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Monday
October 5, 1981

Highlights

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Highlights

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Presidential Documents

Title 3—

The President

Presidential Determination No. 81–13 of September 28, 1981

Assistance for the Multinational Force and Observers

Memorandum for the Honorable Alexander M. Haig, Jr., the Secretary of State

By virtue of the authority vested in me by the Foreign Assistance Act of 1961, as amended (the Act), I hereby:

(1) determine that it is necessary for the purposes of the Act that $9,000,000 appropriated under the authority of Chapter 4 of Part II of the Act in FY 1981 be transferred to, and consolidated with, appropriations made under Chapter 6 of Part II of the Act for use by the Multinational Force and Observers, established by the Protocol between Egypt and Israel, signed August 4, 1981;

(2) determine that it is important to the security interests of the United States that such funds, and $1,000,000 appropriated under Chapter 6 of Part II of the Act in FY 1981 and furnished to the Multinational Force and Observers, be obligated without regard to the statutory limitation on the expenditure of appropriated funds during the last month of their availability;

(3) authorize the furnishing of $10,000,000 of assistance to the Multinational Force and Observers.

You are requested to report this determination to the Congress immediately, and none of the assistance provided for herein shall be furnished until after such report has been made.

This determination shall be published in the **Federal Register.**

Ronald Reagan

THE WHITE HOUSE,
Washington, September 28, 1981.

[FR Doc. 81-29049
Filed 10-1-81; 4:27 pm]
Billing code 3195-01-M

Presidential Documents

Executive Order 12326 of September 30, 1981

Central Intelligence Agency Retirement and Disability System

By the authority vested in me as President of the United States of America by Section 292 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (50 U.S.C. 403 note), and in order to conform further the Central Intelligence Agency Retirement and Disability System to certain amendments in the Civil Service Retirement and Disability System, it is hereby ordered as follows:

Section 1. Section 221(b)(1) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, shall be deemed to be amended by inserting the following after the last sentence of that paragraph:

"Any written notification (or designation) by any participant under this section shall not be considered valid unless the participant establishes to the satisfaction of the Director (a) that the spouse has been notified of the loss of or reduction in survivor benefits or (b) that the participant has complied with such notification requirements as the Director shall, by regulation, prescribe.".

Sec. 2. Section 231(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, shall be deemed to be amended by deleting the first sentence thereof, and inserting in lieu thereof the following:

"Any participant who has five years of service credit toward retirement under the system, excluding military or naval service that is credited in accordance with provisions of section 251 or 252(a)(2) and who has become disabled shall, upon his own application or upon order of the Director, be retired on an annuity computed as prescribed in section 221. A participant shall be considered to be disabled only if the participant is found by the Director to be unable, because of disease or injury, to render useful and efficient service in the participant's position and is not qualified for reassignment, under procedures prescribed by the Director, to a vacant position which is in the Agency at the same grade or level and in which the participant would be able to render useful and efficient service.".

Sec. 3. Section 221 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, shall be deemed to be amended by inserting after subsection (l) thereof the following new subsection:

"(m) If a participant retiring under section 231 of this Act is receiving retired pay or retainer pay for military service (except that specified in section 252(e)) or Veterans Administration pension or compensation in lieu of such retired or retainer pay, the annuity of that participant shall be computed under subsection (a) of this section, excluding credit for such military service from that computation. If the amount of the annuity so computed, plus the retired or retainer pay which is received, or which would be received but for the application of the limitation in Section 5532 of Title 5 of the United States Code, or the Veterans Administration pension or compensation in lieu of such retired or retainer pay, is less than the annuity that would otherwise be payable under Section 231, an amount equal to the difference shall be added to the annuity payable under subsection (a) of this Section.".

Sec. 4. Section 291 (a) and (b)(1) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, shall be deemed to be amended to read as follows:

"(a) On the basis of determination made by the Director pertaining to per centum change in the Price Index, the following adjustments shall be made:

"(1) Except as provided in subsection (b) of this Section, effective March 1 of each year each annuity payable from the Fund having a commencing date not later than such March 1 shall be increased by the percent change in the Price Index published for December of the preceding year, adjusted to the nearest one-tenth of one percent.

"(b) Eligibility for an annuity increase under this Section shall be governed by the commencing date of each annuity payable from the Fund as of the effective date of an increase, except as follows:

"(1) The first cost-of-living increase (if any) made under subsection (a) of this Section to an annuity which is payable from the Fund to a participant who retires or to the widow or widower of a deceased participant whose annuity has not been increased under this subsection or subsection (a) of this Section, shall be equal to the product (adjusted to the nearest one-tenth of one percent) of—

(A) one-twelfth of the applicable percent change computed under subsection (a) of this Section, multiplied by

(B) the number of months (counting any portion of a month as a month)—

(i) for which the annuity was payable from the Fund before the effective date of the increase, or

(ii) in the case of a widow or widower of a deceased annuitant whose annuity was first payable to the deceased annuitant.".

Sec. 5. For the purpose of ensuring the accuracy of information used in the administration of the Central Intelligence Agency Retirement and Disability System, the Director of Central Intelligence may request, from the Secretary of State and the Administrator of Veterans Affairs such information as the Director deems necessary. To the extent permitted by law:

(a) The Secretary of Defense shall provide information on retired or retainer pay provided under Title 10 of the United States Code; and

(b) The Administrator of Veterans Affairs shall provide information on pensions or compensation provided under Title 38 of the United States Code.

The Director, in consultation with the officials from whom information is requested, shall ensure that information made available under this Section is used only for the purposes authorized.

Sec. 6. Section 221 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, shall be deemed to be amended by adding thereto a new subsection (e) as follows:

"(e)(1) The Director shall, in accordance with this subsection, enter into an agreement with any State within 120 days of a request for agreement from the proper State official. The agreement shall provide that the Director shall withhold State income tax in the case of the monthly annuity of any annuitant who voluntarily requests, in writing, such withholding. The amounts withheld during any calendar quarter shall be held in the Fund and disbursed to the States during the month following that calendar quarter.

"(2) An annuitant may have in effect at any time only one request for withholding under this subsection, and an annuitant may not have more than two such requests in effect during any one calendar year.

"(3) Subject to paragraph (2) of this subsection, an annuitant may change the State designated by that annuitant for purposes of having withholdings made, and may request that the withholdings be remitted in accordance with such change. An annuitant also may revoke any request of that annuitant for withholding. Any change in the State designated or revocation is effective on the first day of the month after the month in which the request or the revocation is processed by the Director, but in no event later than on the first

day of the second month beginning after the day on which such request or revocation is received by the Director.

"(4) This subsection does not give the consent of the United States to the application of a statute which imposes more burdensome requirements on the United States than on employers generally, or which subjects the United States or any annuitant to a penalty or liability because of this subsection. The Director may not accept pay from a State for services performed in withholding State income taxes from annuities. Any amount erroneously withheld from an annuity and paid to a State by the Director shall be repaid by the State in accordance with regulations issued by the Director.

"(5) For the purpose of this subsection, 'State' means a State, the District of Columbia, or any territory or possession of the United States.".

Sec. 7. The amendments made by Sections 1, 2, 3, 4, 5, and 6 of this Order shall be effective as follows:

(a) Section 1 shall be effective as of January 5, 1981;

(b) Section 2 shall be effective as of March 5, 1981;

(c) Section 3 shall be effective as of this date for all participants who retire under Section 231 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, on or after December 5, 1980.

(d) Section 4 shall be effective as of the date of this Order.

(e) Section 5 shall be effective as of August 13, 1981, and shall apply to annuities which commence before, on, or after such date.

(f) Section 6 shall be effective as of October 1, 1981.

Ronald Reagan

THE WHITE HOUSE,
September 30, 1981.

[FR Doc. 81-29084
Filed 10-2-81; 8:45 am]
Billing code 3195-01-M

Presidential Documents

Executive Order 12327 of October 1, 1981

Exemption for Fort Allen

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 313 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1323), Section 118 of the Clean Air Act, as amended (42 U.S.C. 7418), Section 4 of the Noise Control Act of 1972 (42 U.S.C. 4903), and Section 6001 of the Solid Waste Disposal Act, as amended (42 U.S.C. 6961), and in order to provide for the immediate relocation and temporary housing of Haitian nationals, who are located in the State of Florida and presently in the custody of the United States, at a Federal facility known as Fort Allen, located in the Commonwealth of Puerto Rico, and having determined it to be in the paramount interest of the United States to exempt Fort Allen from all the requirements otherwise imposed on it by the said statutes, it is hereby ordered as follows:

1-101. Consistent with the provisions of subsection (a) of Section 313 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1323(a)), each and every effluent source located at Fort Allen is exempted from compliance with the provisions of that Act; except that no exemption is hereby granted from Sections 306 and 307 of that Act (33 U.S.C. 1316 and 1317).

1-102. Consistent with the provisions of subsection (b) of Section 118 of the Clean Air Act, as amended (42 U.S.C. 7418(b)), each and every particular emission source located at Fort Allen is exempted from compliance with the provisions of that Act; except that no exemption is hereby granted from Section 111 and 112 of that Act (42 U.S.C. 7411 and 7412).

1-103. Consistent with the provisions of subsection 4(b) of the Noise Control Act of 1972, as amended (42 U.S.C. 4903(b)), each and every single activity or facility, including noise emission sources or classes thereof, located at Fort Allen, are exempted from compliance with the provisions of that Act; except that no exemption is hereby granted from Sections 6, 17 and 18 of that Act (42 U.S.C. 4906, 4916 and 4917).

1-104. Consistent with the provisions of Section 6001 of the Solid Waste Disposal Act, as amended (42 U.S.C. 6961), each and every solid waste management facility located at Fort Allen is exempted from compliance with the provisions of that Act.

1-105. The exemptions granted by this Order shall be for the one-year period beginning October 2, 1981, and ending October 1, 1982.

Ronald Reagan

THE WHITE HOUSE,
October 1, 1981.

[FR Doc. 81-29085
Filed 10-2-81; 8:46 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 4866 of October 2, 1981

American Enterprise Day

By the President of the United States of America

A Proclamation

One of America's great strengths is its private enterprise system. The personal and economic freedom enjoyed by our people turned our fledgling nation, in a few short years, into an economic dynamo that astounded the world.

Today, the unique blend of individual opportunity, incentive and reward that is the free enterprise system provides Americans with an unparalleled standard of living.

As the foundation of our economic life, free enterprise depends on and serves every American. It is the enemy of poverty. It permits Americans to be the most compassionate of people, at home and to those in need abroad.

Through their insistence on the free enterprise system, our forefathers unleashed the creative energies of a people, built the foundation of our unparalleled political and economic freedom, and brought forth a vital force in the world.

In recognition of the importance of our free enterprise system, the Congress has, in Senate Joint Resolution 78, designated October 2, 1981, as American Enterprise Day.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim October 2, 1981, as American Enterprise Day. I urge all Americans to observe this occasion with appropriate activities, and in particular to encourage in our youth an appreciation and enthusiasm for the role of free enterprise in our nation's life.

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

Ronald Reagan

[FR Doc. 81-29127
Filed 10-2-81; 12:05 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 4867 of October 2, 1981

National Port Week

By the President of the United States of America

A Proclamation

Much of our history as a nation has been shaped by the ports of our sea coasts and inland waterways. Our early harbors fostered industry and trade and helped build many of America's great cities.

Today, our ports are an important resource in the Nation's economy. In 1980, the port industry handled almost two billion short tons of waterborne commerce in foreign and domestic trade. This commerce contributed over $35 billion to the gross national product and generated an additional $1.5 billion in services sold to users.

Recognizing their vital importance to America's economic health, State and local port authorities and private industry have continued to invest financial resources to improve port facilities to meet ever-increasing needs.

The growing demand for coal and other energy sources to fuel the economic growth of the United States and the rest of the industrialized world has presented the ports of this Nation with a unique challenge.

Many port authorities have begun and others have plans for the construction or expansion of harbor facilities. Some 70 million tons of annual capacity now under construction will result in a 50 percent increase over current capacity. By 1985 total investment in new or expanded facilities is expected to meet the projected demand of our industrial trading partners and to decrease our dependence on foreign oil.

In recognition of the importance of our ports to the Nation's economy, the Congress has, by Senate Joint Resolution 103, designated the week beginning October 4, 1981, as National Port Week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate the seven calendar days beginning October 4, 1981, as National Port Week. I invite the Governors of the several States, the chief officials of local governments, and the people of the United States to observe this week with appropriate ceremonies and activities.

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

Ronald Reagan

[FR Doc. 81-29128
Filed 10-2-81; 12:06 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 46, No. 192
Monday, October 5, 1981

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 29

U.S. Type 31 Burley Tobacco; Sales of Burley Tobacco in Untied Form

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: For the 1981–82 and succeeding marketing seasons Official Standard Grades will be applied to unlimited quantities of Burley Tobacco, U.S. Type 31, when it is marketed tied in hands or untied in bales. Burley tobacco is grown primarily in Kentucky, Tennessee, Ohio, Indiana, Virginia, North Carolina, West Virginia, and Missouri. Prior to the 1978–79 season, burley tobacco was eligible for all official grades only when marketed tied in hands.

EFFECTIVE DATE: October 5, 1981.

FOR FURTHER INFORMATION CONTACT: Paul T. Donovan, Acting Director, Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–2567.

SUPPLEMENTARY INFORMATION: Notice was given June 24, 1981 (46 FR 32590) that the Department proposes to amend the regulations governing the Official Standard Grades for Burley Tobacco, U.S. Type 31, adopted for the 1980–81 season (45 FR 62972, September 23, 1980). The proposal provided that during the 1981–82 and succeeding seasons that hand-tied, as well as unlimited quantities of untied, baled burley tobacco would be eligible for any of the official standard grades for which it meets applicable specifications. The authority for these regulations is contained in the Tobacco Inspection Act (49 Stat. 731; 7 U.S.C., 511 *et seq.*).

Following the completion of the 1980–81 season, the Department collected pertinent project data on relevant aspects of the experiment. As in the earlier experiments, the Universities of Kentucky and Tennessee supplied much of the data. At the request of the Agricultural Marketing Service, studies were made and reports were complied by the Economics and Statistics Service which analyzed, interpreted, and summarized all available data on the experiment. Copies of the report may be obtained from Information Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250. Briefly, the reports conclude:

- Sales of baled tobacco increased from 5.1 percent of the crop in 1979–80 to 12.2 percent in 1980–81.
- Because burley tobacco was in such short supply, mixed grades, baled, and hand-tied burley sold at essentially the same price, compared to an average of 1.7 cents lower per pound in 1979–80.
- Baled burley tobacco prices were not discounted and the grade distribution of baled and tied tobacco differed slightly more than in 1979–80.
- Although some growers achieved savings slightly higher, the average cost savings in 1980–81 was 5.2 cents per pound, compared to 5 cents per pound in 1979–80.
- Again, because of the short supply of burley tobacco in 1980–81, it was difficult to evaluate important issues, such as effects on hired-worker incomes, warehouse operators' costs, and the effects of a substantially larger volume of baled sales.

The reports were reviewed by officials of the Agricultural Marketing Service, Agricultural Stabilization and Conservation Service, and Economics and Statistics Service. Experimental sales of baled burley tobacco have now been conducted for three seasons, gaining increased interest and participation each succeeding season and such sales have caused no apparent disruption to the marketing system. Based on such sales data as well as the conclusions drawn from the aforementioned reports and all other relevant data, the Department is hereby amending the regulations to allow untied baled burley tobacco to be eligible for official grading during the 1981–82 and succeeding seasons on the same basis as burley tobacco marketed in the traditional hand-tied bundles.

The final rule has been reviewed under USDA procedures established to implement Executive Order 12291 and has been determined to be a non-major rule. Initial review of the regulations contained in 7 CFR Part 29, for need, currency, clarity, and effectiveness will be made within the next 5 years.

Additionally, in conformance with the provisions of Pub. L. 92–354, Regulatory Flexibility Act, consideration has been given to the potential economic impact upon small business. Tobacco warehousemen and producers fall within the confines of "small business," as defined in the Regulatory Flexibility Act. It has been determined that the economic impact upon small entities would not be adverse and would in no way affect normal competition in the marketplace.

One hundred forty-one comments were received on the proposal. The majority of these comments favored the amendment as proposed. The major points made by the commentors were that: (1) Untied sales result in substantial savings in farmers' labor requirements and (2) the untied marketing concept is a progressive step for the burley tobacco industry.

One commentor recommended that the term "nested" in § 29.3039 be redefined to accomodate both baled and hand-tied tobacco. It has been determined that this recommendation has merit and with appropriate conforming changes to the regulations, the term "nested" shall be redefined.

The major objection to the amendment voiced by several commentors was quality deterioration and its adverse impact upon domestic and export trade. As in the past, this is of great concern to the Department, and we will, as has been done in previous years, stress the importance of quality maintenance in advance educational programs given prior to the opening of the season by land-grant colleges.

Several commentors, while receptive to the untied baled burley packaging concept, strongly recommended the inclusion of sheeting of loose leaf burley tobacco as an alternative marketing package. Neither the Council for Burley Tobacco nor the in-depth report by ESS recommends inclusion of this recommendation at this time. Accordingly, the Department will not

provide for "sheeting" as an alternative packaging method for the 1981–82 season. However, consideration will be given to this packaging method for future marketing seasons.

One commentor criticized the Department's "support of a product (tobacco) that is unclean and harmful" and "a threat to human life and health." The concerns of this commentor do not enter into the appropriateness of the Department's proposed rulemaking; nevertheless we have incorporated the comment into the official record.

After due consideration of all aspects and in the interests of promoting and maintaining orderly marketing conditions in the burley tobacco industry, the Department hereby adopts the proposal to apply Official Standard Grades to unlimited quantities of burley tobacco when it is tied in hands or untied in bales for the 1981–82 and succeeding seasons.

Prior to the 1978–79 season, the definition of "rework," § 29.3050, of the regulations provided that tobacco not tied in hands be graded NoG (no grade), a non-price-supported designation applied to tobacco classified as nested, off-type, semicured, damaged 20 percent or more, abnormally dirty, containing foreign matter or material, and/or having an odor foreign to the type.

Based on the Department's evaluation of the 1978–81 experiments, the definition of "rework" in § 29.3050, is amended to allow burley tobacco, untied in bales, to qualify for any of the official standard grades for which it meets the specifications, providing that the leaves in said bale are not tied in hands, are packed straight, and that the bales are approximately 1x2x3 feet in size.

Responsibilities imposed upon warehousemen and producers, respectively, by the adoption of this proposal include:

1. That it is the responsibility of the operator of the warehouse to open the particular bale in the lot of tobacco chosen by a grader for inspection and to reseal that bale after inspection; and

2. That the producer is responsible for certifying that the bale inspected by the grader is representative of the grade of all the tobacco in that lot, that the leaf was stalk-cured, that the bales do not contain any foreign matter or material, and that the bales are not nested.

The Department's instructions to graders will conform to these understandings.

PART 29—TOBACCO INSPECTION

Section 29.3039 is revised to read as follows:

§ 29.3039 Nested.

Any tobacco which has been loaded, packed or arranged to conceal foreign matter or tobacco of inferior grade, quality, or condition. Nested includes:

(a) Any lot of tobacco which contains foreign matter or damaged, injured, tangled, or other inferior tobacco, any of which cannot be readily detected upon inspection because of the way the lot is packed or arranged;

(b) Any lot of tobacco which contains foreign matter in the inner portions of the hands or bales, or which contains foreign matter in the heads under the tie leaves of hands;

(c) Any lot of tobacco in which the leaves on the outside of the hands or bales are placed or arranged to conceal inferior quality leaves on the inside of the hands or bales, or which contains wet tobacco or tobacco of lower quality in the heads under the tie leaves of hands or in the interior of bales; and

(d) Any lot of tobacco which consists of distinctly different grades, qualities or conditions and which is stacked or arranged with the same kinds together so that the tobacco in the lower layer or layers of hands or in the lower bales is distinctly inferior in grade, quality or condition from the tobacco in the top or upper layers of hands or in the top of upper bales.

Section 29.3050 of the regulations is revised as follows:

§ 29.3050 Rework.

Any lot of tobacco which needs to be resorted or otherwise reworked to prepare it properly for market in the manner which is customary in the type area, including: (a) Tobacco which contains an abnormally large quantity of foreign matter or an unusual number of muddy or extremely dirty leaves which should be removed; and (b) tobacco not tied in hands, not packed straight, not properly tied, or otherwise not properly prepared for market: *Provided*, That beginning with the 1981–82 marketing season burley tobacco which is offered for sale in bales shall not be considered to require rework if the tobacco in said bale is approximately 1x2x3 feet. *Provided further*, That: (1) The operator of any warehouse at which baled burley tobacco is offered for sale shall open the particular bale, in a lot of tobacco, chosen by a grader for inspection and reseal that bale after inspection; and (2) the producer, by offering untied, baled burley tobacco for sale, certifies that the bale inspected by a grader is representative of the grade of all the tobacco in that lot, that the leaf was stalk-cured, that the bales do not contain any foreign matter or material, and are not nested.

(Tobacco Inspection Act (49 Stat. 731; 7 U.S.C. 511 et seq.))

Dated: September 22, 1981.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 81-28830 Filed 10-2-81; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1464

United Tobacco of 1981 and Subsequent Crops, Packed in Bales; Availability of Price Support

[Price Support Regs.; Amdt. 3]

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Commodity Credit Corporation (CCC) will make price support available on eligible untied tobacco of the 1981 and subsequent crops which is packed in bales. Marketing untied burley tobacco in bales has proved to be a cost-effective means of marketing that kind of tobacco. Price Support will continue to be available on eligible burley tobacco tied in hands.

DATE: October 5, 1981.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, Program Specialist, Price Support and Loan Division, ASCS, Room 3754 South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447–6733. The Final Regulatory Impact Analysis describing the options considered in developing this rule and the impact of implementing each option is available on request from Mr. Tarczy.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified as "not major." This final rule has been classified as "not major" since the implementation of this rule will not have an annual effect on the economy of $100 million or more.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

The title and number of the Federal Assistance Program that this final rule applies to is: (1) Title—Commodity Loans and Purchases; (2) Number—10.051 as found in the Catalog of Domestic Federal Assistance.

This action will not have a significant impact on area and community development. Therefore, review as established by OMB Circular A-95 was not used to assure that units of local Government are informed of this action.

On June 24, 1981, a notice of proposed rulemaking was published in the **Federal Register** (46 FR 32591) announcing that CCC was preparing to amend the price support regulations for the 1981 and subsequent crops of burley tobacco to make price support available for each entire crop of burley tobacco which is packed in bales. The public was afforded 30 days to submit written comments on the proposal.

Discussion of Comments

Comments were received from 227 persons and organizations by the close of the comment period, July 24, 1981. The proposal to offer price support on the entire crop of burley tobacco marketed in bales was favored by 185 persons, 17 farm organizations, 1 warehouse association, and 1 grower association. The proposal was opposed by 2 warehousemen and 4 members of the trade.

In addition, 16 comments were received from persons who either gave no specific recommendations or were opposed to the tobacco program.

The major thrust of the comments in favor of the proposal cited the cost savings attributed to baling. Several commentators objected to the program itself. Such comments were beyond the scope of the proposal and were not considered in the promulgation of the final rule. Several commentators requested that tobacco marketed in loose-leaf form be eligible for price support. There is not enough time to implement such a program for the 1981 marketing year. Price support for burley tobacco marketed in loose-leaf form will be considered for the 1982 marketing year.

Some commentators who favored the overall program objected to the provision in the proposed rule which would allow a discount in price support for baled tobacco if markets so warranted. It has been determined that it is not necessary to provide a price support differential between based and tied tobacco.

Those opposed to price support on untied baled tobacco cited the additional costs incurred in handling burley tobacco in both tied and untied form. For the next several years, burley tobacco will most likely be marketed untied packed in bales and tied in hands. It is unreasonable to expect a mass change in marketing to occur instantaneously.

After considering all comments, it has been determined that price support will be available on all untied burley tobacco which is packed in bales. Sufficient evidence has been presented to establish that it is cost effective to market untied burley tobacco packed in bales.

PART 1464—TOBACCO

Accordingly, the regulations at 7 CFR Part 1464 are amended by revising §§ 1464.2(b)(5) and 1464.7(d) to read as follows:

Final Rule

§ 1464.2 Availability of price support.

* * * * *

(b) * * *

(5) Beginning with the 1981 crop, eligible producers may obtain price support on untied burley tobacco packed in bales subject to the following conditions:

(i) The quality and condition of the tobacco contained in each bale delivered for price support as a single lot will be representative of the quality and condition of the tobacco contained in all other such bales of the same lot.

(ii) The tobacco in each bale will be stalk-cured.

(iii) The bales will not contain foreign matter or conceal inferior tobacco.

(iv) Specification of bales:

(A) Bales must be approximately 1x2x3 feet in size.

(B) The leaves in bales must be untied and oriented.

(C) Each bale in the lot shall be properly identified by a uniform identification tag 1⅝ inches wide by 3¼ inches long attached with a wire tag to the end of the bale showing at least the following information: (*1*) Warehouse registration number, (*2*) basket ticket number, and (*3*) number of bales in the lot.

* * * * *

§ 1464.7 Eligible producers.

* * * * *

(d) The producer has complied with any certification the producer may have executed with respect to any untied burley tobacco packed in bales which is delivered for price support.

(Secs. 4, 5, 62 Stat. 1020, as amended, (15 U.S.C. 714b, 714c), secs. 101, 106, 401, 403, 63 Stat. 1051, as amended, (7 U.S.C. 1441, 1425, 1421, 1423)

Signed at Washington, D.C., on September 29, 1981.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 81-28831 Filed 10-2-81; 8:45 am]

BILLING CODE 3410-05-M

Food Safety and Inspection Service[1]

9 CFR Parts 318 and 381

[Docket No. 77-765]

Hog Scald Agents, Poultry Scald Agents, Denuding Agents

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the Federal meat inspection regulations to permit the use of specified substances for scalding hog carcasses and denuding beef and lamb tripe. It also amends the Federal poultry products inspection regulations to permit the use of specified substances for scalding poultry carcasses. The rule revises the chemical names for some of the substances currently authorized in the regulations. In addition, the rule makes the poultry products inspection regulations consistent with the Federal meat inspection regulations by requiring the containers of any of those substances permitted to be used in the poultry scalding process to bear labels showing the substance's name, and the concentration of the substance to be used in the process. This rule also amends the Federal meat and poultry products inspection regulations to require the container labels to show use directions reflecting any limitations on substances contained in the preparation. These regulations are intended to reduce the possibility of misuse of scald water or tripe denuding preparations.

EFFECTIVE DATE: November 4, 1981.

FOR FURTHER INFORMATION CONTACT: Donald D. Derr, Deputy Director, Food Ingredient Assessment Division, Science Program, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-7680.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has determined in accordance with Executive Order 12291

[1] Pursuant to the reorganizational plans outlined in USDA Secretary's Memo 1000-1, issued June 17, 1981, the Food Safety and Quality Service has become the Food Safety and Inspection Service. A notice detailing the Agency's reorganization is now being drafted for later publication.

that this final rule is not a "major rule". This rule will permit the industry to use a greater selection of chemicals for use as scalding and denuding agents. To the extent it affects costs to manufacturers and consumers, it should reduce costs due to the increase in choices being provided users of the substances. Its implementation would not: cause an annual economic effect greater than $100 million; result in a major increase in consumer, industry or government costs or prices; or cause adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises in domestic or export markets.

