate as a *broker*, at Statesville, NC, arranging for the transportation of *passengers and their baggage*, beginning and ending at points in NC and SC and extending to points in the U.S.

[FR Doc. 81-14893 Filed 5-18-81; 8:45 am]
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[Volume No. OPY-2-074]

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Decided: May 11, 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 Fortier.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OPY-2-074

Decided: May 11, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

MC 6992 (Sub-18), 1981. Applicant: AMERICAN RED BALL TRANSIT CO., INC., 1335 Sadler Circle, East Dr. Indianapolis, IN 46239. Representative: Andrus E. Bates (same address as applicant), (317) 353-8331. Transporting *such commodities* as are dealt in or used by manufacturers of household appliances, between points in the U.S., under continuing contract(s) with Roger Appliance, of Kankakee, IL.

MC 107012 (Sub-705), filed May 5, 1981. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant), 219-429-

2110. Transporting *such commodities as are dealt in or used by retail drug stores*, between points in Brevard County, FL, on the one hand, and, on the other, points in the U.S.

MC 107012 (Sub-706), filed May 5, 1981. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant), 219-429-2110. Transporting *general commodities* (except Classes A and B explosives), between the facilities of Schwinn Bicycle Company, at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 107012 (Sub-707), filed May 5, 1981. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant), 219-429-2110. Transporting *furniture and fixtures*, between New York, NY, on the one hand, and, on the other, points in CT, DE, MA, MD, ME, NH, NJ, PA, RI, VT, and DC.

MC 107012 (Sub-708), filed May 5, 1981. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same address as applicant), 219-429-2224. Transporting *rubber and plastic products*, between points in CA and Cuyahoga County, OH, on the one hand, and, on the other, points in the U.S.

MC 127972 (Sub-4), filed April 30, 1981. Applicant: CAMPAGNE TRUCKING CO., INC., P.O. Box 222, Bethpage, NY 11714. Representative: Douglas Miller, The Corporate Center, 35 Pinelawn Rd., Melville, NY 11746, 212-466-0220. Transporting *transportation equipment*, between points in the U.S., under continuing contract(s) with Fairchild Republic Company, of Farmingdale, NY.

MC 135052 (Sub-40), filed May 1, 1981. Applicant: ASHCRAFT TRUCKING, INC., 875 Webster St., Shelbyville, IN 46176. Representative: Warren C. Moberly, 777 Chamber of Commerce Bldg., Indianapolis, IN 46204, 317-639-4511. Transporting *general commodities* (except classes A and B explosives) (1) between Philadelphia, PA, Secaucus, NJ, and New York, NY, on the one hand, and, on the other, points in PA, OH, MI, IN, KY, TN, IL, MO, and WI, and (2) between Chicago, IL, on the one hand, and, on the other, points in IN, IL, KY, PA, WV, TN, and AL.

MC 139843 (Sub-15), filed April 22, 1981. Applicant: VERNON G. SAWYER,

P.O. Drawer G, Bastrop, LA 71220. Representative: Harry E. Dixon, Jr., P.O. Box 4319, Monroe, LA 71203, 318-322-5252. Transporting *such commodities as are dealt in by retail, wholesale, discount department, drug, and grocery stores*, between points in AL, AR, AZ, CA, CO, FL, GA, KY, LA, MS, MO, NM, OK, TN, and TX.

MC 139843 (Sub-16), filed April 22, 1981. Applicant: VERNON G. SAWYER, P.O. Drawer B, Bastrop, LA 71220. Representative: Harry E. Dixon, Jr., P.O. Box 4319, Monroe, LA 71203, 318-322-5252. Transporting *such commodities as are dealt in or used by manufacturers of paper and paper products*, between points in AL, AZ, AR, CA, CO, FL, GA, IL, IN, KS, LA, MS, MO, NM, OK, TN, and TX. Condition: Issuance of this certificate is subject to prior or coincidental cancellation of applicant's written request of Certificate No. MC-139843 Sub 13, issued December 1, 1980.

MC 140163 (Sub-4), filed May 4, 1981. Applicant: POST & SONS TRANSFER, INC., 2326 Milwaukee Rd., Tacoma, WA 98421. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055, 206-228-3807. Transporting (1) *construction materials, lumber and wood products, and metal products*, between points in WA, OR, ID, MT, AZ, NV, CA, NM, UT, CO, and WY, and (2) *food and related products*, between the facilities of Sexton Co., at points in the U.S., on the one hand, and, on the other, points in OR and CA.

MC 141443 (Sub-68), filed May 5, 1981. Applicant: JOHN LONG TRUCKING, INC., 1030 East Denton, Sapulpa, OK 74066. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112, 405-848-7946. Transporting *general commodities* (except classes A and B explosives), between the facilities of Fort Howard Paper Company, at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 141962, filed April 29, 1981. Applicant: NORTHEAST REFRIGERATED DISTRIBUTING CO., INC., 1650 Shawsheen St., Tewksbury, MA 01876. Representative: Joseph M. Klements, 84 State St., Boston, MA 02109 (617) 523-0800. Transporting *food and related products*, between points in MA, RI and NH.

MC 142823F, filed April 24, 1981. Applicant: CROSBY TRUCKING SERVICE, INC., P.O. Box 125, New Hope Rd., Staunton, Va 24401. Representative: Brian S. Stern, North Springfield Professional Centre II, 5411-D Backlick Rd., Springfield, VA 22151, (703) 941-

8200. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of building and roofing insulation and insulation materials, between points in Shenandoah County, VA, on the one hand, and, on the other, points in MD, PA, OH, NY, VA, WV, DE, and DC.

MC 143713 (Sub-12), filed April 30, 1981. Applicant: AGRICULTURAL TRANSPORTATION ASSOCIATION OF ILLINOIS, 37 Forest Ridge, Springfield, IL 62701. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Rd., Omaha, NE 68106. Transporting *clay, concrete, glass or stone products*, between points in Saint Lawrence County, NY, on the one hand, and, on the other, points in McDonough County, IL.

MC 145122 (Sub-4), filed April 30, 1981. Applicant: SKYLAND, INC., 256 Celia St., SW., Wyoming, MI 49508. Representative: William H. Towle, 180 N. LaSalle St., Chicago, IL 60601. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Leslie Metal Products Company, of Grand Rapids, MI.

MC 146293 (Sub-84), filed April 28, 1981. Applicant: REGAL TRUCKING CO., INC., P.O. Box 829, Lawrenceville, GA 30246. Representative: Richard M. Tettelbaum, P.O. Box 720434, Atlanta, GA 30328, 404-256-4320. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Distribution Services of America, Inc., of Boston, MA.

MC 146402 (Sub-32), filed April 28, 1981. Applicant: CONALCO CONTRACT CARRIER, INC., P.O. Box 968, Jackson, TN 38301. Representative: Charles W. Teske (same address as applicant), 901-423-2408. Transporting *rubber and plastic products*, between points in the U.S., under continuing contract(s) with Teknor Apex Company, of Pawtucket, RI.

MC 146592 (Sub-3), filed April 29, 1981. Applicant: AVERY TRANSPORT, INC., 11026 Roswell, Pomona, CA 91766. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306, 805-872-1106. Transporting *transportation equipment* (1) between points in CA, on the one hand, and, on the other, points in AZ, CO, ID, MT, NV, NM, OR, TX, UT, WA, and WY, and (2) between points in ID, on the one hand, and, on the other, points in AZ and NV.

MC 148143 (Sub-4), filed May 4, 1981. Applicant: MID-AMERICA FARM LINES, INC., M.P.O. Box 71, Springfield,

MO 65801. Representative: John M. Ringenberg (same address as applicant), 417-862-7460. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of building material between points in Jackson and Wayne Counties, MI, and Summit County, OH, on the one hand, and, on the other, points in Greene and Jackson Counties, MO, Sedgwick County, KS, and Benton County, AR.

MC 150093 (Sub-4), filed April 28, 1981. Applicant: THE TOM DAVIS CORP., d.b.a. DAVIS LINES, 5335 N.W. 111th Dr., Grimes, IA 50111. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244-2329. Transporting *metal products*, between points in Polk County, IA, on the one hand, and, on the other, points in the U.S.

MC 153113, filed May 5, 1981. Applicant: MENASHA TRANSPORT, INC., P.O. Box 367, Neenah, WI 54956. Representative: C. H. Kraus (same address as applicant), (414) 729-0380. Transporting *containers and container closures, food and related products, lumber and wood products, pulp, paper and related products, printed matter, rubber and plastic products, metal products, machinery, and building materials*, between those points in the U.S. east of MT, WY, CO, and NM.

MC 155523 (Sub-3), filed April 27, 1981. Applicant: PHOENIX MOTOR EXPRESS, INC., P.O. Box 246, Hasbrouck Heights, NJ 07604. Representative: Gerald K. Gimmel, Esq., Suite 145, 4 Professional Dr., Gaithersburg, MD 20760, 301-840-8565. Transporting *general commodities* (except classes A and B explosives), between New York, NY, Boston, MA, Philadelphia, PA, Baltimore, MD, and Norfolk, VA, on the one hand, and, on the other, points in CT, DE, MA, MD, ME, NH, NJ, NY, PA, RI, VA, VT, and WV.

MC 155552, filed April 24, 1981. Applicant: RAVENA TRANSPORTATION CORP., 10 Van Buren Ave., Ravena, NY 12143. Representative: D. A. Holtz, 316 South Sixteenth St., Philadelphia, PA 19102, 215-732-6450. Transporting *transportation equipment*, between points in the U.S., under continuing contract(s) with Penn Jersey Subaru, Inc., of Moorestown, NJ.

MC 155582F, filed April 28, 1981. Applicant: TULLAROAN TOURS, INC., P.O. Box 248, Jerome Avenue Station, Bronx, NY 10468. Representative: Robert E. Goldstein, 370 Lexington Avenue, New York, NY 10017. To engage in operations as a *broker* at New York, NY, in arranging for the transportation of

passengers and their baggage, in the same vehicle with passengers, in special and charter operations between New York, NY, and points in Nassau, Suffolk, Westchester and Rockland Counties, NY, on the one hand, and, on the other, points in the U.S.

MC 155622F, filed April 30, 1981. Applicant: CLASSIC YACHT TRANSPORT, INC., 4810 S.W. 18th St., Ft. Lauderdale, FL 33317. Representative: William P. Fritz (same as applicant), (305) 584-7870. Transporting (1) *boats and boat parts, supplies and equipment*, and (2) *such commodities*, which because of size or weight require the use of special handling, between points in the U.S., under continuing contract(s) with Conquest Yachts, of Pompano Beach, FL.

MC 155633, filed April 29, 1981. Applicant: WILLIAM J. VENDETTI, d.b.a. VENDETTI TRUCKING COMPANY, 616 Camelot Dr., Bel Air, MD 21014. Representative: Walter T. Evans, 7961 Eastern Ave., Silver Spring, MD 20910, 301-587-8656. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract with Mid-Atlantic Coca Cola Company, of Baltimore, MD.

Volume No. OPY-4-132

Decided: May 11, 1981.

By the Commission, Review Board No. 2. Members Carleton, Fisher, and Williams.

MC 141326 (Sub-8), filed May 4, 1981. Applicant: C. C. SALTER, d.b.a. SALTER TRUCKING COMPANY, P.O. Box 67, Eufaula, AL 36207. Representative: Donald B. Sweeney, Jr., 512 Massey Bldg., Birmingham, AL 35203, (205) 254-3880. Transporting *general commodities* (except classes A and B explosives), between the facilities of Ocean Spray Cranberries, Inc. and its subsidiaries at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 142126 (Sub-14), filed May 4, 1981. Applicant: FOAM TRANSPORT, INC., 201 Ballardvale St., Wilmington, MA 01887. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108, (617) 742-3530. Transporting *rubber and plastic products*, between points in the U.S., under continuing contract(s) with Dart Container Corporation of Mason, MI. Dart Container Corporation of Georgia of Lithonia, GA. Dart Container Corporation of Illinois of North Aurora, IL. Dart Container Corporation of California of Corona, CA. Formed Products, Inc. of Leola, PA. Dart Container Corporation of Texas of Waxahachie, TX. Dart Container

Corporation of Kentucky of Horse Cave, KY, and Formed Products, Inc. of North Aurora, IL.

MC 143776 (Sub-24), filed May 5, 1981. Applicant: G.D.B. INCORPORATED, 155 Spaulding Avenue SE., Grand Rapids, MI 49506. Representative: C. Michael Tubbs (same address as applicant) (800 253-9507). Transporting *food and related products*, between the facilities of Foulds, Incorporated and its subsidiaries at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 144776 (Sub-12), filed May 4, 1981. Applicant: APACHE TRANSPORT, INC., 833 Warner Street SW., Atlanta, GA 30310. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Bldg. Atlanta, GA 30349, (404) 996-6266. Transporting *general commodities* (except classes A and B explosives), between points in Fulton County, GA, on the one hand, and, on the other, points in FL, AL, TN, NC, SC, LA, KY and MS.

MC 145716 (Sub-7), filed May 5, 1981. Applicant: INTERNATIONAL TRANSPORTATION SERVICE, INC., Suite 1-M, 3300 Northeast Expressway, N.E., Atlanta, GA 30341. Representative: Robert E. Born, Suite 508, 1447 Peachtree Street NE., Atlanta, GA 30309, (404) 892-8020. Transporting *food and related products*, between points in the U.S. in and east of ND, SD, NE, CO, OK and TX.

MC 153487, filed May 4, 1981. Applicant: QUALITY DELIVERY COMPANY, a Corporation, P.O. Box 19181, Columbus, OH 43219. Representative: John L. Alden 1396 W. 5th Ave., Columbus, OH 43212. Transporting *home and office furnishings, appliances, and carpeting*, between points in Franklin County, OH, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, KY, LA, MI, MS, MO, NC, NY, OH, PA, SC, TN, TX, VA, and WV.

MC 154907 (Sub-1), filed May 4, 1981. Applicant: THE BUCK COMPANY, a Corporation, 631 W. Cherry St., Wayland, MI 49348. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. Transporting *general commodities*, (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Koeze Co., of Wyoming, MI, Spartan Stores, Inc., of Grand Rapids, MI, and Holland American Wafer Co., of Grand Rapids, MI.

MC 155806, filed April 28, 1981. Applicant: FICK & SONS, INC., Litchville, ND 58461. Representative: Harold H. Fick (same address as applicant), (707) 762-4447. Transporting (1) *lumber and wood products*, and (2)

building materials, between points in IA, ID, MN, MT, NE, ND, OR, SD, WA, WI, and WY.

Volume No. OPY-4-136

Decided: May 12, 1981.

By the Commission, Review Board No. 2 Members Carleton, Fisher, and Williams.

MC 29456 (Sub-5), filed April 17, 1981. Applicant: OREGON TRANSFER CO., P.O. Box 2804, Portland, OR 97208. Representative: John A. Anderson, Suite 1600, One Main Pl., 101 SW Main St., Portland, OR 97204, (503) 224-5525. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Amstar Corporation of New York, NY.

MC 42487 (Sub-1037), filed April 17, 1981. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: W. R. Oldenburg, P.O. Box 3062, Portland, OR 97208, (503) 226-4692. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Kaiser Aluminum & Chemical Corporation, of Oakland, CA.

MC 121766 (Sub-2), filed May 4, 1981. Applicant: S. ROSS TRUCKING COMPANY, INC., 2680 Dunn Rd., Hayward, CA 94545. Representative: Ann M. Pougiales, 100 Bush—21st Floor, San Francisco, CA 94104, (415) 966-5778. Transporting *general commodities* (except classes A and B explosives), between points in CA, OR, and WA.

Note.—The purpose of this application is to convert applicant's Certificate of Registration in MC-121766 Sub 1, to a Certificate of Public Convenience and Necessity.

MC 123387 (Sub-32), filed April 16, 1981. Applicant: E. E. HENRY, INC., 1128 S. Military Highway, Chesapeake, VA 23320. Representative: Dwight L. Koerber, Jr., P.O. Box 1320, 110 N. 2nd St., Clearfield, PA 16830, (814) 765-9611. Transporting *general commodities* (except classes A and B explosives), between points in Carter County, TN, on the one hand, and, on the other, points in the U.S.

MC 133877 (Sub-4), filed April 16, 1981. Applicant: FRACON TRUCKING CO., INC., 1052 Park Lane North, Franklin Square, NY 11010. Representative: Roy A. Jacobs, 550 Mamaroneck Ave., Harrison, NY 10528, (914) 835-4411. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with LNK International, Inc., of Hauppauge, NY.

MC 147676 (Sub-5), filed April 16, 1981. Applicant: KEATON TRUCK

LINES, INC., 1000 So. Lelia St., P.O. Box 1187, Texarkana, TX 75504.

Representative: Patsy R. Washington (same address as applicant), (214) 793-3991. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with National Beef Packing Co. of Liberal, KS.

MC 153266 (Sub-1), filed March 16, 1981, previously noticed in the Federal Register issue of April 1, 1981, and republished this issue. Applicant: STEVEN CRAIN TRUCKING, INC., P.O. Box 324, Owasso, IL 74055. Representative: Michael H. Lennox, 8903 North Western, Oklahoma City, OK 73114, (405) 840-9805. Transporting *Mercer commodities*, and those *commodities* which because of their size or weight require the use of special handling or equipment, between points in the U.S., under continuing contract(s) with Big Four Foundries, Corp., of Tulsa, OK.

Note.—The purpose of this republication is to correctly reflect the application as that of contract authority in lieu of common as previously noticed.

MC 155356 filed April 16, 1981. Applicant: FRANK R. MOODY, d.b.a. FRANK MOODY'S TOWING, 1005 No. Broadway, Rochester, MN 55901. Representative: Richard H. Bins, Suite 350, 100 First Ave. Bldg., Rochester, MN 55901 (507) 288-7402. Transporting *wrecked or disabled motor disabled vehicles*, between points in Olmsted County, MN, on the one hand, and, on the other, points in ND, SD, NE, IA, WI, IL and IN.

Volume No. OPY5-61

Decided: May 12, 1981.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 133058 (Sub-2), filed April 28, 1981. Applicant: CENTRAL CAB COMPANY, 285 South East St., Waynesburg, PA 15370. Representative: Arthur J. Diskin, 806 Frick Bldg., Pittsburgh, PA 15219, 412-627-6267. Transporting *passengers and their baggage* in special and charter operations, beginning and ending at points in Washington, Greene, and Fayette Counties, PA, Hancock, Brooke, Monongalia, Marshall, Preston, Marion, Wetzel, Ohio, Harrison, and Taylor Counties, WV, and Jefferson County, OH, and extending to points in the U.S., (including AK but excluding HI).

MC 133589 (Sub-2), filed April 28, 1981. Applicant: BCT, INC., One Jefferson Square, Boise, ID 83728. Representative: Irene Warr, Suite 280, Western Home Bank Bldg., 311 S. State

St., Salt Lake City, UT 84111, 801-531-1300. Transporting *lumber and wood products* between points in the U.S., under continuing contract(s) with KRR, Inc., of Boise, ID.

MC 134609 (Sub-2), filed May 4, 1981. Applicant: OILFIELD SERVICE & TRUCKING, INC., d.b.a., OST TRUCKING, INC., 2951 North Ventura Ave., Ventura, CA 93001. Representative: Ronald C. Chauvel, 100 Pine St., No. 2550, San Francisco, CA 94111, (415) 986-1414. Transporting (1) *Mercer commodities*, (2) *iron and steel articles*, and (3) *commodities which because of size or weight require the use of special equipment*, between points in CA, OR, WA, NV, and AZ.

MC 138438 (Sub-108), filed April 29, 1981. Applicant: D. M. BOWMAN, INC., Route 2, Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740, 301-739-4860. Transporting *petroleum, natural gas and their products*, between points in DE, MD, NJ, NY, NC, OH, PA, VA, WV, and DC.

MC 141108 (Sub-15), filed May 1, 1981. Applicant: D & C EXPRESS, INC., P.O. Box 746, Wilton, IA 52778. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501, 515-682-8154. Transporting *metal products* between points in IL, IN, IA, KS, CO, MI, MN, MO, NE, NJ, NY, OH, PA, and WV.

MC 141899 (Sub-3), filed April 28, 1981. Applicant: BILL & GENE'S TRUCKING, INC., W. Hwy. 34, Box 303, Madison, SD 57042. Representative: Thomas J. Simmons, 5301 N. Cliff Ave., P.O. Box 480, Sioux Falls, SD 57101, 605-339-3629. Transporting *clay, concrete, glass or stone products*, between the facilities used by Sioux City Brick and Tile, Inc., and its subsidiaries, in the U.S., on the one hand, and, on the other, points in the U.S.

MC 142629 (Sub-3), filed May 1, 1981. Applicant: ED HOPSON PRODUCE COMPANY, INC., P.O. Box 3287, Oxford, AL 36203. Representative: John W. Cooper, P.O. Box 56, Mentone, AL 35984, 205-634-4885. Transporting *furniture and fixtures* between points in the U.S., under continuing contract(s) with Wellborn Cabinets, Inc., of Ashland, AL.

MC 144858 (Sub-43), filed May 4, 1981. Applicant: DENVER SOUTHWEST EXPRESS, INC., P.O. Box 9799, Little Rock, AR 72209. Representative: Scott E. Daniel, 800 Nebraska Savings Bldg., 1623 Farnam, Omaha, NE 68102, (402) 348-0832. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Standard

Brands Incorporated, of Lake Success, NY, and its subsidiaries.

MC 144969 (Sub-33), filed April 29, 1981. Applicant: WHEATON CARTAGE COMPANY, Third & G Sts., Millville, NJ 09332. Representative: Laurence J. DiStefano, Jr., 1101 Wheaton Ave., Millville, NJ 08332, 609-825-1400, Ext. 2414. Transporting *food and related products* between the facilities used by Little Brownie Bakers in the U.S., on the one hand, and, on the other, points in the U.S.

MC 146149 (Sub-20), filed March 27, 1981, previously noticed in the Federal Register issue of April 27, 1981. Applicant: KENNEDY FREIGHT LINES, INC., 4989 Vulcan Ave., Columbus, OH 43228. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215, (614) 228-8575. Transporting *metal products* between points in Oswego County, NY, on the one hand, and, on the other, points in VA and NC.

Note.—Applicant is relying on traffic studies rather than shipper support for the authority sought. This republication changes the radial state of DC to NC.

MC 146449 (Sub-2), filed May 1, 1981. Applicant: ALL CITIES TRANSFER, INC., 1567 East Hamilton Ave., East Point, GA 30344. Representative: William J. McCann (same address as applicant), 404-768-7780. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with United Freight, Inc., of Morrow, GA.

MC 147388 (Sub-6), filed May 1, 1981. Applicant: EARLY BIRD FREIGHT LINES, INC., Route 1, Box 49, St. Libory, NE 68872. Representative: Lavern R. Holdeman, P.O. Box 81849, Lincoln, NE 68501, 402-476-1144. Transporting *metal products* between points in IA, NE, WY, CO, KS, OK, and TX.

MC 150499 (Sub-5), filed April 10, 1981, previously noted in the (republication) Federal Register issue of April 27, 1981. Applicant: ENGELS TRUCK SERVICE, INC., RR 3, Box 58, Worthington, MN 56187. Representative: A. J. Swanson, P.O. Box 1103, 226 North Phillips Ave., Sioux Falls, SD 57101, (605) 335-1777. Transporting *food and related products*, between points in Nobles County, MN, Beadle County, SD and Madison County, NE, on the one hand, and, on the other, points in AL, AR, AZ, CO, CT, DE, GA, ID, IN, KS, KY, LA, MA, MD, ME, MI, MS, MT, NC, NH, NJ, NM, NV, NY, OH, OK, PA, RI, SC, TN, TX, UT, VA, VT, WV, WY, and DC.

Note.—Purpose of republication is modify the authority as above.

MC 150509 (Sub-6), filed May 1, 1981. Applicant: BULLET EXPRESS, INC., P.O.

Box 289, Bay Ridge Station, Brooklyn, NY 11220. Representative: Robert L. Van Buren (same address as applicant) 212-492-7332. Transporting *food and related products*, between Denver, CO, and points in Morgan and Logan Counties, CO., on the one hand, and, on the other, points in the U.S., under continuing contract(s) with Sterling Colorado Beef Co., of Sterling, CO, and its wholly-owned subsidiary Circle C Beef Co., of Denver, CO.

MC 151158 (Sub-2), filed April 28, 1981. Applicant: BROWN TRANSIT, INC., 325 Ingram, Conway, AR 72032. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Ave. Memphis, TN 38137, (901) 767-5600. Transporting *food and related products*, between points in ID, on the one hand, and, on the other, points in AR. Condition: The person or person who appear to be in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. 11343(A) or submit an affidavit, indicating why such approval is unnecessary, to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to team 5 Room 6370.

MC 155429 (Sub-1), filed April 23, 1981. Applicant: BRUCE E. LAMBERT AND ALAN J. MACKAY, d.b.a. LAMBERT-MACKAY TRUCKING, 1225 South Galena, Dixon, IL 61021. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, 515-282-3525. Transporting (1) *chemicals and related products*, between points in IL, IN, IA and WI, and (2) *clay, concrete, glass or stone products*, between Ogle and Cook Counties, IL, on the one hand, and, on the other, points in IN, IA and WI.

MC 155549, filed April 24, 1981. Applicant: AIRWAY-INDUSTRIES, INC., d.b.a. TRANSPORTATION SERVICES, Airway Park, Ellwood City, PA 16117. Representative: Ronald G. Backer, 300 Grant Bldg., Pittsburgh, PA 15219, (412) 281-0705. Transporting *general commodities*, (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Hansen & Tideman, Inc. of Baltimore, MD, and Grief Brothers, Inc., of Washington, PA.

