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Highlights

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Highlights

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Presidential Documents

Title 3—

The President

Executive Order 12312 of July 2, 1981

The Meritorious Service Medal

By the authority vested in me as President of the United States of America and as Commander-in-Chief of the Armed Forces, and to permit the award of the Meritorious Service Medal to members of the armed forces of friendly foreign nations, it is hereby ordered that section 1 of Executive Order Number 11448 of January 16, 1969, is amended to read as follows:

"Section 1. There is hereby established a Meritorious Service Medal, with accompanying ribbons and appurtenances, for award by the Secretary of a Military Department or the Secretary of Transportation with regard to the Coast Guard when not operating as a service in the Navy, or by such military commanders or other appropriate officers as the Secretary concerned may designate, to any member of the armed forces of the United States, or to any member of the armed forces of a friendly foreign nation, who has distinguished himself by outstanding meritorious achievement or service.".

Ronald Reagan

THE WHITE HOUSE,
July 2, 1981

[FR Doc. 81-20114
Filed 7-6-81; 2:29 pm]
Billing code 3195-01-M

Rules and Regulations

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 930

Interpretation of the Federal Consistency Term: "Directly Affecting the Coastal Zone"

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

ACTION: Notice of final rulemaking.

SUMMARY: This final rule amends existing regulations to clarify the meaning of the term "directly affecting the coastal zone" in Section 307(c)(1) of the Coastal Zone Management Act of 1972, as amended (CZMA). This amendment conforms to the results of an extensive analysis and interagency process initiated in January 1980, to arrive at an appropriate definition of the specific requirements of Section 307(c)(1) of the CZMA. This amendment provides a definition of federal activities "directly affecting the coastal zone" and includes certain editorial modifications and corrections that conform to the revised definition.

EFFECTIVE DATE: In 1980, the CZMA was amended by Pub. L. 96-464 which provided, in part, that final rules must be submitted to Congress for review. Thereafter, final rules become effective unless, within 60 calendar days of continuous session after submission, both Houses of Congress adopt a concurrent resolution disapproving the final rules. This statutory requirement raises constitutional issues that we are not addressing at this time. We are treating this requirement as a report and wait provision. Therefore, the regulations will not become effective until after this 60-day period has expired. Notification of the effective date will be published in the **Federal Register** at that time. Until these regulations become effective, this rule shall provide guidance for federal agency compliance with Section 307(c)(1) of the CZMA.

FOR FURTHER INFORMATION CONTACT: Dan Hoydysh, Office of Policy, Evaluation and External Relations, Office of Coastal Zone Management, Room 310, Page 1 Building, 2001 Wisconsin Avenue, N.W., Washington, D.C. 20235. Telephone: (202) 634-4245.

SUPPLEMENTARY INFORMATION:

I. Prior Actions in This Rulemaking

A. Final Rule. Final regulations published in the **Federal Register** on June 25, 1979 (44 FR 37142) discussed the term "directly affecting the coastal zone" in light of a U.S. Justice Department opinion, dated April 20, 1979, on that subject, and deleted a previous definition of "directly affecting" in 15 CFR 930 in accordance with that opinion. However, a new definition of the term "directly affecting" was not included in the final rule published on June 25, 1979.

B. Issue Paper on "Directly Affecting". To provide an opportunity for suggesting definitions of the term "directly affecting the coastal zone," NOAA distributed to several hundred interested persons on February 27, 1981, a document entitled "ISSUE PAPER: Section 307(c)(1), Defining the term 'directly affecting' found in Section 307(c)(1) of the Coastal Zone Management Act."

C. Notice of Proposed Rulemaking. On May 14, 1981, NOAA published a Notice of Proposed Rulemaking (46 FR 26658) (NPR) defining "directly affecting the coastal zone" and solicited comments for a 30-day period closing June 15, 1981. Over 70 comments were received and considered from the following commenters: 17 coastal states; 7 federal agencies; 13 local or regional government agencies; 14 industries or trade associations; 13 public interest groups; 2 elected public officials; and 7 private citizens. The major issues raised by the comments and all modifications of the regulations as set out in the NPR are discussed in Section III below.

II. Background

Section 307(c)(1) of the CZMA states that "each federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state coastal management programs."

The existing regulations (published June 25, 1979, 44 FR 37142) implementing the Federal consistency provisions define all the key terms of Section 307(c)(1) except "directly affecting." The legislative history of CZMA does not provide clear guidance as to the intended meaning of the term. Differing opinions as to the meaning of the term "directly affecting the coastal zone" have existed since the CZMA was enacted in October 1972. Federal and state agencies, private and public interest groups, and members of the public have questioned the meaning of the term on numerous occasions.

NOAA consulted extensively with interested parties during development of previous versions of the regulations. Based on these consultations, NOAA performed an analysis of possible interpretations of the term before publication of proposed regulations and again before publication of final regulations on March 13, 1978. Also, before March 1978, the Office of Management and Budget (OMB) provided oversight of an extensive analysis by affected federal agencies of the key terms of Section 307. Then, before the June 25, 1979, revision to the regulations, possible interpretations were again considered by NOAA in light of the April 20, 1979, opinion of the Justice Department. However, the term was left undefined in the June 1979 revision.

In October 1979, the term "directly affecting" was the subject of mediation by the Secretary of Commerce conducted under the provisions of the CZMA. A public hearing on September 7, 1979, and a mediation conference on October 19, 1979, were conducted by the Commerce Department in an attempt to resolve a disagreement between the State of California and the Department of the Interior concerning interpretation of the term as it applied to offshore leasing decisions. In addition to the views presented at the hearing and at the mediation conference by California and the Interior Department, other interested persons, including representatives of several coastal states and industry groups, submitted comments to the Commerce Department.

In January 1980, an interagency agreement regarding the term "directly affecting" resulted from a meeting of federal agencies that were participating in the development of an Administration bill to amend the CZMA. The agreement was that in light of the differing views expressed by the participating agencies, no changes to Section 307(c)(1) would be included in the bill. Instead, it was further agreed that NOAA would issue proposed regulations in the **Federal Register** after thoroughly reviewing the CZMA, its legislative history, and the Department of Justice Opinion of April 20, 1979, considering fully the views of interested federal agencies, and resolving any differences. In addition, the Secretary of Commerce, on February 27, 1980, issued his report on the October 1979, mediation conference indicating that no resolution was reached regarding the disagreement over the term "directly affecting" and that he had requested NOAA to clarify the term by issuing regulations. On March 27, 1980, OMB confirmed the above mentioned conditions of the interagency agreement in a letter to the Secretary of Commerce. On October 17, 1980, the 1980 amendments to the CZMA were enacted without clarifying the definition of "directly affecting" in the statute.

On February 27, 1981, NOAA distributed an issue paper to a large number of interested parties soliciting comments on the need for rulemaking to define "directly affecting," on the economic impact of such rulemaking, in order to conform to the requirements of Executive Order 12291, and on the content of any proposed regulations. The comment period on the issue paper closed April 30, 1981.

The 17 comments received, with few exceptions supported the need for regulations to clarify the definition and the application of "directly affecting." Several commenters noted the potential economic impacts of any proposed rulemaking. Five states specifically referred to the need for an analysis of these economic impacts before rulemaking proceeded. Most of the other comments did not refer to the need for such analysis except one federal agency indicated these impacts would not be major and one comment from the oil and gas industry suggested that no analysis should be undertaken because the effects of such rulemaking would be impossible to predict.

Most of the comments that discussed the content of possible regulations focused on whether prelease activities (tract selection, lease stipulations) of the Department of the Interior's Outer Continental Shelf (OCS) oil and gas leasing program "directly affect" the coastal zone. Six states urged that, if regulations were issued, such prelease activities should be found to have direct effects. Three states did not specifically comment on this issue. Five representatives of the oil and gas industry uniformly agreed that prelease activities do not "directly affect" the coastal zone and should be excluded from the application of this provision. Two federal agencies urged that the definition of directly affecting should limit the application of the provision to federal activities that affect the coastal zone without any "intervening cause." Both agencies indicated that, in general, regulation writing undertaken in preparation for issuance of licenses, permits or grants would not directly affect the coastal zone and the revised rules should reflect this.

In late April and early May 1981, a series of federal interagency meetings was conducted, including one in which 12 agencies participated, to implement the January 1980, interagency agreement and to clarify the term "directly affecting the coastal zone" by deriving a plain meaning, in keeping with the statutory language and legislative history, which would apply to all federal activities subject to Section 307(c)(1). Agreement was reached on the content of a proposed revision to 15 CFR 930 and that proposed revision was published in the NPR on May 14, 1981. (46 FR 26658)

III. Interpretation of the Term "Directly Affecting the Coastal Zone"

This final rule interprets the term "directly affecting the coastal zone" by clarifying that a federal activity directly affects the coastal zone if the Federal agency finds that the conduct of the activity itself produces an identifiable physical alteration in the coastal zone or that the activity initiates a chain of events reasonably certain to result in such alteration, without further required agency approval. "Direct effects" of federal planning decisions, or of decisions made in stages based upon developing information gathered by the agency in the normal course of decisionmaking, do not include those effects of the activity being planned which are identified by the federal agency as uncertain, speculative, remote, or subject to further approval by that same federal agency.

The final rule reflects the consensus view expressed by the federal agencies that participated in the interagency meetings this spring. It also conforms to the Department of Justice Opinion of April 20, 1979, in that it employs a plain meaning of the term, maintains a distinction between "directly affecting" and "affecting," and allows for case-by-case determinations of whether federal activities directly affect the coastal zone.

The final rule focuses the consistency review at the stage in the decision-making process of a federal activity when adequate and precise information is available. It clarifies that consistency is not required for federal planning, lease issuance and regulation writing when those activities in and of themselves have no effects on the coastal zone but rather are preliminary to subsequent approvals of the same federal agency. It also assures that no operational activities with coastal zone effects will be exempt from a consistency review.

Finally, the proposal provides a definitive interpretation that (1) should resolve most of the controversy that has surrounded this term, (2) provides the clear guidance needed by federal agencies performing operational activities so that consistency questions can be resolved on the facts rather than on speculation about possible future actions, (3) promotes appropriate public policy outcomes that are legally sustainable and (4) conforms to the General Requirements of Executive Order 12291.

IV. Summary of Significant Comments on NPR and NOAA's Responses

A. General. Over 70 comments were received from a broad range of interested persons including coastal states, federal, regional and local agencies, industries, public interest groups, elected officials and private citizens. The comments were divided between those who generally supported the proposed regulations (14 industries or trade associations, 6 federal agencies, one regional agency, and one coastal state) and those who opposed them (16 coastal states, 12 local or regional government agencies, 1 federal agency, 13 public interest groups, 2 elected officials, and 7 private citizens).

B. Changes in Response to Comments. Based on submitted comments NOAA is making the following minor changes to the proposed rules:

(1) The term "measurable" has been changed to "identifiable" because the key issue is whether impacts can be identified at the time of review not whether they are susceptible to measurement by some sort of instrument.

(2) Several editorial changes have been made to clarify intent as follows:

(a) In § 930.33 change "remove" to "remote";

(b) In the comment under § 930.33 add "to the extent that the regulations in and of themselves do not require a physical alteration in the coastal zone" after the word "assistance" in (i); change (iii) to read "Outer Continental Shelf oil and gas preleasing and leasing activities undertaken by the Department of the Interior in the normal course of decisionmaking and lease award to the extent that any of these activities do not in and of themselves require a physical alteration in the coastal zone;"

(c) In § 930.37 change the first sentence of (e) to read: "Federal agencies may find that some of their planning activities or activities conducted in stages based upon developing information gathered by the agency in the normal course of decisionmaking, do not directly affect the coastal zone and thus are not required to be consistent with State management programs."

(d) At 44 FR 37150, June 25, 1979, the "Comment" appearing under § 930.51(a) is no longer applicable.

(e) At 44 FR 37154, June 25, 1979, the "Comment" appearing under § 930.71 is no longer applicable.

C. Comments generally supporting the proposed rule. Fourteen commenters representing oil and gas industry interests (American Petroleum Institute; Amoco Production Company; Atlantic Richfield Company; Chevron U.S.A., Inc.; Conoco, Inc., Exxon Company, U.S.A.; Getty Oil Company; Gulf Oil Exploration and Production Company; Shell Oil Company; Standard Oil Company (Indiana); Sunmark Exploration Company; Texaco, U.S.A.; Tricentrol United States, Inc.; and Western Oil and Gas Association), 6 federal agencies (Department of the Interior; Department of Energy; Department of Housing and Urban Development; Department of the Army; the Department of Agriculture; and the Department of Transportation), one coastal state (Rhode Island) and one regional agency (The Port Authority of New York and New Jersey) generally supported the proposed rules as a realistic standard for identifying those activities that directly affect the coastal zone and as a positive step in the responsible development of OCS energy resources. Although these commenters generally approved NOAA's proposed rules several objections were raised. These objections and NOAA's responses are discussed below.

(1) Consistency should not be applied to repair, maintenance and replacement-in-kind activities. In particular, once federal consistency has been certified for a proposed Corps of Engineers maintenance dredging program each discrete dredging operation within that program should not be subjected to federal consistency.

Response: The scope and coverage of each consistency certification is a matter that should be negotiated between the federal agency and the state. Therefore, whether consistency is applied to the entire maintenance program or each individual phase is a matter that must be decided by the state and the federal agency on a case-by-case basis. This flexible approach is authorized by 15 CFR 930.39.

(2) The definition should be amended to read:

> The term directly affecting the coastal zone means that the federal activity itself produces *an immediate* physical alteration in the coastal . . ." (emphasized words added to definition).

Response: NOAA has determined that an activity performed by a federal agency "directly affects" the coastal zone if that activity will result in physical alterations to the coastal zone without any further approvals by the initiating agency. In effect, it is the last formal approval or authorization by an agency that triggers the consistency determination. There is no requirement that the physical alteration in the coastal zone occur immediately after this last final approval or authorization. It is sufficient that final approval or authorization is causally related to the physical alteration.

(3) Section 930.37(e), which provides that federal agencies may (1) give state agencies information regarding federal activities that do not directly affect the coastal zone and (2) seek the views of state agencies with respect to those activties, should be deleted because it will encourage unnecessary delays in federal activities.

Response: NOAA does not agree that Section 930.37(e) will result in unnecessary delays in federal activities. This section allows federal agencies discretion to consult with states without being bound by the states' decisions. Since early consultation when exercised by a federal agency is likely to reduce later conflicts, this provision is more likely to expedite than impede federal decisions.

(4) The comment immediately following Section 930.33 should be included in the body of the rule to highlight NOAA's intent regarding the application of the term.

Response: NOAA believes it is not necessary to include the comment within the body of the rule; the definition and the comment are sufficiently clear to make application of Section 307(c)(1) certain.

D. Comments generally opposed to the proposed rule. Fifty-one commenters representing 16 coastal states (Alaska; California; Florida; Georgia; Maine; Massachusetts; Michigan; Mississippi; New Hampshire; New Jersey; North Carolina; Oregon; Pennsylvania; South Carolina; Washington; and Wisconsin), 12 local or regional governments (Association of Monterey Bay Area Governments; City of Del Mar (California); County of Santa Cruz (California); County of San Mateo (California); New England/New York Coastal Zone Task Force; North Slope Borough (Alaska); San Diego Association of Governments; San Francisco Bay Conservation and Development Commission; South Florida Regional Planning Council; Los Angeles City Attorney; Marin County (California); and San Diego City), 7 private citizens, 13 public interest groups (Coastal States Organization; Defenders of Wildlife; Center for Environmental Education; Friends of the Earth; Marin Conservation League; National League of Cities; National Parks and Conservation Association; National Wildlife Federation; Natural Resources Defense Council, Inc.; Sierra Club; Sierra Club, Mississippi Chapter; Stamford Marine Center; and United Fishermen of Alaska), 1 federal agency (National Marine Fisheries Service, NOAA), and 2 elected public officials generally objected to the proposed rules. The major objections of these commenters and NOAA's responses are presented below.

(1) "Physical alteration" may be narrowly construed to eliminate economic, social, cultural, historic, biological and chemical impacts.

Response: It is NOAA's intent that "physical alteration" be broadly construed to include actual changes, perturbations, or disturbances to physical resources of the coastal zone such as land, water, air, or wildlife. NOAA has determined that the approach focuses consistency determinations on those activities that in fact are most likely to result in management consequences and avoids involvement with economic, social, cultural, and historic impacts that are speculative and remote.

(2) The proposed exemption of OCS preleasing activities is contrary to the legislative history of Section 307(c)(1).

Response: NOAA has determined that neither the language nor the legislative history of Section 307(c)(1) requires that in every case OCS preleasing activities are subject to the consistency process. When Congress did not expressly include prelease activities with Section

307(c)(1) it left the determination of which activities "directly affect" the coastal zone to the discretion of NOAA—the agency with the expertise to make such detailed technical judgments. The proposed definition does not provide a blanket exemption for all OCS preleasing activity. Preleasing activities that authorize or require the lessee to perform an action likely to result in physical alterations in the coastal zone are subject to Section 307(c)(1). For instance, in the 1977 Lease Sale in the Lower Cook Inlet, the Department of the Interior submitted a consistency determination for its imposition of a lease stipulation that would compel certain action by the lessee before any further Department of the Interior action. The regulations would preserve this distinction.

(3) The proposed rules will weaken the protection provided to senstive natural resources.

Response: These regulations will not necessarily weaken coastal protection. States retain the right to review the consistency of federal activites whenever physical alterations will occur in the coastal zone. Therefore, states will continue to excrise effective control over their coastal resources and over federal activities that "directly affect" the coastal zone.

(4) In reversing its long standing policy that OCS preleasing activity is subject to Section 307(c)(1) NOAA has in effect its independent rulemaking authority under the Coastal Zone Management Act to the Department of the Interior.

Response: NOAA has not ceded its decisionmaking responsibility to the Department of the interior (DOI). NOAA has never adopted by rule the policy that all OCS preleasing activities are subject to Section 307(c)(1). NOAA has, however, worked closely with DOI, OMB, and other interested Federal agencies to assure that the proposed definition is consistent with congressional intent and balances the need to coordinate federal activities with state coastal zone management programs and the need to minimize unnecessary restraints on federal activities performed in the national interest.

(5) NOAA's public participation process is inadequate because NOAA stated it did not expect to make any significant changes in the proposed rules.

Response: The proposed definition is the product of over 3 years of intense public and intergovernmental discussion and debate. On February 25, 1981, shortly before publication of the proposed rules, NOAA distributed to a large number of interested parties an issue paper soliciting comments on the substance of a definition of "directly affecting the coastal zone." The comment period on the issue paper closed April 30, 1981. NOAA's statement that it did not expect to make any significant changes in the proposed rules was a candid observation that the extensive debate surrounding the definition of "directly affecting" had already revealed the full spectrum of opinion concerning the meaning of this term. This observation proved to be accurate.

(6) The decision of the District Court for the Central District of California to enjoin temporarily the granting of leases for OCS tracts objected to by the State of California demonstrates that the NPR is erroneous. Therefore, the NPR should be withdrawn and a broader definition, consistent with the court's position, promulgated.

Response: The granting of a preliminary injunction is not a decision on the merits, and therefore the court's decision is not conclusive. NOAA continues to support the definition offered in the NPR.

(7) Preventing consistency review of federal planning activities is bad policy because it could force the states to object to projects after considerable time and money had been invested by private and government entities thereby increasing conflicts, litigation, and wasteful expenditures.

Response: Planning is the process of arriving at a definite proposal for implementation. NOAA has determined that consistency was not intended to apply to federal planning processes that in and of themselves do not result in any physical alteration in the coastal zone. Consistency review during planning is not meaningful because specifications and alternatives are not fully developed and impacts are generally speculative.

In addition, NOAA does not accept the view that the proposed rules will necessarily increase conflicts, costs, and litigation. Clarifying the application of Section 307(c)(1) to federal activities will increase certainty and reduce conflicts because all interested parties will be on notice as to the scope of that section. The oil and gas industry, which could be expected to oppose any proposal that would lead to increased costs, has expressed unanimous and vigorous support for the proposed rules. Furthermore, Section 930.37(e) allows federal agencies the discretion to submit for early state review decisions affecting activities when these activities may influence events that lead to physical alterations in the coastal zone.

(8) The proposed exemption of OCS preleasing activities is contrary to the objectives of the CZMA, to encourage cooperation among federal, state, and local governments in the management of coastal resources, and is contrary to the Administration's policy of encouraging state and local participation in federal decisions that affect state and local interests.

Response: The Administration fully supports increased state and local participation in federal decisions that affect coastal resources. However, this policy must be balanced with the need to move expeditiously to develop the nation's domestic energy resources. The proposed rules do not prevent a state from exercising consistency review with respeot to those OCS development activities that will actually result in coastal zone impacts. They only prevent a state from exercising consistency review over federal activities at a premature and inappropriate stage in the federal decision process.

Section 19 of the OCS Lands Act establishes an alternate framework within which states and local governments may participate in DOI lease sale decisions. This provision allows the Governor of any affected state or executive of any affected local government in such a state to submit recommendations to the Secretary of DOI regarding the size, timing, or location of a proposed lease sale. The Secretary may accept these recommendations if he determines that they provide for a reasonable balance between the national interest and the well-being of the citizens of the affected state. Therefore, state and local governments are provided ample opportunity to participate in federal OCS leasing decisions.

(9) OCS preleasing activities "directly affect" the coastal zone because in large measure they determine the location and nature of OCS impacts and therefore NOAA should adopt a "chain of events" definition of that term.

Response: NOAA does not dispute that OCS leasing may influence or determine to some degree future coastal development patterns. However, to the extent that preleasing does not require the lessee to engage in impact-producing activity, the preleasing process does not result in physical alterations of the coastal zone. Therefore, in general, OCS preleasing does not "directly affect" the coastal zone. To adopt a "chain of events" definition is to ignore that subsequent development activities that may produce actual coastal impacts are subject to DOI control and state review for consistency.

(10) Compliance with E.O. 12291 was improperly waived.

Response: Compliance with E.O. 12291 is subject to the discretion of the Director of the Office of Management and Budget. The requirements of E.O. 12291 were waived for the reasons stated in Section V below.

(11) The proposed weakening of the federal consistency provisions would reduce the incentive for participation in the national coastal zone management program and is part of an Administration effort to undermine the Coastal Zone Management Act, reflected by the reductions in available funding.

Response: The Administration fully supports the principle established by the CZMA that states are the proper entities to manage comprehensively the nation's coastal resources. However, after several years of federal financial support it is appropriate for states to assume a greater share of the costs of this program. The primary incentive for participation in this voluntary program is the enhanced management of each individual state's coastal resources. The proposed rules do not diminish the responsibility of each state to manage its coastline and will not reduce the control states have over impact-producing federal activities. Therefore, NOAA disagree that this regulation will reduce the incentives for states to maintain effective coastal management programs.

V. Regulatory Analysis

NOAA has determined that this final rule is a "major rule" as defined in Section 1 of Executive Order 12291. However, due to the extensive review, analysis and consultation that have already been conducted, the consideration of comments received from the states and other interested parties in response to the issue paper distributed by NOAA on February 27, 1981, and the judgment by NOAA and OMB that these proposed regulations adhere to the General Requirements of Executive Order 12291, the Director of the Office of Management and Budget, under the authority of Section 6(a)(4), has waived the requirements of Section 3 of Executive Order 12291.

Pursuant to Section 4 of Executive Order 12291, NOAA has determined that this final regulation is clearly within the authority delegated by law and is consistent with Congressional intent. This rule is compatible with the plain meaning of the term "directly affecting the coastal zone" found in Section 307(c)(1) of the CZMA and is authorized by Section 317 of the CZMA. Also, NOAA's interpretation is in harmony with the legislative history accompanying the CZMA of 1972 and the subsequent 1976 amendments; the 1980 CZMA amendments were not intended to alter earlier Congressional intent.

Neither the Regulatory Flexibility Act nor the Paperwork Reduction Act apply to these regulations. These regulations define actions required to be taken by federal agencies and have no impact on small entities. The Regulatory Flexibility Act provisions therefore do not apply. The regulations impose no additional paperwork or recordkeeping requirements and therefore the provisions of the Paperwork Reduction Act do not apply.

Dated: June 29, 1981.

Robert W. Knecht,

Acting Assistant Administrator for Coastal Zone Management.

Accordingly, 15 CFR Part 930, subparts C, D and E are amended as follows:

§§ 930.32 and 930.33 [Redesignated as §§ 930.34 and 930.35]

1. Redesignate §§ 930.32 and 930.33 as §§ 930.34 and 930.35 respectively and add the following new §§ 930.32 and 930.33.

§ 930.32 Directly affecting the coastal zone.

The term "federal activity directly affecting the coastal zone" means that the conduct of the federal activity itself produces an identifiable physical alteration in the coastal zone or that the federal activity initiates a chain of events reasonably certain to result in such alteration without further required agency approval.

§ 930.33 Direct effect and direct coastal zone effect.

The terms "direct effect" and "direct coastal zone effect" of a federal activity both mean an identifiable physical alteration in the coastal zone produced by the conduct of the federal activity itself or by a chain of events, initiated by the federal activity, which is reasonably certain to result in such alterations without further required agency approval. Direct effects of federal planning decisions or decisions made in stages based upon developing information gathered by the agency in the normal course of decisionmaking, do not include those effects of the activity being planned which are identified by the federal agency as uncertain, speculative, remote or subject to further required agency approval.

(Comment. Examples of federal activities directly affecting the coastal zone include: (i) construction of a facility on federal land which causes turbidity in the coastal zone; (ii) a Corps of Engineers maintenance dredging program in the coastal zone, (iii) acquisition of land which is part of the coastal zone or enlargment of the coastal zone by disposal of federal lands when the acquisition or disposal action includes a condition requiring an identifiable physical alteration of the land, and (iv) a development project within the coastal zone. Examples of activities which are not federal activities directly affecting the coastal zone include: (i) the issuance of programmatic regulations which govern the application for and the award of licenses, permits or financial assistance to the extent that the regulations in and of themselves do not require a physical alteration in the coastal zone; (ii) the relinquishment of land by a federal agency to the General Services Administration (GSA) for disposition of the disposal of such land as surplus when the disposal action itself has no condition which would require an identifiable physical alteration of the land; (iii) Outer Continental Shelf oil and gas pre-leasing and leasing activities undertaken by the Department of the Interior in the normal course of decisionmaking and lease award to the extent that any of these activities do not in and of themselves require a physical alteration in the coastal zone; and, (iv) promulgation of a general, long-term management plan for a national park or national forest to the extent that the plan contains no specific final details of construction, operational activities or facilities which would produce an identifiable physical alteration in the coastal zone.)

§§ 930.34 through 930.44 [Redesignated as §§ 930.36 through 930.46]

2. Redesignate existing §§ 930.34 through 930.44 as §§930.36 through 930.46, respectively.

§ 930.36 [Amended]

3. In the renumbered § 930.36(b) delete the first two sentences and add the following:

(b) Federal agencies shall make findings as to whether or not their activities directly affect the coastal zone. Federal agencies shall provide state agencies with a consistency determination for each activity found by the federal agency to be a federal activity directly affecting the coastal zone. A consistency determination should be prepared following development of sufficient information to determine reasonably the consistency of the activity with the state's management program.

§ 930.37 [Amended]

4. In renumbered § 930.37 add the following new paragraph (e) to read as follows:

(e) Federal agencies may find that some of their planning activities or

activities conducted in stages based upon developing information gathered by the agency in the normal course of decisionmaking, do not directly affect the coastal zone and thus are not required to be consistent with state management programs. Yet, such activities may influence or structure subsequent federal activities, or subsequent activities subject to federal licenses, permits or assistance, which are likely to be required to be consistent. In such cases, federal agencies may provide the state agency with information concerning such subsequent activities, their associated facilities and the coastal zone effects of the subsequent activities and their associated facilities, and may seek the views of the state agency as to the consistency of such subsequent activities. This consultation may take place in a manner and at such stage(s) in the planning of such activities as the federal agency chooses.

§ 930.39 [Amended]

5. Renumbered § 930.39(b) is amended as follows:

(a) Delete the word "cumulatively" in the first sentence.

(b) Insert the words "the federal agency finds that" after the words "may only be used in situations where" in the second sentence.

(c) Delete the words "do not directly affect" in § 930.39(b) in the second sentence and insert the words "individually have insignificant effects on".

§ 930.40 [Amended]

6. In renumbered § 930.40(a), in the first sentence insert the words "which directly affect the coastal zone and" before the words "which are governed".

§ 930.41 [Amended]

7. In renumbered § 930.41(a), third sentence, delete the words "and their coastal zone effects" and insert the words "the direct coastal zone effects of the activity and its associated facilities."

8. Renumbered § 930.41(b) is amended as follows:

(a) Delete the words "wetlands, beach access impacts" in the second sentence and insert the words "filling wetlands, increasing turbidity, etc."

(b) Delete the word "within" in the third sentence and insert the words "along with".

[FR Doc. 81-20022 Filed 7-7-81; 8:45 a.m.]

BILLING CODE 3510-08-M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 505

[Army Reg. 340-21]

Personal Privacy and Rights of Individuals Regarding Personal Records; Exemptions

AGENCY: Department of the Army.

ACTION: Final rule.

SUMMARY: The Department of the Army is adopting exemptions pertaining to system of records A0709.03DAPE entitled US Military Academy Personnel Cadet Records.

EFFECTIVE DATE: This final rule is effective July 8, 1981.

FOR FURTHER INFORMATION CONTACT: Mrs. Dorothy Karkanen, Department of the Army, The Adjutant General's Office, Washington, DC 20314; telephone: 703/325-6163.

SUPPLEMENTARY INFORMATION: In FR Doc 81-18709 (46 FR 28446), May 27, 1981, the Army proposed to reidentify and retitle exemption rule applying to system of records A0709.03DAPE concerning US Military Academy Personnel Cadet Records. In that no substantive comments were received, the amendments set forth below are adopted.

§ 505.9 of 32 CFR is amended by deleting Exempted Record Systems A0709.03aDAPE and A0709.03bDAPE, and by adding the following Exempted Record System:

§ 505.9 Exemption rules for Army systems of records.

* * * * *

(b)* * *

Exempted Record System

(Specific Exemptions)

ID—A0709.03DAPE.

SYSTEM NAME—U.S. Military Academy Personnel Cadet Records.

EXEMPTION—All portions of this system of records which fall within 5 U.S.C. 552a(k) (5) or (7) are exempt from the following provisions of Title 5 U.S.C. section 552a: (d).

AUTHORITY—5 U.S.C. 552a(k)(5) and (7).

REASONS—It is imperative that the confidential nature of evaluation and investigatory material on candidates, cadets, and graduates, furnished to the United States Military Academy under promise of confidentiality be maintained to insure the candid presentation of information necessary in determinations involving admission to the Military Academy and suitability for commissioned service and future promotion.

* * * * *

July 2, 1981.

M. S. Healy,

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

[FR Doc. 81-20024 Filed 7-7-81; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 13

National Park System Units in Alaska; Correction

AGENCY: National Park Service, Interior.

ACTION: Correction to final rule.

SUMMARY: On June 17, 1981, the National Park Service published final rules for the National Park System units in Alaska (46 FR 31836). A word was inadvertently omitted from § 13.13 of those rules. This notice corrects that omission.

EFFECTIVE DATE: July 8, 1981.

FOR FURTHER INFORMATION CONTACT: John Cook, Alaska Regional Director, National Park Service, 540 West 5th Avenue, Anchorage, Alaska 99501, Telephone: (907) 271-4196.

SUPPLEMENTARY INFORMATION: Final rules for National Park System units in Alaska were published on June 17, 1981. In § 13.13(f) (46 FR 31856) the word "or" was omitted. Section 13.13(f) should read as follows:

§ 13.13 [Amended]

* * * * *

(f) The use of a helicopter in any park area, other than at designated landing areas (see Subpart C regulations for each park area) or pursuant to the terms and conditions of a permit issued by the Superintendent, is prohibited.

G. Ray Arnett,

Assistant Secretary, Fish and Wildlife and Parks.

[FR Doc. 81-19988 Filed 7-7-81; 8:45 am]

BILLING CODE 4310-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-4-FRL 1861-1]

Approval and Promulgation of Implementation Plans; South Carolina: Revisions in Emergency Episode Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency today approves changes which South Carolina has made in its air pollution emergency episode plan to make it compatible with the present National Ambient Air Quality Standards for ozone and to satisfy EPA requirements. This action will be effective on September 8, 1981 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

DATE: This action is effective on September 8, 1981.

ADDRESSES: Copies of the material submitted by South Carolina may be examined during normal business hours at the following locations:

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

Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20005

Air Programs Branch, EPA Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365

South Carolina Department of Health and Environmental Control, Bureau of Air Quality Control, 2600 Bull Street, Columbia, South Carolina 29201.

FOR FURTHER INFORMATION CONTACT: Denise Pack, Air Programs Branch, EPA Region IV, 345 Courtland Street, Atlanta, Georgia 30365, 404/881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION: On September 10, 1980, South Carolina submitted for EPA's approval changes it had made in its emergency episode plan (Regulation 62.3) to make it compatible with the National Ambient Air Quality Standards for Ozone promulgated by EPA on February 8, 1979 (44 FR 8220) and now set forth at 40 CFR 50.9.

The term "oxidants" is changed to "ozone" throughout. The "watch," "alert," and "emergency" levels for ozone apply everywhere and not just in the Metropolitan Charolotte Air Quality Control Region (AQCR). It should be noted that the South Carolina "watch" and "alert" levels correspond respectively to the "alert" and "warning" levels of 40 CFR Part 51, Appendix L. The "watch" level for ozone is changed from 200 $\mu g/m^3$ to 400 $\mu g/m^3$.

Sources in nonattainment counties emitting 100 tons per year of volatile organic compounds (VOCs) are being required by South Carolina to submit written plans explaining how emissions will be curtailed during the different stages of an emergency episode. Additional categories of VOC sources are specified in the emission reduction provisions for each level.

EPA is approving these changes in the South Carolina Emergency Episode Regulations since they meet EPA's requirements for State implementation plans. This is being done without prior proposal because the changes are noncontroversial, have limited impact, and no comments are anticipated. The public should be advised that this action will be effective 60 days from the date of this notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, the approval action will be withdrawn and a subsequent notice will be published before the effective date. The subsequent notice will withdraw the final and begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Pursuant to the provisions of 5 U.S.C. section 605(b) I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities. This action only approves state actions. It imposes no new requirements.

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 would have no significant economic impact.

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

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

Incorporation by reference of the State Implementation Plan of the State of South Carolina was approved by the Director of the Federal Register on July 1, 1980.

(Sec. 110, Clean Air Act, as amended (42 U.S.C. 7410))

Dated: June 30, 1981.

John W. Hernandez,

Acting Administrator.

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

Subpart PP—South Carolina

In § 52.2120, paragraph (c) is amended by adding subparagraph (14) as follows:

§ 52.2120 Identification of plan.

* * * * *

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

* * * * *

(14) Revisions in emergency episode plan, submitted on September 10, 1980, by the South Carolina Department of Health and Environmental Control.

[FR Doc. 19844 Filed 7-7-81; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 123

[SW-3-FRL-1856-8]

Hazardous Waste Management Program; Phase I Interim Authorization for Maryland

AGENCY: Region III, Environmental Protection Agency.

ACTION: Authorization of State hazardous waste programs.

SUMMARY: The State of Maryland has applied for interim authorization of its hazardous waste program under Subtitle C of the Resource Conservation and Recovery Act and EPA guidelines for the approval of State hazardous waste programs (40 CFR Part 123). EPA has determined that the State's program meets all applicable statutory and regulatory requirements and is granting Phase I interim authorization to Maryland to operate a hazardous waste program in lieu of Phase I of the Federal hazardous waste program in its jurisdiction.

EFFECTIVE DATE: July 8, 1981.

FOR FURTHER INFORMATION CONTACT: Robert L. Allen, Chief, Hazardous Materials, Toxics & Pesticides Branch, U.S. EPA, 6th and Walnut Streets, Philadelphia, PA 19106, (215) 597-0980.

SUPPLEMENTAL INFORMATION:

I. Introduction.

Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended, (RCRA) requires EPA to establish a comprehensive Federal program to assure the safe management

of hazardous waste. Once a Federal program is established, EPA is authorized under Section 3006 of RCRA to approve State hazardous waste programs to operate in lieu of the Federal program in their jurisdictions.

Two types of State program approvals are authorized under RCRA. The first, "final authorization", is a permanent approval which may be granted to States whose programs are "equivalent" to and "consistent" with the Federal program and provide adequate enforcement. The second, "interim authorization", is a temporary approval for States which cannot meet the requirements of final authorization but whose programs are "substantially equivalent" to the Federal program. RCRA contemplates that States receiving interim authorization will use the interim authorization period to make the changes in their regulations and statutes necessary to qualify for final authorization.

On May 19, 1980, EPA published the first phase of the Federal hazardous waste program (40 CFR Parts 260–263 and 265) and guidelines for authorizing State hazardous waste programs under Section 3006 (40 CFR Part 123). These guidelines set forth the requirements for interim authorization and the procedures which EPA will follow in acting on State applications for interim authorization. They also provide that EPA will grant interim authorization in two major phases (Phase I and Phase II), corresponding to the two major phases of the Federal Program. The State of Maryland submitted its final application for Phase I interim authorization on November 18, 1980. A notice of public comment period and public hearing was published in the State's major newspapers and was sent to those persons on the State and EPA mailing list at least 30 days prior to the hearing. A **Federal Register** notice announcing the public comment period and the public hearing was published on December 4, 1980 (45 FR 80318) and the public hearing was held on January 8, 1981. The comment period was held open until January 23, 1981.

II. Major Issues.

A. Concerns of the Environmental Protection Agency

The State of Maryland submitted its final application for Phase I interim authorization on November 18, 1980. After reviewing it, EPA identified several areas of concern, namely:

1. Authorization Plan (AP)

The State made no provisions for addressing Federal regulatory changes.

A revision to the AP provided for a semiannual review of EPA's regulations for consideration by the State. The State also added the following provision to its Memorandum of Agreement. "Any provisions of the State's program which require revision because of a modification to 40 CFR Parts 122, 123, 124, 261, 262, 263, 264, 265 or 266 shall be so revised within one year of the date of promulgation of such regulation, unless the State must amend or enact a statute in order to make the required revision in which case such revision shall take place within two (2) years."

The State did not clearly require interstate transporters to comply with cleanup procedures for discharges occurring within Maryland's borders.

Maryland's Attorney General considers COMAR 10.51.01–10 (which includes requirements for cleanup procedures) to apply to interstate transporters. Furthermore, the revised AP explains the State's intentions to clarify this issue with a regulatory amendment.

The State's regulations do not require Maryland generators to notify States where hazardous wastes may have been delivered, when manifests are not returned from the designated facility to the generator.

The State intends to amend its regulations to require generators to contact States where shipments may have been delivered if a manifest is not returned to the generator within a reasonable period of time. Until this regulation change becomes effective, Maryland has agreed, in the MOA, to contact such States itself.

2. Memorandum of Agreement (MOA)

In the development of Maryland's emergency regulations, several problems were identified by EPA regarding organization, content and printing.

The revised MOA explains Maryland's intention to base COMAR 10.51.01–10 on the Federal hazardous waste regulations and commits the State to making necessary corrections as soon as practicable. The State also submitted typographical corrections of COMAR 10.51.01–10 to the *Maryland Register* which were published on May 1, 1981. Additionally, proposed modifications to COMAR 10.51.01–10, to be published in the *Maryland Register*, will address the remaining problem areas identified by EPA.

3. Attorney General's Statement (AGS)

Maryland's inspection power for generators and interstate transporters of hazardous waste might be uncertain in rare instances and EPA encouraged strengthening these powers.

The Attorney General's office has stated that Maryland will draw upon Federal inspection power granted under Section 3007(a) of RCRA, to the extent permitted by law. The State has also agreed in the MOA to notify EPA of any case where entry is denied during an attempt by the State to conduct a compliance inspection, and to voluntarily return the program to EPA if requested to do so.

B. Response to Public Comment

Ten comments were received, six at the hearing and four in writing. Four commentors favored granting Phase I interim authorization, three favored authorization with reservations about specific conditions, and three neither supported nor opposed authorization. All comments received during the comment period have been reviewed and considered.

Two commentors were concerned about the State making timely changes to their hazardous waste program as EPA continues to amend its May 19, 1980 hazardous waste regulations. Their concerns focused on the fact that some of EPA's amendments reduced program requirements for the regulated community, yet the State's regulations did not. One of those commentors was also concerned about being responsible to both EPA and the State who might have different program requirements.

As stated in the revised Memorandum of Agreement, Maryland has committed to adopting Federal regulation changes when necessary within one year, or two years if statutory amendments are needed. Until the appropriate Federal regulation changes are incorporated into the regulations of an authorized State, the State program requirements remain solely effective. According to 40 CFR 123.121(g), a State program may be more stringent than the Federal program and therefore relaxations in the Federal program need not be adopted by the State. Once the State receives Phase I interim authorization, Maryland's program will operate *in lieu* of the Federal program, and any EPA regulation changes in Phase I will not immediately or directly affect Maryland's program or its regulated community.

The State of Maryland will propose its first set of regulatory amendments this summer in response to Federal regulatory amendments promulgated on or before Janaury 16, 1981.

One commentor voiced concern over the existence of two sets of hazardous waste regulations concurrently effective in Maryland, their original program regulations COMAR 08.05.05 and their

emergency regulations COMAR 10.51.01–10.

Maryland proposed to repeal the majority of COMAR 08.05.05 in the May 29, 1981 *Maryland Register*. Maryland did not, however, repeal two sections of COMAR 08.05.05 since these provisions are beyond the scope of the Federal hazardous waste program, and are program components which Maryland desired to retain. Specifically, COMAR 08.05.05.06 A(3) requires permits for closed facilities and COMAR 08.05.05.14 requires certification of transporters. The Attorney General has stated that COMAR 10.51.01–10 supersedes COMAR 08.05.05 until the repeal of COMAR 08.05.05 becomes effective.

III. Decision

EPA has reviewed the State of Maryland's complete application for Phase I interim authorization and determined that the State program is "substantially equivalent" to the Phase I Federal program as defined in 40 CFR Part 123. In accordance with Section 3006(c) of RCRA, the State of Maryland is hereby granted interim authorization to operate a hazardous waste program in lieu of Phase I of the Federal hazardous waste program. The practical effect of this decision is that generators, transporters, and owners and operators of hazardous waste management facilities in Maryland will be subjected to the State of Maryland's hazardous waste management program in lieu of the Phase I Federal hazardous waste management program (40 CFR Parts 260–263 and 265) and will not again be subject to the Phase I Federal program unless (1) the State fails to obtain final authorization by the deadline specified in 3006(c) of RCRA and implementing regulations or (2) authorization is withdrawn for cause by EPA.

IV. Compliance with Executive Order 12291

Under Executive Order 12291, EPA must prepare a Regulatory Impact Analysis on "major rules." A "major rule" is defined as:

> Any regulation that is likely to result in (1) An annual effect on the economy of $100 million or more (2) A major increase in costs or price for consumers, individual industries, Federal, State or local government agencies, or geographic regions, or (3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprise to compete with foreign-based enterprises in domestic or export markets.

EPA's decision to approve Maryland's Phase I hazardous waste program is not a major rule because its effect is to suspend the applicability of certain Federal regulations in the State of Maryland. In the absence of this decision, persons handling hazardous waste in Maryland would have to comply with Parts 260–263 and 265 of Title 40 of the Code of Federal Regulations in addition to all Maryland hazardous waste management regulations. For these reasons, it is virtually inconceivable that this regulation would result in the significant impacts that characterize a "major rule."

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

V. Authority.

This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. sections 6912(a), 6926 and 6974.

Dated: June 29, 1981.

Jack J. Schramm,

Regional Administrator.

[FR Doc. 81-20000 Filed 7-7-81; 8:45 am]

BILLING CODE 6560-38-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6093]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities where the sale of flood insurance, as authorized under the National Flood Insurance Program (NFIP), will be suspended because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATES: The third date ("Susp.") listed in the fifth column.

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

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date subsidized flood insurance is no longer available in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elapsed since identification of the community as having flood prone areas, as shown on the Office of Federal Insurance and Hazard Mitigation's initial flood insurance map of the community. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

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

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

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby, certifies

that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain management thus placing itself in non-compliance of the federal standards required for community participation.

In each entry, a complete chronology of effective dates appears for each listed community.

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

§ 64.6 List of eligible communities.

State and County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date[1]
Texas: Fort Bend	Houston, city of	480296B	Sept. 14, 1973, emergency, Dec. 11, 1979, regular, July 9, 1981, suspended.	Apr. 8, 1977, Dec. 11, 1979	July 9, 1981.
Missouri: Jackson	Unincorporated areas	290492A	June 19, 1974, emergency, Sept. 29, 1978, regular, July 9, 1981, suspended.	Sept. 29, 1978	Do.
Alabama: Limestone	Unincorporated areas	010307B	Sept. 2, 1975, emergency, July 16, 1981, regular, July 16, 1981, suspended.	March 18, 1977	July 16, 1981.
Arkansas: Jefferson	Pine Bluff, city of	050109A	Aug. 13, 1974, emergency, July 16, 1981, regular, July 16, 1981, suspended.	Feb. 18, 1977	Do.
Connecticut:					
New Haven	Cheshire, town of	090074B	Mar. 13, 1975, emergency, July 16, 1981, regular, July 16, 1981, suspended.	Apr. 5, 1974, June 21, 1977	Do.
Hartford	Southington, town of	090037B	July 3, 1975, emergency, July 16, 1981, regular, July 16, 1981, suspended.	May 10, 1974, Oct. 8, 1976	Do.
Illinois:					
McHenry	Richmond, village of	170484B	May 9, 1975, emergency, July 16, 1981, regular, July 16, 1981, suspended.	Apr. 5, 1974, Apr. 9, 1976	Do.
Cook	South Barrington, village of	170161C	Aug. 1, 1975, emergency, July 16, 1981, regular, July 16, 1981, suspended.	Mar. 22, 1974, May 28, 1976, May 19, 1978.	Do.
Kane	South Elgin, village of	170332C	June 13, 1975, emergency, July 16, 1981, regular, July 16, 1981, suspended.	Apr. 5, 1974, Apr. 23, 1976, July 7, 1978.	Do.
Will	Wilmington, city of	170715B	Aug. 7, 1974, emergency, July 16, 1981, regular, July 16, 1981, suspended.	Apr. 12, 1974, Sept. 17, 1976	Do.
Indiana:					
Howard	Unincorporated areas	180414B	Mar. 6, 1975, emergency, July 16, 1981, regular, July 16, 1981, suspended.	July 29, 1977	Do.
Cass	Logansport, city of	180023B	May 1, 1975, emergency, July 16, 1981, regular, July 16, 1981, suspended.	Feb. 1, 1974, June 11, 1976	Do.
Iowa:					
Dubuque	Durango, city of	190119B	Apr. 10, 1974, emergency, July 16, 1981, regular, July 16, 1981, suspended.	Oct. 17, 1978	Do.
Shelby	Irwin, city of	190249A	May 1, 1975, emergency, July 16, 1981, regular, July 16, 1981.	Dec. 20, 1974	Do.
Kentucky:					
Bourbon	Unincorporated areas	210271B	July 31, 1975, emergency, July 16, 1981, regular, July 16, 1981, suspended.	June 24, 1977	Do.
Greenup	Flatwoods, city of	210087B	May 6, 1975, emergency, July 16, 1981, regular, July 16, 1981, suspended.	Feb. 1, 1974, Feb. 27, 1976	Do.
Louisiana: Calcasieu	Vinton, town of	220042B	Feb. 6, 1975, emergency, July 16, 1981, regular, July 16, 1981, suspended.	May 24, 1974, May 21, 1976	Do.
Maryland: Hartford	Aberdeen, town of	240041B	May 22, 1974, emergency, July 16, 1981, regular, July 16, 1981, suspended.	Dec. 6, 1974, June 25, 1976	Do.
Michigan: Inghan	Delhi, charter township of	260068B	Sept. 15, 1975, emergency, July 16, 1981, regular, July 16, 1981, suspended.	July 26, 1974, July 16, 1976	Do.
New York: Niagara	Wheatfield, town of	360513B	July 5, 1973, emergency, July 16, 1981, regular, July 16, 1981, suspended.	Jan. 16, 1974, July 30, 1976	Do.
North Carolina:					
Randolph	Archdale, city of	370273B	May 27, 1975, emergency, July 16, 1981, regular, July 16, 1981, suspended.	June 10, 1977	Do.
Do	Asheboro, city of	370196B	June 12, 1975, emergency, July 16, 1981, regular, July 16, 1981, suspended.	June 15, 1974, Oct. 15, 1976	Do.
Do	Unincorporated areas	370195B	Feb. 3, 1976, emergency, July 16, 1981, regular, July 16, 1981, suspended.	Jan. 3, 1975, Aug. 18, 1978	Do.
Pennsylvania:					
Washington	Allenport, borough of	420845B	Mar. 10, 1975, emergency, July 16, 1981, regular, July 16, 1981, suspended.	June 21, 1974, May 28, 1976	Do.
Delaware	Aston, township of	421602B	Apr. 21, 1975, emergency, July 16, 1981, regular, July 16, 1981, suspended.	Oct. 25, 1974, June 18, 1976	Do.
Luzerne	Avoca, borough of	420597B	Mar. 7, 1975, emergency, July 16, 1981, regular, July 16, 1981, suspended.	July 19, 1974, June 4, 1976	Do.
Fayette	Belle Vernon, borough of	420457B	July 19, 1974, emergency, July 16, 1981, regular, July 16, 1981, suspended.	Jan. 16, 1974, May 21, 1976	Do.
Allegheny	Ben Avon, borough of	420010B	June 2, 1976, emergency, July 16, 1981, regular, July 16, 1981, suspended.	Dec. 28, 1973, June 4, 1976	Do.
Washington	Charleroi, borough of	420850B	Oct. 4, 1974, emergency, July 16, 1981, regular, July 16, 1981, suspended.	Jan. 23, 1974, May 7, 1976	Do.
Adams	East Berlin, borough of	420001B	Nov. 17, 1972, emergency, July 16, 1981, regular, July 16, 1981, suspended.	Mar. 9, 1973, Oct. 22, 1976	Do.
Washington	East Bethlehem, township of	422140B	Mar. 18, 1975, emergency, July 16, 1981, regular, July 16, 1981, suspended.	Aug. 12, 1977	Do.
Chester	East Marlborough, township of	421480A	Mar. 28, 1975, emergency, July 16, 1981, regular, July 16, 1981, suspended.	Jan. 24, 1975	Do.
Beaver	East Rochester, borough of	420106B	Aug. 8, 1978, emergency, July 16, 1981, regular, July 16, 1981, suspended.	Feb. 1, 1974, Apr. 16, 1976	Do.
Washington	Elco, borough of	420852A	Oct. 30, 1974, emergency, July 16, 1981, regular, July 16, 1981, suspended.	Nov. 22, 1974	Do.
Allegheny	Elizabeth, borough of	421263B	Apr. 7, 1976, emergency, July 16, 1981, regular, July 16, 1981, suspended.	Jan. 9, 1974, Apr. 16, 1976	Do.

State and County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date[1]
Do.	Green Tree, borough of	420040B	June 27, 1974, emergency, July 16, 1981, regular, July 16, 1981, suspended.	June 21, 1974, May 14, 1976	Do.
Mercer	Greenville, borough of	420674B	Aug. 23, 1974, emergency, July 16, 1981, regular, July 16, 1981, suspended.	Aug. 23, 1974, Aug. 27, 1976	Do.
Chester	Kennett Square, borough of	420280C	Apr. 21, 1975, emergency, July 16, 1981, regular, July 16, 1981, suspended.	Dec. 28, 1973, May 21, 1976, Nov. 12, 1976.	Do.
Westmoreland	Monessen, city of	420687B	Dec. 5, 1974, emergency, July 16, 1981, regular, July 16, 1981, suspended.	June 21, 1974, June 18, 1976	Do.
Washington	North Charleroi, borough of	422137A	Dec. 13, 1974, emergency, July 16, 1981, regular, July 16, 1981, suspended.	Nov. 1, 1974	Do.
Greene	Rices Landing, borough of	420479B	Dec. 16, 1975, emergency, July 16, 1981, regular, July 16, 1981, suspended.	Nov. 8, 1974, July 9, 1976	Do.
Washington	Speers, borough of	422138A	Nov. 29, 1974, emergency, July 16, 1981, regular, July 16, 1981, suspended.	Nov. 1, 1974	Do.
Do.	Stockdale, borough of	420859B	Sept. 13, 1974, emergency, July 16, 1981, regular, July 16, 1981, suspended.	June 14, 1974, May 7, 1976	Do.
Adams	Straban, township of	421259B	Jan. 13, 1975, emergency, July 16, 1981, regular, July 16, 1981, suspended.	Jan. 3, 1975, Oct. 24, 1975	Do.
Lancaster	Mountville, borough of	420560B	Aug. 5, 1975, emergency, July 16, 1981, regular, July 16, 1981, suspended.	July 19, 1974, May 7, 1976	Do.
South Carolina:					
Spartanburg	Landrum, town of	450215A	Nov. 24, 1975, emergency, July 16, 1981, regular, July 16, 1981, suspended.	Jan. 8, 1974	Do.
Union	Union, city of	450186C	June 19, 1975, emergency, July 16, 1981, regular, July 16, 1981, suspended.	June 28, 1974, May 14, 1976, Dec. 24, 1976	Do.
Wisconsin:					
Outagamie	Kaukauna, city of	550305C	July 22, 1975, emergency, July 16, 1981, regular, July 16, 1981, suspended.	June 28, 1974, Nov. 7, 1975, Feb. 13, 1976	Do.
Do.	Shiocton, village of	550309B	June 10, 1975, emergency, July 16, 1981, regular, July 16, 1981, suspended.	May 31, 1974, July 23, 1976	Do.

[1] Certain Federal assistance no longer available in special flood hazard area.

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

Issued: June 19, 1981.

Richard W. Krimm,

Acting Administrator, Federal Insurance Administration.

[FR Doc. 81-19795 Filed 7-7-81; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

[Docket No. FEMA-6095]

List of Communities With Minimal Flood Hazard Areas for the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the communities, that these communities' Special Flood Hazard Areas are small in size, with minimal flooding problems. Because existing conditions indicate that the area is unlikely to be developed in the foreseeable future, there is no immediate need to use the existing detailed study methodology to determine the base flood elevations for the Special Flood Hazard Areas.

Therefore, the Administrator is converting the communities listed below to the Regular Program of the National Flood Insurance Program (NFIP) without determining base flood elevations.

EFFECTIVE DATE: Date listed in fourth column of List of Communities with Minimal Flood Hazard Areas.

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

SUPPLEMENTARY INFORMATION: In these communities, the full limits of flood insurance coverage are available at actuarial, non-subsidized rates. The rates will vary according to the zone designation of the particular area of the community.

Flood insurance for contents, as well as structures, is available. The maximum coverage available under the Regular Program is significantly greater then that available under the Emergency Program.

Flood insurance coverage for property located in the communities listed can be purchased from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program. The effective date of conversion to the Regular Program will not appear in the Code of Federal Regulations except for the page number of this entry in the **Federal Register.**

The entry reads as follows:

§ 65.7 List of communities with minimal flood hazard areas.

State and county	Community name	Date of conversion to regular program
Maine: Sagadahoc	Town of West Bath	Aug. 21, 1981

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

Issued: June 19, 1981.

Richard W. Krimm,

Acting Administrator, Federal Insurance Administration.

[FR Doc. 81-19809 Filed 7-7-81; 8:45 am]

BILLING CODE 6718-03-M

Proposed Rules

Federal Register
Vol. 46, No. 130
Wednesday, July 8, 1981

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1011

[Docket No. AO-251-A22]

Milk in the Tennessee Valley Marketing Area; Recommended Decision and Opportunity to File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision recommends several changes in the Tennessee Valley Federal milk order. The changes related basically to the performance standards that determine which distribution plants and supply plants qualify under the order as fully regulated pool plants. Other changes pertain to those provisions that determine which persons shall be defined as handlers and producers under the order. The proposed changes, which are based on a public hearing held in March 1980, are necessary to reflect current marketing conditions and to maintain orderly conditions for the marketing of milk in the area.

DATE: Comments are due on or before July 30, 1981.

ADDRESS: Comments (four copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-5443.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Prior documents in this proceeding:

Tennessee Valley Order

Notice of Hearing: Issued February 11, 1980; published February 14, 1980 (45 FR 9942).

Correction: Published February 21, 1980 (45 11503).

Notice of Rescheduled Hearing: Issued February 28, 1980; published March 5, 1980 (45 FR 14218).

Tennessee Valley Order (Reopening) and 28 Other Orders

Notice of Hearing: Issued July 10, 1980; published July 15, 1980 (45 FR 47432).

Supplemental Notice of Hearing: Issued July 21, 1980; published July 25, 1980 (45 FR 49584).

Recommended Decision: Issued February 11, 1981; published February 18, 1981 (46 FR 12709).

Extension of Time: Issued March 9, 1981; published March 12, 1981 (46 FR 16270).

Extension of Time: Issued March 19, 1981; published March 25, 1981 (46 FR 18558).

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Tennessee Valley marketing area.

This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900). Interested parties may file written exceptions to this decision with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250, by July 29, 1981. Four copies of the exceptions should be filed. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendments set forth below are based on the record of a public hearing conducted at Knoxville, Tennessee, on March 20-21, 1980. Notice of such hearing was issued February 11, 1980 (45 FR 9942), and a notice rescheduling the hearing was issued February 28, 1980 (45 FR 14218).

On August 12-14, 1980, pursuant to notices issued July 10, 1980 (45 FR 47432) and July 21, 1980 (45 FR 49584), a hearing was held to consider proposed changes in the procedure for announcing Class II prices under 29 Federal milk orders, including the Tennessee Valley order. That hearing constituted a reopening of the Tennessee Valley hearing that had been held on March 20-21, 1980, pursuant to notices issued February 11, 1980 (45 FR 9942), and February 28, 1980 (45 FR 14218). The issue concerning Class II price announcement procedures considered at the reopened hearing is being dealt with separately from the issues involved in this decision. A recommended decision on the Class II price announcement procedure was issued February 11, 1981 (46 FR 12709).

The material issues on the record of the hearing relate to:

1. Definition of "handler."
2. Performance standards for full regulation of plants and handlers.
   (a) Class I utilization standards.
   (b) Seasonal variations in production and Class I utilization.
   (c) Performance standards for proprietary bulk tank handlers.
   (d) Performance standards for supply plants.
   (e) Performance standards for distributing plants.
3. Definition of "producer milk."
   (a) Producer eligibility for diversion to nonpool plants.
   (b) Other changes in diversion provisions.
4. Seasonal pricing of surplus milk.
5. Conforming changes.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

Background Information [1]

The Tennessee Valley order resulted from a merger of the Appalachian, Chattanooga and Knoxville Federal milk marketing orders. It became effective on October 1, 1976. At that time there were no supply plants on the market.

[1] Official notice is taken of the Deputy Assistant Secretary's decision issued April 23, 1979 (44 FR 24563).

In September of 1977, a supply plant operated by Kraft, Inc., at Greeneville, Tennessee, became a pool plant. At that time Kraft's total supply of producer milk under the order was received at its supply plant and transferred about 80 miles to another handler's pool distributing plant in Knoxville. A number of the producers' farms were located between Greeneville and Knoxville, and some of them were closer to the Knoxville distributing plant than to the Greeneville supply plant. Under order provisions then in effect, such milk nevertheless had to be hauled to the Greeneville supply plant and then be transferred to the Knoxville plant in order for Kraft to be the handler. If the milk moved from such farms directly to the Knoxville plant, Kraft could not be the accountable handler under the order.

Because of this situation, Kraft proposed in mid-1978 that the order be amended to allow a supply plant operator to include milk delivered directly from producers' farms to pool distributing plants as qualifying shipments from such plant. Kraft contended that this change was needed to reduce plant handling and transportation costs for milk pooled by its supply plant.

Dairymen, Inc. (DI), a dairy farmer cooperative whose members supply more than 85 percent of the producer milk on the market, opposed the adoption of the Kraft proposals. The cooperative contended that marketing conditions did not warrant the order changes proposed by Kraft. DI maintained that adoption of the proposals would merely make it easier for Kraft to pool a Grade A milk supply for its nonpool cheese manufacturing plant, which is located on the same premises as the handler's Grade A supply plant. Kraft's Grade A milk supplies in excess of the needs of the Knoxville distributing plant are used to produce cheese at such plant.

On the basis of the hearing, the Department amended the order to provide that a supply plant could qualify as a pool plant on the basis of transfers and diversions from such plant to pool distributing plants. However, diversions could account for no more than one-half of the required shipments. This change allowed Kraft to move milk produced on farms near Knoxville directly to the distributing plant and count such deliveries as qualifying shipments for the supply plant. Soon after the amended order became effective, the cooperative asked the Department to hold another hearing to consider further related amendments to the order.

The proposals considered in this proceeding were submitted by DI. The association's spokesman indicated that the primary purpose of these proposals was to obtain order provisions that would require milk to be more closely associated with the Class I needs of the Tennessee Valley market in order to participate in the marketwide pool. DI contended that since the Agricultural Marketing Agreement Act of 1937 does not specify anything about the grade of milk to be covered by marketing agreements or orders, the Secretary clearly could have included all milk under the Federal order regulatory system. Instead, the Secretary narrowed the focus to only that milk that is suitable for human consumption in fluid form.

The cooperative asserted that throughout the operation of the Federal order program the Secretary has utilized classified pricing primarily for the purpose of obtaining a supply of milk for fluid use. In support of this position, DI pointed to the Department's widely circulated informational brochure entitled "Questions and Answers on Federal Milk Marketing Orders," noting specifically the following quote: "Federal orders are primarily instruments for stabilizing marketing conditions for 'fluid milk' and, for this reason, they apply to milk which is produced under sanitary inspection for sale in fluid form. Such milk is often known as Grade A or milk eligible for fluid use * * *"

DI contended that this statement clearly establishes that Federal milk marketing orders are designed primarily to regulate milk for fluid use. The cooperative this concluded that standards of performance must be established to distinguish between those milk supplies that are primarily associated with the fluid needs of a regulated area and those supplies that do not serve the fluid market to a degree that warrants their sharing in the market's higher priced Class I utilization.

DI insisted that dairy farmers only casually or incidentally associated with the fluid market should not share in the Class I sales of plants serving the marketing area. In the cooperative's view, permitting such dairy farmers to participate in the marketwide pool does not assure that their milk will be available when needed for Class I use. DI stressed that pooling such milk is contrary to the objectives of the Act and reduces the blend price of other Grade A producers who are serving the fluid market.

According to the cooperative, pooling standards should not be so high that they force uneconomic movements of milk normally associated with the market solely for the purpose of qulifying the milk for pooling. At the same time, however, DI called for an appropriate minimum standard to avoid the possibility that milk will share in the market's Class I use even though it is not available to fluid outlets when it is needed there. The cooperative maintained that the establishment of minimum performance requirements to distinguish between those plants substantially engaged in serving the regulated market's fluid needs and those that do not serve the market in a way or to a degree that warrants their sharing (by being included in the pool) in the Class I utilization of the market also is essential to the operation of a marketwide pool. Based on these philosophies, DI submitted the pooling proposals considered in this proceeding.

Kraft's position as presented in its brief was that the DI proposals would erect barriers to pool participation by supply plants and producers who are not members of a cooperative association. In this regard, the handler alleges that the cooperative would prefer to use the Federal order as a means of eliminating alternative milk supplies.

In the brief, Kraft took the position that the order provisions should be such that milk supplies attracted to the regulated area can be marketed in an orderly manner. It was the handler's viewpoint that sharing the burden of surplus milk production, in the form of a lower uniform price, is as much a part of the Federal order program as is the sharing of higher price returns from Class I milk.

Kraft also held that Grade A milk supplies that are both eligible and available for the fluid market should be pooled. In the handler's view, Congress authorized for all milk to participate in the marketwide pool to avoid the disruptive results of surplus milk competing for a fluid outlet. According to Kraft's brief, the result should be an equitable and orderly distribution of the total dollar value of all milk sold in the market among the producers supplying the market.

Kraft noted that in the eastern Tennessee area there are many dairy farmers whose production now is ineligible for fluid milk uses. At the time of the hearing Kraft's cheese plant in Greeneville was receiving non-Grade A milk from about 230 such dairy farms. According to Kraft, some of this milk sooner or later will convert to Grade A, and such milk should be able to participate in the order's marketwide pool with less demonstration of market

association than was proposed by the cooperative.

These basic differences in pooling philosophies are an underlying factor in the consideration of the issues in this proceeding.

1. Definition of "handler." The order should be amended to provide that under certain conditions a proprietary operator of a nonpool manufacturing plant may be a "handler" with respect to milk that it moves directly from producers' farms to pool plants operated by other handlers. The arrangement would be similar to that now provided for a cooperative bulk tank handler. Such handler should be identified as a "proprietary bulk tank handler."

Dairymen, Inc., (DI) proposed that a "supply unit" definition be included in the order to facilitate the efficient handling of bulk tank milk. The proposed provision would establish a means whereby a person (other than a cooperative or a pool plant operator) could be the handler on farm bulk tank milk moved directly from the farm to plants. Under DI's proposal, the unit would be defined as a plant and would have both a Class I utilization standards and a requirement to ship a proportion of its receipts to distributing plants for achieving pool status (performance standards are discussed in a separate issue elsewhere in this decision). The operator of a supply unit under DI's proposal could be any person who controls the movement of the milk included in such unit and who also meets certain other conditions. The unit operator would be required to designate the specific dairy farmers and the haulers assigned to pick up the milk of such farmers, which would make up the unit. No other haulers could haul any of the milk, and no other milk could be commingled with the unit's milk. Also, it was proposed that both the unit operator and the pool plant operator must request in writing that such milk be considered as a receipt of producer milk by the unit operator. The cooperative proposed that such designations and requests be made to the market administrator prior to the beginning of the month.

DI testified that these proposed conditions would be necessary to precisely identify the producers and the handler responsible for the producer milk of the unit. Since unit operators would be responsible for paying producers, DI proposed that such persons be required to demonstrate their ability to pay producers. The determination of a supply unit's ability to pay would be made by the market administrator. Proponent claimed that this condition is needed to assure that producers will be paid for their milk.

The supply unit concept was proposed by DI as part of a package of proposals designed to assure that only a supply of milk needed for the fluid market would be pooled. The cooperative contended that the current order is structured in a way that permits milk to be pooled without demonstrating adequate association with the fluid market and proposed a general "tightening" of certain pooling provisions to correct that situation. At the same time, DI proposed several order changes intended to foster the efficient handling and pooling of milk that has demonstrated the degree of association with the fluid market that DI believes is necessary for participation in the benefits of a marketwide pool.

DI indicated that there is no economic reason for milk to be received at a supply plant under market conditions where the milk supply is produced in an area sufficiently near distributing plants to permit direct farm-to-plant delivery. The cooperative maintained that under such conditions it is costly and inefficient to receive, cool and reload milk at a supply plant for delivery to a pool distributing plant. According to DI, the proposed supply unit provisions would allow the delivery of milk from a designated group of producers to pool distributing plants in a manner that would establish the milk's association with the fluid market and maintain its pool status without requiring the operation of a supply plant.

Kraft supported the "supply unit" concept. The handler agreed that such provisions would provide a useful pooling alternative to handlers and producers who are willing and able to serve the Class I needs of the market. However, Kraft contended that marketing conditions did not justify adoption of DI's proposals, but held that adoption of certain parts of the proposals could result in more efficient handling of producer milk. Kraft also expressed the view that the order should be structured to accommodate the efficient and orderly marketing of Grade A milk that is available for the fluid market.

At the hearing and in its brief, Kraft proposed certain modifications to the cooperative's proposed supply unit provisions. Kraft proposd that haulers and producers be identified to the market administrator prior to their participation in the unit, rather than prior to the beginning of the month, as DI proposed. This would allow changes in producers or haulers to be made during the month. Kraft's modifications would not include a Class I utilization standard for pooling a unit's milk, and would not prohibit the commingling of unit milk with other milk.

Kraft's proposed modifications also would not require a supply unit handler that operates a pool or nonpool plant to satisfy the market administrator of the ability to pay producers. However, such plants would have to be located within an area comprised of the marketing area plus the area within 100 miles of the marketing area boundary (no such limitation was included in DI's proposal). Kraft contended that a plant operator is presumed to be financially responsible, and that it would be reasonable to require assurances from supply unit operators who are not plant operators of their ability to properly pay producers.

The record in this proceeding does not indicate that there are any major marketing problems that need to be resolved. The Tennessee Valley market is a relatively high Class I-use market. The fluid market is adequately supplied, and there is no indication that any plants have experienced dificulties in obtaining milk. Nevertheless, under current conditions, some marketing inefficiencies may occur in connection with the operation of a supply plant for supplying milk to a distributing plant.

Both of the major participants in this proceeding seemed to agree that the order should provide a mechanism for Kraft to be a handler on milk delivered to another handler's plant without requiring unnecessary hauling or handling of such milk in the process. The approach taken in this decision provides an appropriate means to achieve this, while at the same time providing assurance that the fluid needs of the market will have first call on available milk supplies.

Conditions in this market are such that most, if not all, of the milk needed for fluid use can be delivered to bottling plants directly from the farm. It is doubtful that any milk needs to move through a supply plant other than for the purpose of establishing which party is the responsible handler under the order. However, under present order provisions, the only means for a person other than a cooperative association to be a "handler" of "producer milk" is to operate a pool plant.

Thus, it is concluded that overall marketing efficiency may benefit from the adoption of certain provisions that will permit a person to be a handler of producer milk without operating a pool plant, while also assuring that such milk will be available for fluid use when it is needed. Conceptually, the proprietary bulk tank handler provisions adopted

herein will accomplish much of the intent of the proponent cooperative's supply unit proposal, i.e., to facilitate the use of efficient methods of transporting and handling milk to qualify the milk for pooling. Thus, a handler will be able to pool milk without having to construct or modify plant facilities merely to have such facilities qualify as a pool supply plant, and without having to inefficiently transport and receive such milk at a supply plant and then transfer the milk to a distributing plant.

The provisions adopted herein follow a different approach than proposed by DI. Under the proposal, a supply unit meeting certain criteria would have been defined as a pool plant, and the operator would be a "handler" on the basis of being the operator of a pool plant. However, defining a supply unit as a plant would be inconsistent with the order's plant definition. The order defines a "plant" as "the land, buildings, facilities, and equipment constituting a single operating unit or establishment at which milk or milk products (including filled milk) are received, processed or packaged." The approach proposed by DI would have minimized the changes required to incorporate the supply unit concept into other sections of the order, such as those pertaining to the classification of transfers and diversions and the allocation of receipts to utilization. Nevertheless, the more appropriate means of implementing such concept is through the "handler" definition. This approach also is consistent with the provisions under which a cooperative association may be a handler on bulk tank milk.

The proprietary bulk tank handler provisions adopted herein are similar in many respects to the cooperative association bulk tank handler provisions of the order. Under the "supply unit" proposal, qualifying deliveries by the unit would have to move to distributing plants. However, a cooperative bulk tank handler may pool milk by delivery to the "pool plant" of another handler, and thus deliveries only to distributing plants are not required. Accordingly, the proprietary bulk tank handler provision should provide that shipments to "pool plants" of other handlers will count as qualifying shipments for meeting pooling standards. The actual pooling performance standards are discussed under another issue.

A basic question regarding this issue is which persons should be permitted to be identified as a handler fully subject to the terms and provisions of the order. Although the testimony on this issue contemplated allowing a person that did not operate a plant to be a handler, a proprietary bulk tank handler should be limited to a plant operator. A basic concern is whether a handler is able to make the payments that an order requires to be made to producers. At the hearing there was much discussion of the concept of having the market administrator decide whether a prospective handler would be financially responsible. Questions were raised concerning what type of information might be required, reliability of information, and other administrative problems. Nevertheless, no clear guidelines in this regard were established.

While haulers or others could be handlers, plant operators are more likely to have the financial strength to make required payments to producers. Such persons obviously are directly involved in processing milk, are presumed to be financially responsible, and likely would want to develop a regular, dependable milk supply. Moreover, on the basis of the record in this proceeding, it is desirable that the market administrator not make determinations of financial strength for purposes of determining handler eligibility.

Under the present provisions, there is no need for encompassing a pool plant operator within the proprietary bulk tank handler definition. If a pool plant operator that is not a cooperative wishes to supply milk directly from farms to the pool plant of another handler, the order now provides a means of doing so through the diversion provisions. Moreover, it is reasonable to limit proprietary bulk tank handler status to the operator of a nonpool plant where only manufacturing of milk takes place. The major issue in this proceeding concerns whether a nonpool manufacturing plant should be afforded a means of pooling milk without building facilities otherwise not needed and without hauling milk unnecessarily. There is no need to provide bulk tank handler status to other plant operations.

A further consideration arises as to whether there should be any restrictions on where such a nonpool milk manufacturing plant may be located in order for the operator to be a bulk tank handler. DI's proposal provided no such limitation, while Kraft suggested that such a plant should be within an area comprised of the marketing area plus the area within 100 miles of the nearest edge of the marketing area. The Kraft witness stated that any such defined area should include most of the production area for the Tennessee Valley market.

It is reasonable under the present circumstances that such a nonpool milk manufacturing plant be located within an area that includes the marketing area of the Tennessee Valley order plus all the territory within 100 miles of the marketing area boundary. Such an area includes most of the milkshed for this market. It is from within this area that it is most likely that a handler would want to move milk directly from farms to pool distributing plants. Such milk supplies, when not needed for fluid use on weekends or at other times, then most likely would be moved to a nearby manufacturing plant. Thus, the geographic limitation adopted herein is consistent with the marketing situation that would be expected to exist.

Another important element in defining the new handler provision is control of the movements of the milk to be pooled. As adopted herein, a proprietary bulk tank handler must be the person who controls whether the milk moves from the farm to some particular plant or to a different plant. Such person would decide whether the milk was to be moved to a distributing plant for fluid use, or diverted to a nonpool plant. Requiring the handler to exercise control over milk movements is consistent with the cooperative association bulk tank handler provision.

Also, it is reasonable to require that prior to pooling milk in this manner the proprietary bulk tank handler must submit to the market administrator a statement signed by such handler and the operator of the pool plant where the milk will be received specifying that the proprietary bulk tank handler will be the responsible handler for the milk. This will tend to assure that there is a clear understanding on this matter between the parties involved.

There is no need, however, to require that only the milk of designated producers on specified routes which is picked up only by certain haulers be qualified for pooling. Although both DI and Kraft proposed that the market administrator be notified in advance about the designated producers on a supply unit, the reason was primarily for ease of administration. However, it has not been necessary to require prior notification of the market administrator when the cooperative acts as a bulk tank handler and adds a new producer during the month. There appears to be no reason for treating a proprietary bulk tank handler differently in this regard.

Similarly, one feature of the supply unit proposal would have precluded such an operation from commingling Grade A and non-Grade A milk. However, such a provision need not be considered further since the touch-base requirements adopted elsewhere in this decision are adequate to establish producer association with this market

and to demonstrate that the milk is available for the fluid needs of the market.

The producer milk picked up in a bulk tank truck on a form route by proprietrary bulk tank handler could be delivered to a pool plant of another handler or it could be diverted to a nonpool plant. The quantities of milk that could be diverted to a nonpool plant by such a handler would vary seasonally. Specific pool performance standards for this type of operation are discussed elsewhere in this decision.

The order recognizes that a pool plant operator may purchase milk from a cooperative bulk tank handler on the basis of farm weights and butterfat samples or weights and samples taken when the milk is received at the plant. When the milk is purchased on the basis of farm weights and samples, the pool plant operator has a Class III shrinkage allowance of 2 percent of the farm weight for the milk lost in handling and processing. In this case, the cooperative has no shrinkage allowance. However, when the pool plant operator purchases the milk on the basis of plant weights and samples the plant operator has a Class III shrinkage allowance of 1.5 percent, while the bulk tank handler has a shrinkage allowance of .5 percent. These same allowances also should be applicable when a pool plant operator receives milk from a proprietary bulk tank handler.

The pool obligation of a pool plant operator on milk purchased from a cooperative bulk tank handler is the same as for producer milk received directly from the farm of an individual producer. The plant operator must account to the pool for this milk according to the classification assigned to the milk based on the plant's utilization. The pool plant operator in turn settles with the cooperative on the basis on the uniform price for the milk.

The accounting and payment procedure should be different, however, when a pool plant operator purchases milk from a proprietary bulk tank handler. In this case, the milk would be the "producer milk" of the bulk tank handler, and it is the bulk tank handler that must account to the pool for it. This should be done by passing back to the bulk tank handler the classification of the milk assigned at the pool plant. Such milk would be classified on the same basis as transfers and diversions between pool plants. The basis of payment for this milk would be negotiated by the two handlers.

The reason for the difference in treatment accorded the proprietary bulk tank handler is that the Act does not provide for the enforcement of payments between proprietary handlers. Accordingly, the proprietary bulk tank handler must be held as the accountable handler for milk delivered to the pool plant of another handler.

A pool plant operator receiving farm bulk tank milk from a cooperative pays the administrative assessment on such milk. However, if a pool plant operator receives milk from a proprietary bulk tank handler, it is the latter who should be held accountable for paying the administrative assessment on such milk. This is because the proprietary bulk tank handler must be the accountable handler for the milk as described above.

2. *Performance standards for full regulation of plants and handlers.* (a) *Class I utilization standards.*—A DI proposal to impose seasonally varying Class I utilization standards for pooling supply unit operations and supply plants should not be adopted.

The current order specifies a Class I utilization standard for pooling distributing plants only. No such standard is specified for pooling other types of plant operators and handlers.

Along with proposing a supply unit as a means for pooling milk, the cooperative also proposed that certain performance standards apply to such operations, and also to supply plants, to determine whether they qualify for pooling. In this regard, DI proposed that to qualify as a pool plant not less than 60 percent in the months of August through November and January and February and 40 percent in the other months of such operations' milk must be assigned to Class I. Shipping requirements for these operations also were proposed with the same percentages, 60 and 40, to apply in the same months as the Class I utilization standards.

DI contended that a Class I utilization standard is needed to assure that the quantity of milk pooled is more closely associated with the market's fluid milk needs, and maintained that the current order provisions, which allow a pool supply plant's monthly Class I utilization to be as low as 25 percent, are inappropriate for the Tennessee Valley market. The cooperative's spokesman expressed the view that the market's average Class I use is too high to justify such a low level of performance when the objective of the order is to assure an adequate supply of milk for Class I purposes. Otherwise, according to DI, milk intended solely for manufacturing uses can be attached to the pool without being available for the fluid market.

DI offered extensive testimony on why the Federal order program should accommodate in the Tennessee Valley area only the pooling of enough milk to meet the market's Class I needs, including reserves to accommodate daily, weekly, and seasonal variations in supply and demand. DI's contention was that this is what the Act contemplates, and that it indeed has been the Department's policy in that regard.

DI testified that its proposed Class I utilization standard is reasonable because it would allow a supply plant or supply unit to have pool status with a Class I utilization 15 percentage points below the market's average Class I use for the lowest month of the short milk production season (August-November and January and February). During the other months, a supply plant or a unit could maintain pool status with a Class I use of 40 percent. DI noted that the 40 percent standard is about 28 percentage points below the market's average Class I use for the lowest month of the flush season. In the cooperative's view, these monthly minimum Class I requirements on supply plants and units, which would vary seasonally, reasonably demonstrate association with the fluid market without being overly restrictive.

Kraft opposed the imposition of Class I utilization requirements for supply units and supply plants. The handler spokesman testified that the current pooling standards for supply plants were found to be reasonable and appropriate based on marketing conditions in the area. The handler maintained that these standards are adequate to insure the availability of milk at distributing plants. It was claimed that this request for more stringent performance requirements on market suppliers apparently was predicated on the market's customarily high Class I utilization. The Kraft spokesman alleged, however, that the proposal comes at a time when the market's Class I utilization during the months of short milk production in 1979 showed a dramatic decline relative to earlier fall periods. The witness claimed that there have been no changes in marketing conditions which would support more stringent performance requirements for supply units and supply plants than those previously found to be appropriate for supply plants.

Kraft also testified that the application of the proposed minimum level of Class I performance to its pool supply plant would be grossly unfair in comparison to the performance level required of the cooperative in qualifying its producer milk for pooling. Kraft stated that a supply plant's performance level would be less burdensome than a

cooperative's performance level only in the case of supplying a distributing plant that exceeded 80 percent Class I use in the flush months. To highlight the difference in performance levels, the Kraft witness noted that during the months of short milk production at least 60 percent of the producer milk received at its supply plant at Greeneville would have to be classified in Class I to pool the plant, while the cooperative could pool its members' milk on the basis of as little as 36 percent Class I use.

The record provides no basis for concluding that the pooling standards in this market should be substantially tightened by imposing additional Class I utilization standards. In the three years since the present Tennessee Valley order became effective, there has been no indication that milk supplies are being attached to the market solely for manufacturing uses.

Although there have been a number of changes in marketing conditions over those three years, they have not led to the development of milk supplies that far exceed the market's fluid needs. Nor have plants experienced difficulty obtaining adequate milk for fluid uses. One change has been the entry of a supply plant into the market. Also, during that time the cooperative has shifted producers onto and off the market to rearrange its supply patterns as needed. Most recently, another cooperative has begun to supply milk to a distributing plant. Nevertheless, during this period, marketwide Class I utilization on an annual basis has remained quite stable. Moreover, this has occurred under pooling provisions that would accommodate the pooling of far more milk than has yet been pooled. Market data do not indicate that a Class I standard is needed to insure that the market's Class I needs will continue to be adequately supplied. Since the order merger in 1976, the relationship between the market's Class I utilization and total producer milk has changed only moderately. In 1977, 74 percent of the producer milk was used in Class I compared with 76 percent in 1978 and 75 percent in 1979. Producer milk used in Class I during 1979 was up 3.7 percent from 1977 while receipts from producers were up only 2.2 percent over that same period. Even if the market's Class I utilization in the future declined from recent levels, it would not necessarily mean that fluid milk plants would be unable to attract adequate supplies of milk for fluid use.

The Act provides no basis for concluding that a Federal order should restrict the absolute volume of Grade A milk that is pooled. What is intended is to provide regulations to ensure that the market's fluid milk needs will be met under marketing conditions characterized by orderliness and stability. To that end the order provides certain performance standards for identifying plants and producers who participate in meeting those needs for the market to a degree that warrants being included in the marketwide pool. However, those performance standards should not preclude from pool status additional supplies of milk that may in the future become associated with the fluid milk needs of the Tennessee Valley market.

In connection with its proposal to impose a Class I utilization requirement on supply plants and supply units, DI proposed that milk transferred or diverted from a supply plant or supply unit to a pool plant be classified pro rata to the utilization remaining in each class just before assigning utilization to receipts from other pool plants, to overage, and to receipts from producers and cooperative association handlers. This was intended to assure that each such supplier would be assigned a fair share of the plant's Class I use, which would be important because the assignment could affect the pool status of supply plants and supply units under DI's proposal.

Since this decision denies the proposal to impose a Class I utilization requirement on supply plants and proprietary bulk tank handlers, it is not necessary to consider this corollary proposal further.

(b) *Seasonal variations in production and Class I utilization.*—Before discussing the appropriate performance standards for proprietary bulk tank handlers, supply plants, and distributing plants, there is a related matter that must be resolved. The question is the extent of seasonal variations of fluid sales and producer receipts and which months should be specified as generally indicative of the short and flush milk production periods. In that connection, DI proposed that the months of August through November and January and February be recognized as the season when milk production is low relative to the market's fluid needs. The cooperative also proposed that the months of December and March be considered along with the months of April through July as months when milk supplies normally exceed fluid needs. These proposals should be adopted.

Under the present order, the short production season is considered to be August through March. During these months, supply plants must qualify each month and diversions of milk from pool plants to nonpool plants are limited. The flush production season is considered as the months of April through July. Because the milk supply is generally more than adequate to meet fluid milk demands during these months, a supply plant that has qualified for pooling on the basis of shipments during each of the preceding months of August through March is afforded automatic pool plant status in the following months of April through July. Also, the order does not specify a limit on diversions to nonpool plants during these months.

In support of its proposals, DI testified that since the consolidation of three individual orders into the Tennessee Valley order, the level of Class I use of producer milk for the months of August through November and January and February has been at least 74 percent. Thus, in DI's view, these are the months in which milk production is lowest relative to Class I sales.

Kraft supported DI's proposal to consider the months of December and March as part of the flush production season, and urged that August also be included. In support of that position, the handler spokesman stated that most orders include August as a month in which a supply plant is afforded automatic pool plant status if such plant qualified on the basis of shipments in the immediately preceding months of short milk production. In addition, the handler cited market data to indicate that the Class I utilization for August 1977–1979 was about the same as for December and March of the 3-year period.

Market data indicate that the months of August through November and January and February are the months when milk supplies are shortest relative to the fluid needs. On the other hand, the months of March through July and December are the months when milk supplies for this market are more than adequate to meet the fluid demand.

Over a recent 3-year period (August 1977-July 1980),[1] for example, the average monthly Class I utilization of producer milk for the months of August through November and January and February ranged from a high of 81 percent in September to a low of 76 percent in August. In the other six months, the average Class I utilization ranged from a high of 74 percent in March to a low of 68 percent in April.

Class I utilization of producer milk in March 1979 was nearly 79 percent compared to 72 percent in March 1977,

[1] Official notice is taken of the Tennessee Valley Marketing Area Order No. 11 Statistical Summary issued by the Market Administrator for that order for each of the months of March through August 1980.

while the actual pounds of producer milk in Class I was about the same. The difference in the Class I utilization percentages was due to the fact that in March 1977 there were 7 million more pounds of producer milk on the market than in March 1979. The record indicates that unusually severe winters adversely affected milk production for this market in March of 1978 and 1979. Nevertheless, the month of March has a potential for higher milk production during an early spring, and it should be included with the flush production months.

The record indicates that schools are closed during the latter part of December, and thus, considerably more milk must be disposed of for Class III purposes during that time. Even though the market's average Class I utilization for December is not considerably below that for the fall months, plants that have a high proportion of their sales in school milk may find it necessary to handle milk in an uneconomic fashion in order to keep their milk supply pooled if the pooling standards for December are not lowered. For this reason, pooling standards and diversion allowances for December should be the same as during the flush production months.

Even though the market's Class I utilization of producer milk in August is only slightly higher than for March and December, market data show that the Class I utilization of producer milk in August has increased since 1977. For instance, although the percentage of the market's producer milk used in Class I during August 1980 was lower than for August 1979, it was still higher than the percentage for August of 1977. This indicates a trend towards greater Class I demand relative to the milk supply for that month. In addition, the record indicates that toward the end of August handlers generally begin to build their inventories in preparation for school openings later in the month. Accordingly, August should continue to be included with the group of months when milk supplies are shortest relative to the market's Class I utilization.

(c) *Performance standards for proprietary bulk tank handlers.*—A proprietary bulk tank handler should be required to ship to pool plants not less than 60 percent of its receipts from producers during the months of short milk production (August through November and January and February). The shipping requirement for such handlers should be 40 percent in the other months. The amended order also should provide that the Director of the Dairy Division may increase or decrease the performance standard by up to 10 percentage points, if he finds such a revision is warranted.

Under the current order, shipping standards are provided for certain plants to qualify their milk for pooling. For example, a supply plant qualifies as a pool plant if it ships 50 percent or more of its approved receipts from dairy farmers to pool distributing plants in any month.

In addition to the proposed Class I utilization requirement, DI proposed that a monthly minimum shipping standard, which would vary seasonally, apply to a supply unit. As proposed, not less than 60 percent of the unit's producer milk would have to be shipped to pool distributing plants in the months when milk supplies are short relative to the market's fluid needs (August through November and January and February). In the other months (December and March through July), the cooperative proposed that a 40 percent shipping standard be applicable to a supply unit.

DI contended that a shipping requirement for supply units was needed to directly associate such unit with the fluid needs of distributing plants regulated under the Tennessee Valley order. The cooperative claimed that a shipping requirement, in addition to a Class I requirement, is necessary to demonstrate that the supply unit is directly associated with the fluid needs of handlers regulated under this order. DI testified that while the imposition of Class I utilization and shipping requirements on supply units may appear to be dual standards, a supply unit could be pooled without any association with this market if pool qualification were based completely on a Class I utilization requirement. Thus, the cooperative proposed both standards as a basis for pool qualification for supply units.

DI also proposed that the Director of the Dairy Division be permitted to increase or decrease the minimum shipping percentage by up to 10 percentage points if such a revision is warranted. Proponent supported this latter proposal on the basis that it would provide flexibility to meet temporary changes in marketing conditions without requiring a hearing.

Kraft supported DI's proposed year-round shipping requirements. The handler also supported permitting the Director to increase or decrease the minimum shipping percentage by up to 10 percentage points if such a change is found to be warranted.

No one sugguested a different level of shipping standards for supply unit operators. In view of current marketing conditions in the area, the proposed standards appear to be reasonable and appropriate for the proprietary bulk tank handler provisions adopted herein. However, as noted earlier, such shipments may be made to any pool plant, rather than just to distributing plants.

Although the amended order would not specify a shipping requirement as such for proprietary bulk tank handlers, one would be applicable, in effect, by way of the diversion allowance applicable to such handlers. A bulk tank handler may qualify milk for pooling only by delivering it to a pool plant of another handler or diverting it to a nonpool plant. Limiting diversions to nonpool plants to not more than a specified percentage of such handler's total milk supply means, in effect, that the remainder must be delivered to pool plants. For example, if the diversion allowance is 40 percent of the handler's total supply, then 60 percent of the supply must be delivered to pool plants, if the total supply is to be pooled.

The order now requires that all diverted milk must be associated with the pool plant from which it is diverted. Accordingly, when a proprietary bulk tank handler diverts milk from a distributing plant to one or more nonpool plants, such diverted milk would be included in the distributing plant's receipts for the purpose of determining whether the plant qualifies as a pool plant. Thus, all of a proprietary bulk tank handler's producer milk supply would be accounted for as a receipt at the distributing plant. The Class I utilization standard applicable to the distributing plant effectively establishes the maximum amount of milk that may be pooled by the bulk tank handler. Therefore, as adopted herein, a proprietary bulk tank handler could not pool more milk than could be pooled by the operator of the distributing plant for a given level of Class I sales.

For example, if the pooling standard for a distributing plant is 60 percent Class I, and the plant has 3 million pounds of Class I route sales, the total quantity of milk that the pool plant operator can pool is 5,000,000 pounds (3,000,000 ÷ .60 = 5,000,000). Rather than receiving a milk supply from its own producers, the distributing plant could receive a milk supply of 3 million pounds for its Class I use from a bulk tank handler. The latter handler could then divert an additional two million pounds of milk to nonpool plants. In computing whether the distributing plant qualifies for pool status, the milk physically received at the plant and also the milk diverted from the plant would be included as a receipt at the plant.

Since the pooling requirement for the distributing plant is 60 percent Class I, 5 million pounds also is the maximum quantity of milk that the bulk tank handler can pool through this arrangement, based on 3 million pounds of Class I sales, and assuming that the bulk tank handler supplies only the one plant described in the example. In view of the foregoing, the pool and also the producer pay prices are adequately safeguarded against the association by proprietary bulk tank handlers of additional supplies of milk solely for Class III purposes.

Under current order provisions, a cooperative association may qualify a pool balancing plant on the basis of the cooperative's total deliveries of milk to distributing plants in this market. Under these provisions, a plant operated by a cooperative qualifies as a pool plant if at least 60 percent of the cooperative's producer milk is delivered to pool distributing plants. This percentage is applicable to the cooperative each month if it elects to pool a balancing plant. Thus, up to 40 percent of the cooperative's milk supply could be pooled through its balancing plant.

It is reasonable that a proprietary bulk tank handler also be required to deliver a comparable percentage of its milk supply to pool plants during the month to establish a basis for qualifying its remaining milk for pooling. Under the provisions adopted herein, a bulk tank handler would have to deliver at least 60 percent of its producer milk to pool plants in the short milk production months. This is the same percentage that DI must furnish to distributing plants in those months to secure pool status for its balancing plant. Thus, diversions to nonpool plants for such months should not exceed 40 percent of the bulk tank handler's total supply.

A higher diversion allowance (60 percent) would be appropriate for proprietary bulk tank handlers in the spring and summer months when additional milk is produced. In those months a smaller proportion of the handler's receipts from producers would be needed at pool distributing plants if their Class I sales remain relatively constant. Furthermore, some pool distributing plants have a lower Class I utilization when schools are not in session, which includes the December holidays. Accordingly, in the flush production months, and in December, a more liberal diversion allowance (60 percent) is provided.

In order to accommodate unexpected circumstances, the amended order also should provide for a temporary upward or downward adjustment of the diversion allowance for proprietary bulk tank handlers. Such adjustment should be made only if the Director of the Dairy Division determines that additional supplies are needed at pool plants, or to prevent uneconomic shipments of milk to such plants. The maximum adjustment should be limited to 10 percentage points.

Under such an arrangement, the Director would investigate the need for revision, either at the Director's own initiative or at the request of interested persons. If the investigation showed that a revision might be appropriate, the Director would issue a notice stating that a temporary revision of the diversion allowance is being considered and inviting views of interested persons with respect to the proposed revision. After evaluating the information, the Director would then decide whether a temporary revision was warranted.

There is always a possibility that temporary or emergency situations affecting the market's supply-demand conditions could develop for a short time that would warrant a timely adjustment in the diversion allowance applicable to a proprietary bulk tank handler. Absent the discretionary authority to respond, these changes could be accomplished only through an amendment proceeding or by a suspension action. Amendment proceedings normally take considerable time, and suspension actions often are limited in their effects. Inclusion of provisions to temporarily adjust diversion allowances by up to 10 percentage points will provide more flexibility to respond to short-run or emergency marketing situations on a timely basis.

(d) *Performance standards for supply plants.*—The performance standards for pooling a supply plant should be revised to provide seasonally varying monthly shipping requirements and to eliminate automatic pool status in the spring and summer months if pooling standards are met throughout the fall months. Also, the order should provide for temporary adjustments to the shipping requirements when warranted.

As adopted herein, a supply plant that ships at least 60 percent of its receipts from dairy farmers to pool distributing plants in any month of August through November and January and February and 40 percent in any other month, would be a pool plant. Also, the Director of the Dairy Division would have authority to increase or decrease temporarily the shipping percentage by up to 10 percentage points.

Under the current order, a supply plant that ships during the month at least 50 precent of its receipts from dairy farmers to pool distributing plants is a pool plant. Not more than one-half of the required shipments may be made by diversion of milk from the supply plant to distributing plants. Also, a supply plant that qualifies as a pool plant on the basis of shipments during each of the months of Augusat through March automatically qualifies as a pool plant in the following months of April through July, unless the plant operator elects nonpool status for the plant.

DI proposed the same performance standards for supply plants as it proposed for supply units. Specifically, in addition to the proposed Class I utilization standard already discussed, a supply plant would be required to meet a minimum shipping requirement each month to qualify as a pool plant. At least 60 percent of the plant's receipts from dairy farmers in August-November and January and February and 40 percent in the other months would have to be shipped to pool distributing plants. DI also proposed that the Director of the Dairy Division be permitted to increase or decrease the shipping percentage temporarily by up to 10 percentage points if such a change is found to be warranted.

DI supported the proposed performance standards for pooling supply plants on the same basis that it justified such standards for supply units. Also, the cooperative's support for allowing the Director of the Dairy Division to adjust the shipping percentage for supply plants was the same as for providing adjustments to the shipping percentage for supply units. DI's justification for these proposals has already been noted in this decision under the preceding issue.

At the hearing and in its brief, Kraft basically took the position that no change should be made in the current supply plant performance standards. In support of its position, the handler's spokesman maintained that the record does not support adoption of more stringent performance standards. The Kraft witness did, however, favor allowing a supply plant to meet the entire shipping requirement with diverted milk, as DI proposed.

Based on the changes adopted in this decision (60 percent Class I utilization standard for distributing plants and a 60 percent shipping requirement for supply plants in the months of short milk production), the Class I utilization of a pool supply plant's milk would be not less than 36 percent during August-November and January and February. This is the same minimum level of Class I utilization that could be obtained overall by DI under its current mode of handler operations during these months

when distributing plants require a greater proportion of production for fluid use. Thus, supply plants and cooperatives would have the same minimum performance requirements during these months.

Also, under the provisions adopted herein, a proprietary bulk tank handler would be required to deliver 60 percent or more of its producer milk to pool plants in the months of short milk production. DI also must furnish at least 60 percent of its producer milk to pool distributing plants each month to qualify its balancing plant for pooling. Accordingly, it is appropriate to also require a supply plant to deliver a comparable percentage of its receipts from dairy farmers to pool distributing plants during the months when milk supplies are shortest relative to the market's fluid needs.

A lower shipping percentage (40 percent) for supply plants should apply in the spring and summer months when additional milk is produced. In those months, a smaller proportion of the supply plant's receipts from producers would be needed at pool distributing plants if their Class I sales remain relatively constant. Furthermore, Class I utilization declines at some pool distributing plants when schools are not in session, which includes the December holidays. Accordingly, in the flush production months, and in December also, a lower shipping requirement for supply plants is appropriate. Such lower standard also is consistent with other pooling provisions adopted in this decision.

Kraft's spokesman at the hearing opposed the elimination of automatic pooling for supply plants during the flush milk production months. He testified that the Director of the Dairy Division instead should be authorized to require shipments up to the percentage applicable in the qualifying months, if such an increase is warranted. In support of this alternative approach, the Kraft witness recognized that circumstances may arise when a 50 percent shipping requirement for supply plants may be too low to furnish the market's fluid needs, or that such a requirement may be excessive even in the months of short milk production. Thus, Kraft supported permitting the Director of the Dairy Division to adjust the shipping percentage if such a revision is found to be necessary. According to Kraft's spokesman, incorporation of such flexibility into the order would permit prompt regulatory accomodation to changing marketing conditions without imposing permanent burdens that could be unduly restrictive.

Market experience regarding supply plant operations has been limited under the Tennessee Valley order, which became effective in 1976. Since that time, the only supply plant that has been in operation in the market is the Kraft plant at Greeneville. According to the testimony by Kraft's witness, Kraft's arrangements with a distributing plant include ". . . supplying the plant with all of its milk on a year-round basis." The record is absent any indication that there would be no need to make shipments from the Kraft supply plant to the distributing plant during the flush production months. What the record does indicate is that the Kraft milk is not a supply used primarily to supplement local supplies in the fall months when milk supplies are lower relative to fluid needs. Instead, the supply plant milk is associated with the fluid market all year.

On the basis of current conditions in the Tennessee Valley market, it is reasonable to require a supply plant to qualify for pooling by making the required shipments to distributing plants each month. This is a relatively tight market, i.e., supplies generally need to be available for use in the fluid market. The record indicates that year-round pooling standards should not adversely affect the operation of the one supply plant on the market. Moreover, there are definite seasonal variations in the relationship of production to fluid demand. The seasonal pooling standards adopted for supply plants are appropriate to reflect the seasonal needs of the fluid market.

DI also proposed that a supply plant be permitted to qualify its milk based entirely on milk diverted from producers' farms to distributing plants, if its proposed Class I use standard is adopted. According to DI, such a standard would limit the amount of milk that could be pooled through a supply plant, and under such conditions milk should be permitted to move from the farm to distributing plants in the most efficient manner.

As noted earlier, the Class I utilization standard proposed by DI is not adopted in this decision. Since the proposal for qualifying a supply plant entirely by diversons from the supply plant to distributing plants was tied to adoption of such a Class I utilization standard, there is no need to consider the matter further.

The order also should provide for a temporary upward or downward adjustment of the shipping percentages for supply plants if the Director of the Dairy Division determines that additional supplies are needed at distributing plants or to prevent uneconomic shipments of milk to such plants. The adjustment should be limited to 10 percentage points. Under such an arrangement, the Director would investigate the need for revision as already described in the discussion of performance standards for proprietary bulk tank handlers.

There is always a possibility that an emergency situation affecting the market's supply-demand situation could develop for a short time which warrants an immediate adjustment (up or down) in the shipping percentage. Presently, any needed change in the shipping requirement for supply plants can be accomplished only through a time-consuming amendment proceeding or by suspension. Inclusion of provisions to adjust the supply plant shipping percentages temporarily will enhance the ability of the order to deal with short-run emergency situations on a timely basis.

(e) *Performance standards for distributing plants.*—The Class I utilization standard for pooling distributing plants should be changed from 50 percent each month to 60 percent each month of August through November and January and February, and 40 percent in other months. Also, the Director of the Dairy Division should have authority to temporarily increase or decrease the Class I pooling standard for distributing plants by up to 10 percentage points.

DI proposed the same Class I utilization standards for pooling a distributing plant (60 percent or more of the plant's receipts of approved milk in the months of short milk production and 40 percent in the other months) as it proposed for supply plants and supply units.

The cooperative testified that its proposal to seasonally vary Class I utilization requirements for distributing plants would not result in a significant change on an annual average basis from the present 50 percent Class I use standard. In support of the proposal, DI stated that all distributing plants currently regulated by the Tennessee Valley order would have no problem meeting the 60 percent Class I utilization requirements, even on a year-round basis.

Kraft opposed the proposal to increase the Class I utilization requirement for pool distributing plants to 60 percent during the months of short milk production. The handler witness testified that the current 50 percent requirement has proved to be adequate in this market as well as for the dozen or so other orders with even higher Class I use. Kraft also maintained that the fact

that a change would not appear to have any adverse effects is not a valid basis for changing a regulation.

The record evidence clearly shows that the market average Class I utilization has been far above the 50 percent level during 1977–1979. In fact, during the seasonally short production months (August-November and January and February) of those years, the Class I use of handlers's total milk receipts dropped below 70 percent only once, to 69.5 percent, in September 1979. When viewed in terms of producer milk assigned to Class I, the low in the short months was 74.3 percent in August 1977. Increasing to 60 percent in the short production months the Class I performance standard for distributing plants would not cause any such plant now regulated under the order to lose its pool status.

Adopting seasonally varying Class I performance standards for distributing plants will facilitate the use of the proprietary bulk tank handler provisions being adopted in this decision. As indicated earlier, diversion allowances for such handlers would vary seasonally from 40 percent to 60 percent of the handler's total supply of producer milk. However, in the flush production months the 60 percent diversion allowance would not be compatible with the current Class I utilization standard of 50 percent for distributing plants. As noted earlier, the order provisions require that all milk diverted from a distributing plant be included in the plant's receipts in determining whether the plant meets the Class I standard for pool status. Under this arrangement, it is desirable that the Class I pooling standard for distributing plants be the reciprocal of the diversion allowance for a proprietary bulk tank handler so that such a handler can utilize the diverson provisions in the manner intended.

An illustration will help explain this. A likely situation would be where a proprietary bulk tank handler is the sole supplier of milk to a distributing plant that disposes of Class I milk. Under a 50 percent Class I pooling standard for the distributing plant, the maximum amount of milk that could be pooled by the proprietary bulk tank handler would be two times the distributing plant's Class I utilization. That is, the bulk tank handler's diversions to nonpool plants could not exceed an amount equal to the distributing plant's Class I use. Therefore, if the Class I utilization standard is 50 percent, then the effective diversion limit also is 50 percent of the bulk tank handler's total supply. A larger diversion limit, as adopted elsewhere in this decision, would be meaningless in this situation, and a smaller limit would mean that milk surplus to the distributing plant's needs would nevertheless have to be received there and then be transferred, which is an inefficient way to handle milk associated with the fluid market. In this case, a diversion limit of 60 percent for the proprietary bulk tank handler in the flush production months would be meaningless if the Class I standard for the distributing plant is greater than 40 percent. Thus, in order to fully implement the proprietary bulk tank handler provisions, it is desirable to provide a 40 percent Class I pooling standard for distributing plants during March through July, and in December.

The Class I utilization pooling standard for distributing plants should be increased to 60 percent in the other months when production is lowest relative to Class I use. This change is consistent with other changes that are being adopted in this decision to reflect the seasonal variations of production relative to Class I sales in this market. All distributing plants in the Tennessee Valley market have a relatively high Class I utilization of producer milk and this change would not affect their pool plant status under the order under current operating conditions.

As noted earlier in this decision, the Kraft witness suggested at the hearing that the Director be given the authority to temporarily adjust a number of the order provisions related to pooling standards. One such provision mentioned by Kraft is the Class I utilization standard for determining the pool status of distributing plants. Kraft took the position that providing such flexibility was much to be preferred over fixing the Class I standard at a higher rate as DI proposed.