Background

The Proposal

On July 15, 1977, the Food Safety and Inspection Service (FSIS), formerly the Food Safety and Quality Service, published in the **Federal Register** (42 FR 36474–36476) a proposal to amend §§ 318.1 and 318.7 of the Federal meat inspection regulations (9 CFR 318.1 and 318.7) and §§ 381.145 and 381.147 of the Federal poultry products inspection regulations (9 CFR 381.145 and 381.147). This action was initiated in response to industry petitions for additions to the list of approved substances permitted for use in hog scalding, poultry scalding, and cooling and retort water treatment.

The proposal was published to accomplish five specific goals. First, in order to provide industry with a greater selection of substances, the proposal would add several substances to the table of hog scald agents in § 318.7(c)(4) of the Federal meat inspection regulations.

Second, the Agency would add a new category of substances permitted to be used as poultry scald agents to the table in § 381.147(f)(3) of the Federal poultry products inspection regulations. The Agency has not previously had such a category of substances approved for use to defeather poultry carcasses. However, pursuant to the authority contained in § 381.147(f)(1) of the Federal poultry products inspection regulations, the Administrator has approved, in specific cases, a number of substances for poultry scalding. Accordingly, it was proposed that the regulations be amended specifically to list the substances approved for use in poultry scalding.

Third, in order to provide industry with a greater selection of cooling and retort water treatment agents, the Agency proposed to add several substances to the table of approved cooling and retort water treatment compounds in § 318.7(c)(4) of the Federal meat inspection regulations and to the table of approved cooling and retort water treatment compounds in § 381.147(f)(3) of the Federal poultry products inspection regulations.

Fourth, the proposed amendment would change the listing of the substance "Lime" in the table in § 318.7(c)(4) of the Federal meat inspection regulations to read "Lime (calcium oxide, calcium hydroxide)." The amendment would also change the names of two substances listed under the category "Cooling and retort water treatment agents" in both the table in § 318.7(c)(4) of the Federal meat inspection regulations and the table in § 381.147(f)(3) of the Federal poultry products inspection regulations. In each of these listings "Disodium ethylenediaminetetraacetate" and "Ethylenediaminetetraacetic acid" would be amended to read "Ethylenediaminetetraacetic acid (sodium salts)." These are merely name changes in keeping with modern chemical nomenclature.

Fifth, a new paragraph (h) would be added to § 381.145 of the Federal poultry products inspection regulations to make these regulations consistent with § 318.1(d) of the Federal meat inspection regulations. Under these provisions, containers of substances permitted for use in cooling or retort water, in hog scalding water, in denuding of tripe, or in poultry scald water, which enter official establishments, would be required to bear labels showing the contents of the containers. In addition, any preparation containing any of the substances which are specifically limited by regulation, § 318.1(d) of the Federal meat inspection regulations and § 381.145(h) of the Federal poultry products inspection regulations, would also be required to bear labels showing the percentage of substances present in any preparation used, together with the directions on how to dilute the product to obtain the maximum allowable use concentration of the preparation. This requirement would reduce the probability of misuse of scald water, cooling water, retort water, or tripe denuding preparations which contain substances that are specifically limited as to amounts permitted to be used.

Food Additive Status

During the rulemaking process, the question arose whether the additional substances proposed for use in the preparation of the products would render the products adulterated within the meaning of section 1(m) of the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601(m)) or section 4(g) of the Poultry Products Inspection Act (PPIA) (21 U.S.C. 453(g)).

Section 1(m)(2)(c) of the FMIA (21 U.S.C. 601(m)(2)(c)) and section 4(g)(2)(c) of the PPIA (21 U.S.C. 453(g)(2)(c)) define the term "adulterated" to apply to meat or meat food product or poultry product "if it bears or contains any food additive which is unsafe within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act" (21 U.S.C. 348). The determination whether a product is adulterated pursuant to this section requires a determination: (1) whether it bears or contains a food additive, and (2) whether that food additive is unsafe within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act. A joint Food and Drug Administration (FDA)/FSIS technical review committee was established to review the status of each substance being proposed for use. The committee reported its findings to FSIS in two 1979 letters from Mr. Sherwin Gardner, Acting Commissioner of FDA.

In the August 22, 1979, letter to FSIS, Mr. Gardner stated that FDA "will consider compounds that USDA approved for denuding or scalding operations before 1958 as prior-sanctioned food ingredients." The letter further states that FDA considers compounds approved by USDA during the period from 1958 to the present "presumptive GRAS substances" (Generally Recognized as Safe). Section 201(s) of the FFDCA (21 U.S.C. 321(s)) provides that the term "food additive" does not apply to any substance generally recognized as safe or any substance used in accordance with a sanction or approval granted prior to September 6, 1958, pursuant to the FFDCA, FMIA or PPIA. The letter also states that "any new compounds considered for use as scalding or defeathering agents must be evaluated and regulated through a food additive petition."

Accordingly, all of the substances in the final rule are either those substances believed by FSIS to be prior sanctioned or approved, generally recognized as safe by FDA, or presumptive GRAS (on the FDA unofficial GRAS list).

The proposal also included four poultry scald agents (potassium carbonate, potassium bicarbonate, sodium metaphosphate, and sodium acid pyrophosphate). FSIS has determined that there is no evidence of their use as poultry scald agents prior to 1958 nor any record of USDA approval since 1958. Therefore, these substances have been deleted from the final rule.

The proposal further included cooling and retort water treatment agents in addition to scalding and denuding agents. However, in the September 5, 1979, letter to FSIS, Mr. Gardner stated that FDA does not consider the use of substances in cooling and retort water a "food additive situation" since "the substances would not reasonably be expected to become components of food" within the meaning of section 201(s) of the FFDCA (21 U.S.C. 321(s)). Therefore, the portion of the proposal concerning cooling and retort water agents has been deleted from this final rule.

The Final Rule

After reviewing the conclusions of the joint FDA/FSIS technical review committee on the food additive status of the proposed substances, the Agency determined that the provisions of the proposal should be adopted with the exception of the following two areas. First, the four poultry scald agents, mentioned above, have been deleted from the final rule. Second, the proposed agents for cooling and retort water treatment have been deleted from the final rule on the basis of the Committee's finding that the agents are not food additives when used in accordance with their intended use.

The final rule (1) amends the Federal meat inspection regulations to permit the use of additional substances specified for scalding hog carcasses and denuding beef and lamb tripe; (2) amends the poultry products inspection regulations to permit the use of specified substances for scalding poultry carcasses; (3) updates the chemical names for some of the present substances in the Federal meat and poultry products inspection regulations; and (4) requires scald water or tripe denuding preparations containing substances which are permitted to be used only in limited amounts to bear container labels showing the percentage of such substances and dilution directions on how to obtain the maximum allowable use concentration of the preparation.

Since the initial publication of the proposal, USDA and FDA have been involved in extensive examination of the proposed substances in order to assure adequate consumer protection. During this period of examination and study, there have been no significant changes in the circumstances surrounding this action other than those previously discussed. Therefore, the Administrator has determined that publication of a new proposal on hog and poultry scalding and denuding agents is not necessary, and that the final rule should be promulgated.

Comments

Only one comment was received in response to the proposed rule and that commenter endorsed the proposal without reservation.

For the sake of clarity, the affected portions of the chart in section 318.7(c)(4) of the Federal meat inspection regulations (9 CFR 318.7(c)(4)) and the table in section 381.147(f)(3) of the Federal poultry products inspection regulations (9 CFR 381.147(f)(3)) are being republished with the new substances integrated in alphabetical order.

Nonsubstantive changes are also being made to clarify the wording of § 318.7 of the Federal meat inspection regulations (9 CFR 318.7) and § 381.145 of the Federal poultry products inspection regulations (9 CFR 381.145).

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS; REINSPECTION AND PREPARATION OF PRODUCTS

1. The authority citation for Part 318 reads as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 21 U.S.C. 71 *et seq.*, 601 *et seq.*

Therefore, the Federal meat inspection regulations (9 CFR Part 318) are amended as follows:

2. Section 318.1(d) of the Federal meat inspection regulations (9 CFR 318.1(d)) is revised to read:

§ 318.1 Products and other articles entering official establishments.

* * * * *

(d) Containers with substances approved for use in the preparation of products in § 318.7(c)(4) of this subchapter which enter any official establishment for use in cooling or retort water, in hog scalding water, or in denuding of tripe shall, at all times, while they are in such establishment, bear labels showing the chemical names of the substances in such preparations. In the case of preparations containing any substances which may be used under § 318.7(c)(4) only in specified amounts, the container labels shall also show the percentage of each such substance in the preparation and shall provide dilution directions which prescribe the maximum allowable use concentration of the preparation.

* * * * *

§ 318.7 [Amended]

3. In the chart listing the substances approved for use in the preparation of products in § 318.7(c)(4) of the Federal meat inspection regulations (9 CFR 318.7(c)(4)), the "class of substance" titled "Denuding agents; may be used in combination. Must be removed from tripe by rinsing with potable water" is revised to read as follows:

Class of substance	Substance	Purpose	Products	Amount
* *	* *	*	*	*
Denuding agents; may be used in combination. Must be removed from tripe by rinsing with potable water.	Lime (calcium oxide, calcium hydroxide).	To denude mucous membranes.	Tripe	Sufficient for purpose.
	Sodium carbonate	do	do	Do.
	Sodium gluconate	do	do	Do.
	Sodium hydroxide	do	do	Do.
	Sodium persulfate	do	do	Do.
	Sodium silicates (ortho, meta, and sesqui).	do	do	Do.
	Trisodium phosphate	do	do	Do.
* *	* *	*	*	*

4. In the chart listing the substances approved for use in the preparation of products in § 318.7(c)(4) of the Federal meat inspection regulations (9 CFR 318.7(c)(4)), the "class of substance" titled "Hog scald agents; must be removed by subsequent cleaning operations" is revised to read as follows:

Class of substance	Substance	Purpose	Products	Amount
* *	* *	*	*	*
Hog scald agents; must be removed by subsequent cleaning oporations.	Caustic soda	To remove hair	Hog carcasses	Do.
	Dimethylpolysiloxane	do	do	Do.
	Dioctyl sodium sulfosuccinate	do	do	Do.
	Disodium-calcium ethylene-diamine-tetraacetate.	do	do	Do.
	Disodium phosphate	do	do	Do.
	Ethylenediamine-tetraacetic acid (sodium salts).	do	do	Do.

Class of substance	Substance	Purpose	Products	Amount
	Lime (calcium oxide, calcium hydroxide).	do	do	Do.
	Propylene glycol	do	do	Do.
	Soap (prepared by the reaction of calcium, potassium, or sodium with rosin or fatty acids of natural fats and oils).	do	do	Do.
	Sodium acid pyrophosphate	do	do	Do.
	Sodium carbonate	do	do	Do.
	Sodium dodecylbenzene sulfonate.	do	do	Do.
	Sodium gluconate	do	do	Do.
	Sodium hexametaphosphate	do	do	Do.
	Sodium lauryl sulfate	do	do	Do.
	Sodium mono and dimethylnaphthalene sulfonate (molecular weight 245–260).	do	do	Do.
	Sodium n-alkylbenzene sulfonate (alkyl group predominantly C_{12} and C_{13} and not less than 95 percent C_{12} and C_{13}).	do	do	Do.
	Sodium pyrophosphate	do	do	Do.
	Sodium silicates (ortho, meta, and sesqui).	do	do	Do.
	Sodium sulfate	do	do	Do.
	Sodium tripolyphosphate	do	do	Do.
	Sucrose	do	do	Do.
	Triethanolamine dodecylbenzene sulfonate.	do	do	Do.
	Trisodium phosphate	do	do	Do.

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

5. The authority citation for Part 381 reads as follows:

Authority: 71 Stat. 441, as amended, 21 U.S.C. 451 *et seq.*

The Federal poultry products inspection regulations are amended as follows:

6. Section 381.145 of the Federal poultry products inspection regulations (9 CFR 381.145) is amended by adding a new paragraph (h) to read:

§ 381.145 Poultry products and other articles entering or at official establishments; examination and other requirements.

* * * * *

(h) Containers with substances approved for use in the processing of products in § 381.147(f)(3) of this subchapter which enter any official establishment for use in poultry scald water shall, at all times, while they are in such establishment, bear labels showing the chemical names of the substances in such preparations. In the case of preparations containing substances which may be used under § 381.147(f)(3) only in limited amounts, the container labels shall also show the percentage of each such substance in the preparation and shall provide dilution directions which prescribe the maximum allowable use concentration of the preparation.

§ 381.147 [Amended]

7. The table listing the restrictions on the use of substances in poultry products in § 381.147(f)(3) of the Federal poultry products inspection regulations (9 CFR 381.147(f)(3)) is revised by adding a new "class of substance" titled "Poultry scald agents must be removed by subsequent cleaning operations" immediately after the "class of substance" titled "Phosphates" as follows:

Class of substance	Substance	Purpose	Products	Amount
* *	*	*	*	*
Poultry scald agents, must be removed by subsequent cleaning operations.	Alpha-hydro-omega-hydroxy-poly (oxyethylene) poly (oxypropylene) (minimum 15 moles) poly (oxyethylene) block copolymer (polyoxamer).	To remove feathers	Poultry carcasses.	Not to exceed 0.05% by weight in scald water.
	Dimethylpolysiloxane	do	do	Sufficient for purpose.
	Dioctyl sodium sulfosuccinate	do	do	Do.
	Dipotassium phosphate	do	do	Do.
	Ethylenediamine-tetraacetic acid (sodium salts).	do	do	Do.
	Lime (calcium oxide, calcium hydroxide).	do	do	Do.
	Polyoxyethylene (20) sorbitan monooleate.	do	do	Not to exceed 0.0175% in scald water.
	Potassium hydroxide	do	do	Do.
	Propylene glycol	do	do	Do.
	Sodium acid phosphate	do	do	Do.
	Sodium bicarbonate	do	do	Do.
	Sodium carbonate	do	do	Do.

Class of substance	Substance	Purpose	Products	Amount
	Sodium dodecylbenzene-sulfonate	do	do	Do.
	Sodium-2-ethylhexyl sulfate	do	do	Do.
	Sodium hexametaphosphate	do	do	Do.
	Sodium hydroxide	do	do	Do.
	Sodium lauryl sulfate	do	do	Do.
	Sodium phosphate (mono-, di-, tribasic)	do	do	Do.
	Sodium pyrophosphate	do	do	Do.
	Sodium sesquicarbonate	do	do	Do.
	Sodium sulfate	do	do	Do.
	Sodium tripolyphosphate	do	do	Do.
	Tetrasodium pyrophosphate	do	do	Do.

Done at Washington, D.C., on September 18, 1981.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 81-28857 Filed 10-2-81; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 81-CE-4-AD; Amdt. 39-4233]

Airworthiness Directives; Beech Models 99, 99A, A99A, A99, and B99 Airplanes

Note.—This document originally appeared in the **Federal Register** for Friday, October 2, 1981. It is reprinted in this issue to meet requirements for publication on the Monday-Thursday schedule assigned to the Federal Aviation Administration, DOT.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Extension of effective date of final rule.

SUMMARY: This amendment extends, by 60 days, the effective date of the airworthiness directive (AD) which concerns revised operating limitations in the FAA Approved Airplane Flight Manual (AAFM) for Beech Models 99, 99A, A99A, A99 and B99 airplanes.

DATES: Extends effective date of Amendment 39-4196, AD 81-18-08 to December 2, 1981.

FOR FURTHER INFORMATION CONTACT: Airworthiness Standards Program, Room 1639, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-6942.

SUPPLEMENTARY INFORMATION: The FAA issued an airworthiness directive, Amendment 39-4196, AD 81-18-08, on August 17, 1981, effective October 3, 1981, applicable to Beech Models 99, 99A, A99A, A99 and B99 airplanes. The AD requires the deletion of the Minimum Equipment List (MEL) and Configuration Deviation List (CDL) from the FAA Approved Airplane Flight Manual (AAFM) and the insertion therein of a new document entitled Kinds of Operations Equipment List (KOEL) as operating limitations for these Beech model airplanes. This action was taken pursuant to a notice of proposed rulemaking and is necessary to preclude unsafe operation of the airplanes with certain inoperative equipment. Subsequent to issuance, it was brought to FAA's attention that some owners/operators may still misunderstand the KOEL and its relationship to the MMEL and the MEL being removed from the AFM, and that there may be some inaccuracies in the KOEL, as published. Accordingly, the FAA believes that it is in the public interest to extend the effective date of Amendment 39-4196 for 60 days in order to make any clarification deemed necessary and to correct any inaccuracies noted in the published KOEL. Any such revisions to the KOEL will be made by no later than November 2, 1981.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Amendment 39-4196, AD 81-18-08, as follows:

This amendment extends the effective date of Amendment 39-4196, AD 81-18-08 to December 2, 1981.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); 14 CFR 11.89))

Note.—Since this document involves a change of effective date of a regulation which is not major, the FAA has determined that it is not major under Executive Order 12291, or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). This regulatory action imposes no additional burden on any persons, and the anticipated impact is so minimal that it does not warrant preparation of a regulatory evaluation.

Issued in Kansas City, Missouri, on September 30, 1981.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 81-28879 Filed 10-1-81; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 81-ACE-3]

Designation of Transition Area; Seward, Nebr.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate a 700-foot transition area at Seward, Nebraska, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Seward Municipal Airport, Seward, Nebraska, utilizing the Seward Non-Directional Radio Beacon (NDB) as a navigational aid.

EFFECTIVE DATE: November 26, 1981.

FOR FURTHER INFORMATION CONTACT: Don A. Peterson, Airspace Specialist, Airspace and Procedures Section, Operations, Airspace and Procedures Branch, Air Traffic Division, ACE-532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: To enhance airport usage, a new instrument approach procedure to the Seward Municipal Airport, Seward, Nebraska, is being established utilizing the Seward NDB as a navigational aid. The establishment of an instrument approach procedure based on this approach aid entails designation of a transition area at Seward, Nebraska, at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Discussion of Comments

On pages 37278 and 37279 of the **Federal Register** dated July 20, 1981, the Federal Aviation Administration published a Notice of Proposed Rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Seward, Nebraska.

Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

Accordingly, Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1981 (46 FR 540), is amended effective 0901 G.m.t. November 26, 1981, by adding the following new transition area:

Seward, Nebraska

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Seward Municipal Airport, Seward, Nebraska (latitude 40°51'46"N, longitude 97°06'32"W), and 3 miles either side of the 344° bearing of the Seward NDB (latitude 40°51'36"N, longitude 97°06'18"W) extending from 6.5 miles to 8.5 miles northwest of the NDB; excluding that airspace overlying the Lincoln, Nebraska, transition area.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); § 11.69 of the Federal Aviation Regulations (14 CFR 11.69))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri on September 23, 1981.

James O. Robinson,

Acting Director, Central Region.

[FR Doc. 81-28691 Filed 10-2-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 91

[Docket No. 22050; SFAR No. 44-2; SFAR No. 44-1]

Special Federal Aviation Regulation; Air Traffic Control System Interim Operations Plan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment to Special Federal Aviation Regulation (SFAR) No. 44-1 establishes certain procedures for the operation of the National Air Traffic Control System, including procedures to be utilized in reducing carrier operations, as necessary, to provide for the safe and efficient operation of the air traffic system in a situation of reduced air traffic control capacity. The Administrator has determined that a situation still exists which requires reduced air traffic control capacity and that the continuation of the current special air traffic control provisions established under SFAR No. 44-1, as modified by this amendment, is necessary to provide for the efficient and safe movement of air traffic. This amendment makes adjustments to the air traffic procedures established by SFAR 44-1 to correct imbalance in the system which have developed since issuance of SFAR 44-1 and to provide the FAA with flexibility in making adjustments to the schedules of certain air traffic facilities.

EFFECTIVE DATES: September 29, 1981.

Comments are invited on this Interim Operations Plan so long as it remains in force or until June 1, 1982, whichever date is later.

ADDRESSES: Send comments on the rule in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn.: Rules Docket (AGC-204), Docket No. 22050, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT:

Harvey Safeer, Office of Aviation Policy and Plans (Telephone: (202) 426-3331), *or*

John R. Ryan, Operations Division, Air Traffic Service (Telephone: (202) 426-8310), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591.

SUPPLEMENTARY INFORMATION:

Comments Invited

Although this amendment is in the form of an emergency final rule which concerns immediate flight safety throughout the United States, and, thus, is not preceded by notice and public procedure, comments are invited on this Interim Operations Plan which will remain in effect until further notice. The need for immediate regulatory response and background material is stated at 46 FR 39606, *et seq.* Comments on the rule should be submitted to the address indicated above. Comments are specifically invited on any aspects of the operation of the Air Traffic Control system under this amendment that suggest a need to modify the regulation, or which should be considered should the occasion arise in the future to operate the Air Traffic Control system under emergency conditions. Comments received will be reviewed on a continuing basis and this amendment and the Interim Operations Plan may be changed in the light of comments received. Commenters wishing the FAA to acknowledge receipt of their comments in response to this rule must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 22050." The postcard will be date/time stamped and returned to the commenter.

Air Traffic Control System Interim Operations

The actions of certain members of the Professional Air Traffic Controllers Organization (PATCO) have significantly reduced the number of air traffic controllers who are available to operate the Air Traffic Control (ATC) system. This has resulted in the need to reduce the level of services that the FAA provides at various ATC facilities.

This has been accomplished by the operation of the ATC system under normal air traffic control procedures with the aid of "flow control" measures that result in a reduction of user demands on the system (SFAR No. 44 (46 FR 39606; August 3, 1981) and SFAR No. 44-1 (46 FR 44424; September 4, 1981 and 46 FR 44740; September 8, 1981)).

This amendment outlines the schedule and approval cycle which the FAA plans to utilize until further notice. These changes are being made as a result of a review of operations under the Interim Operations Plan. Comments made during a public hearing on September 24, 1981, were considered. The plan outlined herein is designed to benefit all concerned—passengers, air carriers, other system users and the FAA, and should result in a more equitable system of obtaining operational authority. More lead time in confirmation of requested flight operations will permit all carriers greater efficiency in equipment and crew scheduling. Improved reliability in flight authorization will also allow FAA to assure that individual carriers are conforming to operation limits set forth under the Interim Operations Plan.

Many members of the public and industry have urged the FAA to develop a plan which will be in effect for a finite period of time to allow air carriers to plan schedules, make decisions

involving staffing and equipment and which would allow the public to make plans. Many commenters have argued that from a scheduling standpoint, stability is the most important factor to be considered. The most important consideration in amending the existing procedures is that this revised plan while providing flexibility in establishing schedules, will provide a constant schedule over a calendar period. This degree of stability is absolutely critical as we approach the more difficult winter weather.

This procedure utilizes the air carriers' schedules submitted to the Official Airline Guide (OAG) for allocating the reduced flight operations at airports irrespective of IFR or VFR operations. Use of the OAG eliminates the need for duplicate information to be submitted to the FAA and provides the industry and the public with a usable schedule. Since use of OAG has worked well, it will continue to be used. The procedures have permitted the safe and efficient operation of the ATC system based upon the air traffic work force available at each ATC facility within the system. The reduction in user demand necessary because of the reduced work force has been accomplished while allowing the air carriers the maximum possible control over their operations. In addition, it permits adjustments to the system to provide for many of the seasonal and other changes in air carrier schedules that routinely occur. The procedures also permit normal flight planning and fuel conservation techniques by users. They further provide some flexibility to accommodate new or additional services that may occur at an airport as air carrier operations and the ATC work force at that airport change. In addition, the Plan provides ATC service to meet as many other aviation needs as can be accomodated with the available work force.

Accordingly, the Administrator has determined that the National Air Traffic Control system should continue to operate under the Interim Operations Plan, as modified by this amendment, until further notice. While the agency will closely monitor the operation of these procedures and will make changes if necessary, to provide for system stability, the procedures contained in this amendment will not be significantly modified until it is determined that these reduced levels are no longer necessary. The airports at which schedule reductions will be needed after December 1, 1981, will be determined after submission of proposed schedules for that period. For that reason the SFAR no longer lists airports. Schedule reductions may also be imposed at airports other than those listed in SFAR No. 44–1 if any changes in the current status of an airport cannot be safely and efficiently handled by the controller work force at the ATC facilities involved. If conditions change substantially at any airport, the FAA will attempt to make that information available.

Strict adherence to operations limits contained in this amendment and related NOTAM's is essential to a continuation of a safe and efficient airspace. The Administrator will take whatever action is necessary to ensure adherence with the operations limits.

As a first step in ensuring compliance with SFAR 44–1 operations limits, the Associate Administrator for Policy and International Aviation, API–1, will review all schedule authorizations. API–1 will issue and receive all direct communications between the air carriers and the FAA regarding schedules and authorizations. All requests should be sent to the Associate Administrator for Policy and International Aviation, API–1, 800 Independence Avenue, S.W., Washington, D.C. 20591; Telephone No.: (202) 426–3030; Telex No.: 892562 FAA WSH (for API–1) and ARINC No.: DCAYAXD (for API–1). Except for emergencies, all of these requests must be submitted in writing. Emergency ferry, pilot training, and mechanical repair checkout flight requests can be submitted directly, orally or in writing to the FAA Central Flow Control Facility, FAA Headquarters, Washington, D.C. 20591.

For the schedule period October 25 to November 30, 1981, air carriers requesting flights in addition to daily limits submitted to the OAG for that period, must submit a written request to the Associate Administrator for Policy and International Aviation by September 26. No other submission must be made for this scheduling period. FAA expects the number of such requests made of this type will be reasonable and limited. The FAA Headquarters task force will analyze these proposals with respect to system capacity and by October 1, 1981, API–1 will notify each carrier requesting additional authority of the percentage of its proposed October–November schedule arrivals which must be adjusted or deleted. Air carriers may then request rescheduling of deleted flights to nonpeak hours. Such requests must be submitted in writing to API–1 by October 5. API–1 will then notify air carriers of their final approved October 25 to November 30 schedule about October 8. An OAG supplement reflecting this guidance will be published on or about November 1.

The number of daily operations an air carrier may submit to OAG for its schedule at an airport after November 30, 1981, shall not exceed the number of operations for that airport submitted by that air carrier on or before July 24 to the OAG for the September 1–15 period, for the day of September 1, 1981. The schedules submitted at each airport shall not exceed the September 1 limitation and should reflect the full schedule the air carrier intends to operate.

The requests should include nonscheduled flights such as charters and training and ferry operations to the extent they are known. Scheduled cargo and charter flights will be treated the same as scheduled flights by air carriers. Other nonscheduled operations will be provided for at a time as close to the departure as possible, subject to ATC capacity. Submission of information on nonscheduled operations will assist in the FAA's analysis of future demands on the system.

Schedules for flights to be operated after November 30 will be approved for 1-month periods beginning on the first day and ending on the last day of the month. For the initial period (beginning December 1981) incumbent air carrier shall provide the OAG with a proposed schedule by September 29, 1981. Incumbents requesting flights above the number of daily flights as shown in the schedule submitted to OAG on or before July 24 for the September 1–15 period, for the day of September 1, 1981, and air carriers requesting flights at airports which they did not serve prior to the September 1–15 schedule submission, and new entrants requesting flights must separately identify and submit their requests in writing to API–1 by September 29. Again, FAA expects the number of such requests of this type to be reasonable and limited. The OAG will provide ATCCC Jacksonville with a computer tape data base of proposed December flights about October 5. The FAA Headquarters Interim Operations Plan task force will analyze the OAG submission with respect to system capacity to determine what level of additional service can be allowed at each airport. If additional capacity is available, then approval for the operations will be given. If capacity is not available to handle all flights requested, all carriers, including new entrants who filed, but not operating, for Civil Aeronautics Board (CAB) authority on or after August 3, 1981, will receive consideration based upon the order in

which the request is received. New entrants that had an application for operating authority on file with the CAB prior to August 3, 1981, will receive special consideration for access. Every effort will be made to give new entrants who have filed with the CAB on or after August 3 some authorization to operate although they may likely receive a lesser number of operations than requested—less desirable arrival times or operations at alternate airports. In connection with comments that the September 1 date will be a problem for "seasonal" operations by air carriers (particularly those serving north-south routes), it must be noted that currently operations at most of the airports involved in such service are under capacity and the air traffic system should be able to accommodate "seasonal" adjustments. By October 9, API–1 will notify each carrier of the percentage of proposed December schedule operations which must be adjusted or deleted. Air carrriers may then request rescheduling of deleted flights to nonpeak hours. Such requests must be submitted in writing to API–1 by October 14. API–1 will then notify carriers of their final approved December schedule about October 20. Carriers should then provide OAG with their final approved schedule.