MC 155568, filed April 28, 1981. Applicant: MID-WISCONSIN COACHES, INC., Route 3 Box 64, Antigo, WI 54409. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703, (608) 256-7444. Transporting *passengers and their*

baggage, in special or charter operations, beginning and ending at points in Forest, Langlade, Lincoln, Oneida, and Vilas Counties, WI, and extending to points in IL, IN, IA, MI, and MN.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-14887 Filed 5-18-81; 8:49 am]

BILLING CODE 7035-01-M

[Volume No. 394]

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Decided: May 13, 1981.

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the *Federal Register*. Protests (such as were allowed to filings prior to March 1, 1979) will be rejected. A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's

interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified 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, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically 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 those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) [formerly section 210 of the Interstate Commerce Act.]

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices within 30 days after publication or the application shall stand denied.

By the Commission, Review Board Number 3, Members Krock, Joyce and Dowell.

Agatha L. Mergenovich,
Secretary.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

MC 8535 (Sub-109), filed December 27, 1979, previously published in the *Federal Register* of April 15, 1980. Applicant: GEORGE TRANSFER AND RIGGING COMPANY, INC., P.O. Box 500, Parkton, MD 21120. Representative: John Guandolo, 1000 Sixteenth St., NW., Washington, DC 20036 Transporting iron and steel articles (except in dump vehicles), from the facilities of Raritan River Steel Company, at Perth Amboy, NJ, to those points in the U.S. in and east of MN, IA, MO, AR, and LA (except points in DE, KY, MD, NJ, NY, OH, PA, VA, WV, and DC).

Note.—This republication indicates the correct destinations.

[FR Doc. 81-14889 Filed 5-18-81; 8:45 am]

BILLING CODE 1035-01-M

[Permanent Authority Decision Volume No. 425]

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 broader 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 49544 (Sub-1F) (republication), filed August 28, 1979, published in the Federal Register issue of March 27, 1980 and republished this issue. Applicant: BOYER-ROSENE MOVING & STORAGE, INC., 2512 So. Clearbrook Dr., Arlington Heights, IL 60005. Representative: Michael F. Sheehan, Jr., 29 South La Salle St., Suite 830, Chicago, IL 60603. A Decision of the Commission, Division 1, Acting as an Appellate Division, finds on further consideration that performance by applicant of the service described will serve 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 *household goods*, as defined by the Commission, between points in OH, IN, MI, IL, and WI, on the one hand, and, on the other, points in GA, FL, KS, OK, and TX. Applicant is authorized to tack the above-described authority with its existing irregular-route authority in Docket No. MC 49544; 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 regulations. The purpose of

this republication is to reflect applicant's actual grant of authority.

By the Commission,
Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-14891 Filed 5-18-81; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 81]

Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: May 12, 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 41406 (Sub-175)X, filed April 30, 1981. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 8400 Westlake Drive, Merrillville, IN 46410. Representative: Ralph D. Artim (same as applicant). Applicant seeks to remove restrictions in its Sub-Nos. 30, 83F, 137F, 145F and 150F certificates to (1) broaden the commodity descriptions (a) to "metal products and machinery" from iron and steel articles, and contractor's machinery, equipment, supplies and materials (except

commodities in bulk), in Sub-No. 30; from grain storage and grain drying bins, grain dryers, parts and accessories and materials and supplies, in Sub-No. 83F; (b) from furnaces and materials, supplies and equipment to "clay, concrete, glass or stone products, metal products and machinery," in Sub-No. 137F; (c) from iron and steel wood burning stoves, agricultural implements and materials, equipment and supplies to "clay, concrete, glass or stone products, metal products, and machinery", in Sub-No. 145F, and (d) from coke oven component parts and materials, supplies and equipments to "metal products and electrical machinery", in Sub-No.150F, (2) remove restrictions limiting service to the transportation of shipments originating at or destined to named facilities and facilities limitations in Sub-Nos. 30, 137F, 83F and 145F, (3) broaden the territorial description from one-way authority to radial authority and to replace specified plantsites and cities with county-wide authority to authorize service (a) between points in Kankakee County (for Indian Oak, IL) and points in 9 states, in Sub-Nos. 30; (b) between points in McHenry County, IL (for Marengo, IL) and points in 24 states, in Sub-No. 83F; (c) between points in Randolph County, IL (for Red Bud, IL) and points in 11 States, in Sub-No. 137F; (d) between points in Wayne County, IN (for Richmond, IN) and points in the U.S., in Sub-No. 145F and (e) between points in Union County, KY (for Sturgis, KY) and points in the U.S. in and east of ND, SD, NE, KS, CO, OK and TX in Sub-No. 150F and (4) remove the AK and HI exception in Sub-No. 145F.

MC 95876 (Sub-394)X, filed March 20, 1981, noticed in the Federal Register of April 16, 1981, republished as corrected this issue. Applicant: ANDERSON TRUCKING SERVICE, 203 Cooper Ave. No., St. Cloud, MN 56301. Representative: Stephen F. Grinnell, 1600 TCF Tower, Minneapolis, MN 55402. Applicant seeks to remove restrictions in its Sub-Nos. 165, 196, 200, 209, 216, 260F, 278F, 286F, 295F, 296F, 299F, 322F and 367F certificates to (1) broaden the commodity descriptions as follows: (a) in Sub-No. 165, part (1), from contractors, construction and mining machinery, equipment and parts, to "machinery"; (b) in Sub-No. 196, part 1(a), from machinery and equipment and attachments, accessories, and supplies, and material, equipment and supplies used in the building, repair or outfitting of marine vessels, to "machinery" and "transportation equipment"; (c) in Sub-No. 200, from tractors, agricultural implements and farm machinery, parts,

attachments and accessories for such commodities, and equipment designed for use with tractors, to "machinery"; (d) in Sub-No. 209, from fertilizer handling equipment, front end loaders, and, chassis for fertilizer handling equipment, to "machinery"; (e) in Sub-No. 216, part (1) from trailers and trailer chassis (other than those designed to be drawn by passenger automobiles), to "transportation equipment"; (f) in Sub-No. 260F, from materials, equipment and supplies used in the manufacture and distribution of refrigerators, freezers, and cooling units to "machinery"; (g) in Sub-No. 286F, parts (1) and (2), from road machinery and self-propelled articles, and parts, attachments and accessories for such commodities, to "machinery"; (h) in Sub-No. 295F, part (1), from turbines, motors, and generators, to "machinery"; (i) in Sub-No. 296F, part (1), from contractor's construction and mining machinery, equipment and parts, to "machinery"; (j) in Sub-No. 299F, part (1), from cranes and excavators, and parts to "machinery"; and (k) in Sub-No. 322F, from vehicles designed for off-highway use and parts, attachments and accessories, to "machinery"; and (2) replace city-wide authority with county-wide authority: in Sub-No. 196, Manitowoc and Door Counties, WI (for Manitowoc and Sturgeon Bay, WI); in Sub-No. 200, Winnebago County, WI (for Winneconne and Neenah, WI); in Sub-Nos. 209 and 367F, Kandiyohi County, MN (for Willmar, MN); in Sub-No. 216, Stearns County, MN (for Opole, MN); in Sub-Nos. 260F and 295F, Stearns, Benton and Sherburne Counties, MN (for St. Cloud, MN); in Sub-No. 286, Bannock and Power Counties, ID (for Pocatello, ID); in Sub-No. 299F, Linn and Johnson Counties, IA (for Cedar Rapids, IA); and in Sub-No. 322F, Macomb, Oakland, Wayne, Washtenaw, Livingston and Monroe Counties, MI (for Detroit, MI). Applicant also seeks to (1) change its one-way authorities to radial authorities between named points in the U.S. in Sub-Nos. 196, 200, 209, 216, 260F, 278F, 286F, and 322F; (2) eliminate the except AK and HI and/or MN restriction in Sub-Nos. 196, 200, 209, 216, 260F, 278F, 286F, 295F, 296F, 299F, and 322F; (3) remove the "except commodities in bulk" restriction in Sub-Nos. 165, 196, 216, and 260F and the "in tank vehicle" restriction in Sub-No. 216; (4) eliminate the originating at or destined to restriction in Sub-Nos. 165, 196, 200, 260F, 278F, 286F, 295F, and 299F; and (5) remove the restriction limiting service to the transportation of traffic in initial movements, in truckaway service in Sub-No. 216. The

purpose of this republication is to indicate that Livingston County is included in the expansion of Detroit, MI.

MC 111496 (Sub-40)X, filed April 23, 1981. Applicant: TWIN CITY FREIGHT, INC., 2550 Long Lake Rd., Roseville, MN 55113. Representative: Michael E. Miller, 502 First National Bank Bldg., Fargo, ND 58128. Applicant seeks to remove restrictions in its lead and Sub-Nos. 8, 9, 10, 11, 12, 17, 20, 21, 22, 25, 26, 28, 30, 32, 35, 37 certificates and authority acquired in MC-F-7270, MC-F-9465 and MC-F-12296 to (1) remove all exceptions except Classes A and B explosives from its general commodities authority in part of the lead, Sub-Nos. 8, 9, 10, 12, 20, 21, 22, 25, 26, 30, 32, 35, 36, 37 and authority acquired in MC-F-12296, MC-F-7270 and MC-F-9465, (2) broaden the commodity description from motion picture films and theatre supplies, fresh fruits and vegetables, malt and malt syrup to "such commodities as are dealt in or used by motion picture theatres, and food and related products" in part of the lead; from sugar to "food and related products" in Sub-No. 22; from salt to "chemicals and related products" in MC-F-12296; and, from charcoal and charcoal briquettes to "food and related products, lumber and wood products, chemicals and related products, and petroleum products" in Sub-No. 28, (3) allow service to all intermediate points in connection with its regular routes between (a) Gary, MN and Grand Forks, ND in Sub-No. 9, (b) Fargo, and Williston, ND; and, Minot and Fortuna, ND in Sub-No. 12, (c) Turtle Lake and Pick City, ND; and, Moorehead, MN and Grand Fork, ND in Sub-No. 22, (d) Minneapolis, and Mora, MN in Sub-No. 25, (e) St. Cloud and Minneapolis/St. Paul, MN in Sub-No. 35, (f) Williston, ND and Billings, MT in Sub-No. 37; (g) Thief River Falls, and Baudette, MN; Moorehead and Crookston, MN; Bismarck, ND and Sidney, MT in MC-F-12296; (h) St. Paul, MN and Fargo, ND in MC-F-7270, and the lead (i) Gary, MN and Grand Forks, ND in MC-F-9465 and (j) Fargo, ND and a specific MN point; St. Paul, MN and Wahpeton, ND; in the lead, (4) remove plantsite limitations or termini site restrictions in Sub-Nos. 8, 11, 17, and 30, (5) replace city with county-wide authority in the irregular portions as follows in the indicated Sub-Nos. from (a) Minot and Williston, ND to Ward and Williams Counties, ND in Sub-No. 12, (b) Williston, ND and points within 10 miles thereof to Williams and McKenzie Counties, ND in MC-F-12296, (c) Dickson, ND to Stark County, ND in Sub-No. 28; (d) Grand Forks, ND to Grand Forks County, ND and Polk County, MN and Fargo, ND to Cass

County, ND and Clay County, MN in the lead, Sub-Nos. 12 and 17, (6) remove restriction to serve at termini for purpose of joinder only in the lead, (7) remove restriction against service to points on U.S. Hwy 52 (except Minot, ND) in connection with regular route operation between Minot and Fortuna, ND in Sub-No. 12, (8) remove the "originating at and destined to" named points in Sub-No. 17, (9) change one-way to radial authority between the above mentioned counties and points in various States in Sub-Nos. 17, and 28 and the authority in MC-F-12296.

MC 112989 (Sub-142)X, filed April 29, 1981. Applicant: WEST COAST TRUCK LINES, INC., 85647 Hwy. 99S, Eugene, OR 97405. Representative: John A. Anderson, Suite 1600, One Main Place, 101 SW Main St., Portland, OR 97204. Applicant seeks to remove restrictions from its Sub-Nos. 36, 44, 45, 46, 47, 50, 58, 60F, 69F, 91F, 104F, 108F, 112F, 123F, 129F and 130F certificates to (1) broaden the commodity descriptions (a) to "rubber and plastic products" from engineered kiln stickers in Sub-No. 36, from plastic pipe and fittings in Sub-No. 50, from plastic pipe and accessories for plastic pipe in Sub-No. 58, from plastic pipe, fittings and accessories for plastic pipe in Sub-No. 60F, from plastic articles in Sub-No. 69F, from plastic articles in Sub-No. 108F, and from rubber and rubber compound in Sub-No. 129F; (b) to "lumber and wood products" from bark products in Sub-No. 44, from lumber and lumber products, wood products and particleboard in Sub-No. 45, from lumber, lumber mill products, wood products and particleboard in Sub-No. 46, from lumber, lumber mill products and wood products in Sub-Nos. 47 and 112F, from lumber and lumber mill products in Sub-No. 91F, and from fiberglass reinforced plywood in Sub-No. 104F; (c) to "chemicals and related products" from adhesives in Sub-No. 129F, from paint and paint products in Sub-No. 123F, and from paint and paint products in Sub-No. 130F; (2) eliminate the facilities restrictions in Sub-Nos. 36, 44, 50, 58, 69F, 104F, 108F, 129F and 130F; (3) broaden the territorial scope to authorize countywide service in place of specific points or city-wide authority as follows: (a) in Sub-No. 36, Multnomah, Clackamas and Washington Counties, OR and Clark County, WA (for Portland, OR); (b) in Sub-No. 44, Lane County, OR (for Coburg, OR); (c) in Sub-No. 50, Lane County, OR (for Springfield, OR); (d) in Sub-No. 58, Lane County, OR and Yakima County, WA (for Eugene, OR and Sunnyside, WA); (e) in Sub-No. 60F, Marion County, OR (for Turner, OR); (f) in Sub-No. 91F, Buchanan and Andrew

Counties, MO and Doniphan County, KS (for St. Joseph, MO); (g) in Sub-No. 104F, Fayette County, OH (for Washington Court House, OH); (h) in Sub-No. 108F, Los Angeles County, CA (for Terrence, CA); (i) in Sub-No. 129F, Muscatine County, IA and Rock Island County, IL (for Muscatine, IA); and (j) in Sub-No. 130F, Orange, San Bernardino and Los Angeles Counties, CA and Canadian, Oklahoma, Cleveland Counties, OK (for Anaheim, CA and Oklahoma City, OK); (4) authorize radial service in place of one-way authority between: (a) Multnomah, Clackamas and Washington Counties, OR and Clark County, WA and points in WA and CA in Sub-No. 36; (b) Lane County, OR and AZ, CA, ID, MT, NV, NM, UT and WA in Sub-No. 44; (c) OR and WA, and points in AZ and NV in Sub-No. 46; (d) Lane County, OR, and points in ID in Sub-No. 50; (e) Marion County, OR and points in AZ, CO, ID, MT, NV, NM, OR TX, UT, WA and WY in Sub-No. 60f; (f) Buchanan and Andrew Counties, MO and Doniphan County, KS and points in AZ, CA, ID, MT, NV, OR, UT, WA and WY in Sub-No. 91F; (g) Los Angeles County, CA and points in AZ, NV, OR, WA and ID in Sub-No. 108F; and (h) (CA, OR and WA and points in UT in Sub-No. 112F; (5) eliminate the restriction against the transportation of shipments between points in WA in Sub-No. 45; (6) eliminate the restriction limiting service on shipments moving in foreign commerce to those moving through the ports of entry at or near Blaine, WA in Sub-No. 45; (7) eliminate the restriction against the transportation of commodities in bulk in Sub-Nos. 69F, 104F, 123F, 129 and 130F; and (8) eliminate the restriction against service to AK and HI in Sub-Nos. 104F and 129F.

MC 117956 (Sub-No. 20)X, filed April 23, 1981. Applicant: SCOTT TRANSFER CO., INC., P.O. Box 11248, Atlanta, GA 30310. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Applicant seeks to remove restrictions in its Sub-Nos. 2, 8, 11F, and 12F certificates to (1) broaden the commodity descriptions to (a) "food and related products" from salt, and pepper, when shipped with salt in Sub-No. 2 (sheets 1 and 2); (b) "pulp, paper and related products" from commercial paper in Sub-Nos. 2 (sheet 2) and 8; (c) "machinery" from lighting fixtures and lighting equipment in Sub-No. 11F, and mechanical creepers in Sub-No. 12F; (2) replace cities or plantsite restrictions with county-wide authority: Avery Island and Weeks Island with Iberia Parish, LA in Sub-No. 2; Cornelia with Habersham County, GA in Sub-Nos. 2 and 8; Clarkesville with Habersham

County, GA in Sub-No. 8; Eufaula with Barbour County, AL and Americus with Sumter County, GA in Sub-No. 11F; Westville with Gloucester County, NJ, West Jordan with Salt Lake County, UT and Greenwood with LeFlore County, MS in Sub-No. 12F; (3) eliminate the "except AK and HI and commodities in bulk" restrictions in Sub-No. 11F; and (4) change its one-way authorities to radial authorities between: (a) points in Iberia Parish, LA, and points in AL, FL, GA, SC, and TN in Sub-No. 2; and (b)(i) points in Gloucester County, NJ, and Chicago, IL, St. Paul, MN, Salt Lake County, UT, Memphis, TN, Atlanta, GA and LeFlore County, MS, and, (b)(ii) points in SC, and points in Gloucester County, NJ in Sub-No. 12F. Applicant also seeks to remove restrictions in its MC-116947 Sub-Nos. 7, 11, 20, 29, 33, 40, 47, 48, 50, 53, 56F, 58F, 66F, 74F, 78F, 82F, 83, 84F, 86F, 87F, and 88F permits to (1) broaden the commodity descriptions to (a) "metal products, lumber and wood products, rubber and plastic products, clay, concrete, glass or stone products, and, chemicals and related products" from metal containers and container ends, pallets, paper shrouds, chipboard, lacquer in drums, decorated tin plates, in sheets, sheet plastic and bottle caps in Sub-No. 7; (b) "clay, concrete, glass or stone products," from tile, in cartons, and ceramic tile, bath accessories in Sub-No. 29; (c) "chemicals and related products and food and related products" from bleach, cleaning, scouring, and washing compounds, chopped alfalfa pellets and cooking oils in Sub-No. 33; (d) "rubber and plastic products" from plastic buckets in Sub-No. 40; (e) "food and related products and metal products" from canned goods and metal containers, and parts for metal containers in Sub-No. 66F; (f) "food and related products, metal products, and pulp, paper and related products" from foodstuffs, metal containers, pallets, paper shrouds, and clipboard in Sub-No. 86F; (g) "such commodities as are dealt in and used by a printing company" from boxes (except corrugated), store display racks and stands, signs, plastic film and sheeting, printing ink, varnish, machinery and machinery parts, printing plates, printing rolls and rollers, adhesives and glue, pulpboard or fiberboard O/T corrugated, in Sub-No. 88F; (h) "metal products and pulp, paper and related products" from steel drums, fiberboard or pulpboard drums, and corrugated fiberboard boxes and fiberboard boxes in Sub-No. 20; and fiberboard cans and metal closures, in Sub-No. 58F; (i) "food and related products" from: bread making ingredients, cooking oil, and flour, in

containers in Sub-No. 48, and salad dressing, peanut butter, preserves and jellies in Sub-No. 74F; (j) "chemicals and related products" from cleaning compounds, drug and toilet preparations, and naphtha in Sub-No. 53, paints and caulking compounds in Sub-No. 78F, industrial cleaners, deodorizers, weed killers and insecticides in Sub-No. 82F; and paints and paint products in Sub-No. 84F; (k) "metal products, and rubber and plastic products" from metal containers, container closures, lacquer (in containers), decorated tin plate (in sheets and sheet plastic), in Sub-No. 11; (l) "rubber and plastic products" from plastic drums in Sub-No. 47; (m) "metal products, and lumber and wood products" from fibre cans, materials and supplies, and aluminum, steel, and tin can ends, and wooden pallets, platform and skids, in Sub-No. 50; (n) "general commodities (except classes A and B explosives)" from general commodities (with the usual exceptions), in Sub-Nos. 83F and 87F; and (o) "such commodities as are dealt in or used by grocery and food business houses" from such commodities as are dealt in by grocery and food business houses, and deodorants (except medicinal and toilet preparations), in Sub-No. 56F; (2) remove the "except commodities in bulk" restriction in Sub-Nos. 11, 33, 50, 58F, 70F, 74F, 78F, and 82F; and (3) broaden the territorial descriptions to between points in the U.S., under continuing contract(s) with named shippers, in the above named permits.

MC 123065 (Sub-13)X, filed May 4, 1981. Applicant: STX INC., d.b.a. SPOTSWOOD TRAIL EXPRESS, Redbone Road, Chester Springs, PA 19425. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. Applicant seeks to remove restrictions in its lead and Sub-Nos. 3, 4, and 12 certificates to (1) broaden the commodity descriptions to (a) "lumber and wood products, metal products, building materials, and furniture and fixtures" from prefabricated houses and parts there of and new furniture, in the lead (part 1); (b) "furniture and fixtures" from furniture parts, in the lead (part 2); new furniture, in the lead (part 5) and Sub-No. 12; and new furniture, uncrated, in Sub-No. 3 (part 2); (c) "containers" from empty shipping cartons, in the lead (part 3); empty containers for poultry and eggs, in Sub-No. 4 (part 2 and 14), and empty dressed poultry containers, in Sub-No. 4 (part 16); (d) "farm products" from poultry and eggs, in Sub-No. 4 (part 1) and livestock, in Sub-No. 4 (part 21); (e) "lumber and wood products" from lumber, in Sub-No. 4

(part 3); (f) "food and related products" from apples and peaches (part 4), sugar (part 7), corn (part 8), cottonseed meal (part 9), dressed poultry (parts 12, 13, and 15), eggs, fresh or frozen (part 17), fresh and frozen dressed poultry (part 19), and feed materials (except liquid commodities in bulk), and excluding dump trucks, as a means of transportation (part 22), all in Sub-No. 4; (g) "chemicals and related products and food and related products" form fungicides and insecticides and materials used in the manufacture thereof, fertilizer and fertilizer materials, and feed and feed materials, in Sub-No. 4 (part 5); (h) "coal and coal products" from coal, in Sub-No. 4 (part 6); (i) "machinery" from carnival equipment, in Sub-No. 4 (part 11); (j) "food and related products and machinery" from dressed poultry and such supplies and machinery as are used in poultry dressing plants, in Sub-No. 4 (part 18); and (k) "general commodities" from general commodities (with exceptions), in Sub-No. 4 (part 20); (2) remove the plantsite limitation in Sub-No. 4 (part 12); (3) eliminate the restriction "except from Broadway and points within 2 miles thereof to Miami and Miami Beach, FL," in Sub-No. 4 (part 19); (4) replace cities with authority to serve the county as follows: McGeheysville with Rockingham County, VA, Lexington and Hudson with Davidson and Caldwell Counties, NC, and Darlington with Darlington County, SC, in the lead; Windber and Johnstown with Somerset and Cambria Counties, PA, and Randolph with Cattaraugus County, NY, in Sub-No. 3; Broadway, Bridgewater, Elkton, Timbeville, Brooks Gap, Chilhowie, Wytheville, Crozet, Lovington, Amherst, Crimora, Weyers Cave, Washington Courthouse, Stanley, Strasburg, Mt. Jackson and New Market with Rockingham, Smyth, Wythe, Albermarle, Nelson, Amherst, Augusta, Rappahannock, Page, and Shenandoah Counties, VA, Pottsville with Schuylkill County, PA, Hagerstown and Cumberland with Washington and Allegany Counties, MD, Charlestown, Martinsburg, and Moorefield with Jefferson, Berkeley, and Hardy Counties, WV, Weldon and Kinston with Halifax and Lenoir Counties, NC, Newfield with Gloucester County, NJ, and Lewes with Sussex, County, DE, in Sub-No. 4; and (5) change its one-way authority to radial authorities between points in the eastern part of the U.S., in the above named certificates.