The order should permit the Director to increase or decrease the distributing plant Class I pooling standard by up to 10 percentage points. This would complement the provision discussed earlier that would give the Director the authority to adjust temporarily the diversion allowances applicable to proprietary bulk tank handlers. For example, if an investigation revealed that bulk tank handlers should be able to divert more milk to nonpool plants, the diversion allowance could be increased temporarily by 10 percentage points. In such a case, the Class I standard for distributing plants would need to be adjusted in the opposite direction by a like amount. Otherwise, in the case of a single bulk handler supplying all the needs of one fluid milk plant, it would not be possible for such handler to actually increase diversions to nonpool plants because an increase would lower the distributing plant's Class I percentage to less than that required for pool status. The end result would be that some of the diverted milk would have to be depooled, and the steps taken to resolve the temporary marketing problem could not be effectuated.

Thus, the Director should have the authority to adjust the distributing plant Class I standard in the manner provided with respect to the pooling provisions for proprietary bulk handlers and supply plants. The purpose and general operations of such provisions have been discussed for proprietary bulk tank handlers and it is not necessary to reiterate them here.

3. *Definition of "Producer Milk."* (a) *Producer eligibility for diversion of milk to nonpool plants.*—The order provisions relating to diversions of milk to nonpool plants should require that each producer must deliver to a pool plant six days' production each month of August through February and two days' production each month of March through July for such producer's milk to qualify for pool status when it is diverted to a nonpool plant. Current provisions specify that in each month of August through March at least two days' milk production of a producer must be received at a pool plant during the month to establish that producer's eligibility to be diverted to a nonpool plant on other days of the month. In April through July there is no such "touch-base" requirement, and so a producer's milk may be pooled even though during the month all of it is delivered directly from the farm to one or more nonpool plants.

DI proposed that six days' production be received at pool plants each month of August through February, and two days' production in the other months, to establish diversion eligibility for individual producers. The cooperative's main argument in support of the proposal was that producers should demonstrate a greater degree of association with the fluid milk needs of the market in order to obtain the benefits of pool participation.

Kraft opposed the proposal on the basis that its adoption would be contrary to what Kraft perceives to be the Department's general policy in recent years of relaxing, rather than "tightening," the diversion provisions. Kraft also maintained that the combined effect of several different order provisions is adequate to demonstrate that a producer's milk is associated with the fluid market.

A representative of the Kroger Company, which operates a pool distributing plant at Lynchburg, Virginia, suggested that the touch-base requirement should be 16 days' production for a market with the level of Class I utilization demonstrated under this order.

Elsewhere in this decision are discussions of the appropriate pooling criteria for distributing plants, supply plants and proprietary bulk tank handlers. One of the changes adopted herein would provide monthly performance standards for pooling supply plants, with no provision for automatic pool status during the flush production months. A monthly allowance on diversions to nonpool plants is provided herein for proprietary bulk tank handlers. Distributing plants already must meet monthly performance standards and a cooperative association that wishes to pool a balancing plant must do so also.

It is consistent with such performance standards provided for fully regulated plants and handlers to require that each producer demonstrate each month a bona fide association with the fluid market. The cooperative's proposal is a reasonable means of achieving this. This minimum standard will tend to assure that the milk of individual producers is available to the market for fluid use on a continuous basis, and recognizes that a varying seasonal relationship exists between production and fluid milk demand.

Kraft's witness indicated that a touch-base standard of one day's production would be adequate because some producers fill their tanks each day. Kraft suggested that because such producers have their milk picked up daily, rather than every other day, a one-delivery touch-base requirement would be appropriate.

For some producers the touch-base standard of two-days' production in the flush months would entail two deliveries. However, a one-day standard would result in some producers qualifying with only one-half the performance required of other producers whose milk is picked up every other day. For this reason, the standard for establishing diversion eligibility during March through July should be based on the delivery of two days' production to pool plants rather than one day's production.

A suggestion by Kraft to allow the Director to vary the touch-base requirement temporarily without holding a hearing should not be adopted. This matter was not adequately explored on the record and there is no demonstrated need for such a provision.

(b) *Other changes in diversion provisions.*—Certain additional changes should be made in the provisions that prescribe how much producer milk may be diverted from pool plants to nonpool plants. This first concerns the months in which diversion limitations apply. Presently, diversions are limited during August through March, with no limits during the other months of April through July. However, the months during which the diversion limits apply should be changed to August through November and January and February.

This change, though not specifically proposed, is appropriate in order to maintain diversion provisions that complement the plant and the handler pooling standards. Elsewhere in this decision, seasonally varying pooling provisions are adopted for distributing plants, supply plants, and proprietary bulk tank handlers. These pooling provisions are based on the premise that the months of August through November and January and February are the months in which a greater proportion of the market's supplies is needed for fluid use.

The record indicates that March and December are months when less of the milk produced is needed for fluid use. For example, in December, a supply plant will only have to ship 40 percent of its receipts to distributing plants and a proprietary bulk tank handler will be allowed to divert to nonpool plants up to 60 percent of its milk supply. If more restrictive pooling provisions were maintained for December, handlers might need to receive considerable quantities of milk at pool plants solely to establish its pool status. The milk would then have to be reloaded and shipped to some other outlet for processing. This would be contrary to one of the major thrusts of both this proceeding and the previous one, i.e., eliminating inefficient handling requirements. Accordingly, no diversion limits should be specified for March and December for cooperatives and pool plant operators.

A second change in the diversion provisions is desirable to provide consistency in such provisions. Currently, the limit on diversions is expressed as a percentage of the handler's milk that is physically received at pool plants. However, such a basis for applying a diversion limit is inappropriate for a proprietary bulk tank handler since the diversion limit must be expressed in terms of such handler's total supply of producer milk, i.e., that which is delivered to pool plants plus that which is diverted. Unless a change is made, the diversion limts for a proprietary bulk tank handler would be expressed as a percentage of such handler's total supply of producer milk, while the diversion limits for all other pool handlers would be expressed as a percentage of physical receipts at pool plants.

No purpose would be served by expressing the same type of provision two different ways in the order language. By making concurrent changes in both the percentage figure used and the base to which the percentage is applied, diversion limits for cooperatives and pool plant operators can be made to conform with the diversion provisions adopted for a proprietary bulk tank handler.

This can be achieved by expressing the diversion limits for a pool plant operator or a cooperative as 25 percent of such handler's total supply of producer milk rather than as 33⅓ percent of the handler's milk that is physically received at pool plants. An example will demonstrate that this change in language will not change the actual quantity of milk that a handler can divert.

Assume that a pool plant operator is the handler for 100,000 pounds of producer milk that has been physically received at pool plants during September. Under current order provisions, such handler may divert to nonpool plants an additional amount of milk equal to one-third of that physically received at pool plants. In the example, this would be one-third of 100,000 pounds, or 33,333 pounds. Thus, the handler's total supply of producer milk is 133,333 pounds (100,000 pounds received at pool plants plus 33,333 pounds diverted to nonpool plants). Expressed another way, the maximum limit on diversions to nonpool plants would equal 25 percent of the handler's total supply ($33{,}333 \div 133{,}333 = .25 \times 100 = 25$ percent). The amount of milk that may be diverted to nonpool plants as producer milk thus is the same whether the provision is expressed as one-third of the handler's milk that is physically received at pool plants, or as 25 percent of the handler's total supply.

4. *Seasonal pricing of surplus milk.* A proposal to establish seasonal adjustments to the Class III price should not be adopted.

A Dairymen, Inc., proposal noticed for the hearing would provide seasonally varying adjustments to both the Class II and Class III prices. The rates proposed ranged from minus 20 cents to plus 20 cents per hundredweight. As proposed, Class II and III prices would be lower in the heavy production months of March

through June, and higher in all other months. However, the total annual value of the milk in the pool was intended to be unchanged by the seasonal pricing scheme.

At the hearing, DI modified its proposal to apply seasonal pricing only to milk assigned to Class III uses. The cooperative's witness indicated that Class II products made from milk priced under the Tennessee Valley order must compete with Class II products made from milk priced under other Federal orders. Accordingly, the cooperative modified its pricing proposal to affect only Class III milk.

DI's representative pointed out that the purpose of the proposal was to lessen the losses incurred by those (primarily DI) who handle the bulk of the market's reserve milk supplies during the flush production months. He also noted that the plan would discourage using milk for Class III purposes in the short production months by adding 20 cents per hundredweight to the Class III prices for August through November.

The cooperative's spokesman entered an exhibit providing data on diversions of surplus milk during 1979. This exhibit listed various manufacturing outlets used by the cooperative for surplus milk dispositions, along with the pounds diverted to each plant during each month, the gross and net prices received (adjusted to 3.5 percent butterfat), and the Class III prices under the order. The exhibit was entered to demonstrate that the cooperative's returns from surplus milk in each month except August were less than the value at which the milk must be accounted for at order prices. According to the spokesman, the seasonal pricing proposal would lessen this financial burden that the cooperative incurs in handling the market's surplus milk.

The cooperative's representative also pointed out that actual prices paid in Tennessee for manufacturing grade milk are below the Minnesota-Wisconsin (M-W) series process used as the minimum Class III prices under the order. Thus, although DI negotiates the price they receive for Class III milk moved to manufacturing outlets, such price is often below the order's Class III price.

Another key factor cited by DI is the limited outlets available for surplus milk disposition within the bounds of the Tennessee Valley marketing area. According to the cooperative, much of the milk must be moved to more distant outlets in the flush production months, which increases transportation costs. It is this combination of higher disposal costs and returns below the rate DI is charged under the order that prompted the proposal for seasonal pricing.

In its brief, DI argued that the record evidence supported having only a lower Class III price during the flush months, rather than a system of plus and minus adjustments throughout the year.

Seasonal pricing of Class III milk was opposed by Pet, Inc., a proprietary handler that operates two pool distributing plants. The Pet spokesman claimed that the proposed price adjustments would have added about six cents per hundredweight to the cost of Class III milk utilized by the two plants during the 12-month period ending February 1980. He further clained that Pet already loses money on dispositions of surplus butterfat in cream moved to an ice cream manufacturing plant and another manufacturing plant operated by another division of Pet, Inc. The Pet representative urged that the Department not adopt the cooperative's pricing proposal.

An alternative suggestion offered by a spokesman for the Kroger Company would eliminate location adjustments in pricing diverted milk during the spring flush production months. According to the Kroger witness, the cost of surplus milk disposition under this approach would be shared by all pool participants. As he saw it, the cooperative has two options: (1) Let handlers balance their own supplies and thus bear their own burden of surplus disposition; or (2) Cooperatives must handle the surplus disposition themselves. In either case, he maintained, the cost of such dispositions should be shared.

The record indicates that the disposition of reserve milk supplies is costly to the cooperative under the conditions that exist in this market. However, adopting seasonal adjustments to the Class III price in not the appropriate remedy. Also, suggestions to simply lower Class III prices during the flush production months or to price diverted milk f.o.b. the marketing area during the spring flush likewise should not be adopted.

Under DI's modified proposal, the Class III price would be higher than the Class II price in each of the months of July through January. This would occur because the seasonal plus adjustments would exceed 10 cents per hundredweight, which is the amount of current Class II differential. In four months (August-November) the Class III price would exceed the Class II price by 10 cents per hundredweight. The cooperative's witness recognized that this pricing discrepancy would occur, but he maintained that the low level of net returns for Class III use would still make Class II use preferable, even when the Class II order price would be below the Class III price.

Many of the current orders, or their predecessor orders in the case of merged orders, were amended in 1974 to provide three use-classifications and corollary pricing provisions.[3] One of the orders so amended was the Chattanooga, Tennessee, order, which later was merged with the Knoxville, Tennessee, and Appalachian orders to form (along with a marketing area expansion) the present Tennessee Valley order. The merged order contains the clasification and pricing provisions for Class II and Class III milk that were adopted earlier for the Chattanooga order. The relationship thus established between Class II and Class III prices in the Tennessee Valley order is reflected in the following quotations from the 1974 classification decision:

"The Class II price should be the basic formula price (Minnesota-Wisconsin manufacturing milk price) for the month plus 10 cents. The price under each of the orders for Class III milk should be the basic formula price for the month."

"Class II. Certain uses of producer milk not needed for Class I purposes should be priced at a somewhat higher level than that applicable to milk in the adoptead Class III uses."

"The adopted Class II price (the Minnesota-Wisconsin price plus 10 cents) is a reflection of some of the additional value which producer milk used in cottage cheese has to handlers."

"Pricing Class II milk at this level should permit regulated handlers using producer milk to remain competitive in the marketplace with the unregulated sector in the sale of Class II products. At the same time, such price will reflect the minimum additional value of such high quality producer milk supplied to regulated handlers over the widespread area covered by the 32 marakets at the times and places, and in the quantities needed for the several Class II uses."

These quotations from the decision clearly state that producer milk assigned to Class II uses should be priced at least 10 cents per hundredweight above the Class III price. Thus, any proposal that would change the Class III price level must be considered within the context of the Class II-Class III price relationship that had been found earlier to be appropriate for this market.

This issue was reopened to receive further evidence in a public hearing on advancing the announcement of Class II prices in 29 Federal milk orders. The

[3] Official notice is taken of the Assistant Secretary's decision issued February 19, 1974 (39 FR 9012)

hearing was held at St. Louis, Missiouri, on August 12, 13, and 14, 1980.[4] At the reopended hearing, a question was raised whether cooperatives would supply milk to handlers for Class II use if the Class II price dropped to the same level as the Class III price. The answer by a DI spokesman indicates that supplies might be available for Class II for a short time, but that if such a pricing ralationship between Class II and Class III continued for an extended period of time, that would involve a different situation

In response to a further question, the cooperative's spokesman agreed that a Class II price level below the Class III price plus 10 cents would, in effect, abolish the purpose for having a Class II price differential 10 cents above the Class III level.

In total, the record of this proceeding lacks any compelling basis for deciding that the present pricing relationship between Class II and Class III no longer is appripriate. Seasonal pricing of Class III milk only, as proposed, would substantially alter the intended relationship between Class II and Class III prices, and for this reason the proposal must be denied.

5. *Conforming changes.* The order now excludes from the producer definition any person whose milk is received at or diverted from a supply plant that has automatic pool status in April-July, unless at least 60 days' production from the farm of such person was producer milk during the preceding August through March, or unless the supply plant is a pool plant for the month based on its shipments to pool distributing plants.

One of the changes being adopted in this decision would eliminate the provisions for automatic pooling of a supply plant by specifying year-round shipping standards for pool status. Under that arrangement, the provision described in the preceding paragraph no longer will serve any useful purpose. Accordingly, it is removed so that the order will not contain obsolete language.

In order to fully incorporate into the order the additional handler definition being adopted in this decision, it also is necessary to revise the language in several other sections of the order in addition to specific changes that have already been discussed. Such changes are corollary in nature and do not involve any substantive changes in the order or in the intended application of the order.

One such change concerns the provisions for computing an obligation for a handler operating a partially regulated distributing plant that received milk during the mongh from a proprietary bulk tank handler. For purposes of computing obligations, fluid milk products and bulk fluid cream products received from a pool plant or an other order plant are "* * * allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant * * *" However, the order is silent on the allocation of receipts from a bulk tank handler.

An appropriate means for clarifying the order in this regard is to provide that receipts of milk from a cooperative or proprietary bulk tank handler shall be allocated at the partially regulated plant to the class to which it was assigned for the bulk tank handler pursuant to the provisions for classifying tranfers and diversions. This is consistent with DI's proposed supply unit concept, which would have been defined as a pool plant. If that approach had been followed, no change would be necessary in the current order language concerning partially regulated plants. However, since the supply unit concept has been adopted as a "handler" in this decision, a language modification is needed and has been provided.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties, including Kraft, Inc. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. Kraft requested in its brief that official notice be taken of a Tennessee county outline map indicating for each county the total number of milk producers, the number of Grade A producers, the number of manufacturing milk producers, and the number of the latter who ship milk in cans as of March 15, 1980. The indicated source of the information is the State of Tennessee Department of Agriculture. Kraft notes that a copy of the map was obtained from the market administrator. The Kraft brief also includes reference to the information on the map in support of Kraft's proposed findings and determinations.

This request for official notice is denied because the brief does not indicate the relevance of the map to the issues under consideration.

To the extent that other suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth supplement those that were made when the order was first issued and when it was amended. The previous findings and determinations are hereby ratified and affirmed, except where they may conflict with those set forth below.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The party prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended Marketing Agreement and Order Amending the Order

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Tennessee Valley marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

1. Section 1011.7 is revised to read as follows:

§ 1011.7 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) A plant that is approved by a duly constituted regulatory agency for the processing or packaging of Grade A milk and from which during the month:

[4] Hearing Notice issued July 10, 1980, Docket No. AO-251-A22-R01 (45 FR 47432).

(1) Route disposition, except filled milk, in the marketing area is not less than 10 percent of the total quantity of Grade A fluid milk products, except filled milk, physically received at such plant or diverted therefrom pursuant to § 1011.13; and

(2) The total quantity of fluid milk products, except filled milk, disposed of in Class I is not less than 60 percent in each of the months of August through November and January and February, and 40 percent in each of the other months, of the total quantity of fluid milk products, except filled milk, physically received at such plant or diverted therefrom pursuant to § 1011.13. The applicable percentage in this subparagraph may be increased or decreased up to 10 percentage points by the Director of the Dairy Division if the Director finds such revision is necessary to effect a similar adjustment pursuant to § 1011.13(e)(3). Before making such a finding, the Director shall investigate the need for revision either at the Director's own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the Director shall issue a notice stating that the revision is being considered and invite data, views, and arguments.

(b) A plant, other than a plant described in paragraph (a) of this section, from which fluid milk products, except filled milk, are shipped to pool plants pursuant to paragraph (a) of this section. Such shipments must equal not less than 60 percent in each of the months of August through November and January and February, and 40 perent in each of the other months, of the total quantity of milk approved by a duly constituted regulatory agency for fluid consumption that is received during the month at such plant from dairy farmers (including producer milk diverted from the plant pursuant to § 1011.13 but excluding milk diverted to such plant) and handlers described in § 1011.9 (c) and (d). The operator of such a plant may include milk deverted from such plant to plants described in paragraph (a) of this section as qualifying shipments in meeting up to one-half of the required shipments. The applicable shipping percentage of this paragraph may be increased or decreased up to 10 percentage points by the Director of the Dairy Division if the Director finds such revision is necessary to obtain needed shipments or to prevent uneconomic shipments. Before making such a finding, the Director shall investigate the need for revision either at the Director's own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the Director shall issue a notice stating that the revision is being considered and invite data, views, and arguments.

(c) A plant located in the marketing area that is operated by a cooperative association if pool plant status under this paragraph is requested for such plant by the cooperative association and during the month 60 percent or more of the producer milk of members of such cooperative association, excluding such milk that is received at or diverted from pool plants described in paragraph (b) of this section but including milk delivered by such cooperative as a handler described in § 1011.9(c), is delivered directly from their farms to pool plants described in paragraph (a) of this section or is transferred to such plants as a bulk fluid milk product from the plant of the cooperative association, subject to the following conditions:

(1) The plant does not qualify as a pool plant under paragraph (a) or (b) of this section or under the provisions of another Federal order applicable to a distributing plant or a supply plant; and

(2) The plant is approved by a duly constituted regulatory agency to handle milk for fluid consumption.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A governmental agency plant;

(3) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which there is a greater quantity of route disposition, except filled milk, during the month in such other Federal order marketing area than in this marketing area; and

(4) A plant qualified pursuant to paragraph (b) of this section which also meets the pooling requirements for the month under another Federal order.

2. In § 1011.9, paragraphs (d), (e), and (f) are redesignated as paragraphs (e), (f) and (g) and new paragraph (d) is added to read as follows:

§ 1011.9 Handler.

* * * * *

(d) Any person, except a cooperative association, with respect to milk that it receives for its account from the farm of a producer in a tank truck owned and operated by, or under the control of, such person and which is delivered during the month for the account of such person to the pool plant of another handler or diverted pursuant to § 1011.13, subject to the following conditions:

(1) Such persons (who, if qualified pursuant to this paragraph, shall be known as a "proprietary bulk tank handler") must operate a plant located in an area that includes the marketing area plus the area within 100 miles of the marketing area boundary at which milk is processed only into Class II or Class III products; and

(2) Prior to operating as a handler pursuant to this paragraph, such person must submit to the market administrator a statement signed by the applicant and the operator of the pool to which the milk will be delivered specifying that the applicant will be the responsible handler for the milk;

(e) Any person who operates a partially regulated distributing plant;

(f) A producer-handler; and

(g) Any person who operates an other order plant described in § 1011.7(d).

3. In § 1011.12, paragraph (b)(5) is removed and paragraphs (a)(2), (b)(3) and (b)(4) are revised to read as follows:

§ 1011.12 Producer.

(a) * * *

(2) Received by a handler described in § 1011.9(c) or (d); or * * *

(b) * * *

(3) Any person with respect to milk produced by him that is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1011.44(a)(8)(iii) and the corresponding step of § 1011.44(b); and

(4) Any person with respect to milk produced by him that is reported as diverted to another order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

4. Section 1011.13 is revised to read as follows:

§ 1011.13 Producer milk.

"Producer milk" means the skim milk and butterfat contained in milk of a producer that is:

(a) Received at a pool plant directly from such producer by the operator of the plant, excluding such milk that is diverted from another pool plant;

(b) Receivied by a handler described in § 1011.9(c);

(c) Received by a handler described in § 1011.9(d), excluding milk diverted pursuant to paragraph (e) of this section;

(d) Diverted from a pool plant for the account of the handler operating such plant to another pool plant;

(e) Diverted from a pool plant to a nonpool plant (other than a producer-handler plant) for the account of the handler described in § 1011.9 (a), (b) or (d) subject to the following conditions:

(1) A producer's milk shall be eligible for diversion to a nonpool plant during any month in which such producer's milk is physically received at a pool plant as follows:

(i) In any month of August through February, six days' production; and

(ii) In any month of March through July, two days' production.

(2) During each of the months of August through November and January and February, the total quantity of milk diverted by a cooperative association shall not exceed one-fourth of the producer milk that such cooperative caused that month to be delivered to or diverted from pool plants;

(3) The total quantity of milk diverted by a proprietary bulk tank handler described in § 1011.99(d) shall not exceed 40 percent of the producer milk that such handler caused to be delivered to or diverted from pool plants in each month of August through November and January and February, and 60 percent in each of the other months. The applicable diversion percentage of this subparagraph may be increased or decreased up to 10 percentage points by the Director of the Dairy Division if the Director finds such revision is necessary to obtain needed shipments or to prevent uneconomic shipments. Before making such a finding, the Director shall investigate the need for revision either at the Director's own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the Director shall issue a notice stating that the revision is being considered and invite data, views, and arguments.

(4) A handler described in § 1011.9(a) that is not a cooperative association may divert for its account any milk that is not under the control of a cooperative association or a proprietary bulk tank handler that diverts milk during the month pursuant to paragraph (e) (2) or (3) of this section. The total quantity of milk so diverted shall not exceed one-fourth of the milk that is physically received at or diverted from pool plants as producer milk of such handler in each month of August through November and January and February;

(5) Any milk diverted in excess of the limits prescribed in paragraph (e) (2), (3) or (4) of this section shall not be producer milk. The diverting handler shall designate the dairy farmer deliveries that shall not be producer milk. If the handler fails to make such designation, no milk diverted by such handler pursuant to this paragraph shall be producer milk;

(6) To the extent that it would result in nonpool status for the pool plant from which diverted, milk diverted for the account of a cooperative association or a proprietary bulk tank handler from the pool plant of another handler shall not be producer milk;

(7) The cooperative association or proprietary bulk tank handler shall designate the dairy farmer deliveries that are not producer milk pursuant to paragraph (e)(6) of this section. If the diverting handler fails to make such designation, no milk diverted by such handler shall be producer milk; and

(f) Milk diverted pursuant to paragraph (d) or (e) of this section shall be priced at the location of the plant to which diverted.

5. In § 1011.14, paragraph (a) is revised to read as follows:

§ 1011.14 Other source milk.

* * * * *

(a) Receipts of fluid milk products and bulk products specified in § 1011.40(b)(1) from any source other than producers, handlers described in § 1011.9 (c) and (d) or pool plants;

* * * * *

6. In § 1011.30, paragraphs (a) and (c) are revised to read as follows:

§ 1011.30 Reports of receipts and utilization.

* * * * *

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1011.9(c);

(3) Receipts of milk from handlers described in § 1011.9(d);

(4) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(5) Receipts of other source milk;

(6) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1011.40(b)(1); and

(7) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

* * * * *

(c) Each handler described in § 1011.9 (b), (c), and (d) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

* * * * *

§ 1011.31 [Amended]

7. In paragraph (a) of § 1011.31, the section reference "1011.9 (a), (b), and (c)" is changed to "1011.9 (a), (b), (c), and (d)".

§ 1011.32 [Amended]

8. In paragraph (a) of § 1011.32, the section reference "1011.9 (a), (b) and (c)" is changed to "1011.9 (a), (b), (c), and (d)".

9. In paragraph (b)(2) of § 1011.41, the section reference "1011.9(c)" is changed to "1011.9 (c) and (d)", and paragraph (c) of § 1011.41 is revised to read as follows:

§ 1011.41 Shrinkage.

* * * * *

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1011.9 (b) or (c) or a proprietary bulk tank handler is the handler pursuant to § 1011.9(d), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association or the proprietary bulk tank handler shall be zero.

10. In § 1011.42, the introductory text of paragraph (a) is revised to read as follows:

§ 1011.42 Classification of transfers and diversions.

(a) *Transfers and diversions (including deliveries by a handler described in § 1011.9(d)) to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant or from a handler described in § 1011.9(d) to a pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers or diversions shall be subject to the following conditions:

* * * * *

11. In § 1011.43, paragraphs (a) and (c) are revised to read as follows:

§ 1011.43 General classification rules.

* * * * *

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1011.30 and shall compute separately for each pool plant, for each proprietary bulk tank handler pursuant to § 1011.9(d), and for each cooperative association

with respect to milk for which it is the handler pursuant to § 1011.9 (b) or (c) that was not received at a pool plant, the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1011.40, 1011.41, and 1011.42. The combined pounds of skim milk and butterfat so determined in each class for a handler described in § 1011.9 (b), (c) or (d) shall be such handler's classification of producer milk;

* * * * *

(c) The classification of producer milk of a handler pursuant to § 1011.9 (b), (c), or (d) shall be determined separately from the operations of any pool plant operated by such handler.

12. In § 1011.44, paragraph (a)(7)(vii) is removed and paragraphs (a)(7)(v) and (vi), (a)(8)(ii)(*b*), and (a)(13) are revised to read as follows:

§ 1011.44 Classification of producer milk.

* * * * *

(a) * * *

(7) * * *

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) * * *

(ii) * * *

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1011.9 (c) or (d), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

* * * * *

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant or a handler described in § 1011.9(d) according to the classification of such products pursuant to § 1011.42(a); and

* * * * *

§ 1011.52 [Amended]

13. In paragraph (a) of § 1011.52, the section reference "1011.9(c)" is changed to "1011.9(c) or (d)", and in paragraph (b)(1)(i) the section reference "1011.9(c)" is changed to "1011.9(c) and 9(d)".

14. In § 1011.60, the introductory text and paragraph (d) are revised to read as follows:

§ 1011.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk for each handler described in § 1011.9(a) with respect to each of its pool plants, for each handler described in § 1011.9(b) and (c) with respect to milk that was not received at a pool plant, and for each handler described in § 1011.9(d) as follows:

* * * * *

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1011.44(a)(7)(i) through (iv) and the corresponding step of § 1011.44(b), excluding receipts of bulk fluid cream products from an other order plant;

* * * * *

15. In § 1011.76, paragraphs (a)(2)(i) and (b)(1)(i) are revised to read as follows:

§ 1011.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(2) * * *

(i) As Class I milk from pool plants, handlers pursuant to § 1011.9(b) and (d), and other order plants, except that subtracted under a similar provision of another Federal milk order; and * * *

(b) * * *

(1) * * *

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant, a handler described in § 1011.9(b) or (d), or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant or as classified pursuant to § 1011.42 with respect to receipts from a handler described in § 1011.9(b) or (d);

* * * * *

Signed at Washington, D.C. on July 1, 1981.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 81-19940 Filed 7-7-81; 8:45 am]

BILLING CODE 3410-02-M

Packers and Stockyards Administration

9 CFR Parts 201 and 203

Revised Plan for Review of Existing Regulations and Policy Statements

AGENCY: Packers and Stockyards Administration, U.S. Department of Agriculture.

ACTION: Revision of Plan for Review of Existing Regulations and Policy Statements Pursuant to E.O. 12291 and the Regulatory Flexibility Act.

SUMMARY: Packers and Stockyards Administration proposes to revise its previously published plan for review of all currently effective regulations, policy statements and reporting requirements. A 5-year timetable was originally adopted by the agency. Packers and Stockyards Administration now anticipates accelerating this schedule to provide for complete review in 2 years. The goal of this agency's action is to minimize the regulatory burden on the livestock, meat, and poultry industries while ensuring free and competitive marketing of livestock, meat, and meat products in interstate and foreign commerce.

FOR FURTHER INFORMATION CONTACT: Calvin W. Watkins, Assistant Deputy Administrator, Packers and Stockyards Administration, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447-7063.

SUPPLEMENTARY INFORMATION:

Background

In three previous **Federal Register** publications, Packers and Stockyards Administration announced its plan and progress in its review of currently effective regulations, policy statements, and reporting requirements. In the first such notice printed December 11, 1979 (44 FR 71802), categories for review were established. The existing regulations were divided and listed in three groups: (I) Those regulations which had been reviewed or promulgated since July 1976 and, therefore, were not scheduled for current amendment or revision; (II) those regulations now proposed for deletion; and (III) those regulations suggested for complete review. Comments were solicited, at that time, concerning the placement of individual regulations in each category as well as the specific needs of the industry and the reasons for changes in cagetory III regulations and recordkeeping requirements. Sixty-six comments were received in response to the December request and their contents

were reviewed and published, in summary form, on March 31, 1980 (45 FR 21168). In general, the comments were supportive of the agency's efforts.

It was also at this time, March 1980, that Packers and Stockyards printed its timetable for review anticipating the publication of a specific set of regulations for review every 6 months until all regulations were considered or a total time period of approximately 5 years. Fourteen specific regulations, six policy statements and various report forms were selected for review, and comments were again solicited.

In response to the March request, 21 additional comments were received concerning the specific areas targeted for review, i.e.: (1) Current levels of required bonding; (2) proper maintenance of custodial accounts; (3) packer sales promotion policies; and (4) required annual reporting for market agencies and dealers. The agency's third **Federal Register** publication, dated December 31, 1980 (45 FR 87002), discussed these comments and detailed specific changes in these target areas designed to be responsive to suggestions by the industry, to lessen regulatory burdens on the industry, and to encourage competitive markets within the industry.

Present Activities

The agency has decided to accelerate the regulatory review and reform process which it has already begun. To assist the agency in achieving this end, the Deputy Administrator, Packers and Stockyards, AMS, established an internal task force in January 1981 to review each rule and regulation and to suggest changes thereto which would lessen or eliminate any regulatory burden imposed without restricting the agency's ability to enforce the Packers and Stockyards Act. An interim report of the task force has been prepared and a final report is expected by the Administrator of Packers and Stockyards Administration on August 1, 1981.

Revised Plan

Packers and Stockyards Administration will not follow its previously published plan for regulatory review. Rather, the agency will review all currently effective regulations, policy statements and reporting requirements by the close of fiscal year 1983 (September 30, 1983). As a part of this review, effort will be made to obtain input from the affected industries, State Departments of Agriculture, and other interested persons prior to formal publication of proposals. Proposed changes and deletions will then be published in the **Federal Register** for comments prior to final adoption. Additionally, by September 30, 1981, the agency will publish, pursuant to the requirements of the Regulatory Flexibility Act, a listing of all rules having a significant economic impact on a substantial number of small business entities which will be reviewed during the succeeding 12 months. the proposed regulations published December 31, 1980, in the **Federal Register** will be reconsidered by the agency to incorporate, where appropriate, the recommendations of the task force and comments filed by the industry, and where necessary, such regulations will be republished for comment.

Done at Washington, D.C., this 1st day of July 1981.

James L. Smith,

Acting Administrator, Packers and Stockyards Administration.

[FR Doc. 81-19950 Filed 7-7-81; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 60

Disposal of High-Level Radioactive Wastes in Geologic Repositories

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The NRC is publishing proposed amendments which specify technical criteria for disposal of high-level radioactive wastes (HLW) in geologic respositories. The proposed criteria address siting, design, and performance of a geologic repository, and the design and performance of the package which contains the waste within the geologic repository. Also included are criteria for montoring and testing programs, performance confirmation, quality assurance, and personnel training and certification. The proposed criteria are necessary for the NRC to fulfill its statutory obligations concerning the licensing and regulating of facilities used for the receipt and storage of high-level radioactive waste.

DATE: Comments received after November 5, 1981 will be considered if it is practical to do so, but assurance of consideration cannot be given except for comments received on or before this date.

ADDRESS: Written comments or suggestions on the proposed amendments should be sent to the Secretary of the Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments may be examined in the U.S. Nuclear Regulatory Commission Public Document Room, 1717 H Street NW, Washington, D.C. Comments may also be delivered to Room 1121, 1717 H Street NW, Washington, D.C., between 8:15 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT:

Frank J. Arsenault, Director of the Division of Health, Siting and Waste Management, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone (301) 427–4350.

SUPPLEMENTARY INFORMATION:

Background

On December 6, 1979 the Nuclear Regulatory Commission (Commission or NRC) published for comment proposed procedures for licensing geologic disposal of high-level radioactive wastes. The licensing procedures were published in final form on February 25, 1981 (46 FR 13971). On May 13, 1980 (45 FR 31393) the Commission published for comment an Advance Notice of Proposed Rulemaking (ANPR) concerning technical criteria for regulating disposal of high-level radioactive wastes (HLW) in geologic respositories. Included with the advance notice was a draft of the technical criteria under development by the staff. The public was asked to provide comment on several issues discussed in the advance notice and to reflect on the draft technical criteria in light of that discussion. The comments received were numerous and covered the full range of issues related to the technical criteria. The tecnhical criteria being proposed here are the culumination of a number of drafts, and were developed in light of the comments received on the ANPR. It is the Commissions's belief that the regulation proposed here is one which is both practical for licensing and this notice provides a flexible vehicle for accommodating comments in that it points out alternatives and calls for comment in a number of critical plans. The Commission has prepared an analysis of the comments which explains the changes made from the ANPR, and intends to publish soon the comments and the analysis as a NUREG document. A draft of this NUREG has been placed in the Commission's Public Document Room for review. In addition, the staff has begun a program to develop guidance as to the methods that it regards as satisfactory for demonstrating compliance with the requirements of the proposed rule.

The technical criteria being set forth here as proposed rulemaking are a result of the Commission's further effort in regulating geologic disposal of HLW by the Department of Energy (DOE). The rationale for the performance objectives and the Environmental Impact Assessment supporting this rulemaking are also being published separately and are available free of charge upon written request to Frank Arsenault at the above address. In developing these criteria we have not reexaminated DOE's programmatic choice of disposal technology resulting from its Generic Environmental Impact Statement, inasmuch as the Commission has expressly reserved until a later time possible consideration of matters within the scope of that generic statement (44 FR 70408). Accordingly, the technical criteria apply only to disposal in geologic respositories and do not address other possible or potential disposal methods. Similarly, in that DOE's current plans call for dispoal at sufficient depth to be in the area termed the saturated zone, these criteria were developed for disposal in saturated media. Additional or alternative criteria may need to be developed for regulating disposal in the unsaturated or vadose zone.

Authority

Sections 202 (3) and (4) of the Energy Reorganization Act of 1974, as amended, provide the Commission with licensing and regulatory authority regarding DOE facilities used primarily for the receipt and storage of high-level radioactive wastes resulting from activities licensed under the Atomic Energy Act and certain other long-term HLW storage facilities of DOE. Pursuant to that authority, the Commission is developing criteria appropriate to regulating geologic disposal of HLW by DOE. The requirements and criteria contained in this proposed rule are a result of that effort.

Relation to Generally Applicable Standards for Radiation in the Environment Established by the Environmental Protection Agency

The Environmental Protection Agency (EPA) has the authority and responsibility for setting generally applicable standards for radiation in the environment. It is the responsibility of the NRC to implement those standards in its licensing actions and assure that public health and safety are protected. Although no EPA standard for disposal of HLW yet exists, these proposed technical criteria for regulating geologic disposal of HLW have been developed to be compatible with a generally applicable environmental standard. Specifically, the performance objectives and criteria speak to the functional elements of geologic disposal of HLW and the analyses required to give confidence that these functional elements will perform as intended.

Disruptive Processes and Events

The NRC's implementing regulations assume that licensing decisions will be based, in part, on the results of analysis of the consequences of processes and events which potentially could disrupt a repository. Thus, throughout the criteria are requirements that the design basis take into account processes and events with the potential to disrupt a geologic repository. If the process or event is anticipated, i.e., likely, then the design basis requires barriers which would not fail in a way that would result in the repository not meeting the performance objectives. Anticipated processes and events would include such items as waste/rock interactions that result from emplacement of the wastes or the gradual deterioration of borehole seals. If the process or event is unlikely, then the overall system must still limit the release of radionuclides consistent with the EPA standard as applied to such events. An example of an unlikely event would be reactivation of a fault within the geologic setting which had not exhibited movement since the start of the Quaternary Period. In general, both likely and unlikely processes and events are expected to be site and design specific and would be identified by DOE in its license application.

Multiple Barriers

The proposed technical criteria were developed not only with the understanding that EPA's generally applicable environmental standard would need to be implemented, at least in part, by performing calculations to predict performance, but also with the knowledge that some of those calculations would be complex and uncertain. Natural systems are difficult to characterize and any understanding of the site will have significant limitations and uncertainties. Those properties which pertain to isolation of HLW are difficult to measure and the measurements which are made will be subject to several sources of error and uncertainty. The physical and chemical processes which isolate the wastes are themselves varied and complex. Further, those processes are especially difficult to understand in the area close to the emplaced wastes because that area is physically and chemically disturbed by the heat generated by those wastes.

However, a geologic repository consists of engineered features as well as the natural geologic environment. Any evaluation of repository performance, therefore, will consider the waste form and other engineering factors which are elemental to the performance of the repository as a system. By partitioning the engineered system into two major barriers, the waste package and the underground facility, and establishing performance objectives for each, the Commission has sought to exploit the ability to design the engineered features to meet specific performance objectives as a means of reducing some of the uncertainties in the calculations of overall repository performance.

In addition, the requirements for containment, controlled release rate, and 1,000-year groundwater transit time are three criteria which act independently of the overall repository performance to provide confidence that the wastes will be isolated at least for as long as they are most hazardous.

Containment and Isolation

During the first several hundred years following emplacement of the wastes, both the radiation from and the heat generated by the wastes are attributable mainly to the decay of the shorter-lived nuclides, primarily fission products. At about 1,000 years after emplacement both the radiation from and heat generated by decay of the wastes have diminished by about 3 orders of magnitude. As the decay of the longer-lived nuclides, primarily actinides, begins to dominate, both the radiation from and thermal output of the wastes continue to fall until almost 100,000 to 1,000,000 years after emplacement. By that time both have diminished by about 5 orders of magnitude and both heat and radiation become roughly constant due to the ingrowth of daughter nuclides, primarily Ra-225, Ra-226 and their decay products.

The technical criteria would require the engineered system to be designed so that the wastes are contained within the waste package for the first thousand years following emplacement. Following this period, containment is no longer assumed and the function of the waste package and underground facility is to control the release of radionuclides from the underground facility. By requiring containment during the period when the thermal conditions around the waste packages are most severe, evaluation of repository performance is greatly simplified to considerations of the degree of conservatism in the containment design relative to events

and processes that might affect the performance during the containment period.

Although both the radiation from and heat generated by the decay of the wastes have diminished about 3 orders of magnitude during the containment period, the area surrounding the emplaced wastes will not return to temperatures near those before the wastes were emplaced until after about 10,000 years. As mentioned earlier, the thermal disturbance of the area near the emplaced wastes adds significantly to the uncertainties in the calculation of the transport of the radionuclides through the geologic environment. The technical criteria are intended to compensate for uncertainties by imposing further design requirements on the waste package and underground facility, thereby limiting the source term by controlling the release rate.

Role of the Site

The Commission neither intends nor expects either containment to be lost completely at 1,000 years following emplacement or the engineered system's contribution to the control of the release of wastes to cease abruptly at some later time. However, the Commission recognizes that at some point the design capabilities of the engineered system will be lost and that the geologic setting—the site—must provide the isolation of the wastes from the environment, and has translated this requirement into a performance objective for the geologic setting. The Commission also recognizes that isolation is, in fact, a controlled release to the environment which could span many thousands of years, and that the release of radionuclides and the potential exposures to individuals which could result, should be addressed in the evaluation of a repository. A complement to the evaluation of the effects of design basis processes and events which might disrupt the repository is a projection of how the repository, unperturbed by discrete external events, will evolve through the centuries as a result of the geologic processes operating at the site. Hence, an amendment is being proposed to that portion of Subpart B of 10 CFR Part 60 which describes the contents of the Safety Analysis Report of DOE's application for geologic disposal of HLW which would require DOE to project the expected performance of the proposed geologic repository noting the rates and quantities of expected releases of radionuclides to the accessible environment as a function of time.

Retrievability

The licensing procedures of 10 CFR Part 60 were written assuming that there would be a program of testing and measurement of the thermal, mechanical, and chemical properties of the major engineered barriers to confirm their expected performance. The Commission would like to tie the requirement for retievability of the wastes to the expected time needed to execute the performance confirmation program. However, at present it appears to the Commission that neither the specific nature nor the period needed for execution of the performance confirmation program will be certain until construction of the repository is substantially complete; that is, until the actual licensing to receive wastes at a geologic repository. Hence it is difficult at this time to use the performance confirmation program as a basis for establishing a period of retrievability. Nonetheless, DOE is now making critical decisions regarding the design of geologic repositories which will have a direct effect upon how long the optio to retrieve wastes can be maintained, and upon the difficulty which will be encounted in exercising that option, should that be necessary for protection of public health and safety. Therefore, to provide a suitable objective in this regard, the proposed rule sets forth a requirement that the engineered system be designed so that the option to retrieve the waste can be preserved for up to fifty years following completion of emplacement. Thus, the waste package and the underground facility would be designed so that the period of retrievability would not be the determinant of when the Commission would decide to permit closure of the repository. Rather, the Commission would be assured of the option to let the conduct of the performance confirmation program indicate when it is appropriate to make such a decision. In particular, the Commission is concerned that the thermo-mechanical design of the underground facility be such that access can be maintained until the Commission either decides to permit permanent closure of the repository or to take corrective action, which may include retrieval.

As it is now structured, the rule would require in effect that the repository design be such as to permit retrieval of waste packages for a period of up to 110 years. The components of this total period are as follows: the first waste packages to go in the repository are likely to be in place about thirty years before all wastes are in place; thereafter, a 50-year period is required by the rule; finally, a retrieval schedule is suggested of about the same time as the original construction plus emplacement operations—another 30-odd years. Since it is probably not practical to adjust the retrievability design aspects of the repository according to the order of emplacement of the waste packages, the 110-year requirement will apply to all of the waste. The Commission is particularly interested in comments on the degree to which this requirement will govern the thermal and mechanical design of the repository and on whether some shorter period would be adequate or whether there are other ways than an overall retrievability requirement to preserve options before permanent closure. The Commission does not want to approve construction of a design that will foreclose unnecessarily options for future decisionmakers, but it is also concerend that retrievability requirements not unnecessarily complicate or dominate repository design.

The retrievability requirement does not specify the form in which the wastes are to be retrievable or that wastes are "readily retrievable." The requirement is simply that all the wastes be retrievable during a period equal to the period of construction and emplacement. DOE's plans for retrieval are specifically requested as part of its license application and the practicability of its proposal will be considered by the Commission. Waste may be retrieved upon NRC approval of a DOE application or upon order by NRC, or otherwise, where authorized by DOE's license.

Human Intrusion

Some concern has been raised on the issue of human intrusion into a geologic repository. Human intrusion could conceivably occur either inadvertently or deliberately. Inadvertent intrusion is the accidental breaching of the repository in the course of some activity unrelated to the existence of the repository, e.g., exploration for or development of resources. For inadvertent intrusion to occur, the institutional controls, site markers, public records, and societal memory of the repository's existence must have been ineffective or have ceased to exist. Deliberate or intentional intrusion, on the other hand, assumes a conscious decision to breach the repository; for example, in order to recover the high-level waste itself, or exploit a mineral associated with the site.

Historical evidence indicates that there is substantial continuity of

information transfer over time. There are numerous examples of knowledge, including complex information, being preserved for thousands of years. This has occurred even in the absence of printing and modern information transfer and storage systems. Furthermore, this information transfer has survived disruptive events, such as wars, natural disasters, and dramatic changes in the social and political fabric of societies. The combination of the historical record of information transfer, provisions for a well-marked and extensively documented site location, and the scale and technology of the operation needed to drill deeply enough to penetrate a geologic repository argue strongly that inadvertent intrusion as described above is highly improbable, at least for the first several hundred years during which time the wastes are most hazardous. Selecting a site for a repository which is unattractive with respect to both resource value and scientific interest further adds to the improbability of inadvertent human intrusion. It is also logical to assume that any future generation possessing the technical capability to locate and explore for resources at the depth of a repository would also possess the capability to assess the nature of the material discovered, to mitigate consequences of the breach and to reestablish administrative control over the area if needed. Finally, it is inconsistent to assume the scientific and technical capability to identify and explore an anomalous heat source several hundred meters beneath the Earth's surface and not assume that those exploring would have some idea of either what might be the cause of the anomaly or what steps to take to mitigate any untoward consequence of that exploration.

The above arguments do not apply to the case of deliberate intrusion. The repository itself could be attractive and invite intrusion simply because of the resource potential of the wastes themselves. Intrusion to recover the wastes demands (1) knowledge of the existence and nature of the repository, and (2) effort of the same magnitude as that undertaken to emplace the wastes. Hence intrusion of this sort can only be the result of a conscious, collective societal decision to recover the wastes.

Intrusion for the purpose of sabotage or terrorism has also been mentioned as a possibility. However, due to the nature of geologic disposal, there seems to be very little possibility that terrorists or saboteurs could breach a repository. Breach of the repository would require extensive use of machinery for drilling and excavating over a considerable period of time. It is highly improbable that a terrorist group could accomplish this covertly.

In light of the above, the Commission adopted the position that commonsense dictates that everything that is reasonable be done to discourage people from intruding into the repository. Thus, the proposed technical criteria are written to direct site selection towards selection of sites of little resource value and for which there does not appear to be any attraction for furure societies. Further, the proposed criteria would require reliable documentation of the existence and location of the repository and the nature of the wastes emplaced therein, including marking the site with the most permanent markers practical. However, once the site is selected, marked, and documented, it does no use to argue over whether these measures will be adequate in the future, or to speculate on the virtual infinity of human intrusion scenarios and whether they will or will not result in violation of the EPA standard. Of course, the Commission recognizes that there are alternative approaches to the Human Intrusion question. Accordingly, comment on this and alternative approaches is welcome.

Relation to Other Parts of NRC Regulations

The proposed rule contemplates that DOE activities at a geologic repository operations area may in appropriate cases be licensed under other parts of NRC regulations and would then not be governed by these technical criteria. We note, in this connection, that the scope section of the procedural rule specifically provides that Part 60 shall not apply to any activity licensed under another part. This allows an independent spent fuel storage installation to be licensed under Part 72, even though located at a geologic repository operations area (provided, of course, it is sufficiently separate to be classified as "independent"). Other DOE activities of the geologic repository operations area could be licensed under Parts 30 or 70 if an exemption from Part 60 is determined to be appropriate.

Alternative Approach

In the course of the Commission's deliberation, it becomes evident that in order to have confidence in the ability of a geological repository to contain and isolate the wastes for an extended period of time, the repository must consist of multiple barriers. In view of the uncertainties that attach to reliance on the geologic setting alone, the Commission believes that a repository should consist of two major engineered barriers (waste packages and underground facility) in addition to the natural barrier provided by the geological setting. The Commission is emphasizing these elements to take advantage of the opportunity to attain greater confidence in the isolation of the waste. Having reached these conclusions, the Commission considers next whether or not and to what level of detail the performance criteria for a geological repository should be prescribed. In this regard, the Commission considers the following 3 alternatives:[1]

1. Prescribe a single overall performance standard that must be met. The standard in this case would be the EPA standard;

2. Prescribe minimum performance standards for each of the major elements, in addition to requiring the overall system to meet the EPA standards; and

3. Prescribe detailed numerical criteria on critical enginneering attributes of the repository system.

Alternative 3 is considered overly restrictive on the design flexibility and judged to be inappropriate at this stage of technological development. Therefore, this alternative is quickly eliminated as a viable regulatory approach.

Alternative 1 has as its principal advantage the fact that it provides maximum flexibility in apportioning credit for containment and isolation to the several elements of the repository. It also allows the designer to incorporate and apply new technological developments and knowledge from the site characterization phase to the repository design. Notwithstanding some concern over its practicality in the regulatory framework, the Commission cannot at this time eliminate it from further consideration. The Commission is, therefore, specifically requesting the general public, particularly those from the technical communities, to comment on this point. In addition, the Commission requests commentors espousing this alternative to address specifically ways in which the Commission might find reasonable assurance that the ultimate standards

[1] Detailed discussions on the advantages and disadvantages of each of these alternatives are given in Appendix J to Commission Paper SECY-81-267, April 27, 1981, "Rationale for Performance Objectives and Required Characteristics of the Geologic Setting." This appendix is being published separately and is available without charge on request to the Commission's Public Document Room, 1717 H St. NW, Washington, D.C. 20555.

are met without prescribing standards for the major elements of a repository.

In relation to the first and the third alternatives that are briefly discussed above, Alternative 2 appears to offer a reasonable and practical compromise. In addition to retaining the single overall performance standard in Alternative 1 as the final performance objective, this approach establishes the minimum performance objectives for each of the 3 major barriers of the repository. While this approach limits the repository designer's flexibility, it is clear that meeting these minimum design goals would substantially enhance the Commission's confidence that the final EPA standard will be met. Therefore, the Commission prefers a technical rule established upon this approach.

It should be noted that, in the event that the Commission decides to adopt the Alternate 1 approach in the final rulemaking, portions of the proposed rule (e.g., the section on requirements for the geological setting) would have to be further studied and possibly revised. In addition, it is possible that further public comments would have to be sought.

Major Features of the Proposed Rule

1. *Overall Description.* The proposed technical criteria have been written to address the following: performance objectives and requirements for siting, design and construction of the repository, the waste package, confirmation of repository performance, quality assurance, and the training and certification of personnel. As appropriate, these topics are divided in turn to address separately requirements which apply during construction, waste emplacement, and after permanent closure (decommissioning) of the repository. Although the licensing procedures indicate that there would be separate subparts for siting and design requirements, viz. Subparts E and F, respectively (cf. § 60.31(a)(2)), the NRC now believes that the site and design are so interdependent that such a distinction is artificial and misleading. For example, although the requirement to place the underground facility at a minimum depth of 300 meters is clearly a design requirement, it is manifested as a siting requirement since unless the site has a host rock of sufficient thickness at sufficient depth, the above design requirement cannot be met. Hence the proposed Subpart E to 10 CFR Part 60 contains both site and design requirements.

To enable the Commission to reach a finding as to whether the generally applicable environmental standard for disposal of HLW is met and that public health and safety will be protected, a careful and enhaustive analysis of all the features of the repository will be needed. That analysis necessarily must be both qualitative and quantitative although the analysis can and will be largely quantitative during the period that greatest reliance can be placed upon the engineered system. Thereafter, although the issues of concern, and certainly the physics of a repository itself, do not change, the numerical uncertainties begin to become so large that calulations become a weak indicator of expected repository performance.

In sum, the technical criteria perform two tasks. First they serve to guide DOE in siting, designing, constructing, and operating a repository in such a manner that there can be reasonable confidence that public health and safety will be protected. Second, they serve to guide DOE in those same areas in such a manner that there can be reasonable confidence that the analyses, needed to determine whether public health and safety is protected, can be performed.

2. *Performance Objectives.* The design and operation of the repository are prescribed to be such that during the period that wastes are being emplaced and performance assessed, exposure to workers and releases of radioactivity to the environment must be within limits set by the Commission and the EPA. Further, the repository is to be designed so that the option can be preserved to retrieve the emplaced wastes beginning at anytime up to 50 years following completion of emplacement. Following permanent closure, the repository must perform so that releases are within the limits prescribed by the generally applicable environmental standard which will be set by the EPA. Further, the design of the repository must include a waste package and an underground facility, as well as the site, as barriers to radionuclide migration.

The performance of the engineered system (waste package and underground facility) following permanent closure is specified to require containment of the wastes within the waste package for at least 1000 years following closure, when temperatures in the repository are substantially elevated, and control of the release of nuclides to the geologic environment thereafter.

Transuranic waste (TRU) may be disposed of in a geologic repository. Since transuranic waste does not generate significant amounts of heat, there is no advantage to containment for any specified period. Hence, the requirement for TRU waste is simply a controlled release equivalent to that for HLW, provided they are physically separted from the HLW so that they will not experience a significant increase in temperature.

Although a minimum 1,000-year containment and a maximum one part in 100,000 release rate will satisfy these criteria, the Commission considers it highly desirable that wastes be contained as long thereafter as is reasonably achievable, and that release rates be as far below one part in 100,000 as is reasonably achievable.

3. *Siting Requirements.* Although no specific site suitability or exclusion requirements are given in the criteria, stability and minimum groundwater travel times are specified as required site characteristics. ALARA (as low as reasonably achievable) principles have not been applied to the natural features of a site because they are not amenable to modification once a site is chosen. However, the technical criteria do identify site characteristics considered favorable for a repository as well as characteristics which, if present at the site, may compromise site suitability and which will require careful analysis and such measures as may be necessary to compensate for them adequately. The impact of these characteristics on overall performance would be site specific. Thus, the Commission has judged that these should not be made absolute requirements. Presence of all the favorable characteristics does not lead to the conclusion that the site is suitable to host a repository. Neither is the presumption of unsuitability because of the presence of an unfavorable characteristic incontrovertible. Rather, the Commission's approach requires a sufficient combination of conditions at the selected site to provide reasonable assurance that the performance objectives will be achieved. If adverse conditions are identified as being present, they must be thoroughly charaterized and analyzed and it must be demonstrated that the conditions are compensated for by repository design or by favorable conditions in the geologic setting.

The Commission has not included any siting requirements which directly deal with population density or proximity to population centers. Rather, the issue has been addressed indirectly through consideration of resources in the geologic setting. The Commission believes this to be a more realistic approach given the long period of time involved with geologic disposal. Nonetheless, the Commission invites comment on whether population related siting requirements should be included in the final rule and how they might be implemented.

4. *Design and Construction.* In addition to the requirements on designing for natural phenomena, criticality control, radiation protection, and effluent control, the proposed technical criteria require the design of the repository to accommodate potential interaction of the waste, the underground facility, and the site. Requirements are also placed upon the design of the equipment to be used for handling the wastes, the performance and purpose of the backfill material, and design and performance of borehole and shaft seals. Further, there are requirements related to the methods of construction. The Commission believes such requirements are necessary to assure that the ability of the repository to contain and isolate the wastes will not be compromised by the construction of the repository.

The proposed technical criteria would require that the subsurface facility be designed so that it could be constructed and operated in accordance with relevant Federal mining regulations, which specify design requirements for certain items of electrical and mechanical equipment and govern the use of explosives.

These criteria are a blend of general and detailed prescriptive requirements. They have been developed from Commission experience and practice in the licensing of other nuclear facilities such as power plants and fuel cycle facilities. While there are differences in the systems and components addressed by these criteria from those of power plants or fuel cycle facilities, and the criteria have been written to be appropriate for a geologic repository, the proposed criteria represent a common practice based on experience which has shown that the above items need to be regulated. The level of detail of these criteria reflects the Commission's current thinking on how to regulate effectively geologic disposal of HLW. However, the Commission continues to examine other possibilities for promulgating the more detailed of these requirements. Comments are invited on formulations for the design and construction criteria in the rule, perhaps in a more concise form; these may be supplemented, of course, with more details in staff guidance documents such as Regulatory Guides.

5. *Waste Package.* The proposed requirements for the design of the waste package emphasize its role as a key component of the overall engineered system. Besides being required to contribute to the engineered system's meeting containment and controlled release performance objectives, both compatibility with the underground facility and the site and a method of unique identification are required of the waste package. Included in the section of the proposed technical criteria which deals with the waste package are requirements that the waste form itself contained within the package be consolidated and non-pyrophoric.

6. *Performance Confirmation.* The proposed technical criteria include requirements for a program of testing and measurement (Subpart F). The main purpose of this program is to confirm the assumptions, data, and analyses which led to the findings that permitted construction of the repository and subsequent emplacement of the wastes. Further, the performance confirmation program includes requirements for monitoring of key geologic and hydrologic parameters throughout site characterization, construction, and emplacement to detect any significant changes in the conditions which supported the above findings during, or due to operations at the site. Also included in the program would be tests of the effectiveness of borehole and shaft seals and of backfill placement procedures.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This proposed rule affects only the Department of Energy, and does not fall within the purview of the Act.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, the National Environmental Policy Act of 1969, as amended, and sections 552 and 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments to Title 10, Chapter I, Code of Federal Regulations is contemplated.

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

1. The authority citation for Part 60 reads as follows:

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

2. Section 60.2 is revised to read as follows:

§ 60.2 Definitions.

For the purposes of this Part—

"Accessible Environment" means those portions of the environment directly in contact with or readily available for use by human beings.

"Anticipated Processes and Events" means those natural processes and events that are reasonably likely to occur during the period the intended performance objective must be achieved and from which the design bases for the engineered system are derived.

"Barrier" means any material or structure that prevents or substantially delays movement of water or radionuclides.

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

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

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

"Containment" means the confinement of radioactive waste within a designated boundary.

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

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

"Disposal" means the isolation of radioactive wastes from the biosphere.

"Disturbed zone" means that portion of the geologic setting that is significantly affected by construction of the subsurface facility or by the heat generated by the emplacement of radioactive waste.

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

"Engineered system" means the waste packages and the underground facility.

"Far field" means the portion of the geologic setting that lies beyond the disturbed zone.

"Floodplain" means the lowland and relatively flat areas adjoining inland and coastal waters including flood prone areas of offshore islands and including at a minimum that area subject to a one percent or greater chance of flooding in any given year.

"Geologic repository" means a system for the disposal of radioactive wastes in excavated geoligic media. A geologic repository includes (1) the geologic repository operations area, and (2) the geologic setting.

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

"Geologic setting" or "site" is the spatially distributed geologic, hydrologic, and geochemical systems that provide isolation of the radioactive waste.

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

"HWL facility" means a facility subject to the licensing and related regulatory authority of the Commission pursuant to Sections 202(3) and 202(4) of the Energy Reorganization Act of 1974 (88 Stat. 1244).[2]

"Host rock" means the geologic medium in which the waste is emplaced.

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

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

"Isolation" means inhibiting the transport of radioactive material so that amounts and concentrations of this material entering the accessible environment will be kept within prescribed limits.

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

"Medium" or "geologic medium" is a body of rock characterized by lithologic homogeneity.

"Overpack" means any buffer material, receptacle, wrapper, box or other structure, that is both within and an integral part of a waste package. It encloses and protects the waste form so as to meet the performance objectives.

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

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

"Site" means the geologic setting.

"Site characterization" means the program of exploration and research, both in the laboratory and in the field, undertaken to establish the geologic conditions and the ranges of those parameters of a particular site relevant to the procedures under this part. Site characterization includes borings, surface excavations, excavation of exploratory shafts, limited subsurface lateral excavations and borings, and in situ testing at depth needed to determine the suitability of the site for a geologic respository, but does not include preliminary borings and geophysical testing needed to decide whether site characterization should be undertaken.

"Stability" means that the nature and rates of natural processes such as erosion and faulting have been and are projected to be such that their effects will not jeopardize isolation of the radioactive waste.

"Subsurface facility" means the undergound portions of the geologic repository operations area including openings, backfill materials, shafts and boreholes as well as shaft and borehole seals.

"Transuranic wastes" or "TRU wastes" means radioactive waste containing alpha emitting transuranic elements, with radioactive half-lives greater than five years, in excess of 10 nanocuries per gram.

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

"Underground facility" means the undergound structure, including openings and backfill materials, but excluding shafts, boreholes, and their seals.

"Unrestricted area" means any area, access to which is not controlled by the licensee for purposes of protection of individuals from exposure to radiation and radioactive materials, and any area used for residential quarters.

"Waste form" means the radioactive waste materials and any encapsulating or stabilizing materials, exclusive of containers.

"Waste package" means the airtight, watertight, sealed container which includes the waste form and any ancillary enclosures, including shielding, discrete backfill and overpacks.

3. Section 60.10 is revised to read as follows:

§ 60.10 Site characterization.

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

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

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

(d) The program of site characterization shall be conducted in accordance with the following:

(1) Investigations to obtain the required information shall be conducted to limit adverse effects on the long-term performance of the geologic repository to the extent practical.

(2) As a minimum the location of exploratory boreholes and shafts shall be selected so as to limit the total number of subsurface penetrations above and around the underground facility.

(3) To the extent practical, exploratory boreholes and shafts in the geologic repository operations area shall be located where shafts are planned for repository construction and operation or where large unexcavated pillars are planned.

(4) Subsurface exploratory drilling, excavation, and in situ testing before and during construction shall be planned and coordinated with repository design and construction.

4. Paragraphs (c)(1), (c)(3), and (c)(13) of § 60.21 are revised to read as follows:

§ 60.21 Content of application.

* * * * *

(c) The Safety Analysis Report shall include:

(1) A description and assessment of the site at which the proposed geologic repository operations area is to be located with appropriate attention to those features of the site that might affect facility design and performance. The description of the site shall identify the limits of the accessible environment with respect to the location of the geologic repository operations area.

(i) The description of the site shall also include the following information regarding subsurface conditions in the vicinity of the proposed underground facility—

(A) The orientation, distribution, aperture in-filling and origin of fractures, discontinuities, and heterogeneities;

(B) The presence and characteristics of other potential pathways such as solution features, breccia pipes, or other permeable anomalies;

(C) The bulk geomechanical properties and conditions, including pore pressure and ambient stress conditions;

(D) The bulk hydrogeologic properties and conditions;

(E) The bulk geochemical properties; and

(F) The anticipated response of the bulk geomechanical, hydrogeologic, and geochemical systems to the maximum design thermal loading, given the pattern of fractures and other discontinuities and the heat transfer properties of the rock mass and groundwater.

(ii) The assessment shall contain—

(A) An analysis of the geology, geophysics, hydrogeology, geochemistry, and meteorology of the sits;

(B) Analyses to determine the degree to which each of the favorable and adverse conditions, if present, has been characterized, and the extent to which it contributes to or detracts from isolation.

(C) An evaluation of the expected performance of the proposed geologic repository noting the rates and quantities of expected releases of radionuclides to the accessible environment as a function of time. In executing this evaluation DOE shall assume that those processes operating on the site are those which have been operating on it during the Quaternary Period and superpose the perturbations caused by the presence of emplaced radioactive waste on the natural processes.

(D) An analysis of the expected performance of the major design structures, systems, and components, both surface and subsurface, that bear significantly on the suitability of the geologic repostory for disposal of radioactive waste assuming the anticipated processes and events and natural phenomena from which the design bases are derived. For the purposes of this analysis, it shall be assumed that operations at the geologic repository operations area will be carried out at the maximum capacity and rate of receipt of radioactive waste stated in the application.

(E) An explanation of measures used to confirm the models used to perform the assessments required in paragraphs (A) through (D). Analyses and models that will be used to predict future conditions and changes in the geologic setting shall be confirmed by using field tests, in situ tests, field-verified laboratory tests, monitoring data, or natural analog studies.

* * * * *

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

* * * * *

(13) An identification and evaluation of the natural resources at the site, including estimates as to undiscovered deposits, the exploitation of which could affect the ability of the site to isolate radioactive wastes. Undiscovered deposits of resources characteristic of the area shall be estimated by reasonable inference based on geological and geophysical evidence. This evaluation of resources, including undiscovered deposits, shall be conducted for the disturbed zone and for areas of similar size that are representative of and are within the geologic setting. For natural resources with current markets the resources shall be assessed, with estimates provided of both gross and net value. The estimate of net value shall take into account current development, extraction and marketing costs. For natural resources without current markets, but which would be marketable given credible projected changes in economic or technological factors, the resources shall be described by physical factors such as tonnage or other amount, grade, and quality.

* * * * *

5. Paragraph (a)(2) of § 60.31 is revised to read as follows:

§ 60.31 Construction authorization.

* * * * *

(a) * * *

(2) The site and design comply with the criteria contained in Supart E.

* * * * *

6. Paragraph (a)(2) of § 60.51 is revised to read as follows:

§ 60.51 License amendment to decommission.

(a) * * *

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

(i) Identification of the geologic repository operations area by monuments that have been designated, fabricated, and emplaced to be as permanent as is practicable; and

(ii) Placement of records of the location of the geologic repository operations area and the nature and hazard of the waste in the archives of local and Federal government agencies, and archives elsewhere in the world, that would be likely to be consulted by potentional human intruders.

* * * * *

7. New Subpart E, "Technical Criteria," Subpart F "Performance Confirmation," Subpart G, "Quality Assurance" and Subpart H, "Training and Certification of Personnel" are added to 10 CFR Part 60.

Subpart E—Technical Criteria

Sec.

Performance Objectives

Subpart E—Technical Criteria

§ 60.101 Purpose and nature of findings.

(a)(1) Subpart B of this part prescribes the standards for issuance of a license to receive and possess source, special nuclear, or byproduct material at a geologic repository operations area. In particular, § 60.41(c) requires a finding that the issuance of a license will not constitute an unreasonable risk to the health and safety of the public. The purpose of this subpart is to set out performance objectives and site and design criteria which, if satisfied, will support such a finding of no unreasonable risk.

(2) While these performance objectives and criteria are generally stated in unqualified terms, it is not expected that complete assurance that they will be met can be presented. A reasonable assurance, on the basis of the record before the Commission, that the objectives and criteria will be met is the general standard that is required. For § 60.111, and other portions of this subpart that impose objectives and criteria for repository performance over long times into the future, there will inevitably be greater uncertainties. Proof of the future performance of engineered systems and geologic media over time periods of a thousand or many thousands of years is not to be had in the ordinary sense of the word. For such long-term objectives and criteria, what is required is reasonable assurance, making allowance for the time period and hazards involved, that the outcome will be in conformance with those objectives and criteria.

(b) Subpart B of this part also lists findings that must be made in support of an authorization to construct a geologic repository operations area. In particular, § 60.31(a) requires a finding that there is reasonable assurance that the types and amounts of radioactive materials described in the application can be received, possessed, and disposed of in a repository of the design proposed without unreasonable risk to the health and safety of the public. As stated in that paragraph, in arriving at this determination, the Commission will consider whether the site and design comply with the criteria contained in this subpart. Once again, while the criteria may be written in unqualified terms, the demonstration of compliance may take uncertainties and gaps in knowledge into account, provided that the Commission can make the specified finding of reasonable assurance as specified in paragraph (a) of this section.

§ 60.102 Concepts.

(a) *The HLW facility.* NRC exercises licensing and related regulatory authority over those facilities described in section 203 (3) and (4) of the Energy Reorganization Act of 1974. Any of these facilities is designated an *HLW facility.*

(b) *The geologic repository operations area.*

(1) This part deals with the exercise of authority with respect to a particular class of HLW facility—namely a *geologic repository operations area.*

(2) A *geologic repository operations area* consists of those surface and subsurface areas that are part of a geologic repository where radioactive waste handling activities are conducted. The underground structure, including openings and backfill materials, but excluding shafts, boreholes, and their seals, is designated the *underground facility.*

(3) The exercise of Commission authority requires that the geologic repository operations area be used for *storage* (which includes *disposal*) of *high-level radioactive wastes (HLW).*

(4) HLW includes irradiated reactor fuel as well as reprocessing wastes. However, if DOE proposes to use the geologic repository operations area for storage of *radioactive waste* other than HLW, the storage of this radioactive waste is subject to the requirements of this part. Thus, the storage of *transuranic-contaminated waste (TRU),* though not itself a form of HLW, must conform to the requirements of this part if it is stored in a geologic repository operations area.

(c) *Areas adjacent to the geologic repository operations area.* Although the activities subject to regulation under this part are those to be carried out at the geologic repository operations area, the licensing process also considers characteristics of adjacent areas. First, there is to be an area within which DOE is to exercise specified controls to prevent adverse human actions. Second, there is a larger area, designated the *geologic setting* or *site* which includes the spatially distributed geologic, hydrologic, and geochemical systems that provide isolation of the radioactive waste from the accessible environment. The geologic repository operations area plus the geologic setting make up the *geologic repository.* Within the geologic setting, particular attention must be given to the characteristics of the host rock as well as any rock units surrounding the host rock.

(d) *Stages in the licensing process.* There are several stages in the licensing process. The *site characterization* stage, though begun before submission of a license application, may result in consequences requiring evaluation in the license review. The *construction stage* would follow, after issuance of a construction authorization. A *period of operations* follows the issuance of a license by the Commission. The period of operations includes the time during which *emplacement* of wastes occurs; and any subsequent period before permanent closure during which the emplaced wastes are *retrievable;* and *permanent closure,* which includes final backfilling of subsurface facilities, sealing of shafts, decontaminating and dismantling of surface facilities. Permanent closure represents the end of active human activities with the geologic repository operations area and engineered systems.

(e) *Containment.* Early during the repository life, when radiation and thermal levels are high and the consequences of events are especially difficult to predict rigorously, special emphasis is placed upon the ability to contain the wastes by waste packages within an engineered system. This is known as the *containment period.* The *engineered system* includes the waste packages as well as the underground facility. A *waste package* includes:

(1) The *waste form* which consists of the radioactive waste materials and any associated encapsulating or stabilizing materials.

(2) The *container* which is the first major sealed enclosure that holds the waste form.

(3) *Overpacks* which consist of any buffer material, receptable, wrapper, box or other structure, that is both within and an integral part of a waste package. It encloses and protects the waste form so as to meet the performance objectives.

(f) *Isolation.* Following the containment period special emphasis is placed upon the ability to achieve isolation of the wastes by virtue of the characteristics of the geologic repository. *Isolation* means the act of inhibiting the transport of radioactive material to the accessible environment in amounts and concentrations within limits. The *accessible environment* means those portions of the environment directly in contact with or readily available for use by human beings.

Performance Objectives

§ 60.111 Performance objectives.

(a) *Performance of the geologic repository operations area through permanent closure.*—(1) *Protection against radiation exposures and releases of radioactive material.* The geologic repository operations area shall be designed so that until permanent closure has been completed, radiation exposures and radiation levels, and releases of radioactive materials to unrestricted areas, will at all times be maintained within the limits specified in Part 20 of this chapter and any generally applicable environmental standards established by the Environmental Protection Agency.

(2) *Retrievability of waste.* The geologic repository operations area shall be designed so that the entire inventory of waste could be retrieved on a reasonable schedule, starting at any time up to 50 years after waste emplacement operations are complete. A reasonable schedule for retrieval is one that requires no longer than about the same overall period of time than was devoted to the construction of the geologic repository operations area and the emplacement of wastes.

(b) *Performance of the geologic repository after permanent closure.*—(1) *Overall system performance.* The geologic setting shall be selected and the subsurface facility designed so as to assure that releases of radioactive materials from the geologic repository following permanent closure conform to such generally applicable environmental radiation protection standards as may have been established by the Environmental Protection Agency.

(2) *Performance of the engineered system.*—(i) *Containment of wastes.*[*] The engineered system shall be designed so that even if full or partial saturation of the underground facility were to occur, and assuming anticipated processes and events, the waste packages will contain all radionuclides for at least the first 1,000 years after permanent closure. This requirement does not apply to TRU waste unless TRU waste is emplaced close enough to HLW that the TRU release rate can be significantly affected by the heat generated by the HLW.

(ii) *Control of releases.*[*]

(A) For HLW, the engineered system shall be designed so that, after the first 1,000 years following permanent closure, the annual release rate of any radionuclide from the engineered system into the geologic setting, assuming anticipated processes and events, is at most one part in 100,000 of the maximum amount of that radionuclide calculated to be present in the underground facility (assuming no release from the underground facility) at any time after 1,000 years following permanent closure. This requirement does not apply to radionuclides whose contribution is less than 0.1% of the total annual curie release as prescribed by this paragraph.

(B) For TRU waste, the engineered system shall be designed so that following permanent closure the annual release rate of any radionuclide from the underground facility into the geologic setting, assuming anticipated processes and events, is at most one part in 100,000 of the maximum amount calculated to be present in the underground facility (assuming no release from the underground facility) at any time following permanent closure. This requirement does not apply to radionuclides whose contribution is less than 0.1% of the annual curie release as prescribed by this paragraph.

(3) *Performance of the geologic setting.*—(i) *Containment period.* During the containment period, the geologic setting shall mitigate the impacts of premature failure of the engineered system. The ability of the geologic setting to isolate wastes during the isolation period, in accordance with paragraph (b)(3)(ii) of this section, shall be deemed to satisfy this requirement.

(ii) *Isolation period.* Following the containment period, the geologic setting, in conjunction with the engineered system as long as that system is expected to function, and alone thereafter, shall be capable of isolating radioactive waste so that transport of radionuclides to the accessible environment shall be in amounts and concentrations that conform to such generally applicable environmental standards as may have been established by the Environmental Protection Agency. For the purpose of this paragraph, the evaluation of the site shall be based upon the assumption that those processes operating on the site are those which have been operating on it during the Quaternary Period, with perturbations caused by the presence of emplaced radioactive wastes superimposed thereon.

§ 60.112 Required characteristics of the geologic setting.

(a) The geologic setting shall have exhibited structural and tectonic stability since the start of the Quaternary Period.

(b) The geologic setting shall have exhibited hydrogeologic, geo-chemical, and geomorphic stability since the start of the Quaternary Period.

(c) The geologic repository shall be located so that pre-waste emplacement groundwater travel times through the far field to the accessible environment are at least 1,000 years.

Ownership and Control of the Geolocghic Repository Operations Area

§ 60.121 Requirements for ownership and control of the geologic repository operations area.

(a) *Ownership of the geologic repository operations area.* The geologic repository operations area shall be located in and on lands that are either acquired lands under the jurisdiction and control of DOE, or lands permanently withdrawn and reserved for its use. These lands shall be held free and clear of all encumbrances, if

[*] The Commission specifically seeks comment on whether an ALARA principle should be applied to the performance requirements dealing with containment and control of releases. In particular, the Commission has considered whether the technical criteria should explicitly require containment to be for "as long as is reasonably achievable" and the release rate to be "as low as is reasonably achievable." Comments should address the merits of such a requirement, how to best frame it, and the practicality of its implementation.

significant, such as: (1) rights arising under the general mining laws; (2) easements for right-of-way; and (3) all other rights arising under lease, rights of entry, deed, patent, mortgage, appropriation, prescription, or otherwise.

(b) *Establishment of controls.* Appropriate controls shall be established outside of the geologic repository operations area. DOE shall exercise any jurisdiction and control over surface and subsurface estates necessary to prevent adverse human actions that could significantly reduce the site or engineered system's ability to achieve isolation. The rights of DOE may take the form of appropriate possessory interests, servitudes, or withdrawals from location or patent under the general mining laws.

Additional Requirements for the Geologic Setting

§ 60.122 Favorable conditions.

Each of the following conditions may contribute to the ability of the geologic setting to meet the performance objectives relating to isolation of the waste. In addition to meeting the mandatory requirements of § 60.112, a geologic setting shall exhibit an appropriate combination of these conditions so that, together with the engieered system, the favorable conditions present are sufficient to provide reasonable assurance that such performance objectives will be met.

(a) The nature and rates of tectonic processes that have occurred since the start of the Quaternary Period are such that, when projected, they would not affect or would favorably affect the ability of the geologic repository to isolate the waste.

(b) The nature and rates of structural processes that have occurred since the start of the Quaternary Period are such that, when projected, they would not affect or would favorably affect the ability of the geologic repository to isolate the waste.

(c) The nature and rates of hydrogeological processes that have occurred since the start of the Quaternary Period are such that, when projected, they would not affect or would favorably affect the ability of the geologic repository to isolate the waste.

(d) The nature and rates of geochemical processes that have occurred since the start of the Quaternary Period are such that when projected, they would not affect or would favorably affect the ability of the geologic repository to isolate the waste.

(e) The nature and rates of geomorphic processes that have occurred since the start of the Quarternary period are such that, when projected they would not affect or would favorably affect the ability of the geologic repository to isolate the waste.

(f) A host rock that provides the following groundwater characteristics—(1) low groundwater content; (2) inhibition of groundwater circulation in the host rock; (3) inhibition of groundwater flow between hydrogeologic units or along shafts, drifts, and boreholes; and (4) groundwater travel times, under pre-waste emplacement conditions, between the underground facility and the accessible environment that substantially exceed 1,000 years.

(g) Geochemical conditions that (1) promote precipitation or sorption or radionuclides; (2) inhibit the formation of particulates, colloids, and inorganic and organic complexes that increase the mobility of radionuclides; and (3) inhibit the transport of radionuclides by particulates, colloids, and complexes.

(h) Mineral assemblages that, when subjected to anticipated thermal loading, will remain unaltered or alter to mineral assemblages having increased capacity to inhibit radionuclide migration.

(i) Conditions that permit the emplacement of waste at a minimum depth of 300 meters from the ground surface. (The ground surface shall be deemed to be the elevation of the lowest point on the surface above the disturbed zone.)

(j) Any local condition of the disturbed zone that contributes to isolation.

§ 60.123 Potentially adverse conditions.

The following are potentially adverse conditions. The presence of any such conditions may compromise site suitability and will require careful analysis and such measures as are necessary to compensate for them adequately pursuant to § 60.124.

(a) *Adverse conditions in the geologic setting.*

(1) Potential for failure of existing or planned man-made surface water impoundments that could cause flooding of the geologic repository operations area.

(2) Potential, based on existing geologic and hydrologic conditions, that planned cnstruction of large-scale surface water impoundments may significantly affect the geologic repository through changes in the regional groundwater flow system.

(3) Potential for human activity to affect significantly the geologic repository through changes in the hydrogeology. This activity includes, but is not limited to planned groundwater withdrawal, extensive irrigation, subsurface injection of fluids, underground pumped storage facilities, or underground military activity.

(4) Earthquakes which have occurred historically that if they were to be repeated could affect the geologic repository significantly.

(5) A fault in the geologic setting that has been active since the start of the Quaternary Period and which is within a distance of the disturbed zone that is less than the smallest dimension of the fault rupture surface.

(6) Potential for adverse impacts on the geologic repositroy resulting from the occupancy and modification of floodplains.

(7) Potential for natural phenomena such as landslides, subsidence, or volcanic activity of such a magnitude that large-scale surface water impoundments could be created that could affect the performance of the geologic repository through changes in the regional groundwater flow.

(8) Expected climatic changes that would have an adverse effect on the geologic, geochemical, or hydrologic characteristics.

(b) *Adverse conditions in the disturbed zone.* For the purpose of determining the presence of the following conditions within the distrubed zone, investigations should extend to the greater of either its calculated extent or a horizontal distance of 2 km from the limits of the underground facility, and from the surface to a depth of 500 meters below the limits of the repository excavation.

(1) Evidence of subsurface mining for resources.

(2) Evidence of drilling for any purpose.

(3) Resources that have either greater gross value, net value, or commercial potential than the average for other representative areas of similar size that are representative of and located in the geologic setting.

(4) Evidence of extreme erosion during the Quaternary Period.

(5) Evidence of dissolutioning of soluble rocks.

(6) The existence of a fault that has been active during the Quaternary Period.

(7) Potential for creating new pathways for radionuclide migration due to presence of a fault or fracture zone irrespective of the age of last movement.

(8) Structural deformation such as uplift, subsidence, folding, and fracturing during the Quaternary Period.

(9) More frequent occurrence of earthqsakes or earthquakes of higher

magnitude than is typical of the area in which the geologic setting is located.

(10) Indications, based on correlations of earthquakes with tectonic processes and features, that either the frequency of occurrence or magnitude of earthquakes may increase.

(11) Evidence of igneous activity since the start of the Quaternary Period.

(12) Potential for changes in hydrologic conditions that would significantly affect the migration of radionuclides to the accessible environment including but not limited to changes in hydraulic gradient, average interstitial velocity, storage coefficient, hydraulic conductivity, natural recharge, potentiometric levels, and discharge points.

(13) Conditions in the host rock that are not reducing conditions.

(14) Groundwater conditions in the host rock, including but not limited to high ionic strength or ranges of Eh-pH, that could affect the solubility and chemical reactivity of the engineered systems.

(15) Processes that would reduce sorption, result in degradation of the rock strength, or adversely affect the performance of the engineered system.

(16) Rock or groundwater conditions that would require complex engineering measures in the design and construction of the underground facility or in the sealing of boreholes and shafts.

(17) Geomechanical properties that do not permit deisign of stable underground openings during construction, waste emplacement, or retrieval operations.

§ 60.124 Assessment of potentially adverse conditions.

In order to show that a potentially adverse condition or combination of conditions cited in § 60.123 does not impair significantly the ability of the geologic repository to isolate the radioactive waste, the following must be demonstrated:

(a) The potentially adverse human activity or natural condition has been adequately characterized, including the extent to which the condition may be present and still be undetected taking into account the degree of resolution achieved by the investigations; and

(b) The effect of the potentially adverse human activity or natural condition on the geologic setting has been adequately evaluated using conservative analyses and assumptions, and the evaluation used is sensitive to the adverse human activity or natural condition; and

(c)(1) The potentially adverse human activity or natural condition is shown by analysis in paragraph (b) of this section not to affect significantly the ability of the geologic setting to isolate waste, or

(2) The effect of the potentially adverse human activity or natural condition is compensated by the presence of a combination of the favorable characteristics cited in § 60.122, or

(3) The potentially adverse human activity or natural condition can be remedied.

Design and Construction Requirements

§ 60.130 General design requirements for the geologic repository operations area.

(a) Sections 60.130 through 60.134 specify minimum requirements for the design of, and construction specifications for, the geologic repository operations area. Requirements for design contained in §§ 60.131 through 60.133 must be considered in conjunction with the requirements for construction in § 60.134. Sections 60.130 through 60.134 are not intended to contain an exhaustive list of design and construction requirements. Omissions in §§ 60.130 through 60.134 do not relieve DOE from providing safety features in a specific facility needed to achieve the performance objectives contained in § 60.111. All design and construction criteria must be consistent with the results of site characterization activities.

(b) Systems, structures, and components of the geologic repository operations area shall satisfy the following:

(1) *Radiological protection.* The structures, systems, and components located within restricted areas shall be designed to maintain radiation doses, levels, and concentrations of radioactive material in air in those restricted areas within the limits specified in Part 20 of this chapter. These structures, systems, and components shall be designed to include—

(i) Means to limit concentrations of radioactive material in air;

(ii) Means to limit the time required to perform work in the vicinity of radioactive materials, including, as appropriate, designing equipment for ease of repair and replacement and providing adequate space for ease of operation;

(iii) Suitable shielding;

(iv) Means to monitor and control the dispersal of radioactive contamination;

(v) Means to control access to high radiation areas or airborne radioactivity areas; and

(vi) A radiation alarm system to warn of increases in radiation levels, concentrations of radioactive material in air, and of increased radioactivity released in effluents. The alarm system shall be designed with redundancy and in situ testing capability.

(2) *Protection against natural phenomena and environmental conditions.*

(i) The structures, systems, and components important to safety shall be designed to be compatible with anticipated site characteristics and to accommodate the effects of environmental conditions, so as to prevent interference with normal operation, maintainence and testing during the entire period of construction and operations.

(ii) The structures, systems, and components important to safety shall be designed so that natural phenomena and environmental conditions anticipated at the site will not result, in any relevant time period, in failure to achieve the performance objectives.

(3) *Protection against dynamic effects of equipment failure and similar events.* The structures, systems and components important to safety shall be designed to withstand dynamic effects that could result from equipment failure, such as missle impacts, and similar events and conditions that could lead to loss of their safety functions.

(4) *Protection against fires and explosions.*

(i) The structures, systems, and components important to safety shall be designed to perform their safety functions during and after fires or explosions in the geologic repository operations area.

(ii) To the extent practicable, the geologic repository operations area shall be designed to incorporate the use of noncombustible and heat resistant materials.

(iii) The geologic repository operations area shall be designed to include explosion and fire detection alarm systems and appropriate suppression systems with sufficient capacity and capability to reduce the adverse effects of fires and explosions on structures, systems, and components important to safety.

(iv) The geologic repository operations area shall be designed to include means to protect systems, structures, and components important to safety against the adverse effects of either the operation or failure of the fire suppression systems.

(5) *Emergency capability.*

(i) The structures, systems, and components important to safety shall be designed to maintain control of radioactive waste, and permit prompt termination of operations and

evacuation of personnel during an emergency.

(ii) The geologic repository operations area shall be designed to include onsite facilities and services that ensure a safe and timely response to emergency conditions and that facilitate the use of available offsite services (such as fire, police, medical and ambulance service) that may aid in recovery from emergencies.

(6) *Utility services.*

(i) Each utility service system shall be designed so that essential safety functions can be performed under both normal and emergency conditions.

(ii) The utility services important to safety shall include redundant systems to the extent necessary to maintain, with adequate capacity, the ability to perform their safety functions.

(iii) The emergency utility services shall be designed to permit testing of their functional operability and capacity. This will include the full operational sequence of each system when transferring between normal and emergency supply sources, as well as the operation of associated safety systems.

(iv) Provisions shall be made so that, if there is a loss of the primary electric power source or circuit, reliable and continued emergency power is provided to instruments, utility service systems, and operating systems, including alarm systems. This emergency power shall be sufficient to allow safe conditions to be maintained. All systems important to safety shall be designed to permit them to be maintained at all times in a functional mode.

(7) *Inspection, testing, and maintenance.* The structures, systems, and components important to safety shall be designed to permit periodic inspection, testing, and maintenance, as necessary, to ensure their continued functioning and readiness.

(8) *Criticality control.* All systems for processing, transporting, handling, storage, retrieval, emplacement, and isolation of radioactive waste shall be designed to ensure that a nuclear criticality accident is not possible unless at least two unlikely, independent, and concurrent or sequential changes have occurred in the conditions essential to nuclear criticality safety. Each system shall be designed for criticality safety under normal and accident conditions. The calculated effective multiplication factor (k_{eff}) must be sufficiently below unity to show at least a 5% margin, after allowance for the bias in the method of calculation and the uncertainty in the experiments used to validate the method of calculation.

(9) *Instrumentation and control systems.* Instrumentation and control systems shall be designed to monitor and control the behavior of engineered systems important to safety over anticipated ranges for normal operation and for accident conditions. The systems shall be designed with sufficient redundancy to ensure that adequate margins of safety are maintained.

(10) *Compliance with mining regulations.* To the extent that DOE is not subject to the Federal Mine Safety and Health Act of 1977, as to the construction and operation of the geologic repository operations area, the design of the geologic repository operations area shall nevertheless include such provisions for worker protection as may be necessary to provide reasonable assurance that all structures, systems, and components important to safety can perform their intended functions. Any deviation from relevant design requirements in 30 CFR, Chapter I, Subchapters D, E, and N will give rise to a rebuttable presumption that this requirement has not been met.

§ 60.131 Additional design requirements for surface facilities in the geologic repository operations area.

(a) *Facilities for receipt and retrieval of waste.* Surface facilities in the geologic repository operations area shall be designed to allow safe handling and storage of wastes at the site, whether these wastes are on the surface before emplacement or as a result of retrieval from the underground facility. The surface facilities shall be designed so as to permit inspection, repair, and decontamination of such wastes and their containers. Surface storage capacity is not required for all emplaced waste.

(b) *Surface facility ventilation.* Surface facility ventilation systems supporting waste transfer, inspection, decontamination, processing, or packaging shall be designed to provide protection against radiation exposures and offsite releases as provided in § 60.111.

(c) *Radiation control and monitoring.*—(1) *Effluent control.* The surface facilities shall be designed to control the release of radioactive materials in effluents during normal and emergency operations. The facilities shall be designed to provide protection against radiation exposures and offsite releases as provided in § 60.111.

(2) *Effluent monitoring.* The effluent monitoring systems shall be designed to measure the amount and concentration of radionuclides in any effluent with sufficient precision to determine whether releases conform to the design requirement for effluent control. The monitoring systems shall be designed to include alarms that can be periodically tested.

(d) *Waste treatment.* Radioactive waste treatment facilities shall be designed to process any radioactive wastes generated at the geologic repository operations area into a form suitable to permit safe disposal at the geologic repository operations area or to permit safe transportation and conversion to a form suitable for disposal at an alternative site in accordance with any regulations that are applicable.

(e) *Consideration of decommissioning.* The surface facility shall be designed to facilitate decommissioning.

§ 60.132 Additional design requirements for the underground facility.

(a) General criteria for the underground facility.

(1) The underground facility shall be designed so as to perform its safety functions assuming interactions among the geologic setting, the underground facility, and the waste package.

(2) The underground facility shall be designed to provide for structural stability, control of groundwater movement and control of radionuclide releases, as necessary to comply with the performance objectives of § 60.111.

(3) The orientation, geometry, layout, and depth of the underground facility, and the design of any engineered barriers that are part of the underground facility shall enhance containment and isolation of radionuclides to the extent practicable at the site.

(4) The underground facility shall be designed so that the effects of disruptive events such as intrusions of gas, or water, or explosions, will not spread through the facility.

(b) *Flexibility of design.* The underground facility shall be designed with sufficient flexibility to allow adjustments, where necessary to accommodate specific site conditions identified through in situ monitoring, testing, or excavation.

(c) *Separation of excavation and waste emplacement (modular concept).* If concurrent excavation and emplacement of wastes are planned, then:

(1) The design shall provide for such separation of activities into discrete areas (modules) as may be necessary to assure that excavation does not impair waste emplacement or retrieval operations.

(2) Each module shall be designed to permit insulation from other modules if an accident occurs.

(d) *Design for retrieval of waste.* The underground facility shall be designed to—

(1) Permit retrieval of waste in accordance with the performance objectives (§ 60.111);

(2) Ensure sufficient structural stability of openings and control of groundwater to permit the safe conduct of waste retrieval operations; and

(3) Allow removal of any waste packages that may be damaged or require inspection without compromising the ability of the geologic repository to meet the performance objectives (§ 60.111).

(e) *Design of subsurface openings.*

(1) Subsurface openings shall be designed to maintain stability throughout the construction and operation periods. If structural support is required for stability, it shall be designed to be compatible with long-term deformation, hydrologic, geochemical, and thermomechanical characteristics of the rock and to allow subsequent placement of backfill.

(2) Structures required for temporary support of zones of weak or highly fractured rock shall be designed so as not to impair the placement of permanent structures or the capability to seal excavated areas used for the containment of wastes.

(3) Subsurface openings shall be designed to reduce the potential for deleterious rock movement or fracturing of overlying or surrounding rock over the long term. The size, shape, orientation, and spacing of openings and the design of engineered support systems shall take the following conditions into considerations—

(i) natural stress conditions;

(ii) deformation characteristics of the host rock under normal conditions and thermal loading;

(iii) The kinds of weaknesses or structural discontinuities found at various locations in the geologic repository;

(iv) Equipment requirements; and

(v) The ability to construct the underground facility as designed so that stability of the rock is enhanced.

(f) *Rock excavation.* The design of the underground facility shall incorporate excavation methods that will limit damage to and fracturing of rock.

(g) *Control of water and gas.*

(1) Water and gas control systems shall be designed to be of sufficient capability and capacity to reduce the potentially adverse effects of groundwater intrusion, service water intrusion, or gas inflow into the underground facility.

(2) Water and gas control systems shall be designed to control the quantity of water or gas flowing into or from the underground facility, monitor the composition of gases, and permit sampling of liquids.

(3) Systems shall be designed to provide control of water and gas in both waste emplacement areas and excavation areas.

(4) Water control systems shall be designed to include storage capability and modular layouts that ensure that unexpected inrush or flooding can be controlled and contained.

(5) If the intersection of aquifers or water-bearing geologic structures is anticipated during construction, the design of the underground facility shall include plans for cutoff or control of water in advance of the excavation.

(6) If linings are required, the contact between the lining and the rock surrounding subsurface excavations shall be designed so as to avoid the creation of any preferential pathway for groundwater or radionuclide migration.

(h) *Subsurface ventilation.* The ventilation system shall be designed to—

(1) Control the transport of radioactive particulates and gases within and releases from the subsurface facility in accordance with the performance objectives (§ 60.111);

(2) Permit continuous occupancy of all excavated areas during normal operations through the time of permanent closure;

(3) Accommodate changes in operating conditions such as variations in temperature and humidity in the underground facility;

(4) Include redundant equipment and fail safe control systems as may be needed to assure continued function under normal and emergency conditions; and

(5) Separate the ventilation of excavation and waste emplacement areas.

(i) *Engineered barriers.*

(1) Barriers shall be located where shafts could allow access for groundwater to enter or leave the underground facility.

(2) Barriers shall create a waste package environment which favorably controls chemical reactions affecting the performance of the waste package.

(3) Backfill placed in the underground facility shall be designed as a barrier.

(i) Backfill placed in the underground facility shall perform its functions assuming anticipated changes in the geologic setting.

(ii) Backfill placed in the underground facility shall serve the following functions:

(A) It shall provide a barrier to groundwater movement into and from the underground facility.

(B) It shall reduce creep deformation of the host rock that may adversely affect (*1*) waste package performance or (*2*) the local hydrological system.

(C) It shall reduce and control groundwater movement within the underground facility.

(D) It shall retard radionuclide migration.

(iii) Backfill placed in the underground facility shall be selected to allow for adequate placement and compaction in underground openings.

(j) *Waste handling and emplacement.*

(1) The systems used for handling, transporting, and emplacing radioactive wastes shall be designed to have positive, fail-safe designs to protect workers and to prevent damage to waste packages.

(2) The handling systems for emplacement and retrieval operations shall be designed to minimize the potential for operator error.

(k) *Design for thermal loads.*

(1) The underground facility shall be designed so that the predicted thermal and thermomechanical response of the rock will not degrade significantly the performance of the repository or the ability of the natural or engineered barriers to retard radionuclide migration.

(2) The design of waste loading and waste spacings shall take into consideration—

(i) Effects of the design of the underground facility on the thermal and thermomechanical response of the host rock and the groundwater system;

(ii) Features of the host rock and geologic setting that affect the thermomechanical response of the underground facility and barriers, including but not limited to, behavior and deformational characteristics of the host rock, the presence of insulating layers, aquifers, faults, orientation of bedding planes, and the presence of discontinuities in the host rock; and

(iii) The extent to which fracturing of the host rock is influenced by cycles of temperature increase and decrease.

§ 60.133 Design of shafts and seals for shafts and boreholes.

(a) *Shaft design.* Shafts shall be designed so as not to create a preferential pathway for migration of groundwater and so as not to increase the potential for migration through existing pathways.

(b) *Shaft and borehole seals.* Shaft and borehole seals shall be designed so that:

(1) Shafts and boreholes will be sealed as soon as possible after they have served their operational purpose.

(2) At the time of permanent closure sealed shafts and boreholes will inhibit transport of radionclides to at least the same degree as the undisturbed units of rock through which the shafts or boreholes pass. In the case of soluble rocks, the borehole and shaft seals shall also be designed to prevent groundwater circulation that would result in dissolution.

(3) Contact between shaft and borehole seals and the adjacent rock does not become a preferential pathway for water.

(4) Shaft and borehole seals can accommodate potential variations of stress, temperature, and moisture.

(5) The materials used to construct the seals are appropriate in view of the geochemistry of the rock and groundwater system, anticipated deformations of the rock, and other in situ conditions.

(c) *Shaft conveyances used in radioactive waste handling.*

(1) Shaft conveyances used to transport radioactive materials shall be designed to satisfy the requirements as set forth in § 60.130 for systems, structures, and components important to safety.

(2) Hoists important to safety shall be designed to preclude cage free fall.

(3) Hoists important to safety shall be designed with a reliable cage location system.

(4) Hoist loading and unloading systems shall be designed with a reliable system of interlocks that will fail safely upon malfunction.

(5) Hoists important to safety shall be designed to include two independent indicators to indicate when waste packages are in place, grappled, and ready for transfer.

§ 60.134 Construction specifications for surface and subsurface facilities.

(a) *General requirement.* Specifications for construction shall conform to the objectives and technical requirements of §§ 60.130 through 60.133.

(b) *Construction management program.* The construction specifications shall facilitate the conduct of a construction management program that will ensure that construction activities do not adversely affect the suitability of the site to isolate the waste or jeopardize the isolation capabilities of the underground facility, boreholes, shaft, and seals, and that the underground facility is constructed as designed.

(c) *Construction records.* The construction specifications shall include requirements for the development of a complete documented history of repository construction. This documented history shall include at least the following—

(1) Surveys of underground excavations and shafts located via readily identifiable surface features or monuments;

(2) Materials encountered;

(3) Geologic maps and geologic cross sections;

(4) Locations and amount of seepage;

(5) Details of equipment, methods, progress, and sequence of work;

(6) Construction problems;

(7) Anomalous conditions encountered;

(8) Instrument locations, readings, and analysis;

(9) Location and description of structural support systems;

(10) Location and description of dewatering systems; and

(11) Details, methods of emplacement, and location of seals used.

(d) *Rock excavation.* The methods used for excavation shall be selected to reduce to the extent practicable the potential to create a preferential pathway for groundwater or radioactive waste migration or increase migration through existing pathways.

(e) *Control of explosives.* If explosives are used, the provisions of 30 CFR 57.6 (Explosives) issued by the Mine Safety and Health Administration, Department of Labor, shall be met, as minimum safety requirements for storage, use and transport at the geologic repository operations area.

(f) *Water control.* The construction specifications shall provide that water encountered in excavations shall be removed to the surface and controlled in accordance with design requirements for radiation control and monitoring (§ 60.131(c)).

(g) *Waste handling and emplacement.* The construction specifications shall provide for demonstration of the effectiveness of handling equipment and systems for emplacement and retrieval operations, under operating conditions.

Waste Package Requirements

§ 60.135 Requirements for the waste package and its components.

(a) *General requirements of design.* The design of the waste package shall include the following elements:

(1) *Effect of the site on the waste package.* The waste package shall be designed so that the in situ chemical, physical, and nuclear properties of the waste package and its interactions with the emplacement environment do not compromise the function of the waste packages. The design shall include but not be limited to consideration of the following factors: solubility, oxidation/reduction reactions, corrosion, hydriding, gas generation, thermal effects, mechanical strength, mechanical stress, radiolysis, radiation damage, radionuclide retardation, leaching, fire and explosion hazards, thermal loads, and synergistic interactions.

(2) *Effect of the waste package on the underground facility and the natural barriers of the geologic setting.* The waste package shall be designed so that the in situ chemical, physical, and nuclear properties of the waste package and its interactions with the emplacement environment do not compromise the performance of the underground facility or the geologic setting. The design shall include but not be limited to consideration of the following factors: solubility, oxidation/reduction reactions, corrosion, hydriding, gas generation, thermal effects, mechanical strength, mechanical stress, radiolysis, radiation damage, radionuclide retardation, leaching, fire and explosion hazards, thermal loads, and synergistic interactions.

(b) *Waste form requirements.* Radioactive waste that is emplaced in the underground facility shall meet the following requirements:

(1) *Solidification.* All such radioactive wastes shall be in solid form and placed in sealed containers.

(2) *Consolidation.* Particulate waste forms shall have been consolidated (for example, by incorporation into an encapsulating matrix) to limit the availability and generation of particulates.

(3) *Combustibles.* All combustible radioactive wastes must have been reduced to a noncombustible form unless it can be demonstrated that a fire involving a single package will neither compromise the integrity of other packages, nor adversely affect any safety-related structures, systems, or components.

(c) *Waste package requirements.* The waste package design shall meet the following requirements:

(1) *Explosive, pyrophoric, and chemically reactive materials.* The waste package shall not contain explosive or pyrophoric materials or chemically reactive materials that could interfere with operations in the underground facility or compromise the ability of the geologic repository to satisfy the performance objectives.

(2) *Free liquids.* The waste package shall not contain free liquids in an amount that could impair the structural integrity of waste package components (because of chemical interactions or formation of pressurized vapor) or result in spillage and spread of contamination in the event of package perforation.

(3) *Handling.* Waste packages shall be designed to maintain waste containment during transportation, emplacement, and retrieval.

(4) *Unique identification.* A label or other means of identification shall be provided for each package. The identification shall not impair the integrity of the package and shall be applied in such a way that the information shall be legible at least to the end of the retrievable storage period. Each package identification shall be consistent with the package's permanent written records.

Performance Confirmation Requirements

§ 60.137 General requirements for performance confirmation.

The geologic repository operations area shall be designed so as to permit implementation of a performance confirmation program that meets the requirements of Subpart F of this part.

Subpart F—Performance Confirmation

§ 60.140 General requirements.

(a) The performance confirmation program shall ascertain whether—

(1) Actual subsurface conditions encountered and changes in those conditions during construction and waste emplacement operations are within the limits assumed in the licensing review; and

(2) Natural and engineered systems and components required for repository operation, or which are designed or assumed to operate as barriers after permanent closure are functioning as intended and anticipated.

(b) The program shall have been started during site characterization and it will continue until permanent closure.

(c) The program will include in situ monitoring, laboratory and field testing, and in situ experiments, as may be appropriate to accomplish the objective as stated above.

(d) The confirmation program shall be implemented so that:

(1) It does not adversely affect the natural and engineered elements of the geologic repository.

(2) It provides baseline information and analysis of that information on those parameters and natural processes pertaining to the geologic setting that may be changed by site characterization, construction, and operational activities.

(3) It monitors and analyzes changes from the baseline condition of parameters that could affect the performance of a geologic repository.

(4) It provides an established plan for feedback and analysis of data, and implementation of appropriate action.

§ 60.141 Confirmation of geotechnical and design parameters.

(a) During repository construction and operation, a continuing program of surveillance, measurement, testing, and geologic mapping shall be conducted to ensure that geotechnical and design parameters are confirmed and to ensure that appropriate action is taken to inform the Commission of changes needed in design to accommodate actual field conditions encountered.

(b) Subsurface conditions shall be monitored and evaluated against design assumptions.

(c) As a minimum, measurements shall be made of rock deformations and displacement, changes in rock stress and strain, rate and location of water inflow into subsurface areas, changes in groundwater conditions, rock pore water pressures including those along fractures and joints, and the thermal and thermomechanical response of the rock mass as a result of development and operations of the geologic repository.

(d) These measurements and observations shall be compared with the original design bases and assumptions. If significant differences exist between the measurements and observations and the original design bases and assumptions, the need for modifications to the design or in construction methods shall be determined and these differences and the recommended changes reported to the Commission.

(e) In situ monitoring of the thermomechanical response of the underground facility shall be conducted until permanent closure to ensure that the performance of the natural and engineering features are within design limits.

§ 60.142 Design testing.

(a) During the early or developmental stages of construction, a program for in situ testing of such features as borehole and shaft seals, backfill, and the thermal interaction effects of the waste packages, backfill, rock, and groundwater shall be conducted.

(b) The testing shall be initiated as early as is practicable.

(c) A backfill test section shall be constructed to test the effectiveness of backfill placement and compaction procedures against design requirements before permanent backfill placement is begun.

(d) Test sections shall be established to test the effectiveness of borehole and shaft seals before full-scale operation proceeds to seal boreholes and shafts.

§ 60.143 Monitoring and testing waste packages.

(a) A program shall be established at the repository for monitoring the condition of the waste packages. Packages chosen for the program shall be representative of those to be emplaced in the repository.

(b) Consistent with safe operation of the repository, the environment of the waste packages selected for the waste package monitoring program shall be representative of the emplaced wastes.

(c) The waste package monitoring program shall include laboratory experiments which focus on the internal condition of the waste packages. To the extent practical, the environment experienced by the emplaced waste packages within the repository during the waste package monitoring program shall be duplicated in the laboratory experiments.

(d) The waste package monitoring program shall continue as long as practical up to the time of permanent closure.

Subpart G—Quality Assurance

§ 60.150 Scope.

(a) As used in this part, "quality assurance" comprises all those planned and systematic actions necessary to provide adequate confidence that the repository and its subsystems or components will perform satisfactorily in service.

(b) Quality assurance is a multidisciplinary system of management controls which address safety, reliability, maintainability, performance, and other technical disciplines.

§ 60.151 Applicability.

The quality assurance program applies to all systems, structures and components important to safety and to activities which would prevent or mitigate events that could cause an undue risk to the health and safety of the public. These activities include: exploring, site selecting, designing, fabricating, purchasing, handling, shipping, storing, cleaning, erecting, installing, emplacing, inspecting, testing,

operating, maintaining, monitoring, repairing, modifying, and decommissioning.

§ 60.152 Implementation.

DOE shall implement a quality assurance program based on the criteria of Appendix B of 10 CFR Part 50 as applicable, and appropriately supplemented by additional criteria as required by § 60.151.