Thus, 42 days will be available to complete fleet and crew preparations for December.

For the January and subsequent monthly schedules, the hourly scheduled operation at each airport submitted to OAG by an air carrier shall not exceed the hourly operations authorized by API–1 for the preceding month. Air carriers may provide a list of requested changes or additions to the prior month's approved schedule 70 days before the start of the schedule period. New entrants with flights authorized by the FAA in December or thereafter, should follow the same procedure as an incumbent, except that their requests should not exceed their initial entry level authorized by API–1.

The FAA Interim Operations Plan task force will analyze the requests with respect to system capacity and API–1 will notify each carrier of the adjustments required. Air carriers will be given an opportunity to reschedule deleted flights in nonpeak hours. API–1 will then notify carriers of their approved schedule for the month no later than 45 days prior to the schedule period.

It is important to note that the number of changes submitted must be limited; requests for more than a limited number of changes will not receive consideration due to time and manpower constraints.

Notices of cancellations of approved flights shall be sent to API–1.

A new air carrier that had an application for operating authority on file with the CAB prior to August 3, 1981, will receive approval for some operations. Other new entrants may be authorized to operate at the designated airports only if the then current capacity permits. Comments are specifically invited on the issue of how to provide service for new entrants.

Unscheduled flights by air carriers such as charters, training, extra sections, etc., into a designated airport must, to the extent possible, be submitted to API. General aviation and military operations will continue to be accommodated through the flow control procedures that result in a reduction in user demands on the system, when needed, and will be processed basically on a first-come first-serve basis. International flights will continue to be processed in accordance with the current procedures established for international flights.

This amendment does not change the present authority of the Director of Air Traffic Service to restrict, prohibit or permit VFR and/or IFR operations at any airport, TCA or other terminal and enroute airspace; to give priority at any airport to flights that are military necessities, medical emergency flights, Presidential flights, and flights transporting critical FAA employees; and to implement flow control management procedures, including reduction of flight operations, at any airport or within enroute airspace. Under the current conditions in the ATC system, the FAA's Air Traffic Control Command Center has the ability to maintain an efficient flow of air traffic within a framework of predetermined levels of system capacity. Therefore, it does not appear that it will be necesssary to activate the more restrictive National Air Traffic Control Contingency Plan (Phase III). However, the Director of Air Traffic Service continues to be authorized to activate that Contingency Plan if conditions develop that require its use in order to provide for the safe and efficient movement of air traffic.

The basic rules and orders necessary for operation under the Interim Operations Plan will continue to be disseminated, in accordance with § 91.100 of the Federal Aviation Regulations, by Notices to Airmen (NOTAM).

The continued operation of the National Air Traffic Control System in a safe and efficient manner requires the immediate adoption of this regulation in the public interest. Therefore, I find that further notice and public procedure thereon are impracticable and contrary to the public interest. I further find that good cause exists for making this regulation effective in less than 30 days after its publication in the **Federal Register.**

Adoption of the Rule

Accordingly, the Interim Operations Plan contained in Special Federal Aviation Regulation No. 44–1 is amended to read as follows, effective September 29, 1981:

Special Federal Aviation Regulation No. 44–2

1. Each person shall, before conducting any operation under the Federal Aviation Regulations (14 CFR Chapter I), familiarize himself with all Notices to Airmen issued under § 91.100; when activated, with the provisions of the National Air Traffic Control Contingency Plan (FAA Order 7110.86), available for inspection at operating air traffic facilities and regional air traffic division offices; and with all other available information concerning that operation.

2. Notwithstanding any provision of the Federal Aviation Regulations to the contrary, no person may operate an aircraft in the airspace under the jurisdiction of the United States—

(a) Contrary to any restriction, prohibition, procedure or other action specified in this Special Federal Aviation Regulation or specified by the Director of Air Traffic Service pursuant to paragraph 3 of this regulation and announced in a Notice to Airmen pursuant to § 91.100 of the Federal Aviation Regulations, or

(b) If the National Air Traffic Control Contingency Plan is activated pursuant to paragraph 5 of this regulation, except in accordance with the pertinent provisions of the Contingency Plan (FAA Order 7110.86, dated February 27, 1981, as amended by Errata Change issued March 10, 1981, Errata Change No. 2 issued March 18, 1981, and Errata Change No. 3 issued June 19, 1981).

3. As conditions warrant or until activation of the National Air Traffic Control Contingency Plan (Phase III), the Director of Air Traffic Service is authorized to—

(a) Restrict, prohibit or permit VFR and/or IFR operations at any airport, Terminal Control Area or other terminal and enroute airspace (subject to any restrictions and limitations imposed under paragraph 4 of this regulation);

(b) Give priority at any airport to flights that are military necessities, medical emergency flights, Presidential flights, and flights transporting critical Federal Aviation Administration employees; and

(c) Implement at any airport or within enroute airspace flow control management procedures, including reduction of flight operations. Reduction of flight operations shall to the extent feasible be made pro rata among and between air carrier, commercial operator, military and general aviation operations.

4. As conditions warrant or until activation of the National Air Traffic Control Contingency Plan (Phase III), the Associate Administrator for Policy and International Affairs is authorized to implement reductions in air carrier schedules in accordance with the Appendix to this regulation as air traffic capacity requires if operations at an airport cannot be safely and efficiently handled by the controller work force at the air traffic control facilities involved; and limit the number of daily and hourly operations of an air carrier at any airport based on that air carrier's submittal to the Official Airline Guide.

5. If the actions taken in accordance with paragraph 3 and 4 of this regulation do not provide for the orderly movement of air traffic, the Director of Air Traffic Service may activate the National Air Traffic Control Contingency Plan (Phase III).

6. Upon activation of the National Air Traffic Control Contingency Plan (Phase III) and notwithstanding any provision of the Federal Aviation Regulations to the contrary, the Director of Air Traffic Service is authorized to suspend or modify any airspace designation (or chart).

7. All restrictions, prohibitions, and procedures established, and other actions taken by the Director of Air Traffic Service under this regulation with respect to the operation of the Air Traffic Control system will be announced in Notices to Airmen issued pursuant to § 91.100 of the Federal Aviation Regulations.

8. The Director of Air Traffic Service may delegate his authority under this regulation to the extent he considers necessary for the safe and efficient operation of the National Air Traffic Control System.

Appendix.—Reduction Schedule for Designated Airports

1. For operations during the month of December, 1981,—

(a) Each air carrier shall submit a schedule (including nonscheduled flights such as charters and training and ferry operations to the extent they are known) to the Official Airline Guide (OAG) by September 29, 1981. The number of daily arrival operations an air carrier may submit to the OAG at each airport shall not exceed the daily operations at that airport, submitted to the OAG on or before July 24 by the air carrier for the schedule period September 1–15, 1981, for the day of September 1, 1981.

(b) Each air carrier seeking authority for flights in excess of its September 1 levels, new entrants, and requests by an air carrier to initiate service must be separately identified and submitted in writing to the Associate Administrator for Policy and International Aviation, API–1, 800 Independence Avenue S.W., Washington, D.C. 20591; Telephone No.: (202) 426–3030; Telex No.: 892562 FAA WSH (for API–1) and ARINC No. DCAYAXD (for API–1) by September 29, 1981. If additional capacity is available, then authority for these operations will be given. If capacity is not available for all such requests, then priority consideration will be given to new entrants that had an application for operating authority on file with the CAB and not operating before August 3, 1981. All other carriers, including new entrants filing for CAB authority on or after August 3, 1981, will receive authority based upon the order in which the request was received by API–1. API–1 will notify each air carrier of the percentage of proposed operations which must be adjusted or deleted. Air carriers then may request rescheduling of deleted flights to nonpeak hours by October 9, 1981. Such requests must be submitted in writing to API–1. API–1 will then notify carriers of their final approved schedule.

2. For operations after December 31, 1981—

(a) Each air carrier shall submit a schedule (including nonscheduled flights such as charters and training and ferry operations to the extent they are known) to the OAG at least 70 days before the start of the schedule period. The number of hourly arrival operations an air carrier may submit to the OAG at each airport shall not exceed the hourly operations at that airport submitted to the OAG by the air carrier for the previous month.

(b) Each air carrier seeking authority for flights in excess of the number flown in the previous scheduling month, new entrants, and requests by an air carrier to initiate service must be separately identified and submitted in writing to API–1. If additional capacity is available, then authority for these operations will be given. If capacity is not available for all such requests, then priority consideration will be given to new entrants that had an application for operating authority on file with the CAB and not operating before August 3, 1981. All other carriers, including new entrants filing for CAB authority on or after August 3, 1981, will receive authority based upon the order in which the request was received by API–1. API–1 will notify each carrier of the percentage of proposed previous month's schedule arrivals which must be adjusted or deleted. Air carriers may then request rescheduling of deleted flights to nonpeak hours. Such requests must be submitted in writing to API–1 by the time period contained in the API notification. API–1 will then notify air carriers of their final approved monthly schedule.

3. Emergency ferry, pilot training, and mechanical repair checkout flight requests may be obtained from the FAA Central Flow Control Facility.

4. No person shall operate an air carrier flight unless approval for the operation has been received prior to the flight by API–1 as part of the particular air carrier's approved schedule or under paragraph 1 or 2 of this appendix, or in accordance with paragraph 3 of this appendix.

5. The Director of Air Traffic Service is authorized to—

(a) Make revisions and additions to the operations schedule established by an air carrier pursuant to paragraph 1 of this appendix to the extent the controller work force at the air traffic control facilities involved can accommodate those changes.

(b) Establish schedule reductions for any hour not specified in paragraph 1 of this appendix (nonpeak-operation hours) if excessive flights are rescheduled for any of those hours.

(c) Approve new or additional service into a designated airport. A new air carrier that had its application for an operating certificate on file with the CAB prior to August 3, 1981, will receive approval for some operations. Adjustments to other air carrier operations schedules may be made by the Director of Air Traffic Service to accommodate new air carriers. Other new entrants may be authorized to operate at the designated airports only if the then current capacity permits.

(Secs. 307 (a) and (c), 313(a), and 601(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348 (a) and (c), 1354(a), and 1421(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c))

Note.—The FAA has determined that this rule is an emergency regulation under the provisions of Section 8 of Executive Order 12291 and the Department's Regulatory Policies and Procedures (44 FR 11034;

February 26, 1979). It is impracticable for the FAA to follow the procedures of Executive Order 12291 applicable to regulations not issued in response to emergency situations because the safety and efficiency of the national air transportation system require immediate implementation of the rule. Voluntary compliance with this regulation is expected. If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the persons identified under the caption "FOR FURTHER INFORMATION CONTACT."

This is a final rule of the Administrator issued in accordance with the Federal Aviation Act of 1958, as amended. Thus, in accordance with § 1006 of the Act (49 U.S.C. 1486), it is subject to review only by the courts of appeals of the United States or the United States Court of Appeals for the District of Columbia.

Issued in Washington, D.C., on September 29, 1981.

J. Lynn Helms,

Administrator.

[FR Doc. 81-28894 Filed 10-2-81; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Parts 1 and 3

Rules Governing Recovery of Awards Under the Equal Access to Justice Act

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: These rules implement the Equal Access to Justice Act ("Act") and are promulgated under the authority of Sec. 203(a)(1), Pub. L. 96-481, 94 Stat. 2325 (5 U.S.C. 504(c)(1)) and 5 U.S.C. 553(b). The Act takes effect October 1, 1981, and provides attorney fees and other expenses to eligible parties who prevail over the federal government in certain administrative and court proceedings. These rules reflect the Commission's adoption of the model rules developed by the Administrative Conference of the United States with modifications intended to harmonize the model rules with standard Commission procedure.

EFFECTIVE DATE: October 1, 1981.

FOR FURTHER INFORMATION CONTACT: Jerold D. Cummins, Deputy Assistant General Counsel, (202) 523-1928, or Kay Kiner James, Staff Attorney, (202) 523-3431, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: The Act becomes effective on October 1, 1981, and will apply to adjudicative proceedings pending on that day. The Act directs agencies to establish uniform procedures for the award of fees in their administrative proceedings, after consultation with the Chairman of the Administrative Conference. To aid agencies in this process, the Administrative Conference published and requested public comment on draft model regulations for federal agency implementation of the Act (46 FR 15895, March 10, 1981). Based on comments received, the Administrative Conference revised the model rules and the Chairman issued final model regulations (46 FR 32900, June 25, 1981).

ACUS' primary purpose in issuing the model rules was to promote uniformity of procedures among the agencies in implementing the Act. The Commission supports that objective and its own rules are designed to adopt the procedures established by the model rules. The Commission's rules contain some changes from the model rules which were adopted to harmonize the model rules with established Commission adjudicative procedure and terminology.

Commission Modification of the Model Rules

These rules will appear as Subpart I under Part 3 of the Commission's rules of practice (16 CFR Ch. I). The section designations used in the Administrative Conference's model rules have been replaced with the proper designations for the position of these rules in the FTC rules of practice. The Commission made the following changes in the model rules:

1. Some sections of the model rules were deleted because they covered types or forms of proceedings which the Commission does not conduct.

2. Several model rule sections were changed, as suggested by the Chairman of the Administrative Conference, by referring to other sections of the Commission's rules of practice which covered the described procedures or proceedings.

3. To avoid the need for future amendments of the rule, the Commission chose to modify the section on allowable fees to state that expert witnesses could not be compensated at a rate exceeding the highest rate which the Commission currently pays expert witnesses for similar services. The model rules had specified the now current rate of $24.09 per hour.

4. Finally, the Commission made a change in the wording of two sections which specify when an applicant may receive an award after "prevailing" on less than the entire proceeding (3.81(e), 3.82(d)). Under the model rules an applicant could receive an award if it prevailed on a "significant and discrete substantive portion of the proceeding." The Commission rules provide that the applicant must have prevailed on a "substantive issue in the proceeding that is sufficiently significant and discrete to merit treatment as a separate unit." Both the language in the model rules and the Commission's language are meant to carry out Congress' intent in defining "prevailing," as that intent was expressed in the legislative history of the Act. H. Rep. 96-1434, Conference Report on H.R. 5612, Sept. 30, 1980, at 21-22. However, the Commission believes that its phrasing explicates the congressional intent more precisely.

The Commission amends its Rules of Practice as follows:

PART 1—GENERAL PROCEDURES

Subpart C—Rules and Rulemaking

1. Section 1.21 is revised to read as follows:

§ 1.21 Scope of the rules in this subpart.

The rules in this subpart apply to and govern procedures for the promulgation of rules, including quantity limit rules, rules authorized under the Wool Products Labeling Act of 1939, the Fur Products Labeling Act, the Textile Fiber Products Identification Act, 5 U.S.C. 504(b)(1)(A)(i) of the Equal Access to Justice Act, see § 3.81(g), and rules under the Fair Packaging and Labeling Act except to the extent that objections to orders relating to the issuance, amendment, or repeal of rules under the latter Act are required by statute to be determined on the record after opportunity for an agency hearing. The rules in this subpart do not apply to the promulgation of industry guides, general statements of policy, or rules of agency organization, procedure, or practice, or rules governed by the procedures of Subpart B of this part.

PART 3—RULES OF PRACTICE FOR ADJUDICATIVE PROCEEDINGS

2. Subpart I is added to Part 3 of the Rules of Practice as follows:

Subpart I—Recovery of Awards Under the Equal Access to Justice Act in Commission Proceedings

Sec.

Authority: Sec. (a)(1), Pub. L. 96-481, 94 Stat. 2325 (5 U.S.C. 504(c)(1) and 5 U.S.C. 553(b)).

Subpart I—Recovery of Awards Under the Equal Access to Justice Act in Commission Proceedings

§ 3.81 General provisions.

(a) *Purpose of these rules.* The Equal Access to Justice Act, 5 U.S.C. 504 (called "the Act" in this part), provides for the award of attorney fees and other expenses to eligible individuals and entities who are parties to adjudicative proceedings under this Part 3 of the Rules of Practice. An eligible party may receive an award when it prevails in the adjudicative proceeding, unless the Commission's position in the proceeding was substantially justified or special circumstances make an award unjust. The rules in this part describe the parties eligible for awards, how to apply for awards, and the procedures and standards that the Commission will use to make them.

(b) *When the Act applies.* The Act applies to any adjudicative proceeding pending before the Commission at any time between October 1, 1981, and September 30, 1984. This includes proceedings begun before October 1, 1981, if final Commission action has not been taken before that date, and proceedings pending on September 30, 1984, regardless of when they were initiated or when final Commission action occurs.

(c) *Proceedings covered.* (1) The Act applies to all adjudicative proceedings under this Part 3 of the rules of practice as defined in Rule 3.2, except hearings relating to the promulgation, amendment, or repeal of rules under the Fair Packaging and Labeling Act.

(d) *Eligibility of applicants.* (1) To be eligible for an award of attorney fees and other expenses under the Act, the applicant must be a party to the adjudicative proceeding in which it seeks an award. The term "party" is defined in 5 U.S.C. 551(3). The applicant must show that it meets all conditions of eligibility set out in this subpart.

(2) The types of eligible applicants are as follows:

(i) An individual with a net worth of not more than $1 million;

(ii) The sole owner of an unincorporated business who has a net worth of not more than $5 million, including both personal and business interests, and not more than 500 employees;

(iii) A charitable or other tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code (25 U.S.C. 501(c)(3)) with not more than 500 employees;

(iv) A cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)) with not more than 500 employees; and

(v) Any other partnership, corporation, association, or public or private organization with a net worth of not more than $5 million and not more than 500 employees.

(3) For the purpose of eligibility, the new worth and number of employees of an applicant shall be determined as of the date the proceeding was initiated.

(4) An applicant who owns an unincorporated business will be considered as an "individual" rather than a "sole owner of an unincorporated business" if the issues on which the applicant prevails are related primarily to personal interests rather than to business interests.

(5) The employees of an applicant include all persons who regularly perform services for remuneration for the applicant, under the applicant's direction and control. Part-time employees shall be included on a proportional basis.

(6) The net worth and number of employees of the applicant and all of its affiliates shall be aggregated to determine eligibility. Any individual, corporation or other entity that directly or indirectly controls or owns a majority of the voting shares or other interest of the applicant, or any corporation or other entity of which the applicant directly or indirectly owns or controls a majority of the voting shares or other interest, will be considered an affiliate for purposes of this part, unless the Administrative Law Judge determines that such treatment would be unjust and contrary to the purposes of the Act in light of the actual relationship between the affiliated entities. In addition, the Administrative Law Judge may determine that financial relationships of the applicant other than those described in this paragraph constitute special circumstances that would make an award unjust.

(7) An applicant that participates in a proceeding primarily on behalf of one or more other persons or entities that would be ineligible is not itself eligible for an award.

(e) *Standards for awards.* (1) A prevailing applicant may receive an award for fees and expenses incurred in connection with an entire proceeding, or on a substantive portion of the proceeding that is sufficiently significant and discrete to merit treatment as a separate unit unless the position of the agency over which the applicant has prevailed was substantially justified. The burden of proof that an award should not be made to an eligible prevailing applicant is on complaint counsel, which may avoid an award by showing that its position had a reasonable basis in law and fact.

(2) An award will be reduced or denied if the applicant has unduly or unreasonably protracted the proceeding or if special circumstances make the award sought unjust.

(f) *Allowable fees and expenses.* (1) Awards will be based on rates customarily charged by persons engaged in the business of acting as attorneys, agents and expert witnesses, even if the services were made available without charge or at a reduced rate to the applicant.

(2) No award for the fee of an attorney or agent under these rules may exceed $75.00 per hour. No award to compensate an expert witness may exceed the highest rate at which the Commission paid expert witnesses for similiar services at the time the fees were incurred. The appropriate rate may be obtained from the Office of the Executive Director. However, an award may also include the reasonable expenses of the attorney, agent, or witness as a separate item, if the attorney, agent or witness ordinarily charges clients separately for such expenses.

(3) In determining the reasonableness of the fee sought for an attorney, agent or expert witness, the Administrative Law Judge shall consider the following:

(i) If the attorney, agent or witness is in private practice, his or her customary fee for similar services, or, if an employee of the applicant, the fully allocated cost of the services;

(ii) The prevailing rate for similar services in the community in which the attorney, agent or witness ordinarily performs services;

(iii) The time actually spent in the representation of the applicant;

(iv) The time reasonably spent in light of the difficulty or complexity of the issues in the proceeding; and

(v) Such other factors as may bear on the value of the services provided.

(4) The reasonable cost of any study, analysis, engineering report, test, project or similar matter prepared on behalf of a party may be awarded, to the extent that the charge for the service does not exceed the prevailing rate for similar services, and the study or other matter was necessary for preparation of the applicant's case.

(g) *Rulemaking on maximum rates for attorney fees.* If warranted by an increase in the cost of living or by special circumstances (such as limited availability of attorneys qualified to handle certain types of proceedings), this agency may, upon its own initiative or on petition of any interested person

or group, adopt regulations providing that attorney fees may be awarded at a rate higher than $75 per hour in some or all of the types of proceedings covered by this part. Rulemaking under this provision will be in accordance with Rules of Practice Part 1, Subpart C of this chapter.

§ 3.82 Information required from applicants.

(a) *Contents of application.* An application for an award of fees and expenses under the Act shall contain the following:

(1) Identity of the applicant and the proceeding for which the award is sought;

(2) A showing that the applicant has prevailed;

(3) Identification of the Commission position(s) that applicant alleges was (were) not substantially justified;

(4) A brief description of the type and purpose of the organization or business (unless the applicant is an individual);

(5) A statement of how the applicant meets the criteria of § 3.81(d);

(6) The amount of fees and expenses sought;

(7) Any other matters the applicant wishes the Commission to consider in determining whether and in what amount an award should be made;

(8) A written verification under oath or under penalty or perjury that the information provided is true and correct accompanied by the signature of the applicant or an authorized officer or attorney.

(b) *Net worth exhibit.* (1) Each applicant except a qualified tax-exempt organization or cooperative association must provide with its application a detailed exhibit showing the net worth of the application and any affiliates (as defined in § 3.81(d)(6)) when the proceeding was initiated. The exhibit may be in any form convenient to the applicant that provides full disclosure of the applicant's and its affiliates' assets and liabilities and is sufficient to determine whether the applicant qualifies under the standards in this part. The Administrative Law Judge may require an applicant to file additional information to determine its eligibility for an award.

(2) Ordinarily, the net worth exhibit will be included in the public record of the proceeding. However, an applicant that objects to public disclosure of information in any portion of the exhibit and believes there are legal grounds for withholding it from disclosure may submit that portion of the exhibit directly to the Administrative Law Judge in a sealed envelope labeled "Confidential Financial Information," accompanied by a motion to withhold the information from public disclosure. The motion shall describe the information sought to be withheld and explain, in detail, why it falls within one or more of the specific exemptions from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552(b) (1)–(9), why public disclosure of the information would adversely affect the applicant, and why disclosure is not required in the public interest. The material in question shall be served on complaint counsel but need not be served on any other party to the proceeding. If the Administrative Law Judge finds that the information should not be withheld from disclosure, it shall be placed in the public record of the proceeding. Otherwise, any request to inspect or copy the exhibit shall be disposed of in accordance with Rule 4.11.

(c) *Documentation of fees and expenses.* The application shall be accompanied by full documentation of the fees and expenses, including the cost of any study, analysis, engineering report, test, project or similar matter, for which an award is sought. A separate itemized statement shall be submitted for each professional firm or individual whose services are covered by the application, showing the hours spent in connection with the proceeding by each individual, a description of the specific services performed, the rate at which each fee has been computed, any expenses for which reimbursement is sought, the total amount claimed, and the total amount paid or payable by the applicant or by any other person or entity for the services provided. The Administrative Law Judge may require the applicant to provide vouchers, receipts, or other substantiation for any expenses claimed.

(d) *When an application may be filed.* (1) An application may be filed whenever the applicant has prevailed in the entire proceeding or on a substantive portion of the proceeding that is sufficiently significant and discrete to merit treatment as a separate unit, but in no case later than 30 days after the Commission's final disposition of the proceeding.

(2) If review or reconsideration is sought or taken of a decision as to which an applicant believes it has prevailed, proceedings for the award of fees shall be stayed pending final disposition of the underlying controversy.

(3) For purposes of this rule, final disposition means the later of (i) the date on which the initial decision of the Administrative Law Judge becomes the decision of the Commission pursuant to § 3.51(a); (ii) issuance of an order disposing of any petitions for reconsideration of the Commission's final order in the proceeding; (iii) if no petition for reconsideration is filed, the last date on which such petition could have been filed pursuant to § 3.55; or (iv) issuance of a final order or any other final resolution of a proceeding, such as a consent agreement, settlement or voluntary dismissal, which is not subject to a petition for reconsideration.

§ 3.83 Procedures for considering applicants.

(a) *Filing and service of documents.* Any application for an award or other pleading or document related to an application shall be filed and served on all parties as specified in §§ 4.2 and 4.4(b), except as provided in § 3.82(b)(2) for confidential financial information.

(b) *Answer to application.* (1) Within 30 days after service of an application, complaint counsel may file an answer to the application. Unless complaint counsel requests an extension of time for filing or files a statement of intent to negotiate under paragraph (b)(2) of this section, failure to file an answer within the 30-day period may be treated as a consent to the award requested.

(2) If complaint counsel and the applicant believe that the issues in the fee application can be settled, they may jointly file a statement of their intent to negotiate a settlement. The filing of this statement shall extend the time for filing an answer for an additional 30 days, and further extensions may be granted by the Administrative Law Judge upon request by complaint counsel and the applicant.

(3) The answer shall explain in detail any objections to the award requested and identify the facts relied on in support of complaint counsel's position. If the answer is based on any alleged facts not already in the record of the proceeding, complaint counsel shall include with the answer either supporting affidavits or a request for further proceedings under paragraph (f) of this section.

(c) *Reply.* Within 15 days after service of an answer, the applicant may file a reply. If the reply is based on any alleged facts not already in the record of the proceeding, the applicant shall include with the reply either supporting affidavits or a request for further proceedings under paragraph (f) of this section.

(d) *Comments by other parties.* Any party to a proceeding other than the applicant and complaint counsel may file comments on an application within 30 days after it is served or on an

answer within 15 days after it is served. A commenting party may not participate further in proceedings on the application unless the Administrative Law Judge determines that the public interest requires such participation in order to permit full exploration of matters raised in the comments.

(e) *Settlement.* The applicant and complaint counsel may agree on a proposed settlement of the award before final action on the application. A proposed award settlement entered into in connection with a consent agreement covering the underlying proceeding will be considered in accordance with § 3.25. The Commission may request findings of fact or recommendations on the award settlement from the Administrative Law Judge. A proposed award settlement entered into after the underlying proceeding has been concluded will be considered and may be approved or disapproved by the Administrative Law Judge subject to Commission review under paragraph (h) of this section. If a prevailing party and complaint counsel agree on a proposed settlement of an award before an application has been filed, the application shall be filed with the proposed settlement.