MC 128383 (Sub-89)X, filed April 27, 1981. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Rd., Sharon Hill, PA 19079. Representative:

Gerald K. Gimmel, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. Applicants seeks to remove restrictions in its Sub-Nos. E-1, E-2, E-3, E-4, E-5, E-6, E-7, E-8, E-9, E-10, E-11, E-12, E-13, E-14, E-15, E-16, E-17, E-18, E-19, E-20, E-21, E-22, E-23, E-24, E-25, E-26, E-27, E-28, E-29, E-30, E-31, E-32, E-33, E-34, E-35, E-36, E-37, E-38, E-40, E-41, E-42, E-44, E-45, E-48, E-49, E-50, E-51, E-52, E-53, E-54, E-55, E-56, E-57, E-58, E-60, E-61, E-63, E-64, E-65, E-67, E-68, E-69, E-70, E-71, E-72, E-73, E-74, E-75, E-76, E-77, E-78, E-79, E-80, E-81, E-86, E-87, E-88, E-89, E-83F, and 84F letter-notices to (1) broaden its commodity descriptions (a) from general commodities (with exceptions not including classes A & B explosives), to "general commodities", in Sub-Nos. E-1, E-2, E-3, E-4, E-5, E-6, E-7, E-8, E-9, E-10, E-11, E-12, E-13, E-14, E-15, E-16, E-17, E-18, E-19, E-20, E-21, E-22, E-23, E-24, E-25, E-26, E-27, E-28, E-29, E-30, E-31, E-32, E-33, E-34, E-35, E-36, E-37, E-38, E-40, E-41, E-42, E-44, E-45, E-48, E-49, E-50, E-51, E-52, E-53, and E-53, and E-79, and (b) from general commodities (with exceptions including classes A & B explosives), to "general commodities (except classes A and B explosives)", in Sub-Nos. E-55, E-56, E-57, E-58, E-60, E-61, E-63, E-64, E-65, E-67, E-68, E-69, E-70, E-71, E-72, E-73, E-74, E-75, E-76, E-77, E-78, E-80, E-81, E-86, E-87, E-88, E-89, 83F, and 84F; (2) replace airports and cities with city or county-wide authority; airport at Albany County, NY, with Albany County, NY, in Sub-Nos. E-1, E-2, E-3, E-6, E-8, E-9, and E-15; airports at Anne Arundel County, MD, with Anne Arundel County, MD, in Sub-Nos. E-1, E-13, E-20, E-24, E-29, E-37, E-40, E-57, E-65, E-75, E-88, and E-89; airport at Newark, NJ, with Newark, NJ, in Sub-Nos. E-3, E-12, E-22, E-32, E-33, E-41, E-42, E-61, E-79, E-81, E-86, E-87, E-88, E-89, and 83F; airport at Monroe County, NY, with Monroe County, NY, in Sub-Nos. E-4, E-17, E-19, E-20, E-21, E-31, and E-33; airport at New York, NY, with New York, NY, in Sub-Nos. E-2, E-4, E-11, E-14, E-15, E-16, E-19, E-23, E-27, E-44, E-45, E-49, E-50, E-52, E-60, E-61, E-74, E-79, E-81, E-86, E-87, E-88, and E-89; Washington National Airport with Washington DC, in Sub-Nos. E-5, E-6, E-10, E-21, E-26, E-30, E-51, E-56, E-65, E-75, E-77, E-80, E-88, and E-89; airport at Broome County, NY, with Broome County, NY, in Sub-Nos. E-5, E-36, and E-37; airport at Boston, MA, with Boston, MA, in Sub-Nos. E-7, E-10, E-11, E-12, E-13, E-52, E-53, E-86, E-87, E-88, and E-89; airport at Fairfax and Loudon Counties, VA, with Washington, DC, in Sub-Nos. E-7, E-8, E-25, E-31, E-34, E-36, E-38, E-54, E-65, E-73, and E-

75; airport at Philadelphia, PA, with Philadelphia, PA, in Sub-Nos. E-9, E-17, E-18, E-28, E-35, E-48, E-53, E-55, E-58, E-64, E-79, E-86, and E-87; airport at Onondaga County, NY, with Onondaga County, NY, in Sub-Nos. E-14, E-16, E-24, E-30, E-32, E-34, and E-35; airport at Erie County, NY, with Erie County, NY, in Sub-Nos. E-18, E-22, E-23, E-25, E-26, E-27, and E-29; airport at Cleveland, OH, with Cleveland, OH, in Sub-Nos. E-28, E-79, E-86, E-88, and E-89; airport at Hartford County, CT, with Hartford County, CT, in Sub-Nos. E-38, E-40, E-41, E-44, E-48, E-50, and E-51; airport at Oneida County, NY, with Oneida County, NY, in Sub-Nos. E-42, E-45, and E-49; airport at or near Miami, FL, with Miami, FL, in Sub-Nos. E-54, E-56, E-57, E-60, E-63, E-71, E-78, E-88, E-89, and 83F; airport at Chicago, IL, in Sub-Nos. E-55, E-58, E-61, E-67, E-70, E-86, E-88, E-89, and 83F; airports at or near Atlanta, GA and Charlotte, NC, with Atlanta, GA and Mecklenburg County, NC, in Sub-Nos. E-60, E-63, E-71, E-88, and E-89; airport at or near Detroit, MI, with Detroit, MI, in Sub-Nos. E-61, E-67, E-87, E-88, and E-89; Milford, PA with Pike County, PA, in Sub-No. E-67; Atlantic City, NJ, with Atlantic County, NJ, in Sub-No. E-68; airports at Dayton, OH, and Indianapolis, IN, with Dayton, OH, and Indianapolis, IN, in Sub-Nos. E-76, E-79, E-88, and E-89; airports at Fairfax and Loudon Counties, VA, with Fairfax and Loudon Counties, VA in Sub-Nos. E-77, E-88, and E-89; airports at the following cities with Cincinnati, OH, and Pittsburgh, PA, in Sub-No. E-86; airports at the following cities with Indianapolis, IN, Kansas City, MO, and Minneapolis, St. Paul, MN, in Sub-Nos. E-86, and E-87; airports at the following cities with Los Angeles, San Francisco, and Oakland, CA, Little Rock, AR, Tulsa, and Oklahoma City, OK, Austin, Waco, San Antonio, and El Paso, TX, Kansas City, MO, and Memphis, TN, in Sub-No. 83F; and airports at the following cities with Charlotte, NC, Greenville, SC, and Atlanta, GA, in Sub-No. 84F; (3) change its one-way to radial authority (a) between Philadelphia, PA and Chicago, IL, in Sub-No. E-55, and (b) between Chicago, IL and Philadelphia, PA, in Sub-No. E-58; and (4) eliminate the restrictions, wherever they appear, (a) against the transportation of aircraft engines and parts from specified airports, and (b) limiting service to the transportation of traffic having a prior or subsequent movement by air.

MC 133384 (Sub-6)X, filed May 6, 1981. APPLICANT: BARBERTON RECON CENTER, INC., 5075 Wooster Road, Barberton, OH 44203. Representative: E. H. van Deusen, P.O. Box 97, Dublin, OH

43017. Applicant seeks to remove restrictions in its Sub-No. 4F certificate to (1) broaden its commodity description to "transportation equipment" from motor vehicles, in truckaway service; and (2) remove the facilities restriction and authorize radial authority between Wayne County, MI, and points in the U.S.

MC 133534 (Sub-15)X, filed April 27, 1981. Applicant: ROBERT V. MARKT, d.b.a. ROBERT V. MARKT TRUCKING, 1707 Garfield Ave., St. Joseph, MO 64503. Representative: William P. Parker, 141 N.E. 38th Terrace, Oklahoma City, OK 73105. Applicant seeks to remove restrictions in its lead certificate, Sub-Nos. 3, 5, 6, 8, 9, 10, 13F and 14F to (1) broaden the commodity description in lead certificate, Sub-Nos. 3, 5, 8, from feed, feed ingredients, animal health aids and/or livestock feeders to "farm products" and in Subs 6, 9, 10, 13F and 14F from meats, meat by-products, packinghouse products, etc., to "food and related products"; (2) replace one-way with two-way authority in the lead certificate and radial authority in Subs 3, 5, 6, 9, 10, 13F and 14F between specified points located primarily in the midwestern U.S.; (3) replace plant site and/or city-wide authority with county-wide authority in Subs 3, 5, 6, 9, 10, 13F, and 14F as follows: St. Joseph with Buchanan County, MO; Carroll with Carroll County, IA; Denison with Crawford County, IA; Iowa Falls with Hardin County, IA; Elwood with Doniphan County, KS; Rockport with Atchinson County, MO; Crete with Saline County, NE; Lexington with Fayette County, KY; Covington with Kenton County, KY; Massillon with Stark County, OH; and Nebraska City with Otoe County, NE; (4) remove "originating at or destined to" restrictions in lead certificate and Subs 6, 8, 10, 13F and 14F; (5) eliminate intermediate point restriction in lead certificate, and allow service at all intermediate points between St. Joseph, MO, and Hiawatha, KS; and (6) delete restrictions on commodities, such as "in bulk, in bags".

MC 133591 (Sub-144)X, filed May 4, 1981. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mt. Vernon, MO 65712. Representative: A. J. Swanson, P.O. Box 1103, 226 N. Phillips Avenue, Sioux Falls, SD 57101. Applicant seeks to remove restrictions in its Sub-Nos. 4, 12, 19, 20, 21, 22, 26, 27F, 29, 31, 35MIF, 41F, 44, 53F, 56F, 70F, 71F, 74F, 76F, 77F, 80F, 91F, 95F, 98F, 104F, 106F, 107F, 108F, 110F, 112F, and 115 certificates to: (1) broaden the commodity descriptions from (a) animal and pet food, breeding compounds,

canned foodstuffs, frozen fruits, berries, vegetables, and potatoes, packaged food seasoning and treating compounds, bakery goods and products, foodstuffs, confectionery products, and snack foods, to "food and related products" in Sub-Nos. 12, 19, 20, 21, 27, 35MIF, 44, 53F, 56F, 80F, 98F, 108F and 110F; (b) paper bags, paper articles, disposable diapers, paper and paper products, paper dishes, plates and napkins, to "pulp, paper, and related products" in Sub-Nos. 21 (pg. 2), 76, 91, 106, and 107; (c) drugs, insecticides, pesticides, animal care products and paint, to "chemicals and related products" in Sub-Nos. 19 and 27; (d) vehicle suspension systems, parts, attachments, accessories, bicycles and tricycles to "transportation equipment" in Sub-Nos. 31, 95 and 104; (e) swimming and wading pools and gymnasium apparatus to "sporting and athletic goods" in Sub-No. 104; (f) electrical appliances, household appliances and fixtures, heating and cooling systems, electric motors, radios, televisions, stereophonic and videotape equipment to "machinery" in Sub-Nos. 4, 26, 41F, 70F, 71F and 74F; (g) heating and cooling systems, tools, tool boxes, scrap metals, steel and blowers, to "metal products" in Sub-Nos. 22, 28, 31, 41F, and 74F; (h) furniture parts to "furniture and fixtures" in Sub-No. 29; (i) insulation to "mineral products" in Sub-No. 41F; (j) textile products to "textile mill products" in Sub-No. 91F; and (k) plastics, plastic products, plastic articles, to "rubber and plastic products" in Sub-Nos. 76F, 77F, and 107F; (2) eliminate the facilities limitations in Sub-Nos. 4, 53F, 56F, 71F, 76F, 106F, 107F and 115; (3) replace city-wide with county-wide authority as follows: Girardeau County for Cape Girardeau, MO in Sub-No. 4; Phelps County for Rolla, MO in Sub-Nos. 12 and 21; Benton County for Siloam Springs and Gentry, AR in Sub-No. 20; Lawrence County for Aurora, MO in Sub-Nos. 22 and 31; Boone County for Columbia, MO in Sub-No. 26; Pettis County for Sedalia, MO in Sub-No. 28; Jasper County for Carthage, MO in Sub-No. 29; Lawrence County for Mt. Vernon, MO in Sub-Nos. 31 and 41F; Hempstead County for Hope, AR in Sub-No. 44; Bradley County for Cleveland, TN in Sub-No. 53F; Greene County for Springfield, MO in Sub-Nos. 20, 70F, 71F and 115; Cooper, Cole, Callaway, Adair, Shelby, Randolph and Macon Counties for Kirksville, Jefferson City, Boonville, Macon, Moberly and Clarence, MO and White County for Searcy, AR in Sub-No. 74F; Sebastian County for Ft. Smith, AR in Sub-No. 76F; Benton County for Rogers, AR in Sub-No. 77F; Ouachit and

Pulaski Counties for East Camden and North Little Rock, AR in Sub-No. 91F; Phillips and Pulaski Counties for West Helena and Little Rock, AR in Sub-No. 104F; Nez Perce County for Lewiston, ID in Sub-No. 106F; Wilson County for Fredonia, KS in Sub-No. 31; Adair and Delaware Counties, OK for Proctor and Kansas, OK in Sub-No. 20; and Riley and Harvey Counties for Manhattan and Newton, KS in Sub-No. 20. (4) change one-way to radial authority between points in numerous States; and (5) remove the restrictions (a) in bulk in Sub-Nos. 12, 19, 20, 21, 26, 41F, 53F, 76F, and 77F; (b) in tank vehicles Sub-Nos. 20 and 53F; (c) size and weight in Sub-Nos. 22, 26, and 41F; (d) except frozen food, meat and meat products in Sub-No. 35MIF; (e) unfrozen in Sub-No. 44; (f) requiring mechanical refrigeration in Sub-No. 53F; (g) except frozen in Sub-No. 80F; and (h) against service to AK and HI in Sub-Nos. 56F and 74F.

MC 141249 (Sub-5)X, filed April 21, 1981. Applicant: WEEKS CARTAGE, INC., 1900 Dahlia Road, Jacksonville, FL 32205. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. Applicant seeks to remove restrictions in its Sub-No. 3F certificate to (A) remove all restrictions in its general commodities authority "except classes A and B explosives," (B) remove the restrictive phrase "in intermodal containers," and the restriction limiting traffic to that having a prior or subsequent movement by water; and (C) expand Jacksonville, FL to county-wide authority, to serve between Duval County, FL, and, points in FL and GA.

MC 143234 (Sub-3)X, filed April 22, 1981. Applicant: PHILLIPS BROTHERS WAREHOUSING & DISTRIBUTING CORPORATION, 25 Thomas Avenue, Baltimore, MD 21225. Representative: Walter T. Evans, 7961 Eastern Avenue, Silver Spring, MD 20910. Applicant seeks to remove restrictions in its Sub-No. 1F certificate to (A) eliminate all restrictions in its general commodities authority "except classes A and B explosives," and (B) remove the restriction limiting traffic to that having a prior or subsequent movement by water or rail, on service between Baltimore, MD, and, points in six States and DC.

MC 144337 (Sub-4)X, filed May 6, 1981. Applicant: KENNETH HENDERSON TRUCKING CO., INC., Route 66, Cullowhee, NC 28723. Representative: Erick Meierhoefer, Suite 423, 1511 K Street NW., Washington, DC 20005. Applicant seeks to remove restrictions in its Sub-No. 3F permit to (1) broaden the commodity description to "rubber

and plastic products" from molded plastic articles, and (2) broaden its territorial authority to between points in the U.S., under continuing contract(s) with a named shipper.

MC 145105 (Sub-2)X, filed April 20, 1981. Applicant: WEBBER TRANSPORT CO., 855 U.S. Route 1, Avenel, NJ 07001. Representative: Eugene C. Ewald, Suite 102, 100 West Long Lake Road, Bloomfield Hills, MI 48013. Applicant seeks to remove restrictions in No. MC-87928 and Sub-Nos. 40, 41, 42, 44, 45, 46, 47, 48, and 51 certificates, acquired in docket MC-FC-78578, to (1) broaden some commodity descriptions to: "motor vehicles" from automobiles, trucks, bodies, cabs, chassis, truck tractors, and buses, new and used, and motor homes, and new motor vehicles (except trailers); and "machinery" from farm tractors; (2) remove service restrictions limiting traffic to that: "in initial, subsequent or secondary movements" "in truckaway and driveaway service," "moving at the same time and with the vehicles of which they are a part and on which they are to be installed," or "when moving in mixed loads with trucks and automobiles," and also remove restrictions limiting service during certain seasons, and to that having an immediately prior movement by rail wherever they appear; (3) remove plantsite restrictions in the lead, and Sub-Nos. 40, 41, 45, 46, and 47; remove exceptions excluding service in AK and HI in the lead, and Sub-Nos. 47 and 51; replace one-way authority with radial authority; and replace the specified plantsites and cities with county-wide authority to serve: lead certificate, St. Louis County, MO (plantsites near Airport in St. Louis County, MO, and near Robertson and Hazelwood, MO); Washtenaw County, MI (Willow Run, MI); Middlesex County, NJ (Edison Township, NJ); Wayne County, MI (Dearborn and Highland Park, and plantsites in Wayne County, MI); Ottawa County, OK (Quapaw, OK); Macomb County, MI (Warren Township, MI); Sub-No. 40, Bergen County, NJ (Mahway, NJ); Sub-No. 48, Wayne County, MI (Dearborn, MI); Cerro Gordo County, IA (Mason City, IA); Scott County, MN (Shakopee, MN); and Sub-No. 51, Calhoun County, MI (Battle Creek, MI).

MC 145955 (Sub-23)X, filed May 4, 1981. Applicant: CENTRAL TRUCK SERVICE, INC., P.O. Box 7154, Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114. Applicant seeks to remove restrictions in its Sub-Nos. 2F, 8F, 10F, 12F, 13F, 14F, 15F, 16F, and 17F certificates to (1) broaden the

commodity descriptions to (a) "machinery and related products" from electrical appliances and accessories, in Sub-No. 2F; (b) "food and related products" from meats, meat products, meat by products, and articles distributed by meat packing houses, in Sub-Nos. 8F and 13F, foodstuffs in Sub-No. 14F, and pet food and pet supplies, in Sub-No. 16F; (c) "chemicals and related products, petroleum, natural gas and their products, rubber and plastic products, and clay, concrete, glass or stone products" from cleaning and polishing compounds, textile softener, lubricants, deodorants, disinfectants, hydrochloric solutions, paints, plastic bags and filters in Sub-No. 10F; (d) "such commodities as are dealt in by manufacturers and distributors of containers and paper and paper products" from containers and paper and paper products, in Sub-No. 12F; (e) "chemicals and related products" from adhesives, in Sub-No. 15F; and (f) "such commodities as are dealt in by manufacturers or distributors of paper products" from paper products, in Sub-No. 17F; (2) eliminate "except hides and commodities in bulk" restrictions, in Sub-No. 8F; (3) replace Franklin, IL, and Topeka and Wichita, KS with authority to serve Cook County, IL, and Shawnee and Sedgwick Counties, KS, in Sub-No. 2F; and (4) change its one-way authorities to radial authorities between Cook County, IL and named points in IA, NE, KS, and MO, in Sub-No. 2F, and between Chicago, IL, and Milwaukee, WI, and, points in the U.S., in Sub-No. 14F.

MC 146068 (Sub-9)X, filed May 7, 1981. Applicant: CONSOLIDATED CARRIERS CORPORATION, P.O. Box 428, Hemingway, SC 29554. Representative: Robert B. Walker, 915 Pennsylvania Bldg., 425-13th Street, N.W., Washington, DC 20004. Applicant seeks to remove restrictions in its Sub-No. 8F to (1) broaden the commodity description to "general commodities (except classes A and B explosives)" from general commodities (with the usual exceptions), and (2) remove the restriction limiting service to the transportation of traffic moving on freight forwarder bills of lading.

MC 146472 (Sub-1)X, filed April 23, 1981. Applicant: LEHMAN TRANSPORT, INC., 155 East Acker St., St. Paul, MN 55117. Representative: Val M. Higgins, 1600 TCF Tower, 121 South 8th Street, Minneapolis, MN 55402. Applicant seeks to remove restrictions in its lead certificate to (A) broaden the commodity description to "petroleum, natural gas and their products" from petroleum and petroleum products

(except gasoline and liquefied petroleum gas); and (B) change one-way service to radial service, between Minneapolis, MN, and, points in ND, SD, IA and WI.

MC 147943 (Sub-3)X, filed April 29, 1981. Applicant: E.W.K. CARTAGE, INC., 4855 South Leamington, Chicago, IL 60638. Representative: Anthony E. Young, 29 South LaSalle Street, Suite 350, Chicago, IL 60603. Applicant seeks to remove restrictions in its Sub-No. 2F certificate to (1) broaden the commodity description to "general commodities (except classes A and B explosives)" from general commodities (with exceptions); and (2) remove the restriction to traffic moving on bills of lading of freight forwarders.

[FR Doc. 81-14606 Filed 5-18-81; 8:45 am]
BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Joint Committee on Agricultural Development of the 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 meeting of the Joint Committee on Agricultural Development (JCAD) of the Board for International Food and Agricultural Development (BIFAD) on June 8-9, 1981.

The meeting on June 8, 1981 will convene in the form of Work Groups. The Regional Work Groups will meet from 9:00 a.m. to 12:00 noon as follows: Africa RWG in Room 2941, New State Department Building, Washington, D.C. (Mr. Lane E. Holdcroft, A.I.D. Federal Designee for this meeting can be contacted at (202/632-3650); Latin America RWG in Room 2242 New State Department Building (Mr. Albert Brown, A.I.D. Federal Designee for this meeting can be contacted at (202/632-8126); Near East RWG in Room 6484 New State Department Building (Mr. Keith Sherper, A.I.D. Federal Designee for this meeting can be contacted at (202/632-9256); and the Asia RWG in Room 609 Rosslyn Plaza "C" Building, 1601 North Kent Street, Rosslyn, Virginia (Mr. David Lundberg, A.I.D. Federal Designee for this meeting can be contacted at (703/235-8870).

On June 8, 1981 from 1:30 p.m. to 4:30 p.m. the Work Groups on Training and Education, Women in Development, and Procurement Process will meet in Room

1406, Room 4914, and Room 2248, respectively of the New State Department Building, Washington, D.C.

The full JCAD Committee will meet on June 9, 1981, from 9:00 a.m. to 1:00 p.m. to receive and discuss reports on: activities of the Regional and Procurement Process Work Groups; follow-up on Strengthening Grant activities; review of Training in A.I.D., the Professional Personnel Roster, and Registry of Institutional Resources. This meeting will be in Room 3524 New State Department Building, Washington, D.C.

The meetings are open to the public. Any interested person may attend, may file written statements with the Committee before or after the meetings, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meetings permit.

Mr. John C. Rothberg, BIFAD Support Staff, is designated A.I.D. Advisory Committee Representative at the June 8 and 9 meetings. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at (202) 632-7937.

Dated: May 13, 1981.

John C. Rothberg,

A.I.D. Advisory Committee Representative, Joint Committee on Agricultural Development, Board for International Food and Agricultural Development.

[FR Doc. 81-14874 Filed 5-19-81; 8:45 am]

BILLING CODE 4710-02-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Registration

By Notice dated March 18, 1981, and published in the *Federal Register* on March 26, 1981, (46 FR 18822), Knoll Pharmaceutical Company, Production Department, 30 North Jefferson Road, Whippany, New Jersey 07981, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic class of controlled substances listed below:

Drug and Schedule

Dihydromorphine (9145)—I

Hydromorphone (9150)—II

No comments or objections having been received, and pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations § 1301.54(e), the Administrator hereby orders that the application submitted by

the above firm for registration as a bulk manufacturer of the basic class of controlled substances listed above is granted.

Dated: May 11, 1981.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 81-14897 Filed 5-19-81; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

Federal Committee on Apprenticeship; Meetings

Pursuant to section 10(a) of the Federal Advisory Committed Act (Pub. L. 92-463; 5 U.S.C. App. 1) of October 6, 1972, notice is hereby given that the Federal Committee on Apprenticeship will conduct open meetings at the Grand Traverse Hilton, 6300 North US 31, Acme, Michigan, June 3, through June 5, 1981.

The opening of the full Committee meeting will be preceded by the following *FCA Subcommittee meetings on June 3, 1981:*

Equal Apprenticeship Opportunity—1:00-2:15 p.m.

Federal-State Relations—2:30-3:45 p.m.

Goals—3:45-5:00 p.m.

The Committee's full meeting will begin on Thursday, *June 4, 1981*, from 8:30 a.m. to 12 noon with the following agenda:

1. Overview of New Initiatives
2. Report on CETA: The View from Apprenticeship
3. Briefing on State and National Apprenticeship Systems (SNAPS)
4. Briefing on the Impact of Budget Cuts on Apprenticeship and Outreach Programs

On the afternoon of *June 4, 1981*, the following *FCA Subcommittee meetings* will be held:

Relationship of Apprenticeship to Other

Training Systems—1:00-2:30 p.m.

Quality of Training—3:00-4:30 p.m.

The FCA will continue their general meeting on Friday, *June 5, 1981*, from 8:30 a.m. to 12 noon. The agenda for the meeting includes:

5. Apprenticeship and Vocational Education
6. Procedure and Criteria for Determining Apprenticeability of Occupations
7. Report on the Status of the Bureau of Apprenticeship and Training and State Apprenticeship Agencies
8. Status Report on the FCA's Recommendations to the Secretary of Labor

The agendas are subject to change due to time constraints and priority items which may come before the Committee between the time of this publication and the scheduled date of the FCA meetings.

Members of the public are invited to attend the proceedings. Any member of the public who wishes to file written data, views or arguments pertaining to the agendas may do so by furnishing it to the Executive Secretary at any time prior to the meetings. Thirty Copies are needed for the members and for the inclusion in the minutes of the meetings.

Any member of the public who wishes to speak at the meetings should so indicate in a written statement, also the nature of the intended presentation and amount of time needed. The Chairperson will announce at the beginning of the meeting the extent to which time will permit the granting of such requests.

Communications to the Executive Secretary should be addressed as follows:

Mrs. M. M. Winters, Bureau of Apprenticeship and Training, ETA, U.S. Dept. of Labor, 601 D Street, NW., (Room 5434), Washington, D.C. 20213.

Signed at Washington, D.C. this 15th day of May 1981.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 81-15017 Filed 5-18-81; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-81-12-M]

The Bunker Hill Co.; Petition for Modification of Application of Mandatory Safety Standard

The Bunker Hill Company, P.O. Box 29, Kellogg, Idaho 83837 has filed a petition to modify the application of 30 CFR 57.4-61-B (fire doors) to its Bunker Hill Mine located in Shoshone County, Idaho. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that fire doors be installed in the petitioner's underground shop.
2. Petitioner states that because the underground shop is limited in size (when a diesel truck is in the shop for repairs, because of its length, it extends beyond the position in which a fire door would be located), it is not possible to construct a fire door or bulkhead as required by the regulation.
3. Because of unstable roof conditions, expending the shop to an adequate size

to permit the installation of fire doors would expose miners to hazardous conditions.

4. As an alternate method, petitioner proposes to use a twin-agent, manually operated fire suppression system which applies both dry chemical and foam on any fire. Petitioner would place two of these systems in the shop, one at each end of the shop.