§ 60.153 Quality assurance for performance confirmation.

The quality assurance program shall include the program of tests, experiments and analyses essential to achieving adequate confidence that the emplaced wastes will remain isolated from the accessible environment.

Subpart H—Training and Certification of Personnel

§ 60.160 General requirements.

Operations that have been identified as important to safety in the Safety Analysis Report and in the license shall be performed only by trained and certified personnel or by personnel under the direct visual supervision of an individual with training and certification in such operation. Supervisory personnel who direct operations that are important to safety must also be certified in such operations.

§ 60.161 Training and certification program.

The DOE shall establish a program for training, proficiency testing, certification and requalification of operating and supervisory personnel.

§ 60.162 Physical requirements.

The physical condition and the general health of personnel certified for operations that are important to safety shall not be such as might cause operational errors that could endanger the public health and safety. Any condition which might cause impaired judgement or motor coordination must be considered in the selection of personnel for activities that are important to safety. These conditions need not categorically disqualify a person, so long as appropriate provisions are made to accomodate such defect.

Dated at Washington, D.C. this 2nd day of July, 1981.

Samuel J. Chilk,

Secretary of the Commission.

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CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1700

Human Prescription Drugs in Oral Dosage Forms; Proposed Exemption From Child-Resistant Packaging of All Unit-Dose Forms of Potassium Supplements Containing Not More Than 50 Milliequivalents of Potassium Per Unit-Dose

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to amend the current exemption from special packaging under the Poison Prevention Packaging Act of 1970 for potassium supplements in effervescent tablet form, each tablet containing not more than 50 milliequivalents of potassium, to cover all unit-dose forms of the drug containing not more than 50 milliequivalents of potassium per unit-dose. The Commission is taking this action based on the absence of adverse experience from ingestion by children of potassium supplements in all forms, including powdered and liquid potassium.

DATES: Comments on this proposed exemption should be submitted by September 8, 1981. If the Commission issues a final regulation concerning the exemption, the Commission proposes that the exemption be effective on the date the final regulation is published in the Federal Register.

ADDRESS: Comments should be addressed to the Office of the Secretary, CPSC, 1111 18th St., NW, Third Floor, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: Virginia White, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, (301) 492-6453.

SUPPLEMENTARY INFORMATION:

Background

Regulations issued under the Poison Prevention Packaging Act of 1970 (PPPA) (15 U.S.C. 1471-1476) establish child-protection packaging requirements for human oral prescription drugs in order to protect children from serious personal injury or illness resulting from handling, using, or ingesting these substances.

On September 30, 1980 the Commission issued a final exemption to the child-resistant packaging regulations for prescription drugs in oral form (16 CFR 1700.14(a)(10)) for potassium supplements in individually-packaged effervescent tablets, each tablet containing not more than 50 milliequivalents (mEq) of potassium (44 FR 34968). The Commission took this action based on the absence of adverse experience with effervescent potassium tablets and on test data indicating that their effervescence inhibits ingestion in dangerous amounts. In the same Federal Register document the Commission also announced its intention to reopen the issue of a possible exemption for all unit dose forms of potassium supplements, including powdered and liquid forms as well as individually-wrapped tablets. The Commission decided to reopen the issue based on correspondence with a manufacturer of powdered potassium (Berlex Laboratories) who contended that there is an inconsistency between denial of its earlier petition (PP 75-11) requesting an exemption from special packaging for powdered potassium chloride in individual packets and the proposal of an exemption for the 50 mEq effervescent tablet.

The Commission denied PP 75-11, along with similar requests from Abbott Laboratories and Mead-Johnson Laboratories for exemption of potassium chloride powder, on August 21, 1975. That denial was based on experimental evidence indicating that potassium chloride powder, administered to rabbits in amounts equivalent to ingestion of one to three packets of the drug by a small child, caused severe gastric irritation and injury in the animals, as well as in the lack of human experience data with this drug.

The Commission also earlier denied a petition from Warren-Teed Pharmaceuticals, Inc. (PP 74-42) for exemption of its liquid potassium supplements in unit dose form. (The liquid form of potassium is used almost exclusively in hospitals and other institutions but is also available for home use.) The Commission denied that petition based on the lack of adequate human experience data, at the time, with which to evaluate childhood ingestion; the fact that the products were highly flavored; and an evaluation of toxicity data indicating that five unit does vials (100 mEq potassium) might produce toxic effects in a small child.

Grounds for Exemption

Based upon additional information, data, and human experience generated since the 1975 denial of the petitions for exemption of potassium chloride powder and liquid potassium supplements, the Commission is now proposing to exempt from special packaging all unit dose forms of potassium supplements, including unit dose vials of liquid potassium

supplements and powdered potassium in unit dose packets as well as individually-wrapped effervescent tablets, containing not more than 50 mEq of potassium per unit dose. The additional human experience data and other information are discussed below.

At the time the petitions for exemption of powdered and liquid potassium supplements were denied, little human experience data on potassium chloride were available. Examination of National Clearinghouse for Poison Control Center (NCPC) data, now available for the period 1969–1978, reveals no reported ingestions in children under 5 of any of the liquid or powdered potassium supplement brands which comprise the majority of the market. NCPCC data involving the ingestion of generic potassium chloride (dosage form and trade name not specified) show only 37 ingestions in children under 5, one of which resulted in symptoms; there was no hospitalization. Estimates from information available to the Commission indicate that over 40 million prescriptions for potassium supplements were dispensed over that period. Examination of National Electronic Injury Surveillance System (NEISS) data through 1980 reveals no reports of ingestion of powdered or liquid potassium supplements.

In addition, the Commission now believes that the rabbit test, used at the time of denial of the petitions to show that low doses of powdered potassium chloride were capable of producing gastric injury in the animals, was too sensitive a model for prediction of human injury. Recent CPSC studies indicate that common vinegar, which is regularly consumed by children and adults without adverse effect, causes gastric damage in rabbits in excess of that produced by powdered potassium supplements. Further, the applicability to humans of the rabbit test model for classifying corrosive and irritant substances has been criticized by the National Academy of Sciences (NAS).

The Commission notes that gastric lesions of the type induced in the rabbits by potassium chloride would be readily apparent in children were they to occur. The Commission also notes that the fact that they do not occur is supported by the substantial human experience data discussed above as well as by the absence of any harmful sequellae occurring to children involved in the child taste studies submitted with the original petitions on potassium powder. Furthermore, the fact that crystalline potassium may be regularly consumed by children in their homes as a flavor enhancer of foods (i.e., in homes using salt substitutes) without ill effect provides additional support for the unlikelihood of gastric injury occurring from ingestion of very small amounts of potassium powder.

The Commission points out that acute toxicity from oral administration of potassium is highly unlikely because large doses induce vomiting and because absorbed potassium is excreted rapidly unless there has been prior kidney damage. Based upon staff calculations, a small child (22 lbs.) would have to ingest a minimum of 100 mEq of potassium (4–5 unit dose packets of powder or 5 unit dose vials of liquid) before physiological effects such as listlessness, mental confusion or muscle weakness in the extremities might be expected. Child taste studies, submitted by Berlex, Mead-Johnson and Abbott Laboratories at the time of their original petitions, indicated that more than half of the children consumed (or spilled) less than one mEq of powdered potassium chloride. Of the remaining children, only one percent ingested (or spilled) more than 15 mEq.

The Commission also points out that the unit-dose packaging of the liquid potassium supplements may be a deterrent to their home use. (Liquid potassium supplements which are not packaged in individual doses are not subject to this proposed exemption.) These products are manufactured and labeled "for institutional use only." This, combined with the higher cost of the unit-dose vial and pharmacy storage space requirements, suggests that pharmacists are less apt to dispense this package form in filling patient prescriptions. The Commission notes that the crimped aluminum cap on the liquid potassium supplements can be an impediment to small children's ingestion of toxic amounts of the drug. Although the cap is not marketed as child-resistant closure, the manufacturers consider the seal on the vial to be an impediment to children. This may be significant since rapid consumption and absorption of potassium is necessary in order to exceed the kidney threshold and accumulate toxic amounts of potassium within the body.

Technical Advisory Committee and FDA Comments

Members of the Technical Advisory Committee (TAC) established by section 6 of the PPPA were asked to comment on the merits of a proposed exemption for all unit-dose forms of potassium supplements, each unit-dose containing not more than 50 mEq of potassium. Twelve members of the committee responded.

One member did not make a recommendation. Another recommended that exemptions for powdered and liquid potassium supplements should not be granted, except for liquid preparations sold to institutions. This member stated that although the taste studies showed that only small amounts of the powders were ingested, there could be the exceptional child who might ingest a larger, and possibly toxic amount. A third member recommended that potassium powders but not the liquid potassium products be exempt. This member concluded that the data submitted regarding the powders indicated that injuries were unlikely to occur. However, since no taste studies were submitted for the liquid preparations, the member indicated that the liquid form and fruit flavor of the liquid products might cause children to ingest more of these products.

The remaining nine members of the TAC recommended that both product forms be exempted. In support of their views, these members cited the lack of reports of serious injuries from potassium-containing products, the taste studies indicating that the taste of the powders may be a deterrent to ingestion, the relatively low toxicity of potassium supplements, and the information indicating that the rabbit test used to predict esophageal irritancy in humans was inappropriate.

The Food and Drug Administration (FDA), which had concurred with the Commission in the original decision to deny the requests for exemption of powdered potassium supplements, provided updated comments on a possible exemption for powdered potassium supplements in individual packets. FDA now recommends that the Commission grant an exemption from special packaging for powdered potassium supplements, in view of the information indicating that the rabbit test was inappropriate and the human experience data generated since denial of the petition indicating that potassium supplements do not pose a significant ingestion or poisoning risk for children.

Environmental Considerations

The Commission's interim rules for carrying out its responsibilities under the National Environmental Policy Act (see 16 CFR Part 1021; 42 FR 25494) provide that exemptions to an existing standard that do not alter the principal purpose or effect of the standard normally have no potential for affecting the environment and environmental review of exemptions from such regulations therefore, is, generally not required. (§ 1021.5(b)(1)). The rules also

state that environmental review of rules requiring poison prevention packaging is generally not required. (§ 1021.5(b)(3)).

With respect to this exemption of potassium supplements in all unit-dose forms from poison prevention packaging, the Commission finds that the rule will have no significant effect on the human environment and that no environmental review is necessary.

Small Business Effects

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.), the Commission certifies that this proposed rule issuing an exemption from special packaging if promulgated, will not, have a significant economic impact on a substantial number of small entities. The proposed rule, if issued in final form, would merely relieve an existing restriction on drug manufacturers and on pharmacists to use special packaging for powdered and liquid potassium supplements in unit dose forms.

Conclusion

Having considered the requested exemptions, the available human experience data, information on the inappropriateness of the rabbit test, toxicity information, and the opinions of the members of the Technical Advisory Committee established by section 6 of the PPPA, the Commission finds that special packaging is not required to protect children from serious personal injury or illness resulting from handling, using, or ingesting all unit dose forms of potassium supplements, including unit dose vials of liquid potassium and powdered potassium in unit dose packets as well as individually-packaged effervescent tablets, containing nor more than 50 mEq of potassium per unit dose. (Potassium supplements which are not packaged in unit dose forms are not subject to the proposed exemption.)

Accordingly, pursuant to the provisions of the Poison Prevention Packaging Act of 1970 (Pub. L. 91–601, secs. 2(4), 3, 5; 84 Stat. 1670–72; 15 U.S.C. 1471(4), 1472, 1474) and under authority vested in the Commission by the Consumer Product Safety Act (Pub. L. 92–572, sec. 30(a); 86 Stat. 1231; 15 U.S.C. 2079(a)), the Commission proposes to amend 16 CFR 7100.14 by revising paragraph (a)(10)(vi), as follows:

§ 1700.14 Substances requiring special packaging.

(a) * * *

(1) Prescription Drugs. Any drug for human use that is in a dosage form intended for oral administration and that is required by Federal Law to be dispensed only by or upon an oral or written prescription of a practitioner licensed by law to administer such drug shall be packaged in accordance with the provisions of § 1700.15(a), (b), and (c) except for the following:

* * * * *

(vi) All unit dose forms of potassium supplements, including individually-wrapped effervescent tablets, unit dose vials of liquid potassium, and powdered potassium in unit dose packets, containing not more than 50 milliequivalents of potassium per unit dose.

(Pub. L. 91–601, secs. 2(4), 3, 84 Stat. 1670–72, (15 U.S.C. 1471(4), 1472, 1474); Pub. L. 92–573, sec. 30(a), 86 Stat. 1231 (15 U.S.C. 2079(a)))

Dated: July 2, 1981.

Sheldon D. Butts

Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 81-19953 Filed 7-7-81; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 8 and 141

[Docket No. RM81-36]

Proposed Rulemaking To Revise Form No. 80, Licensed Projects Recreation Report

Issued: July 2, 1981.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is proposing to amend its Form No. 80, Licensed Projects Recreation Report. Form No. 80 biennially collects information about recreational facilities and recreational opportunities at developments within hydroelectric projects which are licensed by the Commission.

As proposed, certain data requests contained in the form would be consolidated, simplified and clarified and the form itself would be reduced in size by about 60 percent. The proposed revision of Form No. 80 is part of the Commission's ongoing program to eliminate reporting requirements which are not necessary to the performance of the Commission's regulatory responsibilities and to reduce the burden associated with necessary filing requirements.

DATE: Comments are due by August 3, 1981.

ADDRESSES: Comments to this Notice should be sent to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, and should reference Docket No. RM81–36.

Copies of the Form No. 80 are available at: Federal Energy Regulatory Commission, Office of Public Information, 825 North Capitol Street NE., Room 1000, Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: John O. Young, Jr., Office of Electric Power Regulation, 825 North Capitol Street NE., Room 308RB, Washington, D.C. 20426, (202) 376–4312.

SUPPLEMENTARY INFORMATION:

Issued: July 2, 1981.

I. Introduction

The Federal Energy Regulatory Commission (Commission) proposes to amend its regulations at 18 CFR 8.11, and the Form No. 80, the Licensed Projects Recreation Report which is prescribed by § 8.11.[1] Form No. 80 solicits information about recreational facilities and recreational opportunities at developments within hydroelectric projects licensed by the Commission under the Federal Power Act.[2] These data are used to determine whether the public need for water-based recreation facilities is being met by such licensees and whether additional efforts should be made to meet current and future recreational needs.

Form No. 80 is collected from about 160 project licensees. The form is required to be submitted every other year, although it collects data only for the year immediately preceding the year in which it is filed.

This rulemaking proceeding has been initiated as part of the Commission's ongoing program to review Commission filing requirements and reduce unnecessary reporting burdens. The Form No. 80 has been prescribed by Commission regulations since 1967.[3] As a result of reevaluation of the form, the Commission has determined that certain items are not necessary to the performance of the Commission's

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[1] Form No. 80 (Appendix) is not being printed by the **Federal Register**. Copies of Form No. 80, including all instructions to the form are available at the Commission's Office of Public Information.

[2] The Commission is authorized to issue licenses for hydropower projects pursuant to sections 3 and 4 of the Federal Power Act (16 U.S.C. 796, 797). The Commission collects information in the Form No. 80 pursuant to section 304 of the Federal Power Act (16 U.S.C. 825c). For purposes of the Form No. 80, each development within a project consists of a reservoir or generating station and related waterways.

[3] Docket No. R-276, Order No. 330, issued December 12, 1966 (31 FR 16201, December 17, 1966), codified at 19 CFR 8.11 and 141.14 (1980).

regulatory responsibilities. Accordingly, the Commission proposes to reduce the number of data elements in the form by approximately 60 percent. This should result in a net decrease of 75 percent in the time it takes for respondents to collect data for each form, record it, and submit it to the Commission. The time needed to complete a Form No. 80 would be reduced from the current 40 hours to only 10 hours.

In addition, the procedure for filing the form would be simplified. As is currently required, respondents would have to make only one complete filing of the revised Form No. 80. Subsequent filings would be updated only to the extent necessary to "change, delete or add to" the previously submitted information, since the Commission would preprint and return to respondents those forms previously filed, changes to the information could then be made quickly and easily.

Finally, respondents would no longer be required to list under "Other" all those facilities at a development which are not designated on the form. Reports would be required only for the facilities which are specifically named on the form.

II. Summary of Proposed Changes

A. Revisions to Form No. 80

The Commission proposes to completely redesign Form No. 80 in order to consolidate and clarify necessary data requirements, eliminate unnecessary elements and update certain of the reporting requirements. The title of Form No. 80 would be changed from "Licensed Projects Recreation Report" to "Licensed Hydropower Development Recreation Report" to better describe the source of information for the report. For the same reason, references to "project" would be changed to "development" elsewhere in the form and in the regulations. The instructions would also provide that the form would be preprinted for submissions made after the 1981 filing so that respondents would simply note changes as necessary.

The following items would be deleted from Form No. 80:[4]

- Direction and air miles from the project to the nearest city (Part 2.D.)
- Estimated population within 100 air miles of the development (Part 2.E.)
- Location of the center of the project development in latitude and longitude (part 2.H.)
- Maximum pool fluctuation (in feet, Msl) (Part 3.E.)
- Water quality and description (Part 3.F.)
- Description of (1) reservoir operation, (2) accessibility, (3) climate, and (4) nearly recreation areas (Part 3.H.)
- Total days in recreation season (Part 3.J. (3))
- Land and water control policy (Part 4.a. (5))
- Names and addresses of cooperating agencies (Part 4.B.)
- Types of recreation fees and range of charges in project (Part 4.D.)
- Initial number of annual visitations to the development (Part 5.b.)
- Initial number of visitors on an average peak weekend day (Part 5.E.)
- Land and land rights (Part 6.A.)
- Structures, improvements and equipment (Part 6.B.)
- Gross recreation investment (Part 6.C.)
- Total development investment (Part 6.E.)
- Initial number of free and user fee facilities in the project (Part 7. Cols. 3 and 4.)
- The reason why no comfort stations are provided; whether or not comfort stations meet local standards and if not, the reason why (Part 8.B.)
- The reason why waste and sanitary disposal features are not provided; whether or not they meet local requirements and if not, the reason why (Part 8.C.)
- The reason why drinking water is not provided (Part 8.D.)
- Reports of the number of fishing camps, quest ranches, private clubs and airfields which are operated by others on land adjoining the project. (Part 9.D., H., K., M.
- Date of signature by person making the report (Part 10.)

The following items would be added to the form to reflect changes in the types of facilities provided within the development boundary and on lands adjoining the project:[5]

- Boat launching lanes
- Trailer/RV sites
- special purpose recreational areas
- Hunting areas
- Cultural resource sites
- Overnight lodging units
- Overlooks
- Winter sports facilities

B. Amendments to 18 CFR 8.11

The regulations at § 8.11 would be revised in three important respects:

First, the procedure for filing the Form No. 80 would be changed. Section 8.11(a) would provide that the FERC Form No. 80 must be completed in its entirety by all licensees who are required to file the form by November 30, 1981 (consistent with the current requirement). By this rulemaking, however, any filings of Form No. 80 made after November 30, 1981, including initial (first time) filings of the form, would be required by February 28 of each odd-numbered year. The February date was chosen so that reports which are based on information collected through December 31 of each even-numbered year could be filed on a timely basic.

Second, § 8.11(b) would be revised to reflect changes in other portions of the Commission regulations persuant to requirements in the Public Utility Regulation Policies Act of 1978 (PURPA) (16 U.S.C. 2601–2645).[6]

Section 8.11(b) currently provides for the postponement in the filing of an initial Form No. 80 if an applicant has filed a recreational use plan or an exhibit pursuant to 18 CFR 4.41. Section 4.41 was one of the provisions which was revised as a result of PURPA. Before the passage of PURPA, § 4.41 exhibits could be applied to either constructed *or* unconstructed projects. Since passage of PURPA, however, the exhibits associated with *unconstructed* projects are prescribed at § 4.41 and exhibits which pertain to *existing* (constructed) projects are prescribed at § 4.51

This rulemaking would, therefore, revise § 8.11(b) to reflect the changes resulting from PURPA pertaining to postponements in filing Form No. 80 for unconstructed and existing projects. Licensees of *unconstructed* projects would be required to file an initial Form No. 80 only after the project has been in operation for a full calendar year prior to the submission date. Licensees of *existing* (constructed) projects, however, would have to file an initial Form No. 80 only after the project has been licensed for a full calendar year prior to the submission date.

Finally, the only noteworthy revision to § 8.11(c) would be the substitution of the word "development" for "project" to better describe the source of information for the form.

III. Initial Regulatory Flexibility Analysis

This initial regulatory flexibility analysis is prepared pursuant to the Regulatory Flexibility Act (RFA),[7] which requires certain statements, descriptions, and analyses of proposed rules that will have "a significant

[4] All references to Part number and item are from the current Form No. 80.

[5] The new items proposed for Form No. 80 have frequently been reported as "other" facilities at a development. All requirements to specify any "other" facilities on the form have been eliminated. Because the names of the frequently-reported facilities would be printed on the form, the respondents' reporting burdens would be further reduced because they would only have to report on those items listed in the form.

[6] Section 405 of PURPA requires that simple licensing procedures be established by the Commission for small hydroelectic projects at existing dams. The Commission made appropriate revisions to its regulations which prescribe hydroelectric licensing requirements in order to satisfy this PURPA directive. *See* Docket No. RM79–23, Order No. 54, issued October 22, 1979 (44 FR 61336, October 25, 1979), and Docket No. RM79–36, Order No 59, issued November 19, 1979 (44 FR 67651, November 27, 1979).

[7] 5 U.S.C 601–612.

economic impact on a substantial number of small entities". The broad purpose of the RFA is to ensure more careful and informed agency consideration of rules which may significantly affect small business and small government entities, and to encourage cost-benefit analyses of these rules as well as the agency's consideration of alternative approaches which may better resolve any unnecessarily costly or adverse effects on these small entities.

In Parts I and II of the preamble of the instant proposal, the Commission has presented its reasons for agency action, and its objectives and the legal basis for the rulemaking, and the reporting, recordkeeping, and other compliance requirements which it imposes, in accordance with the requirements of section 603(b)(1), and (2) and (4) of the RFA. In further compliance with section 603(b)(4), the Commission notes that no special expertise is necessary to comply satisfactorily with this proposed rule's filing requirements. In sum, the proposed rule would reduce substantially the reporting burden of *all* respondents (*i.e.*, both small and large entities) who file reports pursuant to § 8.11 of the Commission's regulations.

The proposed rule would redesign, simplify, and update the data in Form No. 80, the Licensed Projects Recreation Report; reduce the number of data elements therein by approximately 60 percent and provide for preprinting of the forms in the future. The changes would reduce by 75 percent the time required of each of the respondents to collect and record the necessary data; thus, instead of the approximately 40 hours it currently takes to complete each Form No. 80, it would now take only about 10 hours per form. This time saving should result in a significant economic saving as well.

Additional benefits to licensees of small projects were realized in Commission Order No. 106 (Docket No. RM80-65, November 7, 1980, 45 FR 76115, November 18, 1980). Order No. 106 establishes Subpart K in Part 4 of the Commission regulations pursuant to section 408 of the Energy Security Act of 1980 (Pub. L. 96-294, 94 Stat. 611) and provides an exemption from licensing procedures for projects with an installed capacity of 5 megawatts or less. These new regulations will reduce by about 50 the number of potential Form No. 80 respondents. The Commission believes the proposed changes are beneficial in that they will significantly reduce the reporting burden and related costs for small business entities.

Section 603(b)(3) and (4) of the RFA requires a description and, if possible, an estimate of the number of small entities subject to the proposed rule. Currently, there are about 160 respondents (licensees) which are required to file the Form No. 80 for developments in one or more projects. Approximately 50 of these are small entities [8] (including municipalities under 50,000 population). Some small entities file only one form per project because the development actually constitutes the entire project. Larger entities may file several forms because they hold licenses for more projects and each project may contain several developments.

Section 603(c) of the RFA requires a description of significant alternatives to the proposed rule that may help minimize the proposal's adverse economic impact on small entities. From the viewpoint of regulatory flexibility, the significant alternatives to the proposed rules are to first, leave the existing provisions intact or second, to further reduce the reporting requirement.

The first alternative (leave the existing provisions intact) would contradict the objectives of the RFA. The primary purpose of this rulemaking is to reduce the reporting burdens from the current requirements. This can only be accomplished by Commission action, such as that proposed in this docket.

With respect to the second alternative (further reduce the reporting requirement), this form has undergone extensive review over a period of five or six years. The data elements have been pared to an essential minimum in light of the intent of the Federal Power Act and the Commission's regulatory responsibilities specified therein. Therefore the Commission cannot justify a further reduction in data reporting for small entities and perform an adequate oversight of such licensees.

As a third alternative for the instant rulemaking, the Commission might propose changing § 8.11(c) of the regulations. Paragraph (c) provides an exemption from the filing of Form No. 80 for licensees of projects having no recreational use. The Commission might, instead, provide an exemption for licensees of projects wherein the recreational usage is below a predetermined amount (*e.g.*, less than 1,000 visits per year). The Commission believes that this is not a reasonable alternative because it would contradict the statutory requirement in section 10(a) of the Federal Power Act which provides that each project licensed by Commission "* * * will be best adapted to a comprehensive plan for improving and developing a waterway or waterways, for * * * beneficial public uses, including recreational purposes".

Finally, in compliance with section 609 of the RFA, the Commission will send copies of this Notice of Proposed Rulemaking to each project licensee who is required to file this form for review and comment.

[8] In the context of this small entity impact analysis, small entities are considered Class C or Class D licensees. The annual revenues of Class C entities are $150,000 or more but less than $1,000,000, and Class D licensees earn revenues of $25,000 or more but less than $150,000. (*See* 18 CFR Part 101, Uniform System of Accounts Prescribed for Public Utility and Licensees Subject to the Provisions of the Federal Power Act.)

IV. Written Comment Procedure

The Commission invites interested persons to submit written data, views and other information concerning the matters set out in this Notice. An original and 14 copies of such comments should be filed with the Commission by August 3, 1981. Comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 and should reference Docket No. RM81-36.

All written submissions will be placed in the Commission's public files and will be available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426 during regular business hours.

(Department of Energy Organization Act, 42 U.S.C. 7101-7352; E.O. 12009, 3 CFR 142; Federal Power Act, 16 U.S.C. 792-828c; Public Utility Regulatory Policies Act, 16 U.S.C. 2601-2645)

In consideration of the foregoing, the Commission proposes to amend Form No. 80 as set forth in Attachment A, and Parts 8 and 141 of Chapter I, Title 18 of the Code of Federal Regulations as set forth below.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

1. Section 8.11 is revised to read as follows:

§ 8.11 Information respecting Use and Development of Public recreational opportunities.

(a)(1) *Applicability.* Except as provided in paragraph (b) of this section, each licensee of a project under major or minor Comission license shall prepare with respect to each development within such project an original and two

conformed copies of FERC Form No. 80 prescribed by § 141.14 of this chapter.

(2) The Form No. 80 is due on November 30, 1981, for data compiled during the calendar year ending December 31, 1980. Thereafter, this report is due on February 28 of each odd-numbered year for data compiled during the previous calendar year.

(3) The Form No. 80 shall be completed in its entirety:

(i) for each report due on November 30, 1980, or

(ii) for each initial filing of the report.

(4) Filings of Form No. 80 made subsequent to reports filed pursuant to paragraph (a)(3) of this section shall be completed only to the extent necessary to change, delete or add to the information supplied in a previously filed form.

(5) One copy of the Form No. 80 should be retained by the respondent licensee in its file.

(b) *Initial Form No. 80 Filings.* Each licensee of an unconstructed project shall file an initial Form No. 80 after such project has been in operation for a full calendar year prior to the filing deadline. Each licensee of an existing (constructed) project shall file an initial Form No. 80 after such project has been licensed for a full calendar year prior to the filing deadline.

(c) *Exemptions.* A licensee may request an exemption from any further filing of Form No. 80 for any development which has no existing or portential recreational use by submitting a statement not later than 6 months prior to the due date for the next filing, stating that Form No. 80 has been filed previously for such development, and setting out the basis for believing that the development has no existing or potential recreational use.

2. Section 141.14 is revised to read as follows:

§ 141.14 Form No. 80, Licensed Hydropower Development Recreation Report.

The form of the report, Licensed Hydropower Development Recreation Report, designated as FERC Form No. 80, for use by licensees in reporting information with respect to existing and potential recreational use at developments within projects under major and minor license, is approved and prescribed for use as provided in § 8.11 of this chapter.

[FR Doc. 81-19921 Filed 7-7-81; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF JUSTICE

Attorney General

28 CFR Part 16

[AAG/A Order No. 70-81]

Production or Disclosure of Material or Information; Exemption of Records Systems Under the Privacy Act

AGENCY: Department of Justice.

ACTION: Proposed rule.

SUMMARY: This regulation is proposed to exempt the FBI Alcoholism Program system from the access provisions of the Privacy Act (5 U.S.C. 552a). The exemption is needed in order to protect information classified pursuant to applicable Executive order provisions, and to conceal the identity of a confidential source. While it would be unusual, this kind of information could find its way into the system. The protection of such information would be in the public interest.

DATE: All comments must be received by August 7, 1981.

ADDRESS: All comments should be addressed to the Administrative Counsel, Justice Management Division, Department of Justice, Room 6239, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

FOR FURTHER INFORMATION CONTACT: William J. Snider (202-633-3452).

SUPPLEMENTARY INFORMATION: The proposed system will be used only to maintain records concerning FBI employees enrolled voluntarily in the Alcoholism Program. However, in connection with this program, it is conceivable that information describing an employee's duty assignment to national security matters could find its way into the system. Also, the system might contain information from a source who was provided an express promise that the source's identity would be maintained in confidence. By exempting this system from Subsection (d) of the Privacy Act, the FBI will be able to withhold from access information classified in the interest of national security, as well as information identifying a confidential source.

This regulation is exempt from Executive Order 12291, pursuant to Section 1(a)(3), because it relates to agency management. The authority for this proposed rule is 5 U.S.C. 552a. Accordingly, it is proposed that 28 CFR 16.96 be amended as set forth below.

Dated: June 25, 1981.

Kevin D. Rooney,

Assistant Attorney General for Administration.

Section § 16.96 is amended by adding paragraphs (j) and (k).

§ 16.96 Exemption of Federal Bureau of Investigation System—limited access.

* * * * *

(j) The following system of records is exempt from 5 U.S.C. 552a(d):

(1) FBI Alcoholism Program (JUSTICE/FBI-014). This exemption applies only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(k)(1) and (k)(5).

(k) Exemption from Subsection (d) is claimed only where providing copies of the records to the requesting employee could disclose information classified by applicable Executive order in the interest of national security, or could reveal the identity of a source who provided information under an express promise of confidentiality.

[FR Doc. 81-20025 Filed 7-7-81; 8:45 am]

BILLING CODE 4410-02-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-8-FRL 1834-7]

Colorado; Approval and Promulgation of Implementation Plans

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA today is proposing to approve portions of Colorado Regulation No. 7 "Control of Volatile Organic Compounds (VOC)" since it requires reasonably available control technology (RACT) for sources specified under EPA's Group II Control Technique Guidelines (CTG). EPA requests comments on this proposed action. In addition EPA is requesting specific comments on the approvability of a dry cleaning exemption, identification of refinery leaks and the emission reduction required for the coating of miscellaneous metal parts.

EPA is also proposing to revoke a number of ozone control strategy regulations promulgated by EPA under the Clean Air Act of 1970 since State Implementation Plan (SIP) revisions submitted by the State in Response to the Clean Air Act Amendments of 1977 include control strategies which

supercede or replace the earlier EPA promulgations.

DATE: Comments must be received on or before August 7, 1981.

ADDRESSES: Copies of the SIP revision are available at the following addresses for inspection:

Environmental Protection Agency,
Region VIII,
1860 Lincoln Street,
Denver, Colorado 80295

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

Colorado Department of Health,
Air Pollution Control Division,
4210 E. 11th Avenue,
Denver, Colorado 80220

WRITTEN COMMENTS SHOULD BE SENT TO: Robert R. DeSpain, Chief, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295.

FOR FURTHER INFORMATION CONTACT: William Bernardo, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295 (303) 837-6131.

SUPPLEMENTARY INFORMATION: Section 172(b)(3) of the Clean Air Act requires the application of RACT to stationary sources of VOC in areas in the State of Colorado which have not attained the National Ambient Air Quality Standard for ozone. A 1979 SIP revision was required to include RACT on those categories for sources for which EPA had published CTG prior to January 1978. Colorado submitted an amended Regulation No. 7 which covered Group I sources on June 5, 1980, which EPA felt represented RACT. EPA proposed approval of the amended Regulation No. 7 on August 26, 1980 (45 FR 56847). The 15 source categories covered under Group I Regulation are:

1. Section VI—Tank truck loading terminals
2. Section VI—Bulk gasoline plants
3. Section VI—Gasoline service stations—Group I control
4. Section VI—Petroleum storage tanks
5. Section VIII—Petroleum processing and refining
6. Section IX—Can coating
7. Section IX—Metal coil coating
8. Section IX—Fabric coating
9. Section IX—Paper products coating
10. Section IX—Automobile coating
11. Section IX—Metal furniture coating
12. Section IX—Magnet wire coating
13. Section IX—Large appliance coating
14. Section X—Solvent metal cleaning
15. Section XI—Cutback asphalt

Final EPA action on the Group I regulation was published recently.

Colorado was required to revise its SIP in 1980 to include RACT on those categories of sources for which EPA had published CTG's between January 1978, and January 1979 (See 43 FR 21673 (May 19, 1978), 44 FR 50371 (August 28, 1979).) On January 6, 1981, the State of Colorado submitted a revised Regulation No. 7 which addressed the following nine Group II categories:

1. Section VI—Petroleum liquid storage in external floating roof tanks
2. Section VI—Leaks from gasoline tank trucks
3. Section VIII—Leaks from petroleum refinery equipment
4. Section IX—Coating of miscellaneous metal parts and products
5. Section XII—Perchloroethylene dry cleaning systems
6. Section XIII—Graphic Arts
7. Section IV—Pharmaceutical synthesis
8. Rationale—Flat wood paneling
9. Rationale—Pneumatic rubber tire manufacturing

EPA believes that portions of the revised Regulation No. 7 adequately addresses RACT and remedies deficiencies identified by EPA at the November 14, 1980, State public hearing. However, the following issues were not fully addressed in the submittal and EPA has requested the following additional information from the State:

1. Section XII.C.1

A dry cleaning facility is exempt from meeting the 100 ppm by volume of perchloroethylene emission limit if the facility never exceeds an annual consumption of 500 gallons of perchloroethylene beginning January 1, 1980. The State must justify why this provision represents RACT.

2. Section VIII.C.2

This regulation does not require leaking components to be tagged or otherwise marked in the field. EPA requests documentation of the technique that will ensure enforceability of this regulation.

3. Section IX.M.2(ii)

This regulation requires a control and capture system to achieve an emission reduction of 60 percent. EPA feels this reduction is not equivalent in most cases to that achieved by low solvent coating. The State has been requested to change the regulation or document that the regulation will be implemented in a manner that will assure equivalency with low solvent coating.

In addition, EPA has reviewed the revisions to Regulation No. 7 in relation to the respective CTG for each type of emission source. The CTG's provide information on available control techniques and contain recommendations of what EPA calls the "presumptive norm" for RACT. Based on the information in the CTG's, EPA believes that portion of the revised Regulation No. 7 submitted on January 6, 1981, represents RACT for Group II CTG sources.

EPA is also proposing to revoke a number of ozone control strategies promulgated by EPA prior to enactment of the Clean Air Act Amendments of 1977, including 40 CFR 52.331 (control of dry cleaning solvent evaporation); 52.332 (degreasing operations); 52.333 (organic solvent usage); 52.334 (storage of petroleum products); 52.335 (organic liquid loading); 52.336 (gasoline transfer vapor control); 52.337 (control of evaporative losses from the filling of vehicular tanks); and 52.338 (federal compliance schedules). EPA believes revocation of these control strategies is appropriate since these control strategies have been superceded by equally effective measures developed by the State to comply with the requirements of Part D of the Clean Air Act as amended. EPA further believes that Congress intended for State and local governments to assume the primary responsibility for developing and implementing necessary control strategies because State and local agencies are in a better position to determine the best way to achieve compliance with clean air goals. Furthermore, under Section 110(c) of the Clean Air Act, EPA may only promulgate strategies if the SIP submitted by the States does not meet the requirements of the Act. EPA believes the SIP revisions submitted by Colorado on June 5, 1980 and January 6, 1981, requiring RACT for Group I and Group II sources of volatile organic compounds adequately address the applicable requirements of the Clean Air Act. Therefore, the prior EPA promulgations are now duplicative and inappropriate.

EPA is also proposing to revoke transportation control strategies promulgated by EPA for the State of Colorado prior to enactment of the Clean Air Act Amendments of 1977, including 40 CFR 52.339 (Monitoring transportation controls) and 52.340 (Review of new (indirect) sources and modifications). On January 1, 1979 and February 6, 1980, the State submitted SIP revisions in response to the Clean Air Act as amended in 1977 addressing transportation control strategies. On October 5, 1979 and August 1, 1980, EPA approved these SIP revisions. *See* 44 FR 57401 and 45 FR 51199. In 1976 EPA indefinitely suspended all federally

promulgated indirect source review provisions. *See* 40 CFR 52.22(b)(16) (1980). In addition, Section 110(a)(5) of the Clean Air Act as amended severely restricted EPA's authority to promulgate indirect source review programs.

Since EPA has already fully approved the transportation control related elements of the SIP submitted by the State of Colorado and has proposed or is today proposing approval of the remaining necessary ozone control strategies, the above mentioned strategies which were previously promulgated by EPA are duplicative of existing state and local regulatory requirements and no longer necessary or appropriate.

Therefore, EPA is today proposing to approve subject to the receipt of adequate documentation from Colorado during the comment period on portions of the amendments to Colorado Regulation No. 7 submitted on January 6, 1981, and to revoke outdated EPA regulations which appear in 40 CFR 52.331 through 52.340.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator has certified that this proposed rule, if promulgated, will not have a significant impact on a substantial number of small entities.

Interested persons are invited to comment on the revised Colorado SIP and EPA's proposed action. Comments should be submitted to the address listed at the beginning of this notice. Public comments received by August 7, 1981, will be considered in EPA's final decision.

Under Executive Order 12291, I hereby certify that this proposed rule does not constitute a major rule requiring preparation of a Regulatory Impact Analysis. This determination is based on the fact that today's action merely proposes to approve regulations submitted by the State which are already in effect under State law and to remove existing EPA regulatory requirements that have been replaced by State requirements.

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

This notice of proposed rulemaking is issued under the authority of Sections 110 and 172 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7572).

Dated: March 11, 1981.

Roger L. Williams,

Regional Administrator.

Certification of No Significant Impact on a Substantial Number of Small Entities

Regulation: Proposed Action on Colorado SIP Approving Portions of Colorado Regulation No. 7 "Control of VOC" and Revoking Ozone Strategy Regulations Promulgated by EPA

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this proposal, if promulgated, will not have a significant economic impact on a substantial number of small entities. The proposed SIP approvals will only approve state actions and will not impose any new regulatory requirements. See 45 FR 8709 (January 27, 1981). The proposed revocations will also not have a significant economic impact. They will remove requirements promulgated by EPA that have been replaced by requirements adopted by the State.

Dated: June 30, 1981.

John W. Hernandez,

Acting Administrator.

[FR Doc. 81-20001 Filed 7-7-81; 8:45 am]

BILLING CODE 6560-38-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA 6102]

National Flood Insurance Program; Proposed Base Flood Elevations and Zone Designations for the Town of Cary, North Carolina

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations described below.

The proposed elevations and zone designations will be the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Map and other information showing the detailed outlines of the floodprone areas and the proposed elevations and zone designations are available for review at the Mayor's Office, Cary, North Carolina.

Send comments to: The Honorable Fred Bond, Mayor, Town of Cary, 316 North Academy Street, Post Office Box 128, Cary, North Carolina 27511.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755-6570.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed elevations and zone designations (100-year flood) for the Town of Cary, North Carolina in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a) (presently appearing at its former Section, 24 CFR 1917.4(a))).

The proposed elevations and zone designations together with the floodplain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. The proposed elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed 100-year flood elevations and zone designations for selected locations are:

Source of flooding	Location	Elevation (feet)	Zone
Black Creek Tributary A	Extraterritorial limits line	290 (NGVD)	A4.
Black Creek Tributary A	North Harrison Avenue	356 (NGVD)	A4.
Crabtree Creek	Point approximately 500 feet downstream, of Highway 1615.	315 (NGVD)	A4.
Crabtree Creek	Upstream of flood control dam	352 (NGVD)	A4
Lens Branch	Confluence of Swift Creek	312 (NGVD)	A3.
Swift Creek	Confluence of Lens Branch	312 (NGVD)	A3.

Source of flooding	Location	Elevation (feet)	Zone
Swift Creek	Point approximately 5000 feet upstream of confluence with Lens Branch	320 (NGVD)	A3.

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

Issued: June 25, 1981.

Robert G. Chappell,

Acting Assistant Administrator, Federal Insurance Administration.

[FR Doc. 81-19797 Filed 7-7-81; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA 6103]

National Flood Insurance Program; Proposed Base Flood Elevations and Zone Designations for the City of Charlotte, North Carolina

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations described below.

The proposed elevations and zone designations will be the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Map and other information showing the detailed outlines of the floodprone areas and the proposed elevations and zone designations are available for review at the Mayor's Office, Charlotte, North Carolina.

Send comments to: The Honorable Eddie Knox, Mayor, City of Charlotte, City Hall, 600 East Trade Street, Charlotte, North Carolina 28202.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755–6570.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed elevations and zone designations (100-year flood) for the City of Charlotte, North Carolina in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

The proposed elevations and zone designations together with the floodplain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. The proposed elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed 100-year flood elevations and zone designations for selected locations are:

Source of flooding	Location	Elevation (feet)	Zone
Taggart Creek	West Boulevard	623 (NGVD)	A10.
Taggart Creek	Morris Field Drive	636 (NGVD)	A4.
Taggart Creek	Southern Railway	675 (NGVD)	A14.
McMullen Creek	Corporate limits	546 (NGVD)	A5.
McMullen Creek	Quail Hollow Road	569 (NGVD)	A4.
Campbell Creek	Albemarle Road	702 (NGVD)	A4.
Campbell Creek	Barcliff Drive	716 (NGVD)	A2.
McAlpine Creek	Corporate limits	544 (NGVD)	A4.
McAlpine Creek	Confluence with Rea Branch	547 (NGVD)	A4.
McAlpine Creek	Confluence with McAlpine Creek Tributary No. 3	563 (NGVD)	A4.
McAlpine Creek	Old Providence Road	570(NGVD)	A4.
McAlpine Creek	Sardis Road	572 (NGVD)	A4.
McAlpine Creek	Monroe Road	580 (NGVD)	A4.
McAlpine Creek	Margaret Wallace Road	594 (NGVD)	A3.
McAlpine Creek	Idlewild Road	628 (NGVD)	A3.
McAlpine Creek	Marlwood Circle	684 (NGVD)	A2.
McAlpine Creek Tributary No. 3	Lancer Drive	563 (NGVD)	A3.
McAlpine Creek Tributary No. 3	Rea Road	574 (NGVD)	A3.
McAlpine Creek Tributary No. 3	Providence Road	596 (NGVD)	A3.

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

Issued: June 25, 1981.

Robert G. Chappell,

Acting Assistant Administrator, Federal Insurance Administration.

[FR Doc. 81-19798 Filed 7-7-81; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-6104]

National Flood Insurance Program; Proposed Base Flood Elevation and Zone Designation; Determination for the City of Shoreacres, Harris County, Texas

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevation and zone designation as described below.

The proposed base flood elevation and zone designation are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second

publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevation and zone designation are available for review at the City Hall, 619 Shoreacres Boulevard, LaPorte, Texas.

Send comments to: The Honorable Rowe H. Holmes, Mayor, City of Shoreacres, 619 Shoreacres Boulevard, LaPorte, Texas 77571.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, P.E., Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, DC 20410, (202) 755–6570 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed base flood elevation and zone designation for the City of Shoreacres, Texas, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

The base flood elevation and zone designation, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevation and zone designation will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The area located just south of Baywood Avenue and South Country Club Drive has been deleted from the City. Also, the area located west of Route 146 has been recently annexed. The proposed base flood elevation throughout the City is 16 feet mean sea level (msl), and the proposed zone designation is Zone A15. The base flood elevation for the City has been adjusted from 15.7 feet msl to 16 feet msl to reflect the elevation to the nearest foot.

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

Issued: June 25, 1981.

Robert G. Chappell,

Acting Assistant Administrator, Federal Insurance Administration.

[FR Doc. 81-19799 Filed 7-7-81; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA 6105]

National Flood Insurance Program; Proposed Elevations, Special Flood Hazard Area and Cross-Sections for the Town of Chester, Vermont

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed elevations, special flood hazard area and cross-sections described below.

The proposed elevations, special flood hazard area and cross-sections will be the basis for the floodplain mamagement measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Map and other information showing the detailed outlines of the floodprone areas and the proposed elevations, special flood hazard area and cross-sections are available for review at the Town Manager's Office, Chester, Vermont.

Send comments to: Mr. Prentice Hammond, Town Manager, Town Office, Chester, Vermont 05144.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755–6570.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed elevations, special flood hazard area and cross-section (100-year flood) for the Town of Chester, Vermont in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4 (a) (presently appearing at its former Section, 24 CFR 1917.4 (a)))

The proposed elevations, special flood hazard area and cross-sections, together with the floodplain management measures required by Section 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their floodplain mamagement requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. The proposed elevations, special flood hazard area and cross-sections will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation (feet)
Lovers Lane Brook	North of Depot Street, east of South Main Street	607 (NGVD) 608 (NGVD).
Lovers Lane Brook	West of Pleasant Street, north of South Main Street and Pleasant Street intersection.	591 (NGVD) 587 (NGVD).

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

Issued: June 25, 1981

Robert G. Chappell,

Acting Assistant Administrator, Federal Insurance Administration.

[FR Doc. 81-19800 Filed 7-7-81; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6106]

National Flood Insurance Program; Proposed Zone Designation Determination for the City of Bellevue, King County, Washington

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed zone designation as described below.

The proposed zone designation is the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named coummunity.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed zone designation are available for review at the Office of the City Clerk, Bellevue City Hall, 11511 Main Street, Bellevue, Washington.

Send comments to: The Honorable Richard M. Foreman, Mayor, City of Bellevue, P.O. Box 1768, Bellevue, Washington 98009.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, P.E., Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, DC 20410, (202) 755-6570 (in Alaska and Hawaii call toll free (800) 424-9080).

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed zone designation for the City of Bellevue, Washington, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 67.

This zone designation, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required.

It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed zone designation will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed zone designation along North Branch Mercer Creek, between a point approximately 620 feet downstream of Northeast 40th Street and Northeast 40th Street has been revised from Zone A1 to Zone A.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: June 25, 1981.

Robert G. Chappell,

Acting Assistant Administrator, Federal Insurance Administration.

[FR Doc. 81-19801 Filed 7-7-81; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6107]

National Flood Insurance Program; Proposed Base Flood Elevation and Zone Designation Determinations for the City of Morton, Lewis County, Washington

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed Rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designation as described below.

The proposed base flood elevations and zone designation are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designation are available for review at the City Hall, 250 East Main Street, Morton, Washington.

Send comments to: The Honorable James A. Mitchell, Mayor, City of Morton, P.O. Box 1089, Morton, Washington 98356

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, P.E., Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-6570 (in Alaska and Hawaii call toll free (800) 424-9080).

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed base flood elevations and zone designation for the City of Morton, Washington, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 67.

These base flood elevations and zone designation, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designation will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base flood elevations and zone designation are as follows:

Source of flooding	Location	Elevation national geodetic vertical datum	Zone designation
Tilton River	Just upstream of Bear Canyon Road	911 feet	937 feet
	Approximately 250 feet upstream of Bear Canyon Road.	913 feet	
	At the northeastern corporate limits		

The proposed floodway delineation has also been shown at the above-mentioned locations of the Tilton River.

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

Issued: June 25, 1981.

Robert G. Chappell,

Acting Assistant Administrator, Federal Insurance Administration.

[FR Doc. 81-19802 Filed 7-7-81; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA 6096]

National Flood Insurance Program; Proposed Base Flood Elevations and Zone Designation for the Town of Wethersfield, Conn.

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designation decribed below.

The proposed elevations and zone designation will be the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Map and other information showing the detailed outlines of the floodprone areas and the proposed elevations and zone designation are available for review at the Town Manager's Office, Wethersfield, Connecticut.

Send comments to: Mr. Henry R. Allen, Town Manager, Town of Wethersfield, 505 Silas Deane Highway, Wethersfield, Connecticut 06109.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Acting Assistant Administrator, Program Implementation and Engineering Office National Flood Insurance Program, 451 Seventh Street, SW., Washington, D.C. 20410 (202) 755–6570.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed elevations and zone designation (100-year flood) for the Town of Wethersfield, Connecticut, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4 (a).

The proposed elevations and zone designation, together with the floodplain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. The proposed elevations and zone designation will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed 100-year flood elevations and zone designation for selected locations are:

Source of flooding	Location	Elevation (feet)	Zone
Goff Brook	Point immediately downstream of Maple Street	35 (MDD)	A5.
Goff Brook	Point approximately 300 feet upstream of Maple Street.	41 (MDD)	A5.

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

Issued: June 25, 1981.

Robert G. Chappell,

Acting Assistant Administrator, Federal Insurance Administration.

[FR Doc. 81-19803 Filed 7-7-81; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA 6097]

National Flood Insurance Program, Proposed Flood Insurance Zone Designation for the City of Lynn Haven, Fla.

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed flood insurance zone designation described below.

The proposed zone designation will be the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the floodprone areas and the proposed zone designation are available for review at the Mayor's Office, Lynn Haven, Florida.

Send comments to: The Honorable Montel Johnson, Mayor, City of Lynn Haven, 825 Ohio Avenue, Lynn Haven, Florida 32444.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, P.E., Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street, SW, Washington, D.C. 20410 (202) 755–6570.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed zone designation (100-year flood) for the City of Lynn Haven, Florida, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a) (presently appearing at its former Section, 24 CFR 1917.4(a)).

The proposed zone designation, together with the floodplain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The porposed zone designation will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed 100-year flood zone designation for selected locations are:

Source of flooding	Location	New zone	Previous zone
Local flooding sources	Area bounded by Alabama Avenue, 14th Street, Illinois Avenue, and southern corporate limit line.	C	A.

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

Issued: June 25, 1981.

Robert G. Chappell,

Acting Assistant Administrator, Federal Insurance Administrator.

[FR Doc. 81-19804 Filed 7-7-81; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA 6098]

National Flood Insurance Program; Proposed Base Flood Elevations and Zone Designations for the City of Aurora, Kane and Du Page Counties, Illinois

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations decribed below.

The proposed base flood elevations and zone designations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at 44 East Downer Place, Aurora, Illinois.

Send comments to: The Honorable Jack Hill, City of Aurora, 44 East Downer Place, Aurora, Illinois 60507.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street, SW., Washington, D.C. 20410 (202) 755–6570.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed base flood elevations and zone designations for the City of Aurora, Kane and Du Page Counties, Illinois, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

Zone designations and base (100-year) flood elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed zone designations are:

Zone A2 and Zone C along the Waubansee Creek between the point approximately 1600 feet downstream from 83rd Street and the point where the Elgin Joliet and Eastern Railroad crosses the Waubansee Creek.

The proposed base flood elevations are:

670 feet (NGVD) through 680 feet (NGVD) along the Waubansee Creek between the point approximately 1600 feet downstream from 83rd Street and the point where the Elgin Joliet and Eastern Railroad crosses the Waubansee Creek.

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

Issued: June 25, 1981.

Robert G. Chappell,

Acting Assistant Administrator, Federal Insurance Administration.

[FR Doc. 81-19805 Filed 7-7-81; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA 6099]

National Flood Insurance Program; Proposed Base Flood Elevation and Zone Designation for the Town of Pembroke, Massachusetts

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevation and zone designation described below.

The proposed base flood elevation and zone designation will be the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Map and other information showing the detailed outlines of the floodprone areas and the proposed base flood elevation and zone designation are available for review at the Selectmen's Office, Pembroke, Massachusetts.

Send comments to: Mr. John Ahearn, Chairman, Board of Selectmen, Littles Avenue, Pembroke, Massachusetts 02359.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755–6570.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed zone designation and base flood elevation (100-year flood) for the Town of Pembroke, Massachusetts, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a) (presently appearing at its former Section, 24 CFR 1917.4(a)).

The base flood elevation and zone designation, together with the floodplain management measures required by Section 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. The proposed base flood elevation and zone designation will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed 100-year flood elevation and zone designation for selected locations are:

Source of flooding	Location	Elevation (feet)	Zone
North River (Tidal flooding)	Between confluence with Indian Head River and the Route 3 bridge.	9 feet (NGVD)	A2.

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

Issued: June 25, 1981.

Robert G. Chappell,

Acting Assistant Administrator, Federal Insurance Administration.

[FR Doc. 81-19606 Filed 7-7-81; 8:45 a.m.]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-6100]

National Flood Insurance Program; Proposed Zone Designations for the City of Plymouth, Hennepin County, Minnesota

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed Rule.

SUMMARY: Technical information or comments are solicited on the proposed zone designations described below.

The proposed zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety-days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed zone designations are available for review at 3400 Plymouth Boulevard, Plymouth, Minnesota.

Send comments to: Mr. James G. Willis, City Manager, City of Plymouth, 3400 Plymouth Boulevard, Plymouth Minnesota 55447.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappel, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755–6570.

SUPPLEMENTARY INFORMATION: The Federal Insuarnce Administrator gives notice of the proposed zone designations for the City of Plymouth, Minnesota, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

Zone designations and base (100-year) flood elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed zone designation is:

Zone A for Gleason Lake and its immediate vicinity.

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

Issued: June 25, 1981.

Robert G. Chappell,

Acting Assistant Administrator, Federal Insurance Administration.

[FR Doc. 81-19607 Filed 7-7-81; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA 6101]

National Flood Insurance Program; Proposed Flood Insurance Zone Designation for the Borough of Elmwood Park, New Jersey

AGENCY: Federal Insurance Adminstration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed flood insurance zone designation described below.

The proposed flood insurance zone designation will be the basis for the floodplain management measures that the community is required to either adopt or shows evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Map and other information showing the detailed outlines of the floodprone areas and the proposed flood insurance zone designation are available for review at the Mayor's Office, Elmwood Park, New Jersey.

Send comments to: The Honorable Richard A. Mola, Mayor, Borough, of Elmwood Park, Borough Hall, Market Street, Elmwood Park, New Jersey 07407.

FOR FURTHER INFORMATION CONRTACT: Mr. Robert G. Chappell, P.E., Acting Assitant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755–6570.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed zone designation (100-year flood) for the Borough of Elmwood Park, New Jersey, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)).

The proposed zone designation together with the floodplain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. The proposed zone designation will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed 100-year flood zone designation for selected locations are:

Source of flooding	Location	Previous zone	New zone
Passaic River	Between northernmost and southernmost corporate limits.	A7	a9.

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

Issued: June 25, 1981.

Robert G. Chappell,

Acting Assistant Administrator, Federal Insurance Administration.

[FR Doc. 81-19808 Filed 7-7-81; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA 6094]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: See table below.

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

These elevations, together with the floodplain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or Regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the (proposed) flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this

action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

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

Proposed Base (100-year) Flood Elevations

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Arkansas	City of Hamburg, Ashley County	May Branch	Approximately 200 feet upstream of East Norman Avenue.	*155
			Approximately 300 feet upstream of N. Cherry Street	*160
Maps available for inspection at City Hall, 305 East Adams Street, Hamburg, Arkansas 71686.				
Send comments to Mayor Maxwell Hill or Mr. William E. Johnson, City Attorney, City Hall, 305 East Adams Street, Hamburg, Arkansas 71686.				
Arkansas	City of Hope, Hempstead County	Pate Creek	Just downstream of Lincoln Street	*307
			Just upstream of Spruce Street	*312
		Unnamed Tributary to Pate Creek	Just upstream of Missouri & Pacific Railroad	*318
			Just upstream of U.S. Highway 67	*324
		Two Mile Branch	Just upstream of Kansas City Southern Railroad	*354
			Just upstream of Patmos Road	*359
		North Tributary to Caney Creek	Just downstream of County Road	*302
		South Tributary to Caney Creek	Just upstream of the corporate limits	*306
			Just downstream of State Highway 174	*315
Maps available for inspection at City Hall, East Avenue A, Hope Arkansas 71801.				
Send comments to Mayor Bill Butler, or Mr. John Swift, City Manager, City Hall, P.O. Box 667, Hope, Arkansas 71801.				
Arkansas	City of Monticello, Drew County	Tenmile Creek	Just downstream of Arkansas Highway	*217
		Tenmile Tributary	Approximately 300 feet upstream of Arkansas Highway 4.	*218
			Just downstream of Barkada Road	*236
		Godfrey Creek	Approximately 500 feet upstream of East Oakland Avenue.	*255
			Just downstream of East Gaines Avenue	*268
		Wood Creek	Just upstream of Highway 81 Spur	*212
Maps available for inspection at City Hall, 204 West Gaines Street, Monticello, Arkansas 71656.				
Send comments to Mayor James T. Jordan or Ms. Betty Jo Ross, City Administrator, City Hall, 204 West Gaines Street, Monticello, Arkansas 71656.				
Arkansas	City of Mountain Home, Baxter County	Hicks Creek	Approximately 100 feet downstream of Meadowbrook Drive.	*700
			Approximately 150 feet upstream of Meadowbrook Drive.	*702
			Approximately 170 feet downstream of State Highway 5 (east 9th Street).	*742
			Approximately 230 feet upstream of State Highway 5 (East 9th Street).	*747
		Indian Creek	Approximately 100 feet upstream of East 4th Street extended.	*755
		Dodd Creek	Approximately 380 feet downstream of U.S. Highway 62.	*752
			Approximately 200 feet upstream of U.S. Highway 62	*758
			Approximately 160 feet downstream of Butcher Drive	*780
			Approximately 290 feet upstream of Butcher Drive	*784
Maps available for inspection at City Hall, 720 South Hickory Street, Mountain Home, Arkansas 72153.				
Send comment to Mayor Roland E. Pierce or Mr. Author T. Wilcox, City Engineer, City Hall, 720 South Hickory Street, Mountain Home, Arkansas 72153.				
Arkansas	City of Newport, Jackson County	White River	Just upstream of U.S. Highway 67	*231
		Village Creek	Just upstream of State Highway 18	*231
		Newport Lake	Just downstream of Virginia Drive	*218
			Just upstream of U.S. Highway 67	*219
		Village Creek Outfall Ditch	Just downstream of U.S. Highway 67	*224
			Just upstream of McClarty Drive	*226
Maps available for inspection at City Hall, 121 Walnut Street, Newport, Arkansas 72112.				
Send comments to Mayor Harold Rutledge or Wallace Stovall, City Manager, City Hall, 121 Walnut Street, Newport, Arkansas 72112.				
California	Tehama County (Unincorporated Areas)	Sacramento River (Near Tehama)	Intersection of River Avenue and Tehama and Vina Road.	*221
		Sacramento River (Near Red Bluff)	Intersection of Peach Tree Lane and Gilmore Ranch Road.	*267
		East Sand Slough	Intersection of White Road and Dale Lane	*272
		Samson Slough	Intersection of Williams Avenue and Karel Avenue	*269
		Paynes Creek Slough	Intersection of Dale Avenue and Hunt Avenue	*269
		Sacramento River (Near Bend)	At the western end of South Wallen Road	*319
		Sacramento River (Near Lake California).	Intersection of North Marina Drive and Banner Way	*360
		Brickyard Creek	Along the center of Baker Road just north of the City of Red Bluff corporate limits.	*315
		Reeds Creek	At the upstream limit of detailed study, just upstream (west) of the City of Red Bluff corporate limits.	*276
		Grasshopper Creek	Area between 200 and 1200 feet upstream of County Route 8A, and just south of the City of Red Bluff corporate limits.	*288
		Jewett Creek	50 feet downstream from center of Houghton Avenue	*274

Proposed Base (100-year) Flood Elevations—Continued

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at Department of Public Works, Road Dept., San Benito Avenue, Gerger, California. Send comments to the Honorable Bill Flournoy, P.O. Box 250, Red Bluff, California 96080.				
Georgia	City of Quitman, Brooks County	Jefferson Street Ditch	Just upstream of Oglesby Avenue	*122
			Approximately 100 feet downstream of Southern Railway.	*138
		Okapilco Creek	Just upstream of the most downstream crossing of the coporate limits.	*109
Maps available for inspection at City Hall, Screven Street, Quitman, Georgia 31643. Send comments to Mr. W. B. McMichael, Chairman of the City Commission or Mr. James Kennedy, City Manager, City Hall, P.O. Box 208, Quitman, Georgia 31643.				
Massachusetts	Clinton, Town, Worcester County	Nashua River	Corporate Limits	*241
			Downstream Water Street	*256
			Upstream of Conrail (upstream crossing)	*262
			Chestnut Street (Upstream side)	*284
		Counterpane Brook	Confluence with Nashua River	*241
			Upstream of Plain Street	*259
			Dam (downstream side)	*266
			Approximately 1,700' upstream of Main Street	*328
Maps available for inspection at the Conservation Commission Office, Town Hall, 242 Church Street, Clinton, Massachusetts. Send comments to Honorable Thomas Clisham, Chairman of the Clinton Board of Selectmen, Town Hall, 242 Church Street, Clinton, Massachusetts 01510.				
Massachusetts	Groton, Town, Middlesex County	Nashua River	Downstream Corporate Limits	*204
			Upstream Corporate Limits	*215
		Squannacook River	Confluence with Nashua River	*215
			Approximately 1,700' downstream of West Groton Road.	*225
			Approximately 3,900' upstream of West Gorton Road	*240
			Upstream Corporate Limits	*259
		James Brook	Downstream Corporate Limits	*241
			Approximately 920' upstream of Ayer Road (Downstream crossing).	*280
			Upstream of Indian Hill Road	*296
			Upstream of Boston and Maine Railroad (Furthest upstream crossing).	*304
		Reedy Meadow Brook	Downstream Corporate Limits	*203
			Approximately 600' downstream of Nashua Road	*220
			Approximately 590' upstream of Nashua Road	*239
		Unkety Brook	Approximately 80' upstream of the downstream Corporate Limits.	*214
			Approximately 3,660' upstream of Radian Road	*225
		Cow Pond Brook	Approximately 625' downstream of abandoned railroad	*180
			Upstream of Bridge Street	*192
			Downstream of Lost Lake Dam	*207
		Badda-cook Brook	Confluence with Cow Pond Brook	*198
			Upstream of Access Road (Upstream crossing)	*216
			Upstream of Cart Road	*226
		Martins Pond Brook	Confluence with Lost Lake	*216
			Approximately 1,080' upstream of confluence with Lost Lake.	*235
			Approximately 4,600' upstream of confluence with Lost Lake.	*255
		Massapoag Pond	Entire shoreline within community	*168
Maps available for inspection at the Office of the Planning Department, Town Hall, Groton, Massachusetts. Send comments to Honorable Edward Strachan, Chairman of the Groton Board of Selectmen, Main Street, Groton, Massachusetts 01450.				
Michigan	(Twp.) Charleston, Kalamazoo County	Kalamazoo River	About 3,000 feet downstream of Climax Road	785*
			About 800 feet upstream of U.S. Highway 12	787*
			About 1.0 mile downstream of Conrail	793*
			About 500 feet downstream of Conrail	794*
Maps available for inspection at the Township Hall, 1499 South 38th Street, Galesburg, Michigan. Send comments to Honorable Jerry Vander Roest, Supervisor, Township of Charleston, Township Hall, 1499 South 38th Street, Galesburg, Michigan 49053.				
Minnesota	(C) Oak Park Heights, Washington County	St. Croix River	Within community	692*
Maps available for inspection at the City Hall, 14168 57th Street, North, Stillwater, Minnesota. Send comments to Honorable Donald Mondor, Mayor, City of Oak Park Heights, City Hall, 14168 57th Street, North, Stillwater, Minnesota 55082.				
New Jersey	Colts Neck, township, Monmouth County	Hockhockson Brook	Confluence with Pine Brook	*47
			Upstream of Hockhockson Road	*53
		Barren Neck Creek	Upstream of downstream Private Raod	*46
			Downstream of Long Bridge Road	*52
			Approximately 1,600' upstream of Long Bridge Road	*63
		Big Brook	Approximately 2,630' downstream of Cross Road	*38
			Approximately 2,500' upstream of Cross Road	*49
			Approximately 3,400' upstream of State Route 34	*60
		Mine Brook	Confluence with Yellow Brook	*43
			Downstream of State Route 34	*57
			Downstream of Hominy Hill Road	*78
			Downstream of Mercer Road	*91
		Yellow Brook	Upstream of Muhlenbrink Road	*39
			Downstream of State Route 34	*49
			Upstream of Heyers Mill Road	*60
			Downstream of Private Road	*73
			Upstream of Dam No. 1	*85

Proposed Base (100-year) Flood Elevations—Continued

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream corporate limits	*99
		Mari Brook	Confluence with Mine Brook	*66
			Approximately 4,540' upstream of confluence with Mine Brook.	*84
		Tributary to Yellow Brook	Confluence with Yellow Brook	*64
			Downstream of Cedar Drive	*77
			Upstream side of upstream lake embankment	*84
		Pine Brook	Downstream corporate limits	*35
			Confluence with Hockhockson Brook	*47
		Willow Brook	Confluence with Hop Brook	*41
			Approximately 2,000' upstream of Willow Brook Road	*46
			Upstream of South Street	*62
			Downstream of Main Street	*75

Maps available for inspection at the Municipal Building, Cedar Drive, Colts Neck, New Jersey.

Send comments to Honorable Alfred Ruppel, Mayor of the Township of Colts Neck, P.O. Box T, Colts Neck, New Jersey 07722.

New Jersey	Tewksbury, township, Hunterdon County	Lamington River	Downstream corporate limits	*116
			Downstream Lamington Road	*129
			Confluence of Cold Brook	*133
			Black River Road (downstream crossing, upstream side).	*150
			Black River Road (upstream crossing, upstream side)	*162
			Approximately 2,240' upstream McCans Mill Road	*179
			Approximately 7,040' upstream McCans Mill Road	*193
			Confluence of tributary A	*213
			Upstream corporate limits	*254
		Rockaway Creek	Downstream corporate limits	*125
			Oldwick Road (upstream side)	*146
			Interstate Route 78 (upstream side)	*159
			Rockaway Road (first crossing upstream side)	*182
			Potterstown Road (upstream side)	*204
			Meadow Lane (upstream side)	*263
			Rockaway Road (fourth crossing, upstream side)	*322
			Approximately 2,040' upstream Rockaway Road (fourth crossing).	*361
			Rockaway Road (fifth crossing)	*413
			Confluence of tributary B	*423
			Approximately 3,290' upstream confluence of tributary B.	*479
			Approximately 1,090' downstream abandoned road	*529
			Mountain Road (upsteam side)	*585
			Sawmill Road (upstream side)	*622
			Farmersville Road (upstream side)	*667
			Approximately 3,000' upstream Farmersville Road	*695
			Fairmount Road West (downstream side)	*726
		South branch Raritan River	Downstream corporate limits	*475
			Stone Dam ruins (upstream side)	*483
			Upstream corporate limits	*488
		Tributary A	Confluence with Lamington River	*213
			McCans Mill Road (upstream side)	*221
			Approximately 1,400' upstream McCans Mill Road	*241
			Approximately 950' downstream Homestead Road	*271
			Homestead Road (upstream side)	*293
			Hollow Brook Road Extended (downstream side)	*308
		Tributary B	Confluence with Rockaway Creek	*423
			Guinea Hollow Road (upstream side)	*450
			Approximately 1,440' upstream Guinea Hollow Road	*477

Maps available for inspection at the Tewksbury Municipal Building, Water Street, Tewksbury, New Jersey.

Send comments to Honorable Michael Heaney, Mayor of Tewksbury, R.D. 2, Water Street, Tewksbury, New Jersey 08833

New Jersey	Tinton Falls, borough, Monmouth County	Jumping Brook	Downstream corporate limits	*73
			Upstream of Asbury Avenue	*79
			Upstream of Private Drive	*91
		Pine Brook	Confluence with Swimming River	*12
			Downstream of Tinton Avenue	*18
			Upstream of Tinton Avenue	*35
			Downstream of Private Road	*46
			Upstream corporate limits	*48
		Swimming River	Downstream corporate limits	*9
			Downstream of Normandy Road	*13
			Upstream of Conrail crossing	*23
		Shark River	Downstream corporate limits	*32
			Upstream of dam	*47
			Upstream of State Route 33	*57
			Downstream of Shark River Road	*75
		Parkers Creek	Downstream corporate limits	*12
			Downstream of Conrail crossing	*16

Maps available for inspection at the Office of the Borough Administrator, Municipal Buildings, 556 Tinton Avenue, Tinton Falls, New Jersey.

Send comments to Honorable Gabriel E. Spector, Mayor of Tinton Falls, Municipal Building, 556 Tinton Avenue, Tinton Falls, New Jersey 07724.

New Jersey	Union, township, Hunterdon County	Mulhockaway Creek	Confluence with Spruce Run Reservoir	*275
			Van Syckles Corner Road (upstream side)	*309
			Baptist Church Road (upstream side) (downstream crossing).	*351
			Conrail Railroad (upstream side)	*452

Proposed Base (100-year) Flood Elevations—Continued

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Gravel Hill Road (downstream side)	*512
		Tributary A to the south branch Raritan River.	Pittstown Road (upstream side)	*215
			Dam (downstream side)	*267
			Dam (upstream side)	*279
			Approximately 150' upstream of Conrail crossing	*291
		Tributary B to Mulhockaway Creek	Confluence with Mulhockaway Creek	*282
			Van Syckles Corner Road (upstream side)	*297
			Upstream corporate limits	*348
		Tributary C Mulhockaway Creek	Van Syckles Corner Road (upstream side)	*301
			Upstream corporate limits	*369
		Tributary D to Mulhockaway Creek	Confluence with Mulhockaway Creek	*291
			Approximately 200' downstream of County Route 173	*336
		Tributary E to Mulhockaway Creek	Confluence with tributary D to Mulhockaway Creek	*299
			Approximately 200' downstream of County Route 173	*339
		Tributary F to Mulhockaway Creek	Confluence with Mulhockaway Creek	*373
			Approximately 200' upstream of Baptist Church Road	*391
		Spruce Run	Approximately 430' upstream of confluence with Spruce Run Reservoir.	*275
			Upstream corporate limits	*313
	Maps available for inspection at Union Township Municipal Building, Jutland Road, Hampton, New Jersey.			
	Send comments to Honorable Joseph Martin, Jr., Mayor of Union Township, Union Township Municipal Building, Jutland Road, Hampton, New Jersey 08827.			
New York	Bridgewater, village, Oneida County	West branch Unadilla River	Downstream corporate limits	*1,175
			Upstream corporate limits	*1,181
	Maps available for inspection at the residence of the Village Clerk, Mrs. Beatrice Roberts, Route 8 South, Bridgewater, New York.			
	Send comments to Honorable Everett Holmes, Mayor of the Village or Bridgewater, Box 117, Bridgewater, New York 13313.			
New York	Morrisville, village, Madison County	Callahan Brook	Downstream corporate limits	*1,263
			Upstream of dam	*1,274
			Upstream of corporate limits	*1,285
	Maps available for inspection at the Office of the Village Clerk, 22 East Maple Avenue, Morrisville, New York.			
	Send comments to Honorable Gordon Corbin, Mayor of Morrisville, Village of Morrisville, Morrisville, New York 13408.			
New York	New Paltz, village, Ulster County	Wallkill River	State Route 299 bridge	*194
			Tributary 1	*193
	Maps available for inspection at the Village Hall, 25 Patterskill Avenue, New Paltz, New York.			
	Send comments to Honorable John Vett, Mayor of the Village of New Paltz, P.O. Box 877, New Paltz, New York 12561.			
New York	Pomona, village, Rockland County	South branch Minisceongo Creek	At most downstream corporate limits	*378
			Upstream of dam	*389
			Downstream of Quaker Road	*394
			At most upstream corporate limits	*416
	Maps available for inspection at the Village Hall, Camp Hill Road, Pomona, New York.			
	Send comments to Honorable Abraham Schneider, Mayor of Pomona, Village Hall, Camp Hill Road, Pomona, New York 10970.			
New York	Tuxedo, town, Orange County	Ramapo River	Downstream corporate limits	*397
			1,350' downstream of East Village Road	*407
			Downstream of dam	*412
			Upstream of dam	*433
			400' downstream of Conrail bridge (1st crossing)	*436
			130' downstream of Conrail bridge (1st crossing)	*444
			Upstream of Conrail bridge	*452
			Confluence of Warwick Brook	*462
			8,600' downstream of Arden Valley Road	*472
			3,940' downstream of Arden Valley Road	*482
			1,930' downstream of Arden Valley Road	*492
			180' downstream of Arden Valley Road	*502
			150' upstream of Arden Valley Road	*504
			Upstream corporate limits	*515
		Indian Kill	Palisades Interstate Park boundary	*611
			500' upstream of Palisades Interstate Park boundary	*621
			55' downstream of Sylvan Way	*631
			Upstream of Sylvan Way	*641
			320' upstream of Sylvan Way	*651
			590' upstream of Sylvan Way	*661
			320' downstream of dirt road	*671
			390' upstream of dirt road	*681
			490' downstream of dam (first)	*691
			Downstream of dam (first)	*694
			Upstream of dam (first)	*714
			Upstream of private drive (second)	*722
			750' downstream of dam (second)	*733
			600' downstream of dam (second)	*743
			460' downstream of dam (second)	*754
			360 downstream of dam (second)	*762
			Downstream of dam (second)	*770
			Upstream of dam (second)	*779
			830' upstream of Greenwood Lake Road (third crossing).	*789
			Downstream of Benjamin Meadow Road	*795
			Upstream of Benjamin Meadow Road	*805
		Warwick Brook	Confluence with Ramapo River	*462
			Downstream corporate limits	*471
			Upstream corporate limits	*502

Proposed Base (100-year) Flood Elevations—Continued

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			470' upstream of upstream corporate limits	*512
			810' upstream of upstream corporate limits	*522
			1,130' upstream of upstream corporate limits	*532
			1,460' upstream of upstream corporate limits	*542
			1,960' upstream of upstream corporate limits	*552
			2,890' upstream of upstream corporate limits	*562
			3,290' upstream of upstream corporate limits	*572
			3,600' upstream of upstream corporate limits	*582
			3,840' upstream of upstream corporate limits	*592
			4,100' upstream of upstream corporate limits	*602
			4,350' upstream of upstream corporate limits	*612
			4,710' upstream of upstream corporate limits	*622
			670' downstream of Warwick Turnpike	*632
			230' downstream of Warwick Turnpike	*642
			Downstream of Warwick Turnpike	*651
			390' upstream of Warwick Turnpike	*661
			Downstream of Private Road	*670
			Upstream of Private Road	*680
			Upstream of Long Swamp Road	*684
		Summit Brook	Confluence with Ringwood River	*427
			950' upstream of Route 84	*437
			1,970' upstream of Route 84	*447
			170' downstream of Scottmine Road	*457
			130' downstream of Access Road (first)	*467
			170' downstream of dam (first)	*477
			270' upstream of South Gate Road	*487
			910' downstream of Access Road (fifth)	*497
			Upstream of Access Road (fifth)	*506
			Upstream of Pine Hill Drive	*516
			700' downstream of Brook Road	*526
			Upstream of Brook Road	*536
			790' upstream of Brook Road	*546
			400' downstream of Southgate Road (second crossing).	*556
			Upstream of East Lake Road	*563
		Ringwood River	Downstream corporate limits	*421
			Confluence of Summit Brook	*427
	Maps available for inspection at the Town Hall, Route 17, Tuxedo, New York.			
	Send comments to Honorable Frederick Maute, Town Supervisor of Tuxedo, Town Hall, Route 17, Tuxedo, New York 10987.			
New York	Volney, town, Oswego County	Oswego River	Downstream corporate limits	*298
			Upstream of Lock and Dam No. 5	*314
			Downstream Fulton corporate limits	*318
			Upstream Fulton corporate limits	*358
			Upstream corporate limits	*361
		Waterhouse Creek	Corporate limits	*333
			Downstream of dam and spillway	*340
			Upstream of foot bridge	*348
			Upstream of dirt road	*354
	Maps available for inspection at the residence of the Town Clerk, County Route 6, R.D. 2, Fulton, New York.			
	Send comments to Honorable Paul A. Kimball, Town Supervisor of Volney, R.D. 6, Fulton, New York 13069.			
North Carolina	Town of Clayton, Johnston County	Little Creek	Just downstream of State Highway 42	*239
			Just downstream of State Road 1553	*263
		Little Creek tributary	Just downstream of U.S. Highway 70	*272
			Just upstream of U.S. Highway 70	*280
		Sams Creek	Just downstream of Laura Street (State Road 1708)	*231
			Just upstream of Laura Street (State Road 1708)	*241
	Maps available for inspection at Town Hall, Clayton, North Carolina 27520.			
	Send comments to Mayor Herman Jones or Mr. Ralph Clark, Town Hall, P.O. Box 777, Clayton, North Carolina 27520.			
North Carolina	Town of Pikeville, Wayne County	The Slough	Upstream Seaboard Coastline Railroad	*134
			Downstream Seaboard Coastline Railroad	*129
			Upstream Goldsboro St	*129
			Downstream Goldsboro St	*126
			Downstream coprorate limits	*123
	Maps available for inspection at Town Hall, 112 South Railroad Street, Pikeville, North Carolina 27863.			
	Send comments to Mayor E. Lancaster or Ms. Eloise Benton, Town Clerk, Town Hall, P.O. Box 9, Pikeville, North Carolina 27863.			
North Carolina	Town of Smithfield, Johnston County	Neuse River	Just upstream of U.S. Highway 301 (State Highway 96).	*121
			Just downstream of U.S. Highway 70	*126
		Swift Creek	Just upstream of State Highway 210 (in area of backwater from Neuse River).	*125
		Spring Branch	Just upstream of 2nd Street	*130
			Just upstream of 6th Street	*135
			Just upstream of Belmont Street	*144
		Buffalo Creek	Just downstream of U.S. Highway 301	*132
			Just upstream of U.S. Highway 301	*137
		Poplar Creek	Just upstream of SR 1913 (affected by backwater from Neuse River).	*129

Proposed Base (100-year) Flood Elevations—Continued

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at Town Hall, Smithfield, North Carolina 27577.				
Send comments to Mayor Kenneth B. Baker or Mr. Hubie Talton, Town Manager, Town Hall, P.O. Box 761, Smithfield, North Carolina 27577.				
Oregon	North Plains (city), Washington County	McKay Creek	At east end of Kayborn Avenue	*170
Maps available for inspection at City Hall, 440 Commercial Avenue, North Plains, Oregon.				
Send comments to the Honorable Brenda MacLeod, P.O. Box 616, North Plains, Oregon 97133.				
West Virginia	Marmet, Town, Kanawha County	Kanawha River	Downstream corporate limits	*600
			Upstream corporate limits	*602
Maps available for inspection at the Town Hall, 9208 McCorkle Avenue, Marmet, West Virginia.				
Send comments to Honorable Curtis Sutphin, Mayor of Marmet, P.O. Box 15037, Marmet, West Virginia 25315.				
West Virginia	Smithers, town, Fayette and Kanawha Counties	Kanawha River	Downstream corporate limits	*625
			Confluence of Smithers Creek	*626
			Upstream corporate limits	*629
		Smithers Creek	Confluence with Kanawha River	*626
			Bridge Street (upstream side)	*636
			County Route 2/2 (upstream side)	*655
Maps available for inspection at the City Hall, 176-½ Michigan Avenue, Smithers, West Virginia.				
Send comments to Honorable Eddie Long, Mayor of Smithers, P.O. Box 487, Smithers, West Virginia 25186.				

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

Issued: June 19, 1981.

Richard W. Krimm,

Acting Administrator, Federal Insurance Administration.

[FR Doc. 81-19610 Filed 7-7-81; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Supplemental Proposals for Early and Late Season Migratory Bird Hunting Regulations Frameworks.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Supplemental proposed rule.

SUMMARY: This document supplements **Federal Register** Document 81–8989, published on March 25, 1981, which notified the public that the U.S. Fish and Wildlife Service proposes to establish hunting regulations for certain migratory game birds during 1981–82, and provided information on certain proposed regulations.

This proposed rulemaking provides supplemental proposals for both the "early" and "late" season migratory bird hunting regulations frameworks. The early hunting seasons open prior to October 1 and include mourning doves; white-winged doves; band-tailed pigeons; woodcock; common snipe; rails and gallinules; September teal; sea ducks; early duck seasons in Iowa, Kentucky, and Tennessee; some sandhill crane seasons; migratory bird hunting seasons in Alaska, Puerto Rico, and the Virgin Islands; and extended falconry seasons. Late seasons open on or after October 1 include most waterfowl and sandhill crane seasons. The Service annually prescribes hunting regulations frameworks within which the States select specific seasons. The effect of this proposed rule is to facilitate establishment of early and late season migratory bird hunting regulations for the 1981–82 season.

DATES: The comment period for proposed migratory bird hunting season frameworks for Alaska, Puerto Rico, and the Virgin Islands, and for other early season proposals will end on July 16, 1981; and that for late season proposals on August 24, 1981. A Public Hearing on Late Season Regulations will be held August 24, 1981. A Public Hearing on Late Season Regulations will be held August 4, 1981, starting at 9 a.m.

ADDRESS: Comments to: Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. The Public Hearing will be held in the Auditorium of the Department of the Interior Building on C Street, between 18th and 19th Streets, NW., Washington, D.C. Notice of intention to participate in this hearing should be sent in writing to the Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Comments received on the supplemental proposed rulemaking will be available for public inspection during normal business hours in Room 525–B, Matomic Building, 1717 H Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

John P. Rogers, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (202–254–3207).

SUPPLEMENTARY INFORMATION: The annual process for developing migratory game bird hunting regulations deals with regulations for early and late seasons. Early seasons include those which open before October 1, while late seasons open about October 1 or later. Regulations are developed independently for early and late seasons. The early season regulations cover mourning doves; white-winged doves; band-tailed pigeons; rails; gallinules; woodcock; common snipe; sea ducks in the Atlantic Flyway; teal in September in the Central and Mississippi Flyways; early duck seasons in Iowa, Kentucky, and Tennessee; sandhill cranes in North Dakota and South Dakota; doves in Hawaii; migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; and some special falconry seasons. Late seasons include the general waterfowl seasons; special seasons for scaup and goldeneyes; extra scaup and teal in regular seasons; most sandhill crane seasons in the Centrral Flyway; coots, gallinules, and snipe in the Pacific Flyway; and other special falconry seasons.

Certain general procedures are followed in developing regulations for both the early and the late seasons. Initial regulatory proposals are announced in a **Federal Register** document published in late March and opened to public comment. Following termination of the comment period and after a public hearing, the Service develops and publishes the proposed frameworks for times of seasons, season lengths, shooting hours, daily bag and possession limits, and other regulatory elements. Following another public comment period, and after consideration of additional comments, the Service publishes the final frameworks in the **Federal Register.** Using these frameworks, State conservation agencies then select hunting season dates and options. States may prescribe more restrictive seasons and options than those offered in the Service's frameworks. The final regulations, reflected in amendments to Subpart K of 50 CFR 20, then appear in the **Federal Register**, becoming effective upon publication.

The regulations schedule for this year is as follows. On March 25, 1981, the Service published for public comment in the **Federal Register** (46 FR 18666) a proposal to amend 50 CFR 20, with comment periods ending as noted earlier. The proposal dealt with establishment of seasons, limits and shooting hours for migratory birds under §§ 20.101 through 20.107 of Subpart K. This document is the second in a series of proposed, supplemental, and final rulemaking documents for migratory game bird hunting regulations and deals specifically with supplemental proposed frameworks for early season migratory bird hunting regulations from which, when finalized, States may select season dates, shooting hours, and daily bag and possession limits for the 1981–82 season. All comments on the March 25 proposal received through June 3, 1981, have been considered in developing this document. In addition, new proposals for certain late season regulations are provided for public comment. Comment periods on this second document are specified above under DATES. Final regulatory frameworks for migratory game bird hunting seasons for Alaska, Puerto Rico, and the Virgin Islands, and for early seasons for other areas of the United States are scheduled for **Federal Register** publication on or about July 21, 1981.

On June 19, 1981, a public hearing was held in Washington, D.C., as announced in the **Federal Register** of March 25, 1981 (46 FR 18666), to review the status of mourning doves, woodcock, band-tailed pigeons, white-winged doves, and sandhill cranes. Proposed hunting regulations were discussed for these species and for common snipe; rails; gallinules; migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; mourning doves in Hawaii; September teal seasons in the Mississippi and Central Flyways; special September duck seasons in designated States; special sea duck seasons in the Atlantic Flyway; and extended falconry seasons. Statements or comments were invited.

This supplemental proposed rulemaking document consolidates a number of changes and some corrections to the original framework proposals published on March 25, 1981, in the **Federal Register.**

Review of Public Comments and the Service's Response

Written Comments Received.

Sixty-two written communications were received by June 3, 1981, in response to the Service's initial proposals in the **Federal Register** dated March 25, 1981 (46 FR 18666). These include correspondence from 35 individuals; 3 national, regional, State, or local organizations; 19 State agencies; and 5 communications from waterfowl flyway councils. The responses represent a broad spectrum of public interest. In some instances, the communications did not specifically mention the open comment period or regulatory proposals. However, because they were received or sent during the comment period and generally relate to migratory bird hunting regulations, they are treated as comments. Where the Service indicates acceptance of a new recommendation, it becomes a supplemental proposal subject to public comment.

A few comments related to specific hunting season dates within the proposed season framework. Inasmuch as the season dates are selected by State conservation agencies, such comments were excluded.

Comments Received at Public Hearing:

The comments received at the June 19, 1981, public hearing will be addressed in the next supplemental proposal to be published in the **Federal Register** shortly.

Supplemental Proposals

The following comments, proposals, modifications, and minor clarifications or corrections are numbered to correspond with the numbered items published in the **Federal Register** dated March 25, 1981. To facilitate review, early season regulations include items 2, 6, 15, 21, 22, 24, 25, and 26, while late season regulations include items 2, 7, 9, 12, 13, 14, and 26. In a number of cases, the Service responds to the public comments but proposes no changes.

2. *Framework dates for ducks and geese in the continental United States.* The proposed Atlantic Flyway framework ending dates for both Canada and snow geese are corrected to January 31, 1982, in New Jersey, Delaware, and the Delmarva Peninsula portions of Maryland and Virginia. The Service also corrects the proposed season framework dates for the Mississippi Flyway as stated in the **Federal Register** dated March 25, 1981 (at 46 FR 18671) to October 3 through January 20. Exceptions are Iowa and Mississippi where special studies are underway, and in Louisiana where a later snow and white-fronted goose season is permitted to alleviate crop depredations.

A number of framework date changes were proposed by commentors. A resolution of the Tennessee General Assembly requested that the duck hunting framework be extended to January 31. Delaware recommended an option to provide for opening the regular waterfowl season on the last Monday in September when October 1 does not fall on a Sunday or Monday. The change would allow the framework to begin a maximum of 5 days earlier than has been permitted by recent-year frameworks, and would allow earlier hunting of early migrating species such as blue-winged teal. The Long Island Farm Bureau, Inc., New York, requested that an extension of hunting season and increase of bag limit be considered for Canada geese as a means of reducing crop depredations. Several hunters requested that waterfowl season frameworks be advanced or extended beyond that presently allowed as a means of increasing local hunting opportunity and harvest.

Response. Waterfowl season frameworks have been relatively unchanged in recent years except where special conditions apply or where special studies are underway. The Service favors retention of established season frameworks unless changes are deemed worthwhile as a result of special studies. Requests to open goose seasons earlier in northern areas are contrary to existing goose management plans. Later duck seasons would place additional stress on the birds at a time when weather conditions tend to be adverse and food supplies low, and may interfere with waterfowl pairing behavior. Regarding the request from the

Long Island Farm Bureau, Inc., other measures are available to reduce crop depredation.

Tennessee and Kentucky requested that they be permitted to implement an experimental duck season having the following features:

a. The season would be held in September in lieu of the September teal season, and would not exceed five days;

b. The bag limit would be four ducks, no more than one of which may be a species other than teal or wood ducks;

c. The experimental season would be for three years to facilitate evaluation; and

d. Additional information to be gathered by the States to evaluate the experiment would include hunter and harvest surveys, banding, and population surveys.

Alternatives considered by Tennessee included an October wood duck season described under Item No. 4 (at 46 FR 18671), and zoning for an experimental teal/wood duck season. The former option includes utilizing days of the regular season for harvest of locally produced wood ducks. Neither of the two alternatives was considered desirable by the State because it was felt that the hunting opportunity they provided was not early enough (October seasons) or not adequately distributed within the State (zoning). The requested proposal was endorsed by the Southern Region Regulations Committee of the Mississippi Flyway Council. Twenty-one comments, all favorable, were received on this proposal.

Response. The Service proposes to allow the two States to initiate a three-year experiment under the above conditions, which would allow 5 consecutive days of hunting in September.

The Central Flyway Council recommended that the framework for hunting geese in New Mexico be changed to allow opening on the Saturday nearest October 1 and closing on the Sunday nearest February 15. Reasons supporting the change include the increasing numbers of wintering snow geese and associated crop depredations, and conformance with a nearly completed management plan.

Response. The Service proposes to extend the framework in New Mexico as requested.

No framework dates for brant in the Pacific Flyway were identified in the **Federal Register** dated March 25, 1981. The Service now proposes that the framework be October 24, 1981, through February 21, 1982.

6. *September teal season.* The Service noted in the **Federal Register** dated March 25, 1981 (at 46 FR 18672) that Florida had requested a September teal season. The proposal was subsequently endorsed by the Atlantic Flyway Council.

Response. Florida advises that modifications of the initial proposal are being considered. The Service will await further communications from Florida.

7. *Extra blue-winged teal option.* The Service inadvertently omitted from its initial proposal in the **Federal Register** dated March 25, 1981, at 46 FR 18672, that in the Atlantic Flyway both blue- and green-winged teal may be included in the extra teal limit.

9. *Canvasback and redhead ducks.* The Atlantic Flyway Council endorsed an experimental canvasback season as in 1980 in designated portions of the flyway. The guidelines for such a season appeared in the **Federal Register** dated March 25, 1981 (at 46 FR 18673). Michigan and Wisconsin recommended removal of their canvasback area closures because the areas no longer sustain high canvasback usage. The Southern Region Regulations Committee, Mississippi Flyway Council, recommended that a review of area closures for canvasbacks in Alabama, Tennessee, and Louisiana be undertaken. The Central Flyway Council recommended that initiation of the special canvasback season in the Atlantic Flyway be contingent upon the elimination of canvasback area closures in the Central Flyway.

Response. Decisions will be made on the proposed experimental season and modifications of closed areas when current population, habitat, harvest, and other pertinent data have been analyzed.

12. *Zoning.*

Atlantic Flyway. Delaware noted that no mention was made of the 3-way split season as an option to zoning.

Response. This option will again be offered in the Atlantic Flyway.

Massachusetts advised that it wished to retain the same zoning option for waterfowl seasons as was offered the past two seasons. New Jersey requested that it be permitted to make minor adjustments in its zone boundaries by shifting the Delaware River area between Camden and Trenton to the South Zone, and the Hackensack Meadows to the North Zone.

Response. The Service proposes to retain the option for Massachusetts and permit the minor zone modifications in New Jersey.

Mississippi Flyway. Alabama, with the concurrence of the Southern Region Regulations Committee of the Mississippi Flyway Council, requested that it be permitted to establish a split duck season in its South Zone (Baldwin and Mobile Counties).

Response. The Service proposes to allow the requested change.

Indiana requested the option to set goose hunting seasons in accordance with the zones utilized for duck seasons on the grounds that it would simplify hunting regulations and alleviate nuisance complaints associated with resident geese in six northwestern counties. These changes would not significantly affect the overall goose harvest.

Response. The Service proposes to provide this option as requested.

Central Flyway. The Central Flyway Council endorsed zoning plans for Colorado, Kansas, Nebraska, Oklahoma, South Dakota, and Wyoming to take effect during the 1981–82 season.

Response. The Service indicated in the **Federal Register** dated March 25, 1981, at 46 FR 18673, that it proposed to offer zoning options to States of the Central Flyway under previously established criteria. Descriptions of the proposed new zones in the three States for which detailed zoning plans have been received follow:

Kansas. Two zones in the Low Plains portion of the State were proposed as follows:

Zone 1. The Southwest Zone of the Low Plains includes the portion of the Low Plains area bounded by a line from the junction of the Kansas-Oklahoma state line and U.S. Highway 283, then northerly on U.S. Highway 283 to its junction with State Highway K–4, then easterly on State Highway K–4 to its junction with Interstate Highway 135, then southerly on Interstate Highway 135 to its junction with U.S. Highway 56, then easterly on U.S. Highway 56 to its junction with State Highway K–150, then easterly on State Highway K–150 to its junction with U.S. Highway 50, then easterly on U.S. Highway 50 to its junction with State Highway K–99, then southerly on State Highway K–99 to its junction with the Kansas-Oklahoma state line, then westerly along the Kansas-Oklahoma state line to its junction with U.S. Highway 283.

Zone 2. The second zone includes all the remaining area within the Low Plains area of Kansas not included in Zone 1.

Nebraska. Four zones within the Low Plains portion of the State were proposed as follows:

Zone 1. That portion of Keya Paha County within the Low Plains Management Unit and all of Boyd, Knox, Cedar, and Dixon Counties, including the adjacent waters of the Niobrara River.

Zone 2. That portion of Dawson, Gosper, Frontier, and Furnas Counties within the Low Plains Management Unit and all of Buffalo, Phelps, Harlan, Hall, Kearney, Franklin, Merrick, Hamilton, Platte, Polk, Colfax, Butler, Dodge, Saunders, and Douglas Counties, including the adjacent waters of the Platte River.

Zone 3. That portion of Brown, Blaine, and Custer Counties within the Low Plains Management Unit and all of Rock, Holt, Loup, Garfield, Wheeler, Valley, Greeley, Sherman, Howard, Antelope, Boone, Nance, Pierce, Madison, Wayne, Stanton, Cuming, Dakota, Thurston, Burt, and Washington Counties.

Zone 4. All of Adams, Webster, Clay, Nuckolls, York, Fillmore, Thayer, Seward, Saline, Jefferson, Lancaster, Gage, Otoe, Johnson, Nemaha, Pawnee, and Richardson Counties.

South Dakota. The Low Plains portion of the State would be zoned as follows:

South Zone. Comprised of Bon Homme, Charles Mix, Clay, Gregory, Union, and Yankton Counties;

North Zone. Comprised of the remainder of the Low Plains Zone.

Response. The Service proposes to include options for zoning in Kansas, Nebraska, and South Dakota. Where possible, the zone descriptions will be simplified.

The Central Flyway Council recommended that member States be offered the option for three-way split duck seasons in lieu of zoning.

Response. This option has been offered in the Atlantic Flyway and the Service proposes to offer it in the Central Flyway in lieu of zoning.

Pacific Flyway. An Idaho hunter requested that consideration be given to establishing eastern and western zones in Idaho for the purpose of setting duck hunting regulations.

Response. Idaho is now divided into two zones, one in the "Columbia Basin" portion of the State which includes the Snake and Columbia River drainages, and the second consisting of the remainder of the State. The question of new or different zones is a matter that should be evaluated initially by the State in consultation with the flyway Council, and a recommendation forwarded to the Service for consideration. The Pacific Flyway Council has recommended recently against the creation of new zones at this time pending completion of a study of stabilized hunting regulations now underway.

13. *Goose and grant seasons.*

Atlantic Flyway. The Atlantic Flyway Council recommended that the season for snow geese be 90 days throughout the flyway, and that the bag and possession limits of 4 and 8 birds, respectively, be retained. The Council stated that the season should be lengthened flywaywide regardless of goose production success this year. The population is large and the harvest rate has not been excessive.

Response. In the past, a 70-day season has applied to snow geese in the Atlantic Flyway. The Service has received comments from some States about snow goose damage to agricultural crops and marsh lands. The Service will consider this recommendation for implementation this year but believes it advisable to do so in the light of all available information on population status. Accordingly, a decision about this is deferred pending additional information and comment on the recommendation.

The initial proposals published in the **Federal Register** on March 25, 1981, incorrectly indicated that New Jersey is divided into two zones for its Canada goose hunting regulations. The Service intends, as in 1980–81, that the seasons and limits for these geese apply on a Statewide basis.

Central Flyway. The Central Flyway Council recommended changes in goose seasons and limits as follows:

a. In Kansas, 1 Canada goose and 1 white-fronted goose would be allowed in the daily bag except in that portion of the State west of U.S. Highway 183 before November 22 (inclusive) where the daily bag limit may include 2 Canada geese or 1 Canada and 1 white-fronted goose. The possession limit shall be twice the daily bag limit. The change would bring Kansas goose limits into conformance with those of neighboring Colorado, Nebraska, and Oklahoma.

b. In the Central Flyway portion of Montana (except Sheridan County), the daily bag and possession limit for geese would be increased from 2 daily and 4 in possession to 3 daily and 6 in possession. The proposal reflects the increasing numbers of Hi-Line Canada geese which migrate through this portion of the State.

c. In designated Missouri River counties of South Dakota, the daily limit for Canada geese would be increased to 2 birds and the possession limit to 4 birds, and the hunting season extended to 79 days. These changes reflect the increasing numbers of geese in this area and problems associated with them: lead poisoning, crop depredations, and potential winter mortality. Some 350 thousand Canada geese wintered there last winter, compared to 107 thousand the previous year. The change is supported by the Western Prairie Population Management Plan.

Reponse. The Service concurs in these recommendations and proposes to implement them.

14. *Whistling swan.* The Atlantic Flyway Council and several individuals indicated support for a whistling swan season in North Carolina. Reasons offered included the biological feasibility of such a season and the need to alleviate crop depredation problems.

Response. In recent years, there have been several requests to allow the hunting of whistling swans in the Atlantic Flyway. The Services's position, as stated in the **Federal Register** dated July 1, 1980, is as follows:

> The Service is of the view that whistling swans in the Atlantic Flyway could sustain a limited harvest with no adverse effect on the status of their population. However, it is not a matter of high priority from a management standpoint and there appears to be considerable public opposition to it. There is evidence that swans are increasingly involved in agricultural depredations in some areas of the flyway. The Service intends to monitor this situation but does not propose any action at this time.

15. *Sandhill cranes.* The Central Flyway Council recommended the following seasons and limits in North Dakota:

a. In Benson, Burleigh, Emmons, Kidder, McHenry, Pierce, and Stutsman Counties, a 9-day hunting season to occur within the period of September 1–20;

b. In McLean and Sheridan Counties, a 16-day season withing the same framework; and

c. daily bag and possession limits of 2 and 4 cranes, respectively. Rationales for the above changes reflect a desire to harvest more cranes in McLean and Sheridan Counties (last year cranes did not arrive until the last 3 days of the season), to alleviate crop depredations, and the opening of McHenry County to hunting because of numerous cranes there.

Response. The Service proposes to accept the above proposed changes, which are in line with a management plan nearing completion for the species.

Arizona expressed interest in an 11-day sandhill crane season within a framework of October 15 through December 1, in the Wilcox Playa area of Cochise County. A maximum of 200 permits would be issued with the provision that permittees check in and out of the hunting area. With a seasonal limit of 2 cranes per hunter, no more than 400 birds could be harvested from a wintering population of 8,000 birds.

Response. This proposal is in line with sandhill crane management objectives contained in a nearly completed

management plan for the species. However, since whooping cranes occasionaly appear in the area, additional information on the proposed hunt and any special measures planned to protect this endangered species is needed. Also, consultation under Section 7 of the Endangered Species Act is necessary. Consequently, it is important that more detailed information on the proposal be received and subjected to section 7 review if the experimental season is to be allowed this year.

21. *Band-tailed pigeons.* Nevada requested permission to initiate an experimental ban-tailed pigeon hunting season in Douglas, Carson City, and a portion of Lyons Counties. The season would extend for 30 days and coincide with the hunting season in adjoining Alpine County, California. The season would result in a relatively small harvest of birds from the Coastal band-tailed pigeon population, which is hunted in California, Oregon, and Washington. A data gathering program would produce information on this segment of the population which migrates along the Sierras in extreme western Nevada.

Response. The Service proposes to allow the season contingent upon receipt of a satisfactory evaluation plan.

22. *Mourning doves. Eastern Management Unit:* Delaware requested that the Service allow a dove season of 90 half-days in lieu of 70 full days. No data accompanied the request; however, it was stated that such an extended season would not significantly change the total hunting mortality of mourning doves.

Response. In 1980 the Service offered States in the Eastern Management Unit 70 full days of hunting in lieu of 70 half-days. While the Service does not believe that a longer season would necessarily affect mourning doves adversely, such a change should be coordinated with other States of the Eastern Management Unit, and some means established for evaluating changes which might result from the proposed change.

Georgia notified the Service that it might wish to consider a change in the boundary separating its North and South Zones used for setting season dates.

Response. The Service will consider such a change if one is proposed in the constraints of the regulations setting schedule effective this year.

Central Management Unit: The Central Flyway Council recommended that member States be offered options of a 60-day mourning dove season with bag and possession limits of 12 and 24 doves, respectively; or a 45-day season with bag and possession limits of 15 and 30 doves, respectively. In recent years, Central Management Unit States have been offered 60-day seasons with 10 doves daily and 20 in possession.

Response. The Service will consider the recommendations in the light of the most recent call-count survey data. A recently completed but unpublished cooperative study of mourning dove population in the Central Management Unit supports the requested change.

Arizona requested that it be permitted to hunt mourning and white-winged doves for 70 full days rather than 70 half-days as in 1980. The 1980 dove regulations were successful in reducing harvests of white-winged doves but overall mourning dove hunting pressure was reduced excessively and the harvest dropped from 2 million to 1.3 million birds.

Response. The Service proposes to allow the requested change.

24. *Migratory game bird seasons in Alaska.* One individual requested that duck and goose hunting seasons opening as early as August 15 be permitted in southeastern Alaska.

Response. The requested change would be contrary to a clause in the U.S.-Canada migratory bird treaty which establishes a period between March 10 and September 1 when no waterfowl hunting may occur.

25. *Migratory game birds in Puerto Rico and doves and pigeons in the Virgin Islands.*

Proposed Frameworks for Selecting Open Season Dates for Hunting Migratory Birds in Puerto Rico, 1981–82. A question was received concerning why the West Indian whistling (tree) duck, *Dendrocygna arborea,* was not excluded from the list of birds huntable in Pureto Rico. The questioner noted that the reduced populations of these birds would warrant deleting them from the list of birds which could be hunted in Puerto Rico.

Response. The Service solicits additional information on the status of the West Indian whistling duck.

The Service identifies the endagered Plain pigeon in Puerto Rico as *Columba inoranata wetmorei,* and corrects its Spanish name to "Paloma Sabanaera" in its proposals appearing at 46 FR 18677 on March 25, 1981. The El Verde Closure Area in Pureto Rico is redescribed to conform to the description appearing in the final regulations for the 1980 hunting season (45 FR 55961; August 21, 1980), and editorial changes are made in other special closed areas.

Areas closed to dove and pigeon hunting are:

Municipality of Culebra and Desecheo Island—closed under Commonwealth regulations.

Mona Island—closed to give the reduced population of white-crowned pigeon (*Columba leucocephala*), known locally as "Paloma cabeciblanca," a chance to recover.

El Verde Closure Area consisting of those areas of the municipalities of Rio Grande and Loiza delineated as follows: (1) all lands between Routes 956 on the west and 186 on the east, from Route 3 on the north to the juncture of Routes 956 and 186 (Km 13.2) in the south; (2) all lands between Routes 186 and 966 from the juncture of 186 and 966 on the north, to the Caribbean National Forest Boundary on the south; (3) all lands lying west of Route 186 for one (1) kilometer from the juncture of Routes 186 and 956 south to Km 6 on Route 186; (4) all lands within Km 14 and Km 6 on the west and the Caribbean National Forest Boundary on the east; and (5) all lands within the Caribbean National Forest Boundary whether private or public.—The purpose of this closure is to afford protection to the Pureto Rican parrot (*Amazona vittata*) presently listed as an endangered species under the Endangered Species Act of 1973.