(f) *Further proceedings.* (1) Ordinarily, the determination of an award will be made on the basis of the written record. However, on request of either the applicant or complaint counsel, or on his or her own initiative, the Administrative Law Judge may order further proceedings, such as an informal conference, oral argument, additional written submissions or an evidentiary hearing. Such further proceedings shall be held only when necessary for full and fair resolution of the issues arising from the application, and shall be conducted as promptly as possible.

(2) A request that the Administrative Law Judge order further proceedings under this section shall specifically identify the information sought or the disputed issues and shall explain why the additional proceedings are necessary to resolve the issues.

(g) *Decision.* The Administrative Law Judge shall issue an initial decision on the application within 30 days after completion of proceedings on the application. The decision shall include written findings and conclusions on the applicant's eligibility and status as a prevailing party, and an explanation of the reasons for any difference between the amount requested and the amount awarded. The decision shall also include, if at issue, findings on whether the agency's position was substantially justified, whether the applicant unduly protracted the proceedings, or whether special circumstances make an award unjust.

(h) *Agency review.* Either the applicant or complaint counsel may seek review of the initial decision on the fee application, or the Commission may decide to review the decision on its own initiative, in accordance with § 3.53. If neither the applicant nor complaint counsel seeks review and the Commission does not take review on its own initiative, the initial decision on the application shall become a final decision of the Commission 30 days after it is issued. Whether to review a decision is a matter within the discretion of the Commission. If review is taken, the Commission will issue a final decision on the application or remand the application to the Administrative Law Judge for further proceedings.

(i) *Judical review.* Judicial review of final Commission decisions on awards may be sought as provided in 5 U.S.C. 503(c)(2).

(j) *Payment of award.* An applicant seeking payment of an award shall submit to the Secretary of the Commission a copy of the Commission's final decision granting the award, accompanied by a statement that the applicant will not seek review of the decision in the United States courts. Subject to the funding provisions of the Act, the agency will pay the amount awarded to the applicant within 60 days, unless judicial review of the award or of the underlying decision of the adjudicative proceeding has been sought by the applicant or any other party to the proceeding.

By direction of the Commission dated September 29, 1981.

Carol M. Thomas,

Secretary.

Certificate of no Effect Under the Regulatory Flexibility Act

This is to certify that the Commission has concluded that the rules adopted here today will not have a significant economic impact on a substantial number of small entities, within the meaning of The Regulatory Flexibility Act (Pub. L. 96-354, September 19, 1980, 94 Stat. 1164).

While the Equal Access to Justice Act was intended by Congress to have a beneficial economic impact on small entities, the rules which the Commission has adopted at the Act's direction merely implement the provisions of the Act and do not themselves impose significant economic burdens or benefits.

By direction of the Commission dated September 29, 1981.

David A. Clanton,

Acting Chairman.

[FR Doc. 81-28895 Filed 10-1-81; 11:25 am]

BILLING CODE 6750-01-M

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16 CFR Part 13

[Docket No. 8934]

Exxon Corp., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Dismissal order.

SUMMARY: This order, among other things, dismisses without prejudice the Commission's July 18, 1973, complaint charging eight major oil companies with maintaining and reenforcing a noncompetitive market structure in the refining of crude oil into petroleum products. Upon agreement between complaint counsel and respondents that the matter cannot be resolved in the foreseeable future, the Commission concluded that pending proceedings were not in the public interest. The order also vacates the ALJ's January 5, 1977, Protective Order, as modified by the ALJ's Orders of April and June 5, 1979; and bars the Commission from disclosing documents and information protected by these orders to any unauthorized party, or pursuant to an FOIA request. Upon dismissal of the complaint, the agency is additionally required to place respondents' documents, received pursuant to discovery in Docket 8934, in the physical possession of a designated custodian to be accorded the protections provided by Section 21 of the FTCA.

DATES: Complaint issued July 18, 1973. Final order issued September 16, 1981.[1]

FOR FURTHER INFORMATION CONTACT: FTC/CS-4, Ronald B. Rowe, Washington, D.C. 20580, (202) 724-1441.

SUPPLEMENTARY INFORMATION: In the matter of Exxon Corporation, et al., a corporation.

The Order is as follows:

I

On April 24, 1981, the Commission issued an order requesting that the parties brief four specific issues relevant to the status of this case.[2] The order also

[1] Copies of the Complaint, Final Order and Separate Statement of Commissioner Pertschuk filed with the original document.

[2] The parties were requested to: (1) provide a proposed schedule setting forth dates for the conclusion of all additional discovery, the filing of

Continued

stayed all proceedings in this matter pending further order by the Commission.

On June 23, 1981, complaint counsel and respondents simultaneously filed initial memoranda in response to the Commission's April 24, 1981, Order. Responsive pleadings were subsequently filed by complaint counsel on July 9, 1981, and by respondents on July 23, 1981.

II

On July 18, 1973, the Commission issued the complaint in this matter pursuant to Section 5, of the Federal Trade Commission Act (15 U.S.C. 45).

On October 31, 1980, complaint counsel filed their "First Statement of Issues, Factual Contentions and Proof," pursuant to a March 12, 1980, Order by Administrative Law Judge James P. Timony. In the interim, the Commission denied motions by respondents to withdraw this matter from adjudication pending the filing of complaint counsel's pleading. *See* June 30, 1980, Order. After reviewing complaint counsel's statement, ALJ Timony concluded in a January 23, 1981, Order that "* * * no issues have been eliminated from the Pretrial Discovery Statement of February 22, 1974, and the Order Stating Issues of January 9, 1976." Thereafter, on February 2, 1981, respondent Texaco Inc. moved that the Commission dismiss this proceeding in light of ALJ Timony's January 23, 1981, Order.

The Commission's April 24, 1981, Order specifically raised its concern that the issues of fact and law in this case did not appear to have been sufficiently narrowed to accomplish a timely and meaningful resolution of this matter. None of the memoranda filed by the parties pursuant to this Order, however, has presented any evidence to assuage the Commission's initial concerns regarding the status of this matter. Complaint counsel's "best case" model contemplates the filing by each party of three additional Statements of Contentions and Proof over the next thirty-three months and a potential target of approximately three years before trial would commence. (Complaint Counsel's Response at 26–31.) Moreover, complaint counsel state that any further narrowing of the issues at this time would be "arbitrar[y]" and "irresponsible." (Complaint Counsel's Response at 39.) Finally, complaint counsel predict that "* * * it [is] unlikely that continuation of the *Exxon* case can accomplish 'a timely and meaningful resolution' of the violations described in Complaint Counsel's First Statement. Complaint counsel therefore recommend that this matter be dismissed, without prejudice * * *." (Complaint Counsel's Response at 6.)

Respondents, while specifically declining to address the first three requests of the Commission's April 24, 1981, Order, assert that the proceeding is not in the public interest and therefore should be terminated. (Respondents' Joint Submission at 1–4.) Respondents state that "* * * only a fraction of the discovery that will be necessary to prepare this case for trial has been completed" (Respondents' Joint Submission at 40) and that a "realistic assessment suggests that the case is far closer to its beginning than to its end." (Respondents' Joint Submission at 39.) Respondents conclude that "Docket 8934 should be dismissed." (Respondents' Joint Submission at 49.)

Thus, both complaint counsel and respondents agree that completion of discovery is at least several years away, that this matter cannot be resolved in the foreseeable future and that the complaint should be dismissed. In addition, the parties have agreed that the ALJ's January 5, 1977, Protective Order, as modified by the ALJ's Orders of April 23 and June 5, 1979, be vacated. This order requires that the documents, obtained during discovery and designated as confidential, be returned at the conclusion of the proceeding.[3]

III

The Commission has considered the briefs of the parties, submitted in response to its April 24, 1981, Order, together with other filings in this proceeding, submitted or referred to by the parties, specifically including Complaint Counsel's First Statement of Issues, Factual Contentions and Proof, dated October 31, 1980, and the Counterstatements of Respondents, dated March 30, 1981, and has concluded that further proceedings in Docket No. 8934 are not in the public interest. While the length or complexity of litigation does not, in itself, constitute a basis for dismissal, the circumstances of this proceeding, including the limited progress of the litigation, call for this result. This case has been in pre-trial for eight years and unless the issues are substantially narrowed it may be well over three years before trial commences. While the Commission has the authority to remove this matter from adjudication and narrow the issues on its own initiative, such action would be impracticable under the circumstances. Therefore, without reaching the merits of this case, we believe the proper course for the Commission is to dismiss the pending proceedings and to preserve the option of addressing any anticompetitive problems in this industry in more focused proceedings. Accordingly, it is ordered that this matter be dismissed, without prejudice.

It is further ordered, that the Agreement Between the Parties, filed with the Commission on June 23, 1981, is approved by the Commission and that pursuant thereto, the ALJ's Protective Order of January 5, 1977, as modified by the ALJ's Orders of April 23 and June 5, 1979, is vacated. The documents and information covered by these orders will be treated as follows:

1. Except as permitted or authorized by the Federal Trade Commission Act, as amended by the Federal Trade Commission Improvements Act of 1980 (Pub. L. No. 96–252), and the Commission's implementing rules, the Commission shall not disclose documents in the possession of the Commission which were received from respondents, or information contained therein, to any person who is not an employee of the Commission. The Commission shall obtain suitable assurances from all employees afforded access to respondents' documents not to

all pretrial motions, the filing of all pretrial briefs, and the commencement and conclusion of trial; (2) discuss any procedures by which these proceedings may be expedited and/or resolved, in whole or in part; (3) discuss the extent to which the allegations of liability can be further narrowed or consolidated, in whole or in part; and (4) discuss whether there are any other factors bearing on the public interest which the Commission should now address in connection with the status of these proceedings.

[3] In an Agreement Between the Parties, filed with the Commission on June 23, 1981, respondents waive the ALJ's January 5, 1977, Protective Order, as modified, provided that the Commission dismisses the complaint and that the Commission's order of dismissal contains the following assurances of confidentiality: (1) except as permitted or authorized by the FTC Act, as amended, the Commission shall not disclose documents received from respondents, or information contained therein, to any person who is not an employee of the Commission; (2) the Commission shall not disclose the documents or information pursuant to any request under the Freedom of Information Act; and (3) upon dismissal of the complaint, the Commission shall designate a custodian who will maintain physical possession of the documents, all of which shall be treated as if they had been designated confidential by respondents at the time of submission and as if they had been duly subpoenaed subject to applicable provisions of the FTC Improvements Act, and the documents shall be protected as provided by Section 21 of the FTC Act and the Commission's implementing Rules of Practice. The agreement also states that respondents do not waive "any restriction imposed by law on the Commission's use or disclosure of [the] * * * documents or information, * * * the right to seek the return of any or all of such documents, or the right to seek additional protection for * * * [the] documents, or information." The documents and information subject to the agreement are exempt from mandatory public disclosure under applicable statutes and case law. See 5 U.S.C. 552.

disclose such documents or the information contained therein, except as authorized.

2. The Commission shall not disclose the documents or information contained therein pursuant to any request under the Freedom of Information Act.

3. Upon dismissal of the complaint, the Commission shall designate a custodian pursuant to Section 21 of the Federal Trade Commission Act, as added by Section 13 of the Federal Trade Commission Improvements Act of 1980. The documents in the possession of the Commission which were received from respondents pursuant to discovery in Docket 8934 shall be placed in the physical possession of the custodian, and shall be treated as if they had been designated confidential by respondents at the time of submission and as if duly subpoenaed subject to provisions of the Improvements Act, and shall thereafter be protected as provided by Section 21 and pursuant to the regulations implementing the Act promulgated by the Commission.

By the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 81-28875 Filed 10-2-81; 8:45 am]

BILLING CODE 6750-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 3, and 140

Withdrawal From Registration; Delegation of Authority

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is establishing a procedure whereby any person who is registered with the Commission under the Commodity Exchange Act may seek to withdraw from registration prior to the scheduled expiration date of such registration. The withdrawal procedure is intended to relieve registrants who are exempt from registration, or who are not engaged in activities which require registration, from certain regulatory requirements that would otherwise be applicable to those persons as Commission registrants. A person who desires to withdraw from registration using this procedure must file a written request to that effect with the Commission. No Commission form will be developed for submitting withdrawal requests. A letter from the registrant containing the requisite information will suffice. Unless postponed, conditioned, or denied by the Commission, withdrawal becomes effective 30 days after the receipt of such request. The Commission is delegating authority to specified members of its staff to review and to act upon withdrawal requests, and is making minor conforming changes to certain of its registration regulations.

EFFECTIVE DATES: October 5, 1981; except, effective July 1, 1982, § 1.10f is redesignated § 3.33 and § 1.9 is redesignated § 3.2.

FOR FURTHER INFORMATION CONTACT: Robert P. Shiner, Assistant Director for Registration, or Suzanne W. Ryder, Esq., Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW, Washington, D.C. 20581, Telephone: (202) 254-9703 or 254-8955, respectively.

SUPPLEMENTARY INFORMATION:

A. Withdrawal From Registration

The Commission periodically receives requests from registrants for permission to withdraw their registrations in one or more capacities prior to the expiration dates set by the Commodity Exchange Act, as amended, ("Act") or the regulations thereunder.[1] The procedure the Commission is adopting in § 1.10f is intended to provide an expeditious process for withdrawal from registration for registrants for whom continued registration may be unnecessary.

The Commission has determined that in the absence of pending proceedings against a registrant or other public interest considerations, withdrawal from registration should be available to registrants who have ceased engaging in the activities for which they were initially registered or who, subsequent to being registered, have decided not to begin conducting the activities for which they had earlier sought registration. Similarly, the Commission believes that withdrawal from registration should be available where a registrant is either excluded from the persons or classes of persons for whom registration is required by the Act [2] or is eligible for an exemption from registration.[3] The Commission believes that a registrant who requests withdrawal and makes a proper showing of eligibility to withdraw should not be required to continue performing the various ongoing obligations imposed upon registrants by the Act and the regulations thereunder.[4] These duties, which vary with the capacity in which a person is registered, may include financial, reporting, disclosure, and recordkeeping requirements, many of which have as their principal purposes the protection of customers and the commodity markets.[5] Where, however, a registrant is not engaged in activities for which registration is required, or becomes excluded or exempt from a registration requirement during a registration period, continued compliance with many of these requirements may no longer be necessary to achieve these purposes.[6]

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[1] For example, Section 4f(1) of the Act provides, in general, that the registration of a futures commission merchant ("FCM") or floor broker expires on December 31 of the year for which it is issued. 7 U.S.C. 6f(1). Section 4n(2) of the Act generally provides that the registration of a commodity pool operator ("CPO") or a commodity trading advisor ("CTA") expires on June 30 of the year for which it is issued. 7 U.S.C. 6n(2). Effective July 1, 1982, the present requirement for the biennial renewal of registration of associated persons ("APs") will be eliminated, and by regulation, a registration period coextensive with, and conditioned upon, an AP's association with a "sponsoring" FCM will be established. 45 FR 80485, 80493 (December 5, 1980); 46 FR 24940, 24941 (May 4, 1981).

[2] For example, Section 2(a)(1) of the Act, 7 U.S.C. 2, specifically excludes from the definition of commodity trading advisor:

* * * (i) any bank or trust company, (ii) any newspaper reporter, newspaper columnist, newspaper editor, lawyer, accountant, or teacher, (iii) any floor broker or futures commission merchant, (iv) the publisher of any bona fide newspaper, news magazine, or business or financial publication of general and regular circulation including their employees, [and] (v) any contract market * * * *Provided*, That the furnishing of such services by the foregoing persons is solely incidental to the conduct of their business or profession.

Section 2(a)(1) also excludes from the definitions of CTA and CPO such persons who are not within the intent of the definitions of those terms as the Commission may specify by rule, regulation, or order.

[3] *See, e.g.*, Section 4m of the Act, 7 U.S.C. 6m (exemption from registration for certain CTAs); Commission Rule 1.7, 17 CFR 1.7 (exemption from registration for certain FCMs); Commission Rule 4.13, 46 FR 26004, 26014-15 (May 8, 1981) (exemption from registration for certain CPOs); Commission Rule 4.14, 46 FR 26004, 26015 (May 8, 1981) (exemption from registration for certain CTAs).

[4] Similarly, permitting withdrawal from registration in appropriate cases will relieve the Commission's staff of the responsibility to process and review the information required to be submitted by registrants.

[5] *See, e.g.*, Commission Rule 1.17, 17 CFR 1.17, *as amended by* 45 FR 79416, 79422-25 (December 1, 1980) (minimum financial requirements for FCMs); Commission Rule 1.12, 17 CFR 1.12, *as amended by* 45 FR 79416, 79422 (December 1, 1980) (filing of certain notices and reports when an FCM is within the "early warning system") and Commission Rule 1.10(b), 17 CFR 1.10(b) (filing of certain financial reports by FCMs); Commission Rule 4.21(a), 46 FR 26004, 26015-16 (May 8, 1981) (distribution of risk disclosure statement to prospective commodity pool participants); Commission Rules 4.23 and 4.32, 46 FR 26004, 26020 and 26023 (May 8, 1981) (recordkeeping requirements for CPOs and CTAs, respectively).

[6] A registrant's withdrawal from registration in any one capacity (e.g., as a commodity pool operator) does not, by itself, constitute the withdrawal of that person's registration in any other capacity (e.g., as a commodity trading advisor).

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The Commission, therefore, is permitting registrants to submit a request to the Commission to withdraw from registration in any capacity in which they are then registered.

Rule 1.10f provides that a request for withdrawal must contain information which is intended to inform the Commission of the status of the registrant making the withdrawal request, to substantiate the registrant's eligibility to withdraw from registration, and to enumerate any outstanding claims of its customers.[7]

Withdrawal of a registration under § 1.10f will become effective 30 days after the receipt by the Registration Unit of the Commission's Division of Trading and Markets of a properly completed request.[8] The purpose of the 30-day period is to give the Commission time to review the information provided by the registrant to determine if there is any reason why withdrawal should not be allowed.

Withdrawal from registration is, therefore, essentially a self-executing procedure. The Commission may, however, deny a request if withdrawal would be contrary to the requirements of the Act or of any rule, regulation or order thereunder or if withdrawal would not be in the public interest. Furthermore, § 1.10f(f)(1) makes a registrant ineligible to use this prodedure if the Commission has begun proceedings to suspend or revoke that person's registration before the request for withdrawal is made. In addition, withdrawal will not be allowed where the Commission commences such a proceeding within the 30-day period or notifies the registrant that he is currently the subject of an investigation.[9]

Where the Commission determines that the information provided by the registrant is insufficient, the Commission may request that additional information be supplied to the Commission.[10] In addition, the Commission may impose, or give notice of its intention to impose, terms and conditions upon a withdrawal becoming effective.[11]

Withdrawal from registration under the procedures established herein would not, of course, relieve the registrant from liability for any violation of the Act or any rule, regulation or order thereunder, nor would it relieve former registrants of the necessity of maintaining books and records in accordance with Commission Rule 1.31.[12] The Commission wishes to further caution registrants who intend to avail themselves of the procedures established in § 1.10f that a request for withdrawal from registration cannot be rescinded after it is received by the Commission. If the Commission does not postpone, condition, deny or otherwise withhold withdrawal, such registrant will have withdrawn from registration on the 30th day after receipt by the Commission of its withdrawal request.

B. Related Matters

Under Commisison Rule 1.14,[13] certain deficiencies, inaccuracies and changes in a registrant's application for registration and related materials must be reported to the Commission. In developing the withdrawal procedure set out above, the Commission has determined that a request for withdrawal from registration subbmitted under § 1.10f will satisfy a registrant's obligation to file under § 1.14 if its withdrawal becomes effective.[14]

In order to facilitate the processing of requests to withdraw from registration, the Commission has delegated its authority under § 1.10f to certain members of its staff. Under the delegation of authority contained in § 140.95(a), the Director of the Division of Trading and Markets and his designees are authorized to review, postpone, condition, deny, or otherwise act upon requests for withdrawal from registration.

The Commission finds that Sections 1.10f and 140.95 are rules which pertain solely to agency organization, procedure, and practice. Moreover, § 1.10f relieves a restriction by permitting early termination of registrations. Neither § 1.10f nor § 140.95 impose any additional obligations upon Commission registrants, thus notice and opportunity for public comment are unnecessary under the Administrative Procedure Act.[15] In addition to the new rules announced herein, the Commission is making certain conforming, non-substantive changes to Rules 1.7 [16] and 1.9.[17] Prior notice of these changes is also unnecessary.

In adopting these rules, the Commission has taken into consideration the public interest to be protected by the antitrust laws and has endeavored to take the least anticompetitive means of achieving the regulatory objectives of the Commodity Exchange Act.

C. Regulatory Flexibility Act

The Commission has not published a prior general notice of proposed rulemaking because §§ 1.10f and 140.95 are procedural in nature. Sections 1.10f and 140.95, therefore, are not "rules" as that term is defined in Section 3(a) of the Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1165 (5 U.S.C. 601(2)). Accordingly, the analysis or certification specified in that Act is not required.

D. Paperwork Reduction Act

Rule 1.10f has been submitted to the Office of Management and Budget ("OMB") for approval of its information collection provisions and for assignment of a control number pursuant to the Paperwork Reduction Act of 1980 ("PRA").[18] Approval from OMB of § 1.10f has been obtained and OMB control number 3038-0008 has been assigned to § 1.10f.[19]

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act, and in

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Section 1.10f(g). (Of course, a person who wished to withdraw from registration in more than one capacity could combine its requests and would not have to file a separate request for each such capacity. *See* §1.10f(a)).

Where, however, a person is presently exempt from registration in one capacity (*e.g.*, as an associated person) because of his registration in some other capacity (*e.g.*, as a floor broker), withdrawal from registration may necessitate registration in a capacity for which that person was formerly exempt.

Unless it otherwise specifies, the Commission intends this rule to apply to registration categories which may be established in the future. *See, e.g.*, 46 FR 23469, 23485 (April 27, 1981) (proposed registration of dealer option grantors).

[7] As used in § 1.10f, the term "customer" includes the customers of FCMs and the clients of CTAs, as well as the customers of any category of registrant which may be established in the future. Section 1.10f also refers to "commodity pool participants"—*i.e.*, those persons who have a direct financial interest in a commodity pool. *See* § 4.10(c) 46 FR 26004, 26014 (May 8, 1981).

[8] A request will be considered to be "received" when it is delivered to the address specified in the rule.

[9] Sections 1.10f(f)(2)(i) and 1.10f(f)(2)(iii), respectively.

[10] Section 1.10f(f)(2)(iv).

[11] Section 1.10f(f)(2)(ii).

[12] 17 CFR 1.31.

[13] 17 CFR 1.14.

[14] Effective July 1, 1982, § 1.14 will be superseded by Commission Rule 3.31, 45 FR 80485, 80496-97 (December 5, 1980) and 46 FR 24940, 24943 (May 4, 1981). The Commission will similarly regard a request for withdrawal from registration as satisfying the requirements of § 3.31.

[15] 5 U.S.C. 553(b).

[16] 17 CFR 1.7.

[17] 17 CFR 1.9.

[18] Sections 3507(a) and 3507(f), Pub. L. No. 96-511, 94 Stat. 2812, 2819-20 and 2821 (44 U.S.C. 3507(a) and 3507(f)).

[19] Sec. 3507(f) of the PRA, *supra* note 22, provides that no information collection request may be made without first obtaining from OMB a control number to be displayed upon such a request. As the information requested by the Commission in § 1.10f will be obtained without the use of a Commission form, OMB has informed the Commission that publication of the assigned control number constitutes compliance with this requirement of the PRA.

particular Sections 2(a)(11) and 8a thereof, 7 U.S.C. 4a(j) and 12a, the Commission hereby amends Parts 1, 3, and 140 of Chapter I, Title 17 of the Code of Federal Regulations by revising § 1.7, § 1.9 (§ 1.9 subsequently to be redesignated § 3.2), adding §§ 1.10f (subsequently to be redesignated § 3.33) and 140.95, as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. By revising § 1.7 to read as follows:

§ 1.7 Registration required of futures commission merchants.

No person shall engage as futures commission merchant in the solicitation or acceptance of orders for the purchase or sale of any commodity for future delivery, on or subject to the rules of any contract market, unless the Commission has registered such person as a futures commission merchant under the Act and such registration has not expired, been withdrawn, and is not under suspension or revocation: *Provided, however,* That a person trading solely for proprietary accounts within the meaning of § 1.3(y) shall not be required to register as a futures commission merchant; such a person trading solely for proprietary accounts as defined, shall otherwise be subject to all provisions of the Act and of the rules, regulations and orders thereunder.

2. By revising § 1.9, effective date of publication, to read as follows:

§ 1.9 Registration as one type of person not included in registration as any other type of person.

Registration as one type of person subject to regulation under the Act shall not include registration as any other type of person subject to regulation under the Act, except that a natural person who is registered as a futures commission merchant or as a floor broker (and such registration is not withdrawn, suspended or revoked) need not also register as an associated person.

§ 1.9 [Redesignated as § 3.2]

3. Effective on July 1, 1982, § 1.9 is redesignated as § 3.2.

4. By adding a new § 1.10f to read as follows:

§ 1.10f Withdrawal from registration.

(a) A registrant may request that its registration in one or more capacities be withdrawn prior to expiration in accordance with the requirements of this section if:

(1) The registrant has ceased, or has not commenced, engaging in activities requiring registration in such capacity;

(2) The registrant is exempt from registration in such capacity; or

(3) The registrant is excluded from the persons or any class of persons required to be registered in such capacity:

Provided, That the Commission may consider separately each capacity for which withdrawal is requested in acting upon such a request.

(b) A request for withdrawal from registration under this section must be made by the sole proprietor if the registrant is a sole proprietorship, by a general partner if the registrant is a partnership, or by the president or chief executive officer if the registrant is a corporation, and must specify:

(1) The name of the registrant for which withdrawal is being requested;

(2) The registration capacities for which withdrawal is being requested;

(3) The name and relationship to the registrant of the individual making the request and, in the case of a corporation, a certified copy of a resolution of the board of directors authorizing such individual to make the withdrawal request;

(4) The name, address, and telephone number of the person who will have custody of the books and records of the registrant; the address where such books and records will be located; and a statement that such person is authorized to make them available in accordance with the requirements of § 1.31 of this chapter;

(5) The applicable basis under paragraph (a) of this section for requesting withdrawal for each capacity for which withdrawal is requested.

(6) If withdrawal is requested under paragraph (a)(2) or (a)(3) of this section, then, with respect to each capacity for which withdrawal is requested, the section of the Act, regulations, or other authority permitting the exemption or exclusion, and the circumstances which entitle the registrant to claim such exemption or exclusion.

(7) If a basis for withdrawal from registration under paragraph (a)(1) of this section is that the registrant has ceased engaging in activities requiring registration, then, with respect to each capacity for which the registrant has ceased such activities:

(i) That all customer agreements, if any, have been terminated;

(ii) That all customer positions, if any, have been transferred on behalf of customers or closed;

(iii) That all customer cash balances, securities or other property, if any, have been transferred on behalf of customers or returned, and that there are no obligations to customers outstanding;

(iv) In the case of a commodity pool operator, that all interests in, and assets of, any commodity pool have been redeemed, distributed, or transferred, on behalf of the participants therein, and that there are no obligations to such participants outstanding; and

(v) The nature and extent of any pending customer or commodity pool participant claims against the registrant, and, to the best of the registrant's knowledge and belief, the nature and extent of any anticipated or threatened customer or commodity pool participant claims against the registrant.