5. Petitioner states that this proposed alternate method will provide the same degree of safety to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before June 18, 1981. Copies of the petition are available for inspection at that address.

Dated: May 12, 1981.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-14929 Filed 5-18-81; 8:40 am]

BILLING CODE 4510-43-M

[Docket No. M-81-65-C]

Crescent Energy, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Crescent Energy, Inc., 113 Main Street, Whitesburg, Kentucky 41858 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Mine No. 1 located in Letcher County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's cutting machine.

2. Petitioner states that the coalbed height is such that a canopy would diminish the visibility of the equipment operator to such an extent that he or she would endanger the lives of other miners and not have adequate visibility to properly control the equipment.

3. Petitioner further states that a canopy installed on the cutting machine could strike the roof supports, creating the danger of a roof fall.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before June 18, 1981. Copies of the petition are available for inspection at that address.

Dated: May 12, 1981.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-14930 Filed 5-18-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-22-M]

International Salt Co.; Petition for Modification of Application of Mandatory Safety Standard

International Salt Company, 12841 Sanders Street, Detroit, Michigan 48217 has filed a petition to modify the application of 30 CFR 57.4-61B (fire doors) to its Detroit Mine located in Wayne County, Michigan. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that fire doors be installed in the petitioner's underground shop.

2. The petitioner's shop contains nine openings ranging from 50-55 feet in width and 22-24 feet in height; the shop area is located in the return air system approximately two miles updraft from the preparation station.

3. Petitioner states that with the mine's present evacuation plan and ventilation system, all miners working updraft would not be affected by the spread of toxic gases; miners working downdraft of the shop area would be able to safely exit the mine or enter into the fresh air system before any toxic gases could reach them.

4. Petitioner further states that constructing airtight doors as required would:

a. Seriously restrict air flow through the shop area;

b. Reduce the amount of fresh air presently available to properly cleanse the working face parameters of any potentially toxic gases and vehicle exhaust fumes;

c. Possibly create a concentrated toxic environment as well as a potentially explosive one.

5. As an alternate method, petitioner proposes to:

a. Use a recently installed phone paging system as a quicker and additional means of notifying miners throughout the mine that a fire or disaster is present and follow established evacuation procedures;

b. Install one set of air doors located approximately 75 feet from the shop, which would allow miners working in the area to enter into the fresh air system in less time than it would take to close all fire doors and contain the spread of toxic fumes and gases.

6. Petitioner states that this proposed alternate method will provide the same degree of safety to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be post marked or received in that office on or before June 18, 1981. Copies of the petition are available for inspection at that address.

Dated: May 12, 1981.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-14931 Filed 5-18-81; 8:45 am]

BILLING CODE 4510-43-M

Office of the Secretary

[TA-W-9544]

Clothing Factory, Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is determined in this case that all of the requirements have been met.

The investigation was initiated on July 28, 1980 in response to a petition which was filed on behalf of workers at Clothing Factory, Incorporated, Tamaqua, Pennsylvania. The workers produced ladies' knit tops and blouses.

U.S. imports of women's misses' and children's blouses and shirts (including knit tops) increased absolutely and relative to domestic production in 1978 compared to 1977. U.S. imports increased absolutely in 1979 compared to the average level of imports for the period 1975 through 1978.

Clothing Factory, Incorporated, which closed in August, 1979, was a contractor, producing women's knit tops and blouses. The Department conducted a survey of the manufacturers for whom the Clothing Factory worked. The survey revealed that manufacturers accounting for a significant proportion of the Clothing Factory's orders in 1978 and in the first half of 1979 decreased their business with the Clothing Factory and increased their business with foreign contractors in the fiscal year ending April 30, 1980 as compared to the fiscal year ending April 1979.

The survey also revealed that another manufacturer reported a substantial decline in contract business with Clothing Factory, Incorporated in the latter part of 1978. This manufacturer, itself, reported declining company sales. Customers of the manufacturer decreased purchases from the manufacturer and increased purchases of imported women's apparel. Workers of this manufacturing firm were certified as eligible to apply for trade adjustment assistance in November 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' knit tops and blouses produced at the Clothing Factory, Incorporated, Tamaqua, Pennsylvania 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 Clothing Factory, Incorporated, Tamaqua, Pennsylvania, who became totally or partially separated from employment on or after May 14, 1979 and on or before September 15, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 11th day of May 1981.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 81-14932 Filed 5-18-81; 8:45 am]

BILLING CODE 4510-25-M

Determinations 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 summaries of determinations regarding eligibility to apply for worker adjustment assistance issued during the period May 4-8, 1981.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated.

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases it has been concluded that at least one of the above criteria has not been met.

TA-W-9949; The Valeron Corp., Modco Tools Division, Oak Park, MI

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-9267; Frezzolini Electronics Inc., Hawthorne, NJ

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-10,945; Evans Product Co., Minneapolis Electric Steel Castings Co. Div., Minneapolis, MN

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-11,446; Vulcan Corporation, Blanchester, OH

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of shoe lasts are negligible.

TA-W-11,977; W. E. Stephens Mfg., Inc., Watertown, TN

Investigation revealed that criterion (3) has not been met. The evidence indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-9681; Metal Craft Co., Inc., Marlette, MI

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-9980; Marlette Coatings, Inc., Marlette, MI

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-10,867; Pine Tool Co., Inc., Standish, MI

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm. Additionally, U.S. imports of tools, dies and fixtures for automotive use are negligible.

TA-W-10,516; The General Tire and Rubber Co., Batesville, AR

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-12,393; Allied Chemical Corp., Semet Solvay Div., Ashland, KY

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-11,743; Chrysler Corporation, Supply Sales and Marketing Office, Highland Park, MI

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-10,885; Minnesota Rubber Co. Quadee Rubber Co. Watertown, SD

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-10,283; B&C Machine Co.,
Barberton, OH

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-9639; Simpson Industries, Inc.,
Gladwin Machine Products Div.,
Gladwin, MI

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-9622; U.S. Steel Corp., Christy
Park Works, McKeesport, PA

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-9556 & 9556A; McGraw-Edison
Co., Bussman Mfg. Div., Ellisville and
St. Louis, MO

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-9529 & 11,218; National Gypsum
Co., Clement Div., Alpena, MI

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-9460; Sies Re-Fab-Co. Inc., Troy,
MI

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-9337; Lear Siegler, Inc., Metal
Products Div., Detroit, MI

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-9322; Swopco Tube Corp.,
Clifton, NJ

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-9142; Federal Forge, Inc., Federal
Div. and Lansing Div., Lansing, MI

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-9214; ITT Thompson Industries,
Division, Plant #2, Madison, FL

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-9217; ITT Thompson Industries,
Division, Plant #8, Holly Springs, MS

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-9218; ITT Thompson Industries,
Division, Plant #10, Valdosta, GA

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-9469; ITT Hancock Industries,
Inc., Roscommon, MI

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-12,355; Soptra Fabrics Corp.,
New York, NY

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of finished fabric did not increase as required for certification.

TA-W-10,511; U.S. Pattern Co., Inc.,
Richmond, MI

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of industrial patterns and core boxes (including models) are negligible.

TA-W-10,176; Twin City Leather Co.,
Gloversville, NY

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of tanned and finished sheepskins and cattle hides did not increase as required for certification. U.S. imports of tanned deerskins are negligible.

TA-W-10,212; Wisconsin Bridge and
Iron Co., Milwaukee, WI

Investigation revealed that criterion (3) has not been met. Aggregate U.S.

imports of fabricated structural steel did not increase as required for certification.

TA-W-10,568; Illinois Slog and Bollost
Co., Chicago, IL

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of iron and steel scrap are negligible.

TA-W-11,984; Target Togs, Inc.,
Garfield, NJ

Investigation revealed that criterion (3) has not been met. Since December 1, 1980, the date of expiration of the old certification, no declines in sales, production, or employment have occurred at Target Togs, Inc.

TA-W-9680 & 11,204; Ford Motor Co.,
Ford Tractor Operations, Detroit Supply
and Central Parts Depot, Troy, MI and
Albany Supply Depot, Albany, NY

Investigation revealed that criterion (3) has not been met. The majority of the parts which Ford Tractor Operations sells through the supply depots are manufactured by unaffiliated domestic and foreign firms. Therefore, the depots are not substantially integrated into the production of import-impacted farm tractors and tractor-loader-backhoes.

TA-W-10,151; Farmington Mfg. Co.,
Farmington, MO

Investigation revealed that criterion (3) has not been met. In the period in which significant employment declines occurred, the subject firm's customers relied almost exclusively on domestic sources.

TA-W-11,946; Dover Corp., Blackmer
Pump Division, Grand Rapids, MI

Investigation revealed that criterion (3) has not been met. The only significant employment declines at the plant were attributable to a strike by workers at the plant.

TA-W-9239 & 9244; ATF-Davidson Co.,
Whitinsville, MA and Whitin Machine
Works, Whitinsville, MA

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

Affirmative Determinations

TA-W-9294; Cal Custom Accessories,
Inc., Hawk Division of Cal Custom/
Hawk, Carson, CA

A certification was issued covering all workers of the firm separated on or after October 28, 1979 and before May 31, 1980.

TA-W-10,687; L&S Fashions, Inc., Amityville, NY

A certification was issued covering all workers of the firm separated on or after August 18, 1980.

TA-W-10,684; General Electric Co., Fort Smith, AR

A certification was issued covering all workers of the firm engaged in employment related to the production of electric heaters separated on or after January 1, 1980.

With respect to workers engaged in employment related to the production of air conditioning equipment, the investigation revealed that criterion (3) has not been met. U.S. imports of unitary air conditioners and dehumidifiers are negligible.

TA-W-10,631; Double-Z Knitwear Corp., Brooklyn, NY

A certification was issued covering all workers of the firm separated on or after September 3, 1979.

TA-W-12,507; Ford Motor Co., Ford Tractor Operations, Northeastern District Sales Office, Cohoes, NY

A certification was issued covering all workers of the firm separated on or after November 1, 1980.

TA-W-12,506; Ford Motor Co., Ford Tractor Operations, Southwestern District Sales Office, Dallas, TX

A certification was issued covering all workers of the firm separated on or after November 1, 1980.

TA-W-12,508; Ford Motor Co., Ford Tractor Operations, South Central District Sales Office, Memphis, TN

A certification was issued covering all workers of the firm separated on or after November 1, 1980.

TA-W-9213; ITT Thompson Industries, Division, Plant #1, Valdosta, GA

A certification was issued covering all workers of the firm engaged in employment related to the production of exterior moldings, back panels, and grilles separated on or after June 12, 1979.

With respect to workers producing bumpers, the investigation revealed that criterion (3) has not been met.

TA-W-9215; ITT Thompson Industries, Division, Plant #3, Adel, GA

A certification was issued covering all workers of the firm engaged in employment related to the production of exterior moldings separated on or after June 12, 1979.

With respect to workers producing trim rings, hub caps, and retainers, criterion (3) has not been met.

TA-W-9216; ITT Thompson Industries, Division, Plant #4, Lake City, FL

A certification was issued covering all workers of the firm separated on or after June 12, 1979.

TA-W-9613; ITT Thompson Industries, Division, Plant #7, North Vernon, IN

A certification was issued covering all workers of the firm engaged in employment related to the production of exterior moldings, back panels and fuel tank straps separated on or after July 2, 1979.

With respect to workers producing hub caps, bill crank parts, door frames, and retainers, the investigation revealed that criterion (3) has not been met.

TA-W-11,950; Ford Motor Co., Ford Tractor Operations, General Office, Troy, MI

A certification was issued covering all workers of the firm separated on or after December 11, 1979.

TA-W-11,951; Ford Motor Co., Ford Tractor Operations, Northwestern District Sales Office, Bloomington, MN

A certification was issued covering all workers of the firm separated on or after February 1, 1980.

I hereby certify that the aforementioned determinations were issued during the period May 4-8, 1981. Copies of these determinations are available for inspection in Room S-5314, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210 during normal working hours or will be mailed to persons who write to the above address.

Dated: May 12, 1981.
Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-14946 Filed 5-18-81; 8:45 am]
BILLING CODE 4510-29-M

[TA-W-10,251]**New Jersey Zinc Co.; Negative Determination Regarding Application for Reconsideration**

By an application dated April 21, 1981, the union requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers producing slab zinc, zinc dust and zinc oxide at New Jersey Zinc Company's facility located at Palmerton,

Pennsylvania. The determination was published in the Federal Register on March 31, 1981 (46 FR 19633).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The union claims that the workers at the Palmerton, New Jersey refinery should be certified since the Department certified workers at New Jersey Zinc mines in Gordonsville, Tennessee and St. Joe Zinc in Monaca, Pennsylvania which produced the same products as the Palmerton refinery.

The union also questions the adequacy of the Department's customer survey.

The Department's review showed the worker petition did not meet the "contributed importantly" test for slab zinc or the increased import criterion for slab zinc and zinc dust. The Department's survey of New Jersey Zinc's customers which represented some 40 percent and 75 percent of its 1979 and 1980 sales of slab zinc, respectively, showed that most customers did not reduce purchases of zinc from New Jersey Zinc in favor of imports. The Department's survey found that many of its customers reported that New Jersey Zinc was unable to supply all of their requirements for zinc prior to the shutdown of the metal circuit at the Palmerton refinery. U.S. imports of slab zinc declined both absolutely and relative to domestic production in 1979 compared to 1978 and declined absolutely in 1980 compared to 1979. U.S. imports of zinc dust declined absolutely and relative to domestic production in 1979 compared to 1978 and remained stable in 1980 compared to 1979. The review also showed that the worker petition did not meet the decreased production and/or sales criterion of the Act for zinc oxide since sales and production of zinc oxide and chemical products remained relatively stable in quantity and increased in value in 1979 compared to 1978 and during the January to August 1980 period compared to the same period in 1979. Also, the decreased production and/or sales criterion of the Act was not met for zinc dust in 1979 compared to 1978.

The Department's certification for workers at St. Joe Zinc's smelter at Monaca, Pennsylvania, TA-W-3455, was based largely on import data prior to the 1979 period. The St. Joe petition was filed more than two years before that of New Jersey Zinc. The Department's negative determination for workers at Palmerton was based on more recent import data and customer data because of the later filing date, i.e., June 25, 1980.

The Department's certifications for workers at the Jersey Miniere Zinc Company's mines at Gordonsville and Elmwood, Tennessee, TA-W-8162 and TA-W-6162A, were based mainly on company imports of zinc ore. Workers at New Jersey Zinc's Palmerton facility, however, produced slab zinc, zinc dust and zinc oxide. For certification purposes, the Trade Act only permits increased imports of articles "like or directly competitive" with those produced at the workers' firm or appropriate subdivision.

The decision to terminate slab zinc production at Palmerton was made by New Jersey Zinc's parent company. Slab Zinc production at an affiliated new refinery in Tennessee, which incorporates the most advanced technology, has been at near capacity levels.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C. this 11th day of May 1981.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 81-14934 Filed 5-18-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8686]

TRW-United Carr Division, Knoxville, Tennessee; Negative Determination Regarding Application for Reconsideration

By an application dated March 2, 1981, petitioners requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers producing automotive rear window defroster relays and switches at TRW-United Carr Division, Knoxville, Tennessee. The determination was

published in the *Federal Register* on February 2, 1981 (46 FR 12362).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The petitioners claim that because of the reduced sale of domestically produced automobiles, production of auto relay switches for rear window defrosters at the Knoxville plant ceased and production was transferred to the parent company's Canadian facility and subsequently exported back to its U.S. customers. The petitioners also cited the fact that many auto workers have been certified and, further workers producing auto components in a different firm were certified.

The Department's review of the investigative file revealed that TRW-United Carr Division manufactured relay switches for rear window defrosters exclusively at its Canadian subsidiary. In 1976, some relay switch production was initiated at the Knoxville plant. When relay orders from the automobile manufacturers declined in 1980, TRW consolidated production at United Carr of Canada and shut down the operation at Knoxville. A

Department of Labor survey of domestic automobile manufacturers showed that these customers who purchased the predominant portion of electrical relays produced at Knoxville did not purchase imported electrical switches and relays. Surveyed customers that increased purchases of imported electrical switches and relays also increased purchases of domestically produced electrical switches and relays in the first four months of 1980 compared to the same period in 1979.

The Department found that a strike occurred at the Knoxville plant from January 26, 1980 to April 14, 1980. During the strike, Knoxville's production of relay switches was transferred back to United Carr's Canadian facility in order to fulfill its obligation to its U.S. customers. Production at Knoxville was restored on a reduced scale after the strike because of the normal phase-out of production for the specific model year (in this case MY 1980) which usually occurs in May. Contracts for automotive parts are made on a year-to-year basis,

and production start-ups for the new model year usually begin in June or July.

Most of the former employees who are available for work have been rehired. Reportedly, the Knoxville plant has broadened its produced mix and is increasing its production.

In an economic sense, it is recognized that workers who are employees of independent parts-producing firms can be seriously affected by increased imports of automobiles. Under the Trade Act of 1974, however, in such circumstances, the Department is not able to take into account increased auto imports in determining whether workers in independent firms producing parts can be certified.

With respect to the claim that other component workers (seat belts) have been certified, it should be noted that each case must be evaluated on its own merits and each worker group must satisfy all the criteria in the Act.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of the law which justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C. this 11th day of May 1981.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 81-14934 Filed 5-18-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9,660]

Unelco Electronics Corp.; 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 the case that all of the requirements have been met.

The investigation was initiated on July 28, 1980 in response to a petition which was filed by the International Association of Machinists and Aerospace Workers on behalf of workers at Unelco Electronics Corporation, Columbia, Maryland. The

workers produce stereo phonographs and phono/radio combinations.

U.S. imports of audio combinations increased in quantity both absolutely and relative to domestic production in 1980 compared to 1979 and increased absolutely in value in 1980 compared to 1979. The quantity of U.S. imports as a percentage of domestic shipments exceeded 370 percent in 1980.

As in virtually all consumer electronics, the low-price end of the audio combinations' market consists almost entirely of imports.

The audio combinations produced by Unelco Electronics were in the price range dominated by imports.

Major retailers, including several of the former customers of Unelco, rely on imported audio combinations for a significant portion of their requirements for audio combinations.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with stereo phonographs and phono/radio combinations produced at Unelco Electronics Corporation, Columbia, Maryland 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 Unelco Electronics Corporation, Columbia, Maryland who became totally or partially separated from employment on or after July 14, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 11th day of May 1981.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 81-14935 Filed 5-18-81; 8:45 am]

BILLING CODE 4510-28-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (81-49)]

NASA Advisory Council, Aeronautics 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, Aeronautics

Advisory Committee, Informal Advisory Subcommittee on Safety, Human Factors and Operating Systems.

DATE AND TIME: June 3, 1981, 9 a.m.; June 4, 1981, 9 a.m. to 5 p.m.; June 5, 1981; 9 a.m. to 2 p.m.

ADDRESS: National Aeronautics and Space Administration, Building 10B, Room 625, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Herman A. Rediess, National Aeronautics and Space Administration, Code RTE-6, Washington, DC 20546 (202/755-2243).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Safety, Human Factors and Operating Systems was established to review, critique and assess the NASA program and plans relating to aviation safety and the solution of human factors and operational problems in all aspects of aviation. The Subcommittee, chaired by Captain J. D. Smith, is comprised of 13 members. The meeting will be open to the public up to the seating capacity of the room (approximately 35 persons including the Subcommittee members and participants).

TYPE OF MEETING: Open.

AGENDA:

June 3, 1981

- 9 a.m.—Introductory Remarks.
- 9:30 a.m.—Overview of NASA/Office of Aeronautics and Space Technology (OAST) Aeronautics Long Range Plan.
- 11 a.m.—Aircraft Safety and Operating Systems Technology Long Range Plan.
- 3 p.m.—Human Factors Long Range Plan.
- 5 p.m.—Adjourn.

June 4, 1981

- 9 a.m.—NASA Technology Demonstration and Validation Proposed Programs.
- 10 a.m.—Review of Selected NASA Ongoing Programs in Safety, Human Factors and Operating Systems.
- 5 p.m.—Adjourn.

June 5, 1981

- 9 a.m.—Subcommittee Deliberations and Recommendations on Safety, Human Factors and Operating Systems Programs and Plans.
- 2 p.m.—Adjourn.

Russell Ritchie,

Acting Associate Administrator for External Relations.

May 12, 1981.

[FR Doc. 81-14875 Filed 5-18-81; 8:45 am]

BILLING CODE 7510-01-M

[Notice (81-46)]

NASA Advisory Council; 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 the forthcoming meeting of NASA Advisory Council, Informal Ad Hoc Solar System Exploration Committee.

DATE AND TIME: June 1, 1981, 8:30 a.m. to 4:30 p.m.; June 2, 1981, 8:30 a.m. to 4:00 p.m.

ADDRESS: National Academy of Sciences, 2101 Constitution Avenue, NW., Room 280, Washington, D.C. 20418.

FOR FURTHER INFORMATION CONTACT: Mrs. Diane M. Mangel, National Aeronautics and Space Administration, Code SL-4, Washington, D.C. 20546 (202/755-3728).

SUPPLEMENTARY INFORMATION: The Informal Ad Hoc Solar System Exploration Committee was established under the NASA Advisory Council to translate the scientific strategy developed by the Committee on Planetary Exploration (COMPLEX) into a realistic, technically sound sequence of missions consistent with that strategy and with resources expected to be available for solar system exploration. The committee will report its findings to the Council and to NASA. The committee is chaired by Dr. John E. Naugle and is composed of four other members of the Council and its standing committees, who will meet with about 9 other invited participants and certain NASA personnel.

The meeting of the subcommittee is necessary at this time in order to conduct preliminary discussions and provide sufficient preparation time before the subcommittee's principal study period. The meeting will be open to the public up to the seating capacity of the room (approximately 30 persons, including committee members and invited meeting participants). Visitors will be requested to sign a visitor's register.

TYPE OF MEETING: Open.

AGENDA:

June 1, 1981

- 8:30 a.m.—Comment and Discussion.
- 1:00 p.m.—Discussion of Planetary Exploration Program.
- 4:30 p.m.—Adjourn.

June 2, 1981

- 8:30 a.m.—Mission Sequences.

1:00 p.m.—Plans for Summer Study.
4:00 p.m.—Adjourn.

Gerald D. Griffin,

Acting Associate Administrator for External Relations.

May 12, 1981.

[FR Doc. 81-14879 Filed 5-18-81; 8:45 am]

BILLING CODE 7510-01-M

[Notice (81-48)]

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, Informal Advisory Subcommittee on Space Electronics.

DATE AND TIME: June 9, 1981, 8:30 a.m. to 5 p.m.; June 10, 1981, 8:30 a.m. to 5 p.m.; June 11, 1981, 9 a.m. to 2 p.m.

ADDRESS: NASA Goddard Space Flight Center, Building 8, Management Conference Center, Greenbelt, MD.

FOR FURTHER INFORMATION CONTACT: Dr. Herman A. Rediess, National Aeronautics and Space Administration, Code RTE-6, Washington, DC 20546, (202/755-2243).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Space Electronics was established to review and make recommendations on NASA research and technology programs and plans in space electronics which includes microelectronic devices, sensors, information systems, automation and guidance and control technology. The Subcommittee chaired by Dr. Edward Gerry, is comprised of 7 members. The meeting will be open to the public up to the seating capacity of the room (approximately 35 persons including the Subcommittee members and participants).

TYPE OF MEETING: Open.

AGENDA:

June 9, 1981

8:30 a.m.—Open Remarks.
9 a.m.—Overview of NASA/Office of Aeronautics and Space Technology (OAST) Space Research and Technology Long Range Plan.
10:30 a.m.—Information Systems Long Range Plan.
3 p.m.—Electronics Long Range Plan.
5 p.m.—Adjourn.

June 10, 1981

8:30 a.m.—Space Technology Requirements.
10 a.m.—Automation Long Range Plan.
1 p.m.—Control and Guidance Long Range Plan.
5 p.m.—Adjourn.

June 11, 1981

9 a.m.—Subcommittee Deliberations and Recommendations.
2 p.m.—Adjourn.

Gerald D. Griffin,

Acting Associate Administrator for External Relations.

May 12, 1981.

[FR Doc. 81-14877 Filed 5-18-81; 8:45 am]

BILLING CODE 7510-01-M

[Notice (81-47)]

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, Informal Advisory Subcommittee on Space Power and Electric Propulsion.

DATE AND TIME: June 11, 1981, 9 a.m. to 4:30 p.m.; June 12, 1981, 9 a.m. to 12:30 p.m.

ADDRESS: NASA Headquarters, 600 Independence Avenue SW., Room 625, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Lynwood P. Randolph National Aeronautics and Space Administration, Code RTS-6, Washington, DC 20546, (202/755-3278).

SUPPLEMENTARY INFORMATION: The Subcommittee for Space Power and Electric Propulsion was established to assist NASA in assessing, reviewing, and evaluating the Space Power and Electric Propulsion Program for a proper balance between near-term and far-term technology, between basic research and technology demonstration, and among the various specific objectives of the program. The Subcommittee, chaired by Mr. Harrison J. Killian, is comprised of 8 members. The meeting will be open to the public up to the seating capacity of the room (approximately 25 persons including Subcommittee members and participants).

TYPE OF MEETING: Open.

AGENDA:

June 11, 1981

9 a.m.—Introductory Remarks.
9:15 a.m.—Long Range Plan Overview.
10:30 a.m.—Center Managers Meeting Report.
10:45 a.m.—Key Mission Drivers.
2:30 p.m.—Electric Propulsion—National Capability.
3:15 p.m.—Committee Discussion.
4:30 p.m.—Adjourn.