Cidra Municipality and Adjacent Areas consisting of all of Cidra Municipality and portions of Aguas Buenas, Caguas, Cayey, and Comerio Municipalities as encompassed within the following boundary: beginning on Highway 172 as it leaves the Municipality of Cidra on the west edge, north to Highway 156, east on Highway 156 to Highway 1, south on Highway 1 to Highway 765, south on Highway 765 to Highway 763, south on Highway 763 to the Rio Guavate, west along Rio Guavate to Highway 1, southwest on Highway 1 to Highway 14, west on Highway 14 to Highway 729, north on Highway 729 to Cidra Municipality, and westerly, northerly, and easterly along the Cidra Municipality boundary to the point of beginning.—The purpose of this closure is to protect the Puerto Rican plain pigeon (*Columba inornata wetmorei*), locally known as Paloma Sabanera, which is known to be present in the above locale in small numbers and which is listed presently as and endangered species under the Endangered Species Act of 1973.

Proposed Framework for Selecting Open Season Dates for Hunting Migratory Birds in the Virgin Islands, 1981–82. The Virgin Islands recommended a hunting season framework between July 20 and September 17, 1981, for the Zenaida dove (*Zenaida aurita*) and the scaly-naped pigeon (*Columba squamosa*), and that hunting of the latter species be permitted on St. John and St. Croix

Islands in addition to St. Thomas Island. A five-year study of Zenaida doves by the Division of Fish and Wildlife reportedly shows that reproductive activity is generally over by mid-July. The letter went on to indicate that there is some uncertainty whether it is intended that provisions of the Migratory Bird Treaty Act apply to the Virgin Islands because of its zoogeographic isolation.

Response. Legal opinion to the Service indicates that the provisions of the Migratory Bird Treaty Act do apply to the Virgin Islands and that no hunting seasons may be permitted between March 10 and September 1. The Service concurs with the request to allow scaly-naped pigeon hunting on St. John and St. Croix Islands, noting that the Virgin Islands had requested in 1975 that pigeon hunting not be allowed on these islands.

The Virgin Islands Division of Fish and Wildlife recommended a 55-consecutive-day duck season for blue-winged teal only between December 1, 1981, and January 31, 1982. It is believed that about 100 hunters would be expected to participate and their potential harvest is estimated at 200 to 300 teal which is the most abundant species. Hunters would be licensed and all would be contacted for information to evaluate the season.

Response. No waterfowl hunting seasons have been prescribed in the Virgin Islands for several years. However, the Service has no information that this opportunity should not be provided. Because hunting season frameworks for the Virgin Islands are among the first to be set, the Service believes that the proposal described above should be offered for public comment. The Service will consider the Virgin Islands' request but believes that the season framework, season length, permitted species, and limits should be the same as those offered Puerto Rico.

26. *Migratory game bird seasons for falconers.*

Falconry Frameworks. The North American Faconry Association in two letters recommended that special falconry seasons be permitted within the times made available by the various migratory bird treaties, and that they not be limited to the more restrictive hunting season frameworks within which States select hunting season dates. The Association points out that this would enable more falconry hunting of migratory game birds to occur outside the period when shotgun hunting occurs and would result in no significant change in migratory game bird harvests.

Response. While the Service generally concurs with the assessment of such a change, it does not believe it desirable to establish special season frameworks based solely on means of taking.

28. *Other.*

Low Plains Proposal. The Central Flyway Council requested that the Service reconsider the Council's Low Plains Proposal, which was submitted in 1980 but not implemented.

Response. In the **Federal Register** dated March 25, 1981 (at 46 FR 18678), the Service presented its rationale for not implementing the proposal.

Public Comment Invited

Based on the results of migratory game bird studies now in progress and having due consideration for any data or views submitted by interested parties, the possible amendments resulting from this supplemental rulemaking will specify open seasons; shooting hours; and bag and possession limits for designated migratory game birds in the United States, including Puerto Rico and the Virgin Islands.

The Director intends that finally adopted rules be as responsive as possible to all concerned interests. He therefore desires to obtain the comments and suggestions of the public, other concerned governmental agencies, and private interests on these proposals and will take into consideration the comments received. Such comments, and any additional information received, may lead the Director to adopt final regulations differing from these proposals.

Special circumstances are involved in the establishment of these regulations which limit the amount of time which the Service can allow for public comment. Specifically, two considerations compress the time in which the rulemaking process must operate: the need, on the one hand, to establish final rules at a point early enough in the summer to allow affected State agencies to appropriately adjust their licensing and regulatory mechanisms, and, on the other hand, the unavailability before mid-June of specific, reliable data on this year's status of some migratory shore and upland game bird populations. Therefore, the Service believes that to allow comment periods past the dates specified earlier is contrary to the public interests.

Comment Procedure

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may participate in the rulemaking process by submitting written comments to the Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments received will be available for public inspection during normal business hours at the Service's office in Room 525 B, Matomic Building, 1717 H Street, NW., Washington, D.C.

All relevant comments on all early season proposals, including alaska, Puerto Rico, and the Virgin Islands, received no later than July 16, 1981, and those being on late season proposals received by August 24, 1981, will be considered. The Service will attempt to acknowledge received comments, but substantive response to individual comments may not be provided.

NEPA Consideration

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75-54)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975 (40 FR 25241). In addition, several environmental assessments have been prepared on specific matters which serve to supplement the material in the Final Environmental Statement. Copies of these documents are available from the Service.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act," and "by taking such action necessary to insure that any action authorized, funded, or carried out . . . is not likely to jeopardize the continued existence of such endangered or threatened species or result in the destruction or modification of habitat of such species . . . which is determined to be critical."

Section 7 consultations are presently under way regarding the early season regulatory proposals. It is possible that the findings from the consultation, which will be included in a biological opinion, may cause modification of some of the regulatory measures proposed in this document. Any modifications that may be desirable will be reflected in the final rulemaking on early season regulations frameworks, including those for Alaska, Puerto Rico, and the Virgin Islands, scheduled for publication in the **Federal Register** on or about July 21, 1981.

As in the past, hunting regulations this year are designed, among other things, to remove or alleviate chances of

conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species and their habitats. Examples of such consideration include areas closed to dove and pigeon hunting for protection of the Puerto Rican plain pigeon and the Puerto Rican parrot, both of which are classified as endangered. Also, an area in Alaska is closed to Canada goose hunting for protection of the endangered Aleutian Canada goose.

The Service's biological opinions resulting from its consultation under Section 7 are considered public documents and are available for public inspection in or available from the Office of Endangered Species and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Regulatory Flexibility Act and Executive Order 12291 Consideration

Pursuant to Executive Order 12291, the Department has determined that this rule is a major rule, and it has significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). In the **Federal Register** dated March 25, 1981 (at 46 FR 18669), the Service described measures it was taking to comply with these new requirements on Federal agencies in developing new rules. The Service also included a summary of its initial regulatory impact analysis, and announced that copies of the full initial analysis were available upon request from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240.

The Service is completing its final regulatory impact analysis and it will be summarized in the **Federal Register** prior to or at the time that final regulations for the 1981–82 hunting season are set.

Authorship

The primary author of this proposed rulemaking is Henry M. Reeves, Office of Migratory Bird Management, working under the direction of John P. Rogers, Chief.

Dated: June 17, 1981.

C. F. Layton

Acting Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 81-20129 Filed 7-7-81; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 46, No. 130
Wednesday, July 8, 1981

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

Horse Protection Act; Notice of Disqualification

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of Disqualification.

PURPOSE: This notice is to advise the general public and the horse industry of the disqualification of the following individuals, under section 6(c) of the Horse Protection Act, from showing or exhibiting any horse, judging or managing any horse show, horse exhibition, or horse sale or auction for the period indicated:

1. Jim Reese, Jackson, Mississippi

Jim Reese has been disqualified from showing or exhibiting any horse, judging or managing any horse show, horse exhibition, or horse sale or auction for a period of 1 year which is to run from March 26, 1981, through March 25, 1982.

2. Jimmy Lee, Heidelberg, Mississippi

Jimmy Lee has been disqualified from showing or exhibiting any horse, judging or managing any horse show, horse exhibition, or horse sale or auction for a period of 1 year which is to run from April 1, 1981, through March 31, 1982.

3. Earnest P. Knipp, Cincinnati, Ohio

Earnest P. Knipp has been disqualified from showing or exhibiting any horse, judging or managing any horse show, horse exhibition, or horse sale or auction for a period of 3 years which is to run from May 15, 1981, through May 14, 1984.

SUPPLEMENTARY INFORMATION: Section 6(c) of the Horse Protection Act states in relevant part that, ". . . any person . . . may be disqualified by order of the Secretary, after notice and an opportunity for a hearing before the Secretary, from showing or exhibiting any horse, judging or managing any horse show, horse exhibition, or horse sale or auction for a period of not less than one year for the first violation and not less than five years for any subsequent violation. Any person who knowingly fails to obey an order of disqualification shall be subject to civil penalty of not more than $3,000 for each violation. Any horse show, horse exhibition, or horse sale or auction, or the management thereof, collectively and severally, which knowingly allows any person who is under an order of disqualification to show or exhibit any horse, to enter for the purpose of showing or exhibiting any horse, to take part in managing or judging, or otherwise to participate in any horse show, horse exhibition, or horse sale or auction in violation of an order shall be subject to a civil penalty of not more than $3,000 for each violation. . . ."

This will serve as notification to the general public and the horse industry that Jim Reese, Jimmy Lee, and Earnest P. Knipp have been disqualified, as indicated, and that allowing a disqualified person to participate in prohibited activity is a violation of section 6(c) of the Act and is subject to the penalties indicated therein.

Done at Washington, DC., this 1st day of July 1981.

J. K. Atwell,

Deputy Administrator, Veterinary Services

[FR Doc. 81-19928 Filed 7-7-81; 8:45 am]

BILLING CODE 3410-34-M

Forest Service

Continental Divide National Scenic Trail Advisory Council; Meeting

The Continental Divide National Scenic Trail Advisory Council will meet at 10:00 a.m. on July 30, 1981, and continue until 2:00 p.m. on August 1, 1981. The meeting will be held at the Royal Quality Inn, 3270 Youngfield St. in Denver, Colorado. The purpose of the meeting is to discuss matters relating to the Continental Divide National Scenic Trail. Agenda items are review of the draft Environmental Assessment and draft Comprehensive Management Plan.

The meeting will be open to the public. For additional information, contact the Forest Service by telephone (303–234–4082) or by mail (USDA, Forest Service, Rocky Mountain Region, P.O. Box 25127, Lakewood, CO 80225).

June 29, 1981.

Craig W. Rupp,

Continental Divide National Scenic Trail Advisory Council Chairman.

[FR Doc. 81-19964 Filed 7-7-81; 8:45 am]

BILLING CODE 3410-11-M

Black Hills National Forest Grazing Advisory Board; Meeting

The Black Hills National Forest Grazing Advisory Board will meet at 9:00 a.m., August 4, 1981, at the Bearlodge Ranger Station in Sundance, Wyoming. The purpose of this meeting is to review and discuss, in the field, range forage allocations and allotment management planning.

The meeting will be open to the public. Persons who wish to attend should notify Leon Fager, Black Hills National Forest, 605/673–2251. Written statements may be filed with the committee before or after the meeting.

Dated: July 1, 1981.

James R. Mathers,

Forest Supervisor.

[FR Doc. 81-20122 Filed 7-7-81; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Ashe County Schools RC&D Measure, North Carolina; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. George C. Norris, Acting State Conservationist, Soil Conservation Service, Room 554, Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27611, telephone 919–755–4210.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Ashe County

Schools RC&D Measure, Ashe County, North Carolina.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. George C. Norris, Acting State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area stabilization on 11 school sites. The planned work will include pipes, diversions, rock rip-rap pads to deenergize storm waters, subsurface drainage, seeding and mulching. All disturbed areas will be seeded with adapted permanent vegetation.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. George C. Norris. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until August 7, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: June 29, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-20009 Filed 7-7-81; 8:45 am]

BILLING CODE 3410-16

Cibola Farm Irrigation Canal Lining RC&C Measure, Arizona; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas G. Rockenbaugh, State Conservationist, Soil Conservation Service, 230 No. First Avenue, Room 3008, Phoenix, Arizona 85025, telephone 602-261-6711.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Cibola Farm Irrigation Canal Lining RC&D Measure, Yuma County, Arizona.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Thomas G. Rockenbaugh, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for water conservation and irrigation system improvement. The planned works of improvement include lining 7,220 feet of an existing earthen canal with concrete. Other conservation practices include upland wildlife habitat management.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Thomas G. Rockenbaugh. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until August 7, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: June 30, 1981.

Joseph W. Hass,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-20009 Filed 7-7-81; 8:45 am]

BILLING CODE 3410-16

Lake Carmi R.C. & D. Measure, Vermont; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Coy A. Garret, State Conservationist, Soil Conservation Service, One Burlington Square, Suite 205, Burlington, Vermont 05401, telephone 802-951-6795.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Lake Carmi RC&D Measure, Franklin County, Vermont.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Coy A. Garrett, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns land treatment measures for erosion control and the installation of a series of animal waste management systems for agriculture related pollution control in the Lake Carmi Watershed. The planned works of improvement will affect approximately 20 individual farms.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contracting Mr. Coy A. Garrett. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until August 7, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

Dated: June 30, 1981.

Joseph W. Haas,

Deputy Chief for Natual Resource Projects.

[FR Doc. 81-20010 Filed 7-7-81; 8:45 am]

BILLING CODE 3410-16-M

Lake Claiborne State Park, Phase I, R. C. & D. Measure, Louisiana; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Alton Mangum, State Conservationist, Soil Conservation Service, 3737 Government Street, Alexandria, Louisiana 71301, telephone 318–473–7751.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Lake Claiborne State Park, Phase I, RC&D Measure, Claiborne Parish, Louisiana.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Alton Mangun, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the development of recreational facilities on an existing 26-acre site on the south shore of Lake Claiborne. Facilities to be installed include: 1 boat launching ramp, a pier, 45 camping spurs, restroom facilities, hard surface roads, and parking areas.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Alton Mangun. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until August 7, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

Dated: June 30, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-20011 Filed 7-7-81; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

International Trade Administration

Sandia National Laboratories; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2119 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 80–00312. Applicant: Sandia National Laboratories, 1515 Eubank Blvd., S.E., Albuquerque, NM 87115. Article: Mass Spectrometer, MM ZAB–2F. Manufacturer: VG Micromass, United Kingdom. Intended use of article: See Notice on page 45935 in the **Federal Register** of July 8, 1980.

Comments: No comments have been received with respect to this application. Decision: Application denied. Reasons: A domestic manufacturer was both willing and able within the meaning of Subsection 301.11(b) of the regulations to manufacture an instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, at the time the article was ordered (December 16, 1979).

Discussion

The legislative history of Pub. L. 89–651 ("the Act") provides the following guidance for interpreting the phase "being manufactured in the United States":

> It is considered that there would be justification for a finding that an instrument or apparatus is being manufactured in the United States if a manufacturer in the United States has in stock, or lists in a current catalog and offers for sale, such an instrument or apparatus which it has produced domestically. Moreover, in other instances, such a finding would be justified if there is satisfactory evidence that a manufacturer is willing to produce and have such a domestic article available promptly so that it may be obtained by the applicant without unreasonable delay, taking into account the normal commercial practice applicable to the production and distribution of instruments or apparatus of the same general type (Senate Report 1678, 89th Cong., p. 12).

The Department's regulations, in pertinent part, are as follows:

> An instrument, apparatus or accessory shall be considered as being manufactured in the United States if it is customarily produced for stock, produced on order, or custom-made within the United States. In determining whether a U.S. manufacturer is able and willing to produce a produced on order, or custom-made instrument, apparatus, or accessory and have it available without unreasonable delay to the applicant the Deputy Assistant Secretary shall take into account the normal commercial practices applicable to the production and delivery of instruments, apparatus, or accessories of the same general category. For example, in determining whether a domestic manufacturer is able to produce a custom-made instrument, apparatus, or accessory the Deputy Assistant Secretary may take into account the production experiences of the domestic manufacturer with respect to the types and complexity of products, the extent of the technological gap between the instrument, apparatus, or accessory to which the application relates and the manufacturer's customary products, and the availability of the professional and technical skills, as well as manufacturing experience essential to bridging the gap and the time required by the domestic manufacturer to produce an instrument or accessory to purchaser's specifications. (CFR 301.11(b))

A domestic firm, Nuclide Corporation, responded positively to the applicant's request for information (Q–04–5322) on April 23, 1976. Nuclide enclosed a technical and price proposal; stated its willingness to consider various financing arrangements, including leasing or rental; accepted the applicant's suggested "go/no go" basis for the contract; described its 20 years of experience in building mass spectrometers commercially, including special developments under Federal contracts; and offered to put $140,000 of its own funds into development of the instrument in the hope this would justify consideration by the applicant of a "sole-source second-round procurement."

In its memorandum of October 17, 1980, NBS advises that Nuclide "has been building mass spectrometers for over 20 years." NBS further advises that it does not consider the applicant's statement that the "foreign manufacturer has a good reputation" as "an appropriate justification" for duty-free entry.

In an internal memorandum dated January 30, 1976, a member of the applicant's technical committee formed for the purpose of acquiring a suitable instrument stated that such a mass spectrometer "is not commercially available, but is within the state-of-the-art to build." The same memorandum notes the need to "obtain cost estimates from potential vendors."

The record therefore shows that the instrument required by the applicant was within the state-of-the-art for the same general type of instruments and clearly could have been made available promptly by the domestic firm having more than 20 years experience in producing such instruments to purchaser specifications. That firm made an offer to the applicant which not only addressed technical aspects of the applicant's request for information but strongly solicited as well the applicant's business with an extraordinary commitment of its own resources to the development effort. That offer provides compelling evidence of the domestic firm's willingness to produce the instrument and of its confidence that the purchaser would be satisfied with the technical capabilities of the domestic instrument.

A variety of material in the attachments to its application appear to constitute a contention by the applicant that, as paraphrased in the NBS memorandum, "the foreign article was the third phase of a development program in which the applicant and his collaborators funded development of the instrument by the foreign manufacturer in the first and second phases of the program."

The Department notes in this connection that selection of a design source in the first phase of the applciant's development program occurred in August 1977, more than fifteen months after Nuclide submitted its proposal. Furthermore, the Department does not, in any event, consider funding and sourcing decisions of applicant institutions as pertinent to its determinations under Pub. L. 89-651. To the extent that the applicant might consider such prior decisions technically and financially determinative of its decision to order an instrument, the Department is warranted to accept as conclusive the evidence of domestic ability and willingness to produce an equivalent instrument at the time the preliminary decisions were made, although the Department's acceptance of such evidence is not to be construed as limiting its discretion to consider domestic willingness and ability to provide a comparable instrument at the time a purchase order is placed. In either event, in this case, the Department finds in favor of Nuclide's willingness and ability to provide an equivalent instrument to the applicant.

For these reasons, NBS advice and our own review of the application, we find that a domestic manufacturer was willing and able (within the meaning of Subsection 301.11(b) to manufacture an instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 81-19980 Filed 7-7-81; 8:45 am]

BILLING CODE 3510-25-M

University of California at Los Angeles et al; Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register.**

Regulations (15 CFR 301.9) issued under the citied Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, in Room 2119 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 81-00216 Applicant: University of California at Los Angeles, Laboratory of Nuclear Medicine, 900 Veteran Avenue, Los Angeles, California 90024. Article: Iatroscan TH-10, Mark III and Accessories. Manufacturer: Iatron Laboratories, Japan. Intended use of article: The article is intended to be used to separate and quantitate a variety of chemical compounds primarily related to liquid biochemical experiments. The phenomenon to be investigated will include lipids which are well suited for chromatographic separations capable with this article. Experiments will range from monitoring reaction mixtures to an analysis of extracts from biological samples. Application received by Commissioner of Customs: April 28, 1981.

Docket No. 81-00221 Applicant: Brookhaven National Laboratory, Upton, New York 11973. Article: Miniature Toroidal Grating Monochromator with Slit Mechanism. Manufacturer: Bird & Tole Ltd., United Kingdom. Intended use of article: The article is intended to be used for research on semiconductor and metal surfaces both atomically clean and with absorbates. Studies will include photo electron spectroscopy and photodesorption. Application received by Commissioner of Customs: May 4, 1981.

Docket No. 81-00223 Applicant: University of Alabama, 1919 7th Avenue South, Birmingham, Alabama 35294. Articles: Photomicroscope III. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used to carry out at the same time differential interference contrast microscope combined with fluorescence, and to quantitate fluorescence values photometrically. The article also has the advantage of having a built in photometrically actuated camera being able therefore to take pictures at any level of illumination. Application received by Commissioner of Customs: May 3, 1981.

Docket No. 81-00224 Applicant: Arizona State University, Tempe, Arizona 85821. Article: Attachments for Electron Microscope. Manufacturer: VG Instruments Inc., United Kingdom. Intended use of article: The articles are attachments to an existing electron microscope manufactured by the same manufacture which will be used in the study of the structure of inorganic materials such as metals, semiconductors and ceramics and for the study of electron interference phenomena. Experiments to be conducted will involve high resolution imaging, the production of microdiffraction patterns from very small specimen areas and the microanalysis of samples using electron energy loss spectroscopy. Application received by Commissioner of Customs: May 5, 1981.

Docket No. 81-00225 Applicant: University of Washington, Department of Chemistry, BG-10, Seattle, WA 98195. Article: NMR Spectrometer, Model CXP-200 and Accessories. Manufacturer: Bruker Analytishe Messtechnik GmbH, West Germany. Intended use of article: The article is intended to be used as an educational tool in the course Chemistry 600 which involves the training of modern research techniques primarily

through tutorial methods. Application received by Commissioner of Customs: May 5, 1981.

Docket No. 81–00226 Applicant: The University of Texas Health Science Center at Dallas, Purchasing Department, 5323 Harry Hines Blvd., Dallas, Texas 75235. Articles: Electrophysiological Stereotaxic Equipment with Accessories. Manufacturer: AB Transvertex, Sweden. Intended use of article: The article is intended to be used for studies of anatomical and electrophysiological relations of (feline) muscle, muscle, sensory receptors, and central nervous system motor neurons. Graduate students will use the article in performance of physiological research in fulfillment of requirements for completion of doctoral degrees in the Health Sciences. Application received by Commissioner of Customs: May 5, 1981.

Docket No. 81–00227 Applicant: University of Wisconsin, Department of Anatomy, 1300 University Avenue, Madison, WI 53706. Article: Electron Microscope, Model JEM–100CX/SEGZ–4D. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used by faculty post-doctoral and graduate students who are actively engaged in ultrastructural studies related to the neurosciences. More specifically, the following research endeavors are dependent upon the article: (1) ultrastructural studies of the superior colliculus and dorsal lateral geniculate nucleus, (2) development studies of synaptic relations in the dorsal lateral geniculate, (3) studies of axonal guidance of growing and regrowing mammalian central nerve fibers, (4) analyses of neuronal mechanisms in pyriform cortex, (5) studies aimed at determining the role of developing serotonin neurons in gut motility, (6) studies of the morphology and physiology of transmitter release from cholinergic nerve terminals, and (7) studies of synaptic transmission in aged preparations. Application received by Commissioner of Customs: May 5, 1981.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 81–19979 Filed 7–7–81; 8:45 am]

BILLING CODE 3510–25–M

University of Connecticut; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2119 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 81–00008. Applicant: University of Connecticut, Biological Sciences Group, Biochemistry & Biophysics Section, Life Sciences Building, Room 461, Storrs, CT 06268. Article: Superconducting Electromagnet. Manufacturer: Thor Cryogenics, United Kingdom. Intended use of article: See Notice on page 9685 in the **Federal Register** of January 29, 1981.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides (1) a field strength of two tesla, (2) a decay rate of one part in 10 million per hour, (3) magnetic homogeneity of better than 0.05% over two one centimeter diameter regions spaced 1.75 inches apart, and (4) a temperature range of −270 to 100° centigrade. The Department of Health and Human Services advises in its memorandum dated May 5, 1981 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purposes and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 81–19978 Filed 7–7–81; 8:45 am]

BILLING CODE 3510–25–M

Washington University; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2119 of the Deparment of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 80–00077. Applicant: Washington University, Lindell & Skinker, St. Louis, MO 63130. Article: Optically Contacted piezo-capicator etalon. Manufacturer: Queensgate Instruments, Ltd., United Kingdom. Intended use of article: See Notice on page 18569 in the **Federal Register** of March 25, 1981.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a 500 micron plate gap, a 50 micron capacitor working gap with two element piezo stacks, lambda/200 flatness, and three 20 millimeter coated areas. The National Bureau of Standards advises in its memorandum dated May 22, 1981 that (1) the capabilities of the foreign article described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intendetl to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

FR Doc. 81–19981 Filed 7–7–81; 8:45 am]

BILLING CODE 3510–25–M

[Order No. 41-3 (Amdt.), D.O.D. Reference 10-3, 40-1]

Assistant Secretary for International Economic Policy; Organization and Function Order

May 11, 1981.

ITA Organization and Function Order 41-3 (46 FR 19950) is amended to realign functions and establish three new offices reporting to the Deputy Assistant Secretary for Finance, Investment and Services.

1. Part V., Section 2 is amended to read:

"Section 2. Office of the Deputy Assistant Secretary

.01 The *Deputy Assistant Secretary for Finance, Investment and Services* shall advise on inward and outward investment, and international operations of U.S. service industries, international finance and monetary policies and multinational corporation, tax and other issues incident to foreign business operations; develop and implement policies on foreign investment by U.S. investors including the operation and impact of U.S.-based multinational corporations; represent the Department in international finance and development assistance affairs and U.S. direct investment issues; and be responsible for providing staff support for the Department's representatives on the National Advisory Council on International Monetary and Financial Policies (NAC), the Export-Import Bank Board, Overseas Private Investment Corporation and other organizations dealing with export finance, export guarantees and credit insurance, and bilateral and multilateral aid loans.

.02 The DAS/FIS shall direct the following offices:

a. Office of International Finance
b. Office of International Services
c. Office of International Investment"

2. Part V., Section 3 is amended to read:

"Section 3. Office of International Finance

.01 *The Office of International Finance* includes the *Director* who shall identify key issues and develop policies relating to International finance and monetary affairs; represent the Department on the National Advisory Council on International Monetary and Financial Policies (NAC) and other bodies dealing with export financing, export and investment guarantees, credit and credit insurance, foreign lending and assistance activities of U.S. and international agencies, and balance of payments measures; participate in international conferences such as the Organization for Economic Cooperation (OECD) and the United Nations Conference on Trade and Development (UNCTAD) concerned with these subjects; provide analytical and staff support for the Secretary's participation as a member of the Export-Import Bank Board and as Chairman of the Export Expansion Advisory Committee of the Export Expansion Facility administered by the Export-Import Bank; act as the Department's principal liaison with banks, other private institutions, and U.S. Government and multilateral agencies engaged in international financing activities; formulate policy and program recommendations relating to the administration of government-financed procurement programs, including foreign aid, to assure the full participation of U.S. goods and service exports; formulate policy and program recommendations with regard to the international financial aspects of trends and developments in the U.S. balance of payments and provide advice to firms on financing mechanisms available in private institutions, the U.S. Government, and international agencies;."

3. Part V., Section 4 is added to read:

"Section 4. Office of International Services

.01 The *Office of International Services* includes the *Director* who shall provide policy guidance and program recommendations to foster the international operations of the U.S. service industries (such as insurance, accounting, engineering and construction, advertising, computer services, leasing, franchising, air and shipping); develop and implement policies relating to U.S. and foreign taxation of international service and other business operations, the economic impact of international technology transfer, international business practices, international aspects of antitrust, international standardization, patent and copyright protection, and related matters arising from the international commercial and investment operations of U.S. firms, especially as they relate to service industries; analyze and act on problems affecting the international competitive position of the U.S. service industries; and provide surveys of U.S. service industries' international operations, disclosing extent of operations and trade and balance of payments impact. The Director shall direct the following Divisions:

.02 The *Industry Programs Division* shall, on an industry basis, identify and evaluate the obstacles to a free flow of services internationally and the actions that could be taken to reduce or eliminate these obstacles on a case-by-case or multilateral basis; facilitate the sale abroad of U.S. services; and analyze U.S. policies, rules and regulations affecting the service industries to determine the impact on their international competitive position. The Division shall develop U.S. policies in the transportation area, including responses to requests for reciprocal exemption from U.S. customs duties and taxes on supplies and fuel for foreign aircraft, international conventions and agreements on liability and documentation, and preparing position papers for, and representing the Department at meetings of the International Maritime Consultative Organization, UNCTAD, UNCITRAL and other international orgaizations. It shall also provide analytical and other support to the USTR's Services Industry Policy Committee and the Department's Services Industry Sector Advisory Committee; maintain liaison with trade and industry groups and individual firms to ascertain the nature of foreign government restrictions affecting the service sector abroad; and report periodically on services trade flows and the U.S. market share of the service industries throughout the world.

.03 The *Foreign Business Practices Division* shall formulate policy and program recommendations relating to international business operations of American service industries and other firms, specifically with reference to restrictive business practices, patents, trademarks, copyrights, product standardization, transfer of technology, commercial law, arbitration, state-trading, and U.S. foreign tax measures and practices; developed Departmental policy and program recommendations for the protection of American property rights abroad, and with respect to drafting and negotiation of treaties, conventions, and agreements bearing on the international operations of American business; conduct comparative analyses of foreign competitive practices, including product standards, licensing, patent policies and related transfer of technology issues, taxation, and joint exporting, especially as they relate to service industries; and provide information and advice to U.S. firms on such matters."

4. Part V., Section 5 is added to read:

"Section 5. Office of International Investment

.01 The *Office of International Investment* includes the *Director* who shall develop and implement policies relating to U.S. direct investment abroad

and foreign direct investment in the United States; develop and analyze information on such investment and report on the status and economic impact of the investment flows in accordance with the International Investment Survey Act of 1976 and Executive Orders 11858 and 11961; initiate and participate in the development of positions, policies and programs and legislative proposals bearing on the monitoring, reporting, review, facilitation of and restraints on direct investment into and from the United States; and represent the Department on interagency committees dealing with investment policy, expropriation and MNC codes of conduct. The Director shall direct the following Divisions:

.02 The *Investment Policy Division* shall develop policies and represent the Department in matters relating to U.S. direct investment abroad and foreign direct investment in the U.S., including bilateral investment treaties, codes of conduct (including the United Nations, International Labor Organization, and OECD general codes as well as specific codes), science and technology, expropriation and other investment disputes, national treatment, performance requirements and other investment incentives and disincentives, the operations of multinational corporations, and the effects of inward and outward investment on U.S. trade and employment and access to raw materials; develop information on foreign legal, economic and regulatory regimes bearing on U.S. direct investment abroad and on both Federal and state laws affecting foreign direct investment in the U.S.; consult with and brief, as necessary, business and government officials on U.S. regulations and international practices affecting the flow of investment; and participate in bilateral and multilateral negotiations and consultations on international investment.

.03 The *Research and Assessment Division* shall prepare and publish studies, reports, and analyses on the determinants, charcteristics, effects, and interelationships of U.S. direct investment abroad and foreign direct investment in the United States, including the incidence, concentration, and distribution of both inward and outward investment by industry sectors and foreign nation involved; evaluate and assess the impact of such investment of U.S. economic security, balace of payments and trade, and other economic interests, both sectorally and in aggregate; prepare regular reports for the Committee on Foregin Investment in the United States and the Congress on significant foreign investment trends at the sectoral level, covering market position, employment, technology transfer, trade, and financial structure; prepare special analytical and policy reports required by the Committee and Commerce policy officials; develop and maintain information and date on inward and outward investment activity; and work with Federal agencies gathering investment data to improve data collection and reporting, and provide the Committee on Foreign investment in the U.S. and the Congress with recommendations to effect such improvements.

.04 The *Investment Analysis Division* shall monitor, investigate, and develop information on inward and outward investment transactions, the operations of foreign-owned firms in the United States, and the operations of U.S.-owned firms overseas, including the consolidation and modification of information from existing sources such as Federal and state government agencies, commercial and investment banks, and other public and private organizations, both domestic and international; prepare analyses of significant individual investment transactions; and prepare and publish periodic and special reports on inward and outward investment transactions and trends for the Congress, the Committee on Foreign Investment in the United States, and the public.

Approved:

Lionel H.Olmer,

Under Secretary for International Trade.

Raymond J. Waldmann,

Assistant Secretary for International Economic Policy.

[FR Doc. 81-19977 Filed 7-7-81; 8:45 am]

BILLING CODE 3510-25-M

[Order No. 41-1 (Amdt. 2), D.O.O. Reference 10-3, 40-1]

International Trade Administration; Organization and Function Order

Effective Date: May 11, 1981.

ITA Organization and Function Order 41-1 (45 FR 11862) is further amended to realign functions and establish three new offices reporting to the Deputy Assistant Secretary for Finance, Investment and Services. Part III, Section 2.02 is amended to read:

".02 The *Deputy Assistant Secretary for Finance, Investment and Services* who shall advise on inward and outward investment, international operations of U.S. service industries, international finance and monetary policies and multinational corporation, tax, and other issues incident to foreign business operations, and shall direct the following offices:

"a. The *Office of International Finance* shall identify key issues and develop policies relating to international finance and monetary affairs; represent the Department on the National Advisory Council on International Monetary and Financial Policies (NAC) and other bodies dealing with export financing, export and investment guarantees, credit insurance, foreign lending and assistance activities of U.S. and international agencies, and balance of payments measures; and provide analytical and staff support for the Secretary's participation as a member of the Export-Import Bank Board and as Chairman of the Export Expansion Advisory Committee of the Export Expansion Facility administered by the Export-Import Bank.

"b. The *Office of International Services* shall provide policy guidance and program recommendations to foster the international operations of the U.S. service industries (such as insurance, accounting, engineering and construction, advertising, computer services, leasing, franchising, air and shipping); develop and implement policies relating to U.S. and foreign taxation of international service and other business operations, the economic impact of international technology transfer, international business practices, international aspects of antitrust, international standardization, patent and copyright protection, and related matters arising from the international commercial and investment operations of U.S. firms, especially as they relate to service industries; analyze and act on problems affecting the international competitive position of the U.S. service industries; and provide surveys of U.S. service industries' international operations, disclosing extent of operations and trade and balance of payments impact.

"c. The *Office of International Investment* shall develop and implement policies relating to U.S. direct investment abroad and foreign direct investment in the United States; develop and analyze information on such investment and report on the status and economic impact of the investment flows in accordance with the International Investment Survey Act of 1976 and Executive Orders 11858 and 11961; initiate and participate in the development of positions, policies and programs and legislative proposals bearing on the monitoring, reporting, review, facilitation of and restraints on direct investment into and from the

United States; and represent the Department on interagency committees dealing with investment policy, expropriation and MNC codes of conduct."

Lionel H. Olmer

Under Secretary for International Trade.

[FR Doc. 81-19952 Filed 7-7-81; 8:45 am]

BILLING CODE 3510-25-M

Maritime Administration

[Docket No. S-692]

Application

Notice is hereby given that Cove Carriers Inc., Cove Tide Corp., CMC Tankers, Inc., and Cove Tank Ships Inc., Wall Street Plaza, Suite No. 1630, New York, New York 10005, have filed applications dated May 8, 1981, with the Maritime Subsidy Board (the Board) pursuant to Title VI of the Merchant Marine Act, 1936, as amended (the Act), for operating-differential subsidy contracts, to expire December 31, 1981, unless extended, to operate the SSs COVE SPIRIT, COVE TIDE, COVE RANGER, and COVE ENGINEER, respectively, in the carriage of bulk raw and processed agricultural commodities in the foreign commerce of the United States (U.S.) from ports in the U.S. to ports in the Union of Soviet Socialist Republics (U.S.S.R.), or other permissible ports of discharge. Dry and liquid bulk cargoes may be carried from the U.S.S.R. and other foreign ports inbound to U.S. ports during voyages subsidized for carriage of export bulk raw and processed agricultural commodities to the U.S.S.R., or other permissible ports of discharge.

Full details concerning the U.S.–U.S.S.R. export bulk raw and processed agricultural commodities subsidy program, including terms, conditions and restrictions upon both the subsidized operators and vessels, appear in Title 46 of the Code of Federal Regulations, Part 294.

For purposes of section 605(c) of the Act, it should be assumed that should the Board grant the requested approval, the vessel named above will engage in the described trade, on a full-time basis, during the indicated time period. Under such approval, each voyage must be approved for subsidy assistance prior to its commencement, and the Board will act on such request(s) as an administrative matter for which there is no requirement for further section 605(c) notice(s).

Any person having an interest in the granting of the application and who would contest a finding by the Board that the service now provided by vessels of U.S. registry for the carriage of cargoes previously specified is inadequate, must on or before July 30, 1981 notify the Board's Secretary, in writing, of his interest and of his position, and file a petition for leave to intervene in accordance with the Board's Rules of Practice and Procedure (46 CFR 201). Each such statement of interest and petition to intervene shall state whether a hearing is requested under section 605(c) of the Act, and, with as much specificity as possible, the facts that the intervenor would undertake to prove at such hearing.

In the event a hearing under section 605(c) of the Act is ordered to be held with respect to the subject application, the purpose of such hearing will be to receive evidence relevant to (1) whether the applications herein described, with respect to the vessels to be operated in an essential service and served by citizens of the U.S., would be in addition to the existing service or services, and if so, whether the service already provided by vessels of U.S. registry is inadequate, and (2) whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Board will take such actions as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidy (ODS))

By Order of the Maritime Subsidy Board.
Dated: June 30, 1981.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 81-19983 Filed 7-7-81; 8:45 am]

BILLING CODE 3510-15-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Adolph Coors Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

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

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces an action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

Comments by: August 7, 1981.

ADDRESS: Send comments to Alan L. Wehmeyer, Chief, Crude Products Program Management Branch, Central Enforcement District, 324 East 11th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Alan L. Wehmeyer, Chief, Crude Products Program Management Branch, Central Enforcement District, 324 East 11th Street, Kansas City, Missouri 64106. Phone (816) 374-5932.

SUPPLEMENTARY INFORMATION: On June 22, 1981, the Office of Enforcement of the ERA executed a Consent Order with Adolph Coors Company of Golden, Colorado. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

Coors, with its home office located in Golden, Colorado processes natural gas streams and sells the NGL derived from these streams, and is subject to the Mandatory Petroleum and Allocation and Price Regulations at 10 CFR. Parts 210, 211, and 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Coors the Office of Enforcement, ERA, and Coors entered into a Consent Order, the significant terms of which are as follows:

1. This Consent Order covers the sales of NGL by Coors at its Wattenberg Plant during the period January 1, 1977 through January 28, 1981.

2. The reason for the overcharges was Coors sold NGL at prices in excess of the applicable ceiling price, as defined at 10 CFR 212.143(a), 212.163(a).

3. It is understood that Coors does not, by entering into the Consent Order, admit that it has violated any regulations of the DOE.

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

II. Disposition of Refunded Overcharges

In this Consent Order, Coors agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. above, the sum of $65,000, including interest as specified in Terms and Conditions,

paragraph 1, of the Consent Order. The refund shall be made in one lump sum payment and completed within one month from the effective date of the Consent Order. Such refund will be made to the United States Department of Energy and will be delivered to the Assistant administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

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

III. Submission of Written Comments

A. *Potential Claimant:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of Claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure of a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order. You should submit your comments or written notification of a claim to Alan L. Wehmeyer, Chief, Crude Products Program Management Branch, ERA Central Enforcement District, U.S. Department of Energy, 324 East 11th Street, Kansas City, Missouri 64106. You may obtain a free copy of the Consent Order by writing to the same address.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Coors Consent Order." We will consider all comments we receive within *30 days after the publication.* You should identify any information or data which is, in your opinion, confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Kansas City, Missouri on the 29th day of June, 1981.

William D. Miller,

District Manager, Economic Regulatory Administration.

Concurrence:

David H. Jackson,

Chief Enforcement Counsel Central Enforcement District.

[FR Doc. 81-19917 Filed 7-7-81; 8:45 am]

BILLING CODE 6450-01-M

Comanche Oil Company; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

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

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces an action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

Comments by: August 7, 1981.

ADDRESS: Send comments to Alan L. Wehmeyer, Chief, Crude Products Program Management Branch, Central Enforcement District, 324 East 11th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Alan L. Wehmeyer, Chief, Crude Products Program Management Branch, Central Enforcement District, 324 East 11th Street, Kansas City, Missouri 64106. Phone (816) 374-5932.

SUPPLEMENTARY INFORMATION: On June 22, 1981, the Office of Enforcement of the ERA executed a Consent Order with Comanche Oil Company (Comanche), of Springfield, Illinois. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

Comanche, with its home office located in Springfield, Illinios, is a firm engaged in the production and sale of crude oil, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211 and 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Comanche the Office of Enforcement, ERA, and Comanche entered into a Consent Order, the significant terms of which are as follows:

1. This Consent Order covers the production and sales of crude oil by Commanche during the period September 1, 1973 through January 28, 1981.

2. The reason for the overcharges was Comanche sold crude oil at prices in excess of the applicable ceiling price, as defined at 6 CFR 150.354 and at 10 CFR 212.73.

3. It is understood that Comanche does not, by entering into the Consent Order, admit that it has violated any regulations of the DOE.

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

II. Disposition of Refunded Overcharges

In this Consent Order, Comanche agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. above, the sum of $170,000, including interest as specified in Terms and Conditions, paragraph 1, of the Consent Order. The refund shall be made in eight quarterly payments and completed within 25 months of the effective date of the Consent Order. Such refund will be made to the United States Department of Energy and will be delivered to the Director of Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result

of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. *Potential Claimant:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure of a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order. You should submit your comments or written notification of a claim to Alan L. Wehmeyer, Chief, Crude Products Program Management Branch, ERA Central Enforcement District, U.S. Department of Energy, 324 East 11th Street, Kansas City, Missouri 64106. You may obtain a free copy of the Consent Order by writing to the same address. You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Comanche Consent Order." We will consider all comments we received on or before August 7, 1981. You should identify any information or data which is, in your opinion, confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Kansas City, Missouri on the 29th day of June, 1981.

William D. Miller,

District Manager, Economic Regulatory Administration.

Concurrence:

David H. Jackson,

Chief Enforcement Counsel Central Enforcement District.

[FR Doc. 81-19618 Filed 7-7-81; 8:45 am]

BILLING CODE 6450-01-M

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

AGENCY: Economic Regulatory Administration, Department of Energy.

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

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

EFFECTIVE DATE: June 15, 1981.

Comments by: August 7, 1981.

ADDRESS: Send comments to: Wayne I. Tucker, Southwest District Manager, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, Phone: 214/767-7745.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, Southwest District Manager, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, phone: 214/767-7745.

SUPPLEMENTARY INFORMATION: On June 15, 1981 the Office of Enforcement of the ERA executed a Consent Order with Exchange Oil & Gas Corp. of New Orleans, Louisiana. Under 10 CFR 205.199J(b) a Consent Order which involves a sum of $500,000 or less in the aggregate excluding penalties and interest, becomes effective upon its execution.

Because the DOE and Exchange Oil & Gas Corp. wish to expeditiously resolve this matter as agreed and to avoid delay in the payment of refunds, the DOE has determined that it is in the public interest to make the Consent Order with Exchange effective as of the date of its execution by the DOE and Exchange.

I. The Consent Order

Exchange Oil & Gas Corp. (Exchange) is a firm engaged in the production of crude oil and was subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, and 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Exchange the Office of Enforcement, ERA, and Exchange entered into a Consent Order, the significant terms of which are as follows:

1. During the period January 1, 1975 through December 31, 1980 Exchange allegedly sold crude oil above the allowable prices specified at 10 CFR Part 212, Subpart D.

2. Exchange and the DOE have agreed to a settlement of $151,006. This amount will be refunded by Exchange within 30 days of the effective date of the Consent Order. The negotiated settlement was determined to be in the public interest as well as the best interest of the DOE and Exchange.

3. This Consent Order consitutes neither an admission by Exchange that ERA regulations have been violated nor a finding by the ERA that Exchange has violated ERA regulations.

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

II. Disposition of Refunded Overcharges

In this Consent Order, Exchange agrees to refund in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. above, the sum of $151,006 in the manner specified in I.2. above. Refunded overcharges will be in the form of certified checks made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. The funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67.

In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not being required. Written notification of the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order. You should send your comments or written notification of a claim to Wayne I. Tucker, Southwest District Manager, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235. You may obtain a free copy of this Consent Order by writing to the same address or by calling 214/767–7745.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation "Comments on the Exchange Oil & Gas Corp. Consent Order". We will consider all comments we received by 4:30 p.m., local time, (30 days after publication). You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 19th day of June, 1981.

Wayne I. Tucker,

Southwest District Manager, Economic Regulatory Administration.

[FR Doc. 81-19919 Filed 7-7-81; 8:45 am]

BILLING CODE 6450-01-M

W. W. Lindsey and W. E. Elliott; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy

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

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATE: Effective date is June 10, 1981.

Comments by: August 7, 1981.

ADDRESS: Send written comments to: Bernard Fleischer, Program Manager, Production Programs, Southeast District, Office of Enforcement, 1655 Peachtree Street, N.E., Atlanta, Georgia 30367.

FOR FURTHER INFORMATION CONTACT: Robert H. Burch, Management Analyst, U.S. Department of Energy, 1655 Peachtree Street, N.E., Atlanta, Georgia 30367, Telephone (404) 881–2396.

SUPPLEMENTARY INFORMATION: On June 10, 1981, the Southeast District, Office of Enforcement of the ERA finalized a Consent Order with W. W. Lindsey and W. E. Elliott, a Pikeville, Kentucky crude producer firm. Under 10 CFR Section 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution. Therefore, the DOE has determined that it is in the public interest to make the Consent Order with W. W. Lindsey and W. E. Elliott effective on June 10, 1981.

I. The Consent Order

W. W. Lindsey and W. E. Elliott (Lindsey and Elliott), located in Pikeville, Kentucky, is a crude producer firm and is subject to the jurisdiction of the DOE with regard to prices charged in sales of crude oil, pursuant to 10 CFR Part 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the ERA as a result of its audit of Lindsey and Elliott, the Office of Enforcement, ERA, and Lindsey and Elliott entered into a Consent Order, the significant terms of which are as follows:

1. The Consent Order relates to the sales of crude oil by Lindsey and Elliott during the period September 1, 1973 through August 31, 1976.

2. From the audit conducted during the above period, the Office of Enforcement determined that Lindsey and Elliott improperly certified production from one lease as stripper oil and as a result sold the oil at unlawful prices.

3. Lindsey and Elliott agreed to immediately refund the total sum of $25,000, in full settlement of any and all civil liability within the jurisdiction of DOE during the audit period. The refunded total shall be paid by certified check upon execution of the Consent Order and submitted to the Director, Office of Enforcement, ERA, Washington, D.C. The Director shall direct that this sum be deposited in a suitable account for distribution in a just and equitable manner in accordance with applicable laws and regulations.

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

II. Disposition of Refunded Overcharges

In the Consent Order, Lindsey and Elliott agree to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. and I.2. above, the sum of $25,000, immediately upon execution of the Consent Order. Refund methodology will be as specified in I.3. above. The amounts submitted to the Director, Office of Enforcement will be in the form of a certified check made payable to the U.S. Department of Energy. This submission will remain in a suitable account pending the determination of proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR Section 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR Section 211.67.

In fact, the adverse effects of the overcharges may have become so diffused that it is a practical

impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR Section 205.199I(a).

III. Submission of Written Comments:

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

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

You should sent your comments or written notification of a claim, as specified in A and B above, to Bernard Fleischer, Program Manager, Production Programs, Department of Energy, 1655 Peachtree Street, N.E., Atlanta, Georgia 30367. You may obtain a copy of this Consent Order with proprietary information deleted by writing to the same address.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Lindsey and Elliott Consent Order". Comments received by 4:30 p.m., local time on August 7, 1981 will be considered. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR Section 205.9(f).

Issued in Atlanta, Georgia on the 25th day of June 1981.

James C. Easterday,

District Manager of Enforcement.

Concurrence:

Leonard F. Bittner,

Chief Enforcement Counsel.

[FR Doc. 81-19920 Filed 7-7-81; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 4373-000]

City of Fredericksburg, Va.; Application for Preliminary Permit

July 6, 1981.

Take notice that the City of Fredericksburg, Virginia (Applicant) filed on March 19, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for Project No. 4373 known as the Embrey Dam Project located on the Rappahannock River in Stafford and Spotsylvania Counties, Virginia. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. John M. Nolan, City Manager, P.O. Box 7447, Fredericksburg, Virginia 22401.

Project Description—The proposed project would consist of: (1) an existing concrete dam approximately 770-foot long and 23.5 feet high; (2) an existing reservoir with a surface area of 290 acres and a storage capacity of 2,000 acre-feet at a normal pool elevation of 52.0 feet m.s.l.; (3) a proposed powerhouse with an installed generating capacity of 11.4 MW; (4) a proposed 250-foot long tailrace; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output would be 12 GWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months. During this time the significant legal, institutional, engineering, environmental, marketing, economic and financial aspects of the project will be defined, investigated, and assessed to support an investment decision. The report of the proposed study will address whether or not a commitment to implementation is warranted, and, if the findings are positive, the Applicant intends to submit a license application. The Applicant estimated total cost for performing these studies is $50,000.

Competing Applications—This application was filed as a competing application to the Embrey Dam Project No. 3611 filed on October 27, 1980, by Embrey Development, Ltd. under 18 CFR 4.33 (1980). Public notice of the filing of the initial application has already been given and the due date for filing competing applications or notices of intent has passed. Therefore, no further competing applications or notices of intent to file competing applications will be accepted for filing.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 29, 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. 4373. 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, Room 208 RB at the above address. 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. 81-19989 Filed 7-7-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4642-000]

City of Rice Lake Department of Utilities, Wisconsin; Application for Preliminary Permit

July 6, 1981.

Take notice that the City of Rice Lake Department of Utilities, Wisconsin (Applicant) filed on May 11, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for Project No. 4642 known as the Rice Lake Dam

located on the Rice Lake and Red Cedar River in Barron County, Wisconsin. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Robert Von Edeskuty, Joseph V. Edeskuty & Associates, Consulting Engineers, 730 2nd Avenue S., Suite 835, Minneapolis, Minnesota 55402.

Project Description—The proposed project would consist of: (1) a proposed replacement 177-foot long and 22-foot high concrete dam; (2) a proposed powerhouse containing generating units having an installed capacity of 336 kW, with an estimated average annual output of energy to be 1,534 MWh; (3) a proposed reservoir at a maximum 1,112.7-foot m.s.l. surface elevation, a 380 square mile drainage area, and a 266 acre-feet storage capacity; (4) a proposed penstock; (5) a proposed 200-foot underground conduit to a transformer at a city substation; and (6) appurtenant facilities. The proposed project is not located on Federal lands.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. 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 $14,500.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before *August 14, 1981*, either the competing application itself [See 18 CFR 4.33 (a) and (d) (1980)] or a notice of intent [See 18 CFR 4.33 (b) and (c) (1980)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than *October 13, 1981*.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before *August 14, 1981*.

Filing and Service of Responsive Documents—Any filings 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, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. 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. 81-19990 Filed 7-7-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4671-000]

City of Winona, Minn.; Application for Preliminary Permit

July 6, 1981.

Take notice that the City of Winona, Minnesota (Applicant) filed on May 15, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a) 825(r)] for Project No. 4671 known as the Mississippi Lock and Dam No. 7 located on the Mississippi River in Winona County, Minnesota. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. David R. Sollenberger, City Manager, City Hall, 4th and Lafayette Streets, Winona, Minnesota 55987.

Project Description—The proposed project will utilize a U.S. Army Corps of Engineers' Mississippi Lock and Dam No. 7. The proposed project would consist of: (1) a proposed powerhouse having an estimated installed 7.2 MW capacity and an estimated average annual 45.3 GWh energy output; (2) a proposed 2.75 mile transmission line; and (3) appurtenant facilities. The proposed project is located on Federal lands.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. 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 $25,000.

Competing Applications—This application was filed as a competing application to the Mississippi Lock and Dam No. 7 Project No. 3649 filed on November 3, 1980 by the Mitchell Energy Company, Inc. under 18 CFR 4.33 (1980). Public notice of the filing of the initial application has already been given and the due date for filing competing applications or notices of intent has passed. Therefore, no further competing applications or notices of intent to file competing applications will be accepted for filing.

Agency Comments—Federal State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to be taken, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 3, 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. 4671. 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, 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, 825 North Capitol Street, N.E., 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. 81-19991 Filed 7-7-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4188-001]

Jones & Sandy Ranch; Application for Exemption From Licensing of a Small Conduit Hydroelectric Project

July 6, 1981

Take notice that the Jones & Sandy Ranch filed with the Federal Energy Regulatory Commission on May 18, 1981, an application, under Section 30 of the Federal Power Act (Act) [16 U.S.C. 823 (a)], for exemption for its Jones & Sandy Project No. 4188-001 from all of Part I of the Federal Power Act. The proposed project would be located on the existing conduit supplying water to the fish hatchery in Gooding County, Idaho. Correspondence with the Applicant should be directed to: Consulting Associates, P.O. Box 893, Boise, Idaho 83701, and Jones & Sandy Livestock, Route 1, Box 269, Hagerman, Idaho 83332.

Project Description—The proposed project consists of: (1) an 85-foot long penstock to be located at the mouth and drop of Weatherly Springs tunnel; (2) a concrete slab; (3) a generating unit rated at 105 kW; (4) a tail pipe discharging into the fish hatchery raceways; and (5) a transformer service pole. The powerplant would utilize an effective head of 53 feet, would be automatically operated, and would produce approximately 975 MWh annually.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

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 exemption. (A copy of the application may be obtained directly from the Applicant). Comments should be confined to substantive issues relevant to the granting of an exemption and consistent with the purpose of an exemption as described in this notice. No other formal requests for comments will be made. If an agenct does not file comments within the time set below, it will be presumed to have no comments.

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 section 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 recieved on or before August 17, 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. 4188. 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. 81-19992 Filed 7-7-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4528-000]

Pondera County Canal Reservoir Co. and City of Conrad, Montana; Application for Preliminary Permit

July 6, 1981.

Take notice that the Pondera County Canal Reservoir Company and City of Conrad, Montana (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. 4528 to be known as Swift Dam Power Project located on Birch Creek in Pondera County, Montana. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Gerald Vandenacre, President, Pondera County Canal and Reservoir Company, P.O. Box 248, Valier, Montana 59486.

Project Description—The proposed project would consist of: (1) an existing 190-foot high and 560-foot long double-curvature, thin arch, concrete dam with a maximum elevation of 4,886 feet m.s.l.; (2) an existing reservoir with a 34,000 acre-feet storage capacity, a 75 square-mile drainage area, and a 300 acre maximum surface area at an elevation of 4,892 feet m.s.l.; (3) a proposed powerhouse containing generating units with an installed 3 MW capacity; (4) a proposed 2-mile 34.5-kV transmission line to be interconnected to an existing transmission line; and (5) appurtenant facilities. The proposed project is not located on Federal lands. The Applicant estimates that the average annual energy output would be 11,600,000 kWh. The Applicant proposes to investigate the sale of the generated energy to a local utility.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. 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.

Competing Applications—This application was filed as a competing application to the Swift Dam Hydroelectric Power Project No. 3725 filed on November 3, 1980, by Mitchell Energy Company, Inc. under 18 CFR 4.33 (1980). Public notice of the filing of the initial application has already been given and the due date for filing competing application or notices of intent has passed. Therefore, no further competing applications or notices of intent to file competing applications will be accepted for filing.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 31, 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. 4528. 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, 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, 825 North Capitol Street, N.E., 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. 81-19980 Filed 7-7-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4786-000]

Public Utility District No. 1 of Snohomish County, Washington; Application for Preliminary Permit

July 6, 1981.

Take notice that Public Utility District No. 1 of Snohomish County, Washington (Applicant) filed on June 3, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 4786 known as the Sunset Falls Waterpower Project located on the South Fork Snohomish River (SFSR) in Snohomish 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 G. Hulbert, Jr., Manager, Public Utility District No. 1 of Snohomish County, P.O. Box 1107, Everett, Washington 98206.

Project Description—The proposed project would consist of: (1) a 10-foot high diversion dam across the SFSR approximately one mile upstream of the existing Sunset Falls; (2) a 1,350-foot long concrete-lined tunnel; (3) a power house containing two generating units with a total rated capacity of 50 MW; and (4) appurtenant facilities. The Applicant estimates that the average annual energy output would be 160 million kWh.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested a 36-month preliminary permit to prepare a project report, including preliminary designs, and results of geological, hydrological, environmental, and economic feasibility studies. Applicant has indicated that: (a) no new roads would be required for conducting the studies; and (b) test borings would be done in areas which are clear of vegetation, boring holes would be backfilled, and the ground surface reconditioned to the extent possible.

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 $1,000,000.

Competing Applications—This application was filed as a competing application to Mr. John Raymond Beebe, Jr.'s Project No. 3347 filed on November 13, 1980, under 18 CFR 4.33 (1980). Public notice of the filing of the initial application has already been given and the due date for filing competing applications or notices of intent has passed. Therefore, no further competing applications or notices of intent to file competing applications will be accepted for filing.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant). If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protest, or petition to intervene must be received on or before August 3, 1981.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. 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. 81-19994 Filed 7-7-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4564-000]

Village of Winnetka; Application for Preliminary Permit

July 6, 1981.

Take notice that the Village of Winnetka (Applicant) filed on April 29, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for Project No. 4564 known as the Mississippi River Lock and Dam No. 15 located at the U.S. Army Corps of Engineers' Mississippi River Lock and Dam No. 15 on the Mississippi River in the county of Rock Island, Illinois, and the county of Scott, Iowa. 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, P.E., 510 Green Bay Road, Winnetka, Illinois 60093.

Project Description—The proposed project would utilize the U.S. Army Corps of Engineers' Mississippi River Lock and Dam No. 15. Project No. 4564 would consist of: (1) a proposed powerhouse having an installed capacity of 16.5 MW; (2) a proposed 69-kV transmission line to be interconnected to an existing transmission line owned by Iowa-Illinois Gas and Electric Company; and (3) appurtenant facilities. The proposed project is located on Federal lands. The Applicant estimates that the average annual energy output would be 95,000,000 kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. 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.

Competing Applications—This application was filed as a competing application to the Mississippi Lock and Dam Project No. 4276 filed on March 2, 1981, by ENERGENICS SYSTEMS, INC. under 18 CFR 4.33 (1980). Public notice of the filing of the initial application has already been given and the due date for filing competing applications or notices of intent has passed. Therefore, no further competing applications or notices of intent to file competing applications will be accepted for filing.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 3, 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. 4564. 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, 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 RB at the above address. 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. 81-19998 Filed 7-7-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4432-000]

Wisconsin Public Power Incorporated System; Application for Preliminary Permit

July 6, 1981.

Take notice that the Wisconsin Public Power Incorporated System (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. 4432 to be known as Lock and Dam No. 7 located at the U.S. Army Corps of Engineers' Mississippi Lock and Dam No. 7 on the Mississippi River in LaCrosse County, Wisconsin. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Michael P. May, Boardman, Suhr, Curry and Field, One South Pinckney Street, P.O. Box 927, Madison, Wisconsin 53701.

Project Description—The proposed project would utilize the U.S. Army Corps of Engineers' Mississippi Lock and Dam No. 7. The proposed Project No. 4432 would consist of: (1) a proposed powerhouse containing generating units with an estimated installed capacity of 12,685 kW; (2) a proposed 69-kV transmission line approximately 5 miles in length to be interconnected to an existing 69-kV line; and (3) appurtenant facilities. The Applicant estimates that the average annual energy output would be 64,669,000 kWh. The Applicant proposes to utilize the generated output of energy within its own system. The proposed project is located on Federal land.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. 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 $64,730.

Competing Applications—This application was filed as a competing application to the Mississippi Lock and Dam No. 7 Project No. 3649 filed on November 9, 1980, by Mitchell Energy Company, Inc. under 18 CFR 4.33 (1980). Public notice of the filing of the initial application has already been given and the due date for filing competing applications or notices of intent has passed. Therefore, no further competing applications or notices of intent to file competing applications will be accepted for filing.

Agency Comments—Federal, State and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file

comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 29, 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. 4432. 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, 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, 825 North Capitol Street, N.E., 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. 81-19006 Filed 7-7-81; 8:45 am]

BILLING CODE 6450-85-M

ENVIRONMENTAL PROTECTION AGENCY

[PP OG2344/T304; PH-FRL-1817-5]

Amitraz; Establishment of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Temporary tolerances have been established for the combined residues of the insecticide amitraz [*N*-2,4-dimethylphenyl)-*N*-[[(2,4-dimethylphenyl)imino]methyl]-*N*-methylmethanimidamide and its metabolites containing the 2,4-dimethylaniline moiety (calculated as the parent compound) in or on citrus at 1.0 part per million (ppm), in milk at 0.01 ppm, and in meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.01 ppm.

DATE: These temporary tolerances expire April 1, 1982.

FOR FURTHER INFORMATION CONTACT: Jay S. Ellenberger, Product Manager (PM) 12, Registration Division (TS-767C), Office of Peticide Programs, Environmental Protection Agency, Rm. 400, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7024).

SUPPLEMENTARY INFORMATION: Boots Hercules Chemical Inc., P.O. Box 2867, Wilmington, DE 19805, has submitted a pesticide petition (PP OG2344) to the EPA requesting establishment of temporary tolerances for the combined residues of the insecticide amitraz [*N*-(2,4-dimethylphenyl)-*N*-[[2,4-dimethylphenyl)imino]methly]-*N*-methylmethanimidamide and its metabolites containing the 2,4-dimethylaniline moiety (calculated as the parent compound) in or on citrus at 1.0 ppm, in milk at 0.01 ppm, and in meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.01 ppm.

These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with the experimental use permit which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, 92 Stat. 819; 7 U.S.C. 136.

The scientific data and other relevant material have been evaluated and it has been determined the establishment of the temporary tolerances will protect the public health. The temporary tolerances are established on the condition that the pesticide be used with the following provisions:

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

2. Boots Hercules will immediately notify the EPA of any findings from the experimental use permit that have a bearing on safety. The firm will also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire April 1, 1982. Residues remaining in or on the raw agricultural commodities after the expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicates that such revocation is necessary to protect the public health.

As required by Executive Order 12291, EPA has determined that this temporary tolerance regulation is not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this temporary tolerance from the OMB review requirement of Executive Order 12291, pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Flexibilitty Act (Pub. L. 96-543, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

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

Dated: June 29, 1981.

Douglas D. Campt,

Director, Registration Division, Office Pesticide Programs.

[FR Doc. 81-19073 Filed 7-7-81; 8:45 am]

BILLING CODE 6560-32-M

[OPTS-51279; TSH-FRL-1878-2]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) required any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA's statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This notice announces receipt of eight PMN's and provides a summary of each.

DATE: Written comments by August 10, 1981.

ADDRESS: Written comments, identified by the document control number "[OPTS-51279]" and the specific PMN number, should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St., SW., Washington, DC 20460, (202-436-2610).

FOR FURTHER INFORMATION CONTACT:

For PMN No.	Notice manager	Telephone	Room No.
81-282, 81-285.	Wendy Cleland-Hamnett.	(202-426-0503)	E-229.
81-287	Kathleen Ehrens-berger.	(202-755-1150)	E-335.
81-288	Carrie Berlin	(202-426-8816)	E-221.
81-289	George Bagley.	(202-426-2601)	E-210.
81-290	Mary Cushmac.	(202-426-0503)	E-229.
81-292, 81-293.	Rachel Diamond.	(202-426-8816)	E-221.

Mail address of notice managers: Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on PMN's received by the EPA:

PMN 81-282

Close of Review Period. September 9, 1981.

Manufacturer's identity. Claimed confidential business information. Organizational description provided:

Annual sales—In excess of $500 million.
Manufacturing site—Central U.S.
Standard Industrial Classification Code—282; "Plastic Materials and Synthetic Resins, Synthetic Rubber, Synthetic and other Man-made Fibers, except Glass".

Specific Chemical Identity. Claimed confidential business information. Generic name provided: modified olefin/carboxylic acid copolymer.

Use. Claimed confidential business information. Generic use information provided: open use that will release more than 100 but less than 1,000 kg per year into the environment with potentially frequent skin exposure for chemical industry employees and occasional exposure for consumers as part of an article.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. No data were submitted.

Toxicity Data

Skin irritation (rabbits)—Mildly irritating
Eye irritation (rabbits)—Nonirritating
Skin Sensitization (guinea pig)—Not a sensitizer
Ames *Salmonella*/assay (with and without activation)—Nonmutagenic
Acute oral toxicity (rats)—>10 ml/kg.

Exposure. The submitter states that workers manufacturing and disposing of the new chemical could have skin and minimal inhalation exposure during packaging, cleanup, and maintenance operations. At a site not controlled by the submitter, processing and disposal workers may have skin exposure during weighing and additive operations. Commercial users could have daily skin exposure to encapsulated, trace amounts.

Environmental Release/Disposal. The manufacturer states that at all sites polymer waste material will be disposed of by sanitary landfill.

PMN 81-285

Close of Review Period. September 9, 1981.

Manufacturer's Identity. Claimed confidential business information. Organizational description provided:

Annual sales—In excess of $500 million.
Manufacturing site—Atlantic U.S.
Standard Industrial Classification Code—282. "Plastic Materials and Synthetic Resins, Synthetic Rubber, Synthetic and other Man-made Fibers, except Glass".

Specific Chemical Identity. Claimed confidential business information. Generic name provided: amino carboxylic acid structural copolymer.

Use. Claimed confidential business information. Generic use information provided: open use that will release more than 1,000 but less than 10,000 kg per year into the environment with potentially frequent skin exposure for chemical industry employees and occasional exposure for consumers as part of an article.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Melting point—190°-200°C.

Toxicity Data

Skin irritation (rabbits)—Mildly irritating
Skin sensitization (guinea pigs)—Not a sensitizer

Exposure. The submitter states that manufacturing and disposal workers could have skin exposure to the new chemical during packaging, cleanup, and maintenance operations. At a site not controlled by the submitter, processing and disposal workers could have skin exposure during fabrication and handling operations. Commercial and consumer users could have daily skin exposure.

Environmental Release/Disposal. The manufacturer states that at all sites polymer waste material will be disposed of by sanitary landfill.

PMN 81-287

Close of Review Period. September 9, 1981.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: nitrogen-modified, hydrogenated diene/styrene copolymer.

Use. Claimed confidential business information. Generic use: a minor component in formulations sold for consumer or commercial use.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. No data were submitted.

Toxicity Data

Acute oral LD_{50} (rat)—>4.1 g/kg
Ames *Salmonella*/assay (with and without activation)—Nonmutagenic
C_3H 10T1/2/cell transformation test—No morphological transformations.

Exposure. No data were submitted.

Environmental Release/Disposal. No data were submitted.

PMN 81-228

Close of Review Period. September 10, 1981.

Manufacturer's Identity. Claimed confidential business information. Organizational description provided:

Annual sales—In excess of $500 million.
Manufacturing site—East-North Central U.S.
Standard Industrial Classification Code—2821; e.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: high solids mixed with phthalic monobasic acid alkyd resin.

Use. Claimed confidential business information. Generic use information provided: open use that will release from 5,000 to 50,000 kg per year into the environment with potentially frequent skin, eye, and inhalation exposure for both chemical and nonchemical industry employees.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Nonvolatile by weight—80 percent
Weight per gallon—8.7
Molecular weight (estimate)—3,000–3,500
Acid value:
On solids—15–20
On solution—12–16
Flash point—102°F
Boiling range—>125°C.
Viscosity—Z4–Z6

Toxicity Data. No data were submitted.

Exposure. The submitter states that, because the new chemical will be manufactured in a closed system, manufacturing workers will have only incidental skin exposure during sampling and accidental exposure during spills and cleanup operations. Processing workers will have incidental skin and inhalation exposure during blending, sampling, transferring, and drum loading and filling operations.

Environmental Release/Disposal. Release data were claimed confidential business information. The manufacturer states that disposal of vapors will be by incineration, condensation water will be pH adjusted and legally routed to a sewer system, and solid wastes will be transported to commercial legal disposal sites for landfill.

PMN 81–289

Close of Review Period. September 9, 1981.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: benzenediazonium, 4-[[(substitutedphenyl)amino]carbonyl]-, sulfate (2:1).

Use. The manufacturer states that the PMN substance will be used in a site-limited use as a dye intermediate.

Production Estimates

	(kg/per yr)
1st year	6,550
2d year	17,500
3d year	27,500

Physical/Chemical Properties

Differential Thermal Analysis (DTA)—Exotherm produced at 116°C, peaking at 124°C

Toxicity Data. No data were submitted.

Exposure. The submitter states that two workers may have skin exposure to the new substance for 4 hr per batch when drums are filled and that one worker may have skin exposure for 4 hr when the chemical is transferred. Employee exposure will be about 252 hr/yr at maximum production.

Environmental Release/Disposal. Release data were not submitted. Disposal of waste material or filter cleaning residue will be by an onsite, NPDES-permitted biological treatment facility.

PMN 81–290

Close of Review Period. September 9, 1981.

Manufacturer's Identity. Claimed confidential business information. Organizational description provided:
Annual sales—Between $100 million and $99,999,999
Manufacturing site—East-North Central U.S.
Standard Industrial Classification Code—289, "Miscellaneous Chemicals."

Specific Chemical Identity. Claimed confidential business information. Generic name provided: aliphatic dicarboxylate.

Use. The manufacturer states that the PMN substance will be used in an industrial use as an ingredent in a hot forging die lubricant.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	45	10,000
2d year		20,000
3d year		40,000

Physical/Chemical Properties

Vapor pressure at 20°C—10^{-3}—1 torr
Density, >1.1 g/cm³
Melting point—>100°C
Boiling point—>200°C
Solubility in water at 20°C—10 g/l

Toxicity Data. No data were submitted.

Exposure. The submitter states that manufacturing, processing, use, and disposal workers will have no exposure to the new chemical substance.

Environmental Release/Disposal. The manufacturer states that none of the new chemical will be released into the air, land, or water.

PMN 81–292

Close of Review Period. September 9, 1981.

Manufacturer's Identity. Claimed confidential business information. Organizational description provided:
Annual sales—In excess of $500 million
Standard Industrial Classification Code—286

Specific Chemical Identity. Claimed confidential business information. Generic name provided: silylated organic sulfonic acid, sodium salt.

Use. The manufacturer states that the PMN substance will be used in an industrial, commercial, and consumer use as a stabilizer.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—Clear, brown tint liquid.
Specific gravity, 25% solution—1.12
pH—12.8—13.2
Odor—None
Miscibility in water—Completely miscible.

Environmental Test Data

96-hr static LC_{50} (bluegill)—>1,000 mg/l

Toxicity Data

Skin LD_{50} (rabbit)—>2 g/kg
Primary skin irritation (rabbit)—Slightly irritating

Exposure. Claimed confidential business information.

Environmental Release/Disposal. Claimed confidential business information.

PMN 81–293

Close of Review Period. September 10, 1981.

Manufacturer's Identity. Claimed confidential business information. Organizational description provided:
Annual sales—In excess of $500 million
Standard Industrial Classification Code—286

Specific Chemical Identity. Claimed confidential business information. Generic named provided: silylated organic sulfonic acid.

Use. The manufacturer states that the PMN substance will be used in an industrial use as a chemical intermediate.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—Tan, brittle solid.
Melting point—Approx. 200° C (decomposes).
Odor—None.
pH—Approx. 1.0 10 g/1 water.
Bulk density—0.8 g/cm³.
Solubility in water—Very soluble (slow dissolution)

Environmental Test Data

96-hr static LC_{50} (bluegill)—190 ppm

Toxicity Data

Primary skin irritation (rabbit)—Slightly irritating

Exposure. The submitter states that at the site of a typical user, eight manufacturing workers could have skin exposure to the new substance for 3 hr/da, 110 da/yr, at an average concentration of 0 to 1 mg/m³ and a peak concentration of 1 to 10 mg/m³, during sampling, analysis, charging, and cleaning operations.

Environmental Release/Disposal. The manufacturer states that at the site of a typical user, less than 10 kg/yr during 3 hr/da, 110 da/yr, will be released into the air, less than 10 kg/yr into the land, and less than 10 kg/yr during 2 hr/da, 110 da/yr, into the water of a publicly owned water treatment works (POTW) after PH neutralization.

Dated: July 1, 1981.

Edward A. Klein,

Director, Chemical Control Division.

[FR Doc. 81-19964 Filed 7-7-81; 8:45 am]

BILLING CODE 6560-31-M

[PF-213 [PH-FRL 1876-7]

Certain Pesticide Chemicals; Filing of a Pesticide and Food Additive Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that certain companies have filed requests with the EPA to establish a pesticide tolerance and a food additive regulation for certain pesticide chemicals.

ADDRESS: Written comments to: Jay S. Ellenberger, Product Manager (PM) 12, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SE., Washington, D.C. 20460.

Written comments may be submitted while a petition is pending before the agency. The comments are to be identified by the document control number "[PF-213]" and the specific petition number. All written comments filed pursuant to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Jay S. Ellenberger (703-577-7024).

SUPPLEMENTARY INFORMATION: EPA gives notice that the following pesticide petition and food additive petition have been submitted to the agency to establish a pesticide tolerance and a food additive regulation on certain raw agricultural commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each specific petition.

PP 1F2448. E.I. du Pont de Nemours & Co., Wilmington, DE 19898. Proposes amending 40 CFR 180.303 by establishing a tolerance for residues of the insecticide oxamyl (methyl *N',N'*-dimethyl-*N*-[methyl carbamoyloxy]-1-thiooxamimidate) in or on pears at 2.0 parts per million (ppm). The proposed analytical method for determining residues is flame photometric gas chromatography.

FAP 1H5284. Dow Chemical Co., PO Box 1706, Midland, MI 48640. Proposes amending 21 CFR 193.85 by establishing a regulation permitting residues of the insecticide chlorpyrifos [*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl)phosphorothioate] and its metabolites 3,5,6-trichloro-2-pyridinol on the commodity milling fractions of wheat (except flour) at 3.0 ppm.

(Secs. 408(d)(1), 68 Stat. 512, (7 U.S.C. 136); 409(b)(5), 72 Stat. 1786, (21 U.S.C. 348))

Dated: June 29, 1981.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 81-19966 Filed 7-7-81; 8:45 am]

BILLING CODE 6560-32-M

[OPTS-51272; TSH-FRL 1877-4]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This notice announces receipt of six PMN's and provides a summary of each.

DATES: Written comments:
PMN 81-253—July 21, 1981.
PMN 81-254—July 25, 1981.
PMN 81-257, 81-258, 81-259, 81-260—July 28, 1981.

ADDRESS: Written comments, identified by the document control number "[OPTS-51272]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St., SW., Washington, DC 20460 (202-426-2610).

FOR FURTHER INFORMATION CONTACT:

For PMN No.	Notice manager	Telephone	Room No.
81-253 and 81-257, 81-254, 81-258.	George Bagley.	(202-426-2661)	E-210.
81-259	Carrie Berlin	(202-426-8816)	E-221.
81-260	Kathleen Ehrensberger.	(202-755-7469)	E-335.

Mail address of notice managers: Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on the PMN's received by EPA:

PMN 81-253

Close to Review Period. August 20, 1981.

Manufacturer's Identify. Claimed confidential business information.

Specific Chemical Identity. N-[2-(4-Hydrazinophenyl)ethyl]-methanesurfonamide hydrochloride.

Use. Claimed confidential business information. Generic use information provided: a minor component in a formulation for site-limited use only.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	15	50
2d year	0	50
3d year	15	50

Physical/Chemical Properties

Solubilities:
Water—0.1-1.0%.
Octanol—<0.1%.
Melting point—190°C.

Toxicity Data

Acute oral LD_{50}—200 mg/kg.
Acute dermal LD_{50}—>1,000 mg/kg.
Skin irritation—Slightly irritating.
Eye irritation—Moderately irritating.
Skin senstitization potential—Not a sensitizer.
Ames *Salmonella* mutagenicity, with and without metabolic activation—Weak to moderate.

Exposure. The submitter states that 12 workers manufacturing and using the new chemical could have skin and inhalation exposures from 0.1 to 5 hr/da, 3 to 150 da/yr, at an average

concentration of less than 1 to 2 mg/m³ and a peak concentration of 1 to 30 mg/m³ during manual transfer operations.

Environmental Release/Disposal. The manufacturer states that none of the new substance will be released into land, a negligible amount into the air, and less than 10 kg/yr into the water of a navigable waterway. Emissions will be scrubbed before release into the air, combustible liquid and solid wastes will be incinerated, and wastewaters will be processed according to an approved secondary treatment system.

PMN 81-254

Close of Review Period. August 24, 1981.

Manufacturer's Identity. Claimed confidential business information.
Organizational description provided:
Annual sales—In excess of $500 million.
Manufacturing site—Middle Atlantic U.S.
Standard Industrial Classification Code—282; "Plastics Materials and Synthetic Resins".

Specific Chemical Identity. Claimed confidential business information.
Generic name provided: polymer product of a methacrylate ester and a polyhydroxy compound.

Use. Claimed confidential business information. Generic use information provided: contained use with a very low potential for exposure to industrial workers, and a potential but highly diluted exposure to consumers, in a formulated product in a dispersive use.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—Clear amber viscuous fluid, free from coagulated gum and visible impurity.
pH on final—4.5 minimum, 5.5 maximum.
Viscosity at 25°C, CPS—4,000 minimum, 15,000 maximum.
Freezing point—ca. 0°C.
Boiling point—ca. 100°C.
Vapor density—ca. equal to water.
Solubility in water—Soluble.
Specific gravity—1.01
Evaporation rate—0.36 (slower than butyl acetate).

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that eight manufacturing and processing workers could have skin and eye exposure to the new substance from 0.5 to 2 hr/da, 262 to 290 da/yr, during transfer operations.

Environmental Release/Disposal. The manufacturer states that there is no anticipated release of the new substance into the air, land, or water. Solids accidentally spilled would be coagulated, collected, and discharged to a landfill.

PMN 81-257

Close of Review Period. August 27, 1981.

Manufacturer's Identity. Claimed confidential business information.
Organizational description provided:
Manufacturing site—Middle Atlantic U.S.
Standard Industrial Classification Code—285; e.

Specific Chemical Identity. Claimed confidential business information.
Generic name provided: silicone polyol.

Use. Claimed confidential business information. Generic use inforamtion provided: open use that will release more than 50 but less than 5,000 kg per year into the environment with potential skin and eye contact for both chemical and nonchemical industry employees.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	5,000	10,000
2d year	10,000	30,000
3d year	30,000	35,000

Physical/Chemical Properties

% Total solids—44.3 mg KOH/gm.
Viscosity (gardner)—A.
Color (gardner)—1.
Flash point—110°F.

Toxicity Data. No data were submitted.

Exposure. The submitter states that at 3 sites, 64 manufacturing and processing workers could have skin and eye exposure to the new chemical for 4 to 6 hr/da, 5 to 40 da/yr, during routine filtering, container filling, cleaning, and sampling for quality control. At the site of a typical user, five workers using the substance could have skin and eye exposure for 12 hr/da, 250 da/yr.

Environmental Release/Disposal. The manufacturer states that at 3 sites, less than 60 kg/yr of the new substance will be released into the air and water and from 120 to 1,200 kg/yr into the land. At the site of a typical user less than 20 kg/yr will be released into the air and water and from 10 to 100 kg/yr into the land. Sludge from distilled cleaning solvents will be incinerated.

PMN 81-258

Close of Review Period. August 27, 1981.

Manufacturer's Identity. Claimed confidential business information.
Organizational description provided:
Annual sales—In excess of $500 million.
Manufacturing site—East-North Central U.S.
Standard Industrial Classification Code—2821.

Specific Chemical Identity. Claimed confidential business information.
Generic name provided: linseed-isophthalic polyester/amide.

Use. Claimed confidential business information. Generic use information provided: closed use that will release less than 50 kg per year into the environment with a low potential for skin and eye exposure for chemical industry workers.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Acid value—12-16
Viscosity range (Gardner-Holdt at 25°C)—Z7-Z9
Flash point—>200°F.

Toxicity Data. No data were submitted.

Exposure. The submitter states that manufacturing workers will have skin exposure to the new substance for 1 hr/da, 12 da/yr, at an average concentration of 0 to 1 mg/m³ and a peak concentration of 1 to 10 mg/m³ during transferring and sampling operations.

Environmental Release/Disposal. The manufacturer states that water from the reactor will be passed through a scrubber before release into the water of a publicly owned treatment works (POTW) and that other effluents will be either recycled, incinerated, or drummed for disposal in an approved landfill.

PMN 81-259

Close of Review Period. August 27, 1981.

Manufacturer's Identity. Claimed confidential business information.
Organizational description provided:
Annual sales—In excess of $500 million.
Manufacturing site—East-North Central U.S.
Standard Industrial Classification Code—2821.

Specific Chemical Identity. Claimed confidential business information.
Generic name provided: linseed-isophthalic-hydroxy acid polyester.

Use. Claimed confidential business information. Generic use information provided: closed use that will release less than 50 kg per year into the environment with a low potential for skin and eye exposure for chemical industry workers.

Production Estimates. Claimed confidential business information.

Physicial/Chemical Properties

Acid value—23-27

Viscosity range (Gardner-Holdt at 25°C)—Z–Z3
Flash point—>200°F.

Toxicity Data. No data were submitted.

Exposure. The submitter states that manufacturing workers will have skin exposure to the new substance for 1 hr/da, 12 da/yr, at an average concentration of 0 to 1 mg/m³ and a peak concentration of 1 to 10 mg/m³ during transferring and sampling operations.

Environmental Release/Disposal. The manufacturer states that water from the reactor will be passed through a scrubber before release into the water of a publicly owned treatment works (POTW) and that other effluents will be either recycled, incinerated, or drummed for disposal in an approved landfill.

PMN 81–260

Close of Review Period. August 27, 1981.

Manufacturer's Identity. Claimed confidential business information.
Organizational description provided:
Annual sales—Between $100,000,000 and $499,999,000.
Manufacturing site—East-North Central U.S.
Standard Industrial Classification Code—851.

Specific Chemical Identity. Trimethylolpropane neopentylglycol phtalic anhydride siloxanes and silicones, di-me, methoxy ph, polymers with ph silsesquioxanes, methoxy-terminated.

Use. Claimed confidential business information.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	7,272	14,545
2d year	21,818	43,636
3d year	65,455	130,909

Physical/Chemical Properties. No data were submitted. The manuacturer states that the PMN substance is a nonvolatile material.

Toxity Data. Claimed confidential business information.

Exposure. Claimed confidential business information. The manufacturer states that there is no operation involving direct exposure for workers.

Environmental Release/Disposal. Claimed confidential business information. The manufacturer states that a scrubber will be used during charging operations, water distillate and methanol will be pumped to a tank truck for disposal by incineration, and exempt solvent vapors will be vented from the workplace.

Dated: June 30, 1981.

Edward A. Klein,

Director, Chemical Control Division.

[FR Doc. 81–19971 Filed 7–7–81; 8:45 am]

BILLING CODE 6560–31–M

[OPTS–51277; TSH–FRL 1877–6]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days of receipt. This notice announces receipt of three PMN's and provides a summary of each.

DATES: Written comments by:
PMN 81–275, 81–276—August 8, 1981.
PMN 81–277—August 10, 1981.

ADDRESS: Written comments, identified by the document control number "[OPTS–51277]" and the specific PMN number, should be sent to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–401, 401 M St., SW., Washington, D.C. 20460, (202–426–2610).

FOR FURTHER INFORMATION CONTACT: Rachel Diamond, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–221, 401 M St., SW., Washington, D.C. 20460, (202–426–8816).

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on PMN's received by the EPA:

PMN 81–275

Close of Review Period. September 7, 1981.

Manufacturer's Identity. Claimed confidential business information.
Organizational description provided:
Annual sales—Between $100 million and $499,000,000.
Manufacturing site—West-North Central U.S.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: lower alkyl ester of an alkyl propionic acid.

Use. Intermediate.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. No data were submitted.

Toxicity Data

Acute oral LD_{50} (rats)—>16 g/kg.
Primary skin irritation (rabbits)—No effect.
Primary eye irritation (rabbits)—No effect.
Acute dermal LD_{50} (rats)—>20 g/kg.
Acute inhalation LC_{50} (rats)—>12 mg/l.
DOT skin corrosivity (rabbits)—Noncorrosive.

Exposure. The submitter states that one to two manufacturing workers could be exposed to the new substance for 3 to 4 hr/da, no more than 4 da/yr, during drumming and disposal operations.

Environmental Release/Disposal. The submitter states that any environmental release of the new substance during manufacture will be minimal.

PMN 81–276

Close of Review Period. September 7, 1981.

Manufacturer's Identity. Claimed confidential business information.
Organizational description provided:
Annual sales—Between $100 million and $499,000,000.
Manufacturing site—West-North Central U.S.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: sulfur containing polyamide.

Use. Claimed confidential business information.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. No data were submitted.

Toxicity Data

Acute oral LD_{50} (rats)—1.41 g/kg.
Primary skin irritation (rabbits)—Corrosive.
Primary eye irritation (rabbits)—Corrosive.
Acute dermal LD_{50} (rabbits)—Approximately 8.0 g/kg.
Acute inhalation LC_{50} (rats)—>4.83 mg/l.
DOT skin corrosivity (rabbits)—Noncorrosive.

Exposure. The submitter states that one to two manufacturing workers could

have exposure to the new chemical for 6 to 8 hr/da, no more than 9 da/yr, during drumming and disposal operations. Workers using the substance could have minimal, incidental exposure for a maximum of 2 to 10 minutes during transfer operations.

Environmental Release/Disposal. The submitter states that manufacturing will release less than 10 kg/yr of the new substance into the land, less than 50 kg/yr into the air in the form of methanol, and approximately 144 kg/yr into the water of a publicly owned treatment works (POTW) following reactor cleaning. Environmental release into the air, land, and water from use of the new chemical will be practically nonexistent.

PMN 81-277

Close of Review Period. September 9, 1981.

Manufacturer's Identity. Claimed confidential business information. Organizational description provided:
Annual sales—Between $10 million and $49,000,000.
Manufacturing site—East-North Central U.S.
Standard Industrial Classification Code—285.

Specific Chemical Identity. 1,2-Ethanediol; 2,5-furanedione; linseed fatty acids, and 1,1'-[(1-methylethylidene)bis(4,1-phenyleneoxy)]bis-2-propanol polymer.

Use. Industrial metal finish baking; enamel.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	50,000	150,000
2d year	300,000	500,000
3d year	300,000	1,200,000

Physical/Chemical Properties

Weight/gallon—8.65 lb/gal.
Color—12 maximum.
Solvent—100% methyl amyl ketone.

Toxicity Data. No data were submitted.

Exposure. The submitter states that 22 manufacturing and processing workers could have inhalation exposure to the new substance for 1 to 3 hr/da, 300 da/yr, at a peak concentration of 1 to 10 ppm, during filtering, transferring, mixing, and drum-filling operations. At the site of a user, workers could have inhalation exposure for 8 hr/da, 300 da/yr, at a peak concentration of 1 to 10 ppm during spray painting operations.

Environmental Release/Disposal. The submitter states that less than 10 kg/yr of the new substance will be released into the air, waste polymer will be recycled, spills incinerated, and a small amount will be sent to a waste disposal service.

Dated: June 30, 1981.

Edward A. Klein,

Director, Chemical Control Division.

[FR Doc. 81-19973 Filed 7-7-81; 8:45 am]

BILLING CODE 6560-32-M

[OPTS-51271; TSH-FRL 1877-7]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This notice announces receipt of four PMN's and provides a summary of each.

DATES: Written comments by:
PMN 81-251, 81-252—July 21, 1981
PMN 81-255—July 26, 1981
PMN 81-256—July 28, 1981

ADDRESS: Written comments, identified by the document control number "[OPTS-51271]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St., SW., Washington, DC 20460, (202-426-2610).

FOR FURTHER INFORMATION CONTACT:

For PMN No.	Notice manager	Telephone	Room No.
81-251, 81-252.	Rachel Diamond.	202-426-8816	E-221
81-255, 81-256.	Robert Jones.	202-426-2601	E-208

Mail address of notice managers: Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on the PMN's received by EPA:

PMN 81-251

Close of Review Period. August 20, 1981.

Manufacturer's Identity. Monsanto Company, 800 N. Lindbergh Boulevard, St. Louis, MO 63166.

Specific Chemical Identity. 2-Chloro-4-trifluoromethyl-5-thiazole-carboxylic acid, phenylmethyl ester.

Use. The manufacturer states that the PMN substance will be used as a seed safener.

Production Estimates

	Maximum (kilogram per year)
1st year	<25,000
2d year	<25,000
3d year	<25,000

Physical/Chemical Properties

Melting range—50.2°-54.8° C
Density at 25° C—0.960 g/ml
Vapor pressure at 25° C—2.9×10^{-7} mm Hg
pH (after dioxane correction)—3.55
Flash point (open cup)—345° F
Solubility in water—0.54
Octanol/Water partition coefficient—ca. 100

Environmental Test Data

Biodegradability, activated sludge—Substance is nontoxic to microoganisms and slowly degrades
Acute oral LD_{50} (bobwhite quail)—>2,510 mg/kg
Acute toxicity LC_{50} (rainbow trout) (96-hr)—8.49 mg/l
Acute toxicity LC_{50} (bluegill sunfish) (96-hr)—11 mg/l
Acute toxicity LC_{50} (*Daphnia Magna*) (48-hr)—6.3 (4.8-8.0) mg/l

Toxicity Data

Acute oral toxicity LD_{50} (rats)—>5,000 mg/kg
Acute dermal toxicity LD_{50} (rabbits)—>2,000 mg/kg
Eye irritation (rabbits)—Unwashed, 5.1 at 24 hr; washed, 2.3 at 24 hr
Primary skin irritation (rabbits)—0.1
28-day pilot study (rat) (at 50,000 ppm)—Borderline effect
28-day pilot study (dog) (2,000 mg/kg bd. wt./day; 4,000 mg/kg bd. wt./day)—Decrease in both feed consumption and body weight in dogs of both sexes
Ames *Salmonella* mutagenicity—Nonmutagenic

Exposure. The submitter states that at 2 sites, 28 manufacturing and processing workers could have skin exposure to the new substance for 140 hr/yr bagging or

grinding operations. Consumer exposure will be low with minimal contact.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr of the new chemical will be released into the air and less than 10 kg/yr into the water of a publicly owned treatment works (POTW). Airborne emissions will be passed through a scrubber; amounts not recycled will be discharged to the POTW and can be expected to biodegrade.

PMN 81-252

Close of Review Period. August 20, 1981.

Manufacturer's Identity. Monsanto Company, 800 N. Lindbergh Boulevard, St. Louis, MO 63166.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: disubstituted thiazole-carboxylic acid, ester.

Use. The manufacturer states that the PMN substance will be used as a process intermediate.

Production Estimates

	Maximum (kilogram per year)
1st year	<25,000
2d year	<25,000
3d year	<25,000

Physical/Chemical Properties

Melting point—>100°C
Density—<0.9 g/cm³
Vapor pressure at 25°C—0-10^{-2} Torr
pH—3-5
Water solubility (at ambient temperature)—10^{-6}-10^{-4} g/ml
Octanol/water partition coefficient—<100

Toxicity Data

Acute oral toxicity LD_{50} (male, female rats)—>5,000 mg/kg
Acute dermal toxicity (male and female rabbits)—>2,000 mg/kg
Primary skin irritation (rabbits)—Nonirritating
Ames *Salmonella* mutagenicity—Nonmutagenic
Primary eye irritation (rabbits)—Unwashed, 5.5 at 72 hr; washed, 0 at 72 hr

Exposure. The manufacturer states that eight workers could have skin exposure to the new chemical for less than 15 hr/yr per employee when filling and emptying drums.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr of the new substance will be released into the air and from 100 to 1,000 kg/yr into the water of a POTW. Airborne emissions will be passed through a scrubber; amounts not recycled will be discharged to the POTW and can be expected to biodegrade.

PMN 81-255

Close of Review Period. August 25, 1981.

Manufacturer's Identity. FMC Corporation, 200 East Randolph Drive, Chicago, IL 60601.

Specific Chemical Identity. Di(2-propenyl)3,4,5,6-tetra - bromo - 1,2-benzenedicarboxylate.

Use. The manufacturer states that the PMN substance will be used as a reactive flame retardant comonomer in unsaturated polyesters, allylics, and miscellaneous thermoset polymers such as polyethylene.

Production Estimates

	Pounds per year	
	Minimum	Maximum
1st year	100,000	250,000
2d year	500,000	1,000,000
3d year	1,000,000	2,000,000

Physical/Chemical Properties

Appearance—Off-white solid
Melting point—107-111°C
Volatility at 20°C—Nil
Specific gravity—2.11
Molecular weight—562
Solubilities:
Water—<1 ppm at 20°C
Acetone—18.9% by weight
N,N-Dimethylformamide—37.2% by weight
Heat Stability:
Decomposition temperature by differential scanning calorimetry—265°C
Weight loss by thermographic analysis:
Room temperature to 165°C—1.22%
Room temperature to 260°C—20%
Room temperature to 295°C—50%

Environmental Test Data

Biological oxygen demand (BOD):
5-day—<1,000 mg/kg
10-day—<1,000 mg/kg
20-day—<1,000 mg/kg
Chemical oxygen demand (COD)—476,000 mg/kg
Acute toxicity to bluegill sunfish (96-hr)—No effect, concentration 5.6 mg/l (limited by solubility)
Acute toxicity to rainbow trout (96-hr)—No effect, concentration 5.6 mg/l (limited by solubility)
Acute toxicity to *Daphnia/Magna* (48-hr)—No effect at concentration tested, 0.42 mg/l (limited by solubility)

Toxicity Data

Approximate acute oral toxicity LD_{50} (rat)—>5.0 g/kg
Approximate acute dermal toxicity LD_{50} (rabbit)—>2.0 g/kg
Eye irritation (rabbit)—Nonirritating
Skin irritation (rabbit)—Nonirritating
DOT skin corrosion (rabbit)—Noncorrosive
Ames *Salmonella* mutagenicity—Nonmutagenic
Mouse lymphoma-forward gene mutation:
Crude sample (DMSO vehicle)—Weak mutagen
Recrystallized sample (acetone vehicle)—Weak mutagen
Recrystallized sample (DMSO vehicle)—Nonmutagenic
Mouse micronucleus test—Nonmutagenic
Yeast mitotic conversion test:
Crude sample—Induced mitotic gene conversions
Recrystallized sample—Did not induce mitotic gene conversions

Exposure. The manufacturer states that two workers could have skin exposure to the new chemical for 8 hr/da, 10 to 60 da/yr, during bagging operations. At the site of a user, 20 to 40 workers may have skin exposure for 2 to 8 hr/da, 10 to 50 da/yr, during the manufacture of unsaturated polyester.

Environmental Release/Disposal. The manufacturer states that total sites environmental release (land) of the new substance will be minimal.

PMN 81-256

Close of Review Period. August 27, 1981.

Manufacturer's Identity. American Cyanamid Company, 1937 West Main Street, Stamford, CT 06904.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: poly(2-hydroxypropyl) monoheterocyclictriamine.

Use. The manufacturer states that the PMN substance will be used as polyurethane systems.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. Claimed confidential business information.

Toxicity Data

Acute, single-dose oral toxicity LD_{50} (male, female rats)—5.0 g/kg, no deaths
Acute dermal toxicity and abraded skin irritation (male, female rabbits)—2.0 g/kg, no deaths; mildly to moderately irritating

Primary eye irritation (male, female rabbits)—Minimally irritating: washing is palliative
Ames *Salmonella* mutagenicity test—Nonmutagenic

Exposure. The submitter states that at the manufacturing site, three workers could have intermittent skin exposure to the new substance for 8 hr/da, 20 da/yr, during sampling and/or drumming operations. At the site of a typical user, 5 to 20 workers could have intermittent skin exposure for 8 hr/da, 235 da/yr, during the production of polyurethane foam.

Environmental Release/Disposal. The submitter states that at the manufacturing site there will be minimal and incidental release of the new substance into the water of a navigable waterway.

Dated: July 30, 1981.

Edward A. Klein,

Director, Chemical Control Division.

[FR Doc. 81-19971 Filed 7-7-81; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-51280; TSH-FRL 1878-1]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA's statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This notice announces receipt of two PMN's and provides a summary of each.

DATE: Written comments, identified by the document control number "[OPTS-51280]" and the specific PMN number, should be sent to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St., SW., Washington, DC 20460, (202-426-2610).

FOR FURTHER INFORMATION CONTACT: Rachel Diamond, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-221, 401 M St., SW., Washington, DC 20460, (202-426-8816).

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on PMN's received by the EPA:

PMN 81-283

Cose of Review Period. September 9, 1981.

Manufacturer's Identity. Milliken & Company, Milliken Service Division, P.O. Box 1926, Spartanburg, SC 29304.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: chromophore substituted poly(oxyethylene).

Use. Fugitive tint for fiber identification.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. Claimed confidential business information:

Toxicity Data. No data were submitted.

Exposure. Claimed confidential business information.

Environmental Release/Disposal. Claimed confidential business information.

PMN 81-284

Close of Review Period. Setember 9, 1981.

Manufacturer's Identity. Milliken & Company, Milliken Service Division, P.O. Box 1926, Spartanburg, SC 29304.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: chromophore substituted poly(oxyethylene).

Use. Colorant.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. Claimed confidential business information.

Toxicity Data. No data were submitted.

Exposure. Claimed confidential business information.

Environmental Release/Disposal. Claimed confidential business information.

Dated: July 1, 1981.

Edward A. Klein,

Director, Chemical Control Division.

[FR Doc. 81-19976 Filed 7-7-81; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-51274; TSH-FRL-1877-8]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This notice announces receipt of seven PMN's and provides a summary of each.

DATES: Written comments by:
PMN 81-262, 81-263—August 1, 1981
PMN 81-269, 81-270, 81-271, 81-273, 81-274—August 3, 1981

ADDRESS: Written comments, identified by the document control number "[OPTS-51274]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St., SW., Washington, DC 20460, (202-426-2610).

FOR FURTHER INFORMATION CONTACT:

For PMN No.	Notice manager	Telephone	Room No.
81-262, 81-263.	Robert Jones.	202-426-2601	E-208
81-269	George Bagley.	202-426-2601	E-210
81-270, 81-271, 81-273, 81-274.	Kathleen Ehrensberger.	202-755-1150	E-335

Mail address of notice managers: Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on the PMN's received by EPA:

PMN 81-262

Close of Review Period. August 31, 1981.

Manufacturer's Identity. The Elco Corporation, P.O. Box 09168, Cleveland, OH 44109.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: 2,5-Bis(alkyldithio)-1,3,4,-thiadiazole.

Use. The manufacturer states that the PMN substance will be used in an

industrial use as a site-limited, copper corrosion inhibitor.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	160,000	400,000
2d year	160,000	400,000
3d year	160,000	400,000

Physical/Chemical Properties

Appearance—Brown, viscous liquid
Viscosity at 210°F, (99°C) cSt—15.3
Density:
g/cc at 15°C—1.12
lb/gal at 15°C—9.41
Flash point, COC—165°C
Sulfur, wt %—33
Nitrogen, wt % (theoretical)—5.8

Toxicity Data

Acute dermal (male, female rabbits) (5 ml/kg)—No deaths after 14 days, no internal macroscopic changes, and irritation disappeared after 5 days
Eye irritation (albino rabbits)—Nonirritating
Skin irritation (albino rabbits)—Nonirritating to both intact and abraded skin
Oral toxicy LD_{50} (rats)—>0.5 ml/kg
Acute inhalation toxicity—No deaths; concentration of saturated vapor: 0.9 mg/l.

Exposure. The submitter states that 16 workers manufacturing, processing, using, and disposing of the new chemical could have inhalation and skin exposure for 0.3 to 3 hr/da, 3 to 120 da/yr, at an average concentration of 10 to 100 ppm during pumping, filtering, and container-filling operations.

Environmental Release/Disposal. The manufacturer states that less than 30 kg/yr of the new substance will be released into the air, land, and water. Vapor emissions will be passed through a Venturi scrubber.

PMN 81-263

Close of Review Period. August 31, 1981.

Manufacturer's Identity. Uniroyal Chemical Company, Division of Uniroyal, Inc., Spencer Street, Naugatuck, CT 06770.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: polyurethane millable gum.

Use. The manufacturer states that the PMN substance will be used in an industrial use by its sale to industrial processors and fabricators for conversion (after vulcanization with standard sulfur or peroxide systems) to industrial molded mechanical goods.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—Light-colored slabs
Solubility—Insoluble in water
Flash point—>400°F
Molecular weight—82,110
Molecular number—34,550
Mooney viscosity—ML-4' at 212°F=34-85 (after aging 16 hr at 120°F)

Toxicity Data. No data were submitted.

Exposure. The submitter states that two workers will be used to manufacture the new substance, that fabricating operations will involve eight workers per location, and that there will be significant worker exposure to the chemical.

Environmental Release/Disposal. The submitter states that there is no anticipated release of the new chemical into the environment during manufacturing or processing. Any waste material would be either recycled or disposed of in an appropriate landfill operation.

PMN 81-269

Close of Review Period. September 2, 1981.

Importer's Identity. American Hoechst Corporation, 202/206 North, Somerville, NJ 08876.

Specific Chemical Identity. Alcohols, C_{16}-C_{22}, tertiary butylether.

Use. The importer states that the PMN substance will be used in an industrial use as a textile auxiliary.

Import Estimates

	Kilograms per year	
	Minimum	Maximum
1982	400	600
1983	800	1,200
1984	1,300	1,700

Physical/Chemical Properties

Freezing point—17°C
Boiling point at 760 torr—<280°C
Density at 20°C—0.812
Flash point—160°C
Solubility in water—Insoluble

Toxicity Data. No data were submitted.

Exposure. The importer states that at a site not controlled by the importer, 25 workers using the new chemical could have skin exposure for 0.5 hr/da, 200 da/yr, during extracting, mixing, and application operations.

Environmental Release/Disposal. No data were submitted. The importer states that a dilute mixture of the new chemical and dye will be printed on textiles and that only a small percentage is removed by washing.

PMN 81-270

Close of Review Period. September 2, 1981.

Importer's Identity. Rilsan Corporation, 139 Harristown Road, Glen Rock, NJ 07452.

Specific Chemical Identity. Azacyclotridecan-2-one, homopolymer with poly(oxy-1,4-butanediyl), alpha-hydro-omega-hydroxy-, copolymer.

Use. The importer states that the PMN substance will be used in an industrial use as general purpose molding and extrusion resin.

Import Estimates. Claimed confidential business information.

Physical/Chemical Properties

Melting point range—160-168°C
Specific gravity—1.01
Moisture absorption:
Equilibrium at 20°C/65% RH—0.5%
24-hr immersion—1.2%
Hardness range—70A-55D.

Toxicity Data. No data were submitted.

Exposure. No data were submitted.

Environmental Release/Disposal. No data were submitted. The importer states that environmental disposal of the new chemical will be by landfill of scrap resin and rejected and discarded articles.

PMN 81-271

Close of Review Period. September 2, 1981.

Importer's Identity. Rilsan Corporation, 139 Harristown Road, Glen Rock, NJ 07452.

Specific Chemical Identity. Azacyclotridecan-2-one, polymer with hexahydro-2*H*-azepin-2-one, block copolymer with poly[oxy (methyl-1,2-ethanediyl)], alpha-hydro-omega-hydroxy-, copolymer.

Use. The importer states that the PMN substance will be used in an industrial use as general purpose molding and extrusion resin.

Import Estimates. Claimed confidential business information.

Physical/Chemical Properties.
Melting point—120°C
Specific gravity—1.06
Moisture absorption:
Equilibrium at 20°C/65% RH—1.3%
24-hr immersion—3.5%
Hardness—55D

Toxicity Data. No data were submitted.

Exposure. No data were submitted.

Environmental Release/Disposal. No data were submitted. The importer

states that environmental disposal of the new chemical will be by landfill of scrap resin and rejected and discarded articles.

PMN 81-273

Close of Review Period. September 2, 1981.

Importer's Identity. Rilsan Corporation, 139 Harristown Road, Glen Rock, NJ 07452.

Specific Chemical Identity. Poly[imino(1-oxo-1,6-hexanediyl)] with poly(oxy-1,2-ethanediyl), alpha-hydro-omega-hydroxy-, copolymner.

Use. The importer states that the PMN substance will be used in an industrial use as general-purpose molding and extrusion resin.

Import Estimates. Claimed confidential business information.

Physical/Chemical Properties.
Melting point—190°C
Specific gravity—1.14
Moisture absorption:
Equilibrium at 20°C/65% RH—4.5%
24-hr immersion—119%
Hardness—40D

Toxicity Data. No data were submitted.

Exposure. No data were submitted.

Environmental Release/Disposal. No data were submitted. The importer states that environmental disposal of the new chemical will be by landfill of scrap resin and rejected and discarded articles.

PMN 81-274

Close of Review Period. September 2, 1981.

Importer's Identity. Rilsan Corporation, 139 Harristown Road, Glen Rock, NJ 07452.