(c) Where a futures commisssion merchant is requesting withdrawal from registration in that capacity and the basis for withdrawal under paragraph (a)(1) of this section is that it has ceased engaging in activities requiring registration, the request for withdrawal must be accompanied by a Form 1–FR which contains the information specified in § 1.10(d)(1) as of a date not more than 30 days prior to the date of the withdrawal request.

(d) A request for withdrawal from registration must be in writing and must contain a signed oath or affirmation that, to the best of the knowledge and belief of the signatory, the information contained in the request is accurate and complete.

(e) A request for withdrawal from registration must be sent to the Commodity Futures Trading Commission at its Washington, D.C. Office (Registration Unit, Division of Trading and Markets, 2033 K Street N.W., Washington, D.C. 20581).

(f) A request for withdrawal from registration will become effective on the thirtieth day after receipt at the address specified in paragraph (e) of this section unless:

(1) The request for withdrawal is received subsequent to the issuance by the Commission of an order instituting a proceeding to suspend or revoke such registration; or

(2) Prior to the effective date:

(i) The Commission institutes a proceeding to suspend or revoke such registration;

(ii) The Commission imposes, or gives notice that it intends to impose, terms or conditions upon such withdrawal from registration;

(iii) The registrant is notified that it is

currently the subject of an investigation to determine, among other things, whether such registrant has violated, is violating, or is about to violate the Act, rules, regulations or orders adopted thereunder;

(iv) The Commission requests from the registrant further information pertaining to its request for withdrawal from registration; or

(v) The Commission determines that it would be contrary to the requirements of the Act, or of any rule, regulation or order thereunder, or to the public interest to permit such withdrawal from registration.

(g) Withdrawal from registration in one capacity does not constitute withdrawal from registration in any other capacity.

(h) Withdrawal from registration does not constitute a release from liability for any violation of the Act or of any rule, regulation, or order thereunder.

§ 1.10f [Redesignated as § 3.33]

5. Effective on July 1, 1982, § 1.10f is redesignated as § 3.33.

PART 140—ORGANIZATION, FUNCTIONS, AND PROCEDURES OF THE COMMISSION

6. By adding a new § 140.95 to read as follows:

§ 140.95 Delegation of authority with respect to withdrawals from registration.

(a) The Commission hereby delegates, until such time as the Commission orders otherwise, to the Director of the Division of Trading and Markets and to such members of the Commission's staff acting under his direction as he may designate, the authority to review, postpone, condition, deny, or otherwise act upon a request for withdrawal from registration.

(b) The Director of the Division of Trading and Markets may submit any matter which has been delegated to him under paragraph (a) of this section to the Commission for its consideration.

(c) Nothing in this section shall prohibit the Commission, at its election, from exercising the authority delegated to the Director of the Division of Trading and Markets under paragraph (a) of this section.

Issued in Washington, D.C. on July 27, 1981, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 81-28860 Filed 10-2-81; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1306

Transfer of Prescription Information for Schedules III, IV, and V Controlled Substances

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: This rule amends Part 1306 of Title 21 of the Code of Federal Regulations to permit the transfer of prescription information between two pharmacies for controlled substance prescriptions which are lawfully refillable. This action was initiated upon request from various pharmacy professionals and organizations including the National Association of Boards of Pharmacy, National Association of Chain Drug Stores, National Association of Retail Druggists, American Pharmaceutical Association and the American Society of Consultant Pharmacists. These various professional groups brought to DEA's attention that the duplication of prescriptions is a potential diversion problem and by allowing the transfer of prescription information, the number of duplicate prescriptions would be substantially reduced, resulting in a corresponding decrease in the number of prescriptions available for diversion or misuse.

It is anticipated that this rule would reduce the health care costs to patients by providing a mechanism for a patient to request the transfer of a prescription from one pharmacy to another thereby eliminating the need for a new prescription to be issued. This amendment would also serve to provide a means by which patients can transfer prescriptions to a more geographically convenient pharmacy as the need arises. It is deemed that this amendment would serve to benefit the general public in obtaining needed medication under certain circumstances and at the same time ensure adequate controls to prevent the diversion of controlled substances.

EFFECTIVE DATE: October 5, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald W. Buzzeo, Chief, Compliance Division, Office of Compliance and Regulatory Affairs, Drug Enforcement Administration, 1405 I Street, Northwest, Washington, D.C. 20537, telephone number (202) 633-1321.

SUPPLEMENTARY INFORMATION: On March 26, 1980, the Administrator of the Drug Enforcement Administration issued a Notice of Proposed Rulemaking (45 FR 21652, April 2, 1980) which would permit the transfer of prescription refill information for Schedules III, IV and V controlled substances between two pharmacies where acceptable under state law.

The Notice requested that responsive comments and objections be submitted to DEA on or before June 2, 1980.

This proposal has resulted in the submission of an unusually large number of comments, both for and against. A number of commentors indicate by the substance of their submission a lack of understanding of the proposed amendment and the type of drugs which are involved. For clarification purposes, it must be emphasized that this proposed amendment pertains to those substances or drugs which are controlled under the Controlled Substances Act of 1970 and specifically in Schedules III, IV and V. A majority of the commentors supported the proposed amendment and expressed the need for this regulation as a convenient means to aid patients in acquiring needed medications in generally three situations: (1) to obtain medication from a pharmacy closer to an individual's residence; (2) to take advantage of more competitive prices for medication at another pharmacy; and (3) to obtain medication while the patient is temporarily away from his/her permanent residence (i.e. medication has been lost, forgotten or if patient experiences an inadequate supply).

The American Pharmaceutical Association submitted written comment expressing support for the proposed amendment and stated that although they preferred transfers on a more liberal basis than proposed, they felt that the amendment is reasonable and would be in the interest of facilitating pharmaceutical service to patients in situations which may require a prescription transfer.

A number of commentors submitted objections to the proposed amendment stating several factors in support of their opposition. Three state authorities which include the Rhode Island Department of Health, the Commonwealth of Massachusetts Board of Registration of Pharmacy, and the State of Wisconsin Department of Regulation and Licensing, objected to the proposed amendment.

The objections set forth by these authorities included: (1) the regulation would be contrary to their state law in that copies of prescriptions or other evidence of an existing prescription would be considered invalid and not refillable; (2) it would place unnecessary burdens upon state regulatory and law

enforcement personnel to detect fraud or determine that the transfer was in good faith; and (3) there would be no guarantee that the proposed amendment would reduce the number of multiple prescriptions.

The DEA carefully considered the objections submitted by these state authorities. The DEA does not intend to burden the effectiveness of existing state regulations which have been established to monitor the prescribing and dispensing of controlled substances. In all cases, the more stringent law or regulation is applicable. Consequently, the DEA does not feel that the implementation of this proposed amendment would hinder or reduce the effectiveness of state regulations. The DEA feels that any additional burdens placed upon state regulatory or law enforcement personnel would be minimal and that the overall benefits of this proposal would far outweigh any negative aspects. Additionally, the DEA is confident that the number of multiple prescriptions now written by practitioners would be reduced when these same practitioners as well as pharmacists become knowledgeable to the fact that a new prescription need not be issued and that transfer procedures could be utilized.

Additional commentors in support of their objections to the proposed amendment feel that the amendment: (1) would not be in the best interest of good control or prudent medical practice; (2) would result in inaccurate information being transferred, thus producing prescription errors; and (3) the requirements would be confusing to the pharmacist. Understandably, the DEA is concerned with maintaining adequate controls both from the standpoint of proper dispensing of controlled substances and prudent medical practice. The DEA is of the opinion that since pharmaceutical professionals receive oral prescription orders from physicians on a routine basis there is no reason to believe that the transfer which is executed between two pharmacists would not be effected in a less than professional and prudent manner. The DEA feels that the possibilities of additional diversion are minimal. The controls established to effect the transfer and the one time transfer limitation would be sufficient to discourage diversion.

Two commentors submitted suggestions which DEA considered and accepted in part. These commentors suggested: (1) the transferring pharmacy should also record the DEA registration number of the pharmacy to which the prescription information was transferred; (2) dates of all previous refills should be transmitted to and recorded by the transferee pharmacist; (3) requirements for the address of the pharmacy and the name of the pharmacist receiving the prescription information under paragraph (a)(1)(ii) be deleted; (4) the name of the pharmacist transferring the information as set forth in paragraph (a)(1)(iii) be deleted; (5) eliminating the requirements under paragraphs (b)(2) (ii) and (iii) requiring the original number of refills authorized and date of original dispensing to be recorded; and (6) eliminating the pharmacy's name and the name of transferor pharmacist as proposed under paragraphs (b)(2) (v) and (vi).

The DEA accepted suggestion (1) and suggestion (2) in part and has incorporated them into this final rule. Suggestions (3) through (6) were rejected as it was deemed that these requirements were necessary to maintain and ensure adequate controls over the transfer procedures particularly in instances of Federal or state investigative review. In furtherance of maintaining adequate controls and to reduce any additional enforcement burdens in monitoring these transfer procedures, the original section permitting the retransfer of prescription information as set forth in the proposal under § 1306.26(d) has been deleted from the Final Rule.

No further comments or objections were received, nor were there any requests for a hearing.

PART 1306—PRESCRIPTIONS

Therefore, pursuant to the authority vested in the Attorney General by 21 U.S.C. 821 and 871(b) as delegated by 28 CFR 0.100 to the Administrator of the Drug Enforcement Administration, the Acting Administrator hereby orders that Part 1306 of Title 21 of the Code of Federal Regulations be amended by adding a new section as follows:

§ 1306.26 Transfer between pharmacies of prescription information for schedules III, IV, and V controlled substances for refill purposes.

(a) The transfer of original prescription information for a controlled substance listed in Schedules III, IV or V for the purpose of refill dispensing is permissible between pharmacies on a one time basis subject to the following requirements:

(1) The transfer is communicated directly between two licensed pharmacists and the transferring pharmacist records the following information:

(i) Write the word "VOID" on the face of the invalidated prescription.

(ii) Record on the reverse of the invalidated prescription the name, address and DEA registration number of the pharmacy to which it was transferred and the name of the pharmacist receiving the prescription information.

(iii) Record the date of the transfer and the name of the pharmacist transferring the information.

(b) The pharmacist receiving the transferred prescription information shall reduce to writing the following:

(1) Write the word "transfer" on the face of the transferred prescription.

(2) Provide all information required to be on a prescription pursuant to 21 CFR 1306.05 and include:

(i) Date of issuance of original prescription;

(ii) Original number of refills authorized on original prescription;

(iii) Date of original dispensing;

(iv) Number of valid refills remaining and date of last refill;

(v) Pharmacy's name, address, DEA registration number and original prescription number from which the prescription information was transferred;

(vi) Name of transferor pharmacist.

(3) Both the original and transferred prescription must be maintained for a period of two years from the date of last refill.

(c) Pharmacies electronically accessing the same prescription record must satisfy all information requirements of a manual mode for prescription transferral.

(d) The procedure allowing the transfer of prescription information for refill purposes is permissible only if allowable under existing state or other applicable law.

Pursuant to sections 3(c)(3) and 3(e)(2)(B) of Executive Order 12291, the Director of the Office of Management and Budget has been consulted with respect to these proceedings.

Note.—This regulation will impact primarily upon pharmacies, most of which can be presumed to be "small entities" within the meaning given that term by the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* However, as indicated above, this action was initiated as a result of requests made by pharmacists and their professional and trade associations. It is anticipated that the additional recordkeeping requirements imposed by this regulation will be nominal and will be more than compensated for by the advantages to be realized by both the affected entities and the consuming public. Accordingly, the Acting Administrator certifies that this action will have no significant impact upon small entities.

Dated: September 11, 1981.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 81-28819 Filed 10-2-81; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 15A

[T.D. 7788]

Temporary Income Tax Regulations; Installment Sales; Amendments to T.D. 7768

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains amendments to § 15A.453-1 temporary regulations providing general rules relating to installment sales. The amendments change the effective dates of two provisions contained in the temporary regulations which were published in the **Federal Register** February 4, 1981. These amendments will affect all taxpayers who entered into wraparound mortgage transactions and all taxpayers who had selling expenses in an installment sale.

EFFECTIVE DATES: The wraparound mortgage provisions generally shall be effective for installment sales after March 4, 1981. If the seller is subject to a written binding obligation executed on or before March 4, 1981, the wraparound mortgage provisions shall be effective for installment sales after June 1, 1981. The selling expense provisions shall be effective for installment sales which take place in a taxable year which ends after October 19, 1980.

FOR FURTHER INFORMATION CONTACT: Phoebe A. Mix of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, D.C. 20224, 202-566-3297, not a toll-free call.

Selling Expenses

Prior to the adoption of the temporary regulations published February 4, 1981 providing general rules for reporting installment obligations, the Internal Revenue Service's position had been that selling expenses were subtracted from the selling price when determining the gross profit ratio. The gross profit ratio is a fraction, the numerator of which is the gross profit (selling price less adjusted basis) and the denominator of which is the contract price (selling price reduced by the portion of any qualifying indebtedness assumed, or taken subject to, which does not exceed the seller's basis). The temporary regulations published February 4, 1981 changed the treatment of selling expenses by providing that selling expenses are added to the seller's basis where determining the gross profit ratio. The effective date of those temporary regulations is generally October 19, 1980, the date the Installment Sales Revision Act was signed.

Before adoption of the Installment Sales Revision Act, a taxpayer could report an installment sale on the installment method only if no more than 30 percent of the selling price was received in the year of sale. The rule that selling expenses reduced the selling price often operated to disqualify a transaction from installment method reporting. The Installment Sales Revision Act removed the requirement that no more than 30 percent of the selling price be received in the year of sale retroactively for any installment sale in a taxable year that ends after October 19, 1980. Therefore, the new rule for the treatment of selling expenses is given the same effective date.

The temporary regulations issued February 4, 1981 explicitly stated the Service's longstanding position that "wrap-around" mortgages and similar transactions do not shield an underlying indebtedness from the rules relating to the assumption, or taking subject to, of an indebtedness encumbering a property. Those temporary regulations generally are effective for installment sales after October 19, 1980. Several people have requested that the effective date for wrap-around arrangements be changed because neither the Installment Sales Revision Act nor the legislative history indicated that this change would take place and because some case law appeared to support such arrangements even though the Service has had a long-standing position to the contrary. Therefore, this amendment to the temporary regulations issued February 4, 1981 provides that the rule relating to wrap-around mortgages is generally effective for installment sales entered into after March 4, 1981, unless the installment sale was completed before June 1, 1981 pursuant to a written obligation binding on the seller that was executed on or before March 4, 1981.

Although the position taken in the temporary regulations issued February 4, 1981 is consistent with the Service's longstanding position on wrap-around mortgages, it was decided to make the provisions of the temporary regulation and their presumption of validity prospective only. This decision does not represent any change in the Service's position on wrap-around mortgages with respect to installment sales entered into prior to March 5, 1981 (or June 1, 1981, if a written obligation binding on the seller was executed before March 5, 1981).

Waiver of Procedural Requirements of Treasury Directive

The expeditious adoption of the provisions contained in this document is necessary because of the need for immediate guidance to taxpayers who are reporting casual installment sales on tax returns for 1980. For this reason Roscoe L. Egger, Jr., Commissioner of Internal Revenue, has determined that the provisions of paragraphs 8 through 14 of Treasury Directive, 43 FR 52120, must be waived.

Drafting Information

The principal author of this regulation is Phoebe A. Mix of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue and Treasury Department participated in developing the regulation, both on matters of substance and style.

Amendments to the regulations

Accordingly, the following amendments are made to T.D. 7768, 46 FR 10708, February 4, 1981 which provided temporary income tax regulations relating to installment method reporting for sales of real property and casual sales of personal property:

PART 15A—TEMPORARY INCOME TAX REGULATIONS UNDER THE INSTALLMENT SALES REVISION ACT

Paragraph 1. Paragraph (b)(1) (ii), (iii) and (v) and (3)(ii) and examples (1) and (5) of paragraph (b)(5) of § 15A.453-1 are revised to read as follows:

§ 15A.453-1 Installment method reporting for sales of real property and casual sales of personal property.

* * * * *

(b) *Installment sale defined*—(1) *In general.* * * *

(ii) *Selling price defined.* The term "selling price" means the gross selling price without reduction to reflect any existing mortgage or other encumbrance on the property (whether assumed or taken subject to by the buyer) and, for installment sales in taxable years ending after October 19, 1980, without reduction to reflect any selling expenses. Neither interest, whether stated or

unstated, nor original issue discount is considered to be a part of the selling price. See paragraph (c) of this section for rules describing installment method reporting of contingent payment sales.

(iii) *Contract price defined.* The term "contract price" means the total contract price equal to selling price reduced by that portion of any qualifying indebtedness (as defined in paragraph (b)(2)(iv) of this section), assumed or taken subject to by the buyer, which does not exceed the seller's basis in the property (adjusted, for installment sales in taxable years ending after October 19, 1980, to reflect commissions and other selling expenses as provided in paragraph (b)(2)(v) of this section). See paragraph (c) of this section for rules describing installment method reporting of contingent payment sales.

* * * * *

(v) *Gross profit defined.* The term "gross profit" means the selling price less the adjusted basis as defined in section 1011 and the regulations thereunder. For sales in taxable years ending after October 19, 1980, in the case of sales of real property by a person other than a dealer and casual sales of personal property, commissions and other selling expenses shall be added to basis for purposes of determining the proportion of payments which is gross profit attributable to the disposition. Such additions to basis will not be deemed to affect the taxpayer's holding period in the transferred property.

* * * * *

(3) *Payment—* * * *

(ii) *Wrap-around mortgage.* This paragraph (b)(3)(ii) shall apply generally to any installment sale after March 4, 1981 unless the installment sale was completed before June 1, 1981 pursuant to a written obligation binding on the seller that was executed on or before March 4, 1981. A "wrap-around mortgage" means an agreement in which the buyer initially does not assume and purportedly does not take subject to part or all of the mortgage or other indebtedness encumbering the property ("wrapped indebtedness") and, instead, the buyer issues to the seller an installment obligation the principal amount of which reflects such wrapped indebtedness. Ordinarily, the seller will use payments received on the installment obligation to service the wrapped indebtedness. The wrapped indebtedness shall be deemed to have been taken subject to even though title to the property has not passed in the year of sale and even though the seller remains liable for payments on the wrapped indebtedness. In the hands of the seller, the wrap-around installment obligation shall have a basis equal to the seller's basis in the property which was the subject of the installment sale, increased by the amount of gain recognized in the year of sale, and decreased by the amount of cash and the fair market value of other nonqualifying property received in the year of sale. For purposes of this paragraph (b)(3)(ii), the amount of any indebtedness assumed or taken subject to by the buyer (other than wrapped indebtedness) is to be treated as cash received by the seller in the year of sale. Therefore, except as otherwise required by section 483 or 1232, the gross profit ratio with respect to the wrap-around installment obligation is a fraction, the numerator of which is the face value of the obligation less the taxpayer's basis in the obligation and the denominator of which is the face value of the obligation.

* * * * *

(5) *Examples.* The following examples illustrate installment method reporting under this section:

Example (1). In 1980, A, a calendar year taxpayer, sells Blackacre, an unencumbered capital asset in A's hands, to B for $100,000: $10,000 down and the remainder payable in equal annual installments over the next 9 years, together with adequate stated interest. A's basis in Blackacre, exclusive of selling expenses, is $38,000. Selling expenses paid by A are $2,000. Therefore, the gross profit is $60,000 ($100,000 selling price − $40,000 basis inclusive of selling expenses). The gross profit ratio is ⅗ (gross profit of $60,000 divided by $100,000 contract price). Accordingly, $6,000 (⅗ of $10,000) of each $10,000 payment received is gain attributable to the sale and $4,000 ($10,000 − $6,000) is recovery of basis. The interest received in addition to principal is ordinary income to A.

* * * * *

Example (5). In 1982, G sells to H Blackacre, which is encumbered by a first mortgage with a principal amount of $500,000 and a second mortgage with a principal amount of $400,000, for a selling price of $2 million. G's basis in Blackacre is $700,000. Under the agreement between G and H, passage of title is deferred and H does not assume and purportedly does not take subject to either mortgage in the year of sale. H pays G $200,000 in cash and issues a wrap-around mortgage note with a principal amount of $1,800,000 bearing adequate stated interest. H is deemed to have acquired Blackacre subject to the first and second mortgages (wrapped indebtedness) totalling $900,000. The contract price is $1,300,000 (selling price of $2 million less $700,000 mortgages within the seller's basis assumed or taken subject to). Gross profit is also $1,300,000 (selling price of $2 million less $700,000 basis). Accordingly in the year of sale, the gross profit ratio is 1 ($1,300,000/$1,300,000). Payment in the year of sale is $400,000 ($200,000 cash received plus $200,000 mortgage in excess of basis ($900,000 − $700,000)). Therefore, G recognizes $400,000 gain in the year of sale ($400,000 × 1). In the hands of G the wrap-around installment obligation has a basis of $900,000, equal to G's basis in Blackacre ($700,000) increased by the gain recognized by G in the year of sale ($400,000) reduced by the cash received by G in the year of sale ($200,000). G's gross profit with respect to the note is $900,000 ($1,800,000 face amount less $900,000 basis in the note) and G's contract price with respect to the note is its face amount of $1,800,000. Therefore, the gross profit ratio with respect to the note is ½ ($900,000/$1,800,000).

There is need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it would be impractical to first issue a notice of proposed rulemaking under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitations of subsection (d) of that section.

(Sec. 453(j) and 7805 of the Internal Revenue Code of 1954 (94 Stat. 2247, 68A Stat. 917; 26 U.S.C. 453(j), 7805))

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: September 28, 1981.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 81-28883 Filed 9-30-81; 3:42 pm]

BILLING CODE 4830-01-M

DEPARTMENT OF JUSTICE

Office of Legal Policy

28 CFR Part 24

[Order No. 958-81]

Implementation of the Equal Access to Justice Act in Department of Justice Administrative Proceedings

ACTION: Interim rule with request for public comment.

SUMMARY: The Department of Justice is publishing for public comment interim regulations to implement section 504 of title 5, United States Code, as amended by section 203(a)(1) of the Equal Access to Justice Act (Title 2 of Pub. L. 96-481, 94 Stat. 2325). This Act provides that in certain federal agency adversary adjudications pending between October 1, 1981 and September 30, 1984 the agency that conducts the proceeding shall award attorneys' fees and other expenses to qualified parties who prevail against the agency, unless (1) the position of the agency as a party to the proceeding was substantially justified, or (2) special circumstances make an award unjust, or (3) the prevailing party

engaged in conduct which unduly and unreasonably protracted the final resolution of the matter in controversy. These interim regulations, which would be added to 28 CFR as a new Part 24, establish procedures for the submission and consideration of applications for award.

DATES: 1. Effective date: These regulations are being published as interim regulations effective October 1, 1981, simultaneously with the effective date of the Equal Access to Justice Act in order that guidance will be available at that time to potential applicants for awards under the Act.

2. Comments: Written comments received on or before November 4, 1981 will be considered in the promulgation of the final regulations.

ADDRESS: All written comments should be submitted to the Office of Legal Policy, Department of Justice, Washington, D.C. 20530.

FOR FURTHER INFORMATION CONTACT: Helen Lessin Shaw, Office of Legal Policy, Department of Justice, Rm. 4245, Washington, D.C. 20530; telephone 202/633-2034.

SUPPLEMENTARY INFORMATION: Under section 203 of the Equal Access to Justice Act, each affected agency is to establish by rule uniform procedures for the submission and consideration of applications for an award of fees and other expenses. The procedures proposed herein would apply whenever components of the Department of Justice conduct "adversary adjudications" within the meaning of 5 U.S.C. 504(b)(1)(C).

While these interim rules follow in format the counterpart sections of the model rules issued by the Administrative Conference of the United States on June 25, 1981 (46 FR 32900), they differ from the Administrative Conference's model rules in two important respects. First, they focus on matters purely procedural. Second, the language more closely tracks that of the statute.

The interim rules are divided into three subparts. The general provisions (Subpart A) set out the purpose of the rules, define terms used, proceedings covered, applicability to Department of Justice proceedings, eligibility of applicants, standards for awards and allowable fees and other expenses. The term "Department," wherever it is used throughout the interim rules, refers to the relevant departmental component conducting the adversary adjudication. We have identified the following components of the Department of Justice which conduct adversary adjudications required by statute to be conducted under 5 U.S.C. 554. These are: Drug Enforcement Administration, Office of Justice Assistance, Research and Statistics, the National Institute of Justice, the Bureau of Justice Statistics, and the Law Enforcement Assistance Administration. Handicap discrimination hearings and title VI civil rights hearings are also required by statute to be conducted under 5 U.S.C. 554.

Hearings conducted by the Immigration and Naturalization Service pursuant to 8 U.S.C. 1226 (exclusion) and 8 U.S.C. 1252 (deportation) are exempt from the requirements of the Administrative Procedure Act, *Marcello* v. *Bonds* 349 U.S. 757 (1955). Therefore, the Act does not apply.

Subpart B of the interim regulations sets out the information required as part of the application for award. With regard to the signing of the application, we point out that § 24.201(f) states that the application must be signed both by the applicant with respect to eligibility and by the attorney of the applicant with respect to fees and expenses sought.

The last subpart sets out the procedures for consideration of applications, review of decisions on fee applications, and payment of awards. We agree as a matter of policy with the Administrative Conference of the United States that there should be administrative review of the fee determination recommended by the adjudicative officer. There is a serious question as to the permissible scope of that review under the law as presently written. The language of the interim regulations calls for review to the extent permitted by law.

Finally, the interim regulations provide that awards will be paid by the relevant departmental component.

The proposed rule does not constitute a "major" rule as defined by Executive Order 12291 because it does not result in: (a) an effect on the economy of $100 million or more, (b) a major increase in any costs or prices, or (c) adverse effects on competition, employment, investment, productivity, or innovation among American enterprises.

The interim regulations will not have a "significant" economic impact on a substantial number of small "entities," as defined by the Regulatory Flexibility Act (Pub. L. 96-354).

The Department of Justice amends Title 28 of the Code of Federal Regulations by adding a new Part 24 as set forth below.

Dated: September 30, 1981.

William French Smith,

Attorney General.

PART 24—IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN DEPARTMENT OF JUSTICE ADMINISTRATIVE PROCEEDINGS

Subpart A—General Provisions

Sec.

Subpart B—Information Required From Applicants

Subpart C—Procedures for Considering Applications

Authority: Sec. 504 of Title 5, U.S.C., as amended by Sec. 203(a)(1) of the Equal Access to Justice Act (Title 2 of Pub. L. 96-481, 94 Stat. 2325).

Subpart A—General Provisions

§ 24.101 Purpose of these rules.

These rules are adopted by the Department of Justice pursuant to section 504 of title 5, United States Code, as amended by section 203(a)(1) of the Equal Access to Justice Act, Pub. L. No. 96-481. Under the Act, an eligible party may receive an award for attorney fees and other expenses when it prevails over the Department in an adversary adjudication under 5 U.S.C. 554 before the Department, unless the Department's position as a party to the proceeding was substantially justified or special circumstances make an award unjust. The purpose of these rules is to establish procedures for the submission and consideration of applications for awards against the Department.

§ 24.102 Definitions.

As used in this part:

(a) "The Act" means section 504 of title 5, United States Code, as amended by section 203(a)(1) of the Equal Access to Justice Act, Pub. L. No. 96-481.

(b) "Adversary adjudication" means an adjudication under 5 U.S.C. 554 in which the position of the United States is represented by counsel or otherwise, but excludes an adjudication for the purpose of establishing or fixing a rate or for the purpose of granting or renewing a license.