June 12, 1981

9 a.m.—NASA's Nickel Hydrogen Plan.
9:45 a.m.—Overview.
10 a.m.—Alkaline Technology.
10:30 a.m.—Acid Technology.
11 a.m.—Committee Discussion and Recommendations.
12:30 p.m.—Adjourn.

Gerald D. Griffin,

Acting Associate Administrator for External Relations.

May 12, 1981.

[FR Doc. 81-14878 Filed 5-18-81; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and Working Groups, and of the Full Committee, the following preliminary schedule reflects the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published April 21, 1981 (46 FR 22839). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the Federal Register approximately 15 days (or more) prior to the meeting. Those Subcommittee and Working Group meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee and Working Group meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee and Working Group meetings will start will be published prior to each meeting. Information as to

whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the June 1981 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634-3267, ATTN: Barbara Jo White) between 8:15 a.m. and 5:00 p.m., Eastern Time.

ACRS Subcommittee Meetings

- * *Transportation of Radioactive Materials*, May 20, 1981, Washington, DC. The Subcommittee will review NRC's package certification procedures. Notice of this meeting was published May 5
- * *Class 9 Accidents*, May 21 and 22, 1981, Washington, DC. The Subcommittee will discuss the use of the Battelle MARCH code and the German KESS code. Notice of this meeting was published May 4
- Reactor Radiological Effects*, May 26-27, 1981, Ontario, Toronto, Canada. The Subcommittee will discuss siting, waste management and disposal, emergency procedures and other nuclear safety matters of common interest with representatives of the Advisory Committee on Radiological Protection of the Atomic Energy Control Board of Canada. Notice of this meeting was published April 21
- * *Electrical Power Systems*, May 28, 1981, Washington, DC. The Subcommittee will discuss inadequate core cooling instrumentation, with emphasis on the core water-level indicator instrumentation presently being proposed, and the ongoing NRC and Industry work in this area. Notice of this meeting was published April 21
- * *Regulatory Activities*, June 2, 1981, Postponed
- * *NRC Safety Research Program*, June 3, 1981, Washington, DC. The Subcommittee will discuss the draft ACRS Report to the Commission on the NRC FY-83 Research Program and Budget. Notice of this meeting was published April 21
- * *Reliability and Probabilistic Assessment*, June 3, 1981, Washington, DC. The Subcommittee will discuss the draft ACRS Report to the Commission on the NRC FY-83 Research Program and Budget related to the Systems and Reliability Analysis Research Programs. Notice of this meeting was published May 19
- * *Waterford Unit 3*, June 18-19, 1981, New Orleans, LA. The Subcommittee will review the Operating License application. Notice of this meeting was published April 21
- * *Advanced Reactors*, June 22-23, 1981, Chicago, IL. The Subcommittee will

- discuss matters relating to the development of LMFBR safety design criteria. Notice of this meeting was published April 21
- * *Emergency Core Cooling Systems*, June 23-25, 1981, Idaho Falls, ID. The Subcommittee will review the Research Programs on the Loss-of-Coolant-Accident, Transients, and LOFT
- * *Class-9 Accidents*, June 24, 1981, Washington, DC. The Subcommittee will review the research budget associated with the Severe Accident Research Program
- * *Three Mile Island Unit 1*, June 25-26, 1981, Washington, DC. The Subcommittee will review the restart modifications required as a result of the TMI-2 accident. Notice of this meeting was published April 21
- * *Comanche Peak Units 1 and 2*, June 25-26, 1981, Texas location to be announced later. The Subcommittee will review the Operating License application. Notice of this meeting was published April 21
- * *Class-9 Accidents*, June 30, 1981, Albuquerque, NM. The Subcommittee will review the program to determine the Feasibility of the use of a filtered-vented containment
- * *Regulatory Activities*, July 7, 1981, Washington, DC. The Subcommittee will discuss proposed Regulatory Guides and Regulations. Notice of this meeting was published April 21
- NRC Safety Research Program*, July 8, 1981, Washington, DC. The Subcommittee will discuss the ACRS Report to the Commission on the NRC FY-83 Research Program and Budget. Notice of this meeting was published April 21
- * *Fermi Unit 2*, July 16, 1981, Detroit MI. The Subcommittee will review the application of Detroit Edison for an Operating License
- * *Shoreham Nuclear Power Station Unit 1*, July 21, 1981, Riverhead, NY. The Subcommittee will discuss the applicant's request for an Operating License
- * *Emergency Core Cooling Systems*, July 21-22, 1981, postponed
- * *Susquehanna Steam Electric Station Units 1 and 2*, July 23-24, 1981, Wilkes-Barre, PA. The Subcommittee will discuss the applicant's request for an Operating License
- * *Reliability and Probabilistic Assessment*, July 28-29, 1981, Los Angeles, CA. The Subcommittee will review some of the techniques being used and will discuss the future of risk assessment on the nuclear power licensing process. Notice of this meeting was published April 21

ACRS Full Committee Meetings

- June 4-6, 1981—Items are tentatively scheduled.
 - * *A. NRC Safety Research Program and Budget*—proposed ACRS Report to NRC re the proposed NRC Budget for FY-83
 - * *B. Consideration of Class-9 Accidents in Nuclear Plant Design and Operation*—NRC Staff report regarding issues being considered in connection with NRC rulemaking activities
 - * *C. NRC Safety Research Program*—reply to questions regarding NRC Safety Research Program from the Subcommittee on Nuclear Regulation of the U.S. Senate Committee on Environment and Public Works
 - * *D. Safety Assessment of DOE Nuclear Reactors*—report by DOE representatives re application of TMI-2 lessons learned to DOE facilities
 - * *E. Thermal Shock of Reactor Pressure Vessels*—report by NRC Staff regarding probability and consequences of thermal shock to reactor pressure vessels from overcooling transients
 - * *F. Double-Ended Pipe Break*—report by NRC Staff re proposed NRC position regarding use of a leak-before-break criteria in lieu of a double-ended pipe break as a design basis for nuclear plants
 - * *G. Standardization of Nuclear Power Plant Designs*—report by representative of OTA re the benefits/disadvantages of nuclear power plant standardization
 - * *H. Siting Criteria for Nuclear Facilities*—ACRS comments re proposed NRC rule changes regarding siting of nuclear power plants
 - * *I. Seismic Qualification of Nuclear Power Plant Equipment*—report by NRC Staff re proposed criteria for the seismic qualification of nuclear power plant equipment
 - * *J. Meeting with NRC Chairman and Commissioners*—discuss items relating to safety and regulation of nuclear facilities
 - * *K. ACRS Activities*—discuss qualifications of candidates proposed for appointment to the ACRS and arrangements for obtaining the services of ACRS members
 - * *L. ACRS Subcommittee Reports*—hear and discuss reports of designated ACRS Subcommittees regarding current activities
- July 9-11, 1981: Agenda to be announced
- August 6-8, 1981: Agenda to be announced

Dated: May 14, 1981.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 81-14936 Filed 5-18-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-317 and 50-318]

**Baltimore Gas and Electric Co.;
Issuance of Amendments to Facility
Operating Licenses**

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 54 and 37 to Facility Operating License Nos. DPR-53 and DPR-69 issued to the Baltimore Gas and Electric Company (the licensee), which revised Technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant, Units Nos. 1 and 2 (the facility) located in Calvert County, Maryland. The amendment is effective on June 1, 1981.

The amendments add operability trip setpoint and surveillance requirements for automatic initiation of the auxiliary feedwater system and increase the surveillance requirements on the auxiliary feedwater pumps and related flow paths.

The applications for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the applications for amendments dated January 22 and November 10 and 25, 1980, (2) Amendments Nos. 54 and 37 to License Nos. DPR-53 and DPR-69, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Calvert County Library, Prince Frederick, Maryland. 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 8th day of May 1981.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3,
Division of Licensing.

[FR Doc. 81-14937 Filed 5-18-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-237]

**Commonwealth Edison Co.; Issuance
of Amendment to Provisional
Operating License**

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 60 to Provisional Operating License No. PPR-19 issued to Commonwealth Edison Company, which revised the Technical Specifications for operation of the Dresden Nuclear Power Station, Unit No. 2, located in Grundy County, Illinois. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specifications to allow removal of thirty-five hydraulic shock suppressors (snubbers) located within the containment and their replacement by twenty-six mechanical snubbers.

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 the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR Section 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated March 27, 1981, (2) Amendment No. 60 to License No. DPR-19 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 Morris Public Library, 604 Liberty Street, Morris, Illinois. A copy of items (2) (3) may be obtained upon

request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 6th day of May 1981.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5,
Division of Licensing.

[FR Doc. 81-14938 Filed 5-18-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 414A]

**Duke Power Co.; Receipt of Additional
Antitrust Information; Time for
Submission of Views on Antitrust
Matters**

Duke Power Company, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, has filed information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. This information concerns a proposed additional ownership participant, the Piedmont Municipal Power Agency, for the Catawba Nuclear Station, Unit 2. The current holders of the construction permit are Duke Power Company and North Carolina Municipal Power Agency Number 1.

The information was filed in connection with the application by Duke Power Company for construction permits and operating licenses for two pressurized water reactors. Construction was authorized on August 7, 1975 at the Catawba site located in York County, South Carolina. Although the Catawba facilities consist of two nuclear power plants, the proposed action affects only Catawba Nuclear Station, Unit 2.

The original application was dated November 10, 1972. The Notice of Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicant's Environmental Report: Time for Submission of Views on Antitrust Matters was published in the Federal Register on December 7, 1972 (37 FR 26053). Previously, the Notice of Hearing had been published in the Federal Register on December 1, 1972 (37 FR 25560).

A copy of the above documents are available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the York County Library, 325 South Oakland Avenue, Rock Hill, South Carolina.

Any person who wishes to have his views on the antitrust matters with

respect to the Piedmont Municipal Power Agency presented to the Attorney General for consideration or who desires additional information regarding the matters covered by this notice, should submit such views or requests for additional information to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Utility Finance Branch, Office of Nuclear Reactor Regulation, on or before July 21, 1981.

Dated at Bethesda, Md., this 8th day of May 1981.

For the Nuclear Regulatory Commission,
E. Adensam,
Acting Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 81-14928 Filed 5-18-81; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-250 and 50-251]

Florida Power and Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 65 to Facility Operating License No. DPR-31, and Amendment No. 57 to Facility Operating License No. DPR-41 issued to Florida Power and Light Company (the licensee), which revised Technical Specifications for operation of Turkey Point Plant, Unit Nos. 3 and 4 (the facilities) located in Dade County, Florida. The amendments are effective as of the date of issuance.

The amendments incorporate the requirement that control rods be maintained within ± 12 steps indicated and that the rod position indication system be verified to be accurate within 12 steps.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in

connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated February 27, 1980, (2) Amendment Nos. 65 and 57 to License Nos. DPR-31 and DPR-41, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 6th day of May 1981.

For the Nuclear Regulatory Commission,
Steven A. Varga,
Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 81-14929 Filed 5-18-81; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-245]

Northeast Nuclear Energy Co., et al.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 76 to Provisional Operating License No. DPR-21, issued to The Connecticut Light and Power Company, The Hartford Electric Light Company, Western Massachusetts Electric Company, and Northeast Nuclear Energy Company (the licensees), which revised the Technical Specifications for operation of the Millstone Nuclear Power Station, Unit 1 (the facility), located in the Town of Waterford, Connecticut. The amendment is effective as of its date of issuance.

The amendment approves Appendix A Technical Specifications relating to the (1) Multiplier Average Power Range Monitor (APRM) rod block monitor settings, (2) surveillance testing of the ECCS and Standby Liquid Control Equipment, and (3) Rod Worth Minimizer Diagnostic test. The amendment also involves several editorial changes.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the

Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment, dated September 9, 1980, (2) Amendment No. 73 to License No. DPR-21 dated March 11, 1981, (3) Amendment No. 76 to License No. DPR-21, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street N.W., Washington, D.C. 20555 and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 10th day of April 1981.

For the Nuclear Regulatory Commission,
Dennis M. Crutchfield,
Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 81-14930 Filed 5-18-81; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-344]

Portland General Electric Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 60 to Facility Operating License No. NPF-1, issued to Portland General Electric Company, the City of Eugene, Oregon, and Pacific Power and Light Company (the licensee), which revised the license for operation of Trojan Nuclear Plant (the facility) located in Columbia County, Oregon. The amendment is effective as of the date of issuance.

The amendment approves the use of two modified fuel assemblies containing three stainless steel rods for fuel cycle 4 and one subsequent fuel cycle.

The application for the amendment complies with the standards and

requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since 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 5, 1981, as supplemented March 20, 1981, (2) Amendment No. 60 to License No. NPF-1 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 local public document room located at the Multnomah County Library, Social Science and Science Department, 801 S.W. 10th Avenue, Portland, Oregon 97205. 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 8th day of May 1981.

For the Nuclear Regulatory Commission,

Robert A. Clark,

Chief, Operating Reactors Branch No. 3,
Division of Licensing.

[FR Doc. 81-14941 Filed 5-18-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-344]

Portland General Electric Co., et al.; Granting of Relief From Inservice Inspection Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 61 to Facility Operating License No. NPF-1, issued to Portland General Electric Company, the City of Eugene, Oregon, and Pacific Power and Light Company (the licensees), which revised Technical Specifications for operation of Trojan Nuclear Plant (the facility) located in Columbia County, Oregon. The amendment is effective as of the date of issuance.

The amendment revises the inservice inspection program.

The Commission has also granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to the licensees. The relief relates to the inservice inspection program for the facility. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance, and expires on May 20, 1986.

The relief consists of exemption from performing certain pressure vessel, piping and other weld inspections in the inservice inspection program.

The application for the amendment and request for relief comply 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, the Safety Evaluation, and letter granting relief. Prior public notice of this action was not required since neither this amendment nor the granting of this relief involves a significant hazards consideration.

The Commission has determined that the issuance of this amendment and the granting of this relief 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 this action.

For further details with respect to this action, see (1) the application for amendment dated April 22, 1977, as amended March 20, 1979 and supplemented December 28, 1979 and February 5, 1981, (2) Amendment No. 61 to License No. NPF-1 and (3) the Commission's related Safety evaluation and letter. 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 local public document room located at the Multnomah County Library, Social Science and Science Department, 801 S.W. 10th Avenue, Portland, Oregon 97205. 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 8th day of May 1981.

For the Nuclear Regulatory Commission,

Robert A. Clark,

Chief, Operating Reactors Branch No. 3,
Division of Licensing.

[FR Doc. 81-14941 Filed 5-18-81; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a proposed revision to a guide in its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft, temporarily identified by its task number, FP 027-5 (which should be mentioned in all correspondence concerning this draft guide), is proposed Revision 1 to Regulatory Guide 3.1 and is entitled "Use of Borosilicate-Glass Raschig Rings as a Neutron Absorber in Solutions of Fissile Material." The guide is being developed to describe procedures acceptable to the NRC staff for the prevention of criticality accidents by use of borosilicate-glass raschig rings as a neutron absorber in solutions of fissile material. It endorses ANSI/ANS 8.5-1979, "Use of Borosilicate-Glass Raschig Rings as a Neutron Absorber in Solutions of Fissile Material."

This draft guide and the associated value/impact statement are being issued to involve the public in early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by July 15, 1981.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1)

items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 13th day of May 1981.

For the Nuclear Regulatory Commission.
Guy A. Arlotto,
Director, Division of Engineering Technology,
Office of Nuclear Regulatory Research.

[FR Doc. 81-14943 Filed 5-18-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-244]

**Rochester Gas and Electric Corp.;
Issuance of Amendment to Provisional
Operating License**

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 42 to Provisional Operating License No. DPR-18, to Rochester Gas and Electric Corporation (the licensee), which revised the license and its appended Technical Specifications for operation of the R. E. Ginna Plant (facility) located in Wayne County, New York. This amendment is effective as of its date of issuance.

The amendment incorporates Technical Specifications to assure operation of the plant within the limits determined acceptable following the implementation of the Three Mile Island Unit 2 Lessons Learned Category "A" items.

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 November 13, 1980, (2) Amendment No. 42 to License No. DPR-18, including the Commission's letter of transmittal and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Rochester Public Library, 115 South Avenue, Rochester, New York 14627. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 11th day of May 1981.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,
Chief, Operating Reactors Branch No. 5,
Division of Licensing.

[FR Doc. 81-14944 Filed 5-18-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-361 and 50-362]

**Southern California Edison Co., et al.;
Availability of Final Environmental
Statement for San Onofre Nuclear
Generating Station, Units 2 and 3**

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that the Final Environmental Statement (NUREG-0490) has been prepared by the Commission's Office of Nuclear Reactor Regulation, on the proposed operation of the San Onofre Nuclear Generating Station, Units 2 and 3, in San Diego County, California by the Southern California Edison Company. The holders of the construction permits are Southern California Edison Company, San Diego Gas and Electric Company, The City of Riverside, California and the City of Anaheim, California. Copies of NUREG-0490 are available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. and in the Mission Viejo Branch Library, 24851 Chrisanta

Drive, Mission Viejo, California. The Final Environmental Statement is also being made available at the Office of the Governor, Office of Planning and Research, 1400 Tenth Street, Sacramento, California, and at the San Diego County Comprehensive Planning Organization, Security Pacific Plaza, 1200 Third Avenue, San Diego, California.

The notice of availability of the Draft Environmental Statement for the San Onofre Nuclear Generating Station, Units 2 and 3 and request for comments from interested persons was published in the Federal Register on December 6, 1978 (43 F.R. 57200). Subsequently, a Supplement to the Draft Environmental Statement was issued. Notice of its availability and request for comments from interested persons was published in the Federal Register on January 27, 1981 (46 F.R. 8811).

Comments received from Federal, State, and local agencies and interested members of the public have been included as appendices to the Final Environmental Statement.

Copies of the Final Environmental Statement (NUREG-0490) may be purchased at current rates, from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, and by GPO deposit account holders by calling (301) 492-9530 or by writing to the U.S. Nuclear Regulatory Commission, Division of Technical Information and Document Control, Washington, D.C. 20555 Attn.: Publication Sales Manager.

Dated at Bethesda, Maryland, this 12th day of May 1981.

For the Nuclear Regulatory Commission.
Frank J. Miraglia,
Acting Chief, Licensing Branch No. 3, Division
of Licensing.

[FR Doc. 81-14945 Filed 5-18-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-29]

**Yankee Atomic Electric Co., Yankee
Nuclear Power Station; Issuance of
Amendment to Facility Operating
License**

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 67 to Facility Operating License No. DPR-3, issued to Yankee Atomic Electric Company (the licensee), which revised the Technical Specifications for operation of the Yankee Nuclear Power Station (Yankee-Rowe) (the facility) located in Franklin County, Massachusetts. The amendment is effective as of its date of issuance.

The amendment modifies Technical Specification Figure 3.2.1 "Core XIV Allowable Peak Rod LHGR versus Cycle Burnup" by extending the end of cycle burnup to 16,300 MWD/MTU.

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 the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated April 13, 1981, (2) Amendment No. 67 to License No. DPR-3 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301. 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 22d day of April 1981.

For the Nuclear Regulatory Commission,
Dennis M. Crutchfield,
Chief, Operating Reactors Branch No. 5,
Division of Licensing.

[FR Doc. 81-14947 Filed 5-19-81; 6:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-17795, File Nos. SR-Amex-81-1, SR-CBOE-80-8, SR-NYSE-81-5]

Exchange Proposals To Trade Options on U.S. Treasury Securities

AGENCY: Securities and Exchange Commission.

ACTION: Request for additional comments.

SUMMARY: The Commission previously has published notice of proposed rule

changes submitted by the American Stock Exchange, Chicago Board Options Exchange, and New York Stock Exchange to provide for exchange trading of standardized options on U.S. Treasury securities. In view of the significance and scope of the issues raised by these proposals, the Commission is inviting commentators to address generally issues relating to the structure and characteristics of the proposed markets for options on U.S. Treasury securities, focusing particularly on the issues discussed in this release. In addition, the Commission is extending the period for public comment to July 1, 1980.

DATES: Comments should be received by July 1, 1981.

ADDRESSES: Interested persons should submit 15 copies of their views and comments to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comments should refer to File Nos. SR-Amex-81-1, SR-CBOE-80-8, and SR-NYSE-81-5. All submissions will be available for public inspection at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: D. Michael Lefever, Esq., Office of Self-Regulatory Oversight, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, (202) 272-3117.

SUPPLEMENTARY INFORMATION: Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act"), and Rule 19b-4 thereunder, the American Stock Exchange, Inc. ("Amex"),¹ Chicago Board Options Exchange, Incorporated ("CBOE")² and New York Stock Exchange, Inc. ("NYSE")³ each have submitted proposed rule changes designed to create an exchange market for trading standardized options on debt obligations of the U.S. Government. Although the rules proposed by each exchange could accommodate options trading on a range of debt securities

issued or guaranteed by the U.S. Government,⁴ the actual authorization sought at this time is limited to the initiation of options trading on certain classifications of U.S. Treasury securities.⁵ Specifically, Amex proposes to introduce options classes on 13-week Treasury bills and "long-term" Treasury bonds,⁶ CBOE proposes to trade options classes on Treasury notes and Treasury bonds, and NYSE contemplates trading separate classes of options on Treasury bills, notes and bonds.⁷

Each of the Treasury options proposals has been published previously by the Commission for general comment.⁸ This release focuses on specific issues with respect to which public comment can be particularly helpful to the Commission both in evaluating the individual proposals and in formulating an overall policy concerning the development of a Treasury options market. In particular, the Commission is soliciting views and comments on matters relating to: (I) the specifications of the proposed Treasury options contracts; (II) position and exercise limits; (III) customer margin terms; (IV) surveillance of the proposed Treasury options market; and (V) the appropriate structure of the Treasury options market and the relationship of the proposed options market to the underlying cash market for Treasury

¹ CBOE and NYSE expressly exclude from the coverage of their proposed rules "debt securities guaranteed as to timely payment of principal and interest by the Government National Mortgage Association." CBOE rules governing GNMA options previously have been approved by the Commission. See Securities Exchange Act Release No. 17577 (February 26, 1981). NYSE has submitted a separate rule proposal concerning GNMA options. See Securities Exchange Act Release No. 17578 (March 26, 1981).

² In delineating among Treasury securities, the rules proposed by the exchanges generally reflect the conventional classifications employed by the U.S. Treasury, with the term "bills" referring to instruments with terms to maturity at the time of original issuance not exceeding one year, "notes" referring to instruments with maturities at the time of original issuance of from two to ten years, and "bonds" referring to instruments with maturities at the time of original issuance of greater than ten years. See proposed Amex Rules 900(a)(29), (30) and (31), proposed CBOE Rules 1.1(ff), (gg) and (hh) and proposed NYSE Rules 700(b)(22), (23) and (24).

³ Amex has indicated that the term "long-term" Treasury bond refers to bonds with a minimum of 20-3/4 years to maturity at the time of expiration of the options contract.

⁴ A proposal by an exchange to expand the scope of its options program to encompass options trading on classifications of Treasury securities in addition to those initially proposed, to add additional options classes within a classification in which an options class previously was approved, or to initiate options trading on other types of U.S. Government securities will require the filing of a proposed rule change pursuant to Section 19(b)(1) of the Act and Rule 19b-4 thereunder.

⁵ See notes 1-3, *supra*.

¹ Notice of the proposed rule change by the Amex, which was submitted on March 4, 1981, was given by Securities Exchange Act Release No. 17632 (March 18, 1981) and by publication in the Federal Register (46 FR 17938, March 20, 1981).

² Notice of the proposed rule change by the CBOE, which was submitted on August 8, 1980, was given by Securities Exchange Act Release No. 17325 (November 21, 1980) and by publication in the Federal Register (45 FR 79612, December 1, 1980).

³ Notice of the proposed rule change by the NYSE, which was submitted on February 5, 1981, was given by Securities Exchange Act Release No. 17631 (March 18, 1981) and by publication in the Federal Register (46 FR 17939, March 20, 1981).

instruments. Interested persons, of course, need not limit their comments to those areas specifically identified and are invited to address any other issues related to the proposed Treasury options programs. To permit sufficient time for the formulation of comments, the Commission is extending the period for public comment on the proposals until July 1, 1981.

In evaluating these proposals in accordance with the standards set forth in the Act, the Commission intends to examine carefully the regulatory environment in which the respective contracts are proposed to be traded. Consistent with the Commission's approach in approving the CBOE's proposal to trade options on Government National Mortgage Association pass-through securities ("GNMAs"), however, the Commission is not inclined to substitute its judgment for that of a self-regulatory organization with respect to such matters of business judgment as optimal contract design, unless it determines that the specifications of the options contract render the proposed market inappropriately susceptible to regulatory problems.⁸ Rather, the Commission believes that the marketplace generally should be permitted to determine whether a particular contract meets the needs of market participants.

I. Contract Specifications

Each of the proposals to trade options on Treasury notes and bonds contemplates that the security underlying the options contract would be the product of a single Treasury auction occurring prior to the commencement of options trading. In contrast, the securities underlying the proposed Treasury bill options contracts would include Treasury bills issued at an auction occurring subsequent to the commencement of trading in the options contract.¹⁰ For all of the proposed Treasury options contracts, the deliverable supply of the underlying security would be limited to specific

issues of Treasury securities bearing the same maturity date and, for options on Treasury notes and bonds, a common coupon rate.¹¹ In this latter respect, the Treasury options proposals differ from the "market basket" delivery approach taken both by the CBOE in its recently approved GNMA options contract¹² and by the NYSE in its proposed GNMA options contract,¹³ which specify that a delivery obligation can be satisfied by tendering GNMA certificates from within a range of coupon rates with an adjustment in the value of the underlying security to maintain yield equivalence.¹⁴

The terms of the proposed Treasury note and bond options contracts also diverge from those of the Treasury note and bond futures contracts that currently are traded on the boards of trade, which also utilize a "market basket" delivery approach by defining the deliverable grade to include all notes or bonds within a specified range of maturity or call dates, with a price adjustment to account for the delivery of instruments with coupon rates that deviate from the nominal coupon rate.¹⁵ On the other hand, the delivery specifications for the proposed Treasury bill options contracts correspond closely to those of existing Treasury bill futures contracts.¹⁶ Accordingly, in evaluating the proposed Treasury bill options contracts, commentators may find it useful to refer to the experience of the futures markets.