Specific Chemical Identity. Poly[imino(1-oxo-1,6-hexanediyl)] with poly[oxy(methyl-1,2-ethanediyl)], alpha-hydro-omega-hydroxy-, copolymer.

Use. The importer states that the PMN substance will be used in an industrial use as a general-purpose molding and extrusion resin.

Import Estimates. Claimed confidential business information.

Physical/Chemical Properties.
Melting point range—190–195°C
Specific gravity range—1.10–1.11
Moisture absorption range:
Equilibrium at 20°C/65% RH—2.4–2.8%
24-hr immersion—6.1–6.4%
Hardness range—55D–63D

Toxicity Data. No data were submitted.

Exposure. No data were submitted.

Environmental Release/Disposal. No data were submitted. The importer states that environmental disposal of the new chemical will be by landfill of scrap resin and rejected and discarded articles.

Dated: July 1, 1981.

Edward A. Klein,

Director, Chemical Control Division.

[FR Doc. 81-19875 Filed 7-7-81; 8:45 am]

BILLING CODE 6560-31-M

[PP 9G2168/T305; PH-FRL 1876-4]

Chlorpyrifos; Extension of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Temporary tolerances have been extended for the combined residues of the insecticide chlorpyrifos and its metabolite on lemons and oranges at 2.5 parts per million.

DATE: These temporary tolerances expire April 10, 1982.

FOR FURTHER INFORMATION CONTACT: Jay S. Ellenberger, Product Manager (PM) 12, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 400, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7024).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of April 21, 1980 (45 FR 26803) that Dow Chemical Co., P.O. Box 1706, Midland, MI 48640 had submitted a pesticide petition (PP 9G2168) to the EPA. The petition requested the establishment of temporary tolerances for the combined residues of the insecticide chlorpyrifos [*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl)phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol in or on lemons and oranges at 2.5 ppm.

Dow Chemical has requested a one-year extension of the temporary tolerances to permit the continued marketing of the above raw agricultural commodities when treated in accordance with experimental use permit 464-EUP-56 which is being extended under the Federal Insecticide, Fungicide Act (FIFRA), as amended (92 Stat. 819; 7 U.S.C. 136).

The scientific data and other information have been evaluated, and it has been determined that extension of the temporary tolerances will protect the public health. The temporary tolerances are being extended on the condition that the pesticide be used with the following provisions:

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

2. Dow Chemical Co. will immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm will also keep records of production, distribution, and performance, and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire April 10, 1982. Residues remaining in or on the raw agricultural commodities after the expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances.

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

As required by Executive Order 12291, EPA has determined that this temporary tolerance regulation is not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this temporary tolerance from the OMB review requirement of Executive Order 12291, pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

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

Dated: June 29, 1981.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 81-19965 Filed 7-7-81; 8:45 am]

BILLING CODE 6560-32-M

[PF-223; PH-FRL 1877-3]

Ciba-Geigy Corp.; Filing of a Feed Additive Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that Ciba-Geigy Corp. has filed a request with the EPA to amend 21 CFR Part 561

by establishing a feed additive regulation permitting residues of the herbicide metolachlor [2-chloro-*N*- (2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylethyl) acetamide] and its metabolites on the feed item sunflower hulls and sunflower meal at 0.6 part per million.

ADDRESS: Written comments to: Richard F. Mountfort, Product Manager (PM) 23, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Written comments may be submitted while a petition is pending before the agency. The comments are to be identified by the document control number "[PF–223]" and the specific petition number. All written comments filed pursuant to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Richard F. Mountfort (703–557–7070).

SUPPLEMENTARY INFORMATION: EPA gives notice that Ciba-Geigy Corp., P.O. Box 11422, Greensboro, NC 27409 has submitted a feed additive petition 1H5294 to the Environmental Protection Agency, proposing establishment of a feed additive regulation permitting the residues of metolachlor [2-chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylethyl) acetamide] and its metabolites 2-([2-ethyl-6-methylphenyl] amino) propanol and 4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone (expressed as the parent compound) on the feed items sunflower hulls and sunflower meal at 0.6 part per million (ppm).

(Sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348))

Dated: June 29, 1981.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 81–19969 Filed 7–7–81; 8:45 am]

BILLING CODE 6560–32–M

[OPP–50473C; PH–FRL 18768]

ICI Americas, Inc.; Experimental Use Permit; Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has amended an experimental use permit, No. 10182–EUP–6, issued to ICI Americas, Inc. for use of the remaining supply (3,840 pounds) of the insecticide permethrin on alfalfa, almonds, apples, broccoli, cabbage, cauliflower, chrysanthemums, field corn, lettuce, peanuts, pears, potatoes, soybeans, sunflowers, sweet corn, and tomatoes to evaluate the control of lepidopterous insects.

FOR FURTHER INFORMATION CONTACT: Franklin Gee, Product Manager (PM) 17, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 401, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–7060).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of May 9, 1980 (45 FR 30686), announcing that ICI Americas, Inc. had been issued an extension of an experimental use permit for the remaining supply (3,840 pounds) of the insecticide permethrin. ICI Americas, Inc. has requested that the permit be amended to add the State of Wyoming. All other conditions of the experimental use program remain the same.

(Sec. 5, 92 Stat. 819, as amended (7 U.S.C. 136))

Dated: June 29, 1981.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 81–19962 Filed 7–7–81; 8:45 am]

BILLING CODE 6560–32–M

[OPP–50514A; PH–FRL 1877–2]

ICI Americas, Inc.; Experimental Use Permit; Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has amended an experimental use permit, No. 10182–EUP–19, issued to ICI Americas, Inc. for use of 900 pounds of the insecticide cypermethrin [(±) α-cyano-(3-phenoxyphenyl]methyl (±)-*cis,trans*-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate on cotton to evaluate control of various insects.

FOR FURTHER INFORMATION CONTACT: Franklin D. R. Gee, Product Manager (PM) 17, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 401, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–7028).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of December 24, 1980 (45 FR 85153), announcing that ICI Americas, Inc., Wilmington, DE 19897, had been issued an experimental use permit for 900 pounds of the insecticide cypermethrin [(±) α-cyano-(3-phenoxyphenyl)methyl (±)-*cis,trans*-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate. ICI Americas, Inc. has requested that the permit be amended to add the State of New Mexico (15 acres) to the testing program and reduce 15 acres from North Carolina (originally approved for 30 acres). All other conditions of the experimental use program remain in same.

(Sec. 5, 92 Stat. 819, as amended (7 U.S.C. 136))

Dated: June 29, 1981.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 81–19970 Filed 7–7–81; 8:45 am]

BILLING CODE 6560–32–M

[OPP–50533; PH–FRL 1876–6]

Issuance of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has issued experimental use permits to the following applicants. Such permits are in accordance with and subject to the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each petition at the address below: Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

201–EUP–70. Shell Oil Co., 1025 Connecticut Ave., NW., Washington, D.C. 20036. This experimental use permit allows the use of 82 pounds of the insecticide pydrin on sunflowers and sugarcane to evaluate control of sugarcane borer and sunflower head moth. A total of 100 acres are involved. The program is authorized only in the States of California, Georgia, Florida, Kansas, Louisiana, Minnesota, North Dakota, and Texas, and Puerto Rico. This experimental use permit is effective from March 2, 1981 to March 2, 1982. The permit is issued under the special condition that all treated crops be destroyed or used for experimental purposes only (PM 17, Franklin D. R. Gee, Rm. 401, CM#2, 703–557–7028).

39508–EUP–4. New Mexico Dept. of Agriculture, P.O. Box 3189, Las Cruces, NM 88003. This experimental use permit allows the use of 0.32 pounds of the

predacide, sodium monofluoroacetate in toxic collars attached to sheep or goats to evaluate control of coyotes. A total of 600 animals are involved. The program is authorized only in the State of New Mexico. The experimental use permit is effective from March 3, 1981 to March 3, 1982. (PM 16, William H. Miller, Rm. 403, CM#2, 703–557–7040).

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA Headquarters office, so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 92 Stat. 819, as amended (21 U.S.C. 136))

Dated: June 29, 1981.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 81-19967 Filed 7-7-81; 8:45 am]

BILLING CODE 6560-32-M

[OPP-50538; PH-FRL 1877-1]

Issuance of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with and subject to the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each experimental use permit at the address below: Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

241–EUP–96. American Cyanamic Company, Agricultural Division, P.O. Box 400, Princeton, NJ 08540. This experimental use permit allows the use of 800 pounds of the herbicide pendimethalin on cotton and soybeans to evaluate control of weeds. A total of 792 acres are involved. The program is authorized only in the States of Alabama, Arizona, Arkansas, California, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, South Dakota, Tennessee, Virginia, and Wisconsin. The experimental use program is effective from March 18, 1981 to March 18, 1982. Permanent tolerances for residues of the active ingredient in or on cottonseed and soybeans have been established (40 CFR 180.361). (Robert J. Taylor, PM 25, Rm. 412E, CM#2, (703–557–7066))

464–EUP–66. Dow Chemical Company, P.O. Box 1706, Midland, MI 48640. This experimental use permit allows the use of 6.6 pounds of the fungicide 2-chloro-6-(2-furanylmethoxy)-4-(trichloromethyl)pyridine on soybean seeds to evaluate control of root rot seedling diseases caused by pythium and phytophthora. A total of 110 acres are involved. The program is authorized only in the States of Ohio and Wisconsin. The experimental use program is effective from April 13, 1981 to March 31, 1982. Any crops treated under this program will be destroyed or used for research purposes only. (Henry M. Jacoby, PM 21, Rm. 418, CM#2, (703–557–7060))

464–EUP–69. Dow Chemical Company, P.O. Box 1706, Midland, MI 48640. This experimental use permit allows the use of 5,000 pounds of the active ingredient insecticide chlorpyrifos on field corn to evaluate control of insect pests. A total of 1,000 areas are involved. The program is authorized only in the States of Georgia and Nebraska. This experimental use program is effective from May 1, 1981 to May 1, 1982. Since residues from this experimental program are expected to exceed tolerance levels set in treated corn silage, forge and fodder, this permit is being issued under the condition that all treated crops under this program are to be destroyed or used for research purposes only. A permanent tolerance for residues of the active ingredient in or on field corn has been established (40 CFR 180.342). (Jay S. Ellenberger, PM 12, Rm. 400, CM#2, (703–557–7024))

352–EUP–107. E. I. du Pont de Nemours & Company, Legal Department, Wilmington, DE 19898. This experimental use permit allows the use of 294 pounds of the herbicide methyl 2-[[[[(4,6-dimethyl-2-pyrimidinyl)amino]carbonyl]-amino]sulfonyl]benzoate on noncropland areas to evaluate control of weeds. A total of 856 acres are involved. The program is authorized in the States of Alabama, Arizona, Arkansas, California, Colorado, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New York, Nevada, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Texas, Utah, Virginia, Washington, West Virginia, and Wisconsin. The experimental use program is effective from April 1, 1981 to April 1, 1983. (Robert Taylor, PM 25, Rm. 412E, CM#2, (703–557–7066))

1471–EUP–73. Elanco Products Company, Division of Eli Lilly Company, P.O. Box 1750, Indianapolis, IN 46206. This experimental use permit allows the use of 70 pounds of the insecticide nifluridide on noncropland to evaluate control of imported fire ants. A total of 4,600 acres are involved. The program is authorized only in the States of Alabama, Florida, Georgia, Louisiana, Mississippi, and Texas. The experimental use program is effective from March 19, 1981 to March 19, 1982. (George T. LaRocca, PM 15, Rm. 403, CM#2, (703–557–7046))

43142–EUP–1. FBC Chemicals Inc., 4311 Lancaster Pike, Wilmington, DE 19805. This experimental use permit allows the use of 1,455 pounds of the active ingredient insecticide amitraz on citrus to evaluate control of citrus rust mite, citrus red mite, Texas citrus mite and six spotted mite. A total of 1,700 acreas are involved. The program is authorized only in the State of Florida. The experimental use program is effective from April 1, 1981 to April 1, 1982. Temporary tolerances for residues of the active ingredient in or on citrus, milk, meat, fat, and meat by-products of cattle, goats, hogs, horses and sheep are being established. (Jay S. Ellenberger, PM 12, Rm. 400, CM#2, (703–557–7024))

42882–EUP–1. Gametrics Limited, 180 Harbor Drive, Sausalito, CA 94965. This experimental use permit allows the use of 6.6 pounds of the rodenticide, 3-chloro-1,2-propanediol in sewers to evaluate control of rats. A total of 50 city blocks are involved. The program is authorized only in the State of Ohio. The experimental use program is effective from February 17, 1981 to February 17, 1982. (William Miller, PM 16, Rm. 403, CM#2, (703–557–7040))

524–EUP–56. Monsanto Company, 1101 17th Street, N.W., Washington, D.C., 20036. This experimental use permit allows the use of 27,300 pounds of the herbicide acetochlor on corn,

soybeans, and grain sorghum (milo) to evaluate control of weeds. A total of 12,150 acres are involved. The program is authorized in the States of Alabama, Arkansas, Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Jersey, New York, North Carolina, North Dakota, New Mexico, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, and Wisconsin. The experimental use program is effective from March 20, 1981 to March 20, 1983. Any crops treated under this program will be destroyed or used for research purposes only. (Robert Taylor, PM 25, Rm. 412E, (703-557-7066))

11273-EUP-24. Sandoz, Inc., Crop Protection, 480 Camino Del Rio South, Suite 204, San Diego, CA 92108. This experimental use permit allows the use of 26.6 pounds of the biological insecticide *Bacillus thuringiensis* Berliner on forest to evaluate control of gypsy moths. A total of 300 acres are involved. The program is authorized only in the State of Massachusetts. The experimental use program is effective from May 1, 1981 to May 1, 1982. (Franklin Gee, PM 17, Rm. 401, CM#2, (703-557-7028))

11273-EUP-25. Sandoz, Inc., Crop Protection, 480 Camino Del Rio South, Suite 204, San Diego, CA 92108. This experimental use permit allows the use of 409 pounds of the biological insecticide *Bacillus thuringiensis* Berliner on forest to evaluate control of forest insects (spruce budworm). A total of 10,000 acres are involved. The program is authorized only in the State of Maine. The experimental use program is effective from May 1, 1981 to May 1, 1982. (Franklin Gee, PM 17, RM. 401, CM#2, (703-557-7028))

11273-EUP-26. Sandoz, Inc., Crop Protection, 480 Camino Del Rio South, Suite 204, San Diego, CA 92108. This experimental use permit allows the use of 42.0 pounds of the biological insecticide *Bacillus thuringiensis* Berliner on forest to evaluate control of gypsy moths and spruce budworms. A total of 1,100 acres are involved. The program is authorized only in the States of Maine, Massachusetts, Pennsylvania and Rhode Island. The experimental use program is effective from May 1, 1981 to May 1, 1982. (Franklin Gee, PM 17, Rm. 401, CM#2, (703577-7028))

10350-EUP-3. 3M Company, Industrial Tape Division, 3M Center, Building 230, St. Paul, MN 55144. This experimental use permit allows the use of 238.6 pounds of pyrethrin on airplanes, bakeries, beverage plants, canneries, dairies, flour mills, food processing plants, food storage areas, grain mills, greenhouses, hospitals, hotels and motels, industrial installations, kennels, meat packing plants, mushroom houses, nursing homes, office buildings, railroad cars, residences, restaurants, schools, ships, supermarkets, truck trailers, warehouses, and zoos. A total of 50 million cubic ft. are involved. The program is authorized only in the States of Connecticut, New Jersey, New York, and Pennsylvania. The experimental use program is effective from April 10, 1981 to April 10, 1982. This permit is being issued under the condition that the subject pesticide will not enter the food chain. (Franklin Gee, PM 17, Rm. 401, CM#2, (703-557-7028))

1023-EUP-43. The Upjohn Company, 7171 Portage Road, Kalamazoo, MI 49001. This experimental use permit allows the use of 12,006 pounds of the fungicide propyl[3-(dimethylamino)propyl]carbamate monohydrochloride on turfgrasses to evaluate control of pythium blight. A total of 220,495 acres are involved. The program is authorized only in the States of Alabama, Arizona, Arkansas, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin. The experimental use program is effective from March 28, 1981 to December 31, 1982. (Henry Jacoby, PM 21, Rm. 418, CM#2, (703-557-7060))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 92 Stat. 819, as amended, (7 U.S.C. 136))

Dated: June 29, 1981.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 81-19908 Filed 7-7-81 8:45 am]

BILLING CODE 6560-32-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59050A; TSH-FRL-1861-2]

Substituted Thiol Salt; Approval of Test Marketing Exemption

Correction

In FR Doc. 81-18634 appearing at page 32668 in the issue for Wednesday, June 24, 1981, the heading should be corrected as follows:

The EPA file number "[OPTS-5905A; TSH-FRL-1861-2]" should have read as set forth in the heading above.

BILLING CODE 1505-01-M

[AMS-FRL-1876-3]

Fuel Economy Retrofit Devices; Announcement of Fuel Economy Retrofit Device Evaluation for "Greer Fuel Pre-Heater"

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of fuel economy retrofit device evaluation.

SUMMARY: This document announces the conclusions of the EPA evaluation of the "Greer Fuel Pre-Heater" device under provisions of Section 511 of the Motor Vehicle Information and Cost Savings Act.

BACKGROUND INFORMATION: Section 511(b)(1) and Section 511(c) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2011(b)) requires that:

(b)(1) "Upon application of any manufacturer of a retrofit device (or prototype thereof), upon the request of the Federal Trade Commission pursuant to subsection (a), or upon his own motion, the EPA Administrator shall evaluate, in accordance with rules prescribed under subsection (d), any retrofit device to determine whether the retrofit device increases fuel economy and to determine whether the representations (if any) made with respect to such retrofit devices are accurate."

(c) "The EPA Administrator shall publish in the **Federal Register** a summary of the results of all tests conducted under this section, together with the EPA Administrator's conclusions as to-

(1) The effect of any retrofit device on fuel economy;

(2) The effect of any such device on emission of air pollutants; and

(3) Any other information which the Administrator determines to be relevant in evaluating such device."

EPA published final regulations establishing procedures for conducting fuel economy retrofit device evaluations on March 23, 1979 [44 FR 17946].

ORGIN OF REQUEST FOR EVALUATION: On January 20, 1981, the EPA received a request from Michael M. Greer for evaluation of a fuel-saving device termed the "Greer Pre-Heater." This Device is claimed to "* * * make an automobile use a greater percentage of the energy injected into the carburetor and increase the miles per gallon without affecting pollution factors" by preheating the gasoline before it reaches the carburetor. The Device operates as a tube and shell heat exchanger. It uses the engine coolant as the heat source and transfers this heat to the gasoline by conduction.

Availability of Evaluation Report: An evaluation has been made and the results are described completely in a report entitled: "EPA Evaluation of Greer Fuel Pre-Heater Under Section 511 of the Motor Vehicle Information and Cost Savings Act," report number EPA–AA–TEB–511–81–2 consisting of 54 pages including all attachments.

Copies of these reports may be obtained from the National Technical Information Service by using the above report numbers. Address requests to: National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. Phone: Federal Telecommunications Systems (FTS) 737–4650, Commerical 703–487–4650.

Summary of Evaluation. EPA fully considered all of the information submitted by the Device Manufacturer in the Application. The evaluation of the "Greer Fuel Pre-Heater" device was based on that information.

The Applicant submitted no valid test data with the application for evaluation. Analysis of the information submitted by the Applicant did not *prove* that use of the "Greer Fuel Pre-Heater" would enable a vehicle operator to improve a vehicle's fuel economy.

Previous EPA testing of another similar device that preheated the fuel showed that preheating the fuel gave no emissions or fuel economy benefits.

Thus, there is no technical basis to support any claims for a fuel economy improvement due to the use of the "Greer Fuel Pre-Heater" device.

FOR FURTHER INFORMATION CONTACT: Merrill W. Korth, Emission Control Technology Division, Office of Mobile Source Air Pollution Control, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105, 313–668–4299.

Dated: July 1, 1981.

Edward F. Tuerk,

Acting Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 81-19985 Filed 7-7-81; 8:45 am]

BILLING CODE 6560-26-M

[FRL-AMS 1876-5

Fuel Economy Retrofit Devices; Announcement of Fuel Economy Retrofit Device Evaluation for "Paser Magnum, Paser 500, and Paser 500 HEI"

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of fuel economy retrofit device evaluation.

SUMMARY: This document announces the conclusions of the EPA evaluation of the "Paser Magnum, Paser 500, and Paser 500 HEI" devices under provisions of Section 511 of the Motor Vehicle Information and Cost Savings Act.

BACKGROUND INFORMATION: Section 511(b)(1) and Section 511(c) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2011(b)) requires that:

(b)(1) "Upon application of any manufacturer of a retrofit device (or prototype thereof), upon the request of the Federal Trade Commission pursuant to subsection (a), or upon his own motion, the EPA Administrator shall evaluate, in accordance with rules prescribed under subsection (d), any retrofit device to determine whether the retrofit device increases fuel economy and to determine whether the representations (if any) made with respect to such retrofit devices are accurate."

(c) "The EPA Administrator shall publish in the **Federal Register** a summary of the results of all tests conducted under this section, together with the EPA Administrator's conclusions as to—

(1) The effect of any retrofit device on fuel economy;

(2) The effect of any such device on emissions of air pollutants; and

(3) Any other information which the Administrator determines to be relevant in evaluating such device."

EPA published final regulations establishing procedures for conducting fuel economy retrofit device evaluations on March 23, 1979 [44 FR 17946].

ORIGIN OF REQUEST FOR EVALUATION: On July 30, 1980, the EPA received a request from Amerimex Industries, Inc. for evaluation of fuel-saving devices termed "Paser Magnum, Paser 500, and Paser 500 HEI." These Devices are claimed to ". . . promote efficiency in an internal combustion engine by discharging induced electrical pulses into the firing chamber to promote chemical activity before the interception of and during combustion of the fuel."

Availability of Evaluation Report: An evaluation has been made and the results are described completely in a report entitled: "EPA Evaluation of the Paser Magnum, Paser 500, and Paser 500 HEI Device Under Section 511 of the Motor Vehicle Information and Cost Savings Act." This entire report is contained in two volumes. The discussions, conclusions and list of all attachments are included in EPA–AA–TEB–511–81–5A, which consists of 21 pages. The attachments are contained in EPA–AA–TEB–511–81–5B, which consists of 180 pages. The attachments include patent information, correspondence between the Applicant and EPA and all documents submitted in support of the application.

Copies of this report may be obtained from the National Technical Information Service by using the above report numbers. Address requests to: National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. Phone: Federal Telecommunications System (FTS) 737–4650, Commercial 703–487–4650.

Summary of Evaluation: The Paser Magnum, Paser 500, and Paser 500 HEI are add-on ignition devices that are claimed to improve vehicle emissions and fuel economy by discharging induced electrical impules into the combustion chamber before and during the engine's combustion cycle.

EPA fully considered all of the information submitted by the Device manufacturer in the Application. The evaluation of the "Paser Magnum, Paser 500, and Paser 500 HEI" devices was based on that information and results of the previous EPA test program.

The Applicant submitted no valid data to support the claim for increased fuel economy. The Applicant was advised by letter on several occasions of EPA's requirement that Applicant submit valid test data following the proper EPA Test procedures.

Test data submitted by the Applicant did not *prove* that use of the "Paser Magnum, Paser 500, or Paser 500 HEI" would enable a vehicle operator to improve vehicle fuel economy or reduce emissions.

EPA tested the Paser Magnum ten years ago. This testing showed that the Paser Magnum (which the Applicant stated is equivalent to the Paser 500 and Paser 500 HEI) showed no significant effect on either exhaust emissions or fuel economy.

Thus, there is no technical basis to support any claims for a fuel economy improvement due to the use of the "Paser Magnum, Paser 500, or Paser 500 HEI" device.

FOR FURTHER INFORMATION CONTACT:
Merrill W. Korth, Emission Control Technology Division, Office of Mobile Source Air Pollution Control, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105, 313–668–4299.

Dated: July 1, 1981.

Edward F. Tuerk,

Acting Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 81–19688 Filed 7–7–81; 8:45 am]

BILLING CODE 6560–26–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Associate Director for Training and Education; Board of Visitors for the National Fire Academy; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–462), announcement is made of the following committee meeting:

Name: Board of Visitors for the National Fire Academy
Dates of meeting: July 20–221, 1981
Place: Conference Room, Building N (Burlando Hall), National Emergency Training Center, Emmitsburg, Maryland
Time: 9 a.m. to 5 p.m.

Proposed Agenda

July 20, 1981: Introduction of Associate Director of Training and Education to the Board; presentation of the Annual Report; briefing of National Fire Academy activities; assignment of tasks to members of the Board of Visitors; and, such other items that may come before the Board.
July 21, 1981: Uncompleted agenda items; tour of facility; and administrative items.

The meeting will be open to the public. Members of the general public who plan to attend the meeting should contact Mr. Clem R. Lakin, National Emergency Training Center, 16825 South Seton Avenue, Emmitsburg, Maryland 21727 (telephone: 301/447–6771) on or before July 14, 1981.

Minutes of the meeting will be prepared by the Board and will be available for public viewing in the Superintendent's Office, National Fire Academy, Emmitsburg, Maryland. Copies of the minutes will be available upon request 30 days after the meeting.

Dated: June 25, 1981.

Fred J. Villella,

Associate Director for Training and Education, Federal Emergency Management Agency, National Emergency Training Center.

[FR Doc. 81–19931 Filed 7–7–81; 8:45 am]

BILLING CODE 6718–04–M

FEDERAL MARITIME COMMISSION

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Omni-Cargo, Inc., 1150 N.W. 72nd Avenue, Suite 755, Miami, FL 33126; Officer: Jeffrey H. Liroff, President
Joseph Adolphus Kirnon d.b.a. Active Commercial Trade Services, 3026 Bouck Avenue, Bronx, NY 10469
Belvin James Monier d.b.a. L. C. Forwarding International Co., Old Volkswagen Bldg., P.O. Box 205, Lake Charles, LA 70602
Mc Teer International Freight Forwarding Company, 1020 Pineneedle Drive, Savannah, GA 31412; Officers: H. Webb Mc Teer, President, Susan S. Mc Teer, Vice President/Secretary/Treasurer
P. V. Burke Associates, Inc., 203 Carondelet Street, Rm. 1027, Maritime Bldg., New Orleans, LA 70130; Officers: Patrick V. Burke, Jr., President, Patrick C. Burke, Vice President, Louis A. Fanning, Secratary/Treasurer
Larmex International Freight Forwarders, Inc., 7310 N.W. 79 Terrace, Miami, FL 33166; Officers: Silvia Mejias, President, Vice President, Jorge L. Armada, Secretary/Treasurer
Ideal Cargo Services, Inc., 1470 N.W. 78th Avenue, Miami, FL 33126; Officers: Jorge A. Pedraza, President, Maria C. Pedraza, Treasurer, Maria E. Cruz, Secretary
Dendros, Inc., 1306 2nd Avenue, Suite 310, Seattle, WA 98101; Officers: Richard J. Taylor, President, Prudence A. Taylor, Secretary/Treasurer, Mary L. Moran, Director

By the Federal Maritime Commission.

Dated: July 1, 1981.

Joseph C. Polking,

Acting Secretary.

[FR Doc. 81–19903 Filed 7–7–81; 8:45 am]

BILLING CODE 6703–01–M

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W. Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before July 28, 1981. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: 9548–21.

Filing Party: Mr. Stanley O. Sher, Billig, Sher & Jones, P.C., 2033 K Street, N.W., Suite 300, Washington, D.C. 20006.

Summary: Agreement No. 9548–21 modifies the basic agreement of the North Atlantic Mediterranean Freight Conference by providing for proxy voting at owners' meetings.

Agreement No.: 9548–22.

Filing Party: Mr. Jeffrey F. Lawrence, Billig, Sher & Jones, P.C., 2033 K Street, N.W., Suite 300, Washington, D.C. 20006.

Summary: Agreement No. 9548–22 modifies the basic agreement of the North Atlantic Mediterranean Freight Conference by authorizing the conference Chairman or Counsel to

execute agreement modifications on behalf of conference members.

Agreement No.: 9718–8.

Filing Party: Charles F. Warren, Esquire, Warren & Associates, P.C., 1100 Connecticut Avenue, N.W., Washington, D.C. 20036.

Summary: Agreement No. 9718–8 is a proposal by the parties to the Japan Line/K Line/Mitsui O.S.K./Y.S. Line Containership Service Agreement to increase the total vessel capacity to which they are limited under the agreement. Due to the upcoming replacement of two older vessels currently used under the agreement, the current vessel capacity of 8,512 TEU's will be increased to 9,126 TEU's on or about October 21, 1981, and to 10,011 TEU's on or about March 30, 1982.

Agreement No.: 10424.

Filing Party: Nathan J. Bayer, Esquire, Freehill, Hogan & Mahar, 21 West Street, New York, New York 10006.

Summary: Agreement No. 10424, entered into by Delta Steamship Lines, Inc., Royal Netherlands Steamship Company (ANTILLES) N.V., and Sea-Land Service, Inc., would combine into one conference, to be known as the United States Atlantic & Gulf/Jamaica and Hispaniola Conference, three currently existing conferences (United States Atlantic & Gulf/Haiti Conference, Agreement No. 8120; United States Atlantic & Gulf/Jamaica Conference, Agreement No. 4160; and United States Atlantic & Gulf/Santo Domingo Conference, Agreement No. 6080).

By Order of the Federal Maritime Commission.

Dated: July 1, 1981.

Joseph C. Polking,

Acting Secretary.

[FR Doc. 81-19902 Filed 7-7-81; 8:45 am]

BILLING CODE 6730-01-M

Controlled Carriers Under the Shipping Act, 1916

AGENCY: Federal Maritime Commission.

ACTION: Listing of controlled carriers.

SUMMARY: The Federal Maritime Commission is adding China Ocean Shipping Company to the list of "controlled carriers" subject to the regulatory requirements of section 18(c) of the Shipping Act, 1916. The previous list was published in the **Federal Register** on May 21, 1981. Until now China Ocean Shipping Company was exempt from the special tariff filing requirements since they were serving only in the trade between the United States and China. They have now given notice that they intend to service in our cross-trades to and from Hong Kong and Japan. Tariffs have been filed offering such service in the U.S. cross-trades.

DATE: None.

FOR FURTHER INFORMATION CONTACT: Joseph C. Polking, Acting Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, (202) 523–5725.

SUPPLEMENTARY INFORMATION: Section 18(c) of the Shipping Act, 1916 (The Act) (46 U.S.C. 817(c)) provides for the regulation of rates or charges of certain state-owned carriers in the foreign commerce of the United States. However, not all controlled carriers are subject to these regulatory requirements. Section 18(c)(6) of the Act sets forth two categories of controlled carriers which are exempt from these regulatory requirements and three conditions under which controlled carriers are exempt in certain trade areas. The relevant exemption here has been "The provisions of this subsection shall not apply to: * * * rates, charges, classfications, rules, or regulations governing the transportation of cargo by a controlled carrier between the country by whose government it is owned or controlled * * * and the United States * * *" 46 U.S.C. 817(c)(6)(iv).

In order to identify controlled carriers that are not exempt from the provisions of the Act, the Commission periodically issues section 21 Orders to carriers who could meet the definition of a controlled carrier under the Act. The Orders require the carriers to answer questions concerning ownership, flag of their vessels, operating areas, United States trades served, and their opinion as to possible exemptions.

The Commission has reviewed the responses to its section 21 Order issued to China Ocean Shipping Co., (COSCO) and found that COSCO meets the definition of a controlled carrier set forth in the Act. Through a letter dated March 20, 1980, COSCO was notified that it has been found to be a controlled carrier but that it was exempt from the regulatory requirements of section 18(c) so long as its service was limited to the trade between our two countries.

On April 27, 1981, COSCO advised the Commission that it was its intention to serve United States ports to and from Japan and Hong Kong in addition to the ports of the People's Republic of China. COSCO was advised that if and when they did offer service in these cross-trades, their name would be added to the list of controlled carriers not exempt from the reugulatory requirements of section 18(c) of the Act. COSCO has now filed with the Commission its tariffs offering service in the United States cross-trades.

Therefore, the commission is adding China Ocean Shipping Company to its list of controlled carriers subject to the regulatory provisions of section 18(c) of The Act, which list was previously published in the **Federal Register** on May 21, 1981.

The amended list is shown below:

Baltic Shipping Co.—U.S.S.R.
Bangladesh Shipping Corp.—Bangladesh
Black Sea Shipping Company—U.S.S.R.
Black Star Line—Ghana
China Ocean Shipping Co. (COSCO)—People's Republic of China
Compagnie Maritime Zairoise (CMZ)—Zaire
Compagnie Nationale Algerienne de Navigation—Algeria
Companhia de Navegacao Loide Brasileiro—Brazil
Compania Chilena De Navegacion Interoceanica, S.A.—Chile
Djakarta Lloyd, P.T.—Indonesia
Egyptian National Line—Egypt
Far Eastern Shipping Co. (FESCO)—U.S.S.R.
Flota Mercante Gran Centro Americana S.A. (Flomerca)—Guatemala
Murmansk Shipping Co. (Arctic Line)—U.S.S.R.
Neptune Orient Lines (NOL)—Singapore
Pakistan National Shipping Corporation—Pakistan
Peruvian State Line—Peru
Polish Ocean Lines—Poland
Shipping Corporation of India—India
South African Marine Corp. Ltd.—South Africa
Transportes Navieros Ecuatorianos (Transnave)—Ecuador

The process of identification and classification of controlled carriers is continuous. The list as shown will be amended as such carriers enter and leave the United States trades or under any other circumstances become exempt from the regulatory requirements of section 18(c) of the Act.

By the Commission June 29, 1981.

Joseph C. Polking,

Acting Secretary.

[FR Doc. 81-19955 Filed 7-7-81; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Shawneetown Bancorp, Inc.; Formation of Bank Holding Co.

Shawneetown Bancorp, Inc., Shawneetown, Illinois, 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 81 per cent of the voting shares of First National Bank in Shawneetown, Shawneetown, Illinois. 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 St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than July 30, 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, July 1, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-19929 Filed 7-7-81; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than July 30, 1981.

Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045: Manufacturers Hanover Corporation, New York, New York (finance, servicing, and insurance activities; Florida): to engage through its subsidiary, Termplan Incorporated of Florida, in the activities of arranging, making, acquiring, or servicing, for its own account or for the account of others, loans and other extensions of credit secured by an equity interest in a home; and of acting as agent or broker for the sale of credit life and accident and health insurance; and through its subsidiary, Termplan Credit, Inc., in the activities of purchasing installment sales finance contracts, and acting as agent or broker for the sale of credit-related life and accident and health insurance.

These activities would be conducted from an office in Tampa, Florida, serving: Hernando, Hillsborough, Manatee, Pasco, and Pinellas Counties, and western Polk, southwestern Sumter, and northwestern Hardee Counties.

Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261: Virginia National Bankshares Inc., Norfolk, Virginia (mortgage banking and insurance activities; Florida): to engage through its subsidiary, VNB Equity Corporation, in making, acquiring and servicing for its own account or for the account of others, loans secured principally by second mortgages on real property; and acting as an agent in the sale of credit life insurance and accident and health insurance in connection with such loans. These activities will be conducted from an office in Winter Park, Florida, serving Orlando, Florida and the surrounding area. Comments on this application must be received not later than July 28, 1981.

Other Federal Reserve Banks: None.

Board of Governors of the Federal Reserve System, July 1, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-19930 Filed 7-7-81; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Notice to all Recipients of Federal Financial Assistance From General Services Administration

In the case of *Paralyzed Veterans of America, et al., Plantiffs* v. *William French Smith, etc., et al.*, United States District Court, Central District of California, No. 79-1979 WPG, the Honorable William P. Gray ordered the General Services Administration to notify all recipients of federal financial assistance from the General Services Administration that they are required to comply with the provisions of Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), even though the General Services Administration has not yet issued final regulations implementing Section 504 of the Rehabilitation Act.

Section 504 of the Rehabilitation Act is designed to assure that those who receive federal financial assistance will not discriminate against handicapped persons. It provides in relevant part as follows:

> No otherwise qualified handicapped individual in the United States * * * shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

Effective June 3, 1977, the Department of Health and Human Services issued final regulations implementing Section 504 as it applies to recipients of federal financial assistance from that agency. (45 CFR Part 84). Recipients of federal financial assistance from the General Services Administration may look to the HHS regulation for guidance as to their obligation under Section 504 of the Rehabilitation Act.

Dated: July 1, 1981.

W. M. Paz,

Assistant Administrator, for Human Resources and Organization, General Services Administration.

[FR Doc. 81-20002 Filed 7-7-81; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[Docket No. N-81-1075]

Notice of Application for State Certification; Minnesota

AGENCY: Office of Interstate Land Sales Registration, HUD.

ACTION: Notice of application by the State of Minnesota for State certification.

SUMMARY: The Secretary gives public notice that the State of Minnesota has applied for certification of its land sales

program under 24 CFR 2710.502, published June 14, 1980. The purpose of giving this public notice is to give other states and interested parties the opportunity to review and comment on Minnesota's application.

DATE: Comments should be submitted on or before September 8, 1981.

ADDRESSES: Send comments to: Office of Interstate Land Sales Registration, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:
Ann Lawhead, State Certification Officer, Program Development and Control Division, Department of HUD, Room 4106, Washington, D.C. 20410. Telephone: (202) 755-6314 (This is not a toll free number.)

SUPPLEMENTAL INFORMATION: The amendments to the Interstate Land Sales Full Disclosure Act were signed into law by the President on December 21, 1979 (Public Law 96-153). On June 14, 1980, the Department published 24 CFR Parts 1710, 1715, 1720, and 1730 (Docket No. R-80-778) to implement the amendments. Section 1710.502 provides that a state may submit an application for certification of its land sales program to the Office of Interstate Land Sales Registration.

Once a State has been certified by the secretary, developers may accomplish the Federal land registration requirements by filing with the Secretary materials designated by agreement with certified states in lieu of the Federal Statement of Record and Property Report. The State of Minnesota has submitted an application which is under consideration. The States of California and Oregon have submitted applications. California's application has been approved, and a formal agreement signed on January 6, 1981. The State of Oregon's application is presently under negotiation.

Any person(s) interested in receiving the application materials prepared by the State of Minnesota may request copies of them from the Office of Interstate Land Sales Registration from the address above.

Issued at Washington, D.C. on June 30, 1981.

William O. Anderson,

General Deputy Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.

[FR Doc. 81-19999 Filed 7-7-81; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit; Receipt of Applications

The applicants listed below wish to conduct certain activities with Endangered Species:

Applicant: John Drennan, Brownsville, TX, PRT 2-8126

The applicant requests a permit to import one hunting trophy of a captive-bred bontebok antelope (*Damaliscus dorcas dorcas*) that was culled from a herd ranch in Bedford, South Africa.

Applicant: Metrozoo, Miami, FL, PRT 2-8144

The applicant requests a permit to import seven immature, Orinoco crocodiles (*Crocodilus intermedius*) from Caracas, Venezuela, for enhancement of propagation.

Humane care and treatment during transport, if applicable, has been indicated by the applicants.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the U.S. Fish & Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the Director at the above address.

Dated: June 30, 1981.

Larry LaRochelle,

Acting Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 81-20013 Filed 7-7-81; 8:45 am]

BILLING CODE 4310-55-M

Geological Survey

Oil Shale Land Classification Order Colorado No. 10

AGENCY: Geological Survey, Interior.

ACTION: Notice of classification of oil shale land in Colorado.

SUMMARY: By Executive Order 5327, April 15, 1930, lands containing oil shale deposits owned by the United States were withdrawn from lease or other disposal and reserved for investigation, examination, and classification. Accordingly, this order classifies lands described in Colorado prospectively valuable oil shale lands.

FOR FURTHER INFORMATION CONTACT:
Mr. Larry H. Godwin, Deputy Conservation Manager, Resource Evaluation—Central Region, U.S. Geological Survey, Conservation Division, Mail Stop 602, Box 25046, Denver, Colorado 80225, telephone (303) 234-4435, FTS 234-4435.

SUPPLEMENTARY INFORMATION: This order is issued under the authority of the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and as delegated to me by Departmental Order 2563, May 2, 1950, under authority of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), the following described lands, insofar as title remains in the United States, are classified as follows:

Oil Shale Land Classification Order Colorado No. 10

6th Principal Meridian

Prospectively Valuable Oil Shale Lands:

T. 9 N., R. 92 W.,
Secs. 4 to 9, inclusive;
Secs. 16 to 28, inclusive.
T. 10 N., R. 92 W.,
Secs. 3 to 9, inclusive;
Secs. 16 to 21, inclusive;
Secs. 28 to 33, inclusive.
T. 11 N., R. 92 W.,
Secs. 16 to 21, inclusive;
Secs. 28 to 34, inclusive.
T. 8 N., R. 93 W.,
Secs. 5 to 8, inclusive.
T. 9 N., R. 93 W.,
Secs. 1 to 24, inclusive;
Secs. 26 to 34, inclusive.
T. 10 N., R. 93 W.,
Secs. 1 to 36, inclusive.
T. 11 N., R. 93 W.,
Secs. 1 to 36, inclusive.
T. 12 N., R. 93 W.,
Secs. 29 to 35, inclusive.
T. 8 N., R. 94 W.,
Secs. 1 to 12, inclusive.
T. 9 N., R. 94 W.,
Secs. 1 to 36, inclusive.
T. 10 N., R. 94 W.,
Secs. 1 to 36, inclusive.
T. 11 N., R. 94 W.,
Secs. 1 to 36, inclusive.
T. 12 N., R. 94 W.,
Secs. 16 to 21, inclusive;
Secs. 26 to 35, inclusive.
T. 1 N., R. 95 W.,
Secs. 4 to 9, inclusive;
Secs. 16 to 21, inclusive;
Secs. 27 to 35, inclusive.
T. 8 N., R. 95 W.,
Secs. 1 to 12, inclusive;
Sec. 18.
T. 9 N., R. 95 W.,
Secs. 1 to 36, inclusive;
T. 10 N., R. 95 W.,
Secs. 1 to 36, inclusive.
T. 11 N., R. 95 W.,
Secs. 1 to 36, inclusive.
T. 12 N., R. 95 W.,
Secs. 13 to 36, inclusive.
T. 1 N., R. 96 W.,
Secs. 1 to 36, inclusive.
T. 2 N., R. 96 W.,
Secs. 25, 35, and 36.
T. 7 N., R. 96 W.,
Secs. 3 and 4.
T. 8 N., R. 96 W.,

Secs. 1 to 24, inclusive;
Secs. 26 to 34, inclusive.
T. 9 N., R. 96 W.,
Secs. 1 to 36, inclusive.
T. 10 N., R. 96 W.,
Secs. 1 to 36, inclusive.
T. 11 N., R. 96 W.,
Secs. 1 to 36, inclusive.
T. 12 N., R. 96 W.,
Secs. 13 to 36, inclusive.
T. 1 N., R. 97 W.,
Secs. 1 to 36, inclusive.
T. 2 N., R. 97 W.,
Sec. 7;
Secs. 18 to 22, inclusive;
Secs. 26 to 34, inclusive.
T. 8 N., R. 97 W.,
Secs. 1 to 30, inclusive;
Secs. 32 to 36, inclusive.
T. 9 N., R. 97 W.,
Secs. 1 to 36, inclusive.
T. 10 N., R. 97 W.,
Secs. 1 to 36, inclusive.
T. 11 N., R. 97 W.,
Secs. 1 to 36, inclusive.
T. 12 N., R. 97 W.,
Secs. 13 to 36, inclusive.
T. 1 N., R. 98 W.,
Secs. 1 to 36, inclusive.
T. 2 N., R. 98 W.,
Secs. 4 to 36, inclusive.
T. 8 N., R. 98 W.,
Secs. 1 to 18, inclusive;
Secs. 21 to 25, inclusive.
T. 9 N., R. 98 W.,
Secs. 1 to 36, inclusive.
T. 10 N., R. 98 W.,
Secs. 1 to 36, inclusive.
T. 11 N., R. 98 W.,
Secs. 1 to 36, inclusive.
T. 12 N., R. 98 W.,
Secs. 13 to 36, inclusive.
T. 1 N., R. 99 W.,
Secs. 1 to 36, inclusive.
T. 2 N., R. 99 W.,
Secs. 1 to 36, inclusive.
T. 3 N., R. 99 W.,
Secs. 31 to 33, inclusive.
T. 8 N., R. 99 W.,
Secs. 1, 2, 11, and 12.
T. 9 N., R. 99 W.,
Secs. 1 to 30, inclusive;
Secs. 33 to 36, inclusive.
T. 10 N., R. 99 W.,
Secs. 1 to 36, inclusive.
T. 11 N., R. 99 W.,
Secs. 1 to 36, inclusive.
T. 12 N., R. 99 W.,
Secs. 13 to 36, inclusive.
T. 1 N., R. 100 W.,
Secs. 1 to 3, inclusive;
Secs. 9 to 16, inclusive;
Secs. 19 to 36, inclusive.
T. 2 N., R. 100 W.,
Secs. 1 to 3, inclusive;
Secs. 10 to 15, inclusive;
Secs. 23 to 26, inclusive;
Secs. 35 and 36.
T. 3 N., R. 100 W.,
Secs. 27, 34, and 35.
T. 9 N., R. 100 W.,
Secs. 1 to 5, inclusive;
Secs. 8 to 17, inclusive;
Secs. 21 to 26, inclusive.
T. 10 N., R. 100 W.,
Secs. 1 to 17, inclusive;
Secs. 20 to 29, inclusive;
Secs. 32 to 36, inclusive.
T. 11 N., R. 100 W.,
Secs. 1 to 36, inclusive.
T. 12 N., R. 100 W.,
Secs. 13 to 36, inclusive.
T. 1 N., R. 101 W.,
Secs. 25, 26, 35, and 36.
T. 11 N., R. 101 W.,
Secs. 1 to 17, inclusive;
Secs. 22 to 26, inclusive.
Sec. 36.
T. 12 N., R. 101 W.,
Secs. 13 to 36, inclusive.
T. 11 N., R. 102 W.,
Secs. 1 to 6, inclusive;
Secs. 9 to 12, inclusive.
T. 12 N., R. 102 W.,
Secs. 13 to 36, inclusive.
T. 1 N., R. 103 W.,
Secs. 2 to 36, inclusive.
T. 2 N., R. 103 W.,
Secs. 17 to 21, inclusive;
Secs. 28 to 34, inclusive.
T. 12 N., R. 103 W.,
Secs. 13 to 17, inclusive;
Secs. 20 to 28, inclusive.
Secs. 35 and 36.
T. 1 N., R. 104 W.,
Secs. 1 to 3, inclusive;
Secs. 10 to 15, inclusive;
Secs. 22 to 27, inclusive;
Secs. 34 to 36, inclusive.
T. 2 N., R. 104 W.,
Secs. 2 and 3;
Secs. 10 to 15, inclusive;
Secs. 22 to 27, inclusive;
Secs. 34 to 36, inclusive.
T. 3 N., R. 104 W.,
Sec. 34.
T. 10 S., R. 92 W.,
Secs. 18 to 20, inclusive;
Secs. 29 to 32, inclusive.
T. 11 S., R. 92 W.,
Sec. 5;
Secs. 5 to 10, inclusive;
Secs. 15 to 22, inclusive;
Secs. 29 to 34, inclusive.
T. 12 S., R. 82 W.,
Secs. 2 to 11, inclusive;
Secs. 14 to 16, inclusive.
T. 5 S., R. 93 W.,
Secs. 18 to 20, inclusive;
Secs. 29 to 32, inclusive.
T. 7 S., R. 93 W.,
Secs. 17 to 20, inclusive;
Secs. 30 to 33, inclusive.
T. 8 S., R. 93 W.,
Secs. 4 to 11, inclusive;
Secs. 15 to 23, inclusive;
Secs. 26 to 34, inclusive.
T. 8½ S., R. 93 W.,
Secs. 1 to 6, inclusive.
T. 9 S., R. 93 W.,
Secs. 3 to 7, inclusive;
Secs. 27 and 28;
Secs. 30 to 34, inclusive.
T. 10 S., R. 93 W.,
Secs. 2 to 11, inclusive;
Secs. 13 to 36, inclusive.
T. 11 S., R. 93 W.,
Secs. 1 to 36, inclusive.
T. 12 S., R. 93 W.,
Secs. 1 to 12, inclusive;
Secs. 14 to 16, inclusive;
Secs. 22 to 23, inclusive.
T. 1 S., R. 94 W.,
Secs. 19, 30, and 31.
T. 2 S., R. 94 W.,
Secs. 6 and 7;
Secs. 17 to 20, inclusive;
Secs. 29 to 32, inclusive.
T. 3 S., R. 94 W.,
Secs. 5 to 8, inclusive;
Secs. 17 to 21, inclusive;
Secs. 28 to 33, inclusive.
T. 4 S., R. 94 W.,
Secs. 4 to 9, inclusive;
Secs. 15 to 22, inclusive;
Secs. 26 to 35, inclusive.
T. 5 S., R. 94 W.,
Secs. 1 to 36, inclusive.
T. 6 S., R. 94 W.,
Secs. 4 to 9, inclusive.
T. 7 S., R. 94 W.,
Sec. 10;
Secs. 13 to 36, inclusive.
T. 8 S., R. 94 W.,
Secs. 1 to 36, inclusive.
T. 8½ S., R. 94 W.,
Secs. 1 to 6, inclusive.
T. 9 S., R. 94 W.,
Secs. 1 to 12, inclusive;
Secs. 15 to 18, inclusive;
Secs. 24 to 28, inclusive;
Secs. 33 to 36, inclusive.
T. 10 S., R. 94 W.,
Secs. 1 to 5, inclusive;
Secs. 9 to 16, inclusive;
Secs. 20 to 36, inclusive.
T. 11 S., R. 94 W.,
Secs. 1 to 36, inclusive.
T. 12 S., R. 94 W.,
Secs. 1 to 12, inclusive;
Secs. 14 to 18, inclusive;
Secs. 20 to 22, inclusive.
T. 1 S., R. 95 W.,
Secs. 1 to 36, inclusive.
T. 2 S., R. 95 W.,
Secs. 1 to 36, inclusive.
T. 3 S., R. 95 W.,
Secs. 1 to 36, inclusive.
T. 4 S., R. 95 W.,
Secs. 1 to 36, inclusive.
T. 5 S., R. 95 W.,
Secs. 1 to 36, inclusive.
T. 6 S., R. 95 W.,
Secs. 1 to 24, inclusive;
Secs. 26 to 31, inclusive.
T. 7 S., R. 95 W.,
Secs. 11 to 15, inclusive;
Secs. 21 to 36, inclusive.
T. 8 S., R. 95 W.,
Secs. 1 to 36, inclusive.
T. 9 S., R. 95 W.,
Secs. 1 to 22, inclusive.
T. 10 S., R. 95 W.,
Secs. 24 to 26, inclusive;
Secs. 33 to 36, inclusive.
T. 11 S., R. 95 W.,
Secs. 1 to 36, inclusive.
T. 12 S., R. 95 W.,
Secs. 1 to 24, inclusive;
Secs. 26 to 30, inclusive.
T. 1 S., R. 96 W.,
Secs. 1 to 36, inclusive.
T. 2 S., R. 96 W.,
Secs. 1 to 36, inclusive.
T. 3 S., R. 96 W.,
Secs. 1 to 36, inclusive.
T. 4 S., R. 96 W.,

Secs. 1 to 36, inclusive.
T. 5 S., R. 96 W.,
Secs. 1 to 36, inclusive.
T. 6 S., R. 96 W.,
Secs. 1 to 33, inclusive;
Secs. 35 and 36.
T. 7 S., R. 96 W.,
Secs. 3 to 11, inclusive;
Secs. 14 to 22, inclusive;
Secs. 28 to 31, inclusive.
T. 8 S., R. 96 W.,
Sec. 13;
Secs. 22 to 28, inclusive;
Secs. 33 to 36, inclusive.
T. 9 S., R. 96 W.,
Secs. 1 to 18, inclusive;
Secs. 20 to 24, inclusive.
T. 10 S., R. 96 W.,
Secs. 1 to 36, inclusive.
T. 11 S., R. 96 W.,
Sec. 3 inclusive;
Secs. 10 to 15, inclusive;
Secs. 21 to 36, inclusive.
T. 12 S., R. 96 W.,
Secs. 1 to 28, inclusive.
T. 1 S., R. 97 W.,
Secs. 1 to 36, inclusive.
T. 2 S., R. 97 W.,
Secs. 1 to 36, inclusive.
T. 3 S., R. 97 W.,
Secs. 1 to 36, inclusive.
T. 4 S., R. 97 W.,
Secs. 1 to 36, inclusive.
T. 5 S., R. 97 W.,
Secs. 1 to 36, inclusive.
T. 6 S., R. 97 W.,
Secs. 1 to 36, inclusive.
T. 7 S., R. 97 W.,
Secs. 1 to 18, inclusive;
Secs. 20 to 28, inclusive;
Secs. 33 to 36, inclusive.
T. 8 S., R. 97 W.,
Secs. 2 and 3.
T. 10 S., R. 97 W.,
Secs. 33 and 34.
T. 11 S., R. 97 W.,
Secs. 2 and 3;
Secs. 9 to 11, inclusive;
Secs. 13 to 16, inclusive;
Secs. 21 to 28, inclusive;
Secs. 33 to 36, inclusive.
T. 12 S., R. 97 W.,
Secs. 1 to 4, inclusive;
Secs. 10 to 14, inclusive;
Secs. 23 and 24.
T. 1 S., R. 98 W.,
Secs. 1 to 36, inclusive.
T. 2 S., R. 98 W.,
Secs. 1 to 36, inclusive.
T. 3 S., R. 98 W.,
Secs. 1 to 36, inclusive.
T. 4 S., R. 98 W.,
Secs. 1 to 36, inclusive.
T. 5 S., R. 98 W.,
Secs. 1 to 36, inclusive.
T. 6 S., R. 98 W.,
Secs. 1 to 36, inclusive.
T. 7 S., R. 98 W.,
Secs. 1 to 9, inclusive;
Secs. 11 to 13, inclusive;
Secs. 15 to 23, inclusive;
Secs. 26 to 35, inclusive.
T. 8 S., R. 98 W.,
Secs. 19 to 21, inclusive;
Secs. 29 and 30.
T. 1 S., R. 99 W.,
Secs. 1 to 36, inclusive.
T. 2 S., R. 99 W.,
Secs. 1 to 36, inclusive.
T. 3 S., R. 99 W.,
Secs. 1 to 36, inclusive.
T. 4 S., R. 99 W.,
Secs. 1 to 36, inclusive.
T. 5 S., R. 99 W.,
Secs. 1 to 36, inclusive.
T. 6 S., R. 99 W.,
Secs. 1 to 36, inclusive.
T. 7 S., R. 99 W.,
Secs. 1 to 36, inclusive.
T. 8 S., R. 99 W.,
Secs. 1 to 12, inclusive;
Secs. 14 to 20, inclusive;
Secs. 25 to 28, inclusive;
Secs. 31 to 36, inclusive.
T. 1 S., R. 100 W.,
Secs. 1 to 30, inclusive;
Secs. 32 to 36, inclusive.
T. 2 S., R. 100 W.,
Secs. 1 to 5, inclusive;
Secs. 8 to 17, inclusive;
Secs. 20 to 29, inclusive;
Secs. 33 to 36, inclusive.
T. 3 S., R. 100 W.,
Secs. 1 to 4, inclusive;
Secs. 10 to 15, inclusive;
Secs. 23 to 27, inclusive;
Secs. 33 to 36, inclusive.
T. 4 S., R. 100 W.,
Secs. 1 to 36, inclusive.
T. 5 S., R. 100 W.,
Secs. 1 to 36, inclusive.
T. 6 S., R. 100 W.,
Secs. 1 to 36, inclusive.
T. 7 S., R. 100 W.,
Secs. 1 to 36, inclusive.
T. 8 S., R. 100 W.,
Secs. 1 to 17, inclusive;
Secs. 22 to 26, inclusive;
Secs. 35 and 36.
T. 9 S., R. 100 W.,
Secs. 1 and 2.
T. 1 S., R. 101 W.,
Secs. 1, 12, and 13.
T. 3 S., R. 101 W.,
Secs. 27, 33, and 34.
T. 4 S., R. 101 W.,
Secs. 2 to 5, inclusive;
Secs. 8 to 10, inclusive;
Secs. 13 to 16, inclusive;
Secs. 21 to 29, inclusive;
Secs. 32 to 36, inclusive.
T. 5 S., R. 101 W.,
Secs. 1 to 36, inclusive.
T. 6 S., R. 101 W.,
Secs. 1 to 6, inclusive;
Secs. 8 to 17, inclusive;
Sec. 20;
Secs. 22 to 29, inclusive;
Secs. 32 to 36, inclusive.
T. 7 S., R. 101 W.,
Secs. 1 to 14, inclusive;
Sec. 16;
Secs. 22 to 27, inclusive;
Secs. 34 to 36, inclusive.
T. 8 S., R. 101 W.,
Secs. 1 and 2.
T. 3 S., R. 102 W.,
Secs. 5, 7, and 8;
Secs. 16 to 18, inclusive;
Secs. 20, 21, 28, 29, 32, and 33.
T. 4 S., R. 102 W.,
Secs. 6 to 8, inclusive;
Secs. 17 to 20, inclusive;
Secs. 23, 23, 26, and 27;
Secs. 29 to 34, inclusive.
T. 5 S., R. 102 W.,
Secs. 3 to 11, inclusive;
Secs. 13 to 28, inclusive;
Secs. 32 to 36, inclusive.
T. 6 S., R. 102 W.,
Secs. 1, 2, 4, 5, 8, 9, 12, 13, and 24.
T. 7 S., R. 102 W.,
Sec. 1;
Secs. 10 to 13, inclusive;
Sec. 24.
T. 1 S., R. 103 W.,
Secs. 2 to 11, inclusive;
Secs. 15 to 20, inclusive;
Secs. 29 to 32, inclusive.
T. 2 S., R. 103 W.,
Secs. 5 to 8, inclusive;
Secs. 17 to 19, inclusive;
Secs. 29 to 32, inclusive.
T. 3 S., R. 103 W.,
Sec. 3;
Secs. 5 to 7, inclusive;
Secs. 12, 13, 18, 20, 21, 31, and 35.
T. 4 S., R. 103 W.,
Secs. 1 and 2;
Secs. 5 to 7, inclusive;
Secs. 11 to 14, inclusive.
Secs. 25 to 28, inclusive;
Secs. 30 to 36, inclusive.
T. 5 S., R. 103 W.,
Secs. 1 to 24, inclusive;
Secs. 26 to 34, inclusive.
T. 6 S., R. 103 W.,
Secs. 1 to 4, inclusive;
Sec. 9;
Secs. 11 to 14, inclusive.
T. 1 S., R. 104 W.,
Secs. 1 to 3, inclusive;
Secs. 10 to 15, inclusive;
Secs. 22 to 27, inclusive;
Secs. 34 to 36, inclusive.
T. 2 S., R. 104 W.,
Secs. 1 to 3, inclusive;
Secs. 10 to 15, inclusive;
Secs. 22 to 27, inclusive;
Secs. 34 to 36, inclusive.
T. 3 S., R. 104 W.,
Secs. 1 to 3, inclusive;
Secs. 10 to 15, inclusive;
Secs. 22 to 27, inclusive;
Secs. 34 to 36, inclusive.
T. 4 S., R. 104 W.,
Secs. 1 to 3, inclusive;
Secs. 10 to 12, inclusive;
Secs. 14, 15, 22, 26, and 27;
Secs. 34 to 36, inclusive.
T. 5 S., R. 104 W.,
Secs. 1 to 3, inclusive;
Secs. 10 to 15, inclusive;
Secs. 22 to 27, inclusive;
Secs. 34 to 36, inclusive.
T. 6 S., R. 104 W.,
Secs. 1 to 11, inclusive;
Secs. 16 to 21, inclusive;
Secs. 29 to 32, inclusive.
T. 7 S., R. 104 W.,
Secs. 5, 6, and 8.
T. 6 S., R. 105 W.,
Secs. 1, 12, 13, 24, 25, and 36.
T. 7 S., R. 105 W.,
Secs. 1, 12, 13, 24, 25, and 36.

The area described aggregates 2,694,000 acres (1,090,247 hectares), more or less, of

which are all classified as prospectively valuable oil shale lands.

Dated: June 30, 1981.

Doyle G. Frederick,

Acting Director, Geological Survey.

[FR Doc. 81-19958 Filed 7-7-81; 8:45 am]

BILLING CODE 4310-31-M

Oil Shale Leasing Area, Roan Plateau, Colorado

AGENCY: Geological Survey, Interior.

ACTION: Classification of an oil shale leasing area in Colorado.

SUMMARY: The Roan Plateau Oil Shale Leasing Area, comprising approximately 314,878 acres in Rio Blanco and Garfield Counties, Colorado, is established by Colorado Oil Shale Leasing Minutes No. 2, April 20, 1981.

FOR FURTHER INFORMATION CONTACT:

Mr. Larry Godwin, Deputy Conservation Manager, Resource Evaluation—Central Region, U.S. Geological Survey, Conservation Division, Denver Federal Center, Mail Stop 602, Box 25046, Denver, Colorado 80225, telephone (303) 234–4435, FTS 234–4435.

SUPPLEMENTARY INFORMATION: Under authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 220 Departmental Manual 2, Secretary's Order No. 2948 Federal lands within the State of Colorado have been classified as subject to the oil shale leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C 241). The name of the area, effective date, and total acreage involved are as follows:

(6) Colorado

Roan Plateau Oil Shale Leasing Area; April 20, 1981; 314,878 acres.

A diagram showing the boundaries of the area classified for leasing has been filed with the appropriate land office of the Bureau of Land Management. Copies of the diagram and the land descriptions can be obtained from the Conservation Manager, Central Region, U.S. Geological Survey, Denver Federal Center, Mail Stop 609, Box 25046, Denver, Colorado 80225, telephone (303) 234–4435, FTS 234–4435.

Dated: June 30, 1981.

Hillary A. Oden,

Acting Chief, Conservation Division.

[FR Doc. 81-19957 Filed 7-7-81; 8:45 am]

BILLING CODE 4310-31-M

Oil Shale Leasing Area; White River, Colorado

AGENCY: Geological Survey, Interior.

ACTION: Classification of an oil shale leasing area in Colorado.

SUMMARY: The White River Oil Shale Leasing Area, comprising approximately 340,911 acres in Rio Blanco County, Colorado, is established by Colorado Oil Shale Leasing Minutes No. 1, April 20, 1981. This action could lead to oil shale development with multimineral development potential in this area.

FOR FURTHER INFORMATION CONTACT:

Mr. Larry H. Godwin, Deputy Conservation Manager, Resource Evaluation—Central Region, U.S. Geological Survey, Conservation Division, Denver Federal Center, Mail Stop 602, Box 25046, Denver, Colorado 80225, telephone (303) 234–4435, FTS 234–4435.

SUPPLEMENTARY INFORMATION: Under authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 220 Departmental Manual 2, Secretary's Order No. 2948, Federal lands within the State of Colorado have been classified as subject to the oil shale leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 241). The name of the area, effective date and total acreage involved are as follows:

(6) Colorado

White River Oil Shale Leasing Area; April 20, 1981; 340,911 acres.

A diagram showing the boundaries of the area classified for leasing has been filed with the appropriate land office of the Bureau of Land Management. Copies of the diagram and the land descriptions can be obtained from the U.S. Geological Survey, Conservation Division, Central Region, Mail Stop 609, Box 25046, Denver Federal Center, Denver, Colorado 80225, telephone (303) 234–4435, FTS 234–4435.

Dated: June 30, 1981.

Hillary A. Oden,

Acting Chief, Conservation Division.

[FR Doc. 81-19956 Filed 7-7-81; 8:45 am]

BILLING CODE 4310-31-M

Bureau of Indian Affairs

Indian Tribal Entities [1] That Have a Government-To-Government Relationship With the United States

June 17, 1981.

This notice is published in exercise of authority delegated to the Assistant Secretary-Indian Affairs under 5 U.S.C. 2 and 9; and 209 DM 8.

Notice is hereby given in accordance with 25 CFR 54.6(b) by the Bureau of Indian Affairs of the tribal entities that have a government-to-government relationship with the United States. The United States recognizes its trust responsibility to those Indian entities and, therefore, acknowledges their eligibility for programs administered by the Bureau of Indian Affairs. The listed entities are not necessarily eligible for programs administered by other Federal Agencies.

Indian Tribal Entities [1] That Have a Government-To-Government Relationship With the United States

Absentee-Shawnee Tribe of Indians of Oklahoma
Agua Caliente Band of Cahuilla Indians of the Agua Caliente Indian Reservation, Palm Springs, California
Ak Chin Indian Community of Papago Indians of the Maricopa, Ak Chin Reservation, Arizona
Alabama-Quassarte Tribal Town of the Creek Nation of Indians of Oklahoma
Alturas Indian Rancheria of Pit River Indians of California
Apache Tribe of Oklahoma
Arapahoe Tribe of the Wind River Reservation, Wyoming
Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana
Augustine Band of Cahuilla Mission Indians of the Augustine Reservation, California
Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin
Barona Capitan Grande Band of Diegueno Mission Indians of the Barona Reservation, California
Bay Mills Indian Community of the Sault Ste. Marie Band of Chippewa Indians, Bay Mills Reservation, Michigan
Berry Creek Rancheria of Maidu Indians of California
Big Bend Rancheria of Pit River Indians of California
Big Lagoon Rancheria of Smith River Indians of California
Big Pine Band of Owens Valley Paiute Shoshone Indians of the Big Pine Reservation, California
Blackfeet Tribe of the Blackfeet Indian Reservation of Montana
Bridgeport Indian Colony of California
Burns Paiute Indian Colony, Oregon

[1] Includes within its meaning Indian tribes, bands, villages, groups and pueblos as well as Eskimos and Aleuts

Cabazon Band of Cahuilla Mission Indians of the Cabazon Reservation, California
Cachil DeHe Band of Wintun Indians of the Colusa Indian Community of the Colusa Rancheria, California
Caddo Indian Tribe of Oklahoma
Cahuilla Band of Mission Indians of the Cahuilla Reservation, California
Cahto Indian Tribe of the Laytonville Rancheria, California
Campo Band of Diegueno Mission Indians of the Campo Indian Reservation, California
Capitan Grande Band of Diegueno Mission Indians of the Capitan Grande Reservation, California
Cayuga Nation of New York
Cedarville Rancheria of Northern Paiute Indians of California
Chemehuevi Indian Tribe of the Chemehuevi Reservation, California
Cher-Ae Heights Indian Community of the Trinidad Rancheria of California
Cherokee Nation of Oklahoma
Cheyenne-Arapaho Tribes of Oklahoma
Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota
Chickasaw Nation of Oklahoma
Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana
Chitimacha Tribe of Louisiana
Choctaw Nation of Oklahoma
Citizen Band of Potawatomi Indians of Oklahoma
Coast Indian Community of Yurok Indians of the Resighini Rancheria, California
Cocopah Tribe of Arizona
Coeur D'Alene Tribe of the Coeur D'Alene Reservation, Idaho
Cold Springs Rancheria of Mono Indians of California
Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California
Comanche Indian Tribe of Oklahoma
Confederated Salish & Kootenai Tribes of the Flathead Reservation, Montana
Confederated Tribes of the Chehalis Reservation, Washington
Confederated Tribes of the Colville Reservation, Washington
Confederated Tribes of the Goshute Reservation, Nevada and Utah
Confederated Tribes of the Siletz Reservation, Oregon
Confederated Tribes of the Umatilla Reservation, Oregon
Confederated Tribes of the Warm Springs Reservation of Oregon
Confederated Tribes and Bands of the Yakima Indian Nation of the Yakima Reservation, Washington
Cortina Indian Rancheria of Wintun Indians of California
Coushatta Tribe of Louisiana
Covelo Indian Community of the Round Valley Reservation, California
Coyote Valley Band of Pomo Indians of California
Creek Nation of Oklahoma
Crow Tribe of Montana
Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota
Cuyapaipe Band of Diegueno Mission Indians of the Cuyapaipe Reservation, California
Delaware Tribe of Western Oklahoma
Devils Lake Sioux Tribe of the Devils Lake Sioux Reservation, North Dakota
Dry Creek Rancheria of Pomo Indians of California
Duckwater Shoshone Tribe of the Duckwater Reservation, Nevada
Eastern Band of Cherokee Indians of North Carolina
Eastern Shawnee Tribe of Oklahoma
Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California
Ely Indian Colony of Nevada
Enterprise Rancheria of Maidu Indians of California
Flandreau Santee Sioux Tribe of South Dakota
Forest County Potawatomi Community of Wisconsin Potawatomie Indians, Wisconsin
Fort Belknap Indian Community of the Fort Belknap Reservation of Montana
Fort Bidwell Indian Community of Paiute Indians of the Fort Bidwell Reservation, California
Fort Independence Indian Community of Paiute Indians of the Fort Independence Reservation, California
Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada
Fort McDowell Mohave-Apache Indian Community, Fort McDowell Band of Mohave Apache Indians of the Fort McDowell Indian Reservation, Arizona
Fort Mojave Indian Tribe of Arizona
Fort Sill Apache Tribe of Oklahoma
Gila River Pima-Maricopa Indian Community of the Gila River Indian Reservation of Arizona
Grand Traverse Band of Ottawa & Chippewa Indians of Michigan
Grindstone Indian Rancheria of Wintun-Wailaki Indians of California
Hannahville Indian Community of Wisconsin Potawatomie Indians of Michigan
Havasupai Tribe of the Havasupai Reservation, Arizona
Hoh Indian Tribe of the Hoh Indian Reservation, Washington
Hoopa Valley Tribe of the Hoopa Valley Reservation, California
Hopi Tribe of Arizona
Hopland Band of Pomo Indians of the Hopland Rancheria, California
Houlton Band of Maliseet Indians of Maine
Hualapai Tribe of the Hualapai Indian Reservation, Arizona
Inaja and Cosmit Reservation of Diegueno Indians, California
Iowa Tribe of Indians of the Iowa Reservation in Nebraska of Kansas
Iowa Tribe of Oklahoma
Jackson Rancheria of Me-Wuk Indians of California
Jamestown Band of Clallam Indians of Washington
Jicarilla Apache Tribe of Jicarilla Apache Indian Reservation, New Mexico
Kaibab Band of Paiute Indians of Kaibab Indian Reservation, Arizona
Kalispel Indian Community of the Kalispel Reservation, Washington
Karok Tribe of California
Kashia Band of Pomo Indians of the Stewarts Point Rancheria, California
Kaw Indian Tribe of Oklahoma
Keweenaw Bay Indian Community of L'Anse, Lac Vieux Desert and Ontonagon Bands of Chippewa Indians of the L'Anse Reservation, Michigan
Kialegee Tribal Town of the Creek Indian Nation of Oklahoma
Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas
Kickapoo Tribe of Oklahoma
Kiowa Indian Tribe of Oklahoma
Kootenai Tribe of Idaho
La Jolla Band of Luiseno Mission Indians of the LaJolla Reservation, California
La Posta Band of Diegueno Mission Indians of the La Posta Indian Reservation, California
Lac Courte Oreilles Band of Lake Superior Chippewa Indians of the Lac Courte Oreilles Reservation of Wisconsin
Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin
Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada
Lookout Rancheria of Pit River Indians, California
Los Coyotes Band of Cahuilla Mission Indians of the Los Coyotes Reservation, California
Lovelock Paiute Tribe of the Lovelock Indian Colony, Nevada
Lower Brule Sioux Tribe of the Lower Brule Reservation, South Dakota
Lower Elwha Tribe Community of the Lower Elwha Reservation, Washington
Lower Sioux Indian Community of the Minnesota Mdewakanton Sioux Indians of the Lower Sioux Reservation in Minnesota
Lummi Tribe of the Lummi Reservation, Washington
Makah Indian Tribe of the Makah Indian Reservation, Washington
Manchester Band of Pomo Indians of the Manchester-Pt. Arena Rancheria, California
Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California
Menominee Indian Tribe of Wisconsin, Menominee Indian Reservation, Wisconsin
Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, California
Mescalero Apache Tribe of the Mescalero Reservation, New Mexico
Miami Tribe of Oklahoma
Miccosukee Tribe of Indians of Florida
Middletown Rancheria of Pomo Indians of California
Minnesota Chippewa Tribe, Minnesota (Six Component reservations: Boise Forte Band (Nett Lake), Fond du Lac Band, Grand Portage Band, Leech Lake Band, Mille Lac Band, White Earth Band)
Mississippi Band of Choctaw Indians, Mississippi
Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada
Modoc Tribe of Oklahoma
Montgomery Creek Rancheria of Pit River Indians of California
Morongo Band of Cahuilla Mission Indians of the Morongo Reservation, California
Muckleshoot Indian Tribe of the Muckleshoot Reservation, Washington
Navajo Tribe of Arizona, New Mexico and Utah

Nez Perce Tribe of Idaho, Nez Perce Reservation, Idaho
Nisqually Indian Community of the Nisqually Reservation, Washington
Nooksack Indian Tribe of Washington
Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana
Northwestern Band of Shoshone Indians of Utah (Washakie)
Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota
Omaha Tribe of Nebraska
Oneida Nation of New York
Oneida Tribe of Indians of Wisconsin, Oneida Reservation, Wisconsin
Onondaga Nation of New York
Osage Tribe of Oklahoma
Ottawa Tribe of Oklahoma
Otoe-Missouria Tribe of Oklahoma
Paiute Indian Tribe of Utah
Paiute-Shoshone Indians of the Bishop Community of the Bishop Colony, California
Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada
Paiute-Shoshone Indians of the Lone Pine Community of the Lone Pine Reservation, California
Pala Band of Luiseno Mission Indians of the Pala Reservation, California
Papago Tribe of the Sells, Gila Bend and San Xavier Reservations, Arizona
Pascua Yaqui Tribe of Arizona
Passamaquoddy Tribe of Maine
Pauma Band of Luiseno Mission Indians of the Pauma & Yuima Reservation, California
Pawnee Indian Tribe of Oklahoma
Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, California
Penobscot Tribe of Maine
Peoria Tribe of Oklahoma
Pit River Indian Tribe of the X-L Ranch Reservation, California
Ponca Tribe of Indians of Oklahoma
Port Gamble Indian Community, Port Gamble Band of Clallam Indians, Port Gamble Reservation, Washington
Prairie Band of Potawatomi Indians of Kansas
Prairie Island Indian Community of Minnesota Mdewakanton Sioux Indians of the Prairie Island Reservation, Minnesota
Pueblo of Acoma, New Mexico
Pueblo of Cochiti, New Mexico
Pueblo of Jemez, New Mexico
Pueblo of Isleta, New Mexico
Pueblo of Laguna, New Mexico
Pueblo of Nambe, New Mexico
Pueblo of Picuris, New Mexico
Pueblo of Pojoaque, New Mexico
Pueblo of San Felipe, New Mexico
Pueblo of San Juan, New Mexico
Pueblo of San Ildefonso, New Mexico
Pueblo of Sandia, New Mexico
Pueblo of Santa Ana, New Mexico
Pueblo of Santa Clara, New Mexico
Pueblo of Santo Domingo, New Mexico
Pueblo of Taos, New Mexico
Pueblo of Tesuque, New Mexico
Pueblo of Zia, New Mexico
Puyallup Tribe of the Puyallup Reservation, Washington
Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada
Quapaw Tribe of Oklahoma
Quechan Tribe of the Fort Yuma Indian Reservation, California
Quileute Tribe of the Quileute Reservation, Washington
Quinault Tribe of the Quinault Reservation, Washington
Ramona Reservation of California
Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin, Red Cliff Reservation, Wisconsin
Red Lake Band of Chippewa Indians of the Red Lake Reservation, Minnesota
Reno-Sparks Indian Colony, Nevada
Rincon Band of Luiseno Mission Indians of the Rincon Reservation, California
Roaring Creek Rancheria of Pit River Indians of California
Robinson Rancheria of Pomo Indians of California
Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota
Rumsey Indian Rancheria of Wintun Indians of California
Sac & Fox Tribe of the Mississippi in Iowa
Sac & Fox Tribe of Missouri of the Sac & Fox Reservation in Kansas and Nebraska
Sac & Fox Tribe of Indians of Oklahoma
Saginaw Chippewa Indian Tribe of Michigan, Isabella Reservation, Michigan
Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona
San Carlos Apache Tribe of the San Carlos Reservation of Arizona
San Manual Band of Serrano Mission Indians of the San Manual Reservation, California
San Pasqual Band of Diegueno Mission Indians of the San Pasqual Reservation, California
Santa Rosa Indian Community of the Santa Rosa Rancheria of California
Santa Rosa Band of Cahuilla Mission Indians of the Santa Rosa Reservation, California
Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California
Santa Ysabel Band of Diegueno Mission Indians of the Santa Ysabel Reservation, California
Santee Sioux Tribe of the Santee Reservation of Nebraska
Sauk-Suiattle Indian Tribe of Washington
Sault Ste. Marie Tribe of Chippewa Indians of Michigan
Seminole Nation of Oklahoma
Seminole Tribe of Florida, Dania, Big Cypress and Brighton Reservations, Florida
Seneca Nation of New York
Seneca-Cayuga Tribe of Oklahoma
Shakopee Mdewakanton Sioux Community of Minnesota (Prior Lake)
Sheep Ranch Rancheria of Me-Wuk Indians of California
Sherwood Valley Rancheria of Pomo Indians of California
Shingle Springs Band of Miwok Indians, Shingle Springs Rancheria (Verona Tract), California
Shoalwater Bay Tribe of the Shoalwater Bay Indian Reservation, Washington
Shoshone Tribe of the Wind River Reservation, Wyoming
Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho
Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada
Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation, South Dakota
Skokomish Indian Tribe of the Skokomish Reservation, Washington
Skull Valley Band of Goshute Indians of Utah
Soboba Band of Luiseno Mission Indians of the Soboba Reservation, California
Sokoagon Chippewa Community of the Mole Lake Band of Chippewa Indians, Wisconsin
Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado
Spokane Tribe of the Spokane Reservation, Washington
Squaxin Island Tribe of the Squaxin Island Reservation, Washington
St. Croix Chippewa Indians of Wisconsin, St. Croix Reservation, Wisconsin
St. Regis Band of Mohawk Indians of New York
Standing Rock Sioux Tribe of the Standing Rock Reservation, North & South Dakota
Stockbridge-Munsee Community of Mohican Indians of Wisconsin
Stillaguamish Tribe of Washington
Summit Lake Paiute Tribe of the Summit Lake Reservation, Nevada
Suquamish Indian Tribe of the Port Madison Reservation, Washington
Susanville Indian Rancheria of Paiute, Maidu, Pit River & Washoe Indians of California
Swinomish Indians of the Swinomish Reservation, Washington
Sycuan Band of Diegueno Mission Indians of the Sycuan Reservation, California
Te-Moak Bands of Western Shoshone Indians of the Battle Mountain, Elko & South Fork Colonies of Nevada
Thlopthlocco Tribal Town of the Creek Indian Nation of Oklahoma
Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota
Tonawanda Band of Seneca Indians of New York
Tonkawa Tribe of Indians of Oklahoma
Tonto Apache Tribe of Arizona
Torres-Martinez Band of Cahuilla Mission Indians of the Torres-Martinez Reservation, California
Tule River Indian Tribe of the Tule River Indian Reservation, California
Tulalip Tribes of the Tulalip Reservation, Washington
Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria of California
Turtle Mountain Band of Chippewa Indians, Turtle Mountain Indian Reservation, North Dakota
Tuscarora Nation of New York
Twenty-Nine Palms Band of Luiseno Mission Indians of the Twenty-Nine Palms Reservation, California
United Keetoowah Band of Cherokee Indians, Oklahoma
Upper Lake Band of Pomo Indians of Upper Lake Rancheria of California
Upper Sioux Indian Community of the Upper Sioux Reservation, Minnesota
Upper Skagit Indian Tribe of Washington
Ute Indian Tribe of the Uintah & Ouray Reservation, Utah
Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah
Utu Utu Gwaiti Paiute Tribe of the Benton Paiute Reservation, California
Viejas Baron Long Capitan Grande Band of Diegueno Mission Indians of the Viejas Reservation, California
Walker River Paiute Tribe of the Walker River Reservation, Nevada

Washoe Tribe of Nevada & California (Carson Colony, Dresslerville and Washoe Ranches)
White Mountain Apache Tribe of the Fort Apache Indian Reservation, Arizona
Whichita Indian Tribe of Oklahoma
Winnebago Tribe of the Winnebago Reservation of Nebraska
Winnemucca Indian Colony of Nevada
Wisconsin Winnebago Indian Tribe of Wisconsin
Wyandotte Tribe of Oklahoma
Yankton Sioux Tribe of South Dakota
Yavapai-Apache Indian Community of the Camp Verde Reservation, Arizona
Yavapai-Prescott Tribe of the Yavapai Reservation, Arizona
Yerington Paiute Tribe of the Yerington Colony and Campbell Ranch
Yomba Shoshone Tribe of the Yomba Reservation, Nevada
Yurok Tribe of the Hoopa Valley Reservation, California
Zuni Tribe of the Zuni Reservation, New Mexico

For additional information contact Patricia Simmons, Division of Tribal Government Services, Branch of Tribal Relations, 1951 Constitution Avenue, N.W., Washington, D.C. 20245, telephone number, 202–343–4045.

Kenneth L. Payton,

Acting Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 81–19951 Filed 7–7–81; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

[AA–6980–A]

Alaska; Alaska Native Claims Selection

On December 12, 1974, Huna Totem Corporation for the Native village of Hoonah, filed selection application AA–6890–A under the provisions of Sec. 16(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1615(b) (1976)) (ANCSA), for the surface estate of certain lands in the vicinity of Hoonah.

As to the lands described below, the application, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 16(b) of ANCSA, aggregating approximately 960 acres, is considered proper for acquisition by Huna Totem Corporation and is hereby approved for conveyance pursuant to Sec. 14(b) of ANCSA.

Copper River Meridian, Alaska (Partially Surveyed)

T. 43 S., R. 60 E.,
Sec. 33;
Sec. 34, N½ excluding Native allotments AA–7833 AA–8012.

Containing approximately 960 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservation to the United States:

The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)).

There are no easements to be reserved to the United States pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the unsurveyed lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch 2, Sec. 6(g)), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA) any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing Law;

3. Requirements of Sec. 22(k) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1621(k)), that, until December 18, 1983, the portion of the above-described lands located within the boundaries of a national forest shall be managed under the principles of sustained yield and under management practices for protection and enhancement of environmental quality no less stringent than such managment practices on adjacent national forest lands; and

4. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Huna Totem Corporation is entitled to conveyance of 23,040 acres of land selected pursuant to Sec. 16(b) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 21,639 acres. The remaining entitlement of approximately 1,401 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) ANCSA, conveyance to the subsurface estate of the lands described above shall be granted to Sealaska Corporation when conveyance is granted to Huna Totem Corporation for the surface estate, and shall be subject to the same conditions as the surface conveyance.

There are no inland water bodies considered to be navigable within the above-described lands.

In accordance with Departmental regulation 43 CFR 2650.7(d) notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Southeast Alaska Empire (Juneau).

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, provided, however, pursuant to Public Law 96–487, this decision constitutes the final administrative determination of the Department of the Interior concerning navigability of water bodies.

Appeals should be filed with the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until August 7, 1981, to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the

manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Huna Totem Corporation, P.O. Box 290, Hoonah, Alaska 99829

Sealaska Corporation, One Sealaska Plaza, Suite 400, Juneau, Alaska 99801

Sandra C. Thomas,

Acting Chief, Branch of Adjudication.

[FR Doc. 81-19063 Filed 7-7-81; 8:45 am]

BILLING CODE 4310-84-M

[ES 27253, Survey Group 115]

Minnesota; Filing of Plat of Survey

On February 9, 1981, the plat representing the survey of one island in Lost Lake and twenty-five islands in Vermilion Lake, T. 62 N., R. 16 W., Fourth Principal Meridan, Minnesota, which were omitted from the original survey, was accepted. It will be officially filed in the Eastern States Office, Alexandria, Virginia, at 7:30 a.m. on August 24, 1981.

Fourth Prinicipal Meridian, Minnesota

T. 62 N., R. 16 W.,
Tract Nos. 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, and 62.

2. The character of Tract Nos. 37 through 62 similar in all respects to that of the adjacent surveyed lands.

Elevations on the island Tract No. 37 range up to approximately 6 feet above the high water mark of Vermilion Lake. Timber consists of pine, cedar, fir, aspen, birch and alder. Borings of pine trees showed several to be up to 70 years old. Undergrowth consitst of willow, brush and native grasses.

Elevations on the island Tract No. 38 range up to approximately 8 feet above the ordinary high water mark of Vermilion Lake. Timber consists of pine, cedar, fir and birch. Borings of the pine trees showed several to be up to 80 years old. Undergrowth consists of hazel, willow, brush and native grasses. Large pine stumps were found on the island.

Elevations on the island Tract No. 39 range up to approximately 3 feet above the ordinary high water mark of Vermilion Lake. Timber consists of fir, alder and spruce. Undergrowth consists of willow, brush and native grasses.

Elevations on the island Tract No. 40 range up to approximately 3 feet above the ordinary high water mark of Vermilion Lake. Timber consists of poplar, cedar, aspen, birch and spruce. Undergrowth consists of willow, brush and native grasses.

Elevations on the island Tract No. 41 range up to approximately 15 feet above the ordinary high water mark of Vermilion Lake. Timber consists of pine, cedar, fir, aspen, birch and spruce. Borings of pine trees showed several to be up to 110 years old. Undergrowth consists of willow, brush and native grasses. Large pine stumps were found on the island.

Elevations on the island Tract No. 42 range up to approximately 3 feet above the ordinary high water mark of Vermilion Lake. Timber consists of pine, aspen, birch and spruce. Borings of pine trees showed several to be up to 105 years old. Undergrowth consists of brush and native grasses.

Elevations on the island Tract No. 43 range up to approximately 2 feet above the ordinary high water mark of Vermilion Lake. Timber consists of pine, cedar, aspen and birch. Borings of pine trees showed several to be up to 100 years old. Undergrowth consists of willow, brush and native grasses.

Elevations on the island Tract No. 44 range up to approximately 3 feet above the ordinary high water mark of Vermilion Lake. Borings of pine trees showed several to be up to 80 years old. Undergrowth consists of willow, brush and native grasses.

Elevations on the island Tract No. 45 range up to approximately 3 feet above the ordinary high water mark of Vermilion Lake. Timber consists of pine, edar, aspen, birch and spruce. Borings of pine trees showed several to be up to 80 years old. Undergrowth consists of willow, brush and native grasses.

Elevations on the island Tract No. 46 range up to aproximately 3 feet above the ordinary high water mark of Vermilion Lake. Timber consists of Pine, cedar, fir, aspen, birch and ash. Borings of pine trees showed several to be up to 108 years old. Undergrwoth consists of willow, brush and native grasses.

Elevations on the island Tract No. 47 range up to approximately 2 feet above the ordinary highwater mark of Vermilion Lake. Timber consists of alder, cedar, maple, and elm. Undergrwoth consists of hazel, willow, brush and native grasses.

Elevations on the island Tract No. 48 range up to approximately 3 feet above the ordinary high water mark of Vermilion Lake. Timber consists of cedar and birch. Undergrowth consists of willow, brush and native grasses.

Elevations on the island Tract No. 49 range up to approximately 6 feet above the ordinary high water mark of Vermilion Lake. Timber consists of cedar, aspen, birch, elm and basswood. Undergrowth consists of hazel, willow, brush and native grasses.

Elevations on the island Tract No. 50 range up to approximately 3 feet above the ordinary high water mark of Vermilion Lake. Timber consists of cedar, aspen, birch and alder. Undergrowth consists of willow, brush and native grasses.

Elevations on the island Tract No. 51 range up to approximately 5 feet above the ordinary high water mark of Vermilion Lake. Timber consists of pine, cedar, aspen, birch, maple and ash. Borings of pine trees showed several to be up to 115 years old. Undergrowth consists of hazel, willow, brush and native grasses.

Elevations on the island Tract No. 52 range up to approximately 5 feet above the ordinary high water mark of Vermilion Lake. Timber consists of pine, cedar, fir, aspen and spruce. Borings of pine trees showed several to be up to 108 years old. Undergrowth consists of hazel, willow, brush and native grasses.

Elevations on the island Tract No. 53 range up to approximately 8 feet above the ordinary high water mark of Vermilion Lake. Timber consists of pine, cedar, aspen and birch. Borings of pine trees showed several to be up to 105 years old. Undergrowth consists of hazel, willow, brush and native grasses. Large pine stumpts were found on the island.

Elevations on the island Tract No. 54 range up to approximately 15 feet above the ordinary high water mark of Lost Lake. Undergrowth consists fo brush and native grasses.

Elevations on the island Tract No. 55 range up to approximately 6 feet above the ordinary high water mark of Vermilion Lake. Timber consists of pine, aspen and birch. Borings of pine trees showed several to be up to 85 years old. Undergrowth consists of hazel, willow, brush and native grasses. Large pine stumps were found on the island.

Elevations on the island Tract No. 56 range up to approximately 5 feet above the ordinary high water mark of Vermilion Lake. Timber consists of pine and aspen. Undergrowth consists of willow, brush and native grasses.

Elevations on the island Tract No. 57 range up to approximately 6 feet above the ordinary high water mark of Vermilion Lake. Timber consists of cedar, aspen, birch, spruce, maple and elm. Undergrowth consists of willow, brush and native grasses.

Elevations on the island Tract No. 58 range up to approximately 4 feet above the ordinary high water mark of Vermilion Lake. Timber consists of cedar and birch. Undergrowth consists

of hazel, willow, brush and native grasses.

Elevations on the island Tract No. 59 range up to approximately 4 feet above the ordinary high water mark of Vermilion Lake. Timber consists of cedar, alder, aspen, birch and ash. Undergrowth consists of hazel, willow, brush and native grasses.

Elevations on the island Tract No. 60 range up to approximately 10 feet above the ordinary high water mark of Vermilion Lake. Timber consists of pine, cedar, aspen and birch. Borings of pine trees showed several to be up to 105 years old. Undergrowth consists of willow, brush and native grasses.

Elevations on the island Tract No. 61 range up to approximately 2 feet above the ordinary high water mark of Vermilion Lake. Timber consists of aspen, birch and alder. Undergrowth consists of hazel, willow, brush and native grasses.

Elevations on the island Tract No. 62 range up to approximately 3 feet above the ordinary high water mark of Vermilion Lake. Timber consists of alder. Undergrowth consists of hazel, willow, brush and native grasses.

The soil composition of Tract Nos. 37 through 62 is of a thin layer of organic matter on a base of glacial till.

The islands described above were found to be over 50 percent upland in character within the purview of the Swampland Act of September 28, 1850 (9 Stat. 519). They are, therefore, held to be public land.

All inquiries relating to these lands should be sent to the Chief, Division of Lands and Minerals, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, on or before August 24, 1981.

Jeff O. Holdren,

Chief, Division of Lands and Minerals.

[FR Doc. 81-19959 Filed 7-7-81; 8:45 am]

BILLING CODE 4310-84-M

[ES 27251, Survey Group 115]

Minnesota; Filing of Plat of Survey

1. On February 9, 1981, the plat representing the survey of two islands in Ban Lake, two islands in Susan Lake and three islands in Elbow Lake, T. 64 N., R. 18 W., Fourth Principal Meridian, Minnesota, which were omitted from the original survey, was accepted. It will be officially filed in the Eastern States Office, Alexandria, Virginia, at 7:30 a.m. on August 24, 1981.

Fourth Principal Meridian, Minnesota

T. 64 N., R. 18 W.,
Tract Nos. 37, 38, 39, 40, 41, 42, and 43.

2. The character of Tract Nos. 37, 38, 39, 40, 41, 42, and 43 is similar in all respects to that of the adjacent surveyed lands.

Elevations on the island Tract No. 37 range up to approximately 5 feet above the ordinary high water mark of Ban Lake. Undergrowth consists of brush and native grasses. The soil composition is of a thin layer of organic matter on a base of glacial till.

Elevations on the island Tract No. 38 range up to approximately 4 feet above the ordinary high water mark of Ban Lake. Timber consists of aspen. Undergrowth consists of willow, brush and native grasses. The soil composition is of a thin layer of organic matter on a base of glacial till.

Elevations on the island Tract No. 39 range up to approximately 5 feet above the ordinary high water mark of Elbow Lake. Timber consists of pine, cedar and birch. Borings of the pine trees showed several to be up to 100 years old. Undergrowth consists of hazel, willow, brush and native grasses. The soil composition is of a thin layer of organic matter on a base of glacial till.

Elevations on the island Tract No. 40 range up to approximately 10 feet above the ordinary high water mark of Elbow Lake. Timber consists of pine, cedar, fir, aspen, birch, spruce, maple and elm. Borings of pine trees showed several to be up to 80 years old. Undergrowth consists of hazel, willow, brush and native grasses. The soil composition is of a thin layer of organic matter on a base of glacial till.

The elevations on the island Tract No. 41 range up to approximately 4 feet above the ordinary high water mark of Elbow Lake. Timber consists of pine, cedar and birch. Borings of the pine trees showed several to be up to 80 years old. Undergrowth consists of willow, brush and native grasses. The soil composition is of a thin layer of organic matter on a base of glacial till.

Elevations on the island Tract No. 42 range up to approximately 12 feet above the ordinary high water mark of Susan Lake. Timber consists of pine and birch. Borings of the pine trees showed several to be up to 80 years old. Undergrowth consists of hazel, willow, brush and native grasses. The soil composition is of a thin layer of organic matter on a base of glacial till.

The elevations on the island Tract No. 43 range up to 3 feet above the ordinary high water mark of Susan Lake. Timber consists of pine and alder. Borings of the pine trees showed several to be up to 100 years old. Undergrowth consists of willow, brush and native grasses. The soil composition is of a thin layer of organic matter on a base of glacial till.

Tract Nos. 37, 38, 39, 40, 41, 42, and 43 were found to be over 50 percent upland in character within purview of the Swampland Act of September 28, 1850 (9 Stat. 519). They are, therefore, held to be public land.

All inquires relating to these lands should be sent to the Chief, Director of Lands and Minerals, Bureau of Land Management, Alexandria, Virginia 22304, on or before August 24, 1981.

Jeff O. Holdren,

Chief, Division of Lands and Minerals.

[FR Doc. 81-19960 Filed 7-7-81; 8:45 am]

BILLING CODE 4310-84-M

[ES 27256, Survey Group 115]

Minnesota; Filing of Plat of Survey

1. On February 9, 1981, the plat representing the survey of seven islands in Bear Head Lake and two islands in Horseshoe Lake, T. 61 N., R. 14 W., Fourth Principal Meridian, Minnesota, which were omitted from the original survey, was accepted. It will be officially filed in the Eastern States Office, Alexandria, Virginia, at 7:30 a.m. on August 24, 1981.

Fourth Principal Meridian, Minnesota

T. 61 N., R. 14 W.,
Tract Nos. 37, 38, 39, 40, 41, 42, 43, 44, and 45.

2. The character of Tract Nos. 37, 38, 39, 40, 41, 42, 43, 44, and 45 is similar in all respects to that of the adjacent surveyed lands.

Elevations on the island Tract No. 37 range up to approximately 2 feet above the ordinary high water mark of Bear Head Lake. Timber consists of pine, fir, birch, spruce and maple.

The elevations on the island Tract No. 38 range up to approximately 2 feet above the ordinary high water mark of Bear Head Lake. Timber consists of pine, fir, birch and spruce. Borings of pine trees showed several to be up to 80 years old.

Elevations on the island Tract No. 39 range up to approximately 2 feet above the ordinary high water mark of Bear Head Lake. Timber consists of pine, fir, birch and spruce. Borings of pine trees showed several to be up to 80 years old.

The elevations on the island Tract No. 40 range up to approximately 3 feet above the ordinary high water mark of Bear Head Lake. Timber consists of pine, fir and birch. Borings of pine trees showed several to be up to 80 years old.

Elevations on the island Tract No. 41 range up to approximately 20 feet above the ordinary high water mark of Horseshoe Lake. Timber consists of pine, birch and spruce. Borings of pine

trees showed several to be up to 100 years old.

The elevations on the island Tract No. 42 range up to approximately 4 feet above the ordinary high water mark of Horseshoe Lake. Timber consists of pine and birch.

Elevations on the island Tract No. 43 range up to approximately 20 feet above the ordinary high water mark of Bear Head Lake. Timber consists of pine, cedar, fir, birch and spruce. Borings of pine trees showed several toi be up to 100 years old.

The elevations on the island Tract No. 44 range up to approximately 1½ feet above the ordinary high water mark of Bear Head Lake. Timber consists of pine, cedar, tamarack, birch and spruce. Borings of pine trees showed several to be up to 80 years old.

Elevations on the island Tract No. 45 range up to approximately 1½ feet above the ordinary high water mark of Bear Head Lake. Timber consists of tamarack, alder and birch.

The soil composition of Tract Nos. 37, 38, 39, 40, 41, 42, 43, 44 and 45 is of a thin layer of organic matter on a base of glacial till. Undergrowth of said tracts consists of brush and native grasses. Large pine stumps were found on island Tract Nos. 41, 42, 43, 44 and 45.

Tracts 37, 38, 39, 40, 41, 42, 43, 44 and 45 were found to be over 50 percent upland in character within purview of the Swamplands Act of September 28, 1850 (9 Stat. 519). They are, therefore, held to be public land.

All inquiries relating to these lands should be sent to the Chief, Division of Lands and Minerals, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, on or before August 24, 1981.

Jeff O. Holdren,

Chief, Division of Lands and Minerals.

[FR Doc. 81-19901 Filed 7-7-81; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

Santa Monica Mountains National Recreation Area Advisory Commission; Meeting

June 15, 1981.

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Santa Monica Mountains National Recreation Area Advisory Commission will be held on Tuesday, July 21, 1981 at 7:30 p.m. in the theater at the Calabasas High School, 22855 Mulholland, Calabasas, California.

The Advisory Commission was established by Pub. L. 95-625 to provide for free exchange of ideas between the National Park Service and the public to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service in Los Angeles and Ventura Counties.

Members of the Commission are as follows:

Dr. Norman P. Miller, Chairperson
Honorable Marvin Braude
Ms. Sarah Dixon
Ms. Margot Feuer
Dr. Henry David Gray
Mr. Edward Heidig
Mr. Frank Hendler
Ms. Mary C. Hernandez
Mr. Bob Hollman
Ms. Susan Barr Nelson
Mr. Carey Peck
Mr. Donald Wallace
Ms. Marilyn Whaley Winters

The major agenda items include the following:

Superintendent's status report on the Draft General Management Plan and Development Concept Plans
Commission recommendations on the Draft General Management Plan, tentatively coastal issues and land acquisition
Current activities at Rancho Sierra Vista, Paramount Ranch, and Oaks
Staff report on the prescribed burn at Castro Crest
Staff report on herbicide use in the Santa Monica Mountains
Resource Management Committee report on herbicide use
Proposed resolution on trail possibilities from Griffith Park

The meeting is open to the public. Any member of the public may file with the Commission a written statement concerning issues to be discussed.

Persons wishing to receive further information on this meeting or who wish to submit written statements may contact the Superintendent, Santa Monica Mountains National Recreation Area, 22900 Ventura Boulevard, Suite 140, Woodland Hills, California 91364.

Minutes of the meeting will be available for public inspection by August 31, 1981, at the above address.

Dated: June 29, 1981.

William Webb,

Acting Superintendent, Santa Monica Mountains National Recreation Area.

[FR Doc. 81-19987 Filed 7-7-81; 8:45 am]

BILLING CODE 4310-07-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers, Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will we 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 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. 2, Members Carleton, Fisher, and Williams. (Member Williams not participating.)

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

(For status calls, please contact 202–275–7326)

Volume No. OPY–4–227

Decided: June 29, 1981.

MC 20366 (Sub-4), filed June 22, 1981. Applicant: CITY TRANSFER & STORAGE CO., South Crawford & Big Four Railway, Troy, OH 45373. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *general commodities* (except classes A and B explosives), between Cincinnati, OH, on the one hand, and, on the other, points in Miami County, OH.

MC 29886 (Sub-387), filed June 18, 1981. Applicant: DALLAS & MAVIS FORWARDING, CO., INC., 4314 39th Ave., Kenosha, WI 53142. Representative: Paul F. Sullivan, 711 Washington Bldg., Washington, DC 20005, (202) 347–3987. Transporting *general commodities* (except classes A and B explosives), between those points in the U.S. in and east of MN, IA, NE, KS, OK, and TX.

MC 106956 (Sub-8), filed June 24, 1981. Applicant: SYLVESTER TRUCKING CO., a corporation, 7901 Sylvania Ave., Sylvania, OH 43560. Representative: Wilhelmina Boersma, 1600 1st Federal Bldg., Detroit, MI 48226, (312) 962–6492. Transporting *lime, limestone, and limestone products*, between Detroit, MI, on the one hand, and, on the other, points in OH, IN, and IL.

MC 113406 (Sub-18), filed June 22, 1981. Applicant: DOT LINES, INC., 1000 Findlay Rd., Lima, OH 45801. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215, (614) 228–8575. Transporting *general commodities* (except classes A and B explosives), between points in OH, and those in the lower peninsula of MI, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 119086 (Sub-6), filed June 24, 1981. Applicant: MILLER TRUCKING CO., a corporation, P.O. Box 316, Taneytown, MD 21787. Representative: Wilbur Miller (same address as applicant), (301) 756–6460. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with FMS, Inc., of Washington, DC.

MC 126706 (Sub-11), filed June 22, 1981. Applicant: KLEYSEN TRANSPORT, LTD., 1495 Pembina Hwy., Winnipeg, Manitoba, Canada R3T 2C6. Representative: Grant J. Merritt, 4444 IDS Center, Minneapolis, MN 55402, (612) 339–4546. Transporting *chemicals and related products*, between points on the international boundary line between the U.S. and Canada located in MN, ND, MT, ID, and WA, on the one hand, and, on the other, points in the U.S.

MC 134866 (Sub-3), filed June 22, 1981. Applicant: COURY MOTOR FREIGHT, 580 Ottawa, St. Paul, MN 55107. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118, (612) 457–6889. Transporting (1) *machinery*, and (2) *rubber and plastic products*, between points in the U.S., under continuing contract(s) with Kroy Industries, Inc., of St. Paul, MN.

MC 142956 (Sub-3), filed June 24, 1981. Applicant: M & S TRUCKING CO., INC., R.R. #1, Meadville, MO 64659. Representative: Donald J. Quinn, Commerce Bank Bldg., Suite 232, 8901 State Line, Kansas City, MO 64114, (816) 444–7474. Transporting *beef carcasses*, between points in the U.S., under continuing contract(s) with Dubuque Packing Company, Inc., of Mankato, KS.

MC 145516 (Sub-28), filed June 19, 1981. Applicant: T. G. STEGALL TRUCKING COMPANY, INC., 8100 E. Independence Blvd., P.O. Box 1286, Mathews, NC 28105. Representative: T. Gene Stegall, Jr., (same address as applicant) (704) 536–1122. Transporting *pulp, paper and related products*, between points in NC and SC, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC.

MC 146616 (Sub-19), filed June 23, 1981.Applicant: B & H MOTOR FREIGHT, INC., 4724 West 21st St., Tulsa, OK 74107. Representative: Fred Rahal, Jr., Suite 305, Reunion Center, 9 East 4th St., Tulsa, OK 74103, (918) 583–9000. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with McGill Incorporated, of Tulsa, OK.

MC 148576 (Sub-8), filed June 23, 1981. Applicant: DOTSON TRUCKING COMPANY, INC., 1220 Murphy Ave., SW., Atlanta, GA 30310. 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 grocery stores, food business houses, hardware, and department stores, between the facilities of The Clorox Company and its Subsidiary The Kingsford Company at points in the U.S., on the one hand, and, on the other, points in AL, FL, GA, KY, MS, NC, SC, TN, VA, WV and DC.

Volume No. OPY–4–228

Decided: June 29, 1981.

MC 30446 (Sub-18), filed June 16, 1981. Applicant: BRUCE JOHNSON TRUCKING COMPANY, INC., P.O. Box 5647, 3408 No. Graham St., Charlotte, NC 28225. Representative: Leon Thompson (same address as applicant), (704) 376–9101. Transporting *air conditioning equipment, furnances and component parts and accessories*, between points in Pulaski County, AR and Shelby, Davidson and Rutherford Counties, TN, on the one hand, and, on the other, points in NC, SC and GA.

MC 117786 (Sub-138), filed June 12, 1981. Applicant: RILEY WHITTLE, INC., P.O. Box 19038, Phoenix, AZ 85005. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014, (602) 264–4891. Transporting *machinery*, between points in AZ, on the one hand, and, on the other, points in the U.S.