(c) "Adjudicative officer" means the official, without regard to whether the official is designated as an administrative law judge, a hearing officer or examiner, or otherwise, who presided at the adversary adjudication.

(d) "Department" refers to the relevant departmental component which is conducting the adversary adjudication (e.g., Drug Enforcement Administration or Office of Justice Assistance, Research, and Statistics).

(e) "Proceeding" means an adversary adjudication as defined in § 24.102(b) above.

§ 24.103 Proceedings covered.

(a) These rules apply to adversary adjudications required by statute to be conducted by the Department under 5 U.S.C. 554. Specifically, the proceedings conducted by the Department to which these rules apply are:

(1) Hearings conducted by the Drug Enforcement Administration (DEA) in connection with suspension or revocation of registration of manufacturers, distributors, and dispensers of controlled substances under 21 U.S.C. 824(c) and 21 CFR 1301.51; suspension or revocation of import and export registrations pursuant to 21 U.S.C. 958 and 21 CFR 1311.51;

(2) Hearings conducted by DEA in connection with the scheduling of drugs pursuant to 21 U.S.C. 811(a) and 21 CFR 1308.41;

(3) Handicap discrimination hearings conducted by the Department under 29 U.S.C. 794a(a) and 28 CFR 42.109(d);

(4) Title VI civil rights hearings conducted by the Department under 42 U.S.C. 2000d–1 and 28 CFR 42.109(d);

(5) Grant denial and grant termination hearings conducted by the Office of Justice Assistance, Research, and Statistics (OJARS), the National Institute of Justice (NIJ), the Bureau of Justice Statistics (BJS) and the Office of Juvenile Justice and Delinquency Prevention (OJJDP), or the Law Enforcement Assistance Administration (LEAA) under 42 U.S.C. 3783 and 28 CFR Part 18; and

(6) Civil rights hearings conducted by OJARS under 42 U.S.C. 3789d and 28 CFR 42.214–15.

(b) If a proceeding includes both matters covered by the Act and matters specifically excluded from coverage, any award made will include only fees and expenses related to covered issues.

§ 24.104 Applicability to Department of Justice proceedings.

The Act applies to an adversary adjudication pending before the Department at any time between October 1, 1981 and September 30, 1984. This includes proceedings begun before October 1, 1981 if final Department action has not been taken before that date, and proceedings pending on September 30, 1984.

§ 24.105 Eligibility of applicants.

(a) To be eligible for an award of attorney fees and other expenses under the Act, the applicant must be a prevailing party in the adversary adjudication for which it seeks an award. The term "party" is defined in 5 U.S.C. 551(3). The applicant must show that it meets all conditions of eligibility set out in this subpart and in Subpart B of this part.

(b) The types of eligible applicants are as follows:

(1) An individual with a net worth of not more than $1 million;

(2) The sole owner of an unincorporated business who has a net worth of not more than $5 million and not more than 500 employees;

(3) A charitable or other tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) with not more than 500 employees;

(4) A cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)) with not more than 500 employees; and

(5) Any other partnership, corporation, association, or public or private organization with a net worth of not more than $5 million and not more than 500 employees.

(c) For the purpose of eligibility, the net worth and number of employees of an applicant shall be determined as of the date the adversary adjudication was initiated.

§ 24.106 Standards for awards.

(a) A prevailing applicant may receive an award for fees and expenses incurred in connection with a proceeding unless the position of the Department as a party to the proceeding was substantially justified or if special circumstances make the award sought unjust. No presumption arises that the agency's position was not substantially justified simply because the agency did not prevail.

(b) An award will be reduced or denied if the applicant has unduly or unreasonable protracted the proceeding.

§ 24.107 Allowable fees and other expenses.

(a) The following fees and other expenses are allowable under the Act:

(1) Reasonable expenses of expert witnesses;

(2) Reasonable cost of any study, analysis, engineering report, test, or project which the Department finds necessary for the preparation of the party's case;

(3) Reasonable attorney or agent fees;

(b) The amount of fees awarded will be based upon the prevailing market rates for the kind and quality of services furnished, except that

(1) Compensation for an expert witness will not exceed the highest rate paid by the Department for expert witnesses; and

(2) Attorney or agent fees will not be in excess of $75 per hour.

Subpart B—Information Required From Applicants

§ 24.201 Contents of application.

(a) An application for an award of fees and expenses under the Act shall identify the applicant and the proceeding for which an award is sought. The application shall show that the applicant has prevailed and identify the position of the Department in the proceeding that the applicant alleges was not substantially justified.

(b) The application shall include a statement that the applicant's net worth as of the time the proceeding was initiated did not exceed $1 million if the applicant is an individual (other that a sole owner of an unincorporated business seeking an award in that capacity) or $5 million in the case of all other applicants. An applicant may omit this statement if:

(1) It attaches a copy of a ruling by the Internal Revenue Service that it qualifies as an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)(3)) and is exempt from taxation under section 501(a) of the Code or, in the case of such an organization not required to obtain a ruling from the Internal Revenue Service on its exempt status, a statement that describes the basis for the applicant's belief that it qualifies under section 501(c)(3) of the Code; or

(2) It states that it is a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)).

(c) If the applicant is a partnership, corporation, association, or organization, or a sole owner of an unincorporated business, the application shall state that it did not have more than 500 employees at the time the proceeding was initiated, giving the number of its employees and describing briefly the type and purpose of its organization or business.

(d) The application shall itemize the amount of fees and expenses for which an award is sought.

(e) The application may include any other matters that the applicant believes should be considered in determining whether and in what amount an award should be made.

(f) The application shall be signed by the applicant with respect to the eligibility of the applicant and by the attorney of the applicant with respect to fees and expenses sought. The application shall contain or be accompanied by a written verification under oath or affirmation under penalty of perjury that the information provided in the application and all accompanying material is true and complete to the best of the signer's information and belief.

§ 24.202 Net worth exhibit.

(a) Each applicant except a qualified tax exempt organization or a qualified cooperative must submit with its application a detailed exhibit showing its net worth at the time the proceeding was initiated. If any individual, corporation, or other entity directly or indirectly controls or owns a majority of the voting shares or other interest of the applicant, or if the applicant directly or indirectly owns or controls a majority of the voting shares or other interest of any corporation or other entity, the exhibit must include a showing of the net worth of all such affiliates or of the applicant including the affiliates. The exhibit may be in any form convenient to the applicant, provided that it makes full disclosure of the applicant's and any affiliates' assets and liabilities and is sufficient to determine whether the applicant qualifies under the standards of 5 U.S.C. 504(b)(1)(B)(i). The adjudicative officer may require an applicant to file additional information to determine the applicant's eligibility for an award.

(b) The net worth exhibit shall describe any transfers of assets from, or obligations incurred by, the applicant or any affiliate, occurring in the one year period prior to the date on which the proceeding was initiated, that reduced the net worth of the applicant and its affiliates below the applicable net worth ceiling. If there were no such transactions, the applicant shall so state.

(c) The net worth exhibit shall be included in the public record of the proceeding.

§ 24.203 Documentation of fees and expenses.

(a) The application shall be accompanied by full documentation of the fees and expenses, including the cost of any study, engineering report, test, or project, for which an award is sought.

(b) The documentation shall include an affidavit from any attorney, agent, or expert witness representing or appearing in behalf of the party, stating the actual time expended and the rate at which fees and other expenses were computed and describing the specific services performed.

(1) The affidavit shall itemize in detail the services performed by the date, number of hours per date and the services performed during those hours. In order to establish the hourly rate, the affidavit shall state the hourly rate which is billed and paid by the majority of clients during the relevant time periods.

(2) If no hourly rate is paid by the majority of clients because, for instance, the attorney or agent represents most clients on a contingency basis, the attorney or agent shall provide affidavits from two attorneys or agents with similar experience, who perform similar work, stating the hourly rate which they bill and are paid by the majority of their clients during a comparable time period.

(c) The documentation shall also include a description of any expenses for which reimbursement is sought and a statement of the amounts paid and payable by the applicant or by any other person or entity for the services provided.

(d) The adjudicative officer may require the applicant to provide vouchers, receipts, or other substantiation for any expenses claimed.

§ 24.204 Time for submission of application.

(a) An application must be filed no later than 30 days after final disposition of the proceeding. If review or reconsideration is sought or taken of a decision as to which an applicant believes it has prevailed, proceedings for the award of fees shall be stayed pending final disposition of the underlying controversy.

(b) Final disposition means the later of (1) the date on which the final agency decision is issued, (2) the date on which a petition for rehearing or reconsideration is disposed of, or (3) the date of final resolution of the proceeding, such as settlement or voluntary dismissal, which is not subject to a petition for rehearing or reconsideration.

Subpart C—Procedures for Considering Applications

§ 24.301 Filing and service of documents.

An application for an award and any other pleading or document related to the application shall be filed and served on all parties to the proceeding in the same manner as other pleadings in the proceeding.

§ 24.302 Answer to application.

(a) Within 30 calendar days after service of the application, Department counsel may file an answer. If Department counsel fails to answer or otherwise fails to contest or settle the application, the adjudicative officer may upon a satisfactory showing of entitlement by the applicant make an award for the applicant's fees and other expenses under 5 U.S.C. 504.

(b) If Department counsel and the applicant believe that they can reach a settlement concerning the award, Department counsel may file a statement of intent to negotiate. The filing of such a statement shall extend the time for filing an answer an additional 30 days.

(c) The answer shall explain in detail any objections to the award requested and identify the facts relied on to support the objection. If the answer is based on any alleged facts not already reflected in the record of the proceeding, Department counsel shall include with the answer either a supporting affidavit or affidavits or request for further proceedings.

§ 24.303 Comments by other parties.

Any party to a proceeding other than the applicant and Department counsel may file comments on an application within 30 calendar days after it is served or on an answer within 15 calendar days after it is served.

§ 24.304 Settlement.

A prevailing party and Department counsel may agree on a proposed settlement of an award before final action on the application, either in connection with a settlement of the underlying proceeding or after the underlying proceeding has been concluded. If the party and Department counsel agree on a proposed settlement of an award before an application has been filed, the application shall be filed with the proposed settlement.

§ 24.305 Extensions of time and further proceedings.

(a) The adjudicative officer may on motion and for good cause shown grant extensions of time other than for filing an application for fees and expenses after final disposition in the adversary adjudication.

(b) Ordinarily, the determination of an award will be made on the basis of the written record of the underlying proceeding and the filings required or permitted by the foregoing sections of these rules. However, the adjudicative officer may *sua sponte* or on motion of any party to the proceedings require or permit further proceedings, such as an informal conference, oral argument, additional written submissions, or an evidentiary hearing. Such further proceedings shall be held only when necessary for full and fair resolution of the issues arising from the application and shall be conducted as promptly as possible. A motion for further proceedings shall specifically identify the information sought on the disputed issues and shall explain why the further proceedings are necessary to resolve the issues.

§ 24.306 Decision on application.

The adjudicative officer shall issue a decision on the application which shall include proposed written findings and conclusions on such of the following as are relevant to the decision: (a) The applicant's status as a prevailing party; (b) the applicant's qualification as a "party" under 5 U.S.C. 504(b)(1)(B); (c) whether the Department's position as a party to the proceeding was substantially justified; (d) whether special circumstances make an award unjust; (e) whether the applicant during the course of the proceedings engaged in conduct that unduly and unreasonably protracted the final resolution of the matter in controversy; and (f) the amounts, if any, awarded for fees and other expenses, with reasons for any difference between the amount requested and the amount awarded.

§ 24.307 Department review.

The decision of the adjudicative officer will be reviewed to the extent permitted by law by the Department in accordance with the Department's procedures for the type of proceeding involved. The Department will issue the final decision on the application.

§ 24.308 Judicial review.

Judicial review of final Department decisions on awards may be sought as provided in 5 U.S.C. 504(c)(2).

§ 24.309 Payment of award.

An applicant seeking payment of an award shall submit a copy of the final decision granting the award to the Department's Accounting Office for processing. A statement that review of the underlying decision is not being sought in the United States courts, or that the process for seeking review of the award has been completed, must also be included.

[FR Doc. 81-28899 Filed 10-2-81; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Ch. VII

Surface Coal Mining and Reclamation Programs for Alabama, Illinois, Indiana, Kentucky, Ohio, and Tennessee; General Statement of Policy; Correction

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: General statement of policy; correction.

SUMMARY: This document corrects a date contained in a general statement of policy on revised schedules for resubmission of State regulatory programs by Alabama, Illinois, Indiana, Kentucky, Ohio and Tennessee which was published August 26, 1981 (46 FR 43041). For the State of Tennessee, the date on which the resubmission period will begin running, unless the injunction restraining the State from resubmitting its program is lifted earlier, was inadvertently given as October 10, 1981. That date is one year from the date of the Secretary's initial decision on the Tennessee program. The correct date is actually one year following the date the injunction was issued, or December 5, 1981. The incorrect date appeared for the first time in the August 26, 1981, notice on page 43041 under **"General Background"**, for the second time on page 43042 under **"Discussion of Public Comments"**, and then for a third time on page 43043 under **"Final Suspension Determinations."**

Dated: September 29, 1981.

Dean Hunt,

Acting Director, Office of Surface Mining.

[FR Doc. 81-28906 Filed 10-2-81; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD2 81-01]

Safety Zone; Upper Mississippi River, Mile 633.7 to 636.7

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This is an amendment to the Coast Guard's Safety Zone Regulations which designated the vicinity of the Marquette-Joliet Highway 18 Bridge near Prairie Du Chien, Wisconsin, as a Safety Zone. Changing conditions relating to the evolution of bridge repairs, along with ongoing review of the imposed restrictions have resulted in a need to amend the Safety Zone Regulations. This amendment modifies prior restrictions placed on certain vessels transiting the bridge area.

EFFECTIVE DATE: This amendment becomes effective at 4:12 p.m. (CDST) on August 14, 1981.

ADDRESSES: Comments should be mailed to Commander(m), Second Coast Guard District, 1430 Olive Street, St. Louis, Missouri 63103. The comments and other material related to this amendment will be available for inspection or copying at the Office of Commander, Second Coast Guard District, Room 310, 1430 Olive Street, St. Louis, Missouri. Normal office hours are between 7:45 a.m. and 4:15 p.m., Monday through Friday, except holidays. Comments may be mailed or hand delivered to this office.

FOR FURTHER INFORMATION CONTACT: Commander L. Z. Katcharian, Project Officer, c/o Marine Safety Office, P.O. Box 3428, St. Paul, MN, telephone (612) 725-7452.

SUPPLEMENTARY INFORMATION: This is an amendment to the Coast Guard's Safety Zone Regulations. On March 23, 1981 the Captain of the Port, Minneapolis/St. Paul, MN, under the authority of the Ports and Waterways Safety Act, as amended, established a Safety Zone (33 CFR 165.211) from Mile 633.7 to Mile 636.7, Upper Mississippi River (UMR) including the Marquette-Joliet Highway 18 Bridge at Mile 634.7, UMR, near Prairie Du Chien, Wisconsin. Notification was published at 46 FR 26055, May 11, 1981. The requirements of the Safety Zone were amended on June 18 and 24, 1981, and published at 46 FR 41494, August 17, 1981. The effect of the Safety Zone, as amended, was to place

certain navigational restrictions on all tows while transiting the Safety Zone.

Effective at 4:12 p.m. (CDST) on August 14, 1981, the Safety Zone was amended. Generally, the amendment involves modifications to the existing restrictions by reducing the flow rate measurement at Lock and Dam 9 which conditions entry into the Safety Zone without specific approval from 75,000 cubic feet per second to 60,000 cubic feet per second, reducing the allowable number of barges in a tow to avoid invoking the provisions for assistance by a helper boat from nine to six, eliminating the requirement that tows containing a loaded anhydrous ammonia barge receive positive clearance prior to entering the Safety Zone, and eliminating the one way traffic requirement when a tow containing a loaded anhydrous ammonia barge is present in the Safety Zone.

This amendment is issued without publication of a Notice of Proposed Rulemaking and is effective in less than 30 days from the date of publication because public procedures on this amendment are impractical due to the immediate and present hazard posed by the structural condition of the Marquette-Joliet Highway 18 Bridge. These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be major. This amendment has been determined to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis and Review of Regulations (DOT Order 2100.5 of 5-22-80).

Drafting Information

The principal persons involved in drafting this amendment are Commander Charles G. Hill, USCG, and Lieutenant Commander Richard A. Knee, USCG, Project Attorney, c/o Commander Second Coast Guard District, 1430 Olive Street, St. Louis, Missouri.

Comments

Although this Safety Zone, as amended, is published as a final rule without prior notice, public comment is nevertheless desirable to ensure that the regulation is both workable and reasonable. Accordingly, persons wishing to comment may do so by submitting written comments to the office listed under "Addresses" in this preamble. Commenters should include their names and addresses, identify the docket number, and give reasons for their comments. Based upon comments received and experience gained under the rule, the amendment may be changed. Any persons desiring acknowledgment of their written comments should include a self-addressed stamped postcard or envelope. No written comments were received following the original creation of or amendments to the Safety Zone.

Final Regulations

PART 165—SAFETY ZONES

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended by revising paragraphs (b)(1)(iv) and (b)(2) and by removing and reserving paragraphs (b)(3)(ii) and (b)(4) of § 165.211 to read as follows:

§ 165.211 Upper Mississippi River, mile 633.7 to 636.7.

* * * * *

(b) * * *

(1) * * *

(iv) No person shall navigate a tow within the Safety Zone when the Upper Mississippi River flow rate measured at Lock and Dam 9 is greater than 60,000 cubic feet per second without the express permission of the Captain of the Port or his on scene representative. The Lock and Dam 9 Lockmaster should be contacted for current flow information.

* * * * *

(2) All tows having dimensions exceeding both 70 feet wide and 600 feet long and/or tows larger than six standard barges (35 feet wide by 195 feet long) must comply with the following regulations when transiting the Safety Zone.

* * * * *

(3) * * *

(ii) [Reserved]

* * * * *

(4) [Reserved]

(92 Stat. 1475 (33 U.S.C. 1225); 92 Stat. 1477 (33 U.S.C. 1231); 49 CFR 1.46(n)(4))

Dated: September 8, 1981.

L. Z. Katcharian,

Commander, U.S. Coast Guard, Captain of the Port, Minneapolis/St. Paul, MN.

[FR Doc. 81-28666 Filed 10-2-81; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF EDUCATION

34 CFR Part 19

National Security Information; Handling Classified Information

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary issues these regulations to establish the policy of the U.S. Department of Education regarding the handling of national security information. These regulations are promulgated in response to Executive Order No. 12065, entitled National Security Information. Executive Order 12065 is intended to increase openness in government by limiting classification and accelerating declassification, but at the same time providing protection against unauthorized disclosure of information that requires such protection in the interest of national security. These regulations prescribe procedures the agency must follow when the agency: (1) Processes downgrading and declassification requests, (2) handles and safeguards classified data, (3) reproduces classified data, (4) stores classified data, and (5) informs Department of Education employees about these procedures.

EFFECTIVE DATE: These regulations are effective October 5, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. John P. Higgins, Jr., telephone: (202) 245-0175.

SUPPLEMENTARY INFORMATION:

Background

On June 25, 1978, the President issued Executive Order No. 12065, National Security Information, which requires agencies that handle classified information to make information available to the public, as possible without threatening national security. Agencies handling classified documents must adopt regulations to identify the information to be protected, to prescribe classification, downgrading, declassification, and safeguarding procedures, and to establish a monitoring system to ensure compliance.

Education Department Role With Classified Data

The Education Department neither classifies nor declassifies data since it is a non-classifying agency. However, this regulation contains agency procedures for handling classified data obtained from other agencies. The Office of Inspector General is required by this regulation to: (1) Refer downgrading and declassification requests to the agency or original classifier, (2) control reproduction of classified data, (3) designate certain Departmental officials as custodians of all classified data received from other agencies by the Education Department, and (4) develop and direct a Department-wide monitoring system and an employee education and awareness program dealing with the safeguarding of classified information.

Publication of this document as a proposed rule for public comment is unnecessary since the regulation relates only to agency procedures.

(Catalog of Federal Domestic Assistance number not applicable)

Dated: September 29, 1981.

T. H. Bell,

Secretary of Education.

The Secretary amends Title 34 of the Code of Federal Regulations by adding a new Part 19 to read as follows:

PART 19—NATIONAL SECURITY INFORMATION PROCEDURES

Subpart A—Who Is Responsible for Oversight of National Security Information Procedures?

Sec.

19.1 Responsibility for oversight.

Subpart B—What Procedures Are Used for Handling National Security Information?

19.11 Safeguarding information.
19.12 Reproduction controls.
19.13 Storage.
19.14 Declassification request.
19.15 Employee education.

Authority: Executive Order 12065.

Subpart A—Who Is Responsible for Oversight of National Security Information Procedures?

§ 19.1 Responsibility for oversight.

The Office of Inspector General is responsible for conducting an oversight program that will ensure effective implementation of Executive Order (EO) 12065. Specifically the Assistant Inspector General for Investigation will ensure that the oversight program provides for—

(a) Issuing departmental directives ensuring that classified information is processed, used, reproduced, stored, destroyed, and transmitted only under conditions that provide adequate protection and prevent unauthorized persons from gaining access.

(b) Directing Department-wide security training and educational programs in personnel security and document security.

(c) Recommending administrative action to correct violations of any provisions of these regulations, including notification by warning letters, formal reprimand, and, to the extent permitted by law, suspension without pay and removal.

(d) Receiving questions, suggestions, and complaints regarding all elements of this program.

(e) Designating the Office of Inspector General as having sole responsibility for changes to the program and for assuring that the program is consistent with EO 12065.

(f) Designating the Department's official contact for declassification requests submitted under provisions of EO 12065, the Freedom of Information Act (5 U.S.C. 552), and the Privacy Act of 1974 (5 U.S.C. 552a).

Subpart B—What Procedures Are Used for Handling National Security Information?

§ 19.11 Safeguarding information.

(a) All classified data that is marked "Top Secret," "Secret," and "Confidential" under the terms of EO 12065 will be delivered immediately upon receipt to the Assistant Inspector General for Investigation or designees.

(b) The Assistant Inspector General for Investigation or designees informs departmental recipients of classified data of current designees and alternate offices to which the data referred to in paragraph (a) of this section is to be delivered.

(c) Access to classified material is restricted to those individuals with an authorized security clearance and a need to know.

§ 19.12 Reproduction controls.

(a) Reproduction of classified material within the Department of Education must be in compliance with EO 12065, Section 4–4.

(b) If copies of data are reproduced, the same controls imposed on the original document will apply to the reproductions.

(c) The Assistant Inspector General for Investigation or designees will maintain—

(1) Records showing the number and distribution of copies; and

(2) A log stored with the original documents.

§ 19.13 Storage.

(a) All classified documents must be stored in security containers approved by the General Services Administration and located in the Office of Inspector General's security office or other approved area.

(b) If access to the security container is controlled by a combination lock—

(1) The combination must be changed as required by the Information Security Oversight Office's (ISOO) Directive No. 1, Section IV F 5a;

(2) Only the Assistant Inspector General for Investigation or designees who hold proper security clearances shall know the combination; and

(3) The combination must be afforded the same classification as the material stored within the security container.

§ 19.14 Declassification request.

(a)(1) The Assistant Inspector General for Investigation or designees shall handle all declassification requests made by members of the public, by Government employees, or by an agency.

(2) Under no circumstances may anyone refuse to confirm the existence or non-existence of a document under the Freedom of Information Act unless the fact of its existence or non-existence would itself be classified under EO 12065.

(b) Because the Department of Education is a non-classifying agency without authority to either classify or declassify data, all requests for declassification directed to the Department must be referred to the agency of origin.

(c) A person or agency making a request for declassification must be notified that the Department of Education has referred the request to the originating agency and that further inquiries and appeals must be made directly to the other agency.

§ 19.15 Employee education.

(a) The employee education program concerning document security must be provided to every Department of Education employee who has or may require access to classified material in the performance of his or her duties and who possesses the appropriate security clearance.

(b) Each employee having an access clearance is briefed by the Assistant Inspector General for Investigation or designees concerning personal responsibilities for classified material under EO 12065 and appropriate ISOO directives.

(c) Each employee who receives a briefing shall sign a statement to certify that the briefing was accomplished.

[FR Doc. 81-29859 Filed 10-2-81; 8:45 am]

BILLING CODE 4001-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[A-3-FRL 1929-2]

Designation of Areas for Air Quality Planning Purposes; Approval of Redesignation of Attainment Status for the District of Columbia

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The District of Columbia has revised its designation of attainment status with respect to total suspended particulates (TSP), and requested that EPA review and approve the change. If approved, the entire District would be designated as "better than national standards." This request supplements a similar request submitted by the District of Columbia one year earlier. The District has submitted information demonstrating attainment of the national ambient air quality standards for TSP during calendar years 1979 and 1980. Therefore, EPA approves the District's request for redesignation.

EFFECTIVE DATE: This action will be effective on December 4, 1981 unless notice is received on or before November 4, 1981, that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the associated support materials are available for public inspection during normal business hours at the following locations:

District of Columbia Department of Environmental Services, Bureau of Air and Water Quality, 5010 Overlook Avenue, S.W., Washington, D.C. 20032, ATTN: V. Ramadass

U.S. Environmental Protection Agency, Region III, Curtis Building, 10th Floor, 6th & Walnut Streets, Philadelphia, PA 19106

Public Information Reference Unit, Room 2922—EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460

All comments should be addressed to: Mr. Henry J. Sokolowski, P.E. (3AH12), Chief, MD-DE-DC Metro Section, U.S. Environmental Protection Agency, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106.

FOR FURTHER INFORMATION CONTACT: Mr. Harold A. Frankford (3AH12), U.S. Environmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106, Phone: 215/597-8392, ATTN: 107DC-2

SUPPLEMENTARY INFORMATION:

TSP Redesignation

On April 1, 1981, the District of Columbia submitted to the Administrator, Environmental Protection Agency, a revised designation of attainment status, pursuant to Section 107 of the Clean Air Act, with respect to total suspended particulates (TSP). The District requested that those portions of the District currently designated either "does not meet primary standards" or "does not meet secondary standards," 43 FR 40502 (1978), be reclassified as "better than national standards." The District of Columbia's Department of Environmental Services (DES) submitted information showing that no violations of either the primary or secondary TSP standards were recorded at any of the District's high volume samplers during the calendar years 1979 and 1980. The network has been extensively revised and only two of the currently existing high volume samplers (West End Library and Catholic University) were operating during both 1979 and 1980. Two additional monitoring sites which did not operate in 1980 (Sharpe School and the 4th District Police Headquarters) showed no valid violations of the national TSP standards in 1979. The Sharpe School monitor did record a "violation" of the 24-hour secondary TSP, but the District's Department of Environmental Services (DES) maintained that these data should be considered invalid according to criteria set forth in the EPA publication "Quality Assurance Handbook for Air Pollution Measurement Systems," Volume I—Principles, EPA 600/9-76-005 (March 1976):

> * * * due to unusual conditions of measurement, e.g., a TSP concentration which is abnormally large due to local environmental conditions during the time of sample collection. Such observations would not be indicative of the average concentration of TSP, and may be eliminated depending upon the use of this data.