To facilitate the evaluation of the proposed Treasury options, the terms of the proposed options contracts and certain other aspects of the proposed options programs are described below in some detail. Because of the structural differences between the proposed Treasury note and bond options contracts and the proposed Treasury bill options contracts, they are discussed separately.

⁸ See proposed Amex Rule 901, proposed CBOE Rule 5.1, and proposed NYSE Rule 701.

⁹ See Securities Exchange Act Release No. 17577 (February 26, 1981).

¹⁰ See Securities Exchange Act Release No. 17578 (February 26, 1981).

¹¹ See CBOE Rules 20.1(d) and 20.1(f), Interpretation .02.

¹² As of April 1, 1981, futures contracts on Treasury notes were traded on the Chicago Board of Trade ("CBT") (4 to 6 year notes), the Chicago Mercantile Exchange ("CME") (3½ to 4½ year notes) and the Commodity Exchange, Inc. ("COMEX") (2-year notes). Futures contracts on Treasury bonds are traded on the CBT (minimum 15-year bonds) and the New York Futures Exchange ("NYFE") (minimum 20-year bonds).

¹³ Treasury bill futures contracts currently are traded on the CME (90-day and 1-year bills), COMEX (90-day bills) and NYFE (90-day bills).

A. Treasury Note and Bond Options

The Amex, CBOE and NYSE each have proposed options contracts on Treasury bonds. The CBOE and NYSE also propose to trade options on Treasury notes.

According to the plan submitted by the CBOE, separate options contracts would be established on specific issues of Treasury bonds and notes.¹⁷ The contracts would entitle the holder to purchase (in the case of a call) or sell (in the case of a put) a principal amount of the underlying instrument equal to \$100,000.¹⁸ To be eligible for options trading, a Treasury bond issue would be required to have an original public issuance of at least \$400,000,000 principal amount, and a Treasury note issue would have to have an original public issuance of at least \$750,000,000.¹⁹ If as a result of Treasury or Federal Reserve Board ("FRB") activity the public float of a Treasury bond or note issue which has been approved for options trading declines to a principal amount of less than \$300,000,000 or \$600,000,000, respectively, the opening of additional options series on the particular issue would not be permitted.²⁰ The CBOE has stated that options trading normally would be commenced shortly after the underlying bond or note was issued by the Treasury. Since trading activity generally diminishes the longer a Treasury issue is outstanding, the CBOE has indicated that it ordinarily would not introduce an options series that would expire more than one year after the underlying bond or note was issued by the Treasury. Instead, new options series would be introduced on a more recent issue of bonds or notes.²¹ CBOE contemplates that options series would be introduced with terms of three, six and nine months, on a March, June, September and December expiration cycle. Exercise prices would be established close to the market price of the underlying security at the time the options series is opened for trading, with new series opened at intervals equal to one percentage point of the principal amount.²² No additional exercise prices would be established with less than 60 days remaining before expiration of an options series.²³

¹⁷ Proposed CBOE Rule 5.1.

¹⁸ CBOE, "A Market in Options on Government Securities," [undated] at 1 ("CBOE Treasury Options Plan").

¹⁹ Proposed CBOE Rule 5.3.

²⁰ Proposed CBOE Rule 5.4, Interpretation .03.

²¹ CBOE Treasury Options Plan at 12-13.

²² Proposed CBOE Rule 5.5 and CBOE Treasury Options Plan at 16.

²³ CBOE Treasury Options Plan at 16.

⁸ See Securities Exchange Act Release No. 17577 (February 26, 1981) at 6-7. Among the regulatory concerns which the Commission discusses, *infra*, in connection with the terms of the proposed Treasury options contracts are the sufficiency of the deliverable supply of the underlying instruments and the establishment of uniformity of regulation among the exchanges in areas such as position limits and margin.

¹⁰ Specifically, as discussed in more detail *infra*, both the Amex and NYSE Treasury bill proposals provide for delivery of 13-week Treasury bills issued pursuant to the weekly Treasury auction which corresponds to the date on which the options contract is exercised, as well as previously issued 20-week and one-year Treasury bills that have a remaining term to maturity of 13 weeks at the time of delivery.

The NYSE indicates in its submission that its proposed rules with respect to Treasury options "derive principally" from the Treasury options filing of the CBOE. Thus, holders of options contracts would be entitled to purchase or sell \$100,000 principal amount of the specific underlying Treasury issue. Options would be traded on Treasury note and bond issues of at least \$750,000,000 and \$400,000,000, respectively.²⁴ The criteria for withdrawing eligibility also would be the same as those proposed by CBOE.²⁵ In contrast to CBOE, however, options series would be introduced with terms of three, six, nine and twelve months, and on a February, May, August, and October expiration cycle which corresponds to the Treasury's quarterly refunding cycle. Initially, options exercise prices would be introduced bracketing the current cash market price of the underlying Treasury note or bond, with additional exercise prices introduced at three point intervals, or possibly at greater intervals if warranted by significant price volatility.²⁶

The Amex proposal to trade options on "long-term" Treasury bonds also is substantially similar to the CBOE proposal, with some minor variations. Amex intends to select as the basis for options trading a specific issue of Treasury bonds with a maturity at the time of the expiration of the options contract of at least 20¼ years. To be eligible for options trading, the original public sale, combined with any subsequent reissuance, would be required to exceed a principal amount of one billion dollars, and the original issue or reissue must have occurred within 18 months of the initiation of trading on a new options series.²⁷ Options would be introduced at three, six, and nine month intervals with a February, May, August and November expiration cycle.²⁸ Amex intends to introduce initial options series bracketing the current cash market price of the underlying Treasury bond, with additional exercise prices at

intervals of two percentage points of the principal amount.²⁹

Commentators are invited to discuss the relative merits of establishing separate contracts on specific Treasury issues, as compared to the "market basket" approach which CBOE adopted for its GNMA options contract and which is currently employed by the boards of trade for futures contracts on both GNMA and Treasury notes and bonds. Commentators also may wish to evaluate these alternative approaches in terms of their utility for hedging purposes. Moreover, commentators are invited to discuss whether combined options/futures trading strategies would be impaired by differing contract designs in the options and futures markets. In addition, commentators may wish to analyze the relative pricing efficiencies of these approaches, as well as the potential for abuses or regulatory problems to which either approach may be susceptible.

In reviewing the proposed single issue delivery options contracts, the Commission is particularly concerned that the proposed initial and maintenance listing standards, when considered in conjunction with the position and exercise limits that have been proposed by the various exchanges,³⁰ may not be set at levels sufficient to ensure an adequate deliverable supply. In this context, commentators should note the substantial disparity between the initial listing standards of the CBOE and NYSE (\$400,000,000) and Amex (\$1 billion) with respect to options on Treasury bonds. In addition, commentators may wish to address the ramifications of a determination by two or more options exchanges to initiate options trading on the same underlying Treasury issue. In this regard, commentators should note that, since CBOE has proposed an expiration cycle that is different from those proposed by Amex or NYSE, contracts on the same underlying issue may be traded by two or more exchanges either on the same expiration cycle or on different cycles. Commentators also should take into consideration the existence of futures contracts that in the event of delivery would draw upon the same deliverable supply.

With regard to the criteria proposed by the exchanges for opening new options series, commentators should note that the longest term options contract outstanding at any given time would be twelve months, as proposed by NYSE, with contracts with maximum

durations of nine months proposed by Amex and CBOE. This contrasts with the financial futures contracts traded on the boards of trade that currently extend as far as 23 months. Commentators may wish to consider the impact of this feature on the usefulness of the proposed contracts for hedging positions in the cash or futures markets and for employing trading strategies involving options series having varying expiration dates.

In evaluating the proposed Treasury note and bond contracts, commentators also are urged to discuss the proposed exercise price intervals, which range from three percentage points or greater as proposed by NYSE to one percentage point as proposed by CBOE. In this regard, commentators should consider the appropriate balance between permitting market participants to fine-tune trading strategies to accomplish hedging and investment objectives and possible liquidity problems or other regulatory concerns that may result from the aggregate number of options series relating to the same underlying security that would be open at any given time.

B. Treasury Bills

Options on Treasury bills have been proposed by both the Amex and NYSE. The terms of the proposed contracts are substantially identical. Both proposals would entitle the holder, upon exercise, to purchase or sell 13-week Treasury bills with a principal amount equal to one million dollars.³¹ Deliverable securities would consist of Treasury bills issued at the Treasury's weekly auction of 13 week bills that corresponds to the date on which the options contract is exercised, as well as previously issued 26-week and one-year bills which have 13 weeks remaining to maturity at delivery.³² Accordingly, unlike the proposed Treasury note and bond options contracts, where options series are opened subsequent to issuance of the underlying instrument and the deliverable supply generally remains constant over the term of the options contract, the deliverable supply

²⁴ Although the specific terms of the rules proposed by Amex encompass options trading on both 13-week and 26-week Treasury bills, Amex initially is proposing to trade options only on the 13-week bills. Nevertheless, commentators also are invited to address the terms of the Amex proposal as they would apply to a 26-week Treasury bill options contract.

²⁵ Specifically, 13-week Treasury bill auctions are held each Monday with the auctioned bills issued on Thursday. All exercise notices received by the Options Clearing Corporation through Tuesday would result in the delivery of 13-week Treasury bills issued the preceding Monday. Settlement of the options exercise would occur either on Thursday or Friday.

²⁶ Proposed NYSE Rule 715.

²⁷ Proposed NYSE Rule 716, Supplementary material, 20.

²⁸ NYSE, "New York Stock Exchange Bond, Note, and Bill Options: Contract Specifications and Background," April 3, 1981 ("NYSE Treasury Options Plan") at 55.

²⁹ Proposed Amex Rule 917. In its proposed rules Amex does not provide as a maintenance standard a specific threshold level of publicly outstanding Treasury bonds. See proposed Amex Rule 916.

³⁰ Amex, "The Amex Plan for Trading Options on U.S. Treasury Department Securities" at 22, attached as Exhibit 3 to Amex rule filing SR-Amex-81-1 ("Amex Treasury Options Plan").

³¹ *Id.* at 26.

³² See discussion at pages 19-23, *infra*.

of the proposed Treasury bill contracts would shift on a weekly basis depending on the size of the auctions that produced the particular bills that could be delivered during a given week.

Both Amex and NYSE would introduce options series of three, six and nine months, with an expiration cycle of March, June, September and December. Initially, options series would be introduced with exercise prices bracketing the annualized discount rate of the most recently auctioned 13-week Treasury bills. Amex proposes exercise price intervals of one point, while NYSE contemplates two point intervals.

Commentators are invited to address the utility of Treasury bill options contracts designed in the manner proposed. In this regard, the Commission is concerned that the deliverable supply may not be of sufficient size to support the potential volume of options contract exercises,³³ thereby raising potential regulatory concerns.³⁴ In this connection, it should be noted that the Amex and NYSE contracts would draw on the same deliverable supply of Treasury bills. Commentators also should consider the impact on deliverable supply of the coincidence of the proposed options expiration cycles and current Treasury bill futures cycles. Commentators who believe deliverable supply may be deficient are urged to discuss measures which could alleviate this concern. In this regard, commentators may wish to address the relative merits of the following:

1. *Expansion of the settlement period.* The current proposals provide that settlement may occur over a two-day period. Expansion of the settlement period theoretically would facilitate redeliveries both in the options market and between the options market and the spot, forward and futures markets, and thereby effectively expand the deliverable supply. In evaluating the merits of an expanded settlement period, however, commentators should consider whether the efficacy of such a modification would be vitiated by the proposed method for determining delivery prices. Under both proposals, the delivery price, including accrued

³³ Amex has represented that the principal value of 13-week bills and 26-week bills issued at the weekly Treasury auction each equals approximately \$4 billion. Moreover, the principal amount of one-year bills which are issued on a four-week cycle also is approximately \$4 billion. Amex Treasury Options Plan at 14.

³⁴ These concerns may be of even greater significance in connection with the 26-week Treasury bill contract under consideration by Amex, the deliverable supply for which would consist only of 26-week bills and, when available, one-year bills with 26 weeks remaining to maturity.

interest, would be calculated as of a Thursday delivery date regardless of the date of actual settlement, thereby creating an economic incentive to effect delivery on Thursday.³⁵

2. *Optional cash settlement.* Affording those holding short positions the alternative of settling Treasury bill options contracts by the delivery of cash likely would alleviate some of the problems associated with a potential squeeze on the deliverable supply of the underlying instrument. In addressing this possible alternative, commentators should consider whether optional cash settlement would diminish the utility of the Treasury options market by introducing an element of uncertainty as to whether the underlying security would be delivered. Commentators also may wish to consider the feasibility of an approach whereby the optional cash settlement alternative would be triggered by circumstances indicating that satisfaction of the anticipated exercises with the available deliverable supply could cause price dislocation.³⁶ Finally, commentators may wish to address any other possible methods of cash settlement.

In addition to the deliverable supply concerns associated with the Treasury bill options proposals, commentators also may wish to address the appropriate interval between exercise prices. As noted previously, Amex proposes to establish two point intervals, and NYSE one point intervals. In this regard, commentators should take into consideration the volatility of short-term interest rates, the business and investment needs of market participants, and the effect on liquidity in open options series, as well as any other factors which they consider relevant.

II. Position Limits

The CBOE proposes to establish position and exercise limits for Treasury note and bond options at 1,000 contracts for issues with an initial public issuance of \$2 billion or less, and 2,000 contracts for larger issues.³⁷ Since each options contract would represent \$100,000 principal amount of the underlying security, the proposed position and exercise limit levels would permit a

single entity to hold and exercise options positions corresponding to \$100 million and \$200 million, respectively, of the underlying security. In contrast, the NYSE proposes position and exercise limits of 2,000 contracts irrespective of the size of the original public issuance for its Treasury note and bond contracts, as well as for its Treasury bill contract.³⁸ The Amex Treasury bond options proposal provides for a position limit of 2,000 contracts, and an exercise limit of either 1,000 contract, if the initial public issuance, combined with any public reissuance, is less than \$1 billion, or 2,000 contracts, if the combination of initial issuance and reissuance is greater than \$1 billion.³⁹ With respect to options on Treasury bills, Amex proposes position and exercise limits of 500 contracts.⁴⁰ Since each Treasury bill options contract represents \$1 million in principal amount, the Amex proposal would permit the establishment and exercise of options positions representing \$500 million in terms of the underlying Treasury bills.

As indicated above, the Commission is particularly concerned that the proposed position and exercise limits may have been set at a level which is disproportionate to the quantity of the underlying instrument that is available for delivery. In this regard, commentators are invited to discuss the appropriate level at which position and exercise limits should, at least as an initial matter, be established. In addressing this question, commentators should take into consideration factors including the business and investment needs of market participants, the creation of a sufficiently liquid options market, and the potential for market disruption if options market participants have an opportunity through the purchase and exercise of options contracts to acquire a substantial percentage of the deliverable supply of the underlying security. With regard to the latter factor, commentators should note that, based on the proposed eligibility standards that would qualify a Treasury instrument for options trading, the position and exercise limits proposed by the NYSE for Treasury bond options would enable a single market participant to acquire as much as 50 percent of the underlying security, while the CBOE and Amex proposals would permit a market participant to acquire 25 and 20 percent, respectively,

³⁵ Amex Treasury Options Proposal at 20.

³⁶ In this regard, it might be noted that the rules of the Options Clearing Corporation ("OCC") empower the OCC to impose restrictions on exercises and to prescribe settlement in cash in lieu of the underlying security if OCC deems it advisable "in the interests of maintaining a fair and orderly market in options contracts or in underlying securities or otherwise deems [it] advisable in the public interest or for the protection of investors." See Art. VI, Sec. 17 of the OCC Rules.

³⁷ Proposed CBOE Rule 4.11 and 4.12.

³⁸ Proposed NYSE Rule 704 and 705. As indicated previously, the NYSE's proposed listing standards for options on Treasury notes and bonds are identical to those proposed by CBOE.

³⁹ Proposed Amex Rules 904 and 905.

⁴⁰ *Id.*

of the underlying Treasury bond issue. Assuming 13-week and 28-week Treasury bill auctions each average approximately \$4 billion,⁴¹ in weeks that do not correspond to the one-year Treasury bill auction cycle the Amex Treasury bill options proposals would enable market participants to acquire 6.25 percent of the underlying security, whereas the NYSE, which proposes a position limit four times larger than Amex, would permit positions equal to approximately 25 percent of the maximum deliverable supply.⁴² In commenting on the appropriate levels for position and exercise limits relative to the deliverable supply, commentators also should take into consideration, particularly with respect to the Treasury bill options proposals, the opportunity of market participants to acquire or effectively control the same underlying security by establishing positions in the futures market. In addition, since Amex, CBOE and NYSE have common members, commentators should focus on the desirability of uniform position and exercise limits for options on the same underlying instrument.

III. Margin

With respect to options on securities, Federal Reserve Board ("FRB") margin regulations provide that long put or long call positions have no loan value,⁴³ thus effectively establishing a 100 percent margin requirement for the purchase of options on securities. An uncovered options writer must deposit at least 30 percent of the value of the underlying security, plus or minus the amount the option is in or out of the money. Fully covered positions require no margin, while partially covered positions are adjusted accordingly. Unless expressly modified by the FRB, these initial margin requirements also would apply to options on Treasury instruments. Although the FRB also is authorized to prescribe maintenance margin standards, it has left the establishment of maintenance margin to the exchanges and the National Association of

Securities Dealers, Inc., subject to Commission review.⁴⁴

In its Treasury options filing, CBOE propose initial and maintenance margin for uncovered short positions ranging from one to three percent of the value of the underlying security, depending on the remaining term to maturity of the instrument.⁴⁵ These figures are based on the "haircuts" broker-dealers currently are required to take on proprietary positions in Government securities for purposes of calculating their net capital pursuant to Rule 15c3-1 under the Act.⁴⁶

In contrast to CBOE's Treasury options margin proposal, Amex and NYSE have proposed methods for calculating margin on uncovered short positions in Treasury options that to some extent are based on the market value of the options premium, as well as the market value of the underlying security. Amex, in support of its margin proposal,⁴⁷ contends that the margin

⁴¹See, e.g., CBOE Rule 12.3(a) which specifies "the minimum amount of margin which must be maintained in margin accounts."

⁴²Specifically, CBOE proposes margin of three percent of the market value of the underlying security when the remaining term to maturity is five years, two percent when the remaining term to maturity is three years or more but less than five, and one percent when the remaining term to maturity is two years or more but less than three. Options positions would be marked to market on a daily basis, requiring an immediate recognition of losses and the posting of additional margin to cover adverse market movements. Proposed CBOE Rule 12.3(a)(5).

⁴³17 CFR 240.15c3-1. Commentators should note, however, that the Commission recently has proposed to increase haircuts on broker-dealer proprietary positions in debt securities. See Securities Exchange Act Release No. 17209 (October 9, 1980), 45 FR 69911 (October 22, 1980). Commentators may wish to consider this factor in evaluating the proposed margin requirements.

⁴⁴Specifically, Amex proposes that for options carried in an uncovered short position, margin would be calculated as follows:

(a) If the underlying security is a Treasury bond or Treasury note, the dollar amount of the option premium plus 30 percent thereof, plus 2½ percent of the principal amount of the underlying security, adjusted as follows: (1) by adding, in the case of a call, or subtracting, in the case of a put, any excess of the current market price of the underlying security over the aggregate exercise price of the option, or (2) by subtracting, in the case of a call, or adding, in the case of a put, any excess of the aggregate exercise price of the option over the current market price of the underlying security; provided, however, that the maximum margin on each such put or call contract shall be the amount of the options premium plus 5 percent of the principal amount of the underlying security, and the minimum margin on each such put or call contract shall be \$250.

(b) If the underlying security is a Treasury bill with a remaining term to maturity of 92 days or less, the lesser of the amount of (1) the option premium plus ½ percent of the principal amount of the underlying security or (2) the option premium plus 30 percent thereof, plus the amount, if any, by which ½ percent of the principal amount of the underlying security exceeds (A) in the case of a call, any excess of the current market price of the underlying security over the aggregate exercise price of the

applicable to stock options would be excessive for options on Treasury instruments and, as a result "would seriously impede participation by public customers as writers of such options," thereby impairing market liquidity and reducing "the utility of the markets for risk transfer purposes."⁴⁸

The NYSE also has asserted that margins of 30 percent of the market price of the underlying security for uncovered short positions in Treasury options contracts would be "greatly in excess of those needed to properly protect all parties concerned when risk and sound credit practices are taken into account."⁴⁹ Accordingly, NYSE has proposed margin for uncovered short positions calculated in accordance with the following formula: (1) 100 percent of the current market value of the options premium, plus (2) a constant dollar amount that varies according to the type of instrument and the remaining term to maturity,⁵⁰ less the dollar amount by which options contract is out-of-the-money. The formula is subject to a minimum margin of \$1,000 per contract.

In focusing on the market value of the options premium rather than the underlying security, the methods for calculating margin proposed by Amex and NYSE are similar in form to the initial and maintenance margin proposed to the FRB and the Commission by CBOE for GNMA

option, or (B) in the case of a put, any excess of the aggregate exercise price of the option over the current market price of the underlying security; provided, however, that the minimum margin on each put or call contract shall be \$250.

(c) If the underlying security is a Treasury bill with a remaining term to maturity of more than 92 days, the lesser of the amount of (1) the option premium plus 1 percent of the principal amount of the underlying security, or (2) the option premium plus 30 percent thereof, plus the amount, if any, by which 1 percent of the principal amount of the underlying security exceeds (A) in the case of a call, any excess of the current market price of the underlying security over the aggregate exercise price of the option, or (B) in the case of a put, any excess of the aggregate exercise price of the option over the current market price of the underlying security; provided, however, that the minimum margin on each put or call contract shall be \$250.

⁴⁸Amex Treasury Options Plan at 33.

⁴⁹NYSE Treasury Options Plan at 57.

⁵⁰The proposed schedule of constant dollar amounts is as follows:

Treasury security	Per contract
Bills (\$1,000,000 principal amount)	
92 days or less to maturity	\$3,500
93 days but less than 6 months to maturity	5,000
6 months or more to maturity	7,500
Notes (\$100,000 principal amount)	
2 years but less than 5 years to maturity	2,000
5 years or more to maturity	3,000
Bonds (\$100,000 principal amount)	3,500

⁴¹See Amex Treasury Options Plan at 14.

⁴²The percentage calculations provided above may understate the maximum positions obtainable in Treasury options under the various proposals because they do not exclude from the deliverable supply FRB, official foreign and non-competitive purchases, as well as purchases by other entities that intend to retain the securities acquired in Treasury auctions. These purchases may, particularly in the context of Treasury bills, constitute a sizeable proportion of the potential deliverable supply.

⁴³12 CFR 220.8(f) and (j).

options.⁵¹ CBOE offered several justifications in support of a premium-based margin for GNMA options. First, it indicated that premium-based margin would simplify the calculation of margin by eliminating the need to determine the current market price of the underlying security.⁵² Second, to the extent options premiums reflect the price volatility of the underlying instrument, margin calculated on the basis of options premiums would correspondingly increase or decrease in response to the volatility of the underlying security. Finally, CBOE indicated that, based on its projection of expected GNMA options premiums, the coverage provided by its proposed premium-based margin would exceed that of a three percent margin based on the value of the underlying GNMA which CBOE originally had proposed and, in most circumstances, the five percent margin suggested by the Federal Reserve Bank of New York in its comment letter responding to CBOE's original proposal.⁵³ The CBOE premium-based margin for GNMA options, insofar as it related to maintenance margin, was approved by the Commission, subject to reexamination in the event the FRB determines that the CBOE's proposed initial margin requirement is inappropriate.⁵⁴

In evaluating the foregoing margin proposals, the Commission intends to consult actively with the FRB to ensure that initial and maintenance margins are established at levels which ensure that the regulatory objectives of each agency are satisfied. Moreover, the Commission is concerned that having different methods for calculating margin on similar or identical Treasury options contracts, depending upon the exchange on which the options are traded, may be an unnecessary burden on market

⁵¹ Specifically, CBOE proposed a margin for short put and call options positions of 130 percent of the options premium plus a base amount of \$1,500, with a ceiling on the amount of the margin deposit equal to the amount of the premium plus \$5,000. See CBOE Rule 20.24.

⁵² This feature of a premium-based margin appears to be particularly attractive in the context of an options contract such as the CBOE GNMA contract where the contract specifications provide for a market basket delivery mechanism and a cap on the coupon rates of deliverable certificates. In this situation, calculation of margin based on the market value of the underlying security also requires a determination of the coupon rate most likely to be delivered.

⁵³ See letter to Douglas Scarff, Director, Division of Market Regulation, SEC, from Peter D. Sternlight, Senior Vice President, Federal Reserve Bank of New York, dated September 17, 1980, File No. SR-CBOE-80-7.