MC 143406 (Sub-5), filed June 17, 1981. Applicant: MICHEL PROPERTIES, INC., Stenersen Lane, Cockeysville, MD 21030. Representative: Walter T. Evans, 7961 Eastern Ave., Silver Spring, MD 20910, (301) 587–8657. Transporting *general commodities* (except classes A and B explosives), between the facilities used by Ralston Purina Company and its subsidiaries at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 145276 (Sub-7), filed June 16, 1981. Applicant: MINNESOTA EXPRESS, INC., 2400 Trott Ave. Southwest, P.O. Box 427, Willmar, MN 56201. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Minneapolis, MN 55424, (612) 927–8855. Transporting *food and related products*, between points in MN, on the one hand, and, on the other, points in Cass County, ND.

MC 149026 (Sub-31), filed June 16, 1981. Applicant: TRANS-STATES LINES, INC., 6815 Jenny Lind, Fort Smith, AR 72903. Representative: Larry C. Price (same address as applicant), (501) 785–6177. Transporting *general commodities* (except classes A and B explosives), between Neosho County,

KS, on the one hand, and, on the other, points in the U.S.

MC 156626 filed June 19, 1981. Applicant: JOE O'CONNOR, d.b.a. MONTICELLO TRUCKING, 247 West Broadway, Monticello, MN 55362. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542-1121. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Dahlheimer Distributing Co., of Monticello, MN.

MC 156646 filed June 19, 1981. Applicant: ED ROACH TRUCKING COMPANY, INC., Star Route, Ironton, OH 45638. Representative: Owen B. Katzman, 1828 L St., N.W., Suite 1111, Washington, DC 20036, (202) 296-2929. Transporting *gasoline*, between points in the U.S., under continuing contract(s) with Rich Terminal Co., of Ironton, OH.

MC 156666 filed June 19, 1981. Applicant: DANNY SMITH TRUCKING, INC., Rt. 1, Box 87, Ironton, OH 45638. Representative: Owen B. Katzman, 1828 L St., N.W., Suite 1111, Washington, DC 20036, (202) 296-2929. Transporting *gasoline*, between points in the U.S., under continuing contract(s) with Rich Terminal Co., of Ironton, OH.

MC 156676, filed June 19, 1981. Applicant: JEAN HOLCOMB, INC., d.b.a. VIKING TRAVEL SERVICE, 103 S. Elliott Rd., Chapel Hill, NC 27514. Representative: Ellen Jean Holcomb (Same address as applicant) (919) 968-4586. To engage in operations, in interstate or foreign commerce as a broker, at Chapel Hill, NC, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, beginning and ending at points in Orange, Durham, Wake, Guilford, and Mecklenberg Counties, NC, and extending to points in the U.S.

Volume No. OPY-4-231

Decided: June 29, 1981.

MC 146676 (Sub-6), filed June 22, 1981. Applicant: BURKS TRUCKING, INC., P.O. Box 37, Old Fort, OH 44861. Representative: E. H. van Deusen, P.O. Box 97, Dublin, OH 43017 (614) 889-2531. Transporting *chemicals and related products*, between the facilities of Church & Dwight Company at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 151346 (Sub-3), filed June 23, 1981. Applicant: ZEE CORPORATION, P.O. Box 396, 1800 Old Lincoln Hwy, Langhorne, PA 19047. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222 (412) 471-3300. Transporting *metal products*, between points in the U.S., under continuing contract(s) with Prior Coated Metals, of Allentown, PA, and B. S. Livingston & Co., Inc., of New York, NY.

MC 151346 (Sub-4), filed June 22, 1981. Applicant: ZEE CORPORATION, P.O. Box 396, 1800 Old Lincoln Hwy, Langhorne, PA 19047. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222 (412) 471-3300. Transporting *metal products*, between points in the U.S., under continuing contract(s) with United States Steel Corporation, of Pittsburgh, PA.

MC 152136 (Sub-3), filed June 17, 1981. Applicant: DANE TRUCKING & CARTAGE COMPANY, P.O. Box 7506, Ft. Worth, TX 76111. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062 (214) 255-6279. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with CertainTeed Corporation, of Valley Forge, PA.

MC 152246 (Sub-4), filed June 22, 1981. Applicant: SCHULD TRANS., INC., 774 Flanner Rd., Box 57, Mosinee, WI 54455. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956, (414) 722-2848. Transporting: *metal products and machinery*, between Minneapolis, MN and points in Marathon and Wood Counties, WI, on the one hand, and, on the other, points in the U.S.

MC 153876, filed June 22, 1981. Applicant: COYOTE EXPRESS, INC., 2724 West Eleventh St., Irving, TX 75060. Representative: Jack L. Coke, Jr., 4555 First National Bank Bldg., Dallas, TX 75202 (214) 741-6263. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Christopher Air Freight, a/k/a Stagecoach Air Freight, of Grapevine, TX.

[FR Doc. 81-19948 Filed 7-7-81; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decision Volume No. OPY-4-VOL-230]

Motor Carrier Permanent Authority Decision; Decision-Notice

Decided June 29, 1981.

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-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 reasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of an application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of

effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 2. Charleton, Fisher and Williams Williams not participating.

Agatha L. Mergenovich,

Secretary.

MC-F-14650, filed June 16, 1981. Applicant: ACME INTER-CITY FREIGHT LINES et. al., 3414 2nd Ave., South, Seattle, WA 98134. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137 (901) 767-5600. (1) Acme Inter-City Freight Line MC-42092, (2) Bass Transportion Co., Inc. MC-135684, (3) Biship Motor Express, Inc. MC-65920, (4) Brown Freight Lines, Inc. MC-127937, (5) Burren Transfer Company MC-311, (6) Columbia River Truck Co. MC-31307, (7) Creech Brothers Truck Lines, Inc. MC-40757, (8) Dunbar Transfer & Storage Co., Inc. MC-6143, (9) Elk Valley Freight/Inc. MC-125820, (10) Griley Freightlines MC-106054, (11) Holland Cartage Co. MC-98901, (12) Horn's Motor Express, Inc. MC-2780, (13) Humboldt Express, Inc. MC-121568, (14) Jayne's Motor Freight, Inc. MC-29613, (15) Leonard Brothers Transport Co., Inc. MC-13547, (16) Loop Cartage, Inc. MC-148583, (17) Long's Express, Inc. MC-85413 (18) Lexington-Paris Motor Freight, Inc. MC-134768, (19) Miller Brothers, Inc. MC-98979, (20) Niedert Freight, Inc. MC-34156, (21) Nelson's Express, Inc. MC-76449, (22) H. Piehl Transfer Co. MC-34915, (23) R. J. M. Transfer Co., Inc. MC-106510, (24) Sartain Truck Line, Inc. MC-85970, (25) Shay's Service, Inc. MC-98017, (26) Skyline Transportation, Inc. MC-99208, (27) Southeastern Motor Freight, Inc. MC-58828, (28) "T" Transportation, Inc. MC-99953, (29) Tualatin Valley Transport MC-5920, (30) The Willett Co. MC-66462, (31) Turner Trucking Co., Inc. MC-97251, (32) Wilson Trucking Corp. MC-64600 seek to continue in control of Motor Carrier Corporation, which currently holds no authority, but which seeks a certificate to transport *general commodities* (except classes A and B explosives), between Birmingham and Mobile, AL, Phoenix and Tucson, AZ, Little Rock, AR, Los Angeles and San Francisco, CA, Denver, CO, Hartford and New Haven, CT, Wilmington, DE, Jacksonville, Tampa and Miami, FL, Atlanta and Savannah, GA, Concord, NH, Newark and Trenton, NJ, Albuquerque, NM, Buffalo, Albany and Binghamton, NY, Greensboro and Charlotte, NC, Bismarck, ND, Toledo, Cleveland, Columbus and Cincinnati, OH, Oklahoma City and Tulsa, OK, Portland, OR, Pittsburgh, Erie, Philadelphia, Harrisburg and Chambersburg, PA, Boise and Pocatello, ID, Chicago and Springfield, IL, Indianapolis and South Bend, IN, Des Moines, IA, Kansas City and Wichita, KS, Louisville, KY, Baton Rouge and New Orleans, LA, Portland, ME, Baltimore, MD, Boston, MA, Detroit, MI, Providence, RI, Columbia, SC, Rapid City, SD, Nashville, Memphis, Chattanooga and Knoxville, TN, Dallas, Fort Worth, Houston, El Paso, San Antonio, Amarillo and Lubbock, TX, Salt Lake City, UT, Montpelier, VT, Minneapolis and St. Paul, MN, Jackson, MS, Kansas City and St. Louis, MO, Helena, MT, Omaha, NE, Reno and Las Vegas, NV, Richmond, Norfolk and Roanoke, VA, Seattle and Spokane, WA, Charleston, WV, Milwaukee, WI and Casper, WY.

Note.—Motor Carrier Corporation has filed as a directly related application its initial common carrier application. This application, docketed No. MC-156556, is published in this same **Federal Register** issue.

[FR Doc. 81-19946 Filed 7-7-81; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decision Volume No. OPY-4, Volume 232]

Motor Carrier Permanent Authority Decisions; Decision-Notice

Decided: June 29, 1981.

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.

Findings

With the exceptions 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 of 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.

By the Commission, Review Board Number 2. Carleton, Fisher and Williams. Williams not participating.

Agatha L. Mergenovich,

Secretary.

MC 156556 filed June 16, 1981. Applicant: MOTOR CARRIER

CORPORATION, 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137 (901) 767-5600. Transporting *general commodities* (except classes A and B explosives), between Birmingham and Mobile, AL, Phoenix and Tucson, AZ, Little Rock, AR, Los Angeles and San Francisco, CA, Denver, CO, Hartford and New Haven, CT, Wilmington, DE, Jacksonville, Tampa and Miami, FL, Atlanta and Savannah, GA, Concord, NH, Newark and Trenton, NJ, Albuquerque, NM, Buffalo, Albany and Binghamton, NY, Greensboro and Charlotte, NC, Bismarck, ND, Toledo, Cleveland, Columbus and Cincinnati, OH, Oklahoma City and Tulsa, OK, Portland, OR, Pittsburgh, Erie, Philadelphia, Harrisburg and Chambersburg, PA, Boise and Pocatello, ID, Chicago and Springfield, IL, Indianapolis and South Bend, IN, Des Moines, IA, Kansas City and Wichita, KS, Louisville, KY, Baton Rouge and New Orleans, LA, Portland, ME, Baltimore, MD, Boston, MA, Detroit, MI, Providence, RI, Columbia, SC, Rapid City, SD, Nashville, Memphis, Chattanooga and Knoxville, TN, Dallas, Forth Worth, Houston, El Paso, San Antonio, Amarillo and Lubbock, TX, Salt Lake City, UT, Montpelier, VT, Minneapolis and St. Paul, MN, Jackson, MS, Kansas City and St. Louis, MO, Helena, MT, Omaha, NE, Reno and Las Vegas, NV, Richmond, Norfolk and Roanoke, VA, Seattle and Spokane, WA, Charleston, WV, Milwaukee, WI and Casper, WY.

Note.—This application is directly related to MC-F 14650, published in this same **Federal Register** issue.

[FR Doc. 81-19945 Filed 7-7-81; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. OPY-4, Volume 229]

Motor Carrier Permanent Authority Decisions; Decision-Notice

Decided: June 29, 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 duel 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. 2, Members Carleton, Fisher and Williams. Williams not participating.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

MC 151316 (Sub-3), filed June 16, 1981. Applicant: AERO DISTRIBUTING CO., INC., 60 N.W. 37th St., Miami, FL 33127. Representative: Mark S. Gray, Suite 1200 Gas Light Tower, 235 Peachtree St., NE., Atlanta, GA 30303 (404) 522-2322. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

[FR Doc. 81-19943 Filed 7-7-81; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. OPY-2-116]

Motor Carrier Permanent Authority Decisions; Decision-Notice

Decided: June 29, 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 we 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 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. (Member Parker not participating).

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Any status inquiries should be directed to 202–275–7326.

FF–553, filed June 16, 1981. Applicant: WATKINS FORWARDING SYSTEM, INC., 1144 W. Griffin Road, Lakeland, FL 33805. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301 (404) 522–2322. As a freight forwarder in connection with the transportation of *general commodities* (except classes A and B explosives) between points in the U.S.

MC 2202 (Sub-674), filed June 17, 1981. Applicant: ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Boulevard, Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014 (301) 986–1410. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under a continuing contract(s) with Hercules Incorporated of Wilmington, DE.

MC 14033 (Sub-1), filed June 16, 1981. Applicant: ADVANCE MOVING OF CLINTON, N.Y., INC., Utica St. at Limberlost Rd., Clinton, NY 13323. Representative: Edward J. Godemann, 4 Clen St., New Hartford, NY 13413. Transporting *household goods*, between points in NY, and the one hand, and, on the other, RI, IN, ME, NH, VT, MD, DE, MI, NC, SC, OH, VA, WV, IL, KY, TN and DC.

MC 47583, (Sub-149), filed June 17, 1981. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas, City, KS 66115. Representative: D.S. Hults, P.O. Box 225, Lawrence, KS 66044. Transporting *general commodities* (except classes A and B explosives) between The Facilities of Owens-Corning Fiberglas Corporation at points in the U.S. on the one hand, and, on the other, points in the U.S.

MC 73533 (Sub-19), filed June 17, 1981. Applicant: KEY WAY TRANSPORT, INC., 820 So. Oldham St., Baltimore, MD 21224. Representative: William F. Lamperelli, (Same as Applicant) (301) 327–5800. Transporting *metal products* between points in the U.S., under a continuing contract(s) with National Wire Products Corporation of Baltimore, MD.

MC 82492 (Sub-262), filed June 16, 1981. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, Kalamazoo, MI 49003. Representative: Jack H. Blanshan, 205 W. Toughy Avenue, Suite 25 Park Ridge, IL 60068 (312) 698–2235. Transporting *chemicals and related products*, between points in Mecklenburg County, NC, De Kalb County, GA, and Chicago, IL, on the one hand, and, on the other, points in GA, IN, IL, IA, KS, KY, MN, MI, MO, NC, NE, those points in NY on and west of Interstate Highway 81, ND, OH, those points in PA, on and west of Interstate 81, Pennsylvania Highways 9 and 100 and U.S. Highway 202, SD, SC, TN, VA, and WI.

MC 82492 (Sub-263), filed June 16, 1981. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, Kalamazoo, MI 49003. Representative: Jack H. Blanshan, 205 West Touhy Avenue, Suite 200–A, Park Ridge, IL 60068 (312) 698–2235. Transporting *general commodities* (except classes A and B explosives), between points in IL, IN, IA, KS, KY, MD, MI, MN, MO, NE, NJ, NY, ND, OH, PA, SD, TN, and WI.

MC 97932 (Sub-7), filed June 16, 1981. Applicant: WREN, INC. d.b.a. LAKEVILLE MOTOR EXPRESS, P.O. Box 8167, Roseville, MN 55113. Representative: Richard L. Gill, 1805 American National Bank Bldg., St. Paul, MN 55101 (612) 224–9454. Transporting *general commodities* (except classes A and B explosives), between Minneapolis-St. Paul, MN, on the one hand, and, on the other, points in Goodhue County, MN.

Note.—Applicant intends to tack this authority with existing authority in MC–97932.

MC 99493 (Sub-13), filed June 16, 1981. Applicant: CENTRAL STORAGE & TRANSFER CO. OF HARRISBURG, P.O. Box 2821, Harrisburg, PA 17105. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101 (717) 236–9318. Transporting *general commodities* (except classes A and B explosives), between Philadelphia, PA and those points in PA east of U.S. Hwy 219, on the one hand, and, on the other, points in DE, MD, and DC.

MC 109533 (Sub-142), filed June 3, 1981, published in the **Federal Register** issue of June 22, 1981, and republished, as corrected, this issue. Applicant: OVERNITE TRANSPORTATION COMPANY, 1000 Semmes Ave., Richmond, VA 23224. Representative: John C. Burton, Jr., P.O. Box 1216, Richmond, VA 23209, 804–231–8281. Transporting *general commodities* (except classes A and B explosives), between those points in the U.S., in and east of MN, IA, MO, KS, OK, and TX.

Note.—Issuance of this certificate is subject to coincidental cancellation of applicant's irregular route portion of authority in Certificates No. MC–109533 and MC–109533 (Sub-Nos. 11, 22, 23, 36, 45, 48, 71, 74, 80, 94, 100, 120, 122, 127, and 132).

The purpose of this republication is to correct the territorial description and to insert "irregular route" in the above note.

MC 115232 (Sub-5), filed June 16, 1981. Applicant: OVERLAND MOTOR EXPRESS, INC., d.b.a. BOULDER-DENVER TRUCK LINE, INC., 5880 Valmont, Boulder, CO 80301. Representative: Lee E. Lucero, 445 Capitol Life Center, Denver, CO 80203 (303) 861–8046. Transporting *general commodities* (except Classes A and B explosives), between points in AZ, CA, CO, IA, ID, IL, IN, KS, KY, LA, MN, MO, MT, ND, NE, NM, NV, OH, OK, OR, SD, TX, UT, WA, WI, and WY.

MC 115782 (Sub-16, filed June 16, 1981. Applicant: KENTUCKY WESTERN TRUCK LINE, INC., P.O. Box 623, Hopkinsville, KY 42240. Representative:

James Clarence Evans, 1800 Third National Bank Bldg., Nashville, TN 37219 (615) 244–1440. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with United States Tobacco Company, its affiliates and subsidiaries, of Greenwich, CT.

MC 118853 (Sub-2), filed June 10, 1981. Applicant: CLOQUET TRANSIT CO., INC., 1306 Cloquet Avenue, Cloquet, MN 55720. Representative: David C. Lingren, 124 Avenue C, Cloquet, MN 55720, (218) 879–3331. Transporting (1) *passengers and their baggage*, in special or charter operations, between points in Carlton, St. Louis, Pine, Lake, Itasca, Aitkin, and Cook Counties, MN, and points in Douglas and Bayfield Counties, WI, on the one hand, and, on the other, points in the U.S., and (2) *passengers and their baggage*, in round trip, special and charter operations, beginning and ending at points in St. Louis and Carlton Counties, MN and Douglas County, WI, and extending to points in the U.S.

MC 135953 (Sub-24F), filed June 16, 1981. Applicant: CHEROKEE LINES, INC., 1113 North Little Street, Cushing, OK 74023. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Rd., Omaha, NE 68106. Transporting *chemicals and related products*, between points in the U.S., under continuing contract(s) with Chemco Products, Inc., of Sand Springs, OK.

MC 139482 (Sub-194), filed June 16, 1981. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: Barry M. Bloedel (same address as applicant), 507–354–8546. Transporting *food and related products*, between points in CT, IN, KY, MD, MI, NJ, and NY, on the one hand, and, on the other, points in IL, and WI.

MC 139482 (Sub-195), filed June 16, 1981. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: Barry M. Bloedel (same address as applicant), 507–354–8546. Transporting *such commodities* as are dealt in and used by manufacturers and distributors of automotive products, between Chicago, IL, on the one hand, and, on the other, points in the U.S.

MC 139563 (Sub-2), filed June 16, 1981. Applicant: WEATHER BROS. TRANSFER CO. OF NORTH CAROLINA, INC., 106 Stockton Street, Jacksonville, FL 32204. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. Transporting *household goods*, between points in VA, NC, and FL, on the one hand, and, on the other, points in AL, DE, GA, KY, LA, MS, MD, NJ, PA, SC, TN, TX, WV and DC.

MC 139822 (Sub-10), filed June 16, 1981. Applicant: FOOD CARRIER, INC., P.O. Box 2287, Savannah, GA 31402. Representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave. & 13th St., NW, Washington, DC 20004. Transporting *general commodities* (except classes A and B explosives), between Atlanta, GA, and points in Chatham County, GA and Greenville County, SC, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 142553 (Sub-1F), filed June 16, 1981. Applicant: OSBORNE TRUCKING COMPANY, 11001 Kenwood Rd., Cincinnati, OH 45242. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215 (614) 228–1541. Transporting *general commodities* (except classes A and B explosives), between points in OH, on the one hand, and, on the other, points in IL.

MC 144572 (Sub-56F), filed June 16, 1981. Applicant: MONFORT TRANSPORTATION COMPANY, POB G, Greeley, CO 80632. Representative: John T. Wirth, 717 17th St., Ste. 2600, Denver, CO 80632 (303) 892–6700. Transporting *clay, concrete, glass or stone products*, between the facilities of Libbey-Owens-Ford Company at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 146782 (Sub-53F), filed June 16, 1981. Applicant: ROBERT CARRIER CORPORATION, 300 First Ave., South, Nashville, TN 37201. Representative: James Rex Raines (same address as applicant) (615) 256–4196. Transporting *metal products*, between points in Jefferson County, AL, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 147013 (Sub-6F), filed June 11, 1981. Applicant: RDL, INC., P.O. Box 286, Gambrills, MD 21054. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth St., N.W., Washington, DC 20005 (202) 296–35555. Transporting *food and related products*, between points in Seward County, KS, on the one hand, and, on the other, points in the U.S.

MC 147712 (Sub-21), filed April 6, 1981. Applicant: MID-WESTERN TRANSPORT, INC., 14625 Carmenita Road, Norwalk, CA 90650. Representative: Joseph Fazio (same address as applicant) (213) 921–7474. Transporting *lumber and wood products*, and *building materials* between the facilities used by North American Plywood Corporation, at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 147712 (Sub-22), filed April 7, 1981. Applicant: MID-WESTERN TRANSPORT, INC., 14625 Carmenita Road, Norwalk, CA 90650. Representative: Joseph Fazio (same address as applicant) (213) 921–7474. Transporting *general commodities* (except classes A and B explosives) between the facilities used by Wasatch Shippers Association and its members, at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 148913 (Sub-2F), filed June 11, 1981. Applicant: GOVERNMENT CONTRACT SERVICES, INC., 2624 Point Lookout Cove, Annapolis, MD 21401. Representative: Frederick C. Metz, Jr. (same address as applicant) (301) 266–0977. Transporting *hazardous materials* and *classes A and B explosives*, between points in DE, MD, and VA. Condition: To the extent that this Certificate authorizes classes A and B explosives, and hazardous materials, it shall be limited in term to a period expiring 5 years from its date of issuance.

MC 149152 (Sub-4), filed June 16, 1981. Applicant: L & L MOTOR FREIGHT, INC., 1911 N.W. 1st St, Oklahoma City, OK 73126. Representative: William P. Parker, 141 N.E. 38th Terrace, Oklahoma City, OK 73105. Transporting over regular routes *general commodities* (except classes A and B explosives), between Muskogee and Tahlequah, OK, over U.S. Hwy 62, serving all intermediate points.

MC 151193 (Sub-10F), filed June 17, 1981. Applicant: PAULS TRUCKING CORPORATION, 3 Commerce Drive, Cranford, NJ 07016. Representative: Michael A. Beam (same address as applicant), (201) 499–3869. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Finn-Cal Sweetner Co., of Thomson, IL.

MC 156542, filed June 16, 1981. Applicant: KOMAR TRUCKING, INC., 723 Morton St., East Rutherford, NJ 07073. Representative: John J.C. Martin, 7 Corporate Park Dr., White Plains, NY 10604. Transporting (1) *pulp, paper and related products* and (2) *printed matter*, between points in the U.S., under continuing contract(s) with Unified Data Products Corp., of Fairlawn, NJ.

MC 156543F filed June 16, 1981. Applicant: ELMER BUCHTA, INC., 414 Washington Street, Otwell, IN 47564. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Transporting *such*

commodities as are dealt in by manufacturers, distributors, and dealers of mobile, modular and double-wide homes and mobile home work operators, between points in IN, IL, OH, TN, and KY.

MC 156553, filed June 16, 1981. Applicant: INDEPENDENT CONTRACT CARRIERS, INC., 550 Midland Avenue, Saddle Brook, NJ 07662. Representative: Alexander J. Kuzicki (same address as applicant), (201) 791-9311. Transporting *chemicals and related products, plastic bottles, paper and cardboard containers*, between points in the U.S., under continuing contract(s) with Stanson Chemical, Inc., of Teaneck, NJ.

MC 156562F, filed June 16, 1981. Applicant: JERRY SEEBERGER CORPORATION, d.b.a. S & S ENTERPRISES, 4661 Vanalden Ave., Tarzana, CA 91356. Representative: Milton W. Flack, 8383 Wilshire Blvd., Suite 900, Beverly Hills, CA 90211. Transporting *furniture and fixtures*, between points in the U.S., under continuing contract(s) with (a) Rol-Fol Table, Inc., of Van Nuys, CA, and (b) Rol-Fol Sales Co., of Van Nuys, CA.

MC 156573F, filed June 16, 1981. Applicant: BRISSETTE & FRERES LTEE, 880, Notre-Dame Street, Berthierville, P. Quebec, Canada J K 1A0. Representative: Me Guy Poliquin, 580 East, Grande-Allee Street, Suite 140, Quebec City, P. Quebec, Canada G1R 2K3. Transporting *passengers and their baggage*, in the same vehicle with passengers, in round trip, charter and special operations, beginning and ending at ports of entry on the international boundary line between the United States and Canada, located in ME, NH, VT, NY, and MI, and extending to points in the U.S.

[FR Doc. 81-19944 Filed 7-7-81; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. OP1-192]

Motor Carriers; Permanent Authority Decision; Decision-Notice

Decided: July 1, 1981.

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.

Findings

With the exceptions 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 of 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.

By the Commission, Review Board Number 1, Parker, Chandler and Fortier.

Note.—Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Agatha L. Mergenovich,
Secretary.

MC 156751, filed June 23, 1981. Applicant: GREEN ARROW MOTOR EXPRESS COMPANY, c/o Weyerhaeuser Company, Domestic Transportation Manager, Tacoma, WA 98477. Representative: William H. Borghesani, Jr., 1150 17th Street NW., Suite 1000, Washington, DC 20036, (202) 457-1122. Transporting *general commodities)* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Weyerhaeuser Company of Tacoma, WA, Northwest Hardwoods, Inc., of Portland, OR, Technical Coatings Co., of Santa Clara, CA, Interlake of Pittsburg, CA, and North Pacific Paper Corp., of Longview, WA.

Note.—This application is directly related to MC-F-14654.

[FR Doc. 81-20017 Filed 7-7-81; 8:45 am]
BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule 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.

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".

Any status inquiries should be directed to 202-275-7326.

Volume No. OPY-2-117

Decided: June 29, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Fortier not participating.)

MC 156472, filed June 8, 1981. Applicant: BLAYDE W. HAMILTON, 6613 W. 13400 S. Herriman, UT 84065. Representative: Irene Warr, 311 S. State St., Ste. 280, Salt Lake City, UT 84111, (801) 531-1300. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverage and drugs), *agricultural limestone and fertilizer, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 156552F, filed June 16, 1981. Applicant: ALBERT ADAMO, Apt #1, 60 Franklin Ave., Lodi, NJ 07644. Representative: Michael A. Wargula, 2550 Main Pl Tower, Buffalo, NY 14202. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 156592F, filed June 12, 1981. Applicant: WILLIAM C. AND MARSHALL L. SCHULTZ, d.b.a. SCHULTZ TRUCKING, 16171 West Highway 54, Goddard, KS 67052. Representative: John E. Jandera, P.O. Box 1979, Topeka, KS 66601, (913) 234-0565. 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.

Volume No. OPY-4-234

Decided: July 1, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Williams not participating.)

MC 156737, filed June 19, 1981. Applicant: FREEDMAN & SLATER, INC., 156 William St., New York, NY 10038. Representative: Millard A. Ring (same address as applicant), (212) 285-2340. As a *broker of general commodities* (except household goods), between points in the U.S.

Volume No. OPY-4-236

Decided: July 1, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Williams not participating.)

MC 156617, filed June 17, 1981. Applicant: ELLIOTT F. FISHER, P.O. Box 322, Accomac, VA 23301. Representative: Elsie B. Fisher, (same address as applicant), (804) 787-1268. 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.

MC 156687, filed June 22, 1981. Applicant: PAGE & JONES, INC., 52 N. Jackson St., Mobile, AL 36602. Representative: Bruce E. Mitchell, Fifth Fl., Lenox Towers So., 3390 Peachtree Road NE., Atlanta, GA 30326, (404) 262-7855. As a *broker of general commodities* (except household goods), between points in the U.S.

Agatha L. Mergenovich

Secretary.

[FR Doc. 81-20016 Filed 7-7-81; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. OPY-3-088]

Motor Carriers; Permanent Authority; Decision-Notice

Correction

In FR Doc. 81-17186 appearing at page 30709 in the issue for Wednesday, June 10, 1981, please make the following correction:

On page 30710, in the third column, in the paragraph "MC 136285 (Sub-41)" filed for applicant "Southern Intermodal Logistics, Inc.", in the thirteenth line "WY" should have read "WV".

BILLING CODE 1505-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 81-14016, appearing at page 26179 in the issue of Monday, May 11, 1981, make the following change:

On page 26181, third column, the seventh line of the paragraph beginning, "MC 99622 (Sub-2)" should read, "between points in ME, MA, CT, NH, RI,".

BILLING CODE 1505-01-M

[Volume No. OP1-193]

Motor Carriers; Permanent Authority Decision; Decision-Notice

Decided: July 1, 1981.

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations,

and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-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 an application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 1, Parker, Chandler and Fortier.

Note.—Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Agatha L. Mergenovich,

Secretary.

MC-F-14654, filed June 23, 1981. WEYERHAEUSER COMPANY (Weyerhaeuser) (Tacoma, WA 98477)—Continuance in control—GREEN ARROW MOTOR EXPRESS COMPANY (Green Arrow) (c/o Weyerhaeuser Company, Tacoma, WA 98477). Representative: William H. Borghesani, Jr., 1150 17th St., N.W. Suite 1000, Washington, DC 20036. Weyerhaeuser seeks to continue in control of Green Arrow upon the institution by Green Arrow of operations, in interstate or foreign commerce, as a motor contract carrier. Weyerhaeuser, a publicly-owned corporation, seeks authority to acquire control of said rights through the transaction. Weyerhaeuser controls The Columbia and Cowlitz Railway Company, The Curtis, Milburn and Eastern Railroad Company, The DeQueen and Eastern Railroad Company, The Golden Triangle Railroad, The Mississippi and Skuna Valley Railroad Company, The Oregon, California and Eastern Railroad Company, and The Texas, Oklahoma and Eastern Railroad Company. Condition: Weyerhaeuser, a non-carrier holding company, shall be considered a carrier within the meaning of 49 U.S.C. 11348 and is subjected to the requirements of 49 U.S.C. 11302 for those issuances of securities and assumptions of obligations which may relate to or affect the activities of its carrier subsidiaries. Regarding the reporting requirements of 49 U.S.C. 11145, Weyerhaeuser need only file such special reports as the Commission may from time to time require. Weyerhaeuser is not made subject to the accounting requirements of 49 U.S.C. 11142.

Note.—Green arrow has filed as a directly related application its initial contract carrier application. This application, docketed No. MC-156751 is published in this same **Federal Register** issue. (Hearing site: Washington, DC)

[FR Doc. 81-20018 Filed 7-7-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the

compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority 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. 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".

Please direct all status telephone inquiries to the Ombudsman Office 202–275–7440.

Vol. No. OPY–5–93

Decided: June 26, 1981.

MC 98658 (Sub-9), filed May 8, 1981, previously noticed in **Federal Register** issue of May 29, 1981. Applicant: DONALD L. KERBS d.b.a. C & R TRUCK LINE, 400 North Seventh St., Salina, KS 67401. Representative: Donald L. Kerbs (same address as applicant) (913) 825–1345. Transporting *general commodities* (except classes A and B explosives), serving Delavan, KS, and points in Washington, Marshall, Clay, Riley, Geary, Dickinson, Saline, Ottawa, Cloud, Lincoln and Russell Counties, KS, as off route points in connection with applicant's regular route operations.

Note.—This republication changes the territorial description.

MC 119619 (Sub-151), filed May 18, 1981. Published initially in the **Federal Register** on June 2, 1981. Applicant: DISTRIBUTORS SERVICE CO., INC., 2000 West 43rd St. Chicago, IL 60609. Representative: Arthur J. Piken, Queens Office Tower, 95—25 Queens Blvd., Rego Park, NY 11374, 212–275–1000. Transporting *Food and related products*, between points in Greensville County, VA on the one hand, and, on the other, points in the U.S.

Note.—This application is republished to change the base point from Sussex County, VA to Greensville County, VA.

MC 120098 (Sub-41), filed June 16, 1981. Applicant: UINTAH FREIGHTWAYS, 1030 South Redwood Rd., Salt Lake City, UT 84104. Representative: William S. Richards, P.O. Box 2465, Salt Lake City, UT 84110 (801) 531–1777. Transporting *general commodities*, between points in AZ, CA, CO, ID, KS, LA, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, and WY. Condition: Any certificate issued in this proceeding to the extent it authorizes transportation of classes A and B explosives shall be limited in time to a period expiring 5 years from the date of issuance of the certificate.

MC 126679 (Sub-30), filed June 11, 1981. Applicant: DENNIS TRUCK LINES, INC., P.O. Box 189, Vidalia, GA 30474. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349, 404–996–6266. Transporting *general commodities* (except classes A and B explosives), between those points in the U.S. in and east of MN, IA, MO, OK, and TX.

MC 135819 (Sub-6), filed June 12, 1981. Applicant: WILLIAM H. PHILLIPS AND WILLIAM L. PHILLIPS, d.b.a. PHILLIPS & PHILLIPS TRUCKING COMPANY, Box 1304, Storm Lake, IA 50588. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114 (402) 397–7033. Transporting *food and related products*, between Chicago, IL, points in Saline, Dakota, Douglas, Madison and Dodge Counties, NE, Minnehaha County, SD, Finney, Seward and Jewell Counties, KS, Potter and Randall Counties, TX, Saline County, MO, Warren County, IL, Nobles and Cottonwood Counties, MN, and points in IA, on the one hand, and, on the other, points in the U.S.

MC 141318 (Sub-9), filed June 17, 1981. Applicant: WEATHER SHIELD TRANSPORTATION, LTD., 129 N. Main St., Box 309, Medford, WI 54451. Representative: Robert S. Lee, 1600 TCF Tower, 121 S. 8th St., Minneapolis, MN 55402 (612) 333–1341. Transporting *machinery* and *transportation equipment*, between points in WI, on the one hand, and, on the other, points in the U.S.

MC 141889 (Sub-14), filed June 11, 1981. Applicant: RONALD DeBOER d.b.a. RON DeBOER TRUCKING, Route 1, Box 82, Sherry Station, Milladore, WI 54454. Representative: Wayne W. Wilson, 150 East Gilman St., Madison, WI 53703, 608–256–7444. Transporting (1) *metal products* and (2) *clay, concrete, glass, and stone products*, between points in Riverside County, CA, and Portage and Wood Counties, WI, on the one hand, and, on the other, points in the U.S.

MC 146689 (Sub-11), filed June 16, 1981. Applicant: LARK LEASING COMPANY, 261 Maplewood Dr., Pottstown, PA 19464. Representative: Christian V. Graf, 407 N. Front St. Harrisburg, PA 17101, (717) 236–9318. Transporting *chemicals and related products*, between points in the U.S., under continuing contract(s) with the The Mennen Company, of Morristown, NJ.

MC 146689 (Sub-12), filed June 16, 1981. Applicant: LARK LEASING COMPANY, 261 Maplewood Dr., Pottstown, PA 19646. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101, (717) 236–9318. Transporting *rubber and plastic products*, between points in the U.S., under continuing contract(s) with Hooker Chemicals and Plastics Corp., PVC Division, of Pottstown, PA.

MC 146719 (Sub-7), filed June 16, 1981. Applicant: MATERIAL DELIVERY SERVICE, INC., County Road 26, P.O. Drawer F, Alabaster, AL 35007. Representative: Edward J. Kiley, 1730 M St., NW., Suite 501, Washington, DC 20036, (202) 296–2900. Transporting *general commodities* (except classes A and B explosives), between points in AL, on the one hand, and on other, points in the U.S.

MC 147169 (Sub-4), filed June 16, 1981. Applicant: SERVICEWAY MOTOR FREIGHT, INC., P.O. Box 243, Alcoa, TN 37701. Representative: J. Greg Hardeman, 618 United American Bank Bldg., Nashville, TN 37219, (615) 244–8100. Transporting (1) *metal products*, (2) *Rubber and plastic products*, (3) *textile mill products* (4) *chemicals and related products*, and (5) *pulp, paper and related products*, between those points in the U.S., in and east of MN, IA, MO, OK, and TX.

MC 147229 (Sub-4), filed June 11, 1981. Applicant: GULF COAST DELIVERY, INC., P.O. Box 160048, Mobile, AL 36616. Representative: Terry P. Wilson, 428 S. Lawrence St., Montgomery, AL. 36104, 205–262–2756. Over regular routes, transporting *general commodities* (except classes A and B explosives), between Panama City, FL, and New Orleans, LA, from Panama City over U.S. Hwy 98 to its junction with Interstate Hwy 10 and U.S. Hwy 90, then over Interstate Hwy 10 and/or U.S. Hwy 90 to New Orleans, serving all intermediate points and the off route points of Valparaiso, Niceville, Crestview, Milton, and Cantonment, FL, and McIntosh, AL.

MC 147738 (Sub-3), filed June 11, 1981. Applicant: FALCON EXPRESS, INC., 8 Lawrence St., Belleville, NJ. Representative: Thomas F. X. Foley, P.O. Box F, Colts Neck, NJ 07722, 201–780–0300. Transporting *metal products*, between points in the U.S., under continuing contract(s) with Mueller Brass Company, of Port Huron, MI.

MC 147959 (Sub-4), filed June 8, 1981. Applicant: RON GARNER, Rt. 2, Box 405, Buckley, WA 98321. Representative: James T. Johnson, 1610 IBM Bldg., Seattle, WA 98101 (206) 624–2832. Transporting (1) *metal products*, (2) *hides and furs*, (3) *used storage batteries*, and (4) *automobile parts*, between points in WA, OR, CA, ID, MT, WY, UT, NV, AZ, CO, NM, ND, and SD.

MC 148069 (Sub-1), filed June 16, 1981. Applicant: SUSQUEHANNA TRANSIT COMPANY, P.O. Box U, Avis, PA 17721. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107 (215) 735–3090. Transporting *passengers and their baggage*, in charter and special operations, beginning and ending at points in Lycoming County, PA, and extending to points in the U.S.

MC 150339 (Sub-32), filed June 16, 1981. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Blvd., Preston, MD 21655. Representative: Stephen J. Hammer (Same address as applicant) (301) 673–7151. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Mallet & Company, Inc., of Carnegie, PA.

MC 151529, filed June 11, 1981. Applicant: DANIEL W. GREGORY AND DAVID J. GREGORY, d.b.a. GREGORY TRUCKING, P.O. Box 859, Wise, PA 24293. Representative: Harry J. Jordan, Suite 502, Solar Bldg., 1000 16th St., NW., Washington, D.C. 20036, 202–783–8131. Transporting *such commodities* as are used or dealt in by hardware stores, between Chicago, IL, on the one hand, and, on the other, Atlanta, GA.

MC 152238 (Sub-13), filed June 16, 1981. Applicant: CALIFORNIA-AMERICAN TRUCKING, INC., P.O. Box 288, Grenada, CA 96038. Representative: John R. Harleman (same address as applicant), (916) 436–2266. Transporting *clay, concrete, glass or stone products*, between points in the U.S., under continuing contract(s) with Western Gypsum Co., of Rosario, NM.

MC 152398, filed June 16, 1981. Applicant: PAN ALASKA TRUCKING, INC., 300 Gull Ave., Anchorage, AK 99501. Representative: Marvin Handler, 100 Pine St. Suite 2550, San Francisco, CA 94111, (415) 986–1414. Transporting *general commodities* (except classes A and B explosives), between points in AK. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(A) or submit an affidavit indicating why such approval is unnecessary, 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 153328 (Sub-8), filed June 16, 1981. Applicant: RED K TRANSPORT, INC., 2545 Peach Tree St., Cape Girardeau, MO 63701. Representative: Guy H. Boles, 321 North Spring Ave., Cape Girardeau, MO 63701. (314) 335–6636. Transporting *general commodities* (except classes A and B explosives), between points in Cape Girardeau County, MO, on the one hand, and, on the other, points in the U.S.

MC 154438 filed June 11, 1981. Applicant: J. T. TAYLOR, d.b.a. TAYLOR TRUCK LINE, 1501 Lomaland (Unit 271), EL Paso, TX 77935. Representative: J. T. Taylor (same address as applicant.) 915–591–9056. Transporting (1) *food and related products* and (2) *building materials*, between points in El Paso County, TX, on the one hand, and, on the other, Kansas City, MO, and points in CA.

MC 156488, filed June 12, 1981. Applicant: CONTRANS, INC., 6716 Berger, Kansas City, KS 66111. Representative: Donald J. Quinn, Commerce Bank Bldg., Suite 232, 8901 State Line, Kansas City, MO 64114 (816) 444–7474. Transporting (1) *plastic and rubber products*, between points in Tulsa County, OK, and Wyandotte and Johnson Counties, KS, on the one hand, and, on the other points in the U.S., and (2) *metal products* and (3) *petroleum, natural gas and their products*, between Kansas City, MO, on the one hand, and, on the other, points in the U.S.

MC 156489, filed June 12, 1981. Applicant: CARWIN CORP., 25 Winslow St., Riverside, RI 02915. Representative: William F. Poole, 41 Bea Drive, North Kingstown, RI 02852 (401) 885–0474. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Penn Packing, of Philadelphia, PA.

MC 156549, filed June 16, 1981. Applicant: B & S TRANSPORT, INC., P.O. Box 2678, North Canton, OH 44721. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215 (614) 228–1541. Transporting (1) *metal products*, and (2) *machinery*, between points in OH, on the one hand, and, on the other, points in KY, IL, IN, MI, PA, and WV.

MC 156558, filed June 16, 1981. Applicant: ALLRITE TRUCK LINES, INC., 20 West 454 Stewert Drive, Downers Grove, IL 60616. Representative: Jack H. Blanshan, 205 West Touhy Ave., Suite 200–A, Park Ridge, IL 60068, (312) 698–2235. Transporting *food and related products*, between Chicago, IL, on the one hand, and, on the other, those points in the U.S. in and east of WI, IL, MO, OK, and TX.

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Decided: June 29, 1981.

MC 5888 (Sub-62), filed June 16, 1981. Applicant: MID-AMERICAN LINES, INC., 127 West Tenth St., Kansas City, MO 64105. Representative: Tom Zaun (same address as applicant) 816–842–1355. Transporting (1) *clay, concrete, glass or stone products*, and (2) *chemicals and related products*, between Cleveland, OH, on the one hand, and, on the other, points in CT, IL, IA, IN, NY, PA, TN, VA, and WV.

MC 18088 (Sub-72), filed June 12, 1981. Applicant: FLOYD & BEASLEY TRANSFER COMPANY, INC., P.O. Drawer 8, Sycamore, AL 35149. Representative: Charles Ephraim, Suite 406, 918—16th St., NW., Washington, DC 20006, 202–833–1170. Transporting *general commodities* (except classes A and B explosives), between points in SL, FL, GA, KY, LA, MS, NC, SC, TN, and VA.

MC 48528 (Sub-2), filed June 12, 1981. Applicant: CRAIG'S EXPRESS, INC., P.O. Box 112, Falmouth, KY 41040. Representative: Robert H. Kinker, P.O. Box 464, Frankfort, KY 40602, 502–223–8244. Over regular routes, transporting *general commodities* (except classes A and B explosives), (1) between Antioch Mills, KY, and Lexington, KY, over U.S. Hwy 27, and (2) between Cincinnati, OH, and Lexington, KY, over Interstate Hwy 75, serving all intermediate points on routes (1) and (2), and serving all points in Grant, Scott, Fayette, Bourbon, Harrison, and Bracken Counties, KY, as off-route points in connection with carrier's existing regular-route authority.

Note.—Applicant intends to tack this authority with its existing regular-route authority in order to perform direct service.

MC 99328 (Sub-2), filed June 16, 1981. Applicant: BAILEY'S EXPRESS, INC., 61 Industrial Park Rd., Middletown, CT 06457. Representative: Jack L. Schiller, 502 Flatbush Ave., Brooklyn, NY 11225, 212–941–9291. Transporting *general commodities* (except classes A and B explosives) between points in CT, on the one hand, and, on the other, points in IL, IA, KS, MN, MO, NE, ND, SD, WI, OK, and TX.

MC 119908 (Sub-52), filed June 16, 1981. Applicant: WESTERN LINES, INC., 3523 N. McCarty, Houston, TX 77001. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215, 614–228–1541. Transporting *general*

commodities (except classes A and B explosives), (a) between points in AR, LA, MS, OK, and TX, and (b) between points in AR, LA, MS, OK, and TX, on the one hand, and, on the other, points in AL, AZ, CA, CO, FL, GA, KS, MO, NM, NV, NC, SC, TN, and UT.

MC 125708 (Sub-216), filed June 12, 1981. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 210 East State, Kokomo, IN 46901. Representative: Arnold Goebel, 109 Velma, South Roxana, IL 62087 (618) 254-7627. Transporting *general commodities* (except classes A and B explosives), between points in the U.S.

MC 142619 (Sub-5), filed June 16, 1981. Applicant: DASH TRANSPORTATION, INC., P.O. Box 221, Bloomingdale, IL 60108. Representative: Edward J. Kiley, 1730 M St., Suite 501, Washington, DC 20036 (202) 296-2900. Transporting *metal products*, between points in the U.S., under continuing contract(s) with Sovereign Metal Corporation, of Addison, IL.

MC 143398 (Sub-3), filed June 10, 1981. Applicant: C. C. ROBERTS CONCRETE CONSTRUCTION CO., INC., 3725 Gibbon Rd., Charlotte, NC 28213. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602 (919) 828-0731. Transporting (1) *ores and minerals* between points in Durham and Mecklenburg Counties, NC, on the one hand, and, on the other, points in AL, GA, SC, and TN, (2) *petroleum, natural gas and their products* between points in Mecklenburg County, NC, on the one hand, and, on the other, points in York and Lancaster Counties, SC, (3) *chemicals and related products* between points in New Hanover County, NC, on the one hand, and, on the other, points in SC, and (4) *clay, concrete, glass or stone products* between points in FL, on the one hand, and, on the other, points in New Hanover County, NC.

MC 143739 (Sub-54), filed June 16, 1981. Applicant: SHURSON TRUCKING CO. INC., P.O. Box 147, New Richland, MN 56072. Representative: Leonard K. Sackson (Same address as applicant) (507) 465-3235. Transporting *such commodities* as are dealt in or used by distributors and dealers of petroleum, betweem Chicago, IL, Kansas City and St. Louis, MO, Tulsa, OK, and points in Hennepin County, MN, Polk and Cerro Gordo Counties, IA, Lake County, IN, Summit County, OH, and Jefferson County, TX, on the one hand, and, on the other, points in Freeborn and Mower Counties, MN and Worth and Winnebago Counties, IA.

MC 144219 (Sub-10), June 16, 1981. Applicant: B.I.T., INC., P.O. Box 968, Reedley, CA 93654. Representative: Greg P. Stefflre, 261 South Figueroa St., Los Angeles, CA 90012 (213) 485-1081. Transporting *machinery*, between points in IA, NE, OH, and CA, on the one hand, and, on the other, points in the U.S.

MC 148129, filed June 11, 1981. Applicant: CODERE TRUCKING COMPANY, INC., 445 Front St., Lake Linden, MI 49945. Representative: Leroy W. Codere, 315 Calumet St., Lake Linden, MI 49945 (906) 296-0381. Transporting *lumber and wood products*, between points in Houghton and Keweenaw Counties, MI, on the one hand, and, on the other, Chicago, IL, points in Leflore County, MS, Erie County, OH, Jefferson County, KY, and points in MI, MN, and WI.

MC 150339 (Sub-34), filed June 22, 1981. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Blvd., Preston, MO 21655. Representative: Stephen J. Hammer (same address as applicant) (301) 673-7151. Transporting *metal products* between points in the U.S., under continuing contract(s) with American Seamless Tubing Company, Inc., of Baltimore, MD.

MC 150409 (Sub-3), filed June 12, 1981. Applicant: MITCH-MOR TRUCKING, INC., Rt. 1, Becker, MN 55308. Representative: Stephen F. Grinnell, 1600 TCF Tower, Minneapolis, MN 55402 (612) 333-1341. Transporting *machinery*, between Minneapolis, MN, and points in Madison County, AL, on the one hand, and , on the other, points in the U.S.

MC 152238 (Sub-11), filed June 16, 1981. Applicant: CALIFORNIA-AMERICAN TRUCKING, INC., P.O. Box 288, Grenada, CA 96038. Representative: John R. Harleman (same address as applicant) (916) 436-2286. Transporting *such commodities* as are dealt in or used by manufacturers of metal products and plastic products, between points in the U.S., under continuing contract(s) with Anaheim Foundry, Inc., of Anaheim, CA, and its affiliate Spartan Plastics, Inc., of Tustin, CA.

MC 152238 (Sub-12), filed June 16, 1981. Applicant: CALIFORNIA-AMERICAN TRUCKING INC., P.O. Box 288, Grenada, CA 96038. Representative: John R. Harleman (same address as applicant) (916) 436-2286. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of plastic articles, between points in the U.S., under continuing contract(s) with Carlon Division, Indian Head Corp., of Cleveland, OH.

MC 156518 filed June 12, 1981. Applicant: VIP TRANSFER CO., INC., One Westways Plaza, Long Island City, NY 11101. Representative: Jack L. Schiller, 502 Flatbush Ave., Brooklyn, NY 11225, 212-941-9291. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Ralston Purina Company, of St. Louis, MO.

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[Volume No. 115]

Motor Carriers; Permanent Authority Decisions, Restriction Removals, Decision-Notice

Decided: July 1, 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 1838 (Sub-14)X, filed June 23, 1981. Applicant: S & K TRANS INC., 1355 Bloomingdale, P.O. Box 208, Akron, NY 14001. Representative: David M. Marshall, Suite 304, 101 State Street, Springfield, MA 01103. Applicant seeks to remove restrictions in its lead and Sub-No. 11F permits to (1) broaden the commodity description to "such commodities as are dealt in by

manufacturers and distributors of building materials", from (a) building materials, gypsum and gypsum products (except liquid commodities, in bulk, in tank vehicles, except fly ash, in bulk, in tank vehicles, and lumber) pallets, pulpboard, and scrap paper, and materials and supplies used in the manufacture and distribution of pulpboard, in the lead, and (b) building materials (except in bulk, in tank vehicles, and iron and steel articles requiring the use of special equipment) and particleboard, in Sub-No. 11F; (2) eliminate the restriction prohibiting the transportation of specified commodities from or to named points, in the lead, and (3) broaden the territorial description to between points in the US, under continuing contract(s) with named shippers.

MC 29821 (Sub-9)X, filed March 11, 1981, previously noticed in the **Federal Register** of March 25, 1981, republished as follows: Applicant: NEWBURG AUTO FREIGHT, INC., 408 W. First Street, Newburg, OR 97132. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Avenue, Portland, OR 97210. Applicant seeks to remove restrictions from its lead and Sub-Nos. 3, 5, and 7 certificates. This Board previously broadened these certificates to include, in the lead, "general commodities, except Classes A and B explosives", to allow service at all intermediate points on its specified regular-routes; to broaden specific commodity groups, to replace facilities with counties, and to expand its one-way authority to radial authority in its irregular-route authorities. Applicant also sought to remove a restriction against service to Salem, OR, which appears in its lead certificate. Through an inadvertent error, the sought removal of the above excepted point in Marion County, OH was not noticed and therefore the Restriction Removal Board has decided to renotice this application with respect to the proposed removal of the restriction, "except Salem, OR". Notice is hereby given that pursuant to 49 CFR 1137.24(a), applicant seeks to remove the exception of Salem, OR from its authority to serve points in Marion County, OR.

MC 29904 (Sub-5)X, filed June 29, 1981. Applicant: SUDDATH VAN LINES, INC., P.O. Box 60069, Jacksonville, FL 32205. Representative: Robert J. Gallagher, 100 Connecticut Avenue, NW., Suite 1200, Washington, DC 20036. Applicant seeks to remove restrictions in its lead certificate to broaden the commodity description from household goods to "household goods and furniture and fixtures".

MC 44605 (Sub-58)X, filed June 5, 1981. Applicant: MILNE TRUCK LINES, INC., 2500 West California Ave., Salt Lake City, UT 84104. Representative: Harry J. Jordan, John D. Quinn, Suite 502, Solar Building, 1000 16th Street, NW., Washington, DC 20036. The application seeks to remove restrictions in its lead and Sub-Nos. 7, 8, 10, 11, 13, 18, 22, 25, 26, 28, 29, 32, 34, 35, 36, 37, 39, 40, 41, 47, 48F, 50F, 55F, and 56F certificates to broaden the commodity description (a) in the lead, with exceptions, and all of the authorities, from general commodities with exceptions to "general commodities (except classes A and B explosives)" and, (b) in the lead and Sub-Nos. 15, 26, and 38 from general commodities without excepting explosives but including other usual exceptions to "general commodities"; (b)(1) from hardware, fencing and roofing materials to "hardware, metal products, lumber and wood products and building materials," from poultry feed and poultry supplies to "food and related products," from pipe, plumbing and heating supplies and equipment, and plumbing supplies and equipment to "building materials," from dressed poultry to "food and related products," from livestock to "farm products," from machinery, materials, supplies and equipment, incidental to, or used in, the construction, development, operation and maintenance of facilities for the discovery, development and production of natural gas and petroleum to "machinery," from compressed gases, in bulk, in government-owned tank trailers to "petroleum, natural gas and their products," from agricultural commodities, dairy products, and poultry to "farm products, food and related products," from wool, mohair, lumber and ore to "textile mill products, farm products, lumber and wood products, and ores and minerals," from wool and mohair to "textile mill products and farm products," from "sawmill and mining machinery, supplies and equipment" to "machinery," in the lead docket; (2) from livestock to "farm products" in Sub-No. 13; (3) from prepared animal or poultry feed and grain to "farm products, and food and related products," from wool, livestock, livestock feeds, oilfield equipment and supplies, and machinery to "textile mill products, farm products and machinery," from livestock to "farm products" in Sub-No. 22; and (4) from grain, seed, livestock feed, and livestock to "farm products, and food and related products" in Sub-No. 25; (c) broaden the authority by replacing one-way with radial authority in the lead and Sub-No. 13; (d) broaden the authority to permit service at all intermediate points in the lead and Sub-Nos. 8, 10, 11, 13, 22, 26, 27, 29, 38, 50F, and 51F; (e) broaden points, including off-route points, within a county to county wide authority: (1) remove the restriction "except Boulder City, NV, and the Nellis Air Force Base, NV, change Alton, UT, to Kane County, UT, change Riverside, CA, to Riverside and San Bernardino Counties, CA, change Virgin, UT, and points within 5 miles thereof to Washington County, UT change Santa Monica, El Segundo, Wilmington, Long Beach, San Pedro and Pasadena, CA, to Los Angeles County, CA, change Santa Clara, UT, and those of Utah Highway 21 between Beaver and Minersville, UT, including Minersville to Washington and Beaver Counties, UT, change Las Vegas, NV, to Clark County, NV, change Davis Dam Site, NV, to Clark County, NV, change points in Utah within 10 miles of four specified regular routes to Washington, Kane, Garfield, Piute, Iron, Sevier, and Beaver Counties, UT, change points in Mohave and Coconino Counties, AZ, north of the Colorado River, and those in part of Clark County, NV, to Mohave and Coconino Counties, AZ, and Clark County, NV, change points in that part of Kane County, UT, on and west of U.S. Highway 89 . . . and those in that part of Lincoln County, NV, on and east of U.S. Highway 93 (except Pioche, Panaca, and Caliente, NV) to Kane County, UT, and Lincoln County, NV, eliminate the restrictions at railheads in the described Utah territory, change Wilmington, Long Beach, and San Pedro, CA, to Los Angeles County, CA, in the lead; (2) eliminate the restriction preventing service at Davis Dam Site, NV, in Sub-7; (3) change Glen Canyon Dam Site in Arizona and points 10 miles thereof to Kane County, UT, and Coconino County, AZ, in Sub-8 (4) change points within 5 miles of Hurricane, UT, to Washington County, UT, in Sub-11, (5) change Ajo, Fort Huachuca and Higley, AZ, to Pina, Chochise, and Maricopa Counties, AZ, and change Thermal and Alberhill, CA, to Riverside County, CA, in Sub-13; (6) remove the limitation on service at "missile sites" in named counties in Sub-No. 15; (7) change the off-route point of site of the Pacific Northwest Pipeline Compressor Station No. 23 to Sublette County, WY, change the off-route points of Elkol, WY, and the Hams Fork Reservoir, WY, to Lincoln County, WY, change Hailstone, UT, to Wasatch and Summit Counties, UT, change Frontier, WY, to Lincoln County, WY, change Fontenelle, Calpet, Halfway, Merna, and Cora, WY, to Lincoln and Sublette Counties, WY, change Mountain View and Robertson, WY, to

Uinta and Sweetwater Counties, WY, change Wilson, Bondurant, Daniel, Cora, Herna, and Jenny Lake, WY, to Teton and Sublette Counties, WY; remove restrictions to service at railheads in Unitah County, WY, and at points located on U.S. Highway 30–S; change Fort Bridger and Urie, WY, and railheads at Carter, WY, to Unitah County, WY, in Sub-No. 22; (8) change the off route point of Cherokee Mine of the San Francisco Chemical Company, located approximately eight miles northwest of Randolph, UT to Rich County, UT, in Sub-No. 23; (9) change the off route point of the Lost Creek Dam, located approximately 12 miles north of Croydon, UT to Morgan County, UT, in Sub-No. 25; (10) change Teton National Park Headquarters, Moose, Wilson, and Jenny Lake to Teton County, WY, in Sub-No. 26; (11) change Apex and Blue Diamond, NV, to Clark County, NV, in Sub-No. 32; change Monroe, Austin, Glenwood, Venice, and Sigurd, UT, to Sevier County, UT, and Spring City and Fountain Green, UT, to Sanpete County, UT, in Sub-No. 36; (12) change the off route point of the Jim Bridger Project located approximately 6 miles north of Point of Rocks, WY to Sweetwater County, WY, in Sub-No 37; (13) change Luke Air Force Base, AZ, to Maricopa County, AZ, in Sub-No. 40; (14) change Alchem, WY, to Sweetwater County, WY, in Sub-No. 48F; and (15) change Fort Collins and Loveland, CO, to Larimer County, CO, Greely, CO, to Weld County, CO, and Longmont and Boulder, CO, to Boulder County, CO, in Sub-No. 56F.

MC 46007 (Sub-8)X, filed June 16, 1981. Applicant: J. W. BROWNETT, INCORPORATED, 70 Canal Street, Jersey City, NJ 07302. Representative: Morton E. Eil, Suite 1832, 2 World Trade Center, New York, NY 10048. Applicant seeks to remove restrictions in the lead and Sub-Nos. 3 and 6F permits to (1) broaden the commodity descriptions from petroleum and petroleum products to "petroleum, natural gas and their products" in lead and Sub-No. 6; from empty containers to "pulp, paper and related products, rubber and plastic products, clay, concrete, glass or stone products, metal products, and lumber and wood products" in lead; from empty petroleum product containers to "containers" in lead; from refinery equipment to "such commodities as are used in the construction and operation of a refinery and machinery" in lead; from roofing materials to "building and construction materials" in lead; from prepared or composition roofing to "pulp, paper and related products and rubber and plastic products" in lead; from anti-freeze preparations to "chemicals and related products" in lead; from fish oil, animal fat and vegetable oils to "food and related products" in Sub-Nos. 3 and 6; from alkyd resins to "chemicals and related products" and from liquid gums to "forest products, food and related products, and chemicals and related products" in Sub-No. 3; (2) broaden territorial description to between points in the U.S. under contract(s) in the lead and Sub-No. 3 permits; (3) remove the in bulk, in tank vehicles restriction in Sub-No. 3 and (4) in Sub-No. 3 change the restriction requiring contract with persons engaged in the production of specified commodities to those engaged in the production of food and related products, chemicals and related products, and forest products.

MC 60603 (Sub-4)X, filed June 16, 1981. Applicant: THE A. WIRTZ TRANSFER COMPANY, 3660 Dixie Highway, Hamilton, OH 43215. Representative: Earl N. Merwin, 65 East Gay Street, Columbus, OH 43215. Applicant seeks to remove restrictions in its Sub-No. 3 certificate to remove exceptions to general commodities (except classes A and B explosives) between named OH counties and the U.S.

MC 66124 (Sub-13)X, filed June 26, 1981. Applicant: PACIFIC NORTHWEST MOTOR FREIGHT LINES, INC., 600 South Edmunds, Seattle, WA 98108. Representative: Henry C. Winters, 525 Evergreen Building, Renton, WA 98055. Applicant seeks to remove restrictions in its Sub-No. 12F certificate to (1) broaden the commodity description from general commodities (with exceptions) to "general commodities (except classes A and B explosives)", and (2) to remove the restriction to traffic having a prior or subsequent movement by water.

MC 80262 (Sub-6)X, filed June 16, 1981. Applicant: SOUTH ATLANTIC BONDED WAREHOUSE CORPORATION, 2020 East Market Street, Greensboro, NC 27402. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. Applicant seeks to remove restrictions in its lead and Sub-Nos. 2F and 5F certificates to: (1) broaden commodity description in the lead from (a) general commodties, with exceptions to "general commodities (except Classes A and B explosives)," and groceries and packing house products to "such commodities as are dealt in by retail, wholesale, or chain grocery stores or food business houses"; in Sub-Nos. 2F and 5F appliances, carpet, carpet cushioning, heating units, air conditioning units and kitchen cabinets to "machinery, textile mill products, rubber and plastic articles, metal products and furniture and fixtures"; (2) in the lead parts (a) and (b) substitute county wide authority for named points: Guilford County, NC for Greensboro, NC, Alamance, Allegheny, Anson, Alexander, Ashe, Bladen, Burke, Cabarrus, Caldwell, Catawba, Caswell, Chatham, Cleveland, Davie, Davidson, Durham, Edgecomb, Forsyth, Franklin, Gaston, Granville, Guilford, Halifax, Hartnett, Hoke, Iredell, Johnston, Lee, Lincoln, Mecklenburg, Moore, Montgomery, Nash, Orange, Person, Randolph, Robeson, Rockingham, Richmond, Rowan, Sampson, Stanley, Stokes, Scotland, Surry, Union, Vance, Wake, Warren, Watauga, Wayne, Wilkes, Wilson, and Yadkin Counties, NC for points within 100 miles of Greensboro, NC and Carroll, Campbell, Floyd, Franklin, Halifax, Henry, Patrick, and Pittsylvania Counties, VA for points in VA within 60 miles of Greensboro; and (3) replace one way authority in the lead and Sub-No. 2F with radial authority.

MC 102885 (Sub-9)X, filed June 16, 1981. Applicant: LEONARD MAKOWSKI, d.b.a. MAKOWSKI HAULING, P.O. Box 147, Conchester Highway, Concordville, PA 19331. Representative: Alan Kahn, 1430 Land Title Building, Philadelphia, PA 19110. Applicant seeks to remove restrictions in its lead and Sub-Nos. 4 and 8 certificates to (1) broaden the commodity description from road building materials, in dump trucks, road building materials, aluminum dross in bulk and coke, in dump vehicles, to "commodities in bulk"; (2) replace Bridgeport, Norristown, and Upper Merion Township, PA with Montgomery County, PA (lead); Perth Amboy, NJ with Middlesex County, NJ and Chester, PA with Delaware County, PA (Sub-No. 4); and Delaware City, DE with New Castle County, DE and Manahawkin, NJ with Ocean County, NJ (Sub-No. 8); (3) remove facilities limitations at Perth Amboy, NJ and Chester, PA (Sub-No. 4); and (4) replace existing one-way authority with radial authority (Sub-Nos. 4 and 8).

MC 110567 (Sub-25)X, filed June 19, 1981. Applicant: SOONER TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, P.O. Box 855, Des Moines, IA 50304. Applicant seeks to remove restrictions in its lead and Sub-Nos. 5, 8, 11, 13, 14, 15, 16, 20 and 21 certificates to (1) broaden the commodity descriptions to "commodities in bulk" from dry lime, pulverized limestone and limestone products, in Sub-No. 5; limestone and limestone products, in bulk, in Sub-No. 6; liquid fertilizer and liquid fertilizer

materials, in bulk, in Sub-No. 8; anhydrous ammonia, nitrogen fertilizer solutions, and urea liquor, in Sub-No. 11; sand, in bulk, in tank or hopper type vehicles, in Sub-No. 13; cement, in Sub-No. 14; ink oil, in bulk, in tank vehicle, in Sub-No. 15; meats, meat products and meat by-products and oils distributed by meat packinghouses as described in the report in the Descriptions Case in bulk, and flour, in bulk, in Sub-No. 16; bauxite alumina, in bulk, in Sub-No. 20 and petroleum products, in bulk, in Sub-No. 21; and to "petroleum, natural gas and their products and containers" from specified petroleum products, crude petroleum, and empty containers on return, in the lead, (2) replace one-way authority with radial authority and (3) broaden the territorial authority by substituting county-wide authority for city-wide authority and facilities as follows: Garvin County, OK (for Wynnewood, OK) and Stephens County, OK (for Beckett, OK), in the lead; Sequoyah County, OK (for Marble City and Sallisaw, OK), in Sub-No. 5; Sequoyah County (for Marble City and Sallisaw, OK), in Sub-No. 6; Rogers County, OK (for facilities at Verdigris, OK), in Sub-No. 8; Woodward County, OK (for facilities at Woodward, OK), in Sub-No. 11; Crawford County, AR (for Van Buren, AR), in Sub-No. 13; Tulsa, Osage and Rogers Counties, OK (for Tulsa, OK), in Sub-No. 14F; Bexar County, TX (for San Antonio, TX), in Sub-No. 15F; Ford County, KS (Dodge City, KS) and Sedgwick County, KS (for Wichita, KS), in Sub-No. 16F; Sebastian County, AR (for Fort Smith, AR), in Sub-No. 20F, Union County, AR (for Smackover, AR) and Baca, Chaffee and El Paso Counties, CO (for Midway, CO), in Sub-No. 21.

MC 116063 (Sub-170)X, filed June 29, 1981. Applicant: WESTERN-COMMERCIAL TRANSPORT, INC., P.O. Box 270, Fort Worth, Texas 76101. Representative: W. H. Cole (same address as applicant). Applicant seeks to remove restrictions in its Sub-Nos. 95 certificate and E-6 letter notice to (1) broaden the commodity descriptions from (a) sugar, molasses, dried beet pulp and dried beet pulp with molasses in Sub-No. 95 and (b) animal fats and vegetable oils in Sub-No. E 6, to "food and related products"; (2) replace the plant site restriction, at or near Chandler and Phoenix, AZ, in Sub-No. 95 with county-wide authority in Maricopa County, AZ; (3) eliminate the in bulk and equipment restrictions in both subs; and (4) change one-way authority to radial authority between Maricopa County, AZ, and, CA, CO, NM, NV, TX, and UT in Sub-No. 95, and between CO, and, seven southern states in E-6 letter notice.

MC 119936 (Sub-3)X, filed June 16, 1981. Applicant: FAIRFIELD MOTOR TRANSPORTATION CO., 4350 West 123rd Street, Alsip, IL 60658. Representative: Anthony E. Young, 29 South LaSalle Street, Chicago, IL 60603. Applicant seeks to remove restrictions in its lead and Sub-No. 1F certificates to (1) remove all restrictions in it general commodities authority "except classes A and B explosives," in the lead certificate; and broaden its other commodity descriptions to "food and related products" from fresh fruits in the lead certificate; and to "metal products" from iron and steel articles in Sub-No. 1; (2) change one-way service to radial service in Sub-No. 1; and (3) substitute county-wide authority for the named points, in the lead certificate: Berrien County, MI (Derby, MI), and Portage County, WI (Stevens Point, WI).

MC 120021 (Sub-5)X, filed June 23, 1981. Applicant: THE COTTER MOVING & STORAGE COMPANY, 265 West Bowery Street, Akron, OH 44308. Representative: Thomas R. Kingsley, 10614 Amherst Avenue, Silver Spring, MD 20902. Applicant seeks to remove restrictions from its Sub-No. 4F certificate to broaden the commodity description from household goods, as defined by the Commission, to "household goods, furniture and fixtures."

MC 120999 (Sub-8)X, filed June 24, 1981. Applicant: CALIFORNIA AND WESTERN STATES AMMONIA TRANSPORT, INC., d.b.a. CALIFORNIA AMMONIA TRANSPORT, INC., 415 Lemon Avenue, Walnut, CA 91789. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Applicant seeks to remove restrictions in its Sub-Nos. 2, 4F, and 6F certificates to: (1) broaden the commodity descriptions from (a) liquified petroleum gas to "petroleum, natural gas and their product," in parts (1), (2), (4), and (5) of Sub-No. 2; (b) liquified petroleum gas to "commodities in bulk," in part (3) of Sub-No. 2; (c) natural and casinghead gasoline and liquified petroleum gases to "petroleum, natural gas and their products," in part (6) of Sub-No. 2; (d) anhydrous ammonia, aqua ammonia, liquid fertilizer, liquid fertilizer solutions, and calcium chloride to "chemicals and related products," in parts (7), (8), (9), (10), and (11) of Sub-No. 2 and in Sub-No. 6F; and (e) liquid fertilizers to "commodities in bulk," in Sub-No. 4F; (2) remove restrictions against the transportation of commodities in bulk or in tank trucks or truckloads as well as minimum gallons restrictions in pertinent portions of Sub-Nos. 2 and 6F; (3) remove all intermediate points restrictions on the regular route authority in Sub-No. 2; (4) remove regular route restrictions limiting service to delivery only in Sub-No. 2; (5) remove foreign commerce restrictions and eliminate reference to specific ports of entry between the United States and the Republic of Mexico to allow service at ports of entry in CA, in Sub-No. 2; (6) broaden all off-route authorizations on its regular route authority in Sub-No. 2 to county-wide authority as follows: (a) in part (1) from points within 10 miles of specified highways to Mohave, Yavapai, Coconino, and Maricopa Counties, AZ; and (b) in part (2) from points within 5, 15, and 50 miles of specified routes in NV and AZ to points in Esmeralda, Mineral, Nye, and Clark Counties, NV, and Mohave, Yavapai, Yuma, Gila, Maricopa, Pinal, Pima, Graham, Cochise, and Santa Cruz Counties, AZ; (7) replace points within specified mileage radii and named cities on irregular route authority in Sub-No. 2 with county-wide authority as follows: (a) from Hobbs, NM, and points in NM and TX within 25 miles thereof to points in Lea County, NM, and points in Andrews, Gaines, and Yoakum Counties, TX, (b) from Farmington, NM, and points in NM within 60 miles of Farmington to San Juan, Rio Arriba, McKinley, and Sandoval Counties, NM, and (c) from Pittsburgh, Pinole, Brea, and El Centro, CA, to points in Contra Costa, Los Angeles, Imperial, and Orange Counties, CA; and (8) expand its one-way irregular route authority to radial authority between points in CA, AZ, and NM in the above sub-numbers.

MC 121699 (Sub-15)X, filed June 10, 1981. Applicant: VOLUNTEER EXPRESS, INC., 1325 Elm Hill Pike, Nashville, TN. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th Street, NW., Washington, DC 20004. Applicant seeks to remove restrictions from its Sub-Nos. 5, 7, 8, 11, 12 and 13 certificates to (1) broaden the commodity description from (a) general commodities (with exceptions) to general commodities (except Classes A and B explosives) in Sub-Nos. 5, 7, 8, 11, and 12, (b) from boxes, crates, wood, wood and wire combined and material, equipment and supplies to "pulp, paper and related products and metal products and related materials, equipment and supplies" in part (B)(1) of Sub-No. 8; from wheels, hubs, tires, brakes, brake parts, spindles, chemicals, paint and equipment, materials and supplies to "transportation equipment and chemicals and related products and

related materials, equipment and supplies" in part (B)(2) of Sub-No. 8; from plastic and plastic products and materials, equipment and supplies in part (B)(3) of Sub-No. 8; to "rubber and plastic products and related materials, equipment and supplies" and from paperback books, and materials, equipment and supplies to "printed matter and related materials, equipment and supplies" in Sub-No. 13; (2) remove the "originating at and destined to" named points restriction in Sub-No. 12 to allow radial service between named facilities, and, points in the U.S.; (3) allow service to all intermediate points in connection with carriers regular-route between (a) Memphis and Bruceton, TN in Sub-No. 5, and (b) Nashville, TN and the Weakley County, TN line; Memphis, TN and the Obion County, TN line; Jackson, TN and the Obion County, TN line in Sub-No. 8; (4) in regular route portion of in Sub-No. 8 remove the restriction (a) against tacking and (b) against traffic "originating at, destined to, or interlined at", Jackson, TN, and its commercial zone and, Nashville and Memphis, TN and their commercial zones in part (3b) of Sub-No. 8; (5) remove restriction to service to AK and HI in Sub-No. 13; (6) change city to county-wide authority (a) from Dresden, TN to Weakley County, TN in Sub-Nos. 8 part (B)(2) and 13, (b) from Martin, TN to Weakley County, TN, (c) from Des Moines, IA to Polk County, IA in Sub-No. 8 part (B)(2), (d) from Bryan, OH and Kenton, TN to Williams County, OH and Obion County, TN in Sub-No. 8 part (B)(3); (6) remove restriction to service to points in the Memphis, TN commercial zone which lie outside TN in Sub-No. 2.

Note.—Carrier's authority to tack will be governed by 49 CFR 1042.10(b).

MC 124170 (Sub-173)X, filed June 18, 1981. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Representative: William J. Boyd, 2021 Midwest Road, Suite 205, Oak Brook, IL 60521. Applicant seeks to remove restrictions from its Sub-Nos. 126F and 156F certificates to: (1) eliminate facilities restrictions in Sub-No. 126F; (2) remove the ex-water restriction in Sub-No. 126F; (3) broaden the commodity description from bananas in Sub-No. 156F and from bananas and agricultural commodities, otherwise exempt, in Sub-No. 126F to "food and related products", and (4) replace Port Hueneme, CA with county-wide authority to serve Ventura County, CA in Sub-No. 126F and Wilmington, CA with Los Angeles County, CA in Sub-No. 156F; and (5) substitute radial authority in place of one-way authority: Sub-No. 126F between Ventura County, CA and points in 16 states; and in Sub-No. 156F between Los Angeles County, CA, and, points in 24 states.

MC 124692 (Sub-372)X, filed June 18, 1981. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT 59801. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Applicant seeks to remove restrictions in its Sub-No. 179, 185 and 211F certificates as follows: (1) in Sub-No. 179, broaden the commodity description from contractor's equipment, tools, materials and supplies (except commodities in bulk) to "machinery and contractor's equipment, tools, materials and supplies," and replace the facility at Eagan with city wide (Minneapolis-St. Paul, MN) authority; (2) in Sub-No. 185 broaden the commodity description from tanks and smoke stacks, construction equipment, tools, materials, equipment and supplies to "machinery and contractor's equipment, tools, materials and supplies"; replace one way with radial authority; and; (3) in Sub-No. 211F broaden the commodity description from construction materials, equipment and supplies (except commodities in bulk) to "machinery, and construction materials, equipment and supplies", and replace the facility at Eagan, MN with city wide (Minneapolis-St. Paul, MN) authority.

MC 125820 (Sub-9)X, filed June 26, 1981. Applicant: ELK VALLEY FREIGHT LINES, INC., P.O. Box 40723, Nashville, TN 37204. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th Street, N.W., Washington, DC 20004. Applicant seeks to remove restrictions in its Sub-Nos. 1, 7, and 8 certificates to (1) broaden the commodity description from general commodities (with exceptions) to "general commodities (except classes A and B explosives)" in all of the above Sub-Nos.; (2) authorize service to all intermediate points in Sub-Nos.; 1 and 8; (3) delete joinder only restriction at Nashville, TN, in Sub-No. 8; (4) remove restriction against the service at those points in the Memphis, TN, commercial zone which are located outside TN, in Sub-No. 8; and (5) delete the restriction limiting transportation to traffic originating at, destined to, or interchanged at points in the commercial zone of Nashville, TN, or points in the commercial zone of Huntsville, AL, in Sub-No. 8.

MC 128546 (Sub-1)X, filed June 22, 1981. Applicant: ABLE EXPRESS, INC., 57 Appletree Lane, Valparaiso, IN 46383. Representative: William R. Sawyer (same address as above). Applicant seeks to remove restrictions from its lead certificate to: (1) delete all exceptions (except Classes A and B explosives), from its general commodities authority; (2) broaden the commodity description from canned goods to "food and related products"; (3) replace its regular-route one-way authority with a two-way movement and authorize service at all intermediate points (a) between Chicago, IL and Iowa City, IA and (b) between DeKalb, IL and Cedar Rapids, IA.

MC 133820 (Sub-4)X, filed June 17, 1981. Applicant: CLYDE W. PLUNKARD, Route #2, Box 163, Boonsboro, MD 21713. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. Applicant seeks to remove restrictions from its Sub-No. 2 certificate to (1) change the commodity description from dairy products and new dairy product containers to "food and related products"; (2) remove restriction "in containers, in vehicles equipped with mechanical refrigeration"; (3) broaden Hagerstown to Washington County, MD; (4) delete "originating at and destined to" restrictions; and (5) authorize radial authority between Washington County, MD, and points in 7 States and DC.

MC 134153 (Sub-2)X, filed June 22, 1981. Applicant: D & D TRANSPORTATION CO., INC., 1059 Empire Ave., Camden, NJ 08103. Representative: Raymond A. Thistle, Jr., Five Cottman Ct., Homestead Rd. & Cottman St., Jenkintown, PA 19046. Applicant seeks to remove restrictions in its Sub-No. 1 permit to (A) broaden the commodity description from steel articles to "metal products", and (B) broaden the territorial description to between points in the U.S., under continuing contract(s) with a named shipper.

MC 135819 (Sub-5)X, filed June 12, 1981. Applicant: PHILLIPS & PHILLIPS TRUCKING, Box 1304, Storm Lake, IA 50588. Representative: Arlyn L. Westergren, Suite 201, 9202 West Dodge Road, Omaha, NE 68114. Applicant seeks to remove restrictions in its Sub-Nos. 2 and 4 certificates to (1) broaden the commodity description in each to "food and related products" from meats, meat products, and articles distributed by meat packinghouses (except hides, and commodities in bulk); (2) remove restrictions limiting service to traffic originating at and destined to the named origins and destination States in both certificates; (3) replace one-way authority with radial authority; and (4) substitute county-wide authority in place of the named facilities at Storm Lake and Cherokee, IA, to authorize service in Buena Vista and Cherokee Counties, IA, in both certificates.

MC 136832 (Sub-9)X, filed June 10, 1981. Applicant: SOUTHERN IDAHO TRANSPORT, INC., P.O. Box W, Filer, ID 83328. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701. Applicant seeks to remove restrictions in its Sub-No. 7F permit to (1) broaden the commodity descriptions to "pulp, paper and related products, and lumber and wood products and materials, equipment, and supplies used in their manufacture or distribution" from fibreboard boxes, pallets, and materials and supplies; and (2) broaden the territorial description to authorize service between points in the U.S., under continuing contract(s) with a named shipper.

MC 139277 (Sub-5)X, filed June 22, 1981. Applicant: HALL TRUCKING, INC., 201 Livingston Street, Gridley, IL 61744. Representative: Patrick H. Smyth, 19 South LaSalle Street, Suite 401, Chicago, IL 60603. Applicant seeks to remove restrictions in its lead and Sub-No. 2F permits to (1) broaden the commodity description from metal roofing and sidings, fabricated metal products, parts, attachments, and accessories thereof, and materials, supplies, and equipment for the commodities described above to "metal products and related materials, equipment, and supplies" in both permits; (2) in both permits, broaden its territorial scope to service between points in the U.S., under continuing contract(s) with named shippers; and (3) delete an in bulk restriction in Sub-No. 2.

MC 138420 (Sub-53)X, filed June 11, 1981. Applicant: CHIZEK ELEVATOR & TRANSPORT, INC., P.O. Box 147, Cleveland, WI 53063. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. Applicant seeks to remove restrictions from its Sub-Nos. 2, 8, 11, 13, 14, 16, 18, 19, 20, 23, 25F, 28F, 29F, 30F, 31F, 36F, 37F, 40F, 42F, 44F, 47F, and 49 certificates and authority acquired in MC-F-13720F to (1) broaden the commodity description to "food and related products" from various commodities such as malt beverages in Sub-Nos. 8, 11, 14, 42, and 47; from malt beverages and carbonated beverages in Sub-No. 2; from such commodities as are dealt in or used by manufactures and distributors of beverages in Sub-No. 49; from malt beverages and related advertising, and premiums in Sub-No. 14; from malt beverages and malt beverage dispensing equipment in Sub-Nos. 18, 19, 23, 40; from canned vegetables and cranberry products in MC-F-13720F; from canned goods and prepared foodstuffs in Sub-No. 44, from canned goods in Sub-Nos. 20 and 28; from canned goods, prepared foodstuffs and artifical sweetners in Sub-No. 25; from canned goods and prepared foodstuffs (except dairy products) in Sub-No. 13; from foodstuffs in Sub-No. 29; from malt beverages, empty containers, wooden pallets, corrugated cardboard separators, load locks and bracing devices in Sub-No. 30; from foodstuffs (except meat, meat by-products and articles distributed by meat packing houses) in part 1 and from canned goods and materials, equipment and supplies in part (3) of Sub-No. 31; from carbonated beverages, advertising materials and carbonated beverage dispensing equipment in Sub-No. 36; and from foodstuffs in Sub-No. 37; (2) remove the mixed loads restriction in Sub-No. 40; (3) remove the in bulk, in tank vehicle restriction in Sub-No. 37; (4) in Sub-No. 31 remove the restrictions (a) to commodities in bulk, (b) against named commodities from or to specified points; (5) remove the "originating at and destined to" named points restriction in Sub-Nos. 31, 25, 14, 13, 2 and MC-F-13720; (6) remove the restriction against the transportation of malt beverages from named plant to specified points in Sub-Nos. 2, and 8; (7) remove plantsite limitations: (a) in Sub-No. 2, (b) in Sub-No. 13 and replace Lomira, Cleveland, Antigo, Theresa and Clintonville, WI with Dodge, Manitowoc, Langlade and Waupaca Counties, WI, (b) in Sub-No. 16 and replace Manitowoc, WI and Plainview, MN with Manitowoc County, WI and Wabasha County, MN, (c) in Sub-No. 20 and replace Poynette, Waunakee, Sun Praire, DeForest, Cobb, and Merrill, WI with Columbia, Dane, Iowa, and Lincoln Counties, WI, (d) in Sub-No. 28 and replace Markesan, Cambria and Galesville, WI with Green Lake, Columbia and Trempealeau Counties, WI and (e) in Sub-No. 44 and replace Plainview, MN with Wabasha County, MN; (8) change city to county-wide authority: (a) from Sturgeon Bay, WI to Door County, WI and from Monroe, WI to Green County, WI in Sub-No. 2, (b) from Fond du Lac, Manitowoc, Sheboygan and Twin Lakes, WI to Fond du Lac, Manitowoc, Sheboygan, and Kenosha Couties, WI in Sub-No. 8, (c) from Monroe, WI to Green County, WI in Sub-No. 14, (d) from Montgomery, IL to Kane County, IL in Sub-No. 18, (e) from LaCrosse, WI to LaCrosse County, WI in Sub-No. 19, (f) from Brownsville, WI to Dodge County, WI in Sub-No. 25, (g) from Granite City, IL to Madison County, IL, (h) from Arlington and Ortonville, MN and Bloomer, WI to Sibley and Big Stone Counties, MN and Chippewa County, WI in Sub-No. 37, and, (i) from Plainview, MN and Manitowoc and Bloomer, WI to Wabasha County, MN and Manitowoc and Chippewa County, WI in MC-F-13720; (9) change one-way to radial authority between various combinations of points in all Subs and MC-F-13720 except Sub-Nos. 30, 31 and 49.

Mc 140820 (Sub-17)X, filed June 22, 1981. Applicant: A & R TRANSPORT, INC., 2996 N. Illinois 71, R.R. #3, Ottawa, IL 61350. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602. Applicant seeks to remove restrictions in its Sub. Nos. 2, 3F, 6F, 7F, 11 and 12 certificates to (1) broaden the commodity description to "commodities in bulk" from (a) acids, in bulk, in tank vehicles, in Sub-No. 2, (b) fertilizers, in Sub-No. 3F, (c) acids, in Sub-No. 6F, (d) decalcium phosphates, in bulk, in Sub-No. 7F, (e) sand, in bulk, in Sub-No. 11 F, and (f) dry plastics and liquid chemicals (except propylene), in bulk, in Sub-No. 12 F; (2) replace the plantsite or city-wide authority with county-wide authority: (a) La Salle County, IL, for Marseilles, IL, in Sub-Nos. 2 and 7F, (b) La Salle, Cook Lake, Will and Grundy Counties, IL for Argo, Bedford Park, Calumet City, Forest View, La Salle, Lemont, Marseilles, Morris, and Ottawa, IL in Sub. No. 3F, (c) Bureau County, IL, for DePue, IL, in Sub-No. 6F, and (d) Cook and Grundy Counties, IL, for Lemont and Morris, IL, in Sub-No. 12F, (3) eliminate the "originating at and/or destined to" restriction, in Sub-Nos. 2, 3F and 12F; and (4) authorize radial authority to replace existing one-way service betweeen points in eastern States, in all certificates.

MC 144140 (Sub-58)X, filed June 8, 1981. Applicant: SOUTHERN FREIGHTWAYS, INC., P.O. Box 158, Eustis, FL 32726. Representative: K. Edward Wolcott, Suite 1200 Gas Light Tower, 235 Peachtree St., N.E., Atlanta, GA 30303. Applicant seeks to remove restrictions in its Sub-Nos. 1, 2, 7F, 9F, 15F, 21F, paragraphs 5, 6, and 8; 22F, 33F, 34F, 35F, 43F, 45F, 48F and 53F certificates to (1) broaden the commodity descriptions (a) to "food and related products" from foodstuffs in Sub-No. 1; frozen foods and commodities otherwise exempt from economic regulation when transported in mixed loads with frozen foods in Sub-No. 7; foodstuffs (except in bulk) in Sub-No. 15F; citrus products (except in bulk) in vehicles equipped with mechanical refrigeration, in Sub-No. 21F, paragraph 6; foodstuffs in Sub-No. 21F, paragraph 8; foodstuffs (except in bulk) in Sub-No. 22F; bananas and commodities the transportation of which is otherwise

exempt from economic regulation when transported in mixed loads with bananas in Sub-No. 34F; beverages, beverages preparations and citrus products and foodstuffs in mixed shipments with those commodities in Sub-No. 45F; foodstuffs (except in bulk) in Sub-No. 48F and foodstuffs in Sub-No. 53F; (b) to "rubber and plastic products" from carpet or rug cushioning or lining, sponge rubber or plastic in Sub-No. 2; (c) to "metal products and machinery" from heating and air conditioning units in Sub-No. 9; and (d) to "electrical equipment, machinery and supplies" from welding equipment, material and supplies, electric motors, and parts and accessories for welding equipment, material and supplies and electric motors in Sub-No. 21F, paragraph 5; (2) expand facilities and other origin points to the county origins of (a) St. Martin Parish, LA from Cade and Lozes, LA in Sub-No. 1; (b) Lowndes County, MS from Columbus, MS in Sub-No. 2; (c) Onondaga County, NY Syracuse, NY in Sub-No. 7F; (d) Davidson County, TN from Nashville, TN in Sub-No. 9F; (e) Rutherford County, TN from Murfreesboro, TN in Sub-No. 15F; (f) Forsyth County, NC from Winston-Salem, NC in Sub-No. 21F, paragraph 6; (g) St. Martin Parish, LA from Cade and Lozes, LA in Sub-No. 21F, paragraph 8; (h) Franklin, Adams and Cumberland Counties, PA from Chambersburg, Ortanna and Peach Glen, PA in Sub-No. 22F; (i) Hinds County, MS Jackson, MS in Sub-No. 33F; (j) Albany County, NY and New Castle County, DE from Albany, NY and Wilmington, DE in Sub-No. 34F; (k) Alcorn County, MS from Corinth, MS in Sub-No. 36F; (l) Erie and Niagara Counties, NY and Warren, Westmoreland, Venago and Bradford Counties, PA and Hancock and Pleasants County, WV and Dallas County, TX from Buffalo and North Tonawanda, NY and North Warren, New Kensington, Emlenton and Farmers Valley, PA and Congo and St. Marys, WV and Garland, TX in Sub-No. 43F; (m) Northumberland County, PA from Milton, PA in Sub-No. 48F; (n) Shelby County, TN from Memphis, TN in Sub-No. 53F; (3) broaden the territorial description from one-way to radial authority between (a) St. Martin Parish, LA and points in six States in Sub-No. 1; (b) Lowndes County, MS and points in 11 States and DC in Sub-No. 2 (c) Onondaga County, NY and points in 2 States in Sub-No. 7F, (d) Davidson County, TN and points in 2 States in Sub-No. 9F; (e) Rutherford County, TN and points in 3 States in Sub-No. 15F, (f) Cleveland OH and points in six States and points lying generally west of the Mississippi River in Sub-No. 21F, paragraph 5, (g) Forsyth County, NC and points in the U.S. in and east of MN, IA, MS, AR, and LA in Sub-No. 21F, paragraph 6, (h) St. Martin Parish, LA and points in six States in Sub-No. 21F, paragraph 8, (i) Franklin, Adams and Cumberland Counties, PA and points in 8 States in Sub-No. 22F, (j) Hinds County, MS and points in 3 States in Sub-No. 33F, (k) Baltimore, MD; Albany County and New York City, NY; Norfolk, VA and Philadelphia, PA and their commercial zones and New Castle County, DE and points in 9 States in Sub-No. 34F, (l) Erie and Niagara Counties, NY; Warren, Westmoreland, Venango and Bradford Counties, PA, Hancock and Pleasants Counties, WV and Dallas County, TX and points in 6 States and between LA and NJ, and points in FL in Sub-No. 43F, (m) FL, and points in 8 States in Sub-No. 45F, (n) Northumberland County, PA and points in 7 States in Sub-No. 48F; (4) remove the restriction limiting transportation to traffic originating at or destined to named facilities in Sub-No. 7, 15, 21F, par. 5; 21F, par. 6; 21F, par. 8; 22F, 33F and 36F; and (5) remove the restriction against the transportation of traffic to Baton Rouge and New Orleans, LA in Sub-No. 21F, par. 5.

MC 147851 (Sub-12)X, filed June 25, 1981. Applicant: KWESVA, INC., Route 10, Benson Valley, Frankfort, KY 40601. Representative: Herbert D. Liebman, 403 West Main St., Frankfort, KY 40601. Applicant seeks to remove restrictions in its Sub-No. 4F certficate to (1) broaden the commodity description from corrugated cartons and packaging materials and aluminum foil backed with paper to "pulp, paper and related products and metal products"; and, (2) broaden the territorial description from one-way and city-wide authority to radial and county-wide authority between Louisville, KY, and points in Elkhart County, IN (for Elkhart, IN) and Jackson County, IL (for Murphysboro, IL).

MC 148393 (Sub-5)X, filed June 22, 1981. Applicant: ABLE EXPRESS CO., INC., 2170 Buck Street, Cincinnati, Ohio 45214. Representative: Jerry B. Sellman, 50 West Broad Street, Columbus, Ohio 43215. Applicant seeks to remove restrictions from its Sub–No. 3F certificate to eliminate household goods as defined by the Commission, commodities in bulk, and those requiring special equipment from its general commodities authority and eliminate the restriction limiting service to the transportation of traffic moving on Bills of lading of Shippers Associations.

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BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–134

The following applications were filed in region 2; send protests to: ICC, Federal Reserve Bank Building, 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 124333 (Sub-II–8TA), filed June 26, 1981. Applicant: BAKER PETROLEUM TRANSPORTATION CO., INC., Pyles Lane, New Castle, DE 19720. Representative: Samuel W. Earnshaw, 803 Washington Bldg., Washington, DC 20005. Contract, irregular: *Petroleum and petroleum products,* in bulk, in tank

vehicles, between points in DE and PA, for 270 days. Supporting shipper(s): Apex Oil Co., 1622 S. Clinton St., Baltimore, MD 21224.

MC 136994 (Sub-II–1TA), filed June 29, 1981. Applicant: EDWIN BOOTH, JR., Box 275, Eagles Mere, PA 17731. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. *Coal,* from Sullivan County, PA to ME, NH, MA, CT, RI, OH, NJ, MD, DE, and VT, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): FJ&F Coal Co., Inc., Box 57, Nanticoke, PA.

MC 5603 (Sub-II–1TA), filed June 23, 1981. Applicant: CHALMERS MOTOR FREIGHT, INC., 275 Langhorne-Yardley Rd., Langhorne, PA 19047. Representative: Raymond A. Thistle, Jr., Five Cottman Ct., Homestead Rd. & Cottman St., Jenkintown, PA 19046. Contract; irregular: *Plastic bottles, scrap plastic* and *supplies and equipment used in the recycling of plastic* (1) between Morton, PA on the one hand, and, on the other, points in the U.S. under continuing contract(s) with Recycling Research, Inc., and (2) between Langhorne, PA on the one hand, and, on the other, points in the U.S. under continuing contract(s) with Plastics Recycling Unlimited Corp. Supporting shipper(s): Recycling Research, Inc., 100 Woodland Ave., Morton, PA 19070 and Plastics Recyclying Unlimited Corp., 275 Langhorne-Yardley Rd., Langhorne, PA 19047.

MC 44494 (Sub-II–1TA), filed June 25, 1981. Applicant: COMMANDER HORSE TRANSPORT CO., INC., P.O. Box M, The Plains, VA 22171. Representative: George A. Horkan, Jr., Rt. 1, Box 34, Upperville, VA 22176. *Horses and training ponies (other than ordinary livestock), personal effects of attendants, supplies and equipment and paraphernalia incidental to the care, transportation and exhibition of such horses,* between pts. in DC, KY, VA, WV, MD, DE, NY, PA, NJ, NC, SC, OH, DC, NH, MA, RI, FL, CT, MI, IL, TN, GA, AL, MS, LA, AR, VT, IN, TX, OK, and MO, for 270 days. Applicant intends to tack. Supporting shipper: Trust, Newstead Farm, Box 184, Upperville, VA 22176.

MC 44302 (Sub-II–6TA), filed June 23, 1981. Applicant: DEFAZIO EXPRESS, INC., 1024–26 Springbrook Ave., Moosic, PA 18507. Representative: Paul J. Kenworthy, (same address as applicant). *Carbonated Beverages, and materials and supplies used in the manufacture and distribution of such commodities,* between the facilities of Faygo Beverages, Inc. in Lackawanna County, PA, on the one hand, and, on the other, points in NY. Supporting shipper: Faygo Beverages, Inc., 3579 Gratiot Ave., Detroit, MI 48207.

MC 149541 (Sub-II–6TA), filed June 29, 1981. Applicant: LEBARNOLD, INC., 625 South Fifth Ave., P.O. Box 630, Lebanon, PA 17042. Representative: Francis W. McInerny, 1000 Sixteenth Street, NW., Suite 502, Solar Bldg., Washington, DC 20036. *Contract: irregular: general commodities (except classes A and B explosives)* between pts. in the US, under continuing contract(s) with Armstrong World Industries, Inc., Lancaster, PA, and its subsidiaries, E & B Carpet Mills, Inc., Arlington, TX; Empire Carpet Corp., Teterboro, NJ; and Thomasville Furniture Industries, Inc., Thomasville, NC for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Armstrong World Industries, Inc., Liberty & Charlotte Sts., Lancaster, PA 17604.

MC 109448 (Sub-II–10TA), filed June 29, 1981. Applicant: PARKER TRANSFER COMPANY, P.O. Box 256, Elyria, OH 44036. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Malt beverages and malt beverage containers* between Toledo, OH, and pts in its Commercial Zone, on the one hand, and, on the other, Peoria, IL, and Milwaukee, WI for 270 days. And underlying *ETA* seeks 120 days authority. Supporting shipper: Great Lakes Distributors, 3928 N. Detroit Ave., Toledo, OH 43612.

MC 156821 (Sub-II–1TA), filed June 29, 1981. Applicant: PHOENOIX TRUCKING, INC., 114½ East Main Street, Ravenna, OH 44310. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. *Iron and steel articles (except in bulk),* between facilities of Elgin Steel, Inc., at or near Albany and Buffalo, NY; Chicago, IL; Bethlehem and Pittsburgh, PA; Sparrows Point, MD; Detroit, MI; Weirton, WV; and Youngstown, Steubenville and Cleveland, OH, on the one hand, and, on the other, points in IL, IN, KY, MD, MA, MI, MS, NJ, NY, OH, PA, TN, WV, and WI for 270 days. Supporting shipper: Elgin Steel, Inc., P.O. Box 74, Medina, OH 44258.

MC 152640 (Sub-II–4), filed June 25, 1981. Applicant: RAPID DISTRIBUTION SERVICE, INC., 2392 N. Dupont Highway, Dover, DE 19901. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., N.W., Washington, DC 20005. Contract; irregular; *finished textile products,* between New York, NY, and points in its commercial zone, on the one hand, and, on the other, Norcross, GA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: J. Riggins—Outrigger, Norcross, GA 30071.

MC 147258 (Sub-II–1TA), filed June 23, 1981. Applicant: F. T. SILFIES, INC., 751 Pt. Phillips Road, Bath, PA 18014. Representative: Francis W. Doyle, 323 Maple Ave., Southampton, PA 18966. *Gypsum Rock,* in bulk, in dump vehicles, from Burlington, NJ and Stony Point, NY, to Bath, Stockertown and Whitehall, PA. An underlying ETA seeks 120 days authority. Supporting shipper: Valley Gypsum, Inc., 2160 Community Drive, Bath, PA 18014.

MC 155348 (Sub-II–1TA), filed June 26, 1981. Applicant: VENEZIA HAULING, INC., 703 West Ridge Pike, Limerick, PA 19465. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. Transporting *iron ore* from Mount Hope, NJ to Frazer, PA. Supporting shipper: Foote Minerals, Inc., Route 100, Exton, PA 19341.

The following application were filed in Region 4: Send Protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 120364 (Sub-4–16TA), filed June 25, 1981. Applicant: A & B FREIGHT LINE, INC., 4805 Sandy Hollow Rd., Rockford, IL 61109. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703. *Contract carrier;* irregular routes: *Such commodities as are distributed by, dealt in, or used by wholesale and retail sporting goods and toy, craft, and hobby stores, and materials, equipment and supplies used or useful in the sale or distribution of such commodities* between points in the U.S. (except AK and HI) under a continuing contract(s) with Westvaco, U.S. Envelope Division, Springfield, MA. Underlying ETA seeks 120 days authority. Supporting shipper: Westvaco, U.S. Envelope Division, 2001 Roosevelt Avenue, Springfield, MA 01101.

MC 152706 (Sub-4–3TA), filed June 25, 1981. Applicant: MIDWEST OIL TRANSIT, INC., 4902 West 86th Street, Indianapolis, IN 46268. Representative: Robert B. Hebert, 777 Chamber of Commerce Building, Indianapolis, IN 46204. *Asphalt flux* from Cincinnati, OH to Indianapolis, IN. Supporting shipper: Rock Island Refining Corporation, 5000 West 86th Street, Indianapolis, IN 46268.

MC 153448 (Sub-4–2TA), filed June 25, 1981. Applicant: CONTRUX, INC., Stephen Street at Canal, P.O. Box 309, Lemont, IL 60439. Representative: Jack I. Anderson (Same address as Applicant). *Contract;* irregular. *General commodities (except Classes A and B*

explosives), between points in U.S., under a continuing contract(s) with Whirlpool Corporation of Benton Harbor, MI. Supporting shipper: Whirlpool Corporation, 2000 U.S. 33, North Benton Harbor, MI 49022.

MC 154818 (Sub-4–1TA), filed June 25, 1981. Applicant: LAKELAND DELIVERY SERVICE, INC., P.O. 6493, Duluth, MN 55806. Representative: William Mahai, 27 W. 5th St., Duluth, MN 55806. *Contract* irregular: *Paint and general supplies* between Duluth, MN and points in WI under a continuing contract with Glidden Paint Co., Duluth, MN. Supporting shipper: Glidden Paint Co. 915 E. 3rd St. Duluth, MN 55805.

MC 156776 (Sub-4–1TA), filed June 25, 1981. Applicant: SPACE CENTER TEXAS, INC. d.b.a. SPACE CENTER HOUSTON DISTRIBUTION SERVICES, 444 Lafayette Road, St. Paul, MN 55101. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. *Such commodities as are dealt in or used by wholesale and retail discount, variety and department stores*, between points in the U.S., restricted to the transportation of traffic moving to or from the facilities of Target Stores, a division of Dayton-Hudson Corporation. Supporting shipper: Target Stores, Inc., 600 Carnahan Drive, Maumelle, AR 72118.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-19949 Filed 7-7-81; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Volume No. OP2-069]

Motor Carriers; Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a 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 with 45 days after the date of this Federal Register notice. Applicant may file a verified statement in rebuttal within 60 days of publication. Such pleadings shall comply with 49 CFR 1100.247 addressing specifically the issue(s) indicated as the purpose for republication. Special Rule 247 was published in the Federal Register of July 3, 1980, at 45 FR 45539.

By the Commission.

Agatha L. Mergenovich,

Secretary.

MC 99953 (Sub-2) (Republication) filed December 10, 1980, published in the Federal Register of January 29, 1981, and republished this issue: Applicant: T TRANSPORTATION, INC., 207 F Street, South Boston, MA 02127. Representative: Christopher Cabot, 100 Federal Street, Boston, MA 02110. A decision of the Commission, *Division 2*, decided May 19, 1981, and served June 2, 1981, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce, over irregular routes, as a *common carrier*, by motor vehicle, transporting *general commodities*, between points in Massachusetts, on the one hand, and, on the other, points in Massachusetts, Rhode Island, Connecticut, New Hampshire, Vermont, and Maine; that applicant is fit, willing, and able properly to perform the granted sevice and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. The purpose of this republication is to broaden the scope of authority.

[FR Doc. 81-19947 Filed 7-7-81; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-90]

Certain Airless Paint Spray Pumps and Components Thereof; Notice of Request for Additional Information

AGENCY: International Trade Commission.

ACTION: Commission request that parties provide information regarding interested nonparties.

SUMMARY: The Commission has ordered the parties to this investigation to submit a list containing the names and addresses of companies and/or persons not parties to this investigation who may have relevant information to present to the Commission concerning the issues of violation, public interest, and remedy, particularly those nonparties which may be on the verge of involvement in the importation of pumps alleged to infringe the patents in issue in this investigation.

AUTHORITY: The authority for the Commission's action is contained in subsection 337(b) of the Tariff Act of 1930 (19 U.S.C. 1337(b)).

FOR FURTHER INFORMATION CONTACT:

Scott Daniels, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0480.

By order of the Commission.

Issued: July 1, 1981.

Kenneth R. Mason,

Secretary.

[FR Doc. 81-20008 Filed 7-7-81; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-106]

Certain Airtight Cast-Iron Stoves; Notice of Investigation and Request for Comments Concerning Proposed Consent Orders

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337 and request for public comments on proposed consent orders.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission, believing that it would be in the public interest for it to investigate alleged violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) occurring in the importation or sale of certain airtight cast-iron stoves, hereby orders the institution of an investigation on its own initiative pursuant to section 337 based on allegations that unfair methods of competition and unfair acts exist in the importation of certain airtight cast-iron stoves into the United States, in their sale, the effect or tendency of which is to destroy or substantially injure an industry or to prevent the establishment of an industry, efficiently and economically operated, in the United States.

The parties to this investigation have entered into consent order agreements. These consent orders would result in termination of this investigation and the imposition of certain requirements on respondents. This notice requests comments on the proposed consent orders within thirty (30) days.

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.10(b) of the Commission's Rules of Practice and Procedure. The Consent Order Agreements are filed pursuant to 19 CFR 210.20(b) and public comments are sought in accordance with 19 CFR 211.21.

SCOPE OF THE INVESTIGATION: (a) The unfair methods of competition and unfair acts alleged are as follows:

1. Passing off imported copies of domestic airtight cast-iron stoves and causing the consumer to believe that

such imported stoves are the domestic stoves, the effect or tendency of which is to destroy or substantially injure the efficiently and economically operated airtight cast-iron stove industry in the United States.

2. Engaging in false and deceptive advertising for the purpose of furthering the belief on the part of the consumer that the imported stoves are the domestic stoves, the effect or tendency of which is to destroy or substantially injure the efficiently and economically operated airtight cast-iron stove industry in the United States.

3. Infringing the common law trademark protection provided to various airtight cast-iron stove companies because respondents' stoves are virtually identical copies, the effect or tendency of which is to destroy or substantially injure the efficiently and economically operated airtight cast-iron stove industry in the United States.

The investigation has been instituted pursuant to section 337 to determine whether there is a violation of that section, and, if such violation exists, to determine whether relief under subsection (d) or (f) of section 337 would be appropriate.