EPA agreed with this conclusion as it pertained to the Sharpe School and judged the air quality "violation" to be invalid for TSP designation purposes. For further information, see 46 FR 24214 (1981). Nevertheless, the two monitoring sites that did operate during 1979 and 1980 (West End Library and Catholic University) and which had recorded the TSP violations prior to 1979, have shown significant reductions in TSP concentration levels. This demonstration is sufficient to warrant the redesignations for TSP. The West End monitor represents the area generally corresponding to the District's central business district (CBD), which is currently designated as "does not meet primary TSP standards." EPA had recently proposed that the District's CBD should be redesignated "does not meet secondary standards" based on the fact that no primary violations, but one secondary violation, were recorded during calendar year 1978, 46 FR 24214 (1981). On the basis of 1979 and 1980 air quality data recently submitted by the District, EPA in this action approves the redesignation of the CBD to "better than national standards." Similarly, a large area of the District, including the area represented by the Catholic University monitor, is currently designated as "does not meet secondary TSP standards" for TSP. However, EPA approves the redesignation of this area to "better than national standards" based on the fact that no TSP violations have been recorded at any of the TSP monitors situated in this area during either 1979 or 1980. The public is hereby served notice that the District of Columbia has attained both primary and secondary TSP standards prior to the December 31, 1982 deadline for attainment provided by Section 172(a)(1) of the Clean Air Act.

The public is advised that this action will be effective December 4, 1981. However, if notice is received on or before November 4, 1981 that someone wishes to submit adverse or critical comments, this action will be withdrawn and subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because this action only approves State actions and imposes no new requirements.

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

Pursuant to the provisions of 5 U.S.C. Section 605(b) the Administrator has certified that redesignations under Section 107 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. See 46 FR 8709 (January 27, 1981). This action constitutes a SIP redesignation under Section 107 within the terms of the January 27 certification. This action only approves State actions. It imposes no new requirements.

Under Section 307(b)(1) of the Clean Air Act, judicial review of these actions is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit on or before December 4, 1981.

(Sections 107(d), 171(2), 301(a), of the Clean Air Act as amended (42 U.S.C. 7407(d), 7501(2), 7601(a)))

Dated: September 29, 1981.

Anne M. Gorsuch,

Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended by revising the table entitled "District of Columbia—TSP" in § 81.309 to read as follows:

Subpart C—Section 107 Attainment Status Designations

§ 81.309 District of Columbia.

DISTRICT OF COLUMBIA—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
1. Area bounded by: East Capitol Street S.E., District Line (Southern Avenue S.E.), Eastern Shore of Potomac River and Eastern Shore of Anacostia River.				X.
2. Area bounded by: Francis Scott Key Bridge, M Street, N.W., 23rd Street N.W., Florida Avenue N.W., U Street N.W., Florida Avenue N.W.-N.E., 4th Street N.E.-S.E. Southeast-Southwest Freeway (I295, I395), 15th Street S.W.-N.W., Constitution Avenue N.W., Theodore Roosevelt Memorial Bridge, Potomac River.				X.
3. Remainder of the District of Columbia portion of the National Capital Interstate AQCR.				X.

* * * * * * *

[FR Doc. 81-28900 Filed 10-2-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 81

[A-7-FRL 1933-3]

Revision to Attainment Status Designation: Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking

SUMMARY: On April 3, 1981, EPA proposed in the **Federal Register** to approve the redesignation of a portion of the City of Dubuque from attainment to nonattainment with respect to the carbon monoxide (CO) ambient air quality standards. It also proposed reclassification of Keokuk from secondary nonattainment to unclassifiable with respect to total suspended particulates (TSP). Finally it proposed reclassifcation for portions of Dubuque from nonattainment to attainment with respect to sulfur dioxide (SO_2) air quality standards. No comments were received as a result of that proposal. EPA is taking final action today to approve two of these redesignations. Final action on the proposal to redesignate Dubuque to attainment for SO_2 will be taken when modeling data becomes available.

DATES: These designations are effective November 4, 1981.

ADDRESSES: Copies of the state submission are available at the following locations: Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460; and the Iowa Department of Environmental Quality, Henry A. Wallace Building, 900 East Grand, Des Moines, Iowa.

FOR FURTHER INFORMATION CONTACT: Taun L. Novak at (816) 374-3791 FTS 758-3791.

SUPPLEMENTARY INFORMATION: Section 107(d) of the Clean Air Act required all areas of the nation to be designated as attaining the National Ambient Air Quality standards (NAAQS), as not attaining the NAAQS or as being unclassifiable with respect to attainment for the pollutants listed in that section. Attainment/nonattainment designations are recommended by the state and approved or revised as necessary by the Environmental Protection Agency (EPA). Areas that are designated attainment or unclassifiable will not need nonattainment plans.

The original designation for the State of Iowa were published in the **Federal Register** of March 3, 1978 (43 FR 8962) and were codified in the Code of Federal Regulation, at 40 CFR 81.316.

On December 22, 1980, the Iowa Department of Environmental Quality (IDEQ) submitted a redesignation request recommending several redesignations of attainment status. The following designations are only summarized in this action. For a more detailed discussion, the reader is referred to the proposed rulemaking published April 3, 1981 at 46 FR 20235. EPA received no comments in response to the proposed rulemaking and is taking final action to approve two of the requests.

The state's request for redesignation for a portion of Dubuque from attainment to nonattainment for CO is based on monitoring data for an area around a monitor showing ten violations of the eight hour standard during the first quarter of 1980. A full description of the proposed CO nonattainment area is contained in the state submission which is available for public inspection at the address given in this notice. For the reasons stated in the proposed rulemaking, EPA is taking final action to redesignate the area nonattainment, as requested by the state.

Newly designated nonattainment areas are subject to the same time intervals set forth in Part D as were the initial 1979 plan revisions. This allows 12 months from the nonattainment designation for preparation and submittal of a plan, 6 additional months for EPA action on the plan, and no more than 3½ years from the date of plan approval to attain the applicable standard.

Keokuk is being redesignated from secondary nonattainment to unclassifiable with respect to TSP for reasons discussed in the proposed rulemaking. Since EPA criteria have been met for redesignation, EPA is taking final action to approve this redesignation.

Final action on the third area, concerning the Dubuque redesignation to attainment for SO_2, will be taken at a later time. In the April 3 proposal, EPA proposed to redesignate the area from nonattainment to attainment, and specified that final action would be taken after evaluating the results of the modeling study presently underway by the state. This data has not yet become available, therefore, final action will be deferred until such analysis is complete.

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This rule is not "major" because it only approves State actions and imposes no additional substantive requirements which are not currently applicable under State law. Hence it is unlikely to have an annual effect on the economy of $100 million or more, or to have other significant adverse impacts on the national economy.

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

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached attainment status redesignations under

Section 107(d) of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. This action imposes no regulatory requirements but only changes area air quality designations. Any regulatory requirements which may become necessary as a result of this action will be dealt with in a separate action.

Under Section 307(b)(1) of the Clean Air Act, as amended, 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), 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.

(Secs. 107 and 301 of the Clean Air Act as amended (42 U.S.C. 7407 and 7601))

Dated: September 30, 1981.

Anne M. Gorsuch,

Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Title 40 Part 81 of the Code of Federal Regulations is amended as follows:

Subpart C—Section 107 Attainment Status Designations

§ 81.316 [Amended]

Section 81.316 is amended by revising the tables as follows:

1. The table "Iowa—TSP" is revised by moving the "X" in the designated area listed as "An area in and near Keokuk" from "Does not meet Secondary Standards" to the column "Cannot be Classified" as follows:

IOWA—TSP

Designations	Does not meet secondary standards	Cannot be classified
• • • • • • •		
An area in and near Keokuk		X
• • • • • • •		

2. The table "Iowa—CO" is revised by inserting below "Remainder of Polk County" the following:

IOWA—CO

Designations	Does not meet primary standards	Cannot be classified or better than national standards
• • • • • • •		
City of Dubuque (partial)	X	
Remainder of Dubuque County		X
• • • • • • •		

[FR Doc. 81-28888 Filed 10-2-81; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 180

[PH-FRL-1949-1; PP 7E1887/R353]

Chlorothalonil; Establishment of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the fungicide chlorothalonil and its metabolite 4-hydroxy-2,5,6-trichloroisophthalonitrile. This regulation was requested by the Interregional Research Project No. 4 (IR-4). This regulation establishes a maximum permissible level for residues of the fungicide in or on parsnips (root) at 1.0 part per million (ppm).

EFFECTIVE DATE: Effective on October 5, 1981.

ADDRESS: Written objections may be submitted to the: Hearing Clerk, Environmental Protection Agency, Rm. M-3708 (A-110), 401 M St., SW., Washington, DC 20460.

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

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of August 7, 1981 (46 FR 40220) that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition number 7E1887 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Florida, North Carolina, and South Carolina.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the combined residues of the fungicide chlorothalonil (tetrachloroisophthalonitrile) and its metabolite 4-hydroxy-2,5,6-trichloroisophthalonitrile in or on the raw agricultural commodity parsnips (root) at 1 ppm.

The data submitted in the petition and all other relevant material have been evaluated. Based on the information considered by the agency, it is concluded that tolerance established by amending 40 CFR Part 180 would protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may on or before November 4, 1981, file written objections with the Hearing Clerk, EPA, Rm. M-3708 (A-110), 401 M St., SW., Washington, DC 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

As required by Executive Order 12291, EPA has determined that this rule 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 regulation from the OMB review requirements 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 a 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).

Effective date: October 5, 1981.

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

Dated: September 25, 1981.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.275 is amended by alphabetically inserting the raw agricultural commodity "parsnips (root)" to read as follows:

§ 180.275 Chlorothalonil; tolerances for residues.

* * * * *

Commodity	Parts per million
* * * * *	
Parsnips (root)	1
* * * * *	

[FR Doc. 81-28897 Filed 10-2-81; 8:45 am]

BILLING CODE 6560-32-M

40 CFR Part 180

[PH-FRL-1948-8; PP OE2397/R356]

Hexakis; Establishment of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the insecticide hexakis (2-methyl-2-phenylpropyl)distannoxane and its organotin metabolites in or on papayas at 2 parts per million (ppm). This regulation was requested by the Interregional Research Project No. 4 (IR-4). This regulation will establish a maximum permissible level for the combined residues of the subject insecticide in or on papayas at 2 ppm.

EFFECTIVE DATE: October 5, 1981.

ADDRESS: Written objections may be submitted to the Hearing Clerk, Environmental Protection Agency, Rm. 3708 (A-110), 401 M St., SW, Washington, DC 20460.

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

SUPPLEMENTARY INFORMATION: EPA issued a notice that was published in the **Federal Register** of August 20, 1981 (46 FR 42299) that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition number OE2397 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of Hawaii.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the combined residues of the insecticide hexakis (2-methyl-2-phenylpropyl)distannoxane and its organotin metabolites calculated as the parent compound in or on the raw agricultural commodity papayas at 2 ppm.

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

The data submitted in the petition and all other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought.

Based on the information considered by the agency, it is concluded that the tolerance established by amending 40 CFR Part 180 will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, on or before November 4, 1981, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. 3708 (A-110), 401 M St., SW, Washington, DC 20460. Such objections must be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are legally sufficient to justify the relief sought.

As required by Executive Order 12291, EPA has determined that this rule 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 rule 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 a 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(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

Dated: September 25, 1981.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.362 is amended by alphabetically inserting the raw agricultural commodity "papayas" to read as follows:

§ 180.362 Hexakis (2-methyl-2-phenylpropyl)distannoxane; tolerances for residues.

* * * * *

Commodity	Parts per million
* * * * *	
Papayas	2
* * * * *	

[FR Doc. 81-28896 Filed 10-2-81; 8:45 am]

BILLING CODE 6560-32-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

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

These base (100-year) flood elevations are the basis for the floodplain management measures that the community is required either to adopt or show evidence of being already in effect in order to qualify or remain qualified

for participation in the National Flood Insurance Program (NFIP).

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

ADDRESS: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 287–0270, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determination of flood elevations for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

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

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the final 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 floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain 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 floodplain and do not prescribe 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 final base (100-year) flood elevations for selected locations are:

FINAL BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Arizona	Snowflake (Town), Navajo County, FEMA-6061	Silver Creek	220 feet downstream from center of Lundquist Lane	*5,576
			100 feet upstream from center of Cooper Lane	*5,583
			100 feet upstream from center of Apache Railroad bridge.	*5,593
			300 feet upstream from center of Savage Lane	*5,606
		Cottonwood Wash	Confluence with Silver Creek	*5,575
			100 feet upstream from center of Ramsey Avenue	*5,580
			150 feet upstream from center of Apache Railroad bridge.	*5,590
	Maps available for inspection at Department of Public Works, 1st West & 1st South, Snowflake, Arizona.			
Idaho	Kootenai County (Unincorporated Areas) FEMA-6061	Spokane River	Upstream side of intersection of Chicago, Milwaukee, St. Paul & Pacific Railroad and channel.	*2,039
			Intersection of Spokane Avenue and the channel	*2,126
			Intersection of Spokane River and Lake Coeur d'Alene	*2,136
		Wolf Lodge Creek	Upstream side of the intersection of U.S. Interstate 90 and channel.	*2,136
			Upstream side of intersection of Meyer Hill Road and channel.	*2,248
		Coeur d'Alene River	Black Lake	*2,136
			Killarney Lake	*2,137
			Rose Lake	*2,139
			Intersection of Dudley Road and Fourth of July Creek Bridge.	*2,142
			Downstream side of intersection of U.S. Interstate 90 and channel.	*2,146
		Latour Creek	The upstream side of intersection of Dudley Road and channel.	*2,146
	Maps available for inspection at Planning & Zoning Department, Kootenai County Courthouse, 501 Government Way, Coeur d'Alene, Idaho.			
Illinois	(C) Elgin, Cook and Kane Counties (Docket No. FEMA-6074).	Fox River	At downstream corporate limits	*706
			Just upstream of Elgin Dam	*713
			About 0.5 mile upstream of Interstate 90	*716
		Tyler Creek	At confluence with Fox River	*715
			Just downstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*757
			Just upstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*765
			About 500 feet upstream of Eagle Road	*793
			Just downstream of Randall Road	*815
		Tyler Creek Tributary	About 0.4 mile downstream of Highland Avenue	*796
			About 400 feet upstream of Highland Avenue	*804
			Just upstream of Randall Road	*822
		Poplar Creek	Just upstream of Raymond Street	*708
			About 800 feet downstream of Bluff City Boulevard	*712
			Just upstream of U.S. Route 20 Bypass	*718
			Just upstream of Villa Street	*725
			Just upstream of Campus Drive	*737
			About 0.4 mile upstream of Irving Park Road	*749
		Willow Creek	At mouth	*718
			About 800 feet upstream of Laurel Street	*726
	Maps available for inspection at the Clerk's Office, Civic Center, 150 Dexter Court, Elgin, Illinois.			

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Illinois	(Uninc.) Kane County (Docket No. FEMA-6074)	Jelkes Creek	Mouth at Fox River	*716
			Just upstream of State Route 31	*718
			About 4,000 feet upstream of Boncosky Road	*741
		Sleepy Creek	Mouth at Fox River	*717
			Just downstream of Locust Street	*733
		McKee Road Tributary	Mouth at Mill Creek	*699
			Just downstream of Skyline Drive	*700
			Just upstream of Skyline Drive	*705
			About 2,700 feet upstream of Fabyan Parkway	*709
			About 4,700 feet upstream of Fabyan Parkway	*717
		Mill Creek	Mouth at Fox River	*652
			Just upstream of State Route 31	*660
			Just downstream of Mooseheart Road	*673
			Just upstream of Mooseheart Road	*684
			Just downstream of Randall Road	*689
			Just upstream of Wenmath Road	*701
		Blackberry Creek	At Kaneville Road	*712
			Just upstream of Baseline Road	*659
			Just upstream of Forrest Preserve Road (upstream crossing).	*690
			Just upstream of Scott Road	*706
			Just upstream of Hughes Road	*746
			Just downstream of Keslinger Road	*797
			Just upstream of Chicago and North Western Railroad	*810
		Blackberry Creek Tributary A	Mouth at Blackberry Creek	*673
			Just downstream of East-West Tollway	*678
		Blackberry Creek Tributary B	Mouth at Blackberry Creek	*675
			Just upstream of State Route 56	*684
			About 1.2 miles upstream of Seavey Road	*710
		Blackberry Creek Tributary C	Mouth at Blackberry Creek	*706
			About 1.7 miles upstream of Seavey Road	*721
		Blackberry Creek Tributary D	Mouth at Blackberry Creek	*739
			Just downstream of Keslinger Road	*807
		Ferson Creek	Mouth at Fox River	*692
			Just downstream of Bolcum Road	*753
		Waubansee Creek	About 3,000 feet downstream of Elgin, Joliet and Eastern Railroad.	*665
			About 3,600 feet upstream of Farnsworth Avenue	*670
		Mahoney Creek	Just downstream of Burlington Northern railroad	*673
			About 350 feet upstream of Pine Street	*694
		Hampshire Creek Tributary	Mouth at Hampshire Creek	*868
			Just upstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*876
			About 0.26 mile upstream of Terwilliger Avenue	*885
		Indian Creek	About 1,100 feet downstream of Sheffer Road	*695
			Just upstream of Sheffer Road	*699
			About 1,000 feet upstream of Bitter Road	*725
		Norton Creek	Mouth at Fox River	*693
			Just downstream of State Route 25	*698
			Just downstream of Dunham Road	*739
			About 2,500 feet upstream of Dunham Road	*741
		Norton Creek Tributary	Mouth at Norton Creek	*741
		Brewster Creek	Mouth at Fox River	*697
			About 600 feet upstream of Private Nursery Road	*711
		North Arm Brewster Creek	Mouth at Brewster Creek	*697
			About 510 feet upstream of mouth at Brewster Creek	*698
		Tyler Creek	About 200 feet downstream of Eagle Road	*791
			About 2,400 feet upstream of confluence of Tyler Creek Tributary.	*801
			Just upstream of Randall Road	*815
			About 100 feet downstream of Big Timber Road	*864
		Tyler Creek Tributary	Mouth at Tyler Creek	*796
			About 400 feet upstream of Highland Avenue	*804
			About 1,100 feet upstream of Randall Road	*827
		Poplar Creek	Mouth at Fox River	*706
			About 400 feet upstream of St. Charles Street	*710
		Fox River	About 3,00 feet downstream of Indian Trails Road	*634
			About 4,000 feet upstream of Indian Trails Road	*641
			About 3,400 feet downstream of confluence of Mill Creek.	*651
			About 2,400 feet upstream of South Batavia Dam	*660
			At confluence of Ferson Creek	*692
			About 2,00 feet upstream of Illinois Central Gulf Railroad.	*698
			About 800 feet upstream of confluence of Poplar Creek.	*707
			Just downstream of Interstate 90	*715
			About 3,750 feet upstream of confluence of Jelkes Creek.	*718
			Upstream county boundary	*733
	Maps available for inspection at the Kane County Government Center, Department of Planning and Zoning, 719 Batavia Avenue, Geneva, Illinois.			
Illinois	(V) Roscoe Winnebago County (Docket No. FEMA-6074)	Rock River	About 750 feet downstream of Roscoe Road	*720
			About 200 feet upstream of confluence of North Kinnikinnick Creek.	*721

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		South Kinnikinnick Creek	Confluence with Rock River	*721
			About 350 feet upstream of Main Street	*725
			About 0.64 mile upstream of Main Street	*736
		North Kinnikinnick Creek	Confluence with Rock River	*721
			About 200 feet upstream of Elevator Road	*726
			About 0.28 mile upstream of Elevator Road	*729
			About 0.71 mile upstream of Elevator Road	*738
		McDonald Creek	Just upstream of Swanson Road	*750
			About 2,050 feet upstream of Swanson Road	*756
Maps available for inspection at the Village Hall, 10595 Main Street, Roscoe, Illinois.				
Louisiana	City of Kaplan, Vermillion Parish FEMA 6079	Tributary 4 Coulee DeJohn Canal	At the lower corporate limits	*13
		Ponding Area	At intersection of North Cushing Avenue and 11th Street.	*13
			At intersection of North Morvant Avenue and 4th Street.	*13
Maps available for inspection at City Clerk's Office, City Hall, 511 North Cushing Avenue, Kaplan, Louisiana 70548.				
Michigan	(C) Alma Gratiot County (Docket No. FEMA-6061)	Pine River	At downstream corporate limits	*725
			Just downstream of Superior Street	*730
			About 1.0 mile upstream of State Street Dam	*735
Maps available for inspection at the City Hall, 525 East Superior Street, Alma, Michigan.				
Michigan	(V) Concord Jackson County (Docket No. FEMA-6074)	North Branch Kalamazoo River	Just upstream of Spring Arbor Road	*977
			Just downstream of Main Street	*979
			Just upstream of Main Street	*988
			About 2,200 feet upstream of Conrail	*988
Maps available for inspection at the Village Hall, 110 Hanover Street, Concord, Michigan.				
Michigan	(C) Owosso Shiawassee County (Docket No. FEMA-6061)	Shiawassee River	At downstream corporate limits	*719
			About 600 feet upstream of Shiawassee Street	*727
			About 800 feet upstream of Main Street	*729
			About 400 feet upstream of Washington Street	*732
			About 3,000 feet upstream of Gould Street	*734
Maps available for inspection at the Clerk's Office, City Hall, 301 to 307 West Main Street, Owosso, Michigan.				
Minnesota	(C) Brooklyn Park Hennepin County (Docket No. FEMA-6061).	Mississippi River	At downstream corporate limits	*818
			Just downstream of Coon Rapids Dam	*827
			Just upstream of Coon Rapids Dam	*832
			At upstream corporate limits	*834
		Eagle Creek	Within corporate limits	*875
		Shingle Creek	At downstream corporate limits	*846
			Just downstream of Noble Avenue	*853
			Just downstream of 74th Avenue North	*859
			About 500 feet upstream of 77th Avenue North (near Brunswich Avenue North).	*868
			About 150 feet downstream of U.S. Highway 52	*870
			Just downstream of Boone Avenue	*875
		Bass Creek	At confluence of Eagle Creek	*875
			Just upstream of Park Road	*881
			Just downstream of 62nd Avenue North	*882
Maps available for inspection at the City Hall, 5800 85th Avenue, North, Brooklyn Park, Minnesota.				
New Jersey	Florence, Township Burlington County (Docket No. FEMA-6061).	Delaware River	Downstream Corporate Limits	*11
		Bustleton Creek	Upstream Corporate Limits at confluence with Crafts Creek.	*13
			U.S. Route 130 (Upstream side)	*30
		Crafts Creek	At confluence with Delaware River	*13
			Conrail (Upstream side)	*17
			U.S. Route 130	*17
Maps available for inspection at the Office of the Township Administrator, 1350 Hornburger Avenue, Roebling, New Jersey.				
New Jersey	Haddon, Township Camden County (Docket No. FEMA-6061.	Cooper River-Eastern Section of Township.	Downstream Corporate Limits	*13
			Upstream Corporate Limits	*14
		Newton Creek- Western Section of township.	Entire Shoreline	*10
		South Branch Newton Creek-Western Section of Township.	Entire Shoreline	*10
		Newton Creek-Eastern Section of Township.	Downstream Corporate Limits	*11
			West Park Boulevard (Upstream side)	*26
			Upstream Corporate Limits	*44
Maps available for inspection at the Office of the Township Clerk, Municipal Building, Haddon and Reeve Avenue, Westmont, New Jersey.				
New Jersey	Holmdel, Township Monmouth County (Docket No. FEMA-6027).	Willow Brook	Confluence with Swimming River	38*
			2,400 feet upstream of Willow Brook Road	*48
			1,450 feet downstream of South Street	*58
			1,380 feet downstream of State Route 34	*68
			150 feet downstream of Pleasant Valley Road	*78
			2,230 feet upstream of Pleasant Valley Road	*88
			4,000 feet upstream of Pleasant Valley Road	*98
			5,300 feet upstream of Pleasant Valley Road	*107

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		East Branch of Willow Creek	Confluence with Willow Brook	*78
			2,370 feet upstream of Pleasant Valley Road	*88
			3,450 feet upstream of Pleasant Valley Road	*96
			4,530 feet upstream of Pleasant Valley Road	*108
		Ramanessin Brook	Confluence with Willow Brook	*41
			3,850 feet upstream of Willow Brook Road	*51
			Downstream of Newman Springs Road	*60
			730 feet downstream of Access Road	*70
			2,120 feet upstream of Access Road	*80
			Downstream of Roberts Road	*102
			750 feet downstream of Roberts Road	*100
			1,900 feet upstream of Roberts Road	*110
			4,030 feet upstream of Roberts Road	*120
			4,970 feet upstream of Roberts Road	*129
		Waackaack Creek	Downstream corporate limits	*10
			1,500 feet downstream of upstream corporate limits	*18
			Upstream corporate limits	*22
		Mahoras Brook	Confluence with Waackaack Creek	*18
			1,080 feet downstream of State Route 35	*28
			Upstream corporate limits	*38
			970 feet upstream of upstream corporate limits	*40
Maps available for inspection at the Construction Office, Municipal Building, Holmdel, New Jersey.				
New Jersey	Mullica, Township Atlantic County (Docket No. FEMA-6033).	Mullica River	Downstream State Route 542	*11
		Great Bay	Mullica River shoreline from downstream Corporate Limits to approximately 3,050 feet downstream of State Route 542 (tidal flooding).	*9
Maps available for inspection at the office of the Township Clerk, White Horse Pike, Elwood, New Jersey.				
New York	Williamsville, Village Erie County (Docket No. FEMA-6061)	Ellicott Creek	Approximately 900 feet downstream of downstream Corporate Limits.	*607
			Downstream Corporate Limits	*609
			First crossing of upstream Corporate Limits	*675
			Upstream of Wehrle Drive	*679
			Upstream Corporate Limits	*665
Maps available for inspection at the Office of the Village Clerk, Village Hall, 5583 Main Street, Williamsville, New York.				
North Carolina	Unincorporated Areas of Henderson County (FEMA-6073)	Franch Wood River	Just downstream of Fanning Bridge Road	*2,059
			Just upstream of Kings Road (State Highway 191)	*2,065
			Just upstream of Johnson Road	*2,071
			Approximately 500 feet upstream of Etowah School Rd.	*2,063
		McDowell Creek	Just upstream of State Highway 191	*2,115
		Cane Creek	Just upstream of Southern Railway	*2,071
			Just upstream of Mills Gap Road (First Crossing)	*2,085
		Hoopers Creek	Just upstream of Jackson Road	*2,099
			Just upstream of Southern Loveston Road	*2,107
			Approximately 250 feet upstream of Hoopers Creek Road.	*2,132
		Mud Creek	Just upstream of U.S. Highway 25	*2,064
			Just upstream of Balfour Road	*2,078
			Downstream of Crail Farm Rd.	*2,109
			Just downstream of Little River Rd.	*2,120
		Clear Creek	Just downstream of Interstate Highway 26	*2,081
			Just upstream of Fruitland Road	*2,107
		Devils Fork	Just upstream of Interstate 26	*2,093
			Approximately 130 feet upstream of Howard Gap Road.	*2,109
			Just upstream of Dana Road	*2,129
		Bat Fork Creek	At New Hope Road	*2,061
		Mill Pond Creek	Just upstream of an unnamed county road	*2,076
		Boylston Creek	Just downstream of Banner Farm Rd.	*2,073
Maps available for inspection at Henderson County Commissioners Building, 244 Second Avenue East, Hendersonville, North Caroline 28739.				
Oregon	Dundee (City) Yamhill County FEMA-6073	Willamette River	Eastern corporate limits along shoreline	*100
Maps available for inspection at City Recorder's Office, 675 Highway 99, Dundee, Oregon.				
Oregon	Newberg (City) Yamhill County FEMA-6073	Hess Creek	Intersection of Southern Pacific Railroad tracks and the channel.	*158
		Chehalem Creek	Approximately 430 feet downstream of the intersection of First Street with the channel.	*105
Maps available for inspection at Planning Department, 414 East 1st Street, Newberg, Oregon.				
Oregon	Sweet Home (City) Linn County FEMA-6073	South Santiam River	At intersection of upstream side of Pleasant Valley Road and South Santiam River.	*492
		Ames Creek	At intersection of 14th Avenue and Ames Creek	*543
Maps available for inspection at City Hall, 1140 12th Avenue, Sweet Home, Oregon.				
Oregon	Tigard (City) Washington County FEMA-6073	Tualatin River Fanno Creek	At south end of SW 92nd Avenue	*126
			100 feet upsteam from center of SW Bonita Road	*137
		Summer Creek	300 feet upstream from center of Southwest 121st Street.	*169
		Ash Creek	50 feet downstream from center of Shade Avenue	*161
Maps available for inspection at Engineering Department, City Hall, 12420 SW Main Street, Tigard, Oregon.				