⁵⁴ Securities Exchange Act Release No. 17577 at 8-9. As of the date of this release, the FRB has not yet responded to the CBOE's proposal with respect to initial margin.

participants. Accordingly, commentators are urged to address the relative merits of margin requirements based on the value of the underlying security, margin based on the amount of the options premium, and margin based on a combination thereof. In so doing, commentators are urged to bear in mind the need both for a level of margin that provides appropriate protection for market participants and for a method of calculating margin that is administratively workable.

In considering the margin proposed by CBOE, commentators should address whether it is appropriate to base margin requirements for options on Treasury securities on the haircuts broker-dealers currently must take on proprietary positions in government securities.⁵⁵ In this regard, commentators should consider whether margin levels based on the haircut provisions of the net capital rule would encourage excessive speculation. Correspondingly, consideration also should be given to whether and to what extent margin exceeding the proposed levels would discourage hedger or speculator participation in the Treasury options market, or possibly divert participation into other derivative markets, and thereby impair the depth and liquidity of the proposed markets or the usefulness of the proposed contracts.

In addressing the merits of a premium-based margin, commentators should consider whether it may result in excessive margin for deep-in-the-money options positions, where the predominant portion of the premium is attributable to the intrinsic value of the option, and, if so, the appropriate method for alleviating this concern. In addition, commentators should consider the appropriate level of premium-based margin, as well as whether the proposed minimum margin amounts are sufficient for deep-out-of-the-money options.

IV. Surveillance of the Treasury Options Markets

Section 6(b)(5) of the Act requires an exchange, as a condition of registration, to promulgate rules which are designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade. Section 6(b)(1) of the Act requires that an exchange also be organized and have the capacity to comply and enforce

⁵⁵ In this regard, commentators should note that the current customer margin for uncovered short positions in equity options equal to 30 percent of the market value of the underlying security is the same as the haircut which must be taken by broker-dealers maintaining proprietary positions in equity securities. Securities Exchange Act Rule 15c3-1(c)(2)(vi)(j).

compliance with the provisions of the Act, the rules thereunder, and the rules of the exchange. Accordingly, an exchange has the obligation to develop and administer a comprehensive surveillance program designed to detect manipulation and other improper trading activities.

In connection with the trading of options on non-equity securities the Commission is particularly concerned that the exchanges have access to sufficient data regarding trading activity in the cash and futures markets to enable them to conduct surveillance for inter-market manipulation. Commentators are invited to discuss the potential for manipulation of the options market prices induced by trading in the cash and futures markets for Treasury instruments. In examining the possibility of inter-market manipulation, commentators should discuss factors that may render the Treasury options market conducive to manipulation caused by trading activity in a related market, as well as factors that may militate against such manipulation.

Based on their assessment of the prospects for inter-market manipulation, commentators should consider whether sufficient data, especially with respect to cash and futures market trading activity, would be available to the options markets to enable them to conduct an adequate surveillance program. In this regard, commentators should note that CBOE, in connection with its GNMA options program, has submitted a proposed rule change which would expand the routine reporting requirements of GNMA options marketmakers to include all accounts in which GNMA marketmakers, directly or indirectly, engage in GNMA futures and forward trading, all orders entered by the marketmakers for the purchase and sale of GNMA futures and forwards, and the opening and closing positions in all reported accounts.⁵⁶ Commentators may wish to discuss whether a similar reporting requirement would be necessary to permit adequate surveillance of the Treasury options market, or whether a more comprehensive reporting requirement would be necessary, either in terms of the information requested or the market participants included.

In addition, commentators are urged to focus on whether participation in the Treasury options market by government securities dealers and, in particular, dealers recognized by the FRB for the purpose of conducting its open market

⁵⁶ Proposed CBOE Rule 20.30, File No. SR-CBOE-81-2.

operations, would be a source of concern. Commentators are urged to discuss the potential for abuse if, while acting as recognized dealers, they simultaneously participated as marketmakers in the Treasury options market, either directly or through corporate affiliates. For example, commentators might consider whether recognized dealers, in the course of participating in the FRB's open market activities, may gain access to relevant pricing information prior to its public dissemination. If this dual status is considered susceptible to abuse, commentators should evaluate how best to alleviate this concern. In particular, commentators should consider whether it would be appropriate to circumscribe in some manner the participation in the Treasury options market of government securities dealers with access to information regarding the open market activities of the FRB. This could be accomplished by proscriptions of varying degrees, ranging from a complete prohibition to a requirement that certain government securities dealers refrain from trading for a certain period of time following the commencement of FRB open market activities.

Alternatively, commentators might consider the feasibility of also subjecting government securities dealers that are corporate affiliates of options marketmakers to reporting requirements with respect to their trading and quotation activities in the cash and futures markets for Treasury securities. Correspondingly, commentators might consider whether it would be sufficient to provide that, as a condition of becoming an options marketmaker, an exchange, upon request, would be entitled to examine any books and records or other information maintained by a corporate affiliate of a Treasury options marketmaker that pertain to transactions by the affiliate for its own account in the cash market for Treasury securities, the Treasury futures market or the Treasury options market. In evaluating these various alternatives, commentators should consider the burden imposed on government securities dealers and the possible impact on options market liquidity relative to the value to the exchanges of the data received.

V. Market Structure

A. Multiple Trading

In the order approving the CBOE proposal to trade options on GNMA's, the Commission stated that it "does not believe that its decision to defer consideration of whether to permit

expansion of multiple trading in equity options should apply to multiple trading of options on non-equity securities."⁵⁷ In this regard, the Commission stated that, in contrast to the equity options market, there are only a limited number of non-equity instruments which are considered appropriate for options trading and therefore the possibility of devising an equitable allocation among the competing exchanges was substantially diminished. In addition, the Commission indicated that a prohibition on multiple trading would eliminate the potential for competition between exchanges on the basis of factors including contract design and market characteristics, thereby substituting regulatory intervention for market forces as the arbiter of contract and market design. Moreover, the Commission stated that it believed, at least as a preliminary matter, that allowing multiple trading in the limited area of non-equity options would not have the potential for jeopardizing the viability of existing marketplaces or impairing the ability of such marketplaces to participate in other areas of the securities markets.

Commentators are invited to address these issues in the context of the Treasury options proposals, as well as any other factors they deem relevant to a determination regarding multiple trading of options on non-equity securities. In particular, the Commission is interested in receiving the views of commentators regarding what, if any, adverse impact multiple trading might have on the cash market for Treasury securities, which may not have been reflected previously in the discussion of deliverable supply concerns.⁵⁸

B. Impact on Underlying Cash Markets

A significant issue to be considered in connection with the Commission's deliberation with respect to the Treasury options proposals concerns the impact of trading in Treasury options on the cash market. Commentators are invited to discuss whether the proposed options contracts would have a stabilizing or destabilizing effect on the underlying market. If they believe the proposal would adversely affect the quality of those markets, commentators are invited to suggest possible

modifications in the proposed regulatory structure that might avert such consequences. Of particular importance in evaluating the proposals is the impact of Treasury options trading on the public debt management activities of the Treasury Department. In this regard, the CBOE and NYSE would retain explicit authority to halt trading in Treasury options when bidding is about to commence for newly-issued Treasury securities.⁵⁹ Although this provision is designed primarily for the protection of options traders, commentators are invited to discuss the impact exercise of this authority might have on the auction activities of the Treasury. Moreover, commentators are asked to consider whether any particular measures should be undertaken to ensure that options trading would not disrupt the auction of new Treasury issues.

In discussing the structure of the Treasury options market, commentators also may wish to consider the appropriate location for Treasury options trading. In this regard, the Commission understands that the NYSE intends to trade its Treasury options on the floor of its New York Futures Exchange subsidiary where trading in Treasury bond and 90-day Treasury bill futures contracts is currently conducted. In considering this aspect of the NYSE proposal commentators should balance the potential gains to be derived from centralizing both futures and options pricing information in a single location against the competitive and market information advantages that may accrue to certain market participants, the opportunities to engage in manipulative and other improper trading advantages that may be created, possible conflicts between the obligations accompanying trading on an options floor of a national securities exchange and trading in futures, and potential difficulties in conducting adequate market surveillance.

All interested persons are invited to submit in writing no later than July 1, 1981, 15 copies of their views concerning the proposed rule change to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. All communications should refer to File Nos. SR-Amex-81-1, SR-CBOE-80-8, and SR-NYSE-81-5 and will be available for public inspection at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C.

⁵⁷ Securities Exchange Act Release No. 17577 at 11. The Commission also solicited comments on the question of multiple trading of options on non-equity securities in connection with its publication of the NYSE's GNMA options proposal. See Securities Exchange Act Release No. 17578 (February 26, 1981).

⁵⁸ For example, commentators may wish to consider the fragmentation concerns raised not only by multiple trading among market centers, but also by the existence of multiple expiration cycles.

⁵⁹ See proposed CBOE Rule 8.3 and proposed NYSE Rule 717. Amex would reserve the general authority to suspend options trading when "unusual conditions or circumstances are present." See proposed Amex Rule 918.

By the Commission.
George A. Fitzsimmons,
Secretary.

May 11, 1981.

[FR Doc. 81-14906 Filed 5-18-81; 8:45 am]

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DEPARTMENT OF THE TREASURY

[Department Circular Public Debt Series—
No. 15-81]

Treasury Notes of May 31, 1983; Series R-1983

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately \$4,250,000,000 of United States securities, designated Treasury Notes of May 31, 1983, Series R-1983 (CUSIP No. 912827 LX 8). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities, to the extent that the aggregate amount of tenders for such accounts exceeds the aggregate amount of maturing securities held by them.

2. Description of Securities

2.1. The securities will be dated June 1, 1981, and will bear interest from that date, payable on a semiannual basis on November 30, 1981, and each subsequent 6 months on May 31 and November 30, until the principal becomes payable. They will mature May 31, 1983, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any

possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of \$5,000, \$10,000, \$100,000, and \$1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered, and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Wednesday, May 20, 1981. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, May 19, 1981.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is \$5,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed \$1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in

Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a 1/4 of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.750. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be

accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.5., must be made or completed on or before Monday, June 1, 1981. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, May 28, 1981. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement

for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for [securities offered by this circular] in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon [securities offered by this circular] to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to

the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Paul H. Taylor,
Fiscal Assistant Secretary.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the departmental procedures applicable to such regulations.

[FR Doc. 81-14985 Filed 5-18-81; 10:30 am]

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Sunshine Act Meetings

Federal Register

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Tuesday, May 19, 1981

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

May 13, 1981.

TIME AND DATE: 10 a.m., Wednesday, May 20, 1981.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The commission will consider and act upon the following:

1. Fred Bradley v. Belva Coal Company, WEVA 80-708-D (Petition for Discretionary Review; issues include effect of state agency adjudication of discrimination complaint on resolution of complaint under section 105(c) of the 1977 Mine Act).

2. Secretary of Labor on behalf of William Johnson v. Borden, Inc., SE 80-46-DM (Petition for Discretionary Review; issues include whether back pay award was adequate.)

CONTACT PERSON FOR MORE

INFORMATION: Jean Ellen, 202-853-5632.

[S-776-81 Filed 5-15-81; 2:08 pm]

BILLING CODE 6820-12-M

2

[USITC SE-81-12]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, May 27, 1981.

PLACE: Room 117, 701 E Street, N.W., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary: a. Sonar Units (Docket No. 726).

5. Investigation 337-TA-75 (Video Matrix Display System)—briefing and vote.

6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE

INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

[S-774-81 Filed 5-14-81; 8:45 am]

BILLING CODE 7020-02-M

NATIONAL RAILROAD PASSENGER CORPORATION.

Board of Directors Meeting.

In Accordance with Rule 4(a) of Appendix A of the Bylaws of the National Railroad Passenger Corporation, notice is given that the Board of Directors will meet on May 27, 1981.

A. The meeting will be held on Wednesday, May 27, 1981, in the Pierre Suite, Loew's L'Enfant Plaza Hotel, 480 L'Enfant Plaza, S.W., Washington, D.C. beginning at 9:30 a.m.

B. The meeting will be open to the public at 10:30 a.m. beginning with agenda item No. 3, as described below.

C. The agenda items to be discussed at the meeting follow.

Agenda—National Railroad Passenger Corporation

Meeting of the Board of Directors—May 27, 1981

Closed session (9:30)

1. Internal Personnel Matters.
2. Litigation Matters.

Open session (10:30)

3. Approval of Minutes of Regular Meeting of April 30, 1981.
4. Commitment Approval Requests: 81-93 Retirement and Sale of One Hundred Ninety-five (195) Passenger Cars. 79-28-S1 Supplemental Funding for Installation of Vacuum Impregnation Equipment—Wilmington Maintenance Facility. 81-96 New Station—Hammond, Indiana.
5. Resolution Authorizing Corporate Officers to Execute Washington Terminal Company Agreements.
6. Economic Outlook Briefing.
7. Board Committee Reports: Equipment, Finance, Northeast Corridor Improvement Project, and Organization and Compensation.
8. President's Report.
9. New Business.
10. Adjournment.

D. Inquiries regarding the information required to be made available pursuant to Appendix A of the Corporation's

Bylaws should be directed to the Corporate Secretary at (202) 383-3754. Sandra Spence,

Corporate Secretary.

May 15, 1981.

[S-775-81 Filed 5-15-81; 11:37 am]

4

[NM-81-18]

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9 a.m., Wednesday, May 27, 1981.

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Aircraft Accident Report*—Continental Airlines/Air Micronesia, Inc., Boeing 727, N18479, Yap, Western Caroline Islands, November 21, 1980.
2. *Recommendation* to the Federal Aviation Administration regarding Flight Attendant Training and Ventral Airstair Door Control Markings on Boeing 727-100 models.
3. *Pipeline Accident Report*—Colonial Pipeline Company Petroleum Product Pipeline Failures, Manassas and Orange County, Virginia, March 6, 1980, and *Recommendations* to the Research and Special Programs Administration, the Colonial Pipeline Company, and the American Petroleum Institute and the American Gas Association.
4. *Railroad Accident Report*—Head-on Collision Between Baltimore & Ohio Railroad Company Train No. 88 and Brunswick Helper 7803-7545 near Germantown, Maryland, February 9, 1981, and *Recommendations* to the Baltimore & Ohio Railroad Company.

CONTACT PERSON FOR MORE

INFORMATION: Sharon Flemming 202-382-6525.

May 15, 1981.

[S-277-81 Filed 5-15-81; 2:13 pm]

BILLING CODE 4910-58-M

5

[NM-81-19]

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Friday, May 29, 1981.

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: The first 3 items will be open to the public; item 4 will be closed to the public under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Highway Accident Report*—Illinois Central Gulf Railroad Freight Train/Mobil Oil Company Tractor Cargo Tank Semitrailer Grade Crossing Collision and Fire, Kenner, Louisiana, November 25, 1980, and *Recommendations* to the State of Louisiana, the City of Kenner, Louisiana, and the Illinois Central Gulf Railroad.

2. *Special Study Proposal*—Major Marine Collisions and Effects of Preventive Recommendations.

3. *Discussion* of whether to grant the Air Line Pilots Association's request for oral argument in the aircraft accident involving Pacific Southwest Airlines, Inc., Boeing 727, N533PS, and Gibbs Flite Center, Inc., Cessna 172, N7711G, San Diego, California.

4. *Opinion and Order*—Petition of Abrams, Dkt. SM-2538.

CONTACT PERSON FOR MORE

INFORMATION: Sharon Flemming, 202-382-6525.

May 15, 1981.

[S-778-81 Filed 5-15-81; 2:13 pm]

BILLING CODE 4910-59-M

6

POSTAL RATE COMMISSION.

TIME AND DATE: 2:30 p.m., Tuesday, May 19, 1981.

PLACE: Conference Room, Room 500, 2000 L Street NW., Washington, D.C. 20268.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Personnel matters. [Closed pursuant to 5 U.S.C. § 552b(c)(2)(6)]

CONTACT PERSON FOR MORE

INFORMATION:

D. Watson, Information Officer, Postal Rate Commission, Room 500, 2000 L Street NW., Washington, D.C. 20268, Telephone (202) 254-5614.

[S-778-81 Filed 5-15-81; 3:38 pm]

BILLING CODE 7715-01-M

federal register

Tuesday
May 19, 1981

Part II

Department of Labor

Employment and Training Administration

**Comprehensive Employment and Training
Act Regulations; Amendments to Title VII
and PSE Base Average Annual Wage
Provisions**

DEPARTMENT OF LABOR

Employment and Training
Administration

20 CFR Parts 676 and 679

Comprehensive Employment and
Training Act Regulations;
Amendments to Title VII and PSE Base
Average Annual Wage Provisions

AGENCY: Employment and Training
Administration, Labor.

ACTION: Revised proposed rule.

SUMMARY: This document withdraws the proposed rule implementing the December 23, 1980 statutory extension and amendment to Title VII of the Comprehensive Employment and Training Act which was published on Friday, May 8, 1981 (46 FR 25645 *et seq.*) and substitutes a new proposal. The new proposal, which is published here in its entirety and supersedes the document published on May 8, differs from the original proposal in that it provides for distribution of Title VII incentive bonus funds through a competitive process which takes into account prime sponsors' efforts in coordinating CETA private sector activities with Federal, State or locally funded economic development activities, rather than by the formula allocation proposed in the May 8 document. The purpose of this publication is to request comments on the revised proposal.

DATE: Comments on the proposed rule must be submitted on or before June 8, 1981.

ADDRESS: Comments should be addressed to the Assistant Secretary of Labor for Employment and Training, U.S. Department of Labor, Room 5014, 601 D Street N.W., Washington, D.C. 20213. Attention: Mr. Robert Anderson, Administrator, Office of Comprehensive Employment Development.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Anderson, 202-376-6254.

SUPPLEMENTARY INFORMATION: Public Law 96-583, enacted on December 23, 1980, extended Title VII of the Comprehensive Employment and Training Act (CETA) through fiscal year 1982 and made various substantive changes in the provisions governing Private Sector Initiative Programs (PSIP) under this Title. Pub. L. 96-583 also amended Section 122(i)(2) of the Act to increase the base average annual wage for Public Service Employment (PSE) under Titles II-D and VI from \$7,200 to \$8,000 per year.

The statutory amendment sets aside ten percent of the funds under Title VII

for incentive bonuses to encourage prime sponsors and Private Industry Councils (PICs) to develop programs which link employment and training efforts with economic development activities. The amendment retains the current statutory set-aside of five percent of Title VII funds for Native American PSIP programs and for prime sponsors who establish joint (multijurisdictional) PICs. Provision is also made for use of 15 percent of prime sponsors' Title VII money for upgrading and retraining activities in accordance with the provisions of Title II-C of the Act, with the requirement that employers hire one economically disadvantaged person for each person retrained or upgraded with CETA funds, unless the Secretary waives this requirement where compliance would be impractical.

This document proposes to amend the CETA regulations published on May 20, 1980 (45 FR 33846 *et seq.*) to implement these and other minor changes made by Pub. L. 96-583.

In order to facilitate review and comment, the following is a brief summary of each of the proposed changes:

Private Sector Initiatives

Section 679.3-2(a)(1) adds local economic development organizations as one of the required groups from which PIC members shall be drawn.

Section 679.3-2(c)(3) is amended to indicate that representatives of educational agencies and institutions with expertise in on-site, industry-specific vocational training should be included in the PIC membership.

A new section 679.3-2(c)(4) has been added requiring that at least one representative of local economic development organizations, such as those formed under the Public Works and Economic Development Act of 1965 (PWEDA), be on the PIC. The Department recognizes that active PWEDA groups may not exist in all prime sponsors' jurisdictions and has used broad language in this provision to permit representatives from other appropriate economic development organizations to be selected for the PIC where necessary.

Section 679.4(a) is amended to specify that 85 (rather than 95) percent of the funds available under Title VII of the Act will be available for prime sponsor basic allocations.

Section 679.4(b) has been changed to indicate how the remaining 15 percent of the funds will be distributed. The current § 679.4(b) (1) and (2), which provide for use of five percent of Title VII funds for Native American private

sector programs and for prime sponsors with multijurisdictional PICs, is retained.

A new § 679.4(b)(3) has been added specifying that ten percent of the available Title VII funds shall be used for incentive bonuses to prime sponsors that engage in efforts to promote coordination of employment and training programs with economic development activities supported by Federal, State or local funds. It is proposed in the rulemaking to distribute such incentive funds through a competitive process.

Section 679.5(b) is amended to specify that a copy of the Title VII Annual Plan Subpart shall be transmitted to local economic development organizations, including those authorized under PWEDA.

Section 679.6(b)(3) is amended and a new § 679.6(b)(3)(ii) is added to specify that 15 percent of the funds allocated under Title VII may be used for upgrading and retraining persons eligible under Title II-C (§ 675.5-3), provided that employers participating in such programs agree to hire one economically disadvantaged person for each such person being upgraded or retrained. The Department recognizes that it may not always be possible for employers participating in upgrading or retraining programs to satisfy this one-for-one hiring requirement, as in the case of small businesses with few employees or in situations where the employer's workforce is declining. Provision is made for waivers of the requirement by Regional Officers under such circumstances.

Section 679.6(b)(3)(ii) has been renumbered as (b)(4).

In § 679.7(c), paragraph (16) has been renumbered as paragraph (17). A new paragraph (16) has been added specifying as an allowable activity under Title VII the development of on-site industry specific training programs in cooperation with State vocational education boards.

Public Service Employment Programs

Section 676.26-1(c) is amended to reflect the legislative increase in the base average annual wage for Public Service Employment under Titles II-D and VI from \$7,200 to \$8,000.

Regulatory Impact. The financial and other impact of this regulation is less than specified in Section 1(b) of Executive Order 12291 (46 FR 13193, February 19, 1981), for designation as a major rule which requires a regulatory impact analysis. The proposed regulations merely implement technical amendments designed to improve the

operation of private sector initiative programs, by providing financial incentives for recipients who coordinate CETA activities with local economic development efforts, specifying the conditions under which Title VII funds may be used for upgrading and retraining, and the like. No increase in planning or compliance costs is anticipated for State and local government prime sponsors or participating private businesses; instead, financial benefits will result from the changes. Therefore, a regulatory analysis was not prepared for this regulation.

The Secretary has certified, pursuant to 5 U.S.C. 605(b), that the amendments in this document will not have a significant economic impact on a substantial number of small entities, because the regulations are related primarily to the conditions of federal grants received by State and local governments with populations of more than fifty thousand who are the primary recipients of CETA funds. To the extent that small businesses are affected, the proposed regulation will facilitate receipt of CETA funds for upgrading and retraining activities.

The program for which these amendments are proposed is listed in the Catalog of Federal Domestic Assistance as No. 17.232 "Comprehensive Employment and Training Programs."

Accordingly, the regulations at Parts 676 and 679 of Title 20 of the Code of Federal Regulations are proposed to be amended as set forth below:

PART 676—GENERAL PROVISIONS GOVERNING PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

1. Section 676.26-1 is amended by revising paragraph (c)(1)-(3).

§ 676.26 Payments to participants.

§ 676.26-1 Payment of Wages.

(c) *Wages for Public Service Employment*—(1) *Minimum wage rates.* A participant in PSE shall be paid wages not less than the highest of the rates specified in (a) (1) through (6) (sec. 124(b)).

(2) *Maximum wage rates payable with CETA funds.* (i) The wages (including those received for overtime work and leave taken during the period of employment) paid to any PSE participant from funds under the Act shall be limited to a full-time rate of \$10,000 per year (or the hourly, weekly, or monthly rate which, if full-time and annualized would equal a rate of \$10,000

per year), unless the Secretary adjusts this maximum upward by the area wage adjustment index. In areas where the maximum wage rate for a fiscal year is decreased from the rate for the previous fiscal year, participants hired in the previous fiscal year may receive the maximum rate from that previous year in the current fiscal year. For school employees whose work is done only during the school year, that school year shall be considered a full year for wage rate annualization purposes.

(ii) Fringe benefits payable from funds under the Act to any PSE participants may not exceed those regularly afforded to similarly employed non-CETA workers, and shall never exceed those afforded to non-CETA workers earning an amount equal to the maximum wage.

(3) *Average wage rates payable with CETA funds.* The average annual wage rate for PSE participants hired on or after April 1, 1979, shall not exceed \$8,000 as adjusted upward or downward by the Secretary on an area basis by the area wage adjustment index. In no case shall this wage be adjusted downward to a level that is less than 10 percent above the annualized Federal minimum wage rate.

2. Part 679 is added as follows:

PART 679—PRIVATE SECTOR INITIATIVE PROGRAM FOR THE ECONOMICALLY DISADVANTAGED UNDER TITLE VII OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Sec.

- 679.1 Scope and purpose.
- 679.2 Participant eligibility.
- 679.3 Private Industry Councils (PIC's).
- 679.3-1 Purpose.
- 679.3-2 Appointment of PIC members.
- 679.3-3 Chairperson.
- 679.3-4 Organizational position.
- 679.3-5 Staff.
- 679.3-6 Multijurisdictional PICs.
- 679.3-7 Functions of the PIC.
- 679.3-8 Accountability.
- 679.3-9 Conflict of interest.
- 679.4 Allocation of funds.
- 679.5 Annual plan subpart.
- 679.6 Administrative standards and procedures.
- 679.7 Allowable activities.

Authority. Sec. 126 of the Comprehensive Employment and Training Act (29 U.S.C. 801 et seq., Pub. L. 95-524, 92 Stat. 1907), unless otherwise noted.

§ 679.1 Scope and purpose.

This Part contains the regulations for activities under Title VII of the Act, known as the Private Sector Initiative Program.

(a) Title VII of the Act is a demonstration Title. It authorizes a

variety of approaches to increase the involvement of the business community in employment and training activities under the Act.

(b) Title VII is designed to increase private sector employment and training opportunities for persons eligible under this Part.