(b) For the purpose of the investigation so instituted, the following persons, alleged to be involved in the unlawful importation of such products into the United States, or in their sale, are hereby named as respondents:

1. Oriental Kingsworld Industrial Co., Ltd., P.O. Box 26–33, Taipei, Taiwan.

2. Franklin Cast Products, Inc., 1800 Post Road 17, Airport Plaza, Warwick, R.I. 02886.

(c) Donald R. Dinan, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20036, is hereby named Commission investigative attorney, a party to this investigation.

Responses must be submitted by the named respondents in accordance with section 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). The time for such response is suspended during the period of this request for public comments and subsequent Commission consideration pursuant to 19 CFR 211.21 of the consent order agreements.

DATES: Comments will be considered if received on or before August 7, 1981. Comments should conform with Commission Rule 201.8 (19 CFR 201.8) and should be addressed to Kenneth R. Mason, Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

FOR FURTHER INFORMATION CONTACT: Jeffrey S. Neeley, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436; telephone 202–523–0359.

SUPPLEMENTARY INFORMATION: In connection with the Commission's investigation, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), of alleged unfair methods of competition in the importation or sale of certain airtight cast-iron stoves in the United States, the Commission investigative attorney, and respondents Oriental Kingsworld Industrial Co., Ltd. and Franklin Cast Products, Inc. have entered into consent orders. It is proposed that the Commission accept the consent order agreements and issue consent orders incorporating their terms.

The complaint is available for inspection during official working hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

Written comments requested. In view of the Commission's duty to consider the public interest, the Commission requests written comments from interested persons and agencies concerning the effect of the proposed consent orders upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the production of like or directly competitive articles in the U.S., and (4) U.S. consumers. These written comments must be filed with the Secretary to the Commission no later than August 7, 1981.

The proposed consent orders. The proposed consent orders are appended to this notice and are being published simultaneously. The consent order involving Franklin Cast has nine sections. The consent order involving Oriental is comprised of sections I, II, III, VII, VIII and IX of the Franklin Cast consent order. The nine sections deal with the following major subject areas:

I. Lists Franklin stoves which will no longer be imported; lists Franklin stoves which may be imported if specified design changes are made; prohibits respondents from engaging in a general group of activities which forms the basis of the passing off, common law trademark infringement and false advertising allegations in the complaint filed in this matter;

II. Respondent's reporting requirements;

IV–V. Respondent's in house program to ensure compliance with the consent order by its personnel;

VII. the Commission's right to examine respondent's records and interview its officers;

VIII. Respondent's right to apply to the Commission for advice, enforcement, modification or termination; and

IX. Time of expiration of the consent order.

Additional information. The original and 19 true copies of all written submissions must be filed with the Secretary to the Commission. Any persons desiring to submit a document (or portion thereof) to the Commission in confidence must request *in camera* treatment. Such request should be directed to the Secretary and must include a full statement of the reasons why the Commission should grant such treatment. The Commission will either accept such submission in confidence or return it. All nonconfidential written submissions will be open to public inspection at the Secretary's office.

Issued: June 29, 1981.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[Investigation No. 337–TA–106]

In the Matter of Certain Airtight Cast-Iron Stoves; Agreement Containing Consent Order To Cease and Desist.

The United States International Trade Commission (hereinafter Commission), having initiated an investigation under section 337 of the Trade Act of 1930, as amended (19 U.S.C. § 1337) of certain acts and practices of Franklin Cast Products, Inc. (hereinafter respondent), who is willing to enter into an agreement containing an order to cease and desist from the use of the alleged acts and practices being investigated.

It is hereby agreed by and between the respondent, by the duly authorized officer and counsel for the Commission, that:

1. Respondent Franklin Cast Products, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Rhode Island, with its office and principal place of business located at 1800 Post Road 17, Airport Plaza, Warwick, Rhode Island 02886.

2. The Commission has and respondent admits that the Commission has subject matter jurisdiction, in rem jurisdiction and in personam jurisdiction in this proceeding.

3. Respondent agrees to entry of a Consent Order, the terms of which are as set forth in the Consent Order attached hereto as Attachment A and herewith incorporated by reference as though fully set forth herein (hereinafter "Consent Order").

4. Respondent waives:

a. Any further procedural steps;

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

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

5. Enforcement, modification, and revocation of the Consent Order entered pursuant to this agreement will be carried out pursuant to Subpart C of Part 211 of the Commission's *Rules of Practice and Procedure* (19 CFR 211).

6. The signing of this Consent Order Agreement is solely for the purpose of settling, before answer, trial or argument of any issue of fact or law, all of the Commission's charges against respondent and does not constitute an admission by respondent that it has engaged in the alleged acts and practices being investigated and/or has otherwise violated section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337).

7. This Consent Order is not to be considered as an admission by respondent of any fact or conclusion of law in this (except for all jurisdictional facts necessary to the entry of the Consent Order) or any other proceeding, suit, or action.

8. Except as otherwise provided in the Consent Order, this Consent Order Agreement, the Complaint or the Proposed Complaint, or the Notice of Preliminary Investigation, may be used in construing the terms of the Consent Order, but no agreement, understanding, representation, or interpretation not contained in this Consent Order Agreement or Commission decision accompanying the Consent Order may be used to vary the terms of the Consent Order.

9. In addition to the reporting requirements contained herewith, the Commission may require additional compliance reports to be submitted by respondent pursuant to Subpart C of Part 211 of the Commission's *Rules of Practice and Procedure.*

10. Respondent has read and understands this Consent Order Agreement. The respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

11. The Consent Order is in the public interest.

Dated: June 22, 1981.

Franklin Cast Products, Inc.:

By Larry H. Schwartz,

President.

United States International Trade Commission, Unfair Import Investigations Division:

By Donald R. Dinan,

Commission Investigative Attorney.

Attachment A

[Investigation No. 337–TA–106]

In the Matter of Certain Airtight Cast-Iron Stoves; Consent Order

The United States International Trade Commission having initiated an investigation under section 337 of the Tariff Act of 1930, as amended, (19 USC 1337) of certain acts and practices of Franklin Cast Products, Inc. (hereinafter sometimes referred to as "respondent" or "Franklin"); and

Respondent, by its officers, and counsel for the Commission having executed an agreement to the terms of this Consent Order, an admission of all jurisdictional facts necessary to the entry of this Consent Order, a statement that the signing of the Consent Order Agreement is solely for the purpose of settling, before answer, trial on argument of any issue of fact or law, all of the Commission's charges against respondent and does not constitute an admission that section 337 of the Tariff Act of 1930, as amended (19 USC 1337) has been violated, and waivers and other provisions as required by the Commission's Rules; and

Respondent has entered into this Consent Order upon the understanding that the Order shall not be considered as an admission by respondent of any fact or conclusion of law in this (except for all jurisdictional facts necessary to the entry of the Consent Order) or any other proceeding, suit, or action; and

The Commission having published the Consent Order Agreement and Consent Order for public comment on , and the thirty day period for public comment having ended and having duly considered all comments filed, the Commission hereby makes the following jurisdictional findings and enters the following order:

1. Respondent Franklin Cast Products, Inc. is a Rhode Island corporation with its principal place of business at 1800 Post Road 17, Airport Plaza, Warwick, Rhode Island 02886.

2. The U.S. International Trade Commission has subject matter jurisdiction, in rem jurisdiction, in personam jurisdiction, and the proceeding is in the public interest.

Order

The provisions of this Consent Order shall apply to respondent and to its principals, officers, directors, employees, and agents, controlled (whether by stock ownership or otherwise) and/or majority owned business entities, successors and assigns, all those persons acting in concert with them and to each of them.

For purposes of this order, the following definitions will apply:

1. "Person" shall mean any individual, partnership, firm, association, corporation or other legal or business entity.

2. "United States" shall mean the fifty States, the District of Columbia, Virgin Islands, Commonwealth of Puerto Rico and United States possessions.

3. "Stove" shall mean any device or apparatus for combustion of fuel used for heating or cooking purposes. "Stove" shall include, but not be limited to, any of the following:

(a) A finished stove which at the time of importation is fully assembled, whether or not tested or packaged, for distribution to the purchaser as a stove; and

(b) A stove which at the time of importation is not fully assembled; and

(c) A kit which at the time of importation contains all of the components necessary to make a stove; and

(d) Parts of a stove which comprise the major components thereof or design features which are readily identifiable and comprise the external features of the stove.

It is so ordered that:

1. Respondent in connection with the importation of any airtight cast-iron stove and the marketing thereof will not affix, apply, annex, or use a false designation of origin.

2. Respondent in connection with the importation of any airtight cast-iron stove and the marketing thereof will not copy any stylistic feature, artistic design, decorative detail, trade dress, or exterior shape or appearance of an airtight cast-iron stove from a source other than respondent, wherein such feature is non-functional and has acquired secondary meaning by becoming associated exclusively with another source.

3. Respondent in connection with the importation of any airtight cast-iron stove and the marketing thereof will not use model numbers with respect to its airtight cast-iron stoves which are the same as or confusingly similar to model numbers previously used by others on similar types of airtight cast-iron stoves.

4. Respondent in connection with the importation of any airtight cast-iron stove and the marketing thereof will not use any false description or representation which would have the effect or tendency to create an impression that respondent's airtight cast-iron stoves are, or may be in any way, approved by or connected to a source other than respondent.

5. Respondent in connection with the importation of any airtight cast-iron stove and the marketing thereof will not use photographs or other visual representations of airtight cast-iron stoves from a source other than respondent as representations of respondent's airtight cast-iron stoves.

6. Respondent in connection with the importation of any airtight cast-iron stove and the marketing thereof will not use any stylistic, non-functional features of an airtight cast-iron stove from a source other than respondent which would cause possible confusion as to the actual origin of respondent's airtight cast-iron stoves, unless respondent's airtight cast-iron stoves have a name or trademark and a country of origin mark cast thereon in a clear and conspicuous manner.

7. Respondent in connection with the importation of any airtight cast-iron stove and the marketing thereof shall not represent in its sales literature or advertising that its stoves are manufactured in Norway, Sweden, Denmark, or elsewhere in Scandinavia unless they are or as being of a Norwegian, Swedish, Danish or Scandinavian type or style, unless their actual country of origin is indicated in such sales literature or advertising.

8. Respondent agrees to take reasonable and proper steps to prevent its distributors or dealers from engaging in actions which are in contravention of this Order in the sale of the stoves; provided, however, that respondent shall not be obligated to bring suit against, nor to discontinue its sales to, any such distributor or dealer.

9. Notwithstanding anything in this Order to the contrary, respondent (or any distributor or dealer thereof) shall be able to use within the United States the names "Scandia" or "Erik" on and in connection with any of its stoves, as long as respondent is in compliance with all other provisions of this Order.

10. Notwithstanding anything in this Order to the contrary, respondent shall be able to copy any design or portion thereof which is now or subsequently becomes part of the public domain. This paragraph shall not constitute a defense however, to the obligations of respondent set forth in Paragraphs 14 and 15.

11. Respondent agrees not to license, contract or otherwise agree with a third party to perform or engage in any of the acts it is itself prohibited from engaging in under this Consent Order.

12. Paragraph 10 of the Complaint alleges that the following stoves imported by respondent are copies of stoves manufactured by third parties:

Scandia 300
Scandia 700
Scandia 809
Scandia 308
Scandia 315
Scandia 190
Scandia 920
Scandia 400
Scandia 500
Scandia 600

13. Of the stoves enumerated in paragraph 12 above, the following and any stoves closely and substantially similar thereto in shape and general appearance will no longer be imported into the United States by respondent as of the sixtieth day (60th) following the effective date of the Order issued by the Commission unless otherwise specified:

Scandia 190
Scandia 300
Scandia 400
Scandia 500
Scandia 600
Scandia 700

14. Of the stoves enumerated in paragraph 12 above, respondent agrees that each of the following stoves imported into the United States and identified in a manufacturers bill of lading dated after the sixtieth (60th) day following the effective date of the Order issued by the Commission, unless otherwise specified, shall conform to the requirements set forth hereinbelow:

A. With respect to the Scandia 809, and any Franklin stove closely and substantially similar thereto in shape and general appearance such as the Scandia 810 and 830, (1) the name "SCANDIA" and the words "Franklin Cast Products, Inc." will appear on the front of each stove in a clear and conspicuous manner such as is shown in respondent's 1981 catalog on page 10 and (2) the words "Made in Taiwan" will appear on the inside of at least one of the front doors.

B. With respect to the Scandia 920, and any Franklin stove closely and substantially similar thereto in shape and general appearance, (1) the name "SCANDIA" shall appear on the front face of the stove in a clear and conspicuous location; (2) the external ribbing shall be vertical, (3) the words "Made in Taiwan" will appear on at least one side within two inches of the front edge of that particular side panel and in lettering at least ¾" high, (4) the top grill will not have a cross-hatched pattern which is either the same as or similar to the cross-hatching appearing on the Scandia 920 as presently shown in respondent's 1981 catalog, or (5) the window will not include two horizontally extending centrally positioned ribs. The effective date of these changes shall be as of the one hundred eightieth (180th) day following the effective date of the Order as issued by the Commission as measured by the bill of lading for such modified stoves. In the period between the sixtieth (60th) and one hundred eightieth (180th) day following the effective date of the Order as issued by the Commission a bright aluminum plate shall be permanently affixed to the interior of the door which plate shall have minimum dimensions of one inch by two inches and shall identify the stoves' country or origin.

C. With respect to Scandia models 308, 315 and 320, and any of respondent's stoves closely and substantially similar thereto in shape and appearance such as the Scandia 315 D, 315 G and 320 S, respondent will within one hundred and eighty (180) days after the entry of judgment by the District Court in the consolidated civil litigation, *Vermont Castings, Inc.* v. *Franklin Cast Products, Inc.*, CA–79–265 and 80–162, pending in the United States District Court for the District of Vermont ("Vermont Castings Litigation") or by July 1, 1982 whichever shall occur first, make such changes and modifications as the Commission may direct provided, however, that Franklin shall not be required to make any changes in the Scandia 308, 315 and 320 models or in any of respndent's stoves closely and substantially similar thereto in shape and appearance, which would be inconsistent with and/or contrary to that judgment entered in the Vermont Castings Litigation.

The Commission shall direct such changes and modifications within twenty (20) days after entry of judgment in the "Vermont Castings Litigation" or by June 1, 1982, whichever shall occur first.

15. In addition to the stoves enumerated in paragraph 12 above, agreement has been reached between the Commission and respondent with respect to certain other stoves imported by respondent into the United States as follows:

A. The Scandia 810 and 830 models will be treated similar to the Scandia 809 as set forth in paragraph 14 (A) above.

B. The Scandia 840 model will be treated in accordance with paragraph 14 (A) above.

16. Notwithstanding the foregoing paragraphs:

(1) all of the other stoves which appear in the Franklin Cast Products Inc.'s 1980 and 1981 catalogs do not require changes of any type and may continue to be freely imported; and

(2) if the front of a free standing airtight cast iron stove is closely and substantially similar in shape and appearance to the Scandia 301 and/or 302, then doors of the type and configuration of those employed in the Scandia 301 and/or 302 as shown in respondent's 1981 catalog may be used.

II

It is further ordered that respondent shall file a report with the Commission no later than sixty (60) days subsequent to the effective date of this Order and annually for seven (7) years thereafter, identifying all airtight cast-iron stoves imported or proposed to be imported by respondent into the United States, together with photographs, brochures, and all advertising pertaining to the same after which time all such obligations hereunder shall cease.

III

It is further ordered that respondent notify the Commission thirty (30) days subsequent to any material change in respondent, including but not limited to dissolution, assignment or sale, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the Order.

IV

It is further ordered that the respondent shall:

1. Serve, within thirty (30) days after the effective date of this Consent Order, a conformed copy of this Consent Order upon each of its respective directors, officers, employees, managing agents, and who have management responsibility for the marketing, distribution or sale of such respondent's airtight cast-iron stoves in the United States or for shipment or export to the United States for resale in the United States;

2. Serve, within thirty (30) days after the succession of any of the persons referred to in Section IV.1. above, a conformed copy of this Consent Order upon each successor;

3. Maintain such records as will show the name, title and address of each such director, officer, employee, agent and representative upon whom the Consent Order has been served, as described in Section IV. 1. and 2. above, together with the date on which service was made;

4. Within thirty (30) days after the effective date of entry of this Consent Order, respondent shall file with the Commission an affidavit concerning the fact and manner of compliance with Section IV. 1. and 2. above; and

5. The obligations set forth in Sections III, IV. 2. and 3. above shall remain in effect for a period of seven (7) years after the effective date of this Consent Order after which time all such reporting obligations shall cease.

V

It is further ordered that:

1. Respondent shall advise each of its officers who has management responsibility for the manufacture and sale of airtight cast-iron stoves, and each of its employees and managing agents who is engaged in the sale of or who has management responsibility for or authority over the marketing of airtight cast-iron stoves, of its obligations under this Consent Order. For a period of seven (7) years from the effective date of this Consent Order, respondent shall maintain a program to insure compliance with this Consent Order, which program shall include at a minimum the following with respect to each of the persons described immediately above:

a. The annual distribution to them of this Consent Order;

b. The annual submission to them of a written directive setting forth the respondent's policy regarding compliance with section 337 of the Tariff Act and with this Consent Order, with such directive to include: (1) an admonition that non-compliance with such policy and this Consent Order will result in appropriate disciplinary action, and (2) advice that the respondent's legal advisors are available at all reasonable times to confer with such persons regarding any compliance questions or problems;

c. The imposition of a requirement that each of them sign and submit to his employer, once a year, a certificate in substantially the following form:

The undersigned hereby (1) acknowledges receipt of a copy of the 1981 Airtight Cast-Iron Stove Consent Order and a written directive setting forth the company policy regarding compliance with section 337 of the Tariff Act and with such Consent Order, (2) represents that the undersigned has read and understands such Consent Order and directive, (3) acknowledges that the undersigned has been advised and understands that non-compliance with such policy and Consent Order will result in appropriate disciplinary measures determined by the company and which may include dismissal, and (4) acknowledges that the undersigned has been advised and understands that non-compliance with the Consent Order may also result in contempt of court and a fine;

d. The holding of one or more meetings with them to review the terms of this Consent Order and the obligations it imposes, with such meetings to be arranged and conducted so that each of them attends at least one such meeting within a twelve-month period.

2. For a period of seven (7) years from the effective date of this Consent Order, respondent shall file with the Commission on or before the anniversary date of this Consent Order, a sworn statement, by a responsible official designated by respondent to perform such duties, setting forth all steps it has taken during the preceding year to discharge its obligations under this Section of the Consent Order. This statement shall be accompanied by copies of all written directives issued by the respondent during the prior year with respect to compliance with section 337 of the Tariff Act and with this Consent Order. After seven (7) years, all obligations under this section shall cease.

VI

It is further ordered that:

1. For a period of seven (7) years from the effective date of this Consent Order respondent shall file with the Commission a sworn statement stating the detail, manner, and form of compliance with the terms of this Consent Order.

2. Respondent shall file the sworn statements required by Section VI.1. as follows:

a. Within thirty days after the effective date of this Consent Order;

b. Six months following the effective date of this Consent Order; and

c. On the anniversary date of this Consent Order for the remaining years in the seven year term. Thereafter all such obligations under this section shall cease.

VII

It is further ordered that:

1. In determining whether there has been compliance with the requirements and prohibitions of this Consent Order, the Commission may consider evidence of any activity engaged in by respondent which is brought to its attention or of which it becomes aware.

2. For the purposes of securing compliance with this Consent Order, respondent shall retain any and all records relating to the importation, sale

or distribution of airtight cast-iron stoves made and received in the usual and ordinary conduct of its business, whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain, and in summary form for a period of seven (7) years from the close of the fiscal year to which they pertain from which compliance with this order may be determined.

3. For the purpose of determining or securing compliance with this Consent Order and for no other purposes, and subject to any privilege recognized by federal courts of the United States, duly authorized representatives of the Commission shall, upon reasonable written notice to respondent by the Commission be permitted:

a. Access to and the right to inspect in respondent's principal office during reasonable office hours of respondent, and in the presence of counsel or other representative if such respondent chooses, books, ledgers, accounts, correspondence, memoranda, and other records and documents, both in detail and in summary form as are required by Paragraph 2 of this section to be retained, in the possession of or under the control of respondent relating to any of the matters contained in this Consent Order; and

b. Subject to the presence of counsel for respondent and the reasonable convenience of respondent and without restraint or interference from it, to interview officers, directors, agents, partners or employees of respondent, who may have their own counsel present, regarding any of the matters contained in this Consent Order.

4. Information obtained pursuant to this section will only be made available to the Commission or its authorized representatives, will be treated confidentially, and will not be divulged by any authorized representatives of the Commission to any person other than another duly authorized representative of the Commission, except as may be required in the course of securing compliance with this Order, or as otherwise required by law. Disclosure hereunder will not be made by the Commission without ten days prior notice to respondent by service of such notice on respondent's principal office in the United States. Further, the Commission shall advise respondent of each request for information under FOIA relating to information pertaining to or obtained from respondent.

VIII

1. Respondent may apply to the Commission at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Consent Order, for the amendment, modification or relief from any of the provisions thereof, or for the enforcement or compliance therewith.

2. This Consent Order shall be binding on the Commission and shall be considered by the Commission to be a full settlement and resolution of all the matters alleged in the Complaint.

IX

This Consent Order shall expire on the seventh (7th) anniversary thereof.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[Investigation No. 337-TA-106]

In the Matter of Certain Airtight Cast-Iron Stoves; Agreement Containing Consent Order To Cease and Desist.

The United States International Trade Commission (hereinafter Commission), having initiated an investigation under section 337 of the Trade Act of 1930, as amended (19 U.S.C. § 1337) of certain acts and practices of Oriental Kingsworld Industrial Co., Ltd. (hereinafter respondent), who is willing to enter into an agreement containing an order to cease and desist from the use of the alleged acts and practices being investigated.

IT IS HEREBY AGREED by and between the respondent, by the duly authorized officer and counsel for the Commission, that:

1. Respondent Oriental Kingsworld Industrial Co., Ltd. is a corporation organized, existing and doing business under and by virtue of the laws of the Republic of China, with its office and principal place of business located at P.O. Box 26-333, Taipei, Taiwan, ROC (4th Floor, #72, Section 2, Nanking East Road).

2. The Commission has and respondent admits that the Commission has subject matter jurisdiction, in rem jurisdiction and in personam jurisdiction in this proceeding.

3. Respondent agrees to entry of a Consent Order, the terms of which are as set forth in the Consent Order attached hereto as Attachment A and herewith incorporated by reference as though fully set forth herein (hereinafter "Consent Order").

4. Respondent waives:

a. Any further procedural steps;

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

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

5. Enforcement, modification, and revocation of the Consent Order entered pursuant to this agreement will be carried out pursuant to Subpart C of Part 211 of the Commission's Rules of Practice and Procedure (19 CFR 211).

6. The signing of this Consent Order Agreement is solely for the purpose of settling, before answer, trial or argument of any issue of fact or law, all of the Commission's charges against respondent and does not constitute an admission by respondent that it has engaged in the alleged acts and practices being investigated and/or has otherwise violated section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337).

7. This Consent Order is not to be considered as an admission by respondent of any fact or conclusion of law in this (except for all jurisdictional facts necessary to the entry of the Consent Order) or any other proceeding, suit, or action.

8. Except as otherwise provided in the Consent Order, this Consent Order Agreement, the Complaint or the Proposed Complaint, or the Notice of Preliminary Investigation, may be used in construing the terms of the Consent Order, but no agreement, understanding, representation, or interpretation not contained in this Consent Order Agreement or Commission decision accompanying the Consent Order may be used to vary the terms of the Consent Order.

9. In addition to the reporting requirements contained herewith, the Commission may require additional compliance reports to be submitted by respondent pursuant to Subpart C of Part 211 of the Commission's Rules of Practice and Procedure.

10. Respondent has read and understands this Consent Order Agreement. The respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

11. The Consent Order is in the public interest.

Oriental Kingworld Industrial Co., Ltd., a Corporation

By—, _____

Address

_____

Title

Approved:

_____

Commission Investigative Attorney.

Attachment B

[Investigation No. 337-TA-106]

In the Matter of Certain Airtight Cast-Iron Stoves; Consent Order.

The United States International Trade Commission having initiated an investigation under section 337 of the Tariff Act of 1930, as amended, (19 USC 1337) of certain acts and practices of Oriental Kingsworld Industrial Co., Ltd., (hereinafter sometimes referred to as "respondent" or "Oriental"); and

Respondent, by an officer, and counsel for the Commission having executed an agreement to the terms of this Consent Order, an admission of all jurisdictional facts necessary to the entry of this Consent Order, a statement that the signing of the Consent Order Agreement is solely for the purpose of settling, before answer, trial on argument of any issue of fact or law, all of the Commission's charges against respondent and does not constitute an admission that section 337 of the Tariff Act of 1930, as amended (19 USC 1337) has been violated, and waivers and other provisions as required by the Commission's Rules; and

Respondent has entered into this Consent Order upon the understanding that the Order shall not be considered as an admission by respondent of any fact or conclusion of law in this (except for all jurisdictional facts necessary to the entry of the Consent Order) or any other proceeding, suit, or action; and

The Commission having published the Consent Order Agreement and Consent Order for public comment on , and the thirty day period for public comment having ended and having duly considered all comments filed, the Commission hereby makes the following jurisdictional findings and enters the following order:

1. Respondent Oriental Kingsworld Industrial Co., Ltd. is a corporation organized, existing and doing business under and by virtue of the laws of the Republic of China, with its office and principal place of business located at P.O. Box 26-383, Taipei, Taiwan, ROC (4th Floor, #72, Section 2, Nanking East Road).

2. The U.S. International Trade Commission has subject matter jurisdiction, in rem jurisdiction, in personam jurisdiction, and the proceeding is in the public interest.

Order

The provisions of this Consent Order shall apply to respondent and to its principals, officers, directors, employees, and agents, controlled (whether by stock ownership or otherwise) and/or majority owned business entities, successors and assigns, all those persons acting in concert with them and to each of them.

For purposes of this order, the following definitions will apply:

1. "Person" shall mean any individual, partnership, firm, association, corporation or other legal or business entity.

2. "United States" shall mean the fifty States, the District of Columbia, Virgin Islands, Commonwealth of Puerto Rico and United States possessions.

3. "Stove" shall mean any device or apparatus for combusion of fuel used for heating or cooking purposes. "Stove" shall include, but not be limited to, any of the following:

(a) A finished stove which at the time of importation into the United States is fully assembled, whether or not tested or packaged, for distribution to the purchaser as a stove; and

(b) A stove which at the time of importation into the United States is not fully assembled; and

(c) A kit which at the time of importation into the United States contains all of the components necessary to make a stove; and

(d) Parts of a stove which comprise the major components thereof or design features which are readily identifiable and comprise the external features of the stove.

It is ordered that:

1. Respondent, in connection with the exportation of any airtight cast-iron stove to the United States and the marketing thereof, will not affix, apply, annex, or use a false designation of origin.

2. Respondent, in connection with the exportation of any airtight cast-iron stove to the United States and the marketing thereof, will not copy any stylistic feature, artistic design, decorative detail, trade dress, or exterior shape or appearance of an airtight cast-iron stove from a source other than respondent, wherein such feature is non-functional and has acquired secondary meaning by becoming associated exclusively with another source.

3. Respondent, in connection with the exportation of any airtight cast-iron stove to the United States and the marketing thereof, will not use model numbers with respect to its airtight cast-iron stoves which are the same as or confusingly similar to model numbers previously used by others on similar types of airtight cast-iron stoves.

4. Respondent, in connection with the exportation of any airtight cast-iron stove to the United States and the marketing thereof, will not use any false description or representation which would have the effect or tendency to create an impression that respondent's airtight cast-iron stoves are, or may be in any way, approved by or connected to a source other than respondent.

5. Respondent, in connection with the exportation of any airtight cast-iron stove to the United States and the marketing thereof, will not use photographs or other visual representations of airtight cast-iron stoves from a source other than respondent as representations of respondent's airtight cast-iron stoves.

6. Respondent, in connection with the exportation of any airtight cast-iron stove to the United States and the marketing thereof, will not use any stylistic, non-functional features of an airtight cast-iron stove from a source other than respondent which would cause possible confusion as to the actual origin of respondent's airtight cast-iron stoves, unless respondent's airtight cast-iron stoves have a name or trademark and a country of origin mark cast thereon in a clear and conspicuous manner.

7. Respondent, in connection with the exportation of any airtight cast-iron stove to the United States and the marketing thereof, shall not represent in its sales literature or advertising that its stoves are manufactured in Norway, Sweden, Denmark, or elsewhere in Scandinavia unless they are or as being of a Norwegian, Swedish, Danish or Scandinavian type or style, unless their actual country of origin is indicated in such sales literature or advertising.

8. Respondent agrees to take reasonable and proper steps to prevent its distributors or dealers from engaging in actions which are in contravention of this Order in the sale of the stoves; provided, however, that respondent shall not be obligated to bring suite against, nor to discontinue its sales to, any such distributor or dealer.

9. Notwithstanding anything in this Order to the contrary, respondent (or any distributor or dealer thereof) shall be able to use within the United States the names "Scandia" or "Erik" on and in connection with any of its stoves, as long as respondent is in compliance with all other provisions of this Order.

10. Notwithstanding anything in this Order to the contrary, respondent shall be able to copy any design or portion thereof which is now or subsequently becomes part of the public domain. This paragraph shall not constitute a defense however, to the obligations of respondent set forth in Paragraphs 14 and 15.

11. Respondent agrees not to license, contract or otherwise agree with a third party to perform or engage in any of the acts it is itself prohibited from engaging in under this Consent Order.

12. Paragraph 10 of the Complaint alleges that the following stoves exported to the United States by respondent are copies of stoves manufactured by third parties:
Scandia 300
Scandia 700
Scandia 809
Scandia 308
Scandia 315
Scandia 190
Scandia 920
Scandia 400
Scandia 500
Scandia 600

13. Of the stoves enumerated in paragraph 12 above, the following and any stoves closely and substantially similar thereto in shape and general appearance will no longer be exported to the United States by respondent as of the sixtieth day (60th) following the effective date of the Order issued by the Commission unless otherwise specified:
Scandia 190
Scandia 300
Scandia 400
Scandia 500
Scandia 600
Scandia 700

14. Of the stoves enumerated in paragraph 12 above, the respondent agrees that each of the following stoves imported into the United States and identified in a manufacturers bill of lading dated after the sixtieth (60th) day following the effective date of the Order issued by the Commission, unless otherwise specified, shall conform to the requirements set forth hereinbelow:

A. With respect to the Scandia 809, and any Franklin stove closely and substantially similar thereto in shape and general appearance such as the Scandia 810 and 830, (1) the name "SCANDIA" and the words "Franklin Cast Products, Inc." will appear on the front of each stove in a clear and conspicuous manner such as is shown in Franklin Cast Product, Inc.'s 1981 catalog on page 10, and (2) the words "Made in Taiwan" will appear on the inside of at least one of the front doors.

B. With respect to the Scandia 920, and any Franklin stove closely and substantially similar thereto in shape and general appearance, (1) the name "SCANDIA" shall appear on the front face of the stove in a clear and conspicuous location, (2) the external ribbing shall be vertical, (3) the words "Made in Taiwan" will appear on at least one side within two inches of the front edge of that particular side panel and in lettering at least ¾" high, (4) the top grill will not have a cross-hatched pattern which is either the same as or similar to the cross-hatching appearing on the Scandia 920 as presently shown in respondent's 1981 catalog, and (5) the window will not include two horizontally extending centrally positioned ribs. The effective date of these changes shall be as of the one hundred eightieth (180th) day following the effective date of the Order as issued by the Commission as measured by the bill of lading for such modified stoves. In the period between the sixtieth (60th) and one hundred eightieth (180th) day following the effective date of the Order as issued by the Commission a bright aluminum plate shall be permanently affixed to the interior of the door which plate shall have minimum dimensions of one inch by two inches and shall identify the stoves' country of origin.

C. With respect to Scandia models 308, 315 and 320, and any of respondent's stoves closely and substantially similar thereto in shape and appearance such as the Scandia 315 D, 315 G and 320 S, respondent will within one hundred and eighty (180) days after the entry of judgment by the District Court in the consolidated civil litigation, *Vermont Castings, Inc.* v. *Franklin Cast Products, Inc.*, CA–79–265 and 80–162, pending in the United States District Court for the District of Vermont ("Vermont Castings Litigation") or by July 1, 1982, whichever shall occur first, make such changes and modifications as the Commission may direct provided, however, that Franklin shall not be required to make any changes in the Scandia 308, 315 and 320 models or in any of respondent's stoves closely and substantially similar thereto in shape and appearance, which would be inconsistent with and/or contrary to that judgment entered in the Vermont Castings Litigation.

The Commission shall direct such changes and modifications within twenty (20) days after entry of judgment in the "Vermont Castings Litigation" or by June 1, 1982, whichever shall occur first.

15. In addition to the stoves enumerated in paragraph 12 above, agreement has been reached between the Commission and respondent with respect to certain other stoves exported by respondent to the United States as follows:

A. The Scandia 810 and 830 models will be treated similar to the Scandia 809 as set forth in paragraph 14(A) above.

B. The Scandia 840 model will be treated in accordance with paragraph 14(A) above.

16. Notwithstanding the foregoing paragraphs:

(1) All of the other stoves which appear in the Franklin Cast Product, Inc.'s 1980 and 1981 catalogs do not require changes of any type and may continue to be freely imported; and

(2) If the front of a free standing airtight cast-iron stove is closely and substantially similar in shape and appearance to the Scandia 301 and/or 302, then doors of the type and configuration of those employed in the Scandia 301 and/or 302 as shown in respondent's 1981 catalog may be used.

II

It is further ordered:

1. For a period of seven (7) years from the effective date of the Consent Order respondent shall file with the Commission a brochure showing or photographs of each stove exported to the United States for that year.

2. Respondent shall file the material required on paragraph III 1 above sixty (60) days subsequent to the effective date of this Order, and annually on the anniversary of this Consent Order. At the conclusion of seven (7) years from the anniversary date all obligations under this section shall cease.

III

It is further ordered that respondent notify the Commission thirty (30) days subsequent to any material change in respondent, including but not limited to dissolution, assignment or sale, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the Order.

IV

It is further ordered that:

1. In determining whether there has been compliance with the requirements and prohibitions of this Consent Order, the Commission may consider evidence of any activity engaged in by respondent which is brought to its attention or of which it becomes aware.

2. For the purposes of securing compliance with this Consent Order, respondent shall retain any and all records relating to the exportation of airtight cast-iron stoves made and received in the usual and ordinary conduct of its business, whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain, and in summary form for a period of seven (7) years from the close of the fiscal year to which they pertain from which compliance with this order may be determined.

3. For the purpose of determining or securing compliance with this Consent Order and for no other purposes, and subject to any privilege recognized by federal courts of the United States, duly

authorized representatives of the Commission shall, upon reasonable written notice to respondent by the Commission be permitted:

a. Access to and the right to inspect in respondent's principal office during reasonable office hours of respondent, and in the presence of counsel or other representative if such respondent chooses, books, ledgers, accounts, correspondence, memoranda, and other records and documents, both in detail and in summary form as are required by Paragraph 2 of this section to be retained, in the possession of or under the control of respondent relating to any of the matters contained in this Consent Order; and

b. Subject to the presence of counsel for respondent and the reasonable convenience of respondent and without restraint or interference from it, to interview officers, directors, agents, partners or employees of respondent, who may have their own counsel present, regarding any of the matters contained in this Consent Order.

4. Information obtained pursuant to this section will only be made available to the Commission or its authorized representatives, will be treated confidentially, and will not be divulged by any authorized representative of the Commission to any person other than another duly authorized representative of the Commission, except as may be required in the course of securing compliance with this Order, or as otherwise required by law. Disclosure hereunder will not be made by the Commission without ten days prior notice to respondent by service of such notice on respondent's principal office in the United States. Further, the Commission shall advise respondent of each request for information under FOIA relating to information pertaining to or obtained from respondent.

V

1. Respondent may apply to the Commission at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Consent Order, for the amendment, modification or relief from any of the provisions thereof, or for the enforcement or compliance therewith.

2. This Consent Order shall be binding on the Commission and shall be considered by the Commission to be a full settlement and resolution of all the matters alleged in the Complaint.

VI

This Consent Order shall expire on the seventh (7th) anniversary thereof.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 81-20008 Filed 7-7-81; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-96]

Certain Modular Pushbutton Switches and Components Thereof; Notice to all Parties

Notice is hereby given that the prehearing conference and hearing scheduled for July 27, 1981 (46 FR 32694, June 24, 1981) are cancelled. At the request of the parties the prehearing conference is rescheduled for August 3, 1981, at 9:00 a.m. in the Dodge Center, Room 201, 1010 Wisconsin Avenue, N.W., Washington, D.C. and the hearing shall commence immediately thereafter.

The Secretary shall publish this Notice in the **Federal Register.**

Issued: June 26, 1981.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 81-20006 Filed 7-7-81; 8:45 am]

BILLING CODE 7020-02-M

[731-TA-45, 46, and 47 (Preliminary)]

Certain Steel Wire Nails From Japan, the Republic of Korea, and Yugoslavia; Notice of Institution of Preliminary Antidumping Investigations and Scheduling of Conference

AGENCY: International Trade Commission.

ACTION: Institution of preliminary antidumping investigations.

SUMMARY: The U.S. International Trade Commission hereby gives notice of the institution of preliminary antidumping investigations to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan, the Republic of Korea, and Yugoslavia of steel wire nails, provided for in items 646.25 and 646.26 of the Tariff Schedules of the United States, possibly sold at less than fair value.

EFFECTIVE DATE: July 2, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Lynn Featherstone, Supervisory Investigator, telephone (202-523-0242), U.S. International Trade Commission, Room 346, 701 E Street, NW., Washington, D.C. 20436.

SUPPLEMENTARY INFORMATION:

Background. On July 2, 1981, the Department of Commerce (hereinafter "Commerce") advised the Commission that Commerce was initiating antidumping investigations of steel wire nails from Japan, the Republic of Korea, and Yugoslavia pursuant to section 732(a) of the Tariff Act of 1930, (19 U.S.C. Section 1673a(a) (Supp. III 1979)). After monitoring imports of certain steel products under the Trigger Price Mechanism, Commerce found significant sales of steel wire nails being made at less than the relevant trigger price. These sales constitute possible sales at less than fair value.

Accordingly, on July 2, 1981, the Commission, pursuant to section 733(a) of the Tariff Act of 1930, (19 U.S.C. 1673b(a) (Supp. III 1979)), instituted preliminary antidumping investigations Nos. 731-TA-45, 46, and 47 (Preliminary).

Section 733(a) of the Tariff Act of 1930 requires the Commission to make a determination of whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports possibly sold in the United States at less than fair value. Such a determination must be made within 45 days after the date on which notice of an investigation commenced under section 732(a) is received from the Department of Commerce. These investigations will be subject to the provisions of the Commission's Rules of Practice and Procedure (19 CFR 201.00, *et seq.*) and, particularly, to part 207 thereof (19 CFR 207.1, *et seq.*).

Written submissions. Any person may submit to the Commission on or before July 30, 1981, a written statement of information pertinent to the subject matter of these investigations. A signed original and nineteen copies of such statements must be submitted.

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR Section 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference. The Director of Operations of the Commission has scheduled a conference in connection with the investigations for 10 a.m., e.d.t., on July 23, 1981, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Persons wishing to participate in the conference

should contact the supervisory investigator for the investigations, Mr. Lynn Featherstone (202–523–0242) by the close of business (5:15 p.m., e.d.t.), July 22, 1981. It is anticipated that persons in support of the imposition of antidumping duties and persons opposed to such duties will each be collectively allocated 1 hour within which to make an oral presentation at the conference. Further details concerning the conduct of the conference will be provided by the supervisory investigator.

Issued: July 2, 1981.

Kenneth R. Mason,

Secretary.

[FR Doc. 81-20004 Filed 7-7-81; 8:45 am]

BILLING CODE 7020-02-M

[TA-203-10]

Porcelain-On-Steel Cooking Ware; Notice of Investigation and Hearing

AGENCY: International Trade Commission.

ACTION: Upon its own motion and on the basis of a request filed on June 16, 1981, by the United States Trade Representative, the Commission on June 26, 1981, instituted investigation No. TA-203-10 under section 203(i)(2) of the Trade Act of 1974 (19 U.S.C. 2253(i)(2)) for the purpose of gathering information in order that it might advise the President of its judgment as to the probable economic effect on the industry concerned of the reduction or termination of import relief presently in effect with respect to cooking ware (except teakettles) of steel, not having self-contained electrical heating elements, enamed or glazed with vitreous glasses, and valued not over $2.25 per pound, provided for in item 654.02 of the Tariff Schedules of the United States (TSUS). The relief is in the form of a duty increase provided for in TSUS item 923.60 pursuant to Presidential Proclamation 4713 (issued January 16, 1981, 45 FR 3561). Import relief presently in effect with respect to such articles is scheduled to terminate in January 1984.

EFFECTIVE DATE: June 26, 1981.

FOR FURTHER INFORMATION CONTACT: Daniel Leahy, Investigator (202–523–1369).

SUPPLEMENTARY INFORMATION:

Public hearing ordered. A public hearing in connection with this investigation will be held in Washington, D.C., at 10 a.m., e.d.t., on Monday, September 14, 1981, in the Hearing Room, U.S. International Trade Commission Building, 701 E Street NW. Requests for appearances at the hearing should be received in writing by the Secretary to the Commission at his office in Washington no later than the close of business Friday, August 21, 1981.

Prehearing procedures. To facilitate the hearing process, it is requested that persons wishing to appear at the hearing submit prehearing briefs enumerating and discussing the issues which they wish to raise at the hearing. Nineteen copies of such prehearing briefs should be submitted to the Secretary of the Commission no later than the close of business Friday, September 4, 1981. Copies of any prehearing briefs submitted will be made available for public inspection in the Office of the Secretary. While submission of prehearing briefs does not prohibit submission of prepared statements in accordance with § 201.12(d) of the Commission's *Rules of Practice and Procedure* (19 CFR 201.12(d)), it would be unnecessary to submit such a statement if a prehearing brief is submitted instead. Any prepared statements submitted will be made a part of the transcript. Oral presentations should, to the extent possible, be limited to issues raised in the prehearing briefs.

A prehearing conference will be held on Tuesday, August 25, 1981, at 2:00 p.m., e.d.t., in Room 117 of the U.S. International Trade Commission Building.

Persons not represented by counsel or public officials who have relevant matters to present may give testimony without regard to the suggested prehearing procedures outlined above.

Inspection of request. The request filed in this case is available for public inspection at the Office of the Secretary, U.S. International Trade Commission.

By order of the Commission.

Issued: June 29, 1981.

Kenneth R. Mason,

Secretary.

[FR Doc. 81-20007 Filed 7-7-81; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Attorney General

[AAG/A Order No. 69-81]

Privacy Act of 1974; New System of Records

Pursuant to the Privacy Act, 5 U.S.C. 552a, the Federal Bureau of Investigation, U.S. Department of Justice, proposes to establish a new system of records, the FBI Alcoholism Program system. This system will consist of correspondence and records regarding FBI employees and/or their families, who have been referred to the Alcoholism Program Coordinator or Counselor. Also included in this system will be results of counseling and counseling treatment, interview appraisals, notes, and miscellaneous records of discussions or meetings with employees. Further, in the Proposed Rules Section of today's **Federal Register**, the FBI proposes to exempt the system from the access provisions of the Privacy Act (5 U.S.C. 552a) to the extent disclosure could reveal information properly classified under appropriate Executive order, or information which could reveal the identity of a confidential source.

Title 5 of the United States Code, Section 552a(e)(4) and (11) requires that the public be provided with a 30-day period in which to comment on the proposed system; the Office of Management and Budget (OMB), which has oversight responsibility under the provisions of the Act, requires a 60-day period in which to review the proposed system prior to implementation. Therefore, the public, OMB, and the Congress are invited to submit written comments on this system. Comments should be addressed to the Administrative Counsel, Justice Management Division, Department of Justice, Room 6239, 10th and Constitution Avenue, NW., Washington, D.C. 20530. If no comments are received from either the public, OMB, or the Congress on or before August 7, 1981, the system will be implemented without further notice in the **Federal Register**, except that the final rule exempting the system will be published after 60 days.

Appropriate reports have been filed with the Congress and OMB.

Dated: June 25, 1981.

Kevin D. Rooney,

Assistant Attorney General for Administration.

JUSTICE/FBO-014

SYSTEM NAME:

FBI Alcoholism Program

SYSTEM LOCATION:

FBI Headquarters, Administrative Services Division, 10th and Pennsylvania Avenue, N.W., Washington, D.C. 20535; and FBI Field Divisions.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains information on current and former FBI employees who have been counseled or otherwise treated regarding alcohol abuse or

referred to the Alcoholism Program Coordinator or Counselor.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains correspondence and records regarding employees and/or their families who have been referred to the Alcoholism Program Coordinator or Counselor, the results of any counseling which may have occurred, recommended treatment and results of treatment, in addition to interview appraisals and other notes or records of discussions held with employees relative to this program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The maintenance of this system is authorized by Pub. L. No. 91–616 and Pub. L. No. 92–255, as amended by Pub. L. No. 93–282, Section 122, and the implementing regulations, 42 CFR Part 2.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USES AND THE PURPOSE OF SUCH USES:

All disclosures of information pertaining to an individual are made in compliance with Public Law No. 91–616, Section 333, and the Confidentiality of Alcoholism and Drug Abuse Patient Records Regulations, 42 CFR Part 2.2, as amended, for the sole purpose of administering the program.

These records are used to document the nature of an individual's alcohol abuse problem and progress made, and to record an individual's participation in and the results of community or private sector treatment or rehabilitation programs.

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

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are retrieved by employee's name.

SAFEGUARDS:

Files are maintained in locked file cabinets, or safes under the immediate control of the Alcoholism Program Coordinator or other authorized individuals. Access is strictly limited to the Coordinator and other authorized personnel.

RETENTION AND DISPOSAL:

Pursuant to the preliminary injunction with modifications issued by Judge Harold H. Greene, FBI destruction programs have been suspended. *American Friends Service Committee* v. *Webster* (D.D.C.), Civil Action No. 79–1655.

SYSTEM MANAGER(S) AND ADDRESS: Director, FBI, J. Edgar Hoover Building, 10th and Pennsylvania Avenue, N.W., Washington, D.C. 20535.

NOTIFICATION PROCEDURE:

Inquiry concerning this system should be in writing and made to the system manager listed above.

RECORD ACCESS PROCEDURES:

Requests made by employees should be made in writing to the Director, FBI, Washington, D.C. 20535. Requests must contain employee's full name, date and place of birth, and current office of assignment and/or home address where records are to be sent. If the individual making the request is a former employee, he/she must submit a duly notarized signature in order to establish identity. In addition, the requester must specify the location of the system of records sought, i.e., those maintained at FBI Headquarters or those maintained in a particular field division.

CONTESTING RECORD PROCEDURES:

Requests for correction/amendment of records in this system should be made in writing to the Director, FBI, Washington, D.C. 20535, specifying the information to be amended, and the reasons and justifications for requesting such amendment.

RECORD SOURCE CATEGORIES:

See categories of individuals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from Subsection (d) of the Privacy Act, pursuant to 5 U.S.C. 552a(k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e), and have been published in the **Federal Register.**

[FR Doc. 81-20023 Filed 7-7-81; 8:45 am]

BILLING CODE 4410-02-M

Drug Enforcement Administration

[Docket No. 81-11]

Eastern Scientific Co., Providence, Rhode Island; Hearing

Notice is hereby given that on February 18, 1981, the Drug Enforcement Administration, Department of Justice, issued to Eastern Scientific Company, Providence, Rhode Island, an Order To Show Cause as to why the Drug Enforcement Administration should not deny Respondent's pending application for registration as a distributor of controlled substances listed in Schedules II, III (non-narcotic), IV and V.

Thirty days having elapsed since the said Order To Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 9:30 a.m. on Tuesday, July 21, 1981, in Courtroom No. 1116 of the U.S. Bankruptcy Court, 11th Floor, John W. McCormack Post Office and Courthouse Building, Devonshire Street, Boston, Massachusetts.

Dated: July 1, 1981.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 81-19927 Filed 7-8-81; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 80-27]

Stanley Gregoroff, M.D.; Revocation of Registration

On August 25, 1980, the Administrator of the Drug Enforcement Administration (DEA) directed an Order to Show Cause to Stanley Gregoroff, M.D. (Respondent), seeking to revoke DEA Certificate of Registration AG1167217 issued to Respondent under 21 U.S.C. 823. The statutory predicate under 21 U.S.C. 824 for the Order was Respondent's conviction on March 12, 1980, in the Superior Court of Fulton County, Georgia, of two (2) counts of unlawfully prescribing a controlled substance, said controlled substance not being prescribed for a legitimate medical purpose, in violation of the Georgia Controlled Substances Act 79A–820(f)(3). This is a controlled-substance related felony. Additional statutory grounds are provided by the emergency suspension of Respondent's medical license on March 14, 1980, by the Georgia Composite State Board of Medical Examiners. This emergency suspension terminated Respondent's authority to prescribe, dispense, administer or otherwise handle controlled substances in the State of Georgia. This matter was placed on the docket of the Honorable Francis L. Young, Administrative Law Judge. Following a prehearing telephone conference in which Judge Young and counsel for Respondent and the Government participated, the matter was adjourned several times as Respondent pursued his appellate remedies in the courts of the State of Georgia.

On June 18, 1981, Dr. Gregoroff filed with the DEA a consent to the revocation of his DEA Certificate of

Registration. As part of this consent document, Respondent stipulated that he has been convicted of felony offenses relating to controlled substances and that he is without authority to prescribe, dispense, administer or possess controlled substances under the laws of the State of Georgia. Dr. Gregoroff waived his right to a hearing and other administrative process to which he would have been entitled under 21 U.S.C. 824, and agreed to surrender DEA Certificate of Registration AG1167217 issued to him under 21 U.S.C. 823. He further agreed not to apply for DEA registration until the Georgia State Composite Board of Medical Examiners lifts the suspension of his medical license.

The Administrator has reviewed this matter and finds that Stanley Gregoroff, M.D., has been convicted of felony offenses relating to controlled substances, and that he is no longer authorized to handle controlled substances as a practitioner under the laws of the State of Georgia. The Administrator concludes that there are statutory grounds for the revocation of Respondent's registration under 21 U.S.C. 824 (a)(2) and 824 (a)(3). Accordingly, the Administrator orders that DEA Certificate or Registration AG1167217, previously issued to Stanley Gregoroff, M.D., be, and hereby is, revoked, effective immediately.

Dated: July 1, 1981.

Peter B. Bensinger,

Administrator.

[FR Doc. 81-19925 Filed 7-7-81; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 80-20]

Woodfield Drugs, Inc. and Herbert S. Rein, t/a Crest Pharmacy

On July 3, 1980, the Administrator of the Drug Enforcement Administration (DEA) issued to Woodfield Drugs, Inc. and Herbert S. Rein, t/a Crest Pharmacy, the Respondent herein, an Order to Show Cause as to why the Respondent's DEA Certificate of Registration AW7513408, issued to Woodfield Drugs, Inc., t/a Crest Pharmacy, should not be revoked for the reason that Herbert S. Rein had been convicted of a felony related to a controlled substance. Mr. Rein was, at all times relevant to the issues at hand, the managing pharmacist of the pharmacy and President of Woodfield Drugs, Inc. Respondent, through counsel, requested a hearing in this matter. Following various prehearing procedures, a hearing was scheduled and held in Hauppauge, New York on October 28 and 29, 1980. On March 4, 1981, Administrative Law Judge Francis L. Young issued his opinion and recommended ruling, findings of fact, conclusions of law and decision. Subsequently, on April 6, 1981, Judge Young certified the record of these proceedings to the Administrator of DEA.

The Administrator has considered the record in its entirety and, pursuant to 21 CFR 1316.67, hereby issues his final order in this matter. After a careful analysis of the entire record in this matter, the Administrator hereby adopts and accepts the findings of fact and conclusions of law recommended by the Administrative Law Judge.

After receiving a Bachelor of Science in pharmacy degree in 1960 and then completing a tour of duty in the Army, Herbert S. Rein purchased a community pharmacy in the Bronx, New York. In 1964 or 1968, Mr. Rein sold the pharmacy and became a narcotics investigator for the New York State Department of Health, Bureau of Narcotics Control, located in Albany, New York. Mr. Rein remained in this position for less than a year. Thereafter, he moved back to New York City and assisted various drug enforcement organizations in ongoing investigations on an *ad hoc* basis. Mr. Rein was then employed by R. H. Macy Company as an executive in retail pharmacy affairs. Upon leaving R. H. Macy in 1972, Mr. Rein sold land investments for a short time, then became involved in the conceptualization and organization of shared health facilities and community medical centers in the New York metropolitan area. He remained active in this work until 1977, at which time he purchased Woodfield Drugs, Inc. Mr. Rein, was, and presently is, the President of Woodfield Drugs, Inc. and, as such, can effectively control all aspects of its operation.

At a time prior to the March 14, 1979 arrest of Herbert Rein for conspiracy to distribute controlled substances illegally, Mr. Rein received approximately 100 grams of ergotamine (a precursor for the manufacture of lysergic acid diethylamide or LSD) which he sold to other persons in California for the purpose of LSD manufacture. Subsequently, Mr. Rein met with an undercover agent of the Drug Enforcement Administration in order to pay him for the purchase of ergotamine and to negotiate for the purchase 0f 200 grams of the drug at $15.00 per gram for delivery every ten days. During these undercover meetings, Mr. Rein also related to the agent that it was during Mr. Rein's tenure at the New York State Bureau of Narcotics Enforcement that he first met the people to whom was distributing the ergotamine and who were manufacturing the LSD. Following his arrest in March of 1979, Mr. Rein pleaded guilty to one count of unlawfully, intentionally and knowingly conspiring with others to manufacturer and to possess with the intent to manufacture Schedule I controlled substances in violation of Title 21, United States Code, Section 846 on April 16, 1979.

Prior to his entry of the plea of guilty, Herbert Rein entered into a Cooperation Agreement with the United States Government wherein he agreed to provide information and participate in ongoing investigations of illegal drug operations. This he did on several occassions. Thereafter, upon entering a plea of guilty to the one count conspiracy indictment, Mr. Rein received a suspended sentence and was placed on probation and fined $5,000.00.

On November 20, 1980, the Commissioner of Education of the State of New York signed an order suspending Mr. Rein's license to practice as a pharmacist in New York for a period of twelve months. This order was entered after the approval by the Board of Regents of the University of the State of New York of an application made by Mr. Rein for entry of a consent order whereby his license to practice would be suspended for twelve months. The order thereby settled a New York State administrative proceeding wherein it was proposed that Mr. Rein's license be revoked, on the grounds of the same 1979 federal conspiracy convinction and the underlying facts which have set to motion this DEA administrative proceeding.

After careful evaluation of the entire record and in accordance with a preponderance of the evidence, Administrative Law Judge Young concluded that Herbert S. Rein has been convicted of a felony relating to a controlled substance and that such a conviction of a person whose relationship to a corporate registrant is that of President, effective owner and soon-again-to-be supervising pharmacist, provides a legal basis for the revocation of the registration. Judge Young thereafter concluded and recommended that the subject registration should be revoked.

The Administrator agrees. This Administration has consistently held in the past that the registration of a pharmacy can be revoked if the registered pharmacist who owns or otherwise controls the pharmacy, is

convicted of a controlled substance-related felony. (In the Matter of Nicholas G. Gakidas, t/a New Seaberry Pharmacy, Docket No. 76-2, 41 FR 52555; William G. Walston, d.b.a. Karl Plaza Pharmacy, Docket No. 80-32, 45 FR 82761). Accordingly, pursuant to the authority vested in the Attorney General by Sections 303 and 304 of the Controlled Substances Act, 21 U.S.C. 823 and 824, and redelegated to the Administrator of the Drug Enforcement Administration, it is the Administrator's decision and order that Certificate of Registration AW7513408, issued to Woodfield Drugs, Inc., t/a Crest Pharmacy be, and hereby is revoked, effective July 9, 1981.

Dated: July 1, 1981.

Peter B. Bensinger,

Administrator.

[FR Doc. 81-19826 Filed 7-7-81; 8:45 am]

BILLING CODE 4410-09-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Electrical Systems; Meeting

The ACRS Subcommittee on Electrical Systems will hold a meeting on July 22, 1981, Room 1167, at 1717 H Street, NW, Washington, DC to discuss the proposed rulemaking, Section 50.49 of 10 CFR Part 50, "Environmental and Seismic Qualification of Electric Equipment Important to Safety for Nuclear Power Plants" and the proposed Revision 1 to Regulatory Guide 1.89, "Environmental Qualification of Electric Equipment Important to Safety for Light-Water-Cooled Nuclear Power Plants".

In accordance with the procedures outlined in the **Federal Register** on October 7, 1980, (45 FR 66535), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only be members of the Subcommittee, it consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions which will be closed to protect proprietary information (Sunshine Act Exemption 4). One or more closed sessions may be necessary to discuss such information. To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows: Wednesday, July 22, 1981, 2 p.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Dr. Richard Savio (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EDT.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close portions of this meeting to public attendance to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: July 1, 1981.

John C. Hoyle,

Advisory Committee, Management Officer.

[FR Doc. 81-20030 Filed 7-7-81; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Shoreham Nuclear Power StationUnit 1; Meeting

The ACRS Subcommittee on Shoreham Nuclear Power Station Unit 1 will hold a meeting on July 21, 1981, Room 1046 at 1717 H Street, NW, Washington, DC. The Subcommittee will discuss the Long Island Lighting Company's request for an Operating License. Notice of this meeting was published June 17.

In accordance with the procedures outlined in the **Federal Register** on October 7, 1980, (45 FR 66535), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions which will be closed to protect proprietary information (Sunshine Act Exemption 4). One or more closed sessions may be necessary to discuss such information. To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows: Tuesday, July 21, 1981, 8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the Long Island Lighting Company, NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Staff Engineer, Mr. David C. Fischer (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., EDT. The Designated Federal Employee for this meeting is Mr. John C. McKinley.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close portions of this meeting to public attendance to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: July 1, 1981.

John C. Hoyle,

Advisory Committee, Management Officer.

[FR Doc. 81-20031 Filed 7-7-81; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-313 and 50-368]

Arkansas Power & Light Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 58 and 25 to Facility Operating Licenses Nos. DPR-51

and NPF–6, issued to Arkansas Power & Light Company (the licensee), which revised the Technical Specifications for operation of Arkansas Nuclear One, Units Nos. 1 and 2 (ANO–1&2) located in Pope County, Arkansas. The amendments are effective as of the date of issuance.

The amendments modify the ANO–1&2 Appendices A and B Technical Specifications to change organization and personnel titles within Arkansas Power and Light Company.

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 licensee's application dated January 30, 1981, (2) Amendment No. 58 to License No. DPR–51 and Amendment No. 25 to License No. NPF–6, 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 Arkansas Tech University, Russellville, Arkansas. 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 26th day of June 1981.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 81–20032 Filed 7–7–81; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–263]

Northern States Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 7 to Facility Operating License No. DPR–22, issued to Northern States Power Company, which revised Technical Specifications for operation of the Monticello Nuclear Generating Plant (the facility) located in Wright County, Minnesota. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to (1) incorporate limiting conditions for operation and surveillance requirements related to fire protection modifications and (2) clarify requirements concerning access to certain high radiation areas.

The applications for the amendment 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. 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 applications for amendment dated May 15, 1980 and July 31, 1980 as supplemented October 6, 1980, (2) Amendment No. 7 to License No. DPR–22, and (3) the Commission's letter dated June 30, 1981. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW, Washington, D.C. and at the Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 30th day of June 1981

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 81–20033 Filed 7–7–81; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–285]

Omaha Public Power District; Granting of Relief From ASME Code Section XI, Inservice Testing Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear power Plant Components" to Omaha Public Power District (the licensee), which revised the inservice testing program for the Fort Calhoun Station, Unit No. 1, located in Washington County, Nebraska. 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 September 26, 1983.

The relief consists of exemption from performing valve exercising at each cold shutdown for check valves SI–159 and SI–160. In lieu of this, the licensee has visually inspected SI–159 and will be required to visually inspect SI–160 at the next refueling outage and report conditions found.

The request for relief 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 letter granting relief and related Safety Evaluation. The granting of this relief does not involve a significant hazards consideration.

The Commission has determined that 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 request for relief dated July 9, 1980, as supplemented May 20, 1981, (2) the letter to the licensee dated June 29, 1981, 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. 20555, and at

the W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102. 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.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief Operating Reactors Branch #3 Division of Licensing.

[FR Doc. 81-20034 Filed 7-7-81; 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. 44 to Provisional Operating License No. DPR-18, to Rochester Gas and Electric Corporation (the licensee), which revised the 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 modified technical specifications to allow timely removal of snubbers determined by analysis to be unnecessary.

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 notarized May 26, 1981 (transmitted by letter dated May 29, 1981), (2) Amendment No. 44 to License No. DPR-18, 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 30th day of June, 1981.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 81-20035 Filed 7-7-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-244]

Rochester Gas and Electric Corp., R. E. Ginna Nuclear Power Plant; Extension of Completion Dates

By letter dated June 19, 1981, Rochester Gas and Electric Corporation (the licensee) requested that the U.S. Nuclear Regulatory Commission (the Commission) grant an extension until November 17, 1981, for installation of eight plant modifications for the fire protection system at the R. E. Ginna Nuclear Power Plant, located in Wayne County, New York.

The Commission's Director of Nuclear Reactor Regulation has concluded that good cause has been shown and that such extension will not adversely affect the health and safety of the public. Accordingly, pursuant to 10 CFR 50.48(d), the request has been granted. This approval also extends implementation of Technical Specification provisions approved by Amendment No. 39 to Provisional Operating License No. DPR-18, dated April 1, 1981 (46 FR 21735, April 13, 1981) until completion of system modifications or November 17, 1981, whichever is sooner. These provisions were to have become effective June 30, 1981.

For further details with respect to this action, see (1) the licensee's request dated June 19, 1981, and (2) the Director's letter to the licensee dated, June 30, 1981.

Dated at Bethesda, Maryland, this 30th day of June, 1981.

For the Nuclear Regulatory Commission.

Edson G. Case,

Deputy Director, Office of Nuclear Reactor Regulation.

[FR Doc. 81-20036 Filed 7-7-81; 8:45 am]

BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

[Docket No. MC78-3]

Electronic Mail Classification Proposal, 1978 (Remand); Inquiry in Remanded Proceedings

Issued July 2, 1981.

On May 29, 1981, the United States Court of Appeals for the District of Columbia Circuit entered a judgment remanding the present matter to the Postal Rate Commission for further consideration.[1] The present Notice of Inquiry is intended to elicit from interested parties their views on the appropriate scope and nature of that reconsideration.

The issue decided by the court in the *Governors* case was whether our decision to recommend "that the E-COM service be designated as 'experimental' with a fixed terminal date" was authorized by the Act. Slip op., 2. The court held that it was not. The Act requires, however, that on review the court either affirm or remand the entire matter; and in deference to this requirement the D.C. Circuit has remanded to us the entire E-COM proceeding.

That being so, it becomes a matter for our sound discretion what scope to give the proceedings on remand, and what procedures to employ. It is our preliminary view that, on remand as in the original decision, we must take account of the statutory policies governing mail classification decision in light of the interpretation issued by the Court of Appeals. Since we have been instructed to reconsider the entire matter, this may mean that we will, on this remand, consider in light of the record made in the 1978-79 proceedings before us, whether we can recommend the new classification without the "experimental" qualification which the court disapproved on jurisdictional grounds. We would welcome the views of interested parties on this and related questions.

The issue suggested above assumes that the record, for purposes of this remand, will be identical with that on which we rendered our original (December 17, 1979) and reconsidered (April 8, 1980) recommended decisions. We are not, however, barred from supplementing the record if conditions have so changed since our last decision

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[1] *Governors of the U.S. Postal Service* v. *PRC*, —— F2d ——, D.C. Cir. No. 80-1971 (May 29, 1981). The court stated in its opinion that

. . . Because the statute provides that we may not modify the decision but may only affirm it or "order that the entire matter be returned for further consideration", 39 U.S.C. § 3628, it is ordered that the entire matter be returned for further consideration.

issued as to make additional record materials necessary in the interests of justice. In this connection, we would welcome the comments of interested parties not only on the nature of any such changed circumstances and the additions such party believes should be made to the record, but also as to the appropriate procedures to follow.

Finally, we would remind all parties responding to this Notice and making suggestions responsive to the concerns we express above that the statute requires us to proceed with maximum expedition in classification cases. 39 U.S. § 3624(b). This is especially true of the present remand, since the Governors have already selected an implementation date for E-COM (January 4, 1982).

Parties filing statements in response to this Notice are requested to do so on or before July 27, 1981. Persons not parties to Docket No. MC78-3 who may wish to file such statements should accompany them with a petition for leave to intervene pursuant to § 20 of the rules of practice (39 CFR § 3001.20) or to be heard as a limited participator (39 CFR § 301.19a).

By the Commission.

David F. Harris,

Secretary.

[FR Doc. 81-20003 Filed 7-7-81; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 22111; 70-6260]

New England Electric System and New England Energy Inc.; Order Authorizing Advance of Funds by Holding Company to Fuel Company

June 30, 1981.

New England Electric System ("NEES"), a registered holding company, and New England Energy Incorporated ("NEEI"), Westborough, Massachusetts, a fuel subsidiary of NEES, have filed with this Commission post-effective amendments to their application-declaration previously filed and amended pursuant to Sections 6(a), 7, 9(a), 10, 12(b) and 12(f) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 43, 50(a)(2) and 50(a)(3) promulgated thereunder.

By prior order NEEI has been authorized to invest during 1981 $75 million in an oil and gas exploration partnership with Samedan Oil Corporation (HCAR No. 21864, December 31, 1980) and 35 million in a similar oil and gas exploration project with Dorchester Exploration, Inc. (HCAR No. 21862, December 30, 1980). NEEI is financing such investments through a Capital Funds Agreement under which NEES will provide up to $45 million (HCAR No. 19580, June 18, 1976) through stock purchases, capital contributions and subordinated loans through 1988 (HCAR No. 21158, July 25, 1979). NEEI has also entered into a Revolving Credit and Term Loan Agreement ("Loan Agreement") with Bank of Montreal and National Bank of North America secured by NEEI's rights under the Capital Funds Agreement (HCAR No. 21158, July 25, 1979). NEEI has been authorized to borrow up to $105 million through 1981 under this agreement (HCAR No. 21835, December 10, 1980). NEEI will also receive in 1981 approximately $27 million from deferred tax payments (HCAR No. 18635, October 30, 1974) and $28 million from amortized fuel sales to New England Power Company (HCAR No. 20632, July 19, 1978).

By post-effective amendment, authorization is sought for NEES to advance up to an additional $25 million to NEEI for the oil and gas exploration costs. The cost to NEEI of funds advanced by NEES will be calculated in accordance with the pricing policy in the Commission's Order dated July 19, 1978 (HCAR No. 20632). Necessary expenditures will exceed NEEI's available resources by July, 1981. The advance would be subordinated to NEEI's obligations under the Loan Agreement. NEEI is presently negotiating additional bank loans for which authorization will be sought, but needs the proposed advance pending consummation of such bank borrowings. The advance would be payable upon the receipt of proceeds from the new bank loan.

The fees and expenses to be incurred in connection with the proposed transactions are estimated to be $4,000.

No state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Due notice of the filing of said post-effective amendments to the application-declaration has been given in the manner prescribed in Rule 23 promulgate under the Act (HCAR No. 22080), and no hearing has been requested of or ordered by the Commission. Upon the basis of the facts in the record, it is hereby found that the applicable standards of the Act and the rules thereunder are satisfied.

It is ordered, pursuant to the applicable provisions of the Act and rules thereunder, that said application-declaration, as amended by said post-effective amendments, be, and it hereby is, granted and permitted to become effective forthwith, subject to the terms and conditions prescribed in Rule 24 promulgated under the Act.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 81-20028 Filed 7-7-81; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1999]

Colorado; Declaration of Disaster Loan Area

Adams County and adjacent counties within the State of Colorado constitute a disaster area as a result of damage caused by tornadoes which occurred on June 3, 1981. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on August 31, 1981, and for economic injury until the close of business on March 30, 1982, at: Small Business Administration, District Office, 721 19th Street—Room 407, Denver, Colorado 80202 or other locally announced locations.

For recent changes in disaster loan eligibility see 46 **Federal Register** 18526 (March 25, 1981).

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 30, 1981.

Michael Cardenas,

Administrator.

[FR Doc. 81-19906 Filed 7-7-81; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1998]

Kentucky; Declaration of Disaster Loan Area

Floyd, Jackson and Pike Counties and adjacent counties within the State of Kentucky constitute a disaster area as a result of damage caused by severe storms and flooding which occurred on June 6-8, 1981. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on August 31, 1981, and for economic injury until the close of business on March 30, 1982, at: Small Business Administration, District Office, Federal Office Building—Room 188, 600 Federal Place, Louisville, Kentucky 40201 or other locally announced locations.

For recent changes in disaster loan eligibility see 46 **Federal Register** 18526 (March 25, 1981).

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 30, 1981.

Michael Cardenas,

Administrator.

[FR Doc. 81-19905 Filed 7-7-81; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1997]

Texas; Declaration of Disaster Loan Area

Austin County and adjacent counties within the State of Texas constitute a disaster area as a result of severe weather, hail, wind and tornadoes which occurred on April 21, 1981. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on August 31, 1981, and for economic injury until the close of business on March 30, 1982, at: Small Business Administration, District Office, 500 Dallas Street, Houston, Texas 77002 or other locally announced locations.

For recent changes in disaster loan eligibility, see 46 **Federal Register** 18526 (March 25, 1981).

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 30, 1981.

Michael Cardenas,

Administrator.

[FR Doc. 81-19904 Filed 7-7-81; 8:45 am]

BILLING CODE 8025-01-M

[Delegation of Authority No. 1-A Revision 10]

Line of Succession to the Administrator; Delegation of Authority

Correction

In the issue of Wednesday, July 1, 1981, on page 34447, in the first document in the second column, make the following change: The FR Doc. number now reading "81-19317" should be changed to read "81-19312".

BILLING CODE 1501-01-M

[Application No. 02/02-0433]

Raybar Small Business Investment Corp.; Application for License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*), has been filed by Raybar Small Business Investment Corporation (Raybar), 240 W. Passaic Street, Maywood, New Jersey 07607, with the Small Business Administration (SBA) pursuant to 13 C.F.R. 107.102 (1981).

The officers, directors and stockholders are as follows:

Harold P. Hopp, 43 Jackson Ave., Haworth, NJ 07641, President, Director.
Raymond Hopp, 380 Prospect Ave., Hackensack, NJ 07601, Secretary, Director.
Barbara Grossman, 135 Wierimus Rd., Hillsdale, NJ 07642, Vice President, Director.
Rosemarie Litrenta, 257 Morningside Ave., Cliffside Park, NJ 07010, Treasurer.
Patrick F. McCort, 8 Monroe Place, Rockaway, NJ 07866, General Manager, 11%.
H. K. Metalcraft Manufacturing Corp., 35 Industrial Rd., Lodi, NJ 07644, 89%.

The beneficial owners of 10 percent or more of the equity securities of H. K. Metalcraft Manufacturing Corporation are Harold Hopp, Barbara E. Grossman and Raymond H. Hopp.

The Applicant, a New Jersey corporation, will begin operations with $510,000 paid-in capital and paid-in surplus. Raybar will conduct its activities principally in the State of New Jersey. Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the company under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act of 1958, as amended, and the SBA Rules and Regulations. Notice is hereby given that any person may not later than 15 days from the date of publication of this notice submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Acting Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Maywood, New Jersey.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: July 1, 1981.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 81-20037 Filed 7-7-81; 8:45 am]

BILLING CODE 8025-01-M

Small Business Lending Companies

SBA's standard policy requires that loan applications generally be filed and processed through the SBA field office serving the territory in which the prospective borrower's business is located.

In connection with loan applications filed by small business lending companies approved under Section 120.4(b) of its Regulations (13 CFR 120.4(b) (1981)), the SBA has in several instances, granted authority to such companies to concentrate their loan applications and processing activities in specified SBA field offices.

This procedure has at times resulted in processing, servicing, liquidation and operational difficulties placing a significant burden on small business applicants and borrowers and the Agency's efforts to properly administer its financial assistance activity.

Accordingly, the special authority so granted must be terminated.

Such special authority is hereby revoked immediately.

(Catalog of Federal Domestic Programs No. 59.012, Small Business Loans)

Dated: June 30, 1981.

Michael Cardenas,

Administrator.

[FR Doc. 81-20038 Filed 7-7-81; 8:45 am]

BILLING CODE 8025-01-M

(Application No. 02/02-0405)

Unicorn Ventures, Ltd.; Application for License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*), has been filed by Unicorn Ventures, Ltd. (Unicorn), a limited partnership located at 14 Commerce Drive, Cranford, New Jersey 07016, with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1981).

The Applicant presently has $2,075,000 committed for investment. The General Partner, Cranford Associates, will contribute $30,000 to the partnership capital. Cranford Associates is a general partnership consisting of the following individuals:

Arthur Bugs Baer, 115 Central Park West, New York, New York 10023.
Frank P. Diassi, 9 Indian Run, Scotch Plains, New Jersey 07076.

Limited partners of Unicorn which will own 10 or more percent of the partnership capital are the following:

Darrill Investments, 14 Commercial Drive, Cranford, New Jersey 07016. (Owned principally by Frank P. Diassi and members of his family).
Joseph W. Rose, 4546 East Foothill Drive, Paradise Valley, Arizona 85253.

The Applicant intends to conduct its operations principally in the State of New Jersey.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the company under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act of 1958, as amended, and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this notice, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Acting Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW, Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in Cranford, New Jersey.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 1, 1981.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 81-20039 Filed 7-7-81; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[CM-8/418]

Advisory Committee on the Law of the Sea; Partially Closed Meeting

In accordance with Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) as amended by Pub. L. 94-409 Section 5(c), notice is hereby given that the Advisory Committee on the Law of the Sea will meet in closed session on Friday, July 24, 1981 and in open session on Thursday, July 23, 1981. The open session of the meeting will convene July 23 at 2:30 p.m. in Room 1207, U.S. Department of State, 21st and C Streets, N.W., Washington, D.C.

The purpose of the closed meeting is to consider the current review of the Law of the Sea Convention and the review process and to make preparations for the U.S. Delegation to the Resumed Tenth Session of the Third United Nations Conference on the Law of the Sea to be held in Geneva beginning August 3, 1981. During the closed sessions, documents classified under the provisions of Executive Order 12065 will be discussed.

These documents relate to the issues which the United States is currently reviewing and has negotiated or will negotiate at the Conference. The documents are exempt under 5 U.S.C. 552b(c)(1) and 5 U.S.C. 552b(c)(9), and may be withheld from disclosure in the public interest.

The issues cover such subjects as the review, freedom of navigation on the high seas and in straits used for international navigation and related national security interest, the nature of a deep seabeds mining regime and deep seabed mining legislation, the continental margin, the economic zone, fisheries, marine pollution, scientific research, dispute settlement, and other topics involving U.S. national security and foreign relations matters. Premature disclosure of the contents of these documents could adversely affect our foreign relations interests and jeopardize United States law of the sea interests.

The open session of the Advisory Committee meeting will discuss all principal agenda issues which have been considered during the Third United Nations Conference on the Law of the Sea, including those issues stated above, but will not examine the classified items discussed during the closed session.

The Advisory Committee on the Law of the Sea represents a broad cross-section of industries, professions, academic disciplines, and other public groups. As such, it will comprehensively review the proposals which have come and will come before the Conference.

At the open session, beginning at 2:30 p.m., July 23, the general public attending may participate in the discussion subject to instructions of the Chairman.

As entrance to the State Department is controlled, members of the public who wish to attend the open session should contact Marsha Bellavance and provide their name and affiliation to facilitate their attendance. Her telephone number is (202) 632-0041.

David Holton,

Acting Director, Office of the Law of the Sea Negotiations.

June 15, 1981.

[FR Doc. 81-19982 Filed 7-7-81; 8:45 am]

BILLING CODE 4710-10-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular Public Debt Series—No. 20-81]

Notes of Series E-1988; Interest Rates

July 1, 1981.

The Secretary announced on June 30, 1981, that the interest rate on the notes designated Series E-1988, described in Department Circular—Public Debt Series—No. 20-81, dated June 18, 1981, will be 14 percent. Interest on the notes will be payable at the rate of 14 percent per annum.

Paul H. Taylor,

Fiscal Assistant Secretary.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the departmental procedures applicable to such regulations.

[FR Doc. 81-19922 Filed 7-7-81; 8:45 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 130
Wednesday, July 8, 1981

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

[M-321, Amdt. 2, July 2, 1981]

CIVIL AERONAUTICS BOARD

Notice of Cancellation of the July 6, 1981 board meeting.

TIME AND DATE: 2 p.m., July 6, 1981.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: See M-321 dated June 29, 1981.

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

[S-1055-81 Filed 7-6-81; 3:52 pm]
BILLING CODE 6320-01-M

2

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, July 8, 1981.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following: 1. Consideration of possible amendments to Commission Rule 44, 29 CFR § 2700.44.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202-653-5632.

[S-1053-81 Filed 7-6-81; 2:30 pm]
BILLING CODE 6820-12-M

3

FEDERAL RESERVE SYSTEM: Board of Governors.

TIME AND DATE: 10 a.m., Monday, July 13, 1981.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTER TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: July 2, 1981.

James McAfee,
Assistant Secretary of the Board.

[S-1049-81 Filed 7-6-81; 10:39 am]
BILLING CODE 6210-01-M

4

[USITC SE-81-20]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 3 p.m., Thursday, July 23, 1981.

PLACE: Room 117, 701 E Street, NW., 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.
5. Investigation 731-TA-44 [Preliminary] (Sorbitol from France)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

[S-1050-81 Filed 7-6-81; 11:42 am]
BILLING CODE 7020-02-M

5

NUCLEAR REGULATORY COMMISSION.

DATE: Week of July 6, 1981.

PLACE: Commissioner's Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Thursday, July 9, 3:30 p.m.

Affirmation/Discussion Session (Approximately 30 minutes).

Items to be affirmed and/or discussed:

a. PRM to Eliminate Need for Power and Alternative Energy Sources Issues in OL Proceedings in Absence of Special Circumstances.

b. PRM to Reduce or Eliminate Requirements with Respect to Financial Qual. for Power Reactor Applicants, and to Require Power Reactor Licensees to Maintain Property Damage Insurance (delayed from June 29).

c. Physical Security Requirements for Nonpower Reactor Licensees Possessing a Formula Quantity of SSNM.

d. Provision of Free Transcripts to all Full Participants in Adjudicatory Proceedings.

e. FOIA Appeal.

ADDITIONAL INFORMATION: By a vote of 3-0, Commissioner Ahearne not present, on June 25, the Commission determined pursuant to 5 U.S.C. 552b(e) and § 9.107(a) of the Commission's Rules that Commission business required that Affirmation/Discussion Session, held on June 29, be held on less than one week's notice to the public. Affirmations of Appointment of ACRS Member and Amendments to 10 CFR Pts. 2 and 50 with Respect to Criteria Involving No "Significant Hazards Consideration," scheduled for June 29, were cancelled.

Automatic telephone answering service for schedule update: (202) 634-1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, (202) 634-1410.

Walter Magee,
Office of the Secretary.

[S-1054-81 Filed 7-6-81; 3:32 pm]
BILLING CODE 7590-01-M

6

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [46 FR 33167 6/26/81]

STATUS: Closed meeting.

PLACE: Room 824, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Wednesday, June 24, 1981.

CHANGES IN THE MEETING:

Deletion/additional item.

The following item was not considered at a closed meeting scheduled for Thursday, July 2, 1981, following the 10 a.m. open meeting.

Report of investigation.

The following additional item was considered at a closed meeting scheduled for Thursday, July 2, 1981, following the 10 a.m. open meeting.

Litigation matter.

Chairman Shad and Commissioners Loomis and Evans Thomas determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Bruce Mendelsohn at (202) 272–2091.

July 6, 1981.

[S-1051-81 Filed 7-6-81; 12:38 pm]

BILLING CODE 8010-01-M

7

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of July 13, 1981, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meeting will be held on Tuesday, July 14, 1981, at 10:00 a.m. An open meeting will be held on Thursday, July 16, 1981, at 10:00 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4) (8) (9)(A) and (10) and 17 CFR 200.402(a) (4) (8) (9)(i) and (10).

Chairman Shad and Commissioners Loomis and Evans determined to hold the aforesaid meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, July 14, 1981, at 10:00 a.m., will be:

Litigation matter.

Access to investigative files by Federal, State, or Self-Regulatory authorities.

Formal orders of investigation.

Settlement of administrative proceedings of an enforcement nature.

Institution and settlement of administrative proceedings of an enforcment nature.

Freedom of Information action appeals.

The subject matter of the open meeting scheduled for Thursday, July 16, 1981, at 10:00 a.m., will be:

1. Consideration of whether to approve the selection of Donald J. Robinson as a public member of the Municipal Securities Rulemaking Board. For further information, please contact Susan J. Walters at (202) 272–2825.

2. Consideration of whether to issue two releases. The first release would solicit public comments on proposed amendments to (a) rules relating to written disclosure requirements, applications for registration of investment advisers and amendments to applications for registration; and (b) the form of application for registration as an investment adviser or to amend such an application and the form of annual supplement for investment advisers registered under the Investment Advisers Act of 1940. The second release would set forth interpretive views of the staff of the Division of Investment Management concerning the foregoing forms and requirements. For further information, please contact Arthur E. Dinerman at (202) 272–2079.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted, or postponed, please contact: Nancy Wojtas at (202) 272–2178.

July 6, 1981.

[S-1052-81 Filed 7-6-81; 12:38 pm]

BILLING CODE 8010-01-M

federal register

Wednesday
July 8, 1981

Part II

Federal Communications Commission

Radio Operator Licensing Program

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 13, 73, 74, 83

[Docket No. 20817; FCC 81-266]

Radio Operator Licensing Program

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission will no longer conduct examinations for, or continue to issue, the Radiotelephone First Class Operator License. The Commission authorizes individuals holding any class of commercial operator license, including the Restricted Radiotelephone Operator Permit, but excluding the Marine Radio Operator Permit, to install, maintain, repair, and technically supervise AM, FM, and TV broadcast transmitting equipment and FM and TV broadcast transmitting equipment. This action will result in a significant savings to the public by the elimination or regulatory requirements which are no longer necessary or appropriate. The Commission will institute a new license to be called the General Radiotelephone Operator License to be issued to individuals who hold current Radiotelephone First Class and Second Class Operator Licenses, upon renewal, and to future applicants for what was in the Radiotelephone Second Class Operator License.

EFFECTIVE DATE: August 7, 1981.

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

FOR FURTHER INFORMATION CONTACT:
John W. Reiser, Policy and Rules, Broadcast Bureau, Federal Communications Commission, Washington, D.C. 20554, (202) 632-9660;
Vernon P. Wilson, or Jay B.C. Jackson, Jr., Regional Services, Field Operations Bureau, Federal Communications Commission, Washington, D.C. 20554, (202) 632-7240.

SUPPLEMENTARY INFORMATION:

In the matter of an inquiry relating to the Commission's Radio Operator Licensing Program, Docket No. 20817, FCC 81-266. *Fourth Report and Order* (Proceeding Terminated).

Adopted: June 16, 1981.

Released: July 8, 1981.

By the Commission:

I. Introduction

1. On August 18, 1980, the Commission released the *Further Notice of Proposed Rule Making* (*Further Notice*),[1] F.C.C. 80-481, 45 Fed. Reg. 54778 (August 18, 1980), in which we proposed to discontinue issuance of new and renewed First Class Radiotelephone Operator licenses, and to eliminate the requirement for licensing by examination of operators who install, maintain, repair, and technically supervise the operation of transmitting equipment at all AM, FM, and TV broadcast stations, and TV and FM broadcast translator stations. In that notice, the Commission also proposed to modify the Commission's rules to allow individuals performing any technical duty at such broadcast stations to hold any class of commercial license, including the Restricted Radiotelephone Operator Permit.[2] Approximately 1,500 formal and informal comments and seven reply comments were received. The comments are detailed and discussed below.[3]

2. Based on the complete record in this proceeding, including voluminous comments and reply comments, and the final report of the Broadcast Tradeoff Study, prepared by the Communications Technology Group of the Electronics Technology Laboratory at the Georgia Institute of Technology,[4] the Commission concludes that it is in the public interest: to eliminate the First Class Radiotelephone Operator license; to institute a new General Radiotelephone Operator license to issue to current holders of First Class and Second Class licenses, upon renewal, and to new applicants who pass an examination covering the same subject matters currently included in the examination for the Second Class license; to allow persons who hold any class of commercial license, including the Restricted Radiotelephone Operator Permit, but excluding the Marine Radio Operator Permit,[5] to perform all technical duties at broadcast stations; and to reiterate that the broadcast station licensee bears the ultimate responsibility for all aspects of station operations.

II. Summary of Comments and Reply Comments

An Overview of the Comments

3. Although there was a large volume of comments, the majority were quite brief, and few commenters, whether in favor of or opposed to the proposed elimination of the First Class license, provided analytical or documentary support for their positions. The preponderance of comments were one page letters from holders of either the First Class or Second Class license, who, in general, were opposed to any

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[1] Consideration of the *Further Notice* is part of an ongoing proceeding concerned with a review of Commission licensing of radio operators in all services, broadcast and non-broadcast, herein directed primarily to the radiotelephone operator class. This proceeding began with the *Notice of Inquiry* released June 7, 1976, F.C.C. 76-746, 41 Fed. Reg. 22981 (June 8, 1976), and with the *Notice of Proposed Rule Making*, released August 4, 1977, F.C.C. 77-528, 42 Fed. Reg. 40939 (August 12, 1977). The *First Report and Order* reduced the requirement for duty operators at AM and FM broadcast stations, except those AM stations with critical directional antennas, to those holding any class of commercial operator license, including the Restricted Permit, in lieu of the Radiotelephone Third Class Operator Permit Endorsed for Broadcast Operation. (Released January 5, 1979, F.C.C. 78-871, 44 Fed. Reg. 1733 (January 8, 1979), 70 F.C.C. 2d 2371 (1979)). The *Second Report and Order* authorized TV and directional AM stations to employ any class of operator for routine operations, provided the stations employ at least one First Class operator, and, collaterally, reduced the requirement to employ a "Chief" First Class operator from full-time to whatever less than full-time the licensee determined was necessary to maintain station compliance with this Commission's technical standards. (Released November 16, 1979, F.C.C. 79-721, 44 Fed. Reg. 66816 (November 21, 1979).) The *Third Report and Order* abolished the Radiotelephone Third Class Operator Permit. Where safety considerations or terms of international agreement dictate a continuing need for licensed operators, in the main for radio operators aboard Great Lakes freighters and certain charter fishing vessels, the Marine Radio Operator Permit was instituted in place of the Third Class Permit. (Released August 7, 1980, F.C.C. 80-416, 45 Fed. Reg. 52154 (August 6, 1980).)

[2] The Restricted Permit is obtained without examination. In lieu therof, the applicant is required to certify in writing to a declaration that states the applicant has need for the requested permit; can receive and transmit spoken messages in English; can keep at least a rough written log in English or in some other language that can be readily translated into English; is familiar with the treaties, laws, and rules and regulations governing the authority granted under the requested permit; and understands it is his or her responsibility to keep currently familiar with all such provisions. (47 U.S.C. § 13.22(h) (Supp. 1981).)

[3] Comments solicited by the *Further Notice* were due November 14, 1980 and reply comments December 15, 1980. In response to a petition filed by Bob Johnson of Manhattan Beach, California, these dates were extended to December 5, 1980 and January 5, 1981, respectively. (F.C.C. 01703, 45 Fed. Reg. 79518 (December 1, 1980).)

[4] R. W. Rice, et al. Georgia Tech Project A-2073, Contract FCC-0243, March 1979. The study is available for public inspection at the FCC Library, and in the public file of this proceeding in the Commission's Public Reference Room, at 1919 M Street, N.W., Washington, D.C. 20554.

[5] The Marine Radio Operator Permit is intended to meet the requirements of safety or international agreement for radio operators aboard Great Lakes freighters and certain charter fishing vessels. The material covered by the requisite examination pertains exclusively to radio operation in the maritime services. *See*, discussion at the *Third Report and Order*, F.C.C. 80-416, 45 Fed. Reg. 52154 (August 6, 1980). In order to discourage broadcast technicians from applying for the Marine Permit solely for the purpose of acquiring another credential, and one that is in fact irrelevant to broadcasting, we will not allow possession of that permit to fulfill the licensing requirement for individuals performing technical duties at broadcast stations.

change in current Commission licensing procedures.

4. The *Further Notice*, at paragraph 13, asked for comments and evidence on two key questions:

A. Does FCC examination of operators who perform transmitter installation, service, and maintenance, and who train and instruct lower grade operators, contribute to the operation of broadcast stations within FCC technical standards?

If the answer is "no," then it is not in the public interest to require examinations since they impose costs but do not provide benefits.

If the answer is "yes," then ask question "B."

B. Are there other forces—including competitive market forces, the Commission's technical rules and standards, and sanctions against errant stations—that can effectively assure that broadcast stations will be operated within the FCC's technical standards without the need for examinations?

If the answer is "yes," then the examinations represent a costly and unnecessary restriction that is not in the public interest.

If the anwer is "no," then continuing the examination of operators would be in the public interest.[6]

Most commenters did not address these two basic questions. Many of those who did, tended to state arguments without furnishing evidence supporting the bases for their judgments. A few commenters did provide some documentary support for their positions on the pertinent issues raised in the *Further Notice*. These substantive comments were closely divided between those favoring and those opposing elimination of the First Class license requirement. Among the commenters who favored elimination were: the National Association of Broadcasters (NAB); National Telecommunications and Information Administration (NTIA); National Radio Broadcasters Association (NRBA); ABC, Inc.; CBS, Inc.; Forward Communications Corporation; and Broadcast Station Licensees.[7] Among the commenters who opposed elimination were: The Society of Broadcast Engineers (SBE); National Public Radio (NPR); NBC, Inc.; Metromedia, Inc.; National Federation of Community Broadcasters (NFCB); National Association of Educational Broadcasters (NAEB); Associated Public-Safety Communications Officers, Inc. (APCO); Knight-Ridder Broadcasting, Inc. (Knight-Ridder); the National Association of Broadcast Employees and Technicians, AFL–CIO (NABET); the Association for Broadcast Engineering Standards, Inc. (ABES); and the Land Mobile Communications Section, Communications Division, Electronic Industries Association (EIA).

Comments Critical of the Proposals

5. Most of the arguments presented by commenters opposed to elimination of the First Class license fell into four general categories:

(1) that the First Class license is statutorily required;

(2) that without the First Class licensing procedure, there will be a reduction in signal quality, an increase in interference, and a decrease in public and worker safety;

(3) that if the current examination is not effective, a modified Commission licensing procedure could be developed that would be effective; and

(4) that potential alternatives to the FCC administered first class licensing procedure would less well serve the public interest.

In addition, many commenters raised issues that were not pertinent to this proceeding, concerning second class licenses.

6. SBE was foremost among the several commenters who, based on their reading of the Communications Act of 1934 (the Act) and its legislative history, challenged the Commission's statutory authority to eliminate the First Class operator license.[8] SBE cites Section 318 of the Act as well as draft language and actual language from the Radio Act of 1927 to support its contention that Congress recognized "the importance of a substantive license for the operator of a broadcast transmitter."[9] According to SBE, the fact that Section 318 explicitly prohibits the Commission from waiving the license requirement in the case of "stations for which licensed operators are required for safety purposes [and] stations engaged in broadcasting," is evidence that substantive licensing is statutorily required. SBE cites Section 20 of the Radio Act of 1927, which states that:

The actual operation of all transmitting apparatus in any radio station for which a station license is required by this Act shall be carried on only by a person holding an operator's license issued hereunder.[10]

In addition, SBE cites draft language that was never included in the Radio Act to the effect that:

An operator's license shall be issued only to a person who, in the judgment of the Secretary of Commerce is proficient in the use and operation of radio apparatus.[11]

7. Commenters critical of the proposed rulemaking raised a number of arguments in support of their contention that elimination of the First Class license would result in unqualified persons being assigned to technical operations, to the detriment of broadcast quality. Although these commenters did not provide substantive evidence that this would occur, some did recount anecdotes or impressions that, to them, indicated that station owners or managers would hire unqualified technical employees. There were two basic arguments raised: (1) station owners or managers would have incentives that might not coincide with performance within the Commission's technical rules, whereas Commission examined First Class licensees currently act independently of their employers to provide a brake on such behavior; and, (2) station owners or managers do not have the technical expertise necessary to hire technical employees on their own, and therefore require Commission licensing procedures to help screen applicants. In general, holders of First Class licenses made the first argument; station owners or managers made the second.

8. A comment by NABET is examplary of the first argument:

It has been our experience over the past forty or more years that the First Phone License holders working in the Broadcast Industry have been, and still are, as a group, the people most interested in the maintenance, by their employers, of the FCC's standards. Many cases can be documented when the licensed operator was the only one concerned with the Commission's rules. The station licensee often is more concerned with staying on the air than in strict compliance with the rules. This organization has experienced a number of discipline cases where employers have sought to punish licensed operators for their refusal to continue operations which were not permitted by the rules. Protecting the FCC's Operator License holders in those cases, at least, became our job because there was no mechanism within the FCC to afford that kind or protection.[12]

9. The sentiments of the NABET comment were echoed by a number of other commenters. Several commenters suggested that although broadcasters want to maintain the highest quality for their own signals, they may be less concerned about causing interference (in excess of Commission standards) that adversely affects others. According to these commenters, licensed operators

[6] 45 Fed. Reg. 54778 (August 18, 1980).

[7] "Broadcast Station Licensees" is a group of 66 broadcast station licensees, representing approximately 110 broadcast stations, who jointly submitted comments and reply comments.

[8] SBE comments at 3–6. *See, also*, Metromedia comments at 3.

[9] *Id.* at 3–4.

[10] The Radio Act of 1927, ch. 169, 44 Stat. 1162 (February 23, 1927).

[11] 67 Cong. Rec. 5573 (1926).

[12] Comments of NABET at 1–2.

would protect the public from such interference either because they fear the loss of a hard-earned license [13] or because of the pride instilled by possession of such a license.[14]

10. Steve Huff, the chief engineer for a Kentucky radio station, cited an alleged history of technical violations at his station that he claims is indicative of what would happen under a delicensed regime:

> [let] me give just one example of what happens when a First Class Operator is not employed at a broadcast facility or, for that matter, is employed on a contract basis. Please bare [sic] in mind, the situation listed below would be much more common if First Class Operators were not required at all.
>
> Although it doesn't seem possible, the station that I work for hasn't been inspected by the Commission since *1975*. During the 1975 inspection, this station was cited for (among four full pages of violations) inability to raise or lower transmitter power from the remote control point. At that time, management filed a reply which stated that all points of violation had been corrected. These conditions however, they [sic] were not.
>
> Several months later, the remote control unit was hit by lightening [sic]. It was never replaced.
>
> When I joined the station in 1978, these problems still existed. The station maintained an engineer "on paper" only. I took over as Chief Engineer in June of 1980. I immediately repaired the modulation monitor which had been defective for over two years. I then approached management about funds (100 dollars) to buy a used remote control unit and was refused. I then used my own funds to buy parts and construct a 'home brew' unit. I did so in order to make the station legal and thus protect my license.
>
> This example should serve to demonstrate that instead of de-regulating radio and removing the necessity of having a First Class Operator on contract, the regulations should be modified to require a First Class Operator on duty any time the transmitter is on. This should apply to all stations.[15]

11. A number of commenters argued that, particularly for small broadcast stations, owners and managers lack the technical expertise to make hiring decisions without the help of the FCC First Class licensing procedure. Two commenters succinctly articulated this view. Clifford W. Smith, general manager of KREK Radio, Brestow, Oklahoma, claimed:

> [most] broadcasting station managers are not engineers and one of the few ways we have of determining competence of technicians is by narrowing the field to those holding a First Class Radiotelephone License. At least First Class Rediotelephone license holders have had to learn something of the Rules and Regulations governing broadcasting as well as electronics in order to pass the test.
>
> While the current First Class Operator license examination may fail to accurately measure technical competence in some areas, I feel that it does measure competence in many necessary areas and that the First Class Radiotelephone Operator License requirement is necessary in helping broadcasters maintain a high degree of competence in persons performing technical duties at broadcast stations.[16]

In a similar vein, Stephen C. Sattler, president of WSCP, Pulaski, New York, stated:

> Although I consider myself a competent manager, I have never achieved a proficiency in the technical abilities required to maintain this station's equipment and comply with FCC engineering rules. Therefore, I would be responsible for, but unable to judge, the qualifications of an applicant for employment as engineer. That is not to say that all First Class license holders are qualified, but that by virtue of their license, I know they have been required to study and comprehend those regulations and procedures of which I have little knowledge.[17]

The common denominator in most such comments is that despite the fact that the current examination procedure and possession of a First Class license does not assure technical competence to install, maintain, repair, and operate broadcast equipment, possession nonetheless represents a minimum threshhold level of knowledge that helps managers or owners make hiring decisions. As Metromedia indicated in its comments:

> Over time, the possession of the First Class Ticket has proven to be a very useful device for management, unsophisticated in the technical aspects of broadcasting, to screen applicants for engineering positions. And, while possession of a First Class ticket is no guarantee that the applicant is adept in repair and maintenance work, it does indicate that the individual has a least a passing knowledge of the Commission's Rules and Regulations and its Standards of Good Engineering practice.[18]

12. ABES alleges that:

> . . . stations in small markets are in a relatively poor position to attract technicians with adequate formal training and are ill-equipped to provide effective on-the-job training. Many such small town stations do not have a highly skilled technician in full time employment, but, rather, have had to rely on the contract services of parttime technicians who serve a number of similar licensees. Such stations will, we fear, be caught in the paradoxical position of having to comply with the Commission's technical requirements while unable to attract sufficiently skilled personnel to insure such compliance. In this context, we fear that the possibility of greater Commission emphasis on in-depth field inspections (*Further Notice*, Paragraph 24), when coupled with the relaxed Operator requirements proposed herein, will not result in better compliance with the technical rules, but, rather, will only produce more Official Notices of Violations, forfeitures, renewal hearings and lost licenses. We do not think that it is fair for the Commission to place small market stations in such a position.[19 20]

13. A number of commenters acknowledged the imperfection of the current First Class licensing procedure, but nonetheless argued that some licensing procedure was necessary, citing the driver's license as an analogy.[21] SBE provided the most complete version of this argument:

> The First Class Radiotelephone License is closely analogous to the driver's license. The examination required for either license is not designed to be the last word on a person's ability to operate a high-power broadcast transmitter or a high-powered automobile. Still, both instrumentalities are potentially dangerous and can be operated in a manner as to cause problems for the operator and the public. No one would contend that the driver's license test should be eliminated because it keeps certain people from driving, or because the driver's examination does not test one's ability to drive under every one of the infinite number of driving situations in which one may find himself or herself. Rather, it provides to the state the assurance that that person has exhibited threshold qualifications indicating that he or she knows the basics of driving safely and the rules of the road, upon which other drivers may reasonably rely. After that, one's driving record can be used as a litmus for evaluation of his or her ability.[22]

14. Two allegations were made that the elimination of the First Class license would imperil worker or public safety. SBE argued that broadcast stations employ high voltage equipment that, when mishandled, can and has resulted in electrocution or serious injury. According to SBE:

> Although broadcast equipment is usually provided with interlocks that disconnect high voltage sources when cabinets are opened, it is no difficult task to defeat interlocking circuits, and in fact, they frequently are defeated for servicing the equipment. Abandonment of even the basic knowledge of electrical circuits that an operator must acquire in connection with examination for a First Class operator's license would increase

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[13] *E.g.*, SBE comments at 11.

[14] *See, e.g.*, NBC, Inc. comments at 4; EIA comments at 2.

[15] Comments of Steve Huff at 1.

[16] Comments of Clifford W. Smith at 1.

[17] Comment of Stephen C. Sattler at 1.

[18] Metromedia comments at 1–2. *See, also*, SBE comments at 6; NPR comments at 1, ff.; Knight-Ridder comments at 3; ABES comments at 3–4.

[19] ABES comments at 4–5.

[20] The Commission's consideration of greater in-depth field inspection, referenced by ABES, is included at the *Notice of Proposed Rule Making*, F.C.C. 80-327, 45 Fed. Reg. 47444 (July 15, 1980), and is independent of the instant action.

[21] *See, e.g.*, Metromedia comments at 2; NPR comments at 4.

manyfold the likelihood of electrocution of operating personnel.[23]

15. According to Metromedia:

> The proposal under consideration also has very serious public safety overtones. If an FM transmitter is not properly adjusted, it can cause interference to Federal Aviation air navigation facilities. And, while we have no statistics to support the point, some of our engineering personnel have been informed that this is occurring more frequently, despite the fact that new transmitters are far more stable.[24]

16. Many commenters argued, sometimes based on the driver's license analogy, that the appropriate Commission action would not be to eliminate, but rather to modify the First Class license examination, in order to make it a better measure of practical technical ability. Virtually all commenters recognized the impossibility of the Commission implementing a hands-on test using actual broadcast equipment. As one alternative, NBC and NPR recommended the development of several levels of license examinations to cover different levels of expertise and responsibility.[25] However, neither NBC nor NPR explained how these various examinations could be so constructed as to measure practical operator capabilities.

17. Several commenters recommended that the Commission retest current First Class holders, or, perhaps, re-establish service records, in order to make possession of the license more meaningful. NPR argued that, in order to assure that operators keep pace with advancing technology and revised regulations, the examination be required of renewal applicants as well as of original applicants.[26] APCO stated that in its comments at the initial *Notice of Proposed Rule Making* in this proceeding it suggested changes:

> (1) to require a retest on renewal for any licensee who could not certify that he was regularly employed as a technician during at least three of the five years for which the license was effective, and
>
> (2) to require the licensed technician to certify that he had examined a valid station license for the station.[27]

By implication, APCO recommended that same approach for the particular case of the First Class licensee. SBE suggests that the operator's service record be maintained on the back of the license (as was done until 1952), notations to be made by the employing station, in order to chronicle the operator's experience and to provide a convenient list of references.[28]

18. There were also a number of miscellaneous comments to the effect that a non-licensing regime would have other drawbacks. For example, APCO was concerned that in the absence of federal licensing, a hodge-podge of non-uniform state licensing requirements would be implemented.[29] APCO did not explain what, if any, adverse public interest consequences would result.[30] Several arguments were made that if the industry or a station took it upon itself to implement a voluntary licensing program, there might arise problems of discrimination against minorities [31] or antitrust violations.[32] ABES fears that in the absence of the license, individuals lacking minimum qualifications could allege discrimination if not hired:

> . . . ABES fears that unqualified persons will seize upon any eventual action eliminating the First Class operator requirement as a basis for alleging that broadcast licensees unfairly and unlawfully discriminate when they insist that applicants for technical positions possess at least minimum technical qualifications [33]

19. SBE and ABES indicated that eliminating the requirement for First Class operators, and maintaining the ultimate responsibility for station operations with the station licensee, placed an unfair onus on broadcasters.[34]

20. SBE asserts that:

> It has been the collective experience of the members of the Society that there has been a marked increase in the number of technical violations since the Commission deleted the requirements of full-time First Class Operators. Allowing Third Class Operators to be in charge of routine operations has not led to better technical compliance with the Commission's rules. In general, it is SBE's belief that further deregulation of operator requirements will undoubtedly lead to a sharp increase in the number of violations of the Commission's technical standards. This in turn will lead to the need for more Commission enforcement personnel and more Congressional appropriation; ultimately the public will be the loser.[35]

NABET also suggested that any Commission cost savings from elimination of the First Class license procedure would be more than offset by increased FCC Field Operations Bureau monitoring costs necessitated by more violations.[36] SBE suggested that the costs of administering a First Class license could be recouped by charging a license fee.[37]

21. Numerous First Class licensees commented on the ignominy of being "down-graded" from First Class to Second Class license holders.[38] Richard E. Fearns of Hollywood, California, felt that "the crushing blow to dedicated citizens who have respected their profession, and their government, is the humiliation of returning a Second Class License for a renewal of a First."[39]

22. Finally, there were a number of comments concerning the impact of elimination of the First Class license on private employment contracts that currently base salary levels on possession of the license, and a number of comments concerned with substantive changes in Second Class licensing requirements. The former concern is an issue between private parties, that could be readily resolved by substituting experience or other non-governmental standards for the current standards and, therefore, is not relevant to the public interest considerations herein. The latter concern is misdirected to the instant prodeeding, which contemplates and effects only an editorial change with regard to the Second Class license. The substantive issues herein involve the First Class license only.

Comments Supportive of the Proposal

23. The arguments made by commenters in support of elimination of the First Class license fell broadly into three categories:

(1) The First Class examination fails to adequately measure technical competence;

(2) Technological advances, significant other Commission regulation, and marketplace forces combine to render operator licensing unnecessary; and,

(3) Ineffectual operator licensing imposes unwarranted costs on station licensees, particularly in small markets.

24. On one point, there is complete agreement between commenters who favor elimination of the First Class license and commenters who oppose

[23] *Id.* at 4.

[24] Metromedia comments at 4.

[25] NBC comments at 3–4; NPR comments at 6.

[26] NPR comments at 7.

[27] APCO comments at 2.

[28] SBE comments at 12.

[29] APCO comments at 4–5.

[30] Radio communication, since its inception and by its very nature, has always extended across state lines. The states have never concerned themselves with radio operator licensing and APCO gave no indication that the individual states might be inclined to begin any form of radio-related regulation.

[31] SBE comments at 6.

[32] ABES comments at 7.

[33] ABES comments at 11.

[34] SBE comments at 7; ABES comments at 4.

[35] SBE comments at 10.

[36] NABET comments at 3.

[37] SBE comments at 7.

[38] The *Further Notice*, at paragraph 27, proposed that individuals currently holding a First Class license, upon application for renewal, would be issued a Second Class license. *Further Notice*, *supra* note 4. The instant *Fourth Report and Order* effectively eliminates the issue of class distinction.

[39] Comments of Richard E. Fearns at 1.

elimination: The current First Class examination is an inadequate measure of practical technical competence. Typical are the comments of the NRBA:

. . . the Commission's operator requirements, particularly insofar as they relate to First Class Operators, assume not only a familiarity with the technical, theoretical concepts involved, but also a firm working knowledge of the actual electronic hardware. While a written exam, such as is presently offered may test an individual's grasp of the theories, it cannot test his or her ability to diagnose and cure ailing transmission equipment or make sure that smoothly functioning equipment will stay that way.[40]

W. Floyd Hawkins, President at KVRC of Edinburg, Texas, described a situation related by many broadcasters:

Over the years we have had in our employ, "tickets" [First Class licensees] which fulfilled FCC rules and regulations, but we did not permit them to touch anything. We have always relied on competent engineers with proven ability to actually maintain all technical equipment. We have even had problems with "tickets" tampering with equipment to the detriment to the signal and operation of the station. Truly, a *little* knowledge can be dangerous at times."[41]

Although the First Class examination requires some familiarity with electronics theory, many broadcasters commented that any reliability in that regard is severely compromised by the existence of memory schools. For example, the NAB commented that:

[t]he relative value of the examination as an instrument capable of testing an applicant's knowledge of radio technology has been diminished due to the emergence of First Class License "schools" designed simply to coach applicants on how to pass the exam.[42]

25. Numerous commenters note the impracticability of designing and implementing a truer test of operator technical skills. The NRBA argues that:

. . . the only way to test for 'hands-on' ability is to offer a 'hands-on' exam. But the cost, particularly in terms of time and effort, necessary to carry out individualized 'hands-on' testing would be staggering, and the process—if one could be devised—would probably be so slow that the operator licensing system would break down."[43]

26. Earl Hawkins, manager of KNEU, Roosevelt, Utah, notes succinctly that: "[a] first class license does not an Engineer make."[44] Station licensees must rely ultimately on operators with proven technical abilities. ABC echoes comments of the many broadcasters who find that:

[p]rior experience and, to a lesser degree, education is the best indicator of a person's ability to repair and adjust a transmitter—not some paper testing process.[45]

27. The commenters made several arguments to the effect that operator licensing is no longer necessary regulation. The NAB traces the history of radio operator regulation to the nascent state of radio communications in the maritime service, when "early radio transmitting equipment was very unstable and unreliable, requiring frequent routine maintenance and constant adjustment to avoid interference."[46] The development of reliable and high-performance transmitting equipment has obviated the need for unremitting operator attention and adjustment. The NAB also comments that:

Although very powerful transmitters often are used in contemporary broadcast stations, these devices possess a superlative record of non-interference. Current technology has made it possible for persons of limited technical training to take basic meter readings and to perform simple adjustments to maintain proper operation. Only in case of major complications is there need for a highly specialized technician.[47]

The comments are replete with examples of stations that operate well with basically non-technical personnel, and the occasional services of an outside contract engineer for major maintenance or repair.

28. Robert Locke, a First Class licensee from Allentown, New Jersey, argues that elimination of the First Class license will have a negligible effect on the broadcast industry, "since it has always been the [station] licensee's responsibility to make sure his equipment was operating properly and within required FCC parameters."[48] Mr. Locke's essential argument is repeated often throughout the comments. The NAB lists the following of the "several layers of 'redundant' regulations" that are used "in whole or in part, to insure a licensee's compliance with technical standards":[49]

—Station License Applications
—Renewal of Station Licenses
—Periodic Monitoring
—Field Inspections
—Station Technical Logs, Records, and Reports
—Periodic Technical Measurements
—Routine Inspections by Station Personnel
—Licensing of Technicians for Maintenance and Inspection
—Type Acceptance of Transmitting Equipment
—Type Approval of Monitoring Equipment
—Extensive Specific Technical Regulations[50]

NTIA comments that both operator licensing and operating standards incumbent on the station licensee under threat of sanction:

. . . go to the same goals of assuring signal quality and noninterference. . . . Inspecting and monitoring, for example, are probably the most effective means of assuring compliance with technical rules and regulations.[51]

29. The NRBA chides the Commission for not viewing the economic self-interest of broadcasters as possibly the most significant force to render the licensing of operators expendable:

After all is said and done, a licensee's economic viability is dependent upon its broadcast signal. It is therefore in the individual licensee's interest to see to it that its signal is maintained in the best possible fashion by the best possible people. It is only in doing this that a broadcaster can effectively compete in the marketplace.[52]

The NAB, in agreement, notes that:

Broadcasters are in business to maximize profits and to minimize costs. The incentives to avoid Commission forfeiture for non-compliance with relevant technical standards and to maximize profits via a strong and clear signal serve to foster the goals of quality, noninterfering service.[53]

Marketplace competition among the 10,000-plus broadcasting stations and between broadcasting and other communications media, is cited by several commenters as the underlying incentive to maintain signal quality. The NRBA argues that:

Competition generated among those [broadcast] stations—provides a self-regulating mechanism for the industry. This mechanism . . . is effective with respect to the actual technical operation of each station, providing competitive pressure to maintain a high level of performance.[54]

As alleged by NTIA, "signal quality can and does have a real effect on the selection of program sources by an audience."[55]

30. Numerous parties commented that the First Class operator requirement imposes unnecessary costs on station licensees, subjecting small-market

[40] NRBA comments at 2. *See, also* ABC comments at 2; NTIA comments at 5.
[41] Comments of W. Lloyd Hawkins at 1.
[42] NAB comments at 3.
[43] NRBA comments at 2. *See also*, ABC comments at 2.
[44] Comments of Earl Hawkins at 1.
[45] ABC comments at 2. *See also*, NAB reply comments at 3.
[46] NAB comments at 7.
[47] *Id.* at 6.
[48] Comments of Robert Locke at 1.
[49] NAB comments at 7.
[50] *Id.* at 7–8.
[51] NTIA comments at 7. *See, also* NRBA comments at 3; Forward Group comments at 3.
[52] NRBA comments at 3.
[53] NAB comments at 9.
[54] NRBA comments at 4.
[55] NTIA comments at 8.

broadcasters to a particularly onerous burden. The Foward Group argued that costs to station licensees result "from a requirement that they hire only from a restricted pool of persons possessing a Commission license."[56] Such costs are unnecessary, according to ABC, because the licensing program "may be largely redundant as well as ineffective."[57] W. Floyd Hawkins of KURV addresses the problem this way:

> We have in our employ a "ticket" which fulfills FCC rules and regulations, but we also have a contract engineer who does all of our maintenance. There is no way as a licensee that I will permit my "ticket" to do anything other than post his or her license for fulfillment of the law. . . . The cost of maintaining a "ticket" could be put to better use in serving the public interest.[58]

A similar scenario is related by several broadcasters in diverse markets.

31. Finally, some commenters who favor elimination of the First Class license suggest that the broadcasting industry might be motivated to devise its own methods of evaluating operators. The NAB recognizes that:

> . . . despite the technological development, "redundant" regulation and marketplace force factors . . . it is our view that, were the FCC to eliminate First Class Operator licensing, broadcasters and engineers should develop an alternative method of testing and screening radio technicians to ensure that these workers possess necessary skills and comprehension.[59]

Further, the NAB:

> . . . is committed to assisting the industry in designing methods of testing and screening technical personnel to determine their capacity to operate, install, service and maintain transmitter equipment within the technical parameters set forth in the Rules. We concur with the observation made by [former] Chairman Ferris in a separate statement to the *Further Notice* that FCC "tests do not account for experience and common sense" and that "Broadcasters may well be able to devise their own testing procedures that are far more relevant to their own, and the public's needs.[60]

III. Discussion

32. We shall initially address the legal question of Commission authority to eliminate the First Class license, and then proceed to address the policy issue of public interest benefits or costs expected to result from such an action.

33. The commenters who argue that the Communications Act requires operator licensing of the type currently in place, render a skewed account of regulatory history and intent. It is true that operator licensing must continue as a *sine qua non* of the Communications Act of 1934. The Act, however, does not specify the nature and extent of the licensing requirement. The Act provides in pertinent part that:

> Except as otherwise provided in this Act, the Commission from time to time, as public convenience, interest, or necessity requires shall—
>
> * * * * *
>
> [1] [l] Have the authority to prescribe the qualifications of station operators, to classify them according to the duties to be performed, to fix the forms of such licenses, and to issue them . . .[61]

And that:

> The actual operation of all transmitting apparatus in any radio station for which a station license is required by this Act shall be carried on only by a person holding an operator's license issued hereunder, and no person shall operate any such apparatus in such station except under and in accordance with an operator's license issued to him by the Commission: *Provided, however*, That the Commission if it shall find that the public interest, convenience, or necessity will be served thereby may waive or modify the foregoing provisions of this section for the operation of any station except (1) stations for which licensed operators are required by international agreement, (2) stations for which licensed operators are required for safety purposes, (3) stations engaged in broadcasting [other than those engaged primarily in the function of rebroadcasting the signals of broadcast stations], and (4) stations operated as common carriers on frequencies below thirty thousand kilocycles: *Provided further*, That the Commission shall have power to make special regulations governing the granting of licenses for the use of automatic radio devices and for the operation of such devices.[62]

Thus, the Act requires the Commission to "fix the form" of station operator licensees, but does not prescribe any particular form or qualifications for that license.

34. The SBE argued at great length that elimination of the First Class license and the concurrent proposals in the *Further Notice* would leave unsatisfied the requirements of the Act. In order to maintain that the purpose of Section 318 is to require that broadcast equipment be operated only by persons with a "substantive" license, the SBE drew specious inferences from the provisions of earlier legislation no longer in force. Further, as the requirements of Section 318 cannot be waived or modified where licensed operators are required for safety purposes or at stations engaged in broadcasting, and because broadcast stations often use transmitters and other equipment which employ high voltages, the SBE argued that the requirements to license operators at such stations are twice exempt from abrogation. The Commission, however, does not propose to discontinue the licensing of transmitter operators. What the Commission does intend to do by its action today is to bring the operator licensing procedure into line with the state of the art, much evolved since the earliest days of radio regulation.

35. A review of the historical development of the regulatory statutes reinforces the appropriateness of flexible licensing procedures. The first licensing of "wireless" radio operators was imposed to ensure operator facility in handling distress signals, in an effort to avoid tragedy at sea. Early "wireless" sets were very unstable and required frequent maintenance and constant adjustments to avoid interference. The unreliable equipment aboard ships often failed in emergency situations. Radio operators had to be thoroughly familiar with the workings of their transmitters and proficient at sending and receiving Morse Code. Thus, the initial statute to deal with the nascent radio required that only certain ocean-going steamers "be equipped with an efficient apparatus for radio-communciation, in good working order, in charge of a person skilled in the use of such apparatus."[63] Two years later, Congress enacted legislation extending this licensing requirement to all radio operators.[64] At that point in time, radio communciation meant wireless telegraphy alone, and its use was limited almost exclusively to ocean-going vessels. According to the Congressional Record of 1926:

> [i]n 1912, the principal use of radio was for communication between ships and between ships and shore. In this year, 1912, the Marconi Co. of America was organized. It operated at that time 60 shore stations for ship communication, including one capable of transmitting to ships 2,000 miles distant. There were approximately 600 ships upon the seas equipped for radio communciation. . . . There were no other practical uses of radio.
>
> It was in this state of the art that the . . . law of 1912 was enacted. . . .[65]

36. These licensing requirements were maintained in later legislation, though not without debate concerning their continued relevance. It is instructive to

[56] Forward Group comments at p. 3.

[57] ABC comments at 3.

[58] Comments of W. Floyd Hawkins at 1.

[59] NAB comments at 9. *See, also* NTIA comments at 8; NRBA comments at 4.

[60] NAB comments at 2.

[61] The Communications Act of 1934, § 303, 47 U.S.C. § 303 (1976).

[62] The Communications Act of 1934, § 318, 47 U.S.C., § 318 (1976).

[63] The Radio-Communications Act of 1910, ch. 379, 36 Stat. 629 (June 24, 1910).

[64] The Radio-Communications Act of 1912, ch. 287, 37 Stat. 302 (August 13, 1912).

[65] 67 Cong. Rec. 5478 (1926).

review the history and language of the Radio Act of 1927, precursor to the Communications Act. Section 20 of the Radio Act provided that:

> The actual operation of all transmitting apparatus in any radio station for which a station license is required by this Act shall be carried on only by a person holding an operator's license issued hereunder. No person shall operate any such apparatus in such station except under and in accordance with an operator's license issued to him by the Secretary of Commerce.[66]

Included in the draft bill which preceded the 1927 Radio Act was a more exacting provision, clearly culled from the earliest legislation:

> An operator's license shall be issued only to a person who, in the judgment of the Secretary of Commerce is proficient in the use and operation of radio apparatus.[67]

However, discussion of that section prompted an amendment by Representative Griffin of New York to eliminate the licensing of radio operators entirely. Griffin stated:

> Why should such an operator be required to procure a license? We have locomotive engineers running great trains all over the country; trackwalkers, signalmen, and other employees engaged in great undertakings, where human life is at stake and where there is great responsibility, who are not required to submit to this license nuisance. I ask the gentleman proposing this bill: "What is the earthly reason for requiring the licensing of an operator at a broadcasting station?" Do you not suppose that the employer of that operator knows whether he is efficient or not? Is it not his duty and his obligation to look after the character of the men he employs and whether or not they are efficient? Why should the United States Government assume this responsibility and undertake to establish a bureau, with numerous clerks, filing cases, and an elaborate mechanism, in order to provide help for the operating stations all over the United States? The next logical thing in order, with this precedent established, will be to require Federal licenses for telephone and telegraph operators. It would surely be just as reasonable.
>
> This whole section and all of these paragraphs ought to be eliminated from the bill. Let the people who control the stations select their own operators and use their own judgment.[68]

Representative White of Maine, "the gentleman proposing this bill," rose in opposition to Mr. Griffin's amendment. By virtue of the importance that maritime interests assumed in his state, Mr. White served on the Committee on the Merchant Marine and Fisheries, which committee then dealt with radio communications. As member of that radio subcommittee, Mr. White was a prime mover in the House for radio regulations. His response to Mr. Griffin was essentially that:

> [t]his section is an enlargement of the provisions of existing law. Since 1912, all radio operators have been required to be licensed.[69]

The Griffin proposal was rejected, but the more restrictive provisions, concerning operator proficiencies, were also excluded from the bill in final form, and from the Communications Act of 1934. Section 318 of the Act, cited above, remains the last vestige of legislation necessitated by the problematic state of the art in early maritime radio. In current form, the Act requires that individuals who operate broadcast stations be licensed, but does not indicate technical competence as a prerequisite to certification. Elimination of the First Class operator's permit is thus consistent with the requirements of the Act.

37. Given that the Commission clearly has the statutory authority to eliminate the First Class license, is it in the public interest to do so? Again, in the *Further Notice* two basic questions were asked in this regard:

> Does FCC examination of operators who perform transmitter installation, service, and maintenance, and who train and instruct lower grade operators, contribute to the operation of broadcast stations within FCC technical standards?
>
> [and]
>
> Are there other forces—including competitive market forces, the Commission's technical rules and standards, and sanctions against errant stations—that can effectively assure that broadcast stations will be operated within the FCC's technical standards without the need for examinations?[70]

The commenters were of the near unanimous opinion that the current First Class examination is too ineffective to ensure the operation of broadcast stations within FCC technical standards. Most commenters then addressed the modified question: Can an effective examination be devised? For example, NABET stated in response to the first question:

> Could it not be that if the answer were "no" that the examination of operators is not sufficiently perfected to result in a "yes" answer. If that was the reason for a "no" then the public interest is not being served because of the Commission's failure to provide a proper testing procedure.[71]

To assure that the appropriate question is asked and answered, we will address here the issue of whether an effective examination could be devised and administered.

38. Virtually all commenters agreed that a truly effective examination must include a hands-on performance test, wherein the applicant would actually operate, adjust and repair broadcast equipment. At the same time, virtually all commenters recognized that such a procedure would be unfeasible; being impractical to structure and prohibitively expensive to administer. It is generally recognized that the current examination is effective in the limited objective of familiarizing applicants with Commission rules, standards and procedures and with the electronics theory that underlies the operation of broadcast equipment. Although the so-called "memorization schools" are designed to help a technically unqualified person pass the examination and teach little else, there is some gain to the public even from the limited training provided by these schools to the extent that applicants retain the information.

39. The issue, then, is how substantial are the public benefits from FCC examination of operators, including the potential benefits from an improved examination, and how do these benefits compare to the costs? Awareness of the rules and of theoretical underpinnings are of limited practical use—even if proposed modifications, such as the introduction of various examination levels, were added to the examination procedures. The knowledge gleaned in the process of preparing for such an examination might have some marginal effect on the ability of an operator to maintain his station's already well-functioning equipment within the parameters of the rules, but it would have little impact on an operator's ability to repair equipment or to assure his safety when actually handling the equipment. It is interesting to note that very few of the many First Class license holders who commented in this proceeding claimed that they acquired much practical information during the process of preparing for the examination. Their arguments for retention of the First Class license would have been more persuasive had they provided evidence either: (1) that the ability to pass the examination provided a meaningful measure of the skills necessary for operating and repairing equipment, or (2) that the license examination process successfully weeded out those incapable of operating the equipment. There is no

[66] The Radio Act of 1927, ch. 169, 44 Stat. 1162 (February 23, 1927)

[67] *See*, 67 Cong. Rec. 5573 (1926).

[68] 67 Cong. Rec. 5573 (1926).

[69] 67 Cong. Rec. 5573 (1926).

[70] *Further Notice* at paragraph 13. *Supra* note 4.

[71] NABET comments at 4–5.

reason to suppose that operators who, in the future, will not have taken the current First Class examination will be any the less capable or motivated.

40. First Class licensees' comments reflected a deserved pride in their accomplishment and in the long history of their contributions to broadcasting, but failed to recognize that an operator's merit is confirmed by his or her practical abilities, primarily acquired through hands-on experience with broadcast equipment, not by the mere possession of a license. In respect to any First Class operators who would be disconcerted by a "demotion" from the Commission today, we want to emphasize that this action represents our recognition that it is the actual day-to-day performance of technical operators in the broadcast industry, rather than the inherently limited Commission licensing procedure, that deserves the full measure of public praise.

41. The driver's license analogy cited by so many of the commenters opposed to the elimination of the First Class license is particularly relevant here. The driver's license examination typically has two parts—a written examination covering rules and theoretical concepts underlying safe driving (e.g., at how many car lengths should one safely follow another car at a given speed), and a driving test, covering various actual driving conditions, such as starting, stopping, turning, parking, etc. It is true that the latter does not cover *all* driving conditions, but it does include those most commonly encountered. It is not clear that the public would consider it worthwhile to maintain the examination procedure if it were limited to the written element. Many educated individuals can easily pass the written examination without studying the rules, hardly a test of their driving ability, while poorly educated applicants often must retake the examination several times because of a lack of reading—not driving—capabilities.

42. A more accurate analogy would compare the First Class operator to the tractor-trailer or "big rig" driver. In that situation, an employer will entrust his expensive (and potentially dangerous) equipment only to an individual who has demonstrated actual driving ability. Reliance upon a written examination would be folly. Work experience and references provide the most reliable means of appraising driver ability. Any license examination, to be meaningful, must include a hands-on test of driving skill. Similarly, a record of practical experience is the foremost indicator of ability for operators of broadcast equipment. The FCC can never have the capability of providing a hands-on licensing examination and therefore the potential utility of our licensing procedure, even if enhanced, is limited at best.

43. Several commenters who recognized the inherent limitation of a written examination, argued that the operator's service record be incorporated as part of the licensing process, as was the custom until 1952. Employers registered their remarks on the back of an operator's license. Yet even were we to retain the First Class operator license so modified, employers would continue to rely on standard resumes and letters of reference. There is no indication that requiring the duplication of this otherwise available information would provide a significant benefit. Unless it could be shown that the license by written examination provided benefits that outweighed its costs, it is not clear that any change in the current procedure would warrant our not completely eliminating that written examination. The relevant question then is the second one from the *Further Notice*—are there other forces that render the benefits from the license examination process largely redundant?

44. As indicated in paragraphs 14 and 15, *supra*, several commenters expressed concern that the elimination of the First Class license requirement would adversely affect the safety of both the technical employees at broadcast stations and the public at large. We think these concerns are misplaced for several reasons. A review of the current examination indicates that the test elements address rudimentary (primarily vacuum tube) circuit characteristics and trouble shooting. Questions on safe work procedures are not included. Although a written examination could be designed to address worker safety issues, a true test would require a hands-on examination of the sort that the Commission simply could not administer. Similarly, the concern raised by Metromedia, that elimination of the First Class license would result in increased broadcast interference to Federal Aviation air facilities, seems remote. Metromedia offers no formal link between this particular interference problem and the First Class license requirement; it is merely presumed that elimination of the license will result in greater interference.

45. There appear to be no major benefits derived from the examination for the First Class operator license, either as it currently exists or as it could be reasonably modified. However, five limited potential benefits are discernible: (1) promoting a greater awareness by the operators of Commission rules and standards; (2) providing operators with some additional knowledge of electronics theory; (3) instilling the operator with a greater sense of pride in his or her work, through having earned a license by examination; (4) heightening concern for a strict adherence to the rules, were it the case that First Class operators found willfully or negligently operating equipment outside the parameters of the Commission's rules faced a credible threat of loss of license or other sanctions;[72] and (5) utilizing the examination process, given its limitations, as a threshold screening device for those station owners and managers, particularly of small stations, who lack technical expertise. It is necessary to investigate how significant these benefits might actually be, in comparison to the costs imposed.

46. The first two potential benefits are not likely to be significant in those markets where there are many technical workers competing for positions. In those situations, competitive pressures in the labor market will probably assure that technicians acquire the necessary knowledge without the additional spur of an examination process. Typically, operators in large, competitive markets have first gained experience in smaller markets. In the smaller markets, there will be less competitive pressure and fewer experienced technicians. But this will be mitigated by other factors. In these markets, station equipment is typically smaller and not as complex. In rural spectrum, as elsewhere, the primary technical concern, from the point of view of both the station and the public, is signal quality. The owner thus has a strong incentive to make sure that his station's signal quality is maintained at a high level in order to attract an audience. As a number of small market owners and managers indicated in their comments, they must have access, at least on an as-needed basis, to well trained technical personnel, in order to protect their investment.[73] Because well-trained technicians are not always

[72] The Communications Act does not give the Commission the explicit authority to revoke operator licenses and the Commission has never done so. In keeping with the policy and intent to hold broadcast station licensees responsible for all operations, it is seldom that operators receive such sanctions as license suspension or the assessment of forfeitures.

[73] It should be noted that in large markets, the owner's investment in his station is that much greater and its protection therefor represents a stronger incentive to maintain equipment and signal quality.

readily available, many of these small market station licensees rely on engineering consultants from nearby urban areas to resolve major problems. In the absence of the First Class license requirement, this reliance on well-trained experts should continue, but the small market station licensee would have a greater discretion over whom to employ for routine maintenance, repairs, and operations. It is possible that the local technician who has passed a First Class license examination will have a greater awareness of the Commission rules than would an unlicensed technician, but it is not clear that this would have a discernible effect on the quality of the broadcast signal that the public receives, given a station's inherent incentives to maintain a strong and clear signal.

47. The third potential benefit, a sense of pride in one's work, is difficult to measure, but it is not clear why capable, well-trained technicians would take less pride in their work simply because they did not hold First Class licenses. To the extent that the skills necessary to attain the license are irrelevant for the job—and to the extent that possession of the license is not a good indication of one's technical competence—it is not at all clear that mere possession of the First Class license would instill a greater sense of pride in one's work or improve productivity.

48. The fourth potential benefit would bear fruit only in that rare situation wherein an unscrupulous station licensee would deliberately operate outside the bounds of the Commission's rules, but for the presence of a First Class operator who, for fear of Commission sanction, would refuse to violate Commission standards.[74] For two reasons, this is a most improbable scenario. First, there seems to be little incentive for a station owner to risk sanctions, including loss of the station license, in order to exploit the negligible advantages of technical noncompliance. An owner will rarely want to degrade his own signal, and is unlikely to gain sufficiently from intentional interference to others to invite the risk of FCC action. Quite simply, the Commission has often reiterated that the station licensee bears the ultimate responsibility for all phases of station operations and, as such, has put owners on notice that they face potentially severe penalties for noncompliance. Second, it seems likely that the rare and determined unscrupulous station licensee would be able to find an equally unscrupulous co-conspirator from among the minions of First Class operators. No form of license insures either virtue or incorruptibility. The fourth potential benefit from retention of the First Class license examination, thus, appears to be negligible.

49. The fifth potential benefit was the one most often cited in the comments. Even if the First Class license examination is inherently limited, and does not measure practical abilities, it might provide a useful screening device for non-technical station owners or managers. The First Class license, if effective as a hiring screen, might protect the station from damage to its equipment or to its signal quality (and hence audience and revenues), and from Commission sanctions for noncompliance with the rules. Similarly, if effective, the First Class license might protect the public from poor signal quality or interference. It has been demonstrated, however, that the First Class license could never be more than a limited screening device because it cannot measure hands-on technical competence. Because it encourages operator awareness of the Commission's technical standards, the licensing procedure nonetheless might aid non-technical station owners or managers who need to rely entirely on their technical staff for compliance with the rules. It is not clear, however, that the licensing procedure contributes very much to this goal.

50. In the absence of other Commission activities and alternate means of measuring technical competence, the First Class examination might, indeed, serve a useful function. However, the broadcast environment includes a number of other factors that facilitate or encourage broadcast operation within Commission rules and standards—and thus protect both the public and the station owner—without the need for operator licensing. Broadcast equipment is increasingly automated and accurate. The Commission requires type acceptance of transmitting equipment, type approval of monitoring equipment, maintenance of station logs and records, and periodic monitoring. All of these factors provide protection to, or guidelines for, non-technical station owners to utilize in supervising their technical staff and help owners safely bear their ultimate responsibility for all the operations of their stations. For these reasons, many observers view the First Class licensing procedure as being basically redundant of other Commission rules.[75] It is not obvious, therefore, that an operator licensing examination is necessary as a screen to protect the station owner or the public from technical operations outside the bounds of the Commission rules.

51. Even if an examination were a useful tool, it is not clear that the Commission is the appropriate organization to perform such a task. The prior discussion strongly suggests that a license examination procedure is most useful for the protection of the individual station owner, not of the public. Yet, it is clear from the comments that many broadcasters—perhaps most—do not feel the need for such protection. Many believe that the costs of such a procedure outweigh the benefits. Any gains in security are outweighed by a loss of flexibility. In this situation, it appears that a voluntary licensing program would be better than a mandatory one. The NAB, the largest broadcaster trade association, has proposed that the industry, itself, accept the responsibility for an operator screening process. In its comments, the NAB stated that:

> Preliminary discussions between the Society of Broadcast Engineers (SBE) and NAB indicate that the two organizations could work cooperatively and, with other broadcast entities, develop a satisfactory testing instrument.
>
> An alternative to an SBE/NAB cooperative venture would be for the broadcast industry to develop an instrument for testing prospective AM, FM or TV Chief Operators. It is possible that the industry could develop a test which might be conducted at stations, where licensees could test applicants directly on transmitting equipment (*e.g.*, to require applicants to make repairs, read various meters, etc.)—an aspect of testing which the FCC contends "is clearly impractical for the Commission." Regardless of the instrument used to test an applicant's minimal skills, NAB expects that management would use any such results as only one factor in considering a person for employment. Other equally important factors, *e.g.*, personal

[74] In fact, the Commission does not have the explicit authority to revoke an operator's license though it may impose lesser sanctions. *See*, note 72, *supra*.

[75] For example, one of the conclusions of the Georgia Tech study cited in footnote 4, *supra*, was as follows:

> It should also be noted that, to some extent, operator licensing serves a function which is redundant with the functions of other FCC programs. For instance operator licensing, like equipment authorization, and transmitter system operation regulations, helps prevent quality problems from occurring. Monitoring and inspection deter and detect transmission problems, some of which at least may be due to inadequately trained or supervised personnel. Violation notices and sanctions also tend to deter operator-induced problems, as well as others. Thus, the quality-enhancement function served by operator licensing is also served by other FCC programs, which have decidedly more direct impacts on moderating transmission problems.

interviews, references, previous work experience, and education, would be considered by management in choosing a successful candidate for a position.[76]

A voluntary examination, responsive to the needs of the participating broadcasters, clearly would provide the most effective screening device. This is particularly so were a hands-on test to be included. Further, it leaves to the judgment of the individual broadcaster how much weight to place on the examination, versus other factors such as work experience, education, and references, in making employment decisions.

52. Several commenters were critical of an industry-sponsored examination, citing possible antitrust or discrimination problems. The antitrust concern is not well-taken. Trade organizations or associations are free to devise voluntary standards that are not exclusionary.[77] In the case of a regulated industry such as broadcasting, the Commission determines the operative technical rules and standards; the industry examination would simply provide a voluntary screening device. Although any examination could potentially be discriminatory, this would be less likely a problem in broadcasting, where individual stations retain their EEO responsibilities. If all examinations are in some measure inherently discriminatory, a voluntary examination would ameliorate that part of the problem which is compulsory. In response to ABES' concern that the elimination of a Commission administered license examination would allow unqualified minority applicants to force station owners to give them favored treatment, such action is so blatantly inconsistent with Commission rules and policies and so detrimental to the interests of the station licensees that we cannot believe licensees would participate in such conduct. This type of reasoning appears to be more the specious argument of a currently favored labor group than the serious concern of station licensees, none of whom raised such an objection.

53. One additional point must be addressed relating to the protection of station owners from incompetent technicians. Some owners who were concerned about the loss of the First Class license examination as a screening device argued that they could not properly evaluate the competence of technical personnel, and that, in the absence of a license examination, they should not be held accountable for the actions of their technical employees. ABC, Inc., in its comments in support of the proposed elimination of the First Class license, simultaneously argued that the Commission should reduce its standard of station licensee responsibility for violation of technical rules. According to ABC:

> The Commission has traditionally held station licensees to a standard of strict liability. . . . In effect, it treats licensees as insurors of the technical competence and performance of their operating personnel. For example, neither lack of licensee knowledge, nor the fact that the employees involved in the infractions held FCC licenses, nor termination of the employees has been accepted as an adequate defense.
>
> ABC suggests that this strict liability standard is to harsh; a more realistic and reasonable test should be whether the station licensee exercised reasonable diligence to see to it that his employees complied with the Commission's technical requirements for his station.[78]

We disagree with ABC. In many businesses, management must hire, supervise, and bear the ultimate responsibility for the actions of highly skilled technical employees whose competence top management cannot directly judge. Increasingly, individual members of corporate boards of directors and other corporate executives, as well as governmental executives, are being found liable for actions of their subordinates. The broadcast industry is not unique in this regard. In similar situations in other industries, the affected parties have been able to use non-governmental means of ensuring employee quality. Nothing in the record of this proceeding demonstrates why broadcasters cannot also accomplish their selection of technical employees without government assistance.

54. The Commission has consistently stated that the station licensee bears the responsibility to maintain control of his station, and this responsibility becomes increasingly important as steps are taken to reduce the number of regulations imposed on station licensees in order to allow them to use their own discretion in decision-making. The action we adopt today justifies no change in this standard of conduct.

55. In sum, it is not clear that any of the five potential benefits from a First Class licensing examination procedure are significant. Perhaps not surprisingly, the Canadians have never found the need for such a procedure, yet there is no indication of unacceptable technical performance in the Canadian broadcasting industry.

56. At the same time, the First Class licensing procedure imposes costs—on station owners, on technicians, and on the Commission. Ultimately, the public bears these costs. Station owners must hire First Class operators even if non-licensed technicians or off-site, but readily available, consulting engineers could provide better service. This can be especially costly to small market station owners. Technicians bear costs if they are tested on—and therefore spend time, money, and effort training for—material that is not germane to the actual task of maintaining and repairing broadcast equipment. The heaviest costs are imposed on those few technicians who, though highly competent to deal with broadcast equipment, are not capable of passing a written examination. Lastly, the Commission bears the cost of operating and updating the First Class licensing procedures.

57. Several commenters argued that the Commission's cost savings from elimination of the First Class license would be outweighed by the increased costs of monitoring and enforcement necessitated by a predicted increase in infractions absent the licensing procedure. SBE supported this allegation by citing its members' belief that infractions have increased as a result of earlier Commission actions to reduce operator licensing requirements.[79] In fact, the Commission's Field Operations Bureau, which issues operator licenses and also monitors station compliance with technical standards, has observed no appreciable increase in technical violations since the elimination of the Third Class Radiotelephone Operator Permit, or since the holders of any class of commercial license, including the Restricted Radiotelephone Operator Permit, were authorized to perform routine operator duties at all AM, FM, and TV broadcast stations. Because we recognize that insufficient time has elapsed to make a full evaluation and that these findings are not the result of a formal study by the Commission, we do not rely heavily on them. Indeed, elimination of the First Class license represents a new and different step. Nonetheless, the observations of our Field Operations Bureau offer some indication of what we might expect to result. It is not obvious that increased monitoring and enforcement efforts or expenditures will be necessitated by our action today.

58. Several commentors argued that there are other areas of conduct-oriented regulation that are no more

[76] NAB comments at 10–11, footnotes omitted.

[77] *CF., Chicago Board of Trade v. United States*, 246, U.S. 231 (1918).

[78] ABC, Inc. comments at 4–5, footnotes omitted.

[79] *See* paragraph 20, *supra*, page 12.

justified than the requirements we abolish today. NTIA asserted that:

[w]hile we believe that the Commission's proposal to eliminate the operator licensing examination requirements is consistent with the goal of an "end-result" oriented regulatory posture, it is only one area of FCC technical regulation that must be relaxed if this goal is to be achieved. The Commission should also give serious consideration to dropping as much of the "how-to" regulation of the day-to-day operation of stations and instead specify performance criteria for certain key technical elements that relate directly to the electromagnetic emission characteristics of a broadcast station. . . .[80]

Since our real and central concern is a station's technical performance, these suggestions of areas for further deregulation may be well taken. However the comments in this record do not adequately address these topics. For example, there was little comment concerning two issues alluded to in Appendix B to the *Further Notice, i.e.,* requirements pertaining to a designated chief operator and to transmission system inspections.[81] We do not propose to resolve these issues now.

IV. Conclusions and Procedural Issues

59. The complete record does not demonstrate any significant correlation between operator licensing and signal quality and interference control. Current available transmitting equipment is proven highly reliable. Market forces and economic self-interest will better ensure that broadcasters employ competent operators and technicians than will a written operator licensing examination. Other Commission regulations are demonstrably more effective than operator licensing at controlling interference and assuring compliance with technical standards. Operator licensing imposes costs without concomitant benefits. For these reasons, as well as all the foregoing, we find elimination of the First Class operator license requirement is in the public interest.

60. The Commission will no longer conduct examinations for, or continue to issue, the original First Class Radiotelephone Operator license. On a date to be specified by public notice in the near future, the Commission will institute a license to be called the General Radiotelephone Operator license.[82, 83] Examination requirements for the General license will include only those currently in effect for the Second Class Radiotelephone Operator license. Once the General Radiotelephone Operator license has been instituted, no new First or the Second Class licenses will be issued and current holders of First and Second Class licenses will be issued the General Radiotelephone Operator license, upon application for renewal. Current First and Second Class licenses may be held until they expire.

61. Pending issuance of the General Radiotelephone Operator license, current First Class and Second Class licenses will be renewed when applications are timely filed, and the Commission will continue to accept applications for, and issue, the Second Class license as such. No new applications will be accepted for First Class licenses. Until the General Radiotelephone Operator license is available, anyone seeking that license should apply for the Second Class license.

62. The Commission authorizes individuals holding any class of commercial operator license, including the Restricted Radiotelephone Operator Permit, but excluding the Marine Radio Operator Permit, to install, maintain, repair, and technically supervise AM, FM, and TV transmitting equipment and FM and TV broadcast translator transmitting equipment.[84] Station licensees will continue to be responsible for all aspects of station operations.

63. At present there are a limited number of AM stations, using directional antenna systems, that are not required to make certain antenna field strength measurements or annual proofs of performance because they employ as duty operators only persons holding the First Class license.[85] As there will no longer be any First Class operator requirements, some modification to this rule must be considered. Until such a rule making procedure is concluded, however, those stations will continue to be exempt from the measurement requirements.

64. Authority for these amendments appears in Sections 4(i) and 303 of the Communications Act of 1934, *as amended.* 47 U.S.C. §§ 4(i) and 303. In that the amendments adopted herein with respect to the Second Class Radiotelephone Operator license are editorial and ministerial in nature, the prior notice and public procedure provisions of the Administrative Procedure Act, 5 U.S.C. 553 (1976), are not applicable.

65. Accordingly it is ordered, That Parts 0, 13, 73, 74 and 83 of the Commission's Rules and Regulations are amended as set forth in the attached Appendix, effective August 7, 1981.

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

(Secs. 4, 303, 307, 48 Stat., as amended, 1006, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 0—COMMISSION ORGANIZATION

1. In Part 0, § 0.314 is amended by removing paragraph (b) in its entirety and designating it reserved as follows:

§ 0.314 Additional authority delegated.

(a) * * *

(b) [Reserved]

* * * * *

PART 13—COMMERCIAL RADIO OPERATORS

2. In Part 13 § 13.2 is amended by revising paragraphs (a)(2)(i) with added Note, removing paragraph (a)(2)(ii), and revising paragraph (d)(2) as follows:

§ 13.2 Classification of operator licenses and endorsements.

* * * * *

(a) * * *

(2) * * *

(i) General Radiotelephone Operator License.

Note.—Until future notice implementing the full provisions of the *Fourth Report and Order* in Docket Number 20817, adopted on June 16, 1981, the Commission will continue issuing Radiotelephone Second-Class Operator Licenses. Subsequent to such notice, the General Radiotelephone Operator Licenses will be issued.

* * * * *

(d) * * *

(2) Ship radar endorsement—applicable only to Radiotelegraph First and Second-Class Licenses and General Radiotelephone Operator Licenses.

* * * * * *

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[80] NTIA comments at 4–5. *See also* NAB reply comments at 4–5.

[81] *Further Notice* at Appendix B, paragraphs 1(a), (d) and (e). *Id.* note 4.

[82] The new General Radiotelephone Operator license conforms to international standards, in name and in scope. The International Telecommunications Union specifies two classes of radiotelephone operators' certificates, the general and the restricted. Of the two, the radiotelephone operator's general certificate requires the more extensive technical knowledge.

[83] As the necessary form changes are subject to clearance by the Office of Management and Budget, we cannot specify, at this time, the effective date for implementation of the new General Radiotelephone Operator license.

[84] Since the transmission equipment for FM and TV translators is similar to that used in regular broadcast services, we believe the same operator licensing requirements should apply. No comments were filed that argued to the contrary.

[85] F.C.C. Rules and Regulations § 73.93(e), 47 C.F.R. 73.93(e) (1980). *See, Report and Order,* adopted June 1, 1972, F.C.C. 72–467, 37 Fed. Reg. 11538 (June 8, 1972).

3. Section 13.5 is amended by revising paragraph (c)(2) with added Note, to read as follows:

§ 13.5 Eligibility for new license.

* * * * *

(c) * * *

(2) If the applicant afflicted with blindness is afforded a waiver of the written examination requirements and is found qualified for a General Radiotelephone Operator License, the applicant may be issued the license, provided that the license so received shall bear an endorsement as follows:

"This license is not valid for the operation of any station licensed by the Commission unless the station has been adapted for operation by a blind person and the equipment to be used in such station for that purpose is capable of providing operation in compliance with the Commission's Rules."

Note.—Some First Class, Second Class, and Third Class licenses or permits previously issued by the Commission also bear this endorsement.

* * * * *

§ 13.7 [Removed]

4. Section 13.7 is removed in its entirety.

5. Section 13.11 is amended by revising paragraph (a), and paragraph (e) to read as follows:

§ 13.11 Procedure.

(a) *General.* Applications will be governed by the rules in force on the date when application is filed. The application in the prescribed form and including all required subsidiary forms and documents, properly completed and signed, must be submitted to the appropriate office as indicated in paragraph (b) of this Section. If the application is for renewal of license, it may be filed at any time during the final year of the license term or during a 1-year period of grace after the date of expiration of the license sought to be renewed. During this 1-year period of grace, an expired license is not valid. A renewed license issued upon the basis of an application filed during the grace period will be dated currently and will not be backdated to the date of expiration of the license being renewed. A renewal application should be accompanied by the license sought to be renewed.

* * * * *

(e) *Blind applicant.* A blind person seeking an examination for a General Radiotelephone Operator License should make a request in writing to the appropriate field office for a time and date to appear for such examination. The examination will be administered only at Field Offices. Requests for examinations must be made at least 2 weeks prior to the date on which the examination is desired.

6. Section 13.21 is amended by revising paragraph (a)(3) and removing the text of paragraph (a)(4) and marking it reserved as follows:

§ 13.21 Examination elements.

(a) * * *

(3) General radiotelephone. Technical, legal, and other matters applicable to the operation of radiotelephone stations other than broadcast.

(4) [Reserved]

* * * * *

7. Section 13.22 is amended by removing paragraph (a) in its entirety and marking it reserved, revising the heading of paragraph (b), and adding a note following paragraph (b) as follows:

§ 13.22 Examination requirements.

* * * * *

(a) [Reserved]

(b) General Radiotelephone Operator License.

(2) * * *

Note.— Until further notice implementing the full provisions of the *Fourth Report and Order* in Docket Number 20617, adopted on June 16, 1981, the examination requirements for the Radiotelephone Second Class Operator License will be the same as those for the General Radiotelephone Operator License.

* * * * *

8. Section 13.25 is revised in its entirety to read as follows:

§ 13.25 New class, additional requirements.

The holder of a commercial radio operator license who applies for another class of license will be required to pass only any additional examination requirements for the new license, provided, however, that the holder of a Radiotelegraph Third-Class Operator Permit who takes an examination for a Radiotelegraph Second-Class Operator License more than 1 year after the issuance date of the Third-Class Permit will also be required to pass the code test prescribed therefor.

9. Section 13.61 is amended by adding two notes after the headnote; by removing paragraphs (a), (b), (c), (d), (e), (f), (g), (h), and (i) and marking them reserved; by adding a note following paragraph (e); and by adding a note following paragraph (f) as follows:

§ 13.61 Operating authority.

Note 1.—The scope of authority of the various classes of operator licenses and permits is set forth in the Rules governing the radio services involved.

Note 2.—The authority conveyed by an operator license may be limited in certain circumstances by restrictive endorsements. (See, for example, § 13.5(c).)

(a)—(e) [Reserved]

Note.—Wherever a Radiotelephone First Class Operator License is specified by the Rules, a General Radiotelephone Operator License is the equivalent thereof.

(f) [Reserved]

Note.—Wherever a Radiotelephone Second Class Operator License is specified by the Rules, a General Radiotelephone Operator License is the equivalent thereof.

(g)–(i) [Reserved]

§ 13.62 [Removed]

10. Section 13.62 is removed in its entirety.

§ 13.71 [Amended]

11. Section 13.71 is revised by removing the Note following paragraph (b).

PART 73—RADIO BROADCAST SERVICES

12. In Part 73, new § 73.61 is added to Subpart A to read as follows:

§ 73.61 AM directional antenna field measurements.

(a) Each AM station using a directional antenna system must make field strength measurements at the monitoring point locations specified in the instrument of authorization. These measurements must be made at least once each calendar month at intervals not exceeding 40 days, unless a weekly schedule is required by the terms of the station authorization or the provisions of other rules in this Subpart. If weekly measurements are required, the measurements are to be made at least once each calendar week at intervals not exceeding 10 days. The results of the measurements are to be made in the station maintenance log under the provisions of § 73.1830.

(1) The station must have correctly functioning field strength measuring equipment readily available to perform these measurements.

(b) Partial and skeleton antenna proof of performance measurements must be made and analyzed to the procedures given in § 73.154 according to the following schedule:

(1) A partial proof of performance measurement must be completed at least once each third calendar year with intervals not exceeding 39 months between successive measurements.

(2) For stations not having an approved sampling system a skeleton proof of performance measurement must

be completed during each calendar year that a partial proof of performance measurement is not completed as required by (2) of this paragraph.

Note 1.—AM stations which were not required to make periodic field strength measurements under the terms of the station authorization or the rules of this Subpart prior to July 1, 1981, are not subject to the requirements of paragraph (a) of this Section until further action by the Commission.

Note 2.—AM stations which do not use remote control when operating with a directional antenna or were not required by the rules of this Subpart to make periodic skeleton or partial antenna proof of performance measurements prior to July 1, 1981, are not subject to the requirements of paragraph (b) of this Section until further action by the Commission.

13. Section 73.68 is amended by revising paragraph (b)(5) to read as follows:

§ 73.68 Sampling systems for antenna monitors.

* * * * *

(b) * * *

(5) The skeleton proof of performance measurements required by § 73.61.

* * * * *

14. Section 73.93 is revised in its entirety to read as follows:

§ 73.93 AM operator requirements.

(a) Transmitter duty operator requirements: See § 73.1860.

(b) Chief operator requirements: See §73.1870.

(c) Transmission system inspection requirements: See § 73.1580.

(d) Directional antenna proof of performance requirements: See § 73.61.

15. Section 73.140 is amended by removing paragraph (c)(3) and marking it reserved, and by revising paragraphs (c)(4) to read as follows:

§ 73.140 Use of automatic transmission systems (ATS).

* * * * *

(c) * * *

(3) [Reserved]

(4) Transmission system inspections specified in § 73.1580 may be made once each calendar month with intervals between successive inspections not exceeding 40 days, in lieu of the weekly inspection schedule.

* * * * *

16. Section 73.144 is amended by revising paragraphs (b) and (c) to read as follows:

§ 73.144 Fail-safe transmitter control for automatic transmission system.

* * * * *

(b) If the transmissions of the station terminate due to any of the conditions given in paragraph (a) of this Section, operation of the station may be resumed under manual direct or remote control, provided the improper operating condition that caused the termination is corrected upon resumption of transmissions.

(c) If a termination of the station transmissions is caused by any failure of the ATS control or alarm functions, ATS operation may not be resumed until all necessary repairs or adjustments have been completed and the chief operator has made an entry in the maintenance log explaining the cause of the ATS failure and certifying that all required ATS functions are fully restored.

17. Section 73.265 is revised in its entirety to read as follows:

§ 73.265 FM operator requirements.

(a) Transmitter duty operator requirements: See § 73.1860.

(b) Chief operator requirements: See § 73.1870.

(c) Transmission system inspection requirements: See § 73.1580.

18. Section 73.340 is amended by removing paragraphs (c)(4) and (c)(5) and revising paragraphs (c)(1), (c)(2) and (c)(3) to read as follows:

§ 73.340 Use of automatic transmission systems (ATS).

* * * * *

(c) * * *

(1) The operating log entries specified in § 73.1830(a)(3) need not be made.

(2) The transmission system inspections specified in § 73.1580 may be made once each calendar month with intervals between successive inspections not exceeding 40 days, in lieu of the weekly inspection schedule.

(3) Continuous operation of the station modulation monitor is not required.

19. Section 73.344 is amended by revising paragraphs (b) and (c) to read as follows:

§ 73.344 Fail-safe transmitter control for automatic transmission systems.

(a) * * *

(b) If the transmissions of the station terminate due to any of the conditions given in paragraph (a) of this Section, operation of the station may be resumed under manual direct or remote control, provided the improper operating condition that caused the termination is corrected upon resumption of the transmissions.

(c) If a termination of the station transmissions is caused by any failure of the ATS control or alarm functions, ATS operation may not be resumed until all necessary repairs or adjustments have been completed and the chief operator has made an entry in the maintenance log explaining the cause of the ATS failure and certifying that all required ATS functions are fully restored.

20. Section 73.540 is amended by removing paragraphs (c)(4) and (c)(5) and revising paragraphs (c)(1), (c)(2) and (c)(3) to read as follows:

§ 73.540 Use of automatic transmission systems (ATS).

* * * * *

(c) * * *

(1) The operating log entries specified in § 73.1830(a)(2) need not be made.

(2) Transmission system inspections specified in § 73.1580 may be made once each calendar month with intervals between successive inspections not exceeding 40 days, in lieu of the weekly inspection schedule.

(3) Continuous operation of the station modulation monitor is not required.

21. Section 73.544 is amended by revising paragraphs (b) and (c) to read as follows:

§ 73.544 Fail-safe transmitter control for automatic transmission systems.

* * * * *

(b) If the transmissions of the station terminate due to any of the conditions given in paragraph (a) of this Section, operation of the station may be resumed under manual direct or remote control, provided the improper operating condition that caused the termination is corrected upon resumption of the transmissions.

(c) If a termination of the station transmissions is caused by any failure of the ATS control or alarm functions, ATS operation may not be resumed until all necessary repairs or adjustments have been completed and the chief operator certifies in the maintenance log that the required ATS functions are fully restored with a description of the cause of the ATS failure.

22. Section 73.565 is revised in its entirety to read as follows:

§ 73.565 NCE-FM operator requirements.

(a) Transmitter duty operator requirements: See § 73.1860.

(b) Chief operator requirements: See § 73.1870.

(c) Transmission system inspection requirements: See § 73.1580.

23. Section 73.661 is revised in its entirety to read as follows:

§ 73.661 TV operator requirements.

(a) Transmitter duty operator requirements: See § 73.1860.

(b) Chief operator requirements: See § 73.1870.

(c) Transmission system inspection requirements: See § 73.1580.

24. Section 73.764 is revised in its entirety to read as follows:

§ 73.764 International broadcast station operator requirements.

(a) One or more operators holding a General Radiotelephone Operator License must be on duty where the transmitting apparatus of each station is located and in actual charge thereof whenever it is being operated.

(b) The licensed operator on duty and in charge of the transmitter may, at the discretion of the station licensee, be employed for other duties or for the operation of other transmitters if such duties do not interfere with the proper operation of the transmission system.

(c) Operator licenses are to be posted as specified in § 73.1230.

Note.—Operators holding valid First Class or Second Class Radiotelephone Operator Licenses will comply with the requirements of this Section.

25. Section 73.1225 is amended by revising paragraphs (c)(1)(iv)(D), (c)(1)(v), and (c)(2)(ii); and adding new paragraphs (c)(3) to read as follows:

§ 73.1225 Station inspection by FCC.

* * * * *

(c) * * *

(1) * * *

(iv) * * *

(D) Section 73.61, AM directional antenna field strength and proof of performance measurements.

(v) The written designations for chief operators and, when applicable, the contracts for chief operators engaged on a contract basis. (See § 73.1870.)

(2) * * *

(ii) The written designations for chief operators and when applicable, contracts for chief operators engaged on a contract basis. (See § 73.1870.)

(3) *For commercial and noncommercial TV stations:*

(i) Equipment performance measurements required by § 73.639 and § 73.1665.

(ii) The written designations for chief operators.

* * * * *

26. Section 73.1515 is amended by revising the headnote and paragraph (c)(6) to read as follows:

§ 73.1515 Special field test authorizations.

* * * * *

(c) * * *

* * * * *

(6) Test transmitters must be operated by or under the immediate direction of an operator holding a General Radiotelephone Operator License.

Note.—Operators holding valid First Class or Second Class Radiotelephone Operator Licenses will comply with the requirements of this paragraph.

* * * * *

27. New § 73.1580 is added to Subpart H to read as follows:

§ 73.1580 Transmission system inspections.

(a) Each AM, FM, and TV station must conduct a complete inspection of the transmitting system and all required monitors according to the following schedule:

(1) For stations not using an automatic transmission system, an inspection at least once each calendar week at intervals not exceeding 10 days.

(2) For stations using an authorized automatic transmission system (ATS) the inspections must be completed at least once each calendar month at intervals not exceeding 40 days.

(3) For Class D noncommercial educational FM stations authorized to operate with power not exceeding 10 watts, the inspections must be conducted as necessary to insure compliance with the rules and terms of the station authorization.

(b) The results of the inspections required by subsection (a) of this Section are to be entered in the station maintenance log as specifed in § 73.1830(a)(i)(ix).

28. Section 73.1830 is amended by revising the introduction of paragraphs (a) and (a)(2)(iii); adding new paragraph (a)(1)(ix); removing paragraphs (a)(2)(vi) and (a)(3)(iv); and removing the Note following paragraph (a)(2)(iv) as follows:

§ 73.1830 Maintenance logs.

(a) Each AM, FM and TV station must keep a maintenance log. Entries in the log must be made by or under the direction of the station's chief operator, and the entries are to reflect the results of all transmitter inspections, tests, adjustments and maintenance. The following information is to be entered in the log:

(1) * * *

(ix) A signed dated statement by the chief operator upon completion of the inspections required by § 73.1580 showing that the inspection has been made. The statement must include details of tests, adjustments, and repairs that were accomplished to ensure operation in accordance with the technical operating rules and terms of the station authorization. If repairs could not be completed, the entry must also include details of the items of equipment concerned, the manner and degree in which they were defective, and the reasons why complete repair could not be made.

* * * * *

(2) * * *

(iii) For stations using directional antennas, an entry of the results of field strength measurements made at the monitoring points specified in the station authorization, if such measurements are required by § 73.61 or the terms of the authorization.

* * * * *

29. New § 73.1860 is added to Subpart H to read as follows:

§ 73.1860 Transmitter duty operators.

(a) Each AM, FM, and TV broadcast station must have at least one person holding a commercial radio operator license or permit of any class except a Marine Radio Operator Permit on duty in charge of the transmitter during all periods of broadcast operation. The operator must be on duty at the transmitter location, a remote control point, an ATS monitor and alarm point, or a position where extension meters are installed under the provisions of § 73.1550.

(b) The transmitter operator must be able to observe the required transmitter and monitor metering to determine deviations from normal indications. The operator must also be able to make the necessary adjustments from the normal operator duty position, except as provided for in § 73.1550.

(c) It is the responsibility of the station licensee to ensure that each transmitter operator is fully instructed and capable to perform all necessary observations and adjustments of the transmitting system and other associated operating duties to ensure compliance with the rules and station authorization.

(d) The transmitter duty operator may, at the discretion of the station licensee and chief operator, be employed for other duties or operation of other transmitting stations if such other duties will not interfere with the proper operation of the broadcast transmission system.

30. New § 73.1870 is added to Subpart H to read as follows:

§ 73.1870 Chief operators.

(a) The licensee of each AM, FM, and TV broadcast station must designate a person holding a commercial radio operator license of any class other than a Marine Radio Operator Permit to serve as the station's chief operator. At times when the chief operator is unavailable or unable to act (e.g., vacations, sickness), the licensee shall designate another licensed operator as the acting chief operator on a temporary basis.

(b) Chief operators shall be employed or serve on the following basis:

(1) The chief operator for an AM station using a directional antenna or operating with greater than 10 kW

authorized power, or of a TV station is to be an employee of the station on duty for whatever number of hours each week the station licensee determines is necessary to keep the station's technical operation in compliance with FCC rules and the terms of the station authorization.

(2) Chief operators for non-directional AM stations operating with authorized powers not exceeding 10 kW and FM stations may be either an employee of the station or engaged to serve on a contract basis for whatever number of hours each week the licensee determines is necessary to keep the station's technical operation in compliance with the FCC rules and terms of the station authorization.

(3) The designation of the chief operator must be in writing with a copy of the designation posted with the operator license. Agreements with chief operators serving on a contract basis must be in writing with a copy kept in the station files.

(c) The chief operator has the following specific duties:

(1) Conduct weekly (or monthly for stations using automatic transmission systems) inspections and calibrations of the transmission system, required monitors, metering, and control systems; and make any necessary repairs or adjustments where indicated. (See § 73.1580.)

(2) Make or supervise periodic AM field monitoring point measurements, equipment performance measurements, or other tests as specified in the rules or terms of the station license.

(3) Review the station operating logs at least once each week as part of the transmission system inspections to determine if the entries are being made correctly of if the station has been operating as required by the rules or the station authorization. Upon completion of the review, the chief operator is to make a notation of any discrepancies observed and date and sign the log; initiate necessary corrective action, and advise the station licensee of any condition which is a repetitive problem.

(4) Make or supervise entries in the maintenance log. (See § 73.1830.)

§ 73.3547 [Removed]

31. Section 73.3547 of Subpart H is removed in its entirety.

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST, AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

32. Part 74 is amended by adding new § 74.18 to read as follows:

§ 74.18 General operator requirements.

(a) Except where unattended transmitters are specifically permitted, an operator must be on duty and in charge of the transmitter at either the transmitter location or remote control location during operation.

(b) Unless otherwise specified, stations authorized under the provisions of this Part may be operated by any person designated by the station licensee and need not hold a commercial radio operator license or permit.

(c) The transmitter duty operator may, at the discretion of the station licensee, be employed for other duties and for the operation of other transmitting stations if such other duties will not interfere with the proper operation of the station transmission systems.

Note.—Persons holding valid First Class or Second Class Radiotelephone Operator Licenses may perform all duties which are designated to be performed by persons holding General Radiotelephone Operator Licenses.

33. Section 74.166 is revised in its entirety to read as follows:

§ 74.166 Experimental TV broadcast station operator requirements.

One or more operators holding a General Radiotelephone Operator License must be on duty where the transmitting apparatus is located and in actual charge thereof whenever it is being operated.

34. Section 74.266 is revised in its entirety to read as follows:

§ 74.266 Experimental facsimile broadcast station operator requirements.

One or more operators holding a General Radiotelephone Operator License must be on duty where the transmitting apparatus is located and in actual charge thereof whenever it is being operated.

35. Section 74.366 is revised in its entirety to read as follows:

§ 74.366 Developmental broadcast station operator requirements.

One or more operators holding a General Radiotelephone Operator License must be on duty where the transmitting apparatus is located and in actual charge thereof whenever it is being operated.

36. Section 74.468 is amended by revising the headnote, removing paragraphs (a) and (c) and marking them reserved, revising paragraph (d), and removing paragraph (e) as follows:

§ 74.468 Broadcast remote pickup station operator requirements.

(a) [Reserved]

* * * * *

(c) [Reserved]

(d) All transmitter installations or maintenance which may affect the proper operation of a broadcast remote pickup station must be made by or under the immediate supervision of a person holding a General Radiotelephone Operator License.

37. Section 74.533 is amended by revising paragraph (b)(4) as follows:

§ 74.533 Remote control and unattended operation.

* * * * *

(b) * * *

(4) Whenever an unattended aural broadcast STL or intercity relay station is in operation, appropriate observations must be made at the receiving end of the circuit at intervals not exceeding 3 hours by an operator designated by the licensee.

38. Section 74.565 is revised in its entirety to read as follows:

§ 74.565 Broadcast aural STL and intercity relay station operator requirements.

(a) Special operator requirements for unattended station operations are specified in § 73.533.

(b) All transmitter installations or maintenance which may affect the proper operation of the station must be made by or under the immediate supervision of a person holding a General Radiotelephone Operator License.

39. Section 74.634 is amended by revising paragraph (a)(1) to read as follows:

§ 74.634 Remote control operation.

(a) * * *

(1) The operating position must be under the control and supervision of the licensee and must be the place at which an operator meeting the requirements of §§ 74.18 or 74.655 and responsible for the operation of the transmitter is on duty.

* * * * *

40. Section 74.665 is revised in its entirety as follows:

§ 74.665 TV broadcast auxiliary station operator requirements.

(a) Except as provided for in paragraphs (b) and (c) of this Section, TV broadcast auxiliary stations may be operated only by persons holding General Radio Operator Licenses.

(b) Transmitters operating on any band listed in § 74.602 that require adjustments during normal operation which could result in off-frequency operation or unauthorized radiations may be operated only by persons holding General Radiotelephone Operator Licenses.

(c) Special operator requirements for unattended stations are specified in § 74.635.

(d) TV broadcast pickup stations operating in Band A, B, or D with nominal transmitter power in excess of 250 mW may be operated by persons who do not hold commercial operator licenses or permits, provided that a person holding a General Radiotelephone Operator license is on duty at the receiving end of the circuit to supervise the operation and to immediately initiate measures sufficient to assure the prompt correction of any improper operating conditions.

(e) All transmitter installations or maintenance which may affect the proper operation of the transmitting system must be made by or under the immediate supervision of a person holding a General Radiotelephone Operator License.

(f) Notwithstanding any other provisions of this Section, any person may, if directed to do so by the licensed operator on duty in charge of a TV broadcast auxiliary station, turn the station transmitter on or off.

§ 74.734 [Amended]

41. Section 74.734 is amended by removing paragraph (c) in its entirety.

42. Section 74.750 is amended by adding new paragraphs (f) and (g), to read as follows:

§ 74.750 Transmitters and associated equipment.

* * * * *

(f) The transmitting antenna system may be designed to produce horizontal, vertical, or circular polarization.

(g) Stations using modulating equipment must have an operator holding a General Radiotelephone Operator License examine the transmitting system after installation. This operator must certify in the application for license that the equipment meets the transmitting requirement of § 74.750(d)(1), and that the waveform of the transmitted signal conforms to the standards of a TV broadcast signal. A report of the methods, measurements, and results obtained must be kept with the station records. The report must include performance data of the visual and aural transmitters comparable to that requested in the license applications for TV broadcast stations. (See FCC Form 302 or Form 341.) However, stations employing modulating equipment solely for the limited local origination of signals permitted by § 74.731(f) need not comply with the requirements of this paragraph.

§ 74.752 [Removed]

43. Section 74.752 is removed in its entirety.

44. Section 74.766 is revised in its entirety to read as follows:

§ 74.766 TV broadcast translator operator requirements.

(a) The installation of a TV broadcast translator station with type accepted transmitting equipment may be made by any person designated by the station licensee.

(c) Any transmitter installations, maintenance, or adjustments which require the radiation of signals for their completion and which could result in improper operation of the apparatus must be made by or under the immediate supervision of an operator holding a General Radiotelephone Operator License.

(d) Special operator requirements for unattended transmitter operation are specified in § 74.734.

45. Section 74.868 is revised in its entirety to read as follows:

§ 74.868 Broadcast low power auxiliary station operator requirements.

All transmitter installations or maintenance which may affect the proper operation of the apparatus must be made by or under the immediate supervision of a person holding a General Radiotelephone Operator License.

46. Section 74.966 is amended by removing the headnote, introduction of paragraph (b), and paragraphs (c) and (d), and by removing paragraph (e) in its entirety as follows:

§ 74.966 ITFS station operator requirements.

* * * * *

(b) Except when under the immediate supervision of an operator holding a General Radiotelephone Operator License, an operator holding any other class of operator license or permit may perform only the following functions:

* * *

(c) In cases where a transmitter is operated unattended under the provisions of § 74.938, a licensed operator must observe the transmissions at the receiving point for the station or some other suitable place where the transmissions of the unattended transmitter can be observed, at intervals of no more than 1 hour whenever the station is in operation. Should any condition of improper operation be observed, immediate measures must be taken to correct the condition of improper operation.

(d) All transmitter installations or maintenance which may affect the proper operation of the apparatus must be made by or under the immediate supervision of a person holding a General Radiotelephone Operator License.

47. Section 74.1250 is amended by revising the headnote and removing the text of paragraphs (f), (g), and (h) and marking them reserved as follows:

§ 74.1250 Transmitters and associated equipment.

* * * * *

(h) [Reserved]

48. Section 74.1266 is revised in its entirety to read as follows:

§ 74.1266 FM broadcast translator and booster station operator requirements.

(a) The installation of an FM broadcast translator or booster station with type accepted transmitting equipment may be made by any person designated by the station licensee.

(b) Simple maintenance such as the replacement of tubes, fuses, or other plug-in components and adjustment which will not result in the improper operation of the apparatus may be made by any person designated by the station licensee.

(c) Any transmitter installations, maintenance, or adjustments which require the radiation of signals for their completion and which could result in improper operation of the apparatus must be made by or under the immediate supervision of an operator holding a General Radiotelephone Operator License.

(d) Special operator requirements for unattended transmitter operation are specified in § 74.734.

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

49. In Part 83, Section 83.160 is amended by revising the headnote and adding paragraph (b), to read as follows:

§ 83.160 Limitations applicable to commercial radio operator licenses and permits.

* * * * *

(b) At a ship radar station, the holder of any class of commercial license or permit may not supervise or be responsible for the performance of any adjustments or tests during or coincident with the installation, servicing, or maintenance of the radar equipment while it is radiating energy unless he or she has satisfactorily completed a supplementary examination qualifying him or her for that duty and received a ship radar endorsement on his or her license certifying to that fact: *Provided*, That nothing in this subsection shall be construed to prevent persons holding licenses not so endorsed from making replacements of fuses or of receiving-type tubes.

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July 8, 1981

Part III

Department of Energy

Office of Conservation and Renewable Energy

Wind Energy Technology Application Program

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 417

[Docket No. CAS-RM-81-405]

Wind Energy Technology Application Program

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Department of Energy (DOE), in accordance with a statutorily mandated schedule, proposes program rules for soliciting and processing applications by non-Federal public and private entities for grants or cooperative agreements to purchase and install large wind energy systems (more than 100 kilowatt rated capacity) under section 6 of the Wind Energy Systems Act of 1980 (Pub. L. 96-345). These rules are being proposed now only because they are required by law. DOE believes that direct financial assistance would be unnecessary and wasteful because tax credits and market conditions are providing sufficient incentives for the private sector to purchase and install large wind energy systems. DOE intends to oppose funding under these rules.

DATES: All written comments must be received on or before September 8, 1981. Requests to present oral testimony must be received on or before August 11, 1981. The public hearing is scheduled for August 25, 1981, 9:30 a.m. to 5:00 p.m., Washington, D.C.

ADDRESSES: Send comments and requests to speak to Carol Snipes, U.S. Department of Energy, Hearings and Dockets, Mail Stop 6B-025, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Attention: CAS-RM-81-405.

The public hearing will be held at 2000 M Street, NW, Room 2105, U.S. Department of Energy, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Peter Goldman, Office of Conservation and Renewable Energy, Wind Energy Systems Division, 600 E Street, NW., Room 404, Washington, D.C. 20585, (202) 376-1953

Neal J. Strauss, Carol A. Cowgill, Office of General Counsel, 1000 Independence Avenue, SW., Room 6B-158, Washington, D.C. 20585, (202) 252-9513.

SUPPLEMENTARY INFORMATION:

I. Background

Solely in order to comply with a statutorily mandated schedule for action, the Department of Energy (DOE) today proposes program rules for soliciting and processing applications for financial assistance in the form of grants or cooperative agreements for the Wing Energy Technology Application Program required to be established by section 6 of the Wind Energy Systems Act of 1980 (Act) (Pub. L. 96-345). Although not contemplating funding or issuance of solicitations for the program until the mid-1980's, the Act authorizes eventual solicitations for this type of financial assistance to stimulate non-Federal public and private entities to purchase and install commercial large wind energy systems with more than 100 kilowatts rated capacity. The congressionally stated objectives of the program are to achieve a reduction in large wind energy systems unit costs through mass production and to identify operation and maintenance costs for large wind energy systems.

DOE wishes to make clear that it does not believe the Federal government should be extending direct financial assistance to promote purchase and installation of commercial wind energy systems. Market conditions and tax credits will provide the needed incentive to invest in such systems, and direct financial assistance would be unnecessary and wasteful. DOE intends to seek appropriate legislation to ensure that Federal money not be spent as is contemplated by the Act. Pending enactment of this legislation, DOE will comply with its obligations under the Act and continue development of the required rules.

II. Review Under Executive Order 12291 and OMB Circular A-116

Today's proposal was reviewed under Executive Order 12291 (February 17, 1981) and under OMB Circular A-116. DOE has concluded that the rule is not a "major rule" because, even if implemented, it will not result in: (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. For the same reasons, DOE has determined that an urban and community impact analysis under OMB Circular A-116 is not necessary.

III. Review Under the Regulatory Flexibility Act

Because this rule, if implemented, might have a significant economic impact on a substantial number of small entities, this preamble discusses all the issues required under section 603 of the Regulatory Flexibility Act, Pub. L. 96-354, to be covered in an initial regulatory flexibility analysis. DOE invites small entities and other interested persons to comment on its analysis and to make specific suggestions with supporting reasons, for revision of the regulatory flexibility analysis or for revisions of the rule consistent with the Act.

IV. Review Under the National Environmental Policy Act

DOE has concluded that promulgation of these regulations does not require preparation of an environmental assessment or of an environmental impact statement under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321, *et seq.* (1970)), the Council on Environmental Quality regulations (40 CFR 1500-1508), and the DOE guidelines (45 FR 20694, March 28, 1980). The regulations are procedural in nature and their issuance will not result in a predictable significant environmental impact. In conjunction with the Comprehensive Program Management Plan which is required by the Act, a programmatic environmental assessment is being prepared. In the event that financial assistance is ever awarded under these rules, DOE would complete any appropriate NEPA site specific documentation that may be required.

V. Proposed Rules

The proposed rules are divided into two subparts. The first, subpart A, deals with general matters and procedures. Subpart B sets forth the special procedures and requirements that would apply to applications, awards, and administration of purchase and installation assistance.

Proposed § 417.1 sets forth the purpose and scope of Part 417, the Wind Energy Techology Application Program. This section makes clear that Part 417 does not apply to the research, development and demonstration projects eligible to receive DOE financial assistance under the Act, to loans to finance purchase and

installation of small or large wind energy systems under the technology application program, or to arrangements made by DOE with other Federal agencies for the procurement of wind energy systems.

Proposed § 417.2 defines several terms used throughout Part 417. The terms "conventional energy system," "large wind energy system," "public and private entity," and "wind energy system" are taken from section 3 of the Act. The term "State" is taken from section 13(b) of the Act. The term "peak generating capacity," a concept used in the Act to distinguish large and small wind energy systems, is defined to mean "the maximum power output a wind energy system is designed to produce."

Proposed § 417.3(a) provides for establishment of the Wind Energy Technology Application Program, and states that the program shall be managed by the Assistant Secretary for Conservation and Renewable Energy. Paragraph (b) would prohibit DOE from issuing any solicitation or awarding any new financial assistance after a finding by the Secretary that large wind energy systems are economically competitive with conventional energy sources or on September 30, 1988, whichever occurs first. This program termination provision is required by section 6(i) of the Act.

Proposed § 417.4 sets forth the eligibility requirements for financial assistance under Part 417. Any public or private entity as defined in section 3 of the Act would be eligible for assistance. An eligible project is one involving one or more large wind energy systems, each of which has a peak generating capacity of more than 100 kilowatts. In addition, the wind energy systems would have to be located within a State as that term is defined in section 13(b) of the Act.

The Conference Report on the Act explains that the reason the conferees decided to limit the purchase and installation financial assistance program to large wind energy systems was because of their concern that financial assistance "for small wind energy systems would possibly be counterproductive and stunt the market and industry growth that is anticipated to result from the already existing tax credits and loans that are available for the purchase of these systems." H.R. Rep. No. 96-1217, 96th Cong., 2nd Sess. 14(1980), *reprinted in* 1980 U.S. Code Cong. and Admin. News 5119.

Proposed § 417.5 states that except as otherwise provided in Part 417, the DOE Assistance Regulations, 10 CFR Part 600 (DOE-AR), shall apply to the award and administration of financial assistance for large wind energy systems projects. In accordance with section 603(b)(5) of the Regulatory Flexibility Act, Pub. L. 96-354, the Department has identified the DOE-AR as the only set of Federal rules which may overlap the proposed rule.

Proposed §417.6 sets forth the procedures DOE proposes to follow if required to solicit applications for assistance under this program. A notice of availability of any program solicitations would be published in the **Federal Register** and in the *Commerce Business Daily*. Notices might also be published in trade and professional journals and newspapers, and be mailed directly to potential applicants whenever necessary to assure adequate publicity and widespread participation. The information required to be included in a solicitation is set forth in paragraph (b). In any solicitation issued under this proposed section, DOE would reserve the right to award financial assistance to any, all, or none of the applicants. The public is invited to comment on whether, in the event there are solicitations under Part 417, these proposed solicitation procedures are sufficiently informative to assure that small business concerns and other small entities would have realistic opportunities to particpate in this program to the maximum extent practicable in accordance with section 12 (a) of the Act.

Proposed §417.7 provides a discretionary debriefing procedure for applicants whose applications are disapproved by DOE. Under this procedure, the applicant could submit a written request for a telephone conference or meeting to discuss why the applicant's proposed project was not approved for financial assistance.

Proposed §417.8 states an exception to the property disposition requirements of the DOE assistance regulations, 10 CFR Part 600. This exception provides that unless otherwise provided in the assistance agreement, title to all wind data-gathering equipment and to all large wind energy systems acquired with financial assistance provided under Part 417 shall vest in the recipient without any further accountability to the Federal Government. The proposed section also provides that the assistance recipient's obligation to comply with the monitoring and reporting requirements of proposed § 417.26 and with the visitation requirement of § 417.27 are affected by the property disposition exception proposed in §417.8.

The final sections of subpart A, §§417.9 through 417.20, are reserved.

Proposed §417.21 states that the scope of Subpart B is limited to the procedures and requirements that are unique to the purchase and installation of large wind energy systems.

Proposed §417.22 would require that, except as otherwise provided by statute enacted subsequent to the effective date of Part 417, the amount of DOE assistance awarded for purchase and installation assistance before October 1, 1986 may not exceed 50 percent of total allowable project costs. After September 30, 1986, the DOE assistance share may not exceed 25 percent. These dates and percentages are required by section 6(e) of the Act.

Proposed §417.23 sets forth the information that would be required in an application for financial assistance to purchase and install a large wind energy system. Under paragrapah (a), the applicant's project description would have to include a feasibility study which contains certain specified elements. In addition to technical and management information described in paragraphs (b)-(g) of proposed §417.23, paragraph (h) would require that the application contain a title report or other documentary evidence that the applicant will have access to and be authorized to use the proposed site for at least 30 years following the end of the project period. The latter requirement is being proposed to assure that assistance is not awarded to someone who, after the large wind energy system is installed, would not be able to operate and maintain it because of a legal deficiency preventing adequate access and use of the site.

DOE considered but decided against proposing a requirement for applicants to set forth the terms of any warranties from proposed manufacturers and installers. It is DOE's view that an applicant's potential economic stake in the large wind energy system, even with DOE financial assistance, would be sufficiently great to assure that the best possible warranty terms are negotiated.

The Department also considered but decided against proposing a requirement that the applicant domonstrate that the proposed large wind energy system would comply with any voluntary performance standards. At present, there are no such standards because the technology for most large wind energy systems is in an early stage of development and is changing so rapidly.

Proposed § 417.24(a) provides that allowable costs for purchase and installation assistance include expenses incurred for site preparation, and for purchase, delivery, storage, assembly, installation, and start-up testing of all essential system components, and for the monitoring and reporting required under § 417.26.

Paragraph (b) of this proposed section makes transmission system costs allowable up to an amount not exceeding 10 percent of total allowable project costs. This percentage may be increased to a maximum of 25 percent if the applicant demonstrates that the existing transmission system is inadequate. These limitations on allowable transmission system costs were recommended in the Conference Report for the Act. H.R. Rep. No. 96–1217, 96th Cong., 2nd Sess. 12 (1980), *reprinted in* 1980 U.S. Code Cong. & Admin. News 5117.

Proposed § 417.25(a) sets forth the criteria DOE would be required to use in evaluating applications for purchase and installation assistance. In addition to feasibility factors related to the system and the site, these criteria include extent of cost-sharing proposed by the applicant, commercial readiness of the proposed large wind energy system, and the ability of the applicant to manage the project, to finance its share of the purchase and installation costs, and to pay for the operation and maintenance of the completed system.

Paragraph (b) of this section provides that assistance applications proposing large wind energy systems with an aggregate peak generating capacity under 30 megawatts would be competitively evaluated against each other. Applications proposing over 30 megawatts or more will similarly be evaluated against each other. DOE is proposing to provide for evaluation of these two groups of applications separately because systems under 30 megawatts can be qualifying small power production facilities which are exempt from regulation pursuant to the Public Utility Regulatory Policies Act (Pub. L. 95–617). As a result, applications involving such systems would be significantly different from all others.

Proposed § 417.26 would require that the assistance recipient monitor and report, for five years after the commencement of normal operation, certain operation and maintenance data. The required data would consist of (a) site meteorological data; (b) system performance and energy produced; (c) actual operating and maintenance costs; and (d) types and quantities of fuel that would have otherwise been used from conventional generating sources. Under proposed paragraph (b), the assistance agreement could specify that such data be reported at intervals ranging from quarterly to annually. Proposed paragraph (c) would authorized DOE to modify the reporting requirements on a case-by-case basis to reflect variations in the nature, size, scope, instrumentation, and management of the assisted project. Finally, proposed paragraph (d) would require that the assistance recipient make the project site available to authorized DOE personnel for the performance, at DOE expense, of on-site sampling, testing, and monitoring.

In drafting proposed § 417.26, DOE considered the potential burden on small entities, and on the basis of available information, concluded that the burden would not be excessive largely because the costs of data collection would be covered by the assistance agreement. The public is invited to suggest additional data that should be included in these required reports or to point out burdens of data collection which have been overlooked.

Section 6(h) of the Act provides the authority for proposed § 417.26 as well as for proposed § 417.27 which provides that the assistance agreement shall specify the procedures the recipient will establish for providing members of the public opportunities to view and inspect the large wind energy system.

VI. Comment and Public Hearing Procedures

A. Written Comments

Interested persons are invited to participate in this rulemaking by submitting data, views or arguments with respect to the proposals set forth in this notice. Written comments should be submitted by September 8, 1981 to the appropriate address indicated in the "Addresses" section above and should be identified on the outside envelope and on the document with the designation "Wind Energy Technology Application Program." Ten copies should be submitted.

If any information is considered proprietary or confidential, it should be so identified and submitted in writing, one copy only.

B. Public Hearings

1. *Procedure for Request to Make Oral Presentation.* The time and place for the hearing are indicated in the "Dates" and "Addresses" sections above.

DOE invites any person who has an interest in the proposed rulemaking issued today, or who is a representative of a group or class of persons that has an interest, to make a written request for an opportunity to make oral presentation by *August 11, 1981.* Such a request should describe the interest concerned and, if appropriate, to state why the individual is a proper representative of a group or class of persons that has such an interest, give a concise summary of the proposed oral presentation, and a telephone number where this representative may be contacted during the day.

DOE will notify each person selected to appear at the hearings on or before *August 18, 1981.* Fifteen copies of the statement should be delivered to the hearing site on the day of the hearing.

2. *Conduct of the Hearing.* DOE reserves the right to select the persons to be heard at this hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statement. At the conclusion of all initial oral statements, each person who has made an oral statement will, if time permits, be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any person who wishes to ask a question at the hearing may submit the question in writing to the presiding officer. The presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Office, Room 1E–190, 1000 Independence Avenue, S.W., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

In consideration of the foregoing, Chapter II of Title 10 of the Code of Federal Regulations is proposed to be amended by establishing a new Part 417 as follows.

Issued in Washington, D.C., June 29, 1981.

Joseph H. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

PART 417—WIND ENERGY TECHNOLOGY APPLICATION PROGRAM

Subpart A—General

Subpart B—Financial Assistance for Large Wind Energy Systems

Authority: Sec. 6, Pub. L. 96–345, 94 Stat. 1142 (42 U.S.C. 9205); 41 U.S.C. 506(a).

Subpart A—General

§ 417.1 Purpose and scope.

The purposes of this Part are to establish a wind energy technology application program under Section 6 of the Wind Energy Systems Act of 1980 (Pub. L. 96–345) and to set forth the procedures and requirements for the award and administration of financial assistance (in the form of grants or cooperative agreements) to public and private entities for the purchase and installation of large wind energy systems and data-gathering on operation and maintenance of such systems. The procedures and requirements of this Part do not apply to the research, development, and demonstration projects eligible to receive DOE financial assistance under the Act, to loans to finance purchase and installation of large wind energy systems; or to arrangements made by DOE with other Federal agencies for the procurement of wind energy systems.

§ 417.2 Definitions.

For the purposes of this Part—

"Act" means the Wind Energy Systems Act of 1980, Pub. L. 96–345.

"Conventional energy source" means energy produced from oil, gas, coal, or nuclear fuels.

"DOE" means the Department of Energy.

"Feasibility study" means a study to determine the technical and economic feasibility and institutional and environmental acceptability of undertaking a project to purchase and install a wind energy system at a specific site.

"Financial assistance" means a grant or cooperative agreement.

"Normal operation" means the unattended operation of the wind energy system after installation and debugging and putting energy from the system on line.

"Operating and maintenance costs" means those costs incurred after commencement of normal operation associated with maintaining a wind energy system so that it continues to perform satisfactorily over its design lifetime.

"Peak generating capacity" means the maximum power output a wind system is capable of producing in normal operation.

"Public and private entity" means any individual, corporation, partnership, firm, association, agricultural cooperative, public or investor owned utility, public or private institution or group, and state or local government agency, or any other domestic entity.

"Secretary" means the Secretary of Energy.

"Small Wind energy system" means a wind energy system designed to produce a peak generating capacity of one hundred kilowatts or less.

"State" means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States including the Trust Territory of the Pacific Islands.

"Wind energy system" means a system of components which converts the kinetic energy of the wind into electricity or mechanical power and which comprises all necessary components including energy storage, power conditioning, control systems, and transmission systems, where appropriate, to provide electricity or mechanical power for residential, agricultural, commercial, industrial, utility or governmental use.

§ 417.3 Establishment of program.

(a) The Wind Energy Technology Application Program is established under this Part and shall be administered by the Assistant Secretary of Conservation and Renewable Energy of DOE.

(b) DOE shall not issue any solicitation or award any financial assistance related to large wind energy systems under this Part after finding, in accordance with section 6 of the Act, that such systems have become economically competitive with conventional energy sources or on September 30, 1988, whichever occurs first.

§ 417.4 Eligibility requirements.

Any public or private entity is eligible to receive assistance under this Part for a project located within a State which involves one or more large wind energy systems, each of which has a peak generating capacity of greater than one hundred kilowatts.

§ 417.5 Applicability of DOE Assistance Regulations.

Except as otherwise provided in these rules, the award and administration of financial assistance under this Part are subject to the requirements of the DOE Assistance Regulations, 10 CFR Part 600.

§ 417.6 Solicitation procedures.

(a) Subject to the availability of appropriated funds or to termination of all or part of the program, as provided in § 417.3(b), DOE may issue solicitations under this section as often as it deems appropriate. DOE shall not consider any unsolicited proposal for assistance under this Part.

(b) Subsequent to publishing a Notice of availability under § 417.6(c), DOE shall solicit pre-applications and/or applications for the award of financial assistance under this Part by issuing a solicitation providing the following information:

(1) Program name, reference title and number of this program in the *Catalog of Federal Domestic Assistance*, citations to these rules, and to the statutory authority for this program;

(2) Name and address of the DOE official or office to which the application should be mailed or delivered;

(3) Deadlines for submitting pre-applications and applications, and for completing reviews under Part I of OMB Circular A-95;

(4) Number of copies, not exceeding three, of preapplications and/or applications required to be submitted.

(5) A description of how DOE will treat late applications, and how DOE intends to dispose of applications that do not result in the award of financial assistance;

(6) Total amount of DOE funds available for award under the solicitation, the maximum amount of DOE assistance that may be awarded to an individual recipient, and the minimum amount of cost sharing

required to be provided by the applicant;

(7) A statement advising applicants that, except as otherwise provided in these rules, the award and administration of financial assistance under this Part are subject to the DOE Assistance Regulations, 10 CFR Part 600;

(8) A statement advising that information submitted to DOE in pre-applications and applications is subject to reproduction or disclosure to others under the DOE regulations implementing the Freedom of Information Act, 5 U.S.C. § 552, 10 CFR Part 1004;

(9) A statement advising that the award and administration of financial assistance under this Part are subject to the requirements of 10 CFR Part 1022 (Compliance with Floodplain/Wetlands Environmental Review Requirements) and the requirements of 10 CFR Part 1040 (Non-discrimination in Federally Assisted Programs);

(10) Date, time and location of any pre-application briefing;

(11) A statement advising applicants of the availability of the debriefing procedure under § 417.7;

(12) A statement indicating whether DOE intends to award the financial assistance in the form of grants, cooperative agreements, or a combination of these instruments;

(13) A description of the eligibility requirements applicable to the solicitation;

(14) An explanation of the criteria that will be used to evaluate applications and the ranking of such evaluation criteria;

(15) A summary of and references to the standard terms and conditions that will be included in the financial assistance agreement;

(16) Name, address, and telephone number of the DOE official from whom applicants may obtain applications and additional information, including copies of these rules and any materials referred to in the solicitation.

(c) Upon issuing a program solicitation, DOE shall publish in the **Federal Register** and *Commerce Business Daily* a Notice of availability, including but not limited to the information described in § 417.6(c)(1), (6), (12), (13), and (14).

(d) Whenever necessary to assure adequate publicity and widespread participation, DOE may publish a copy or notice of the solicitation in trade and professional journals and in newspapers, and may mail copies or notices directly to potential applicants.

(e) In any solicitation issued under this section, DOE reserves the right to award financial assistance to any, all, or none of the applicants.

§ 417.7 Debriefing.

Upon the written request of an applicant whose application has been disapproved, DOE may schedule a telephone conference or a meeting for the purpose of explaining why the applicant's project was not approved for assistance under this Part. Such debriefing must be requested within 30 days after date of the written notification of DOE disapproval.

§ 417.8 Property.

Unless otherwise provided in the assistance agreement, title to wind data-gathering equipment and to all large wind energy systems acquired with financial assistance provided under this Part shall vest in the recipient without any further accountability to the Federal government. This section does not affect the obligation of the recipient to comply with the monitoring and reporting requirements of § 417.26 and the visitation requirement of § 417.27 of this Part.

§ 417.9–§ 417.20 [Reserved]

Subpart B—Financial Assistance for Large Wind Energy Systems

§ 417.21 Scope.

This subpart sets forth special procedures and requirements governing the application and award of financial assistance for the purchase and installation of large wind energy systems, as well as data-gathering and reporting on operation and maintenance of such systems.

§ 417.22 Funding limitation.

Except as otherwise provided by statute enacted subsequent to issuance of these rules,

(a) before October 1, 1986, the amount of DOE assistance awarded under this subpart may not exceed 50 percent of total allowable project costs; and

(b) after September 30, 1986, the amount of DOE assistance awarded under this subpart may not exceed 25 percent of total allowable project costs.

§ 417.23 Application requirements.

An application for financial assistance to purchase and install a large wind energy system shall include the following:

(a) A project description which includes a feasibility study containing the following elements—

(1) A wind resource assessment based on reliable wind speed data collected and recorded, at the proposed site, by an acceptable method and for a minimum period of time which are specified in the program solicitation;

(2) An economic analysis determining the estimated cost of wind-generated energy (cents per kilowatt hour) as a function of—

(i) The available wind resources;

(ii) The anticipated performance of the large wind energy system;

(iii) The estimated costs of site acquisition and preparation, wind energy system purchase and installation, interconnection and transmission, and operation and maintenance; and

(iv) The estimated revenues or value to be derived from wind-generated energy;

(3) A marketing plan which identifies prospective purchasers and estimates the volume of sales of wind-generated energy;

(4) An engineering analysis identifying—

(i) The optimum location;

(ii) Configuration;

(iii) Expected system performance; and

(iv) Plans for site preparation, transportation of system components to the site, installation, power system interconnection and operation;

(5) A power system integration plan describing—

(i) Components and subsystems; and

(ii) The schedule and procedures to be undertaken to comply with requirements of relevant regulatory and financial institutions;

(6) A site development plan describing the schedule and procedures for acquiring—

(i) Licenses;

(ii) Permits; and

(iii) Any necessary property interests including land, structures, rights-of-way, access roads, and air rights;

(7) An environmental analysis evaluating all potential adverse environmental effects of installation and operation and determining alternative, cost-effective mitigating procedures;

(8) A health and safety analysis identifying occupational and public health and safety issues associated with installation and operation, and determining alternative cost-effective mitigating procedures; and

(9) A financing plan identifying—

(i) Sources and amounts of financing for construction and operation;

(ii) A cash flow statement for the first five-years of system operation;

(iii) Assumptions regarding interest rates, tax liabilities, and debt amortization.

(b) The number and type of proposed large wind energy systems to be purchased and installed including meteorological equipment;

(c) The names, addresses, and qualifications and experience of the manufacturers, designers, and installers of the principal components of the proposed large wind energy system, including meteorological equipment;

(d) The number, length, voltage, interconnection, age, condition and location of any transmission lines to be constructed or modified as part of the project, including any new facilities required to put energy from the wind system on line;

(e) Topographical maps, diagrams, site plan, and photographs showing the location of the proposed project;

(f) A statement indicating whether the applicant has applied for or plans to apply for any other Federal assistance to support the proposed project;

(g) A management plan identifying the major tasks involved in completing the project, the qualifications and responsibilities of key personnel, and the estimated schedule of completion, including projected dates for obtaining necessary permits and licenses; and

(h) A title report or other documentary evidence that the applicant will have access to and be authorized to use the proposed site for at least 30 years following the end of the project period.

§ 417.24 Allowable project costs.

(a) Allowable project costs under this subpart shall include all reasonable and necessary expenses of purchasing and installing a large wind energy system. Such costs shall include expenses incurred for site preparation and for purchase, delivery, storage, assembly, installation, and start-up testing of all essential system components, and for the monitoring and reporting required under § 417.26 of this subpart.

(b) Allowable transmission system costs may not exceed 10 percent of total allowable large wind energy systems costs. If the applicant demonstrates that the existing transmission system is not adequate to transport electricity from a large wind energy system to an electric power grid, the costs of such transmission system may be allowed up to a maximum of 25 percent of total allowable system costs.

§ 417.25 Evaluation criteria

(a) Based on information provided in the application and on any other information available to DOE, the criteria used to evaluate applications for assistance under this subpart shall include the following:

(1) Wind resource at the proposed site;

(2) The extent of cost-sharing proposed by the applicant;

(3) Demonstrated level of performance and reliability of the proposed large wind energy system;

(4) Technical and economic feasibility;

(5) Institutional and environmental acceptability;

(6) Commercial readiness of the proposed energy system;

(7) Ability of the applicant to manage the project, to finance its share of the purchase and installation costs, and to pay for the operation and maintenance of the completed system;

(8) Suitability of the proposed site; and

(9) The relative contribution the proposed large wind system would make to the reduction of unit costs of production and the objectives set forth in Section 2(b) of the Act.

(b) Assistance applications for large wind energy systems with an aggregate peak generating capacity of not more than 30 megawatts shall be evaluated competitively against each other. Applications proposing projects designed to generate 30 megawatts or more of power shall be competitively evaluated against each other.

§ 417.26 Monitoring and reporting requirements.

(a) For five years after the commencement of normal operation, the assistance recipient shall monitor and report to DOE the following data:

(1) Site meteorological data;

(2) System performance and energy produced;

(3) Actual operating and maintenance costs;

(4) Types and quantities of fuel from conventional energy source displaced by the wind-generated energy; and

(5) Such other items of data as described in the assistance agreement.

(b) The information required to be reported under this section shall be submitted on a form or consistent with instructions provided by DOE. The reporting frequency established by DOE in the assistance agreement shall not be less frequently than annually nor more frequently than quarterly.

(c) DOE reserves the right to modify the reporting requirements of this section on a case-by-case basis to reflect variations in the nature, size, scope, instrumentation, and management of the assisted project.

(d) The recipient shall make the project site available to authorized DOE employees or agents for the performance, at DOE expense, of on-site sampling, testing, and monitoring.

§ 417.27 Visitation.

The financial assistance agreement shall specify the procedures the recipient will establish for providing opportunities for members of the public to view and inspect the system under reasonable conditions.

[FR Doc. 81-19923 Filed 7-7-81; 8:45 am]

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Wednesday, July 8, 1981

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At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Deadlines for Comments on Proposed Rules for the Week of July 12 through July 18, 1981

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

25626 5–8–81 / Filberts grown in Oreg. and Wash., and filbert imports; grade requirements; comment period extended to 7–15–81

[*See also* 46 FR 21017, 4–8–81]

34346 7–1–81 / Grade and size requirements for fresh prunes grown in Washington and Oregon; comments by 7–16–81

Food Safety and Quality Service—

26350 5–12–81 / Maximum inspection rates for young chickens and alternate method of post mortem inspection of young chickens known as "modified traditional inspection"; interim rule; comments by 7–13–81

CIVIL AERONAUTICS BOARD

34347 7–1–81 / International cargo rate flexibility policy; comments 7–16–81

COMMERCE DEPARTMENT

International Trade Administration—

26275 5–12–81 / Commodities excluded from certain special license procedures, advisory notes and the Commodity Control List; interim rule; comments by 7–13–81

National Oceanic and Atmospheric Administration—

28883 5–29–81 / Fishery management program for billfish fisheries of the Western Pacific Region; comments by 7–13–81

33530 6–30–81 / St. Thomas National Marine Sanctuary designation; comments by 7–16–81

ENERGY DEPARTMENT

Federal Energy Regulatory Commission—

31663 6–17–81 / Commonwealth of Massachusetts's petition for declaratory order clarifying method of calculation of avoided cost for all utility requirements; comments extended to 7–17–81

[*See also* 46 FR 26353, 5–12–81]

32270 6–22–81 / High-Cost Gas Produced from Tight Formations; comments by 7–16–81

ENVIRONMENTAL PROTECTION AGENCY

26353 5–12–81 / Approval and promulgation of implementation plans; rule revisions for two Air Pollution Control Districts in California; comments by 7–13–81

31675 6–17–81 / Approval and promulgation of Implementation Plans; South Carolina; comments by 7–17–81

[*See also* 44 FR 40901, 7–13–79 and 45 FR 6572, 1–29–81]

31637 6–17–81 / Extension of feed additive regulation on experimental use of combined residues insecticide chlorpyrifos and its metabolite on dried citrus pulp; (final rule); comments by 7–17–81

31023 6–12–81 / Illinois; removal of State Implementation Plan approval condition; comments by 7–13–81

31027 6–12–81 / Indiana, Designation of areas for air quality planning purposes; comments by 7–13–81

31028 6–12–81 / Kansas; Application for interim authorization, Phase I, hazardous waste management program; comments by 7–13–81

31024 6–12–81 / Ohio; approval and promulgation of Implementation plans; comments extended to 7–13–81

[Originally published at 46 FR 7008, 1–26–81]

31024 6–12–81 / Oklahoma; Submission of volatile organic compound (VOC) regulations for Set II control technique guideline sources; comments by 7–13–81

31279 6–15–81 / 1,2-benzisothiazolin-3-one; proposed exemption from the requirement of a tolerance; comments by 7–15–81

31026 6–12–81 / Puerto Rico; approval and promulgation of State plans for designated facilities and pollutants; comments by 7–13–81

Deadlines for Comments on Proposed Rules for the Week of July 19 through July 25, 1981

AGRICULTURE DEPARTMENT

Rural Electrification Administration—

27344 5–19–81 / Proposed rescission of REA Bulletin 80–8: Construction Operation and maintenance of electric lines on lands administered by the Forest Service; comments by 7–20–81

CIVIL AERONAUTICS BOARD

28381 5–26–81 / Reports of ownership of stock and other interests and reports of stock ownership of affiliates of air carriers; comments by 7–21–81

28383 5–26–81 / Wet lease agreements, proposal to liberalize regulation; comments by 7–21–81

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

33350 6–29–81 / Interim Plan for the Management of Atlantic Groundfish; management measures; comments by 7–24–81

ENERGY DEPARTMENT

Federal Energy Regulatory Commission—

32596 6–24–81 / Wyoming; High-cost gas produced from tight formations; comments by 7–20–81

ENVIRONMENTAL PROTECTION AGENCY

30116 6–5–81 / Approval and promulgation of implementation plans; Ohio; comments by 7–20–81

32271 6–22–81 / Approval and promulgation of State implementation plans; revision to the Virgin Island implementation plan; comments by 7–22–81

32272 6–22–81 / Commonwealth of Virginia; section 107—attainment status designations; comments by 7–22–81

27363 5–19–81 / Hazardous waste and hazardous waste management; availability of information; comments by 7–20–81

31903 6–18–81 / Ohio; approval and promulgation of implementation plans; comments by 7–20–81

27333 5–19–81 / State underground injection control programs; comments by 7–20–81

32272 6–22–81 / Status for West Virginia; proposed redesignation of attainment; comments by 7–22–81

FEDERAL COMMUNICATIONS COMMISSION

32281 6–22–81 / Federal-State Joint Board; order inviting comments and suggested information request appendix B; reply comments by 7–20–81

26513 5–13–81 / FM broadcast station in Coxsackie, N.Y., proposed changes in table of assignments; reply comments by 7–20–81

26509 5–13–81 / FM broadcast station in Delta, Colo., proposed changes in table of assignments; reply comments by 7–20–81

26511 5–13–81 / FM broadcast station in Sandpoint, Idaho, proposed changes in table of assignments; reply comments by 7–20–81

30153 6–5–81 / FM broadcast station; table of assignments; Rayville, La.; comments by 7–20–81

26514 5–13–81 / FM broadcast station in Minot, N. Dak., proposed changes in table of assignments; reply comments by 7–20–81

31292 6–15–81 / Memphis, Tenn.; added to the table of assignments for Air-Ground Stations in the Domestic Public Land Mobile Radio Service; reply comments by 7–21–81

28681 5–28–81 / Operation of TV stations by remote control comments by 7–20–81

22911 4–22–81 / Petition to reallocate VHF–TV Channel 9 from New York, N.Y. to a city within the city grade contour of Station WOR–TV; reply comment by 7–20–81

31290 6–15–81 / Use of the Subsidiary Communications Authorization for Utility Load Management; reply comments by 7–23–81

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service—

30369 6–8–81 / Records management, standard and optional forms; comments by 7–23–81

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration—

23266 4–24–81 / Microwave ovens; radiation leakage compliance measurement instrument requirements and test conditions; reopening of comment period; comment by 7–23–81 [*See also* 45 FR 29307, 5–2–80]

Library of Congress Copyright Office—

30649 6–10–81 / Compulsory License for cable systems; comments by 7–24–81

SECURITIES AND EXCHANGE COMMISSION

32879 6–25–81 / Amendment of exemptive regulations for primary distribution of securities issued by the International Bank for Reconstruction and Development, the Inter-American Development Bank, and the Asian Development Bank; comments by 7–24–81

SMALL BUSINESS ADMINISTRATION

32259 6–22–81 / Standards of conduct; comments by 7–22–81

TRANSPORTATION DEPARTMENT

Research and Special Programs Administration—

29973 6–4–81 / Transportation of hazardous materials; conversion of individual exemptions into regulations of general applicability; comments by 7–20–81

TREASURY DEPARTMENT

Internal Revenue Service—

28677 5–28–81 / Income Tax; use of property to satisfy a pecuniary bequest; comment by 7–20–81

27357 5–19–81 / Voluntary withholding from annuity payments; comments by 7–20–81

VETERANS ADMINISTRATION

28679 5–28–81 / Time limit for a veteran to submit mitigating circumstances surrounding a withdrawal from a course or receipt of a nonpunitive grade which does not count toward meeting graduation requirements; comments by 7–27–81

Next Week's Meetings

AGRICULTURE DEPARTMENT

Forest Service—

33064 6–26–81 / Carson National Forest Grazing Advisory Boards (open), Canjilon, N. Mex., 7–18–81 (West Carson)

32465 6–23–81 / Medicine Bow National Forest Grazing Advisory Board, Laramie, Wyo. (open), 7–13–81

Science and Education Administration—

33352 6–29–81 / Joint Council on Food and Agricultural Sciences Executive Committee, Arlington, Va. (open), 7–15–81

33352 6–29–81 / Joint Council on Food and Agricultural Sciences Arlington, Va. (open), 7–15, 7–16, and 7–17–81

33573 6–30–81 / National Agricultural Research and Extension Users Advisory Board, Extension Programming Work Group, East Point, Ga. (open), 7–13–81

ARTS AND HUMANITIES, NATIONAL FOUNDATION

33146 6–26–81 / Humanities Panel, Washington, D.C. (closed), 7–14–81

31950 6–18–81 / Humanities Panel, Washington, D.C. (closed), 7–16 and 7–17–81

CIVIL RIGHTS COMMISSION

32300 6–22–81 / Illinois Advisory Committee, Chicago, Ill. (open), 7–14–81

32300 6–22–81 / Kentucky Advisory Committee, Louisville, Ky. (open), 7–14–81

Next Week's Public Hearing

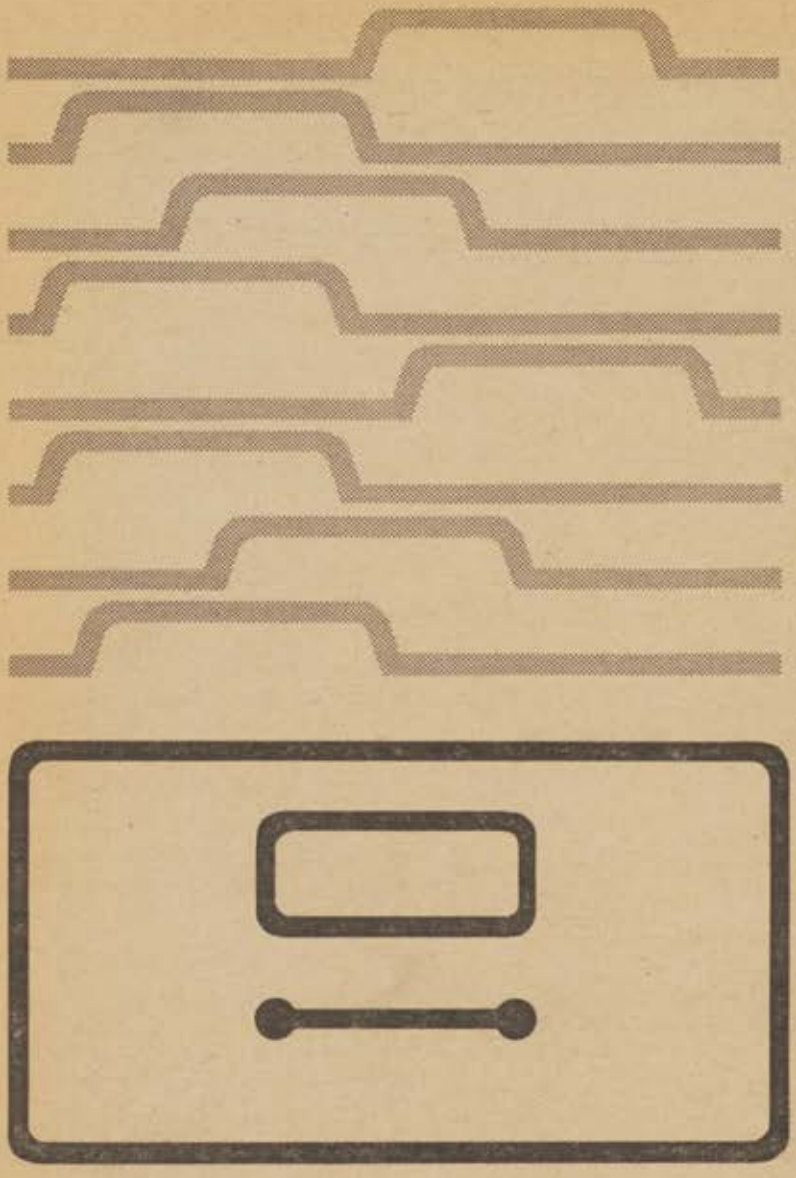
List of Public Laws

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 July 6, 1981

Documents Relating to Federal Grant Programs

This is a list of documents relating to Federal grant programs which were publishd in the **Federal Register** during the previous week.



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