(c) As a primary vehicle to assist prime sponsors in meeting these goals, Title VII provides for the establishment of Private Industry Councils (PIC's) which are to participate jointly with the prime sponsor in the local development and implementation of programs under this Part, and to consult with the prime sponsor on other employment and training activities. Title VII encourages the formulation of a local partnership between the private sector and the prime sponsor in order to meet its purposes.

(d) The ultimate goal of Title VII is to increase private sector employment and training opportunities under all Titles of the Act, commensurate with reduced emphasis on public and private nonprofit subsidized employment.

(e) An important thrust of the Act is to provide for maximum feasible coordination of programs under the Act with related functions supported by the Department and by other Federal, State and local agencies. Accordingly, PIC's formed by prime sponsors to assist in Title VII implementation are encouraged to work with Job Service Employer Committees (JSEC's), the Bureau of Apprenticeship and Training, and State Apprenticeship Councils, as well as the Economic Development Administration, Small Business Administration, Community Services Administration, and U.S. Department of Housing and Urban Development among others, in order to increase the effectiveness of programs under this Part and under the Act in securing employment for economically disadvantaged persons (sec. 701).

(f) This Part, in conjunction with Parts 675 through 677, Subpart C, comprise the regulations for Title VII of the Act.

§ 679.2 Participant eligibility

Eligibility requirements applicable to this Part may be found in § 675.5-7.

§ 679.3 Private Industry Councils (PIC's).

§ 679.3-1 Purpose.

(a) To receive financial assistance under this Part, each prime sponsor shall establish a Private Industry Council (PIC). Its purpose shall be to increase the involvement of the business community, including small business, minority business enterprises, and labor organizations in employment and

training activities under the Act, and to increase private sector employment opportunities for economically disadvantaged persons (secs. 701 and 704(a)(1)).

(b) Given the diversity of local circumstances and the differing environments in which PIC's will operate, the structure, level of activity, and composition of PIC's may vary considerably from one prime sponsor jurisdiction to another.

(c) Generally, meetings of the PIC shall be open and accessible to the general public, and minutes shall be maintained.

§ 679.3-2 Appointment of PIC members

Each prime sponsor shall appoint the members of the PIC (sec. 704).

(a) *General.* (1) A majority of the PIC membership shall be representatives of industry and business (including small business and minority business enterprises). The PIC shall also include members representing organized labor, community-based organizations, educational agencies and institutions, and local economic development organizations.

(2) Existing local councils or committees may be designated or adapted to serve as the PIC (sec. 704(a)).

(3) The prime sponsor shall make ultimate decisions regarding the membership of the PIC after soliciting and considering the recommendations of the business and industrial community. Additionally, the prime sponsor should consult with labor organizations, community-based organizations, educational agencies and institutions, the appropriate apprenticeship agency, the State employment security agency (SESA), and women's organizations, existing councils and committees, and other organizations expressing an interest in the Title VII program (sec. 704(a)).

(4) In prime sponsor jurisdictions in which a National Alliance of Business (NAB) metro organization exists, it should be given consideration in the establishment of the PIC.

(5) Nothing in this section is meant to give a presumptive role to any particular organization in the establishment of the PIC (sec. 704(d)).

(b) *Business and industry members.* (1) The prime sponsor shall make every effort to recruit business and industry members for the PIC who will be representative of the private for profit employment community in terms of the types of business represented, such as small businesses, minority-owned businesses, businesses owned by women and others reflective of the

commercial and industrial makeup of the area (sec. 704(a)(1)).

(2) Where possible, at least half of the industry and business representatives shall be representatives from small business. For purposes of this requirement, "small business" means any private for profit enterprise employing five hundred or fewer employees (sec. 704(a)(1) and (2)).

(3) Minority business enterprises shall be represented on the PIC, at least consistent with their representation in the business community (sec. 704(a)(1)).

(4) Prime sponsors may consider either the residence of the prospective PIC member or the location of the business or organization with which that person is associated in considering appointments to the PIC.

(c) *Other required members.* At least one representative of each of the following shall be included among the PIC membership:

(1) Organized labor. In appointing members from organized labor, the prime sponsor should consult State or central labor bodies, building and construction trades councils, the Human Resources Development Institute (HRDI), appropriate apprenticeship agencies, and unions representing major occupations in the area.

(2) Community-based organizations that have demonstrated to the prime sponsor a record of effectiveness in their relationships with the business community.

(3) Educational agencies and institutions (particularly those with expertise with on-site, industry-specific vocational education) that have demonstrated to the prime sponsor a record of effectiveness in providing education or vocational training oriented toward the needs of the business community.

(4) Local economic development organizations such as those authorized under the Public Work and Economic Development Act of 1965.

(d) *Other members.* Prime sponsors may also appoint to the PIC other members, such as representatives of persons eligible to participate in activities under this Part and representatives of organizations having unique relationships to both the CETA system and the private sector, such as SESA's and appropriate apprenticeship agencies (sec. 704(a)(1)).

§ 679.3-3 Chairperson.

(a) A chairperson pro tem from the business and industrial community should be appointed by the prime sponsor to assist in identifying potential members and in establishment of the PIC.

(b) Once established, the PIC shall have a permanent chairperson selected by the members of the PIC, who should be a representative of business and industry.

§ 679.3-4 Organizational position.

(a) The organizational position occupied by the PIC within the overall employment and training delivery system shall be determined by the prime sponsor in consultation with the PIC. Such position and relationship shall be designed to enable the PIC to carry out its responsibilities.

(b) To carry out its duties, the PIC should appoint subcommittees to deal with particular areas of concern and secure, either through its staff or other means, the expertise of persons in the private sector having knowledge of business practices and policies (sec. 704(c)).

(c) PIC relationship to the prime sponsor's planning council.

(1) The activities of the PIC shall be coordinated by the prime sponsor with those of the prime sponsor's planning council, and area planning bodies in the case of State prime sponsors. The planning council shall be consulted in the development of the Title VII program, and shall be afforded the opportunity to review and comment on the Title VII Annual Plan subpart (sec. 703(b)(4)).

(2) For purposes of Title VII, the PIC shall not be subordinate in its authority to the prime sponsor's planning council.

(3) The PIC chairperson (or designee) shall, at a minimum, serve as an ex officio, nonvoting member of the prime sponsor's planning council, and the chairperson (or designee) of the prime sponsor's planning council shall, at a minimum, serve as an ex officio, nonvoting member of the PIC. However, the prime sponsor may assign either chairperson the status of a full voting member on the respective councils (sec. 704(b)).

(d) Due to the unique nature of Balance-of-State organizational structures, such prime sponsors are authorized to develop alternate measures regarding the organization and structure of PIC's such as PIC's covering sub-State planning areas, a single PIC for the entire prime sponsor jurisdiction with a decentralized staff, and other special arrangements.

§ 679.3-5 Staff.

The PIC shall be appropriately staffed, commensurate with its responsibilities. The staffing composition of the PIC shall be determined through mutual

agreement between the PIC and the prime sponsor.

(a) When the PIC is a subgrantee or contractor of the prime sponsor, staff shall be hired in a manner consistent with that status and with the terms of the PIC's subgrant or contract with the prime sponsor.

(b) If the PIC is other than a subgrantee or contractor, it shall be consulted by the prime sponsor on the matter of its staffing. To the extent possible, consistent with applicable personnel rules, the PIC should be party to decisions on staff selection or hiring.

§ 679.3-6 Multijurisdictional PIC's.

A PIC may be established to cover more than one prime sponsor area, pursuant to arrangements and written agreements between the prime sponsors and the PIC.

(a) A PIC may be established to cover a multijurisdictional area with the affected prime sponsors submitting and reporting upon separate Title VII Annual Plan subparts.

(b) The above approach does not preclude other arrangements. Prime sponsors may propose alternatives as part of their Title VII Annual Plan subpart. The RA may approve such arrangements after considering the desirability of the proposed arrangements in view of the purposes of Title VII and after reviewing their feasibility in terms of reporting and otherwise meeting Comprehensive Employment and Training Plan requirements of § 676.9, § 676.10 and § 676.11.

(c) Financial incentives shall be provided to prime sponsors establishing multijurisdictional PIC's that meet criteria discussed in § 679.4(b)(2) (secs. 702(b) and 704(a)(1)).

§ 679.3-7 Functions of the PIC.

The prime sponsor and the Private Industry Council shall determine those functions that the PIC will perform, based upon local conditions, the interests of the private sector, and the needs of the community. Those functions include the following, among others:

(a) *General.* (1) The PIC shall serve as an intermediary to assist the local employment and training structure to become more responsive to the business community.

(2) The PIC shall serve as the business and industry contact point in the local employment and training system, to present the private sector's view and recommendations for making programs more responsive to local employment needs.

(3) The PIC shall advise and provide direction to the local employment and training system on ways to increase private sector job placements for persons eligible under this Part (secs. 701 and 704(c)).

(b) *Planning and coordination.* (1) The PIC shall, in conjunction with the prime sponsor, design and develop the Title VII program and subpart to the prime sponsor's Annual Plan (sec. 703(b)).

(2) In designing the plan, and on a continuing basis, the PIC shall analyze private sector job opportunities, including estimates by occupation, industry, and location. The analysis should survey employment demands in the private sector and training possibilities, such as apprenticeship, in order to develop projections of short and long range labor needs, and to refine employment and training programs so that it becomes increasingly responsive to private sector labor needs. In undertaking such analysis, the PIC should assess and utilize information contained in economic development plans for the area and currently available labor market information from sources already in place, such as the SESA and appropriate apprenticeship agencies (sec. 703(b)(3)).

(3) The PIC should, in conjunction with the prime sponsor, develop specific private sector employment and training projects.

(4) The PIC should, in conjunction with the prime sponsor, develop criteria for the types of occupations to be selected for the expenditure of training funds.

(5) The PIC should, in conjunction with the prime sponsor, develop standards and specifications for training in particular occupations.

(6) In designing the plan, the PIC and prime sponsor should, to the extent possible, ensure that the plan is consistent with plans, funding applications and grants for programs related to private sector employment and training which are funded by other Federal agencies. For planning purposes and to coordinate with activities under other Federal programs, the PIC and prime sponsor should where possible review and comment on such plans and funding applications, especially regarding ways in which they affect employment and training, including apprenticeship, in the private sector (including those of the Economic Development Administration, Department of Housing and Urban Development, Small Business Administration and Community Services Administration) (secs. 103(a)(20), 704(c) and 705(a)(4)).

(7) The PIC should consult with the prime sponsor and its planning council during the development of, and shall have the opportunity to review and comment on, other Annual Plan subparts under the Act (sec. 704(c)).

(8) In undertaking activities under this Part, the requirements of § 676.24, "Labor organization consultation and/or concurrence", shall be observed.

(c) *Operational functions.* (1) The PIC should actively solicit public and private support for and participation in the Private Sector Initiative Program and other programs and activities designed to increase private sector employment and training opportunities for persons who are economically disadvantaged.

(2) The prime sponsor may involve the PIC through arrangements and written agreements so that the PIC can carry out its responsibilities. In particular, the PIC should be involved with the SESA, Job Service Employer Committees (JSEC's), local WIN sponsors and other private sector intermediaries in marketing and disseminating information on the Targeted Jobs Tax Credit, created by the Revenue Act of 1978 (Pub. L. 95-600), and the WIN Tax Credit.

(3) The prime sponsor and the PIC may decide that the PIC will administer and directly operate local private sector employment and training programs. Such an operational function could involve directly marketing on-the-job and other training agreements with private employers, developing training programs, entering into contracts with private firms, community-based organizations, educational agencies and institutions and SESA's and other related activities. Consistent with State and local law, PIC's may incorporate for these purposes.

(4) Organizations represented on the PIC may be directly involved in the operation of employment and training programs funded under this Part, consistent with the conflict of interest provisions of § 679.3-9.

(5) In accordance with § 676.38(b), the PIC may participate with the prime sponsor in developing criteria for the selection of any nongovernmental organization, association, firm or other entity for the conduct of programs or activities under this Part (secs. 121(o) and 704(c)).

(d) *Review and Assessment.* (1) The PIC shall participate with the prime sponsor in overseeing activities under this Part. Programs under this Part are subject to the prime sponsor's monitoring responsibilities (sec. 704(c)).

(2) The PIC may, in consultation with the prime sponsor, identify the factors to be addressed in an assessment of the

effectiveness of activities under this Part.

(3) In consultation with existing groups, such as Job Service Employer Committees (JSEC's) and prime sponsor's planning and youth councils, the PIC may examine the performance of the local CETA and SESA delivery system to determine how to better meet the needs of business and industry and increase private sector employment opportunities for the economically disadvantaged, and advise the prime sponsor and the SESA of its observations and recommendations (sec. 704(c)).

(e) Nothing in this section is intended to limit the functions of the PIC, with respect to assisting the prime sponsor to improve the responsiveness of employment and training programs to employment opportunities in the private sector. The business community should be involved in determining the functions of the PIC so that these will be responsive to the needs and interests of business and industry.

§ 679.3-8 Accountability.

The Department holds the prime sponsor accountable for activities conducted and funds expended under this Part.

(a) The PIC, in working with the prime sponsor to develop activities under this Part, must recognize the prime sponsor's ultimate liability for all of the PIC's activities. The PIC and the prime sponsor are thus both responsible for program performance, and the Department in assessing the Title VII program will take both the prime sponsor's and the PIC's performance of functions into account.

(b) Where the PIC is a contractor or subgrantee of the prime sponsor, it is financially liable to the prime sponsor for funds received.

§ 679.3-9 Conflict of interest.

(a) Except for voting on the Title VII Annual Plan Subpart, no member of the PIC may cast a vote on any matter which has a direct bearing on services to be provided by that member or by any organization which such member directly represents on any matter which would financially benefit such member or any organization such member represents.

(b) Contracts in excess of \$10,000 between the PIC and any private organization with which a PIC member is associated as an officer, member or employee shall be subject to the final written approval of the prime sponsor, prior to execution of the contract or subgrant.

(c) In addition, the provisions of § 676.62 (b) and (c) apply.

§ 679.4 Allocation of funds.

(a) *Prime sponsor basic allocations.* Eighty-five percent of funds available under Title VII of the Act shall be allocated to prime sponsors as provided in section 202(a) of the Act except that:

(1) In order to ensure that every prime sponsor receives an allocation of sufficient size to mount a viable program, a minimum allocation level may be established; and

(2) In the case of Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and Northern Marianas, these shall be allocated the same percentage of Title VII funds as the percentage of Title II Parts A, B and C funds allocated to them.

(b) *Other allocations.* The remaining fifteen percent of the funds shall be allocated in the following manner:

(1) *Assistance to Native American entities.* No less than two percent of the total funds available under Title VII of the Act will be used to support Title VII programs for Native American entities described in sections 302(c)(1) (A) and (B) of the Act.

(2) *Assistance to prime sponsors who establish a single Private Industry Council.* Additional funds shall be provided to prime sponsors that establish a single Private Industry Council that serves a substantial portion of a functioning labor market area, as determined by the Secretary. Included may be:

(i) An existing consortium covering a substantial portion of a functioning labor market area that qualifies for incentive funds under § 676.4(c);

(ii) Two or more prime sponsors establishing a PIC that serves at least 75% of a functioning labor market area; and

(iii) To the extent that funding is available, other combinations of prime sponsors forming a single PIC (sec. 702(b)).

(3) *Incentives to promote coordination with economic development activities.* Ten percent of the funds available shall be used for incentive bonuses to be awarded by competitive process to prime sponsors that engage in efforts to promote coordination with economic development activities supported by Federal, State or local funds.

(c) Funds may be reallocated pursuant to the provisions of § 676.47 (sec. 108).

§ 679.5 Annual plan subpart.

(a) *General.* To receive financial assistance under this Part, a prime sponsor shall submit the following information, which will become part of

the Annual Plan as described in § 676.11. This subpart shall consist of a Narrative Description, Statement of Concurrence, Program Planning Summary, and Budget Information. Summary, specific to Title VII (sec. 103(b)).

(b) The prime sponsor shall transmit a copy of the Title VII Annual Plan subpart to the prime sponsor's planning council, to appropriate labor organizations, community-based organizations, educational agencies and institutions, local economic development organizations (including those authorized under the Public Works and Economic Development Act of 1965), and to such other parties as are required by § 676.12(d). The comment and publication procedures of § 676.12 apply to this Part (secs. 703(b) (4) and (5)).

(c) The Annual Plan subpart shall have the concurrence of both the PIC and the prime sponsor in order to be approved. Therefore, a Statement of Concurrence shall be submitted, signifying the concurrence of the PIC and the prime sponsor with the contents of the Annual Plan subpart or any modifications thereto.

(d) *Narrative Description.* The narrative description shall include:

(1) *Objectives and need for assistance.* State the objectives and need for funding under this Part, including an identification of private sector occupations where there are labor shortages.

(2) *Results and benefits.* Provide a statement on:

(i) Specific quantified performance and placement goals, by program activity.

(ii) Any performance and placement goals with respect to groups designated to be served (sec. 103(b)(4)).

(iii) Explain any variation between such performance and placement goals and the Secretary's performance standards (sec. 103(b)(4)).

(iv) Any nonquantifiable goals or outcomes.

(3) *Approach.* Provide a description of: (i) The specific activities to be conducted, and how these activities will be integrated with other training and placement activities under the Act (sec. 703(a)).

(ii) The procedures and standards to be used for the selection of occupations in which training is to be provided.

(iii) The system that will be used to review and assess the success of activities, including a description of the role of the PIC.

(4) *Private Industry Council (PIC).* Provide the following:

(i) The responsibilities assumed and the functions to be performed by the Private Industry Council in the planning, operation and review of programs.

(ii) A list of the PIC Membership indicating representation from among those membership categories identified in § 679.3-2.

(iii) Staffing arrangements for support of the PIC agreed upon the PIC and the prime sponsor.

(iv) A description of procedures established to ensure periodic consultation and coordination of activity between the PIC and the prime sponsor's planning council and other appropriate agencies in the labor market area.

(v) For multijurisdictional PIC's (except for existing consortia) identify the geographic area to be served, the prime sponsors participating, administrative and programmatic relationships between the PIC and the participating prime sponsors and the functions to be performed by each. A copy of the written agreement cited in § 679.3-6 must be included as an attachment to the Annual Plan Subpart.

(e) *Statement of Concurrence.* This statement documents the concurrence of the PIC and the prime sponsor with the contents of the Annual Plan Subpart.

(f) *Program Planning Summary (PPS).* The PPS reflects the goals, objectives and activities planned under Title VII for the program year.

(g) *Budget Information Summary (BIS).* The BIS contains the planned budget under Title VII for the program year.

§ 679.6 Administrative limitations.

(a) *General.* The General Provisions of Part 676 shall apply except as otherwise indicated.

(b) *Allowable costs and cost allocation.* The provisions of § 676.40 and § 676.41 shall apply to programs under Title VII except as follows:

(1) *Employment generating services.*

(i) For programs funded under Title VII only, costs for activities which are not directly related to the immediate provision of training or employment for participants but which are intended to result in the creation or expansion of employment opportunities for persons eligible under this Part may be classified as employment generating services and charged to the "Services" cost category. Examples are:

(A) Those items enumerated in paragraphs (c) (1), (2), (3), (4), (6), (7), (9), (10), (12), (13), (14) and (15) of § 679.7, Allowable Activities.

(B) The costs for the salaries and fringe benefits of labor market and program analysts, for consultants under

contract for employment generating services, and for technical assistance to contractors and subgrantees.

(ii) While such activities are allowable and desirable under Title VII, no more than 30 percent of a prime sponsor's Title VII funds may be used for employment generating services.

(iii) The program activity against which the costs for employment generating services are to be allocated is "Other Activities."

(iv) No costs attributable to the general administration of the Title VII program shall be charged to the "Services" cost category.

(2) *Administrative costs.* (i) For purposes of Title VII, administrative costs are those costs which fall within the category of administration as defined in § 676.41-1(f), exclusive of employment generating services.

(ii) The total amount of funds expended for administration by all prime sponsors in carrying out programs under this Part shall not exceed 20 percent of the total expenditures for all prime sponsor Title VII programs. Each prime sponsor and PIC must make every effort to limit administrative costs to only those that are necessary to assure the effective operation of programs under this Part. If the prime sponsor and PIC determine that more than 20 percent is necessary to operate the planned program, a higher amount may be requested by providing a satisfactory explanation of the need for such amount in the Title VII Annual Plan Subpart. The special needs of urban and rural areas and other relevant factors shall be considered by the RA in reviewing requests for administrative costs in excess of 20 percent (sec. 705(b)).

(iii) It is recognized that startup and initial implementation of programs under this Part may require administrative expenditures greater than those necessary for the operation of established program. Thus, it should subsequently become possible for administrative costs to be reduced such that they are brought to a more appropriate level of 10 percent. Prime sponsors and PIC's should therefore plan to reduce administrative costs after startup and initial implementation.

(3) Up to 15 percent of funds allocated under Title VII may be used to enroll persons using the § 675.5-3 criteria into upgrading and/or retraining programs provided that:

(i) Participating employers agree to hire at least one economically disadvantaged person for each participant being upgraded and/or retrained.

(ii) Prime sponsors may request a waiver to paragraph (b)(3)(i) of this

section in situations where it is impracticable to implement such requirement, e.g., in cases of small businesses with few employees or in businesses where the work force is declining. The request, which shall include a brief statement of the facts (i.e., why the requirement cannot be met), may accompany or be submitted subsequent to submission of the Annual Plan.

Such request should be acted upon by the Regional Office within one calendar week of receipt. Regional offices are expected to exercise maximum possible flexibility in the granting of such waivers to insure that the skill needs of community employers are met and new employment and career opportunities for workers are opened.

(4) Payments to private-for-profit employers through methods not specifically authorized under Parts 676 through 677, Subpart B shall not be allowable unless and until the method of payment is explained in advance and authorization for its use is specifically granted. Prime sponsors shall transmit to the RA requests to permit such new payment methods. The RA shall transmit such requests, with comments and recommendations, to the Assistant Secretary for Employment and Training. Action on a request shall be taken within 60 days after the prime sponsor's submission of the request to the RA. Nothing in this paragraph authorizes wage subsidies (sec. 703(c)).

§ 679.7 Allowable activities.

Funds under this Part shall be used to augment private sector-related activities under Part 677, including on-the-job training with private employers (sec. 703(b)(2)). Funds shall be used to provide employment and training and related activities consistent with the purposes of Title VII including:

(a) Activities and services authorized in § 677.13:

(b) Upgrading and retraining in accordance with § 675.5-7, and Subpart C of Part 677, and

(c) The following:

(1) Coordinating programs of jobs and training and education enabling individuals to work for a private employer while attending an education or training program;

(2) Developing a small business intern program to provide practical training enabling youths and other individuals to work in small business firms to acquire first-hand knowledge and management experience about small business;

(3) Developing relationships between employment and training programs,

educational institutions, and the private sector;

(4) Developing useful methods for collecting information about Federal Government procurement contracts with private employers, new and planned publicly supported projects such as public works, economic development and community development programs, transportation revitalization, alternative energy technology development, demonstration, and utilization projects, energy conservation projects, and rehabilitation of low-income housing as part of a community revitalization or stabilization effort, which provide work through private sector contractors;

(5) Conducting innovative cooperative education programs for youths in secondary and postsecondary schools designed to coordinate educational programs with work in the private sector;

(6) Developing and marketing model contracts designed to reduce the administrative burden on the employer and model contracts to meet the needs of specific occupations and industries;

(7) Coordinating programs under this Part with other job development, placement, and employment and

training activities carried out by public and private agencies;

(8) Providing on-the-job training subsidies on a declining ratio to wages over the period of training;

(9) Providing followup services with employees placed in private employment and employers who hire recipients of services under the Act;

(10) Encouraging employers to develop job skill requirement forecasts and to coordinate such forecasts with prime sponsors;

(11) Using direct contracts for training and employment programs with private for profit and private nonprofit organizations;

(12) Developing apprenticeship or comparable high-skill training programs for workers regardless of age in occupations where such programs do not presently exist in the area;

(13) Increasing opportunities for upgrading from entry level jobs by providing counseling and other services to employees and employers beyond initial training periods;

(14) Providing technical assistance to private employers to reduce the administrative burden of employment and training programs;

(15) Disseminating information to private employers so that they may more fully utilize programs under the Act;

(16) Developing on-site, industry specific training programs supportive of industrial and economic development in cooperation with State vocational education boards, provided that, where feasible, funds made available under this Act for such programs are supplemented by Federal, State or local vocational education funds or by non-governmental funds made specifically available for such programs, or both; and

(17) Other program activities which demonstrate effective approaches to the training and employment of persons eligible to participate in programs under this Part (sec. 705(a)).

(Sec. 126 of the Comprehensive Employment and Training Act (Pub. L. 95-524, 92 Stat. 1909, 29 U.S.C. 801 *et seq.*))

Signed at Washington, D.C. this 14th day of May 1981.

Raymond J. Donovan,
Secretary of Labor.

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1201.....	25114, 26515
1241.....	25114, 26515
1248.....	25114

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216.....	27056
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Proposed Rules:

17.....	24607, 26464
651.....	27147
653.....	25327

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the

Day-of-the-Week Program Coordinator,
Office of the Federal Register,
National Archives and Records Service,
General Services Administration,
Washington, D.C. 20408.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing May 5, 1981.

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2½ hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and the Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WHEN: June 12, 1981, at 9 a.m.

WHERE: Office of the Federal Register, Room 9409, 1100 L Street NW., Washington, D.C.

RESERVATIONS: Call King Banks, Workshop Coordinator, 202-523-5235.