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Oregon	Yamhill (City) Yamhill County FEMA-6073	Yamhill Creek	At intersection of downstream side of Tualatin Valley Highway (State Highway 47) and Yamhill Creek.	*151
Maps available for inspection at City Hall, 205 S. Maple, Yamhill, Oregon.				
Pennsylvania	Luzerne, Township, Fayette County (Docket No. FEMA-6033).	Monongahela River	Downstream Corporate Limits	*773
			Maxwell Lock and Dam (upstream)	*776
			Upstream Corporate Limits	*787
		Dunlap Creek	Township Route 561 (upstream)	*943
			State Route 166 (upstream)	*951
			Upstream Corporate Limits	*954
Maps available for inspection at the Luzerne Municipal Building, 415 Hopewell Road, Brownsville, Pennsylvania.				
Pennsylvania	Skippack, Township Montgomery County (Docket No. FEMA-6027).	Perkiomen Creek	Downstream Corporate Limits	*123
			Upstream Grateford Road	*130
			Confluence of East Branch Perkiomen Creek	*138
		East Branch Perkiomen Creek	Confluence with Perkiomen Creek	*138
			Approximately 4,200 feet upstream of confluence with Perkiomen Creek.	*145
			Upstream Corporate Limits	*154
		Zacharias Creek	Stump Hill Road	*158
			Upstream Corporate Limits	*166
		Tributary 1 to Skippack Creek	Approximately 250 feet downstream of Old Evansburg Road.	*162
			Upsteam of Collegeville Road	*182
			Private Road approximately 2,200 feet upstream of Collegeville Road.	*193
			State Route 73	*208
Maps available for inspection at the Township Municipal Building, Skippack, Pennsylvania.				
Rhode Island	Exeter, Town, Washington County (Docket No. FEMA-6027).	Queens Fort Brook	120 feet upstream of confluence with Queen River	*130
			2,460 feed downstream of Ladd School Drive No. 2 (Dawley Road).	*140
			Upstream of Ladd School Drive No. 2 (Dawley Road)	*150
			Upstream of Slocumville Road	*158
			620 feet upstream of Slocumville Road	*159
		Chipuxet River	Downstream Corporate Limits	*100
			2,100 feet downstram of Yawgoo Valley Road	*105
			Upstream of Yawgoo Valley Road	*111
			1,470 feet upstream of Yawgoo Valley Road	*112
Maps available for inspection at the Exeter Town Hall, 10 Rod Road, Exeter, Rhose Island.				
Texas	City of Richmond, Fort Bend County (FEMA 6073)	Brazos River	Just upstream of Jackson Street extended	*85
			Just downstream of Hillcrest Drive extended	*83
Maps available for inspection at City Hall, 402 Morton Street, Richmond, Texas 77469.				
Texas	City of Stafford, Ford Bend and Harris Counties (FEMA) 6080).	Stafford Run	Just upstream of dirt road	*60
			Just upstream of Avenue E	*77
Maps available for inspection at City Hall, 2610 South Main, Stafford, Texas 77477.				
Texas	City of Sugarland, Ford Bend County (FEMA 6073)	Oyster Creek	Just downstream of Southern Pacific Railroad	*75
			Just upstream of Oyster Creek Drive	*74
		Brazos River	Just south of the intersection of Route 6 and the levee (Southwest of Char Lake).	*75
Maps available for inspection at City Hall, 255 Guenther Street, Sugarland, Texas 77478.				
Texas	City of Taylor, Williamson County (FEMA 6073)	Mustang Creek	Just downstream of Missouri Kansas Texas Railroad	*514
			Just downstream of South Main Street (State Highway 75).	*517
			Just downstream of North Bound Carlos Parker Loop (U.S. Highway 79).	*533
		Bull Branch	Just upstream of East Third Street	*522
			Just upstream of Burkett Street	*537
			Just downstream of Davis Street	*569
		Mustang Creek Tributary 1	Just upstream of Missouri Pacific Railroad	*551
			Just upstream of Lake Drive	*587
		Gravel Pit Draw	Just downstream of Missouri Pacific Railroad	*524
			Just downstream of U.S. Highway 79	*551
		Railroad Lake Draw	Just downstream of Missouri Pacific Railroad	*533
			Just upstream of Missouri Pacific Railroad	*557
			Just upstream of U.S. Highway 79	*558
Maps available for inspection at City Hall, 400 Main Street, Taylor, Texas 76574.				
Utah	Centerville (City) Davis County FEMA-6073	Parrish Creek	Intersection of Creek View Road and 400 West Street	#1
		Deuel Creek	Approximately 50 feet south of the intersection of Parrish Lane and Frontage Road.	#3
			Upstream side of the upstream crossing of 100 South Street over the channel.	*4,545
		Stone Creek	Intersection of the southern corporate limits and the channel.	*4,254
		Barnard Creek	Approximately 500 feet west of intersection of Chase Lane and State Highway 106.	#1
		Ricks Creek	200 West Street over the channel	*4,270
			Upstream side of State Highway 106 over the channel	*4,316
Maps available for inspection at City Recorder's Office, 521 N. 400 West, Centerville, Utah.				

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Utah	Davis County (Unincorporated Areas) FEMA-6073	Hooper Canyon Creek	Upstream edge of 3350 South	*4,645
		North Canyon Creek	Upstream edge of Davis Boulevard	*4,677
		Davis Creek	Upstream edge of Frontage Road	*4,249
		Steed Creek	Upstream edge of Frontage Road	*4,252
		Haight Creek	Upstream edge of Union Pacific Railroad	*4,278
		Baer Creek	125 feet downstream from center of Union Pacific Railroad.	*4,280
		Holmes Creek	50 feet upstream from center of Fairfield Road	*4,378
		North Fork Holmes Creek	Approximately 1,250 feet east of center of intersection of State Highway 106 and 700 South.	*4,329
		Kays Creek	Downstream edge of 1200 West	*4,267
		Snow Creek	Center of Adamswood Road	*4,420
		Rudd Creek	At eastern corporate limits of the City of Farmington	*4,704
		Barton Creek	Center of 1800 North	*4,224
	Maps available for inspection at Surveyor's Office, Davis County Courthouse, Farmington, Utah.			
Utah	Kaysville (City) Davis County FEMA-6061	Holmes Creek	100 feet upstream from center of Union Pacific Railroad.	*4,292
			Intersection of Holmes Creek and center of Thornfield Drive.	*4,647
			Intersection of Holmes Creek and center of U.S. Highway 89.	*4,787
			Intersection of Crestwood Road and U.S. Highway 89	#1
		Holmes Creek Tributary	Intersection of 200 North Avenue and 1st East Street	#2
			150 feet upstream from center of 1st East Street	*4,389
		North Fork Holmes Creek	200 feet upstream from center of Interstate Highway 15.	*4,311
		Baer Creek	80 feet downstream from center of State Highway 273	*4,390
	Maps available for inspection at City Administrators Office, 44 North Main Street, Kaysville, Utah.			
Utah	South Ogden (City), Weber County, FEMA-6073	Burch Creek	Upstream side of Country Club Drive over channel	*4,420
			Downstream side of Harrison Boulevard over the channel	*4,756
	Maps available for inspection at City Building Inspector's Office, 525 39th Street, South Ogden, Utah.			
Vermont	Colchester, Town, Chittenden County (Docket No. FEMA-6061).	Winooski River	Confluence with Lake Champlain	*102
			City of Winooski Corporate Limits (1st crossing)	*113
			City of Winooski Corporate Limits (2nd crossing)	*187
			Upstream of Dam	*204
			Upstream Corporate Limits	*214
		Lamoille River	Confluence with Lake Champlain	*102
			Upstream Corporate Limits	*106
		Lake Champlain	Entire shoreline within community	*102
	Maps available for inspection at the Colchester Municipal Office of Zoning and Administration, Blakely Road, Colchester, Vermont.			
Washington	Wilkeson (Town), Pierce County, FEMA-6061	Wilkeson Creek	75 feet upstream from intersection of Burlington Northern Railroad and Wilkeson Creek.	*796
	Maps available for inspection at Town Hall, Wilkeson, Washington.			
Wisconsin	(C) Milwaukee Milwaukee and Washington Counties (Docket No. FEMA-6073).	Lake Michigan	At shoreline within community	*584
		Menomonee River	Mouth at Milwaukee River	*584
			About 0.7 mile upstream of North 16th Street	*584
			About 300 feet downstream of North 27th Street	*590
			About 100 feet upstream of North 27th Street	*597
			About 600 feet upstream of West Wisconsin Avenue	*607
			Just upstream of U.S. Highway 41	*626
			Just downstream of West Burleigh Street	*680
			Just downstream of North 124th Street	*710
			Just upstream of West Mill Road	*732
			About 0.75 mile upstream of West Good Hope Road (at county boundary).	*742
		Little Menomonee River	Mouth at Menomonee River	*702
			Just downstream of West County Line Road	*720
		Kinnickinnic River	Mouth at Milwaukee River	*584
			Just downstream of Interstate 94	*590
			About 150 feet upstream of South 20th Street	*630
			Just upstream of South 43rd Street	*650
			About 100 feet upstream of confluence of Lyons Park Creek.	*688
		Wilson Park Creek	Mouth at Kinnickinnic River	*634
			About 0.3 mile upstream of mouth	*637
			About 500 feet downstream of West Lakefield Drive	*646
			Just downstream of West Layton Avenue	*664
		Lyons Park Creek	Mouth at Kinnickinnic River	*687
			About 700 feet upstream of South 55th Street	*739
		Milwaukee River	Mouth at Lake Michigan	*584
			Just downstream of North Avenue Dam	*585
			Just upstream of North Avenue Dam	*600
			Just downstream of East Capitol Drive	*606
			Just downstream of West Silver Spring Drive	*625

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Lincoln Creek	Mouth at Milwaukee River	*622
			Just downstream of West Silver Spring Drive	*669
		Shallow Flooding (Overflow From Lincoln Creek).	Area bordered by North Sercombe Road, North 40th Street, West Capitol Drive and North 30th Street.	#2
		Honey Creek	Just downstream of Blue Mount Road	*682
			Just upstream of West Blue Mount Road	*685
			About 500 feet upstream of South 84th Street	*694
			Just upstream of West Oklahoma Avenue	*731
			Just downstream of West Cold Spring Road	*751

Maps available for inspection at the Office of the Building Inspector, Room 1007, Municipal Building, 841 North Broadway Street, Milwaukee, Wisconsin.

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

Issued: September 16, 1981.

John Dickey,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 81-28501 Filed 10-2-81; 8:45 am]

BILLING CODE 6718-03-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1034

Rerouting of Traffic—Appointment of Agents

AGENCY: Interstate Commerce Commission.

ACTION: Second revised service order No. 1344.

SUMMARY: Second Revised Service Order No. 1344 revises the appointment of agents of the Commission, vested with the authority to authorize diversion and rerouting of loaded and empty freight cars from and to any point in the United States whenever, in their opinion, an emergency exists whereby any railroad is unable to move traffic currently over its lines.

EFFECTIVE DATE: 12:01 a.m., October 1, 1981, continuing in effect until 11:59 p.m., May 18, 1982.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr. (202) 275–7840.

SUPPLEMENTARY INFORMATION:

Decided: September 29, 1981.

When, for any reason, carrier by railroad, subject to Section 10501 of the Recodified Interstate Commerce Act, is unable to transport traffic offered, car service will be promoted in the interest of the public and the commerce of the people by the appointment of agents with authority to reroute and divert such traffic. Notice and public procedure are impracticable and contrary to the public interest, and good cause exists for making this order effective upon less than thirty days' notice.

It is ordered:

§ 1034.1344 Second revised service order No. 1344.

*(a) *Rerouting of traffic—appointment of agents.* J. Warren McFarland, Director, and Robert S. Turkington, Associate Director, Office of Consumer Protection, Interstate Commerce Commission, Washington, D.C., are hereby appointed Agents of the Interstate Commerce Commission and vested with authority to authorize diversion and rerouting of loaded and empty freight cars from and to any point in the United States whenever, in their opinion, an emergency exists whereby any railroad is unable to move traffic currently over its lines.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

*(c) *Effective date.* This order shall become effective at 12:01 a.m., October 1, 1981.

(d) *Expiration date.* This order shall expire 11:59 p.m., May 18, 1982, unless otherwise modified, amended or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304–10305 and 11124.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

*Change in agent and effective date.

By the Commission, Chairman Taylor, Vice Chairman Clapp, Commissioners Gresham and Gilliam.

James H. Bayne,

Acting Secretary.

[FR Doc. 81-28850 Filed 10-2-81; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1102

[Ex Parte No. 290 (Sub-2)]

Railroad Cost Recovery Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Clarification of Decision on Railroad Cost Recovery Procedures.

SUMMARY: The Commission clarifies its interpretation of section 206 of the Staggers Rail Act of 1980 to recognize the right of individual carriers to preclude changes to joint rates to which they are a party. Use of index adopted in prior decision is affirmed.

FOR FURTHER INFORMATION CONTACT: Jane F. Mackall (202) 275–7693.

SUPPLEMENTARY INFORMATION: By decision served April 17, 1981 (46 FR 22594, April 20, 1981), the Commission issued final rules adopting a cost recovery index in accord with section 203 of the Staggers Rail Act of 1980. (49 U.S.C. 10707a). The effect of this decision was to modify existing rules and procedures for the filing of general rail rate increases. Contemporaneously,

the Commission declined to exercise its discretionary authority under section 206 of the Staggers Act (49 U.S.C. 10712). In noting that increases under section 206 become effective automatically unless carriers notify the Commission that they wish to exclude rates from possible section 206 increases, the Commission noted the awkward procedures apparently required by that section to maintain previous rate levels, stating: *"Since all parties to a joint rate must join in such a notice of exclusion,* section 206 is a less efficient means of cost recoupment than the section 203." *Railroad Cost Recovery Procedures,* 364 ICC 841, 842 (1981), (italics added).

By petition filed May 6, 1981, Southern Railway, with whom several other parties join in support, requests the correction of the emphasized portion of above-quoted statement, alleging that this language attempts to change the right of independant action by single carriers to prevent changes to joint rates.

Contrary to the assertions of petitioners, we intended no change in the right of a single carrier individually not to adopt, for its account, changes to joint rates in which it participates. We do not believe that section 206 of the Staggers Act altered the traditional right of independent action by a carrier to prevent changes in its joint rates, nor did we intend so to infer.

Accordingly, the last sentence in the second full paragraph on page 842 (2nd full paragraph, column 1, 46 FR 22595) will be stricken and replaced with "This is a less flexible approach, and given the alternative in Section 203, we choose not to adopt it now." (But see 49 U.S.C. 10705a).

Also on April 23, 1981, a petition to reopen and reconsider the prior decision was filed on behalf of several coal consuming electric power generating companies. Petitoners criticize the adoption of the modified AAR index because it measures prices and not costs. Use of this index is alleged to overstate expenses and to be incompatible with the intent of Congress in enacting section 203 of the Staggers Act. This criticism was thoroughly discussed in the prior decision, 364 ICC at 842 to 844. We need not consider this issue further. Otherwise, the petition fails to show material error or to present new evidence to warrant reopening this proceeding. The petition to reopen is denied.

This decision will not significantly affect the human environment or conservation of energy resources.

The prior decision is clarified and amended as noted above and the petition to reopen of April 23, 1981 is denied.

(49 U.S.C. 1032, 10701a, 5 U.S.C. 553)

Decided: September 23, 1981.

By the Commission, Chairman Taylor, Vice-Chairman Clapp, Commissioners Gresham and Gilliam. Chairman Taylor concurred with a separate expression.

James H. Bayne,

Acting Secretary.

Chairman Taylor, Concurring

Because of the short statutory deadline contained in section 203 of the Staggers Rail Act, it appears that the adoption of the AAR index, as supplemented by the Producers Price Index, was necessitated for reasons of expediency. A cost index designed to measure output would have been considerably more difficult to develop. Nevertheless, while section 203 does not explicitly preclude adoption of the AAR index, and by inference the anticipated AAR all-inclusive index, I have reservations as to whether this is the type of index envisioned by the statute.

[FR Doc. 81-28851 Filed 10-2-81; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 46, No. 192
Monday, October 5, 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.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Accounting Manual for Federal Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rules.

SUMMARY: The NCUA is proposing an amendment to its material which is incorporated by reference that would remove the Accounting Manual for Federal Credit Unions for the list of incorporated material. The Board is proposing the removal because of the increasing divergence in the operations of Federal Credit unions which may necessitate the use of accounting methods and procedures that are not the same as, or are not discussed in the accounting manual. Since the accounting manual is instructional and is intended to be used for guidance, the Board does not feel that it should carry the weight of a regulation, it is therefore being removed.

The Board is also proposing to remove § 701.14, which basically duplicates the list of incorporated material.

DATE: Comments must be received on or before November 27, 1981.

ADDRESS: Send comments to Regulatory Development Coordinator, Robert Monheit, National Credit Union Administration, 1776 G Street, NW, Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Harry E. Moore, Accounting Officer or Joseph Visconti, Surveillance Officer, Office of Examination and Insurance, Telephone: (202) 357-1065.

SUPPLEMENTARY INFORMATION: The Accounting Manual has recently undergone extensive revision. Sections 1000, 3000, 4000, 5000, 6000 and 7000 provide guidance and offer suggestions to Federal credit unions for accounting in all areas of operations. The accounting principles and standards that Federal credit unions are expected to follow in maintaining financial records and preparing financial statements are contained in Section 2000.

The NCUA Board recognizes that the increasing divergence in the operations of Federal credit unions may necessitate accounting methods and procedures that are not the same as, or not included in, the methods discussed by the Accounting Manual, but result in accurate recordkeeping and comply with the accounting principles and standards specified in Section 2000. Because the Accounting Manual is instructional in nature and is for the purpose of providing guidance in accounting in Federal credit unions, the NCUA Board is of the opinion that it should not carry the weight of regulation.

The NCUA Board requests public comment on the proposed deregulation because of the substantial number of groups and organizations that make use of credit union financial statements.

Removal of 12 CFR 701.14 is a housekeeping measure. The section duplicates 12 CFR 701.2 by incorporating by reference, the *Accounting Manual for Federal Credit Unions*, the *Federal Credit Union Bylaws* and *Data Processing Guidelines for Federal Credit Unions* into the NCUA Rules and Regulations. This section also states the manuals are for the purposes of assisting Federal credit union officials in carrying out their duties. As each publication clearly states its purpose and function, there is no need to restate part of the purpose of those manuals in the NCUA Rules and Regulations.

As previously stated, the Accounting Manual has been extensively revised. In a companion action to this proposed rule making, the National Credit Union Administration Board has issued a proposed Interpretative Ruling and Policy Statement (IRPS) which indicates that credit unions that adhere to the principles and standards in Section 2000 of the revised Accounting Manual will be deemed to be in compliance with the full and fair disclosure requirements of Part 702 of the National Credit Union Administration Rules and Regulations. Credit union officials are cautioned that, until final action is taken on this proposed rule and the companion IRPS, the provisions of the Accounting Manual (except for those provisions identified in the list of changes attached to the IRPS) continue to be incorporated by reference in the National Credit Union Administration Rules and Regulations.

A copy of the revised Accounting Manual is being provided to each Federal credit union and single copies are available to the public upon request from: The National Credit Union Administration, 1776 G Street, NW, Washington, D.C. 20456.

Regulatory Flexibility Analysis

The proposed rule, if adopted, will not have a significant economic impact on a substantial number of small credit unions because the proposed rule removes most of the procedures in the Accounting Manual from having the force of regulation and, therefore, provides wider latitude in the accounting operations in all Federal credit unions. Therefore, a Regulatory Flexibility Analysis is not required.

Rosemary Brady,
Secretary of the NCUA Board.
September 24, 1981.

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

1. Accordingly, 12 CFR 701.2 is proposed to be revised to read as follows:

§ 701.2 Incorporation by reference.

(a) The publications used by Federal credit unions, which are identified in this chapter, are hereby incorporated by reference pursuant to 5 U.S.C. 552(a)(1) and the regulation issued thereunder.

(b) Copies of the publications prescribed in this chapter may be obtained on request addressed to National Credit Union Administration, Washington, D.C. 20456.

(c) Revisions or amendments of the publications may be issued from time to time by the National Credit Union Administration. An historic file or such amendments or revisions is maintained and made available for inspection at the National Credit Union Administration, Washington, D.C. 20456.

(d) The publications listed below are hereby incorporated by reference:

(1) Federal Credit Union Bylaws,

(2) Data Processing Guidelines for Federal Credit Unions.

(e) Copies of these publications are on file with the Director, Office of the Federal Register, National Archives and Records Service, General Services

Administration, Washington, D.C. 20408. The text of any changes in said publications will be filed with the Director, Office of the Federal Register, and a notice thereof will be periodically published in the **Federal Register.**

§ 701.14 [Removed]

2. Accordingly, 12 CFR 701.14 is proposed to be removed.

(12 U.S.C. 1789(11))

[FR Doc. 81-28820 Filed 10-2-81; 8:45 am]

BILLING CODE 7535-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Airworthiness Docket No. 81-ASW-43]

Airworthiness Directives; Costruzioni Aeronautiche Giovanni Agusta, Model A109A Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require replacement of the engine mount central legs with improved design legs on Agusta Model A109A helicopters. This action is needed to prevent engine mount leg failure during operation which could result in possible loss of engine support.

DATES: Comments must be received on or before November 5, 1981.

ADDRESSES: Send comments on the proposal in triplicate to: Regional Counsel, attention Airworthiness Docket No. 81-ASW-43, Federal Aviation Administration, Southwest Region, P.O. Box 1689, Fort Worth, Texas 76101.

The applicable service bulletin may be obtained from: Costruzioni Aeronautiche Giovanni Agusta, Cascina Costa (Gallarate), Italy.

FOR FURTHER INFORMATION CONTACT: C. Christie, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium, telephone: 513.38.30, or J. H. Major, Helicopter Policy and Procedures Staff, ASW-211, P.O. Box 1689, Fort Worth, Texas 76101, telephone (817) 624-4911, extension 502.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Information on the economic, environmental, and energy impact that might result because of the adoption of the proposed rule is requested. Communications should identify the regulatory docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Director before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available before and after the closing date for comments for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of the proposed AD will be filed in the Rules Docket.

Availability of NPRM's

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to: Federal Aviation Administration, Southwest Region, Office of the Regional Counsel, Attention: Airworthiness Docket No. 81-ASW-43, P.O. Box 1689, Fort Worth, Texas 76101.

Discussion of Proposed Rule

There have been several reports of engine mount central leg failures and loss of engine support while in operation. Improved legs have been developed to prevent the mount failures that have occurred in operation. The present central legs must be replaced with the improved legs within 200 hours' time in service. The manufacturer required installation before June 30, 1981.

It is estimated that 19 helicopters will be affected by this AD, that it will take approximately 35 man-hours per helicopter to accomplish the required actions, and that the average labor cost will be $30 per man-hour. Repair parts are estimated at $1,100 per helicopter. The total cost impact is estimated to be $132,050. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

Costruzioni Aeronautiche Giovanni Agusta: Applies to Model A109A series helicopters through serial number 7169 equipped with engine mount central legs, P/N 109-0605-06 and 109-0605-07, certificated in all categories (Airworthiness Docket No. 81-ASW-43).

Compliance is required within 200 hours' time in service after the effective date of this AD, unless already accomplished.

To prevent failure of the engine mount central leg and loss of engine support, accomplish the following:

(a) Remove the engine mount central legs, P/N 109-0605-06-13, 109-0605-06-14, 109-0605-07-13, 109-0605-07-14.

(b) Install engine mount central leg assemblies, P/N 109-0640-84-1 and -2, and P/N 109-0640-85-1 and -2 as described in Section 71-20-00 of the A109A maintenance manual.

(c) Install engines and check engine to transmission alignment as described in Section 71-00-00 of the A109A maintenance manual.

(d) If an equivalent means of compliance is used in complying with this AD, that equivalency must be approved by the Chief, Aircraft Certification Staff, AEU-100, FAA, Europe, Africa and Middle East Office, c/o American Embassy, Brussels, Belgium. Compliance with Agusta Technical Bulletin No. 109-25, dated August 29, 1980, constitutes compliance with this AD.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); 14 CFR 11.85))

Note.—The FAA has determined that this document involves a proposed regulation that is not major under the provisions of Executive Order 12291 for the reasons stated earlier. It has been further determined that this proposed regulation is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft regulatory evaluation for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "For Further Information Contact." In addition, it has been determined under the criteria of the Regulatory Flexibility Act that this proposed rule, at promulgation, will not have a significant impact on a substantial number of small entities.

Issued in Fort Worth, Texas, on September 18, 1981.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 81-28690 Filed 10-2-81; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 81-NE-16]

Airworthiness Directives; General Electric Co. CF6-45 and CF6-50 Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that

requires replacement of certain titanium high pressure compressor (HPC) parts found on CF6–45 and CF6–50 series engines. High vibration or rotor unbalance causing severe rubbing of titanium high pressure compressor components has resulted in engine fires.

DATES: Comments must be received on or before December 30, 1981.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, New England Region, Office of Regional Counsel, Attn: Rules Docket (ANE–7), Docket No. 81–NE–16, 12 New England Executive Park, Burlington, Massachusetts 01803.

Comments may be examined in the Rules Docket weekdays, except Federal holidays, between 8:00 a.m. and 4:30 p.m.

The applicable service bulletins may be obtained from: General Electric Company, Neumann Way, Cincinnati, Ohio 45215.

A copy of the service bulletins are contained in the Rules Docket, Office of the Regional Counsel, New England Region, 12 New England Executive Part, Burlington, Massachusetts.

FOR FURTHER INFORMATION CONTACT:

Henry A. Jackson, Engine Projects Section (ANE–214E), Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273–7347.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 81–NE–16". The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMS

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW, Washington, DC 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

Need for Rulemaking

There have been 32 titanium fires in CF6–50 engines. Testing and analysis have shown that the substitution of steel high pressure compressor components for titanium in critical areas has eliminated titanium fires. It is the intent of the proposed AD to require the replacement of the titanium forward high pressure compressor case, inlet and first and second stage vanes, and stage 6–9 blades with steel parts. Configuration changes are simultaneously required on the titanium 3–9 spool and stages 3–5 blades.

Compliance Date

The requirements of the AD shall be incorporated in installed engines prior to December 31, 1982.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new AD:

General Electric Company. Applies to CF6–45 and CF6–50 series engines. Unless already accomplished to preclude the possibility of uncontained titanium fires, replace as follows, prior to December 31, 1982:

(a) Compressor stator assembly including the compressor case and stage 6 vanes:

Name	Remove P/N	Install P/N
Compressor stator assembly	9213M26G01	9213M36G01
Compressor stator case	9204M30G13	9206M86G02–5
Vane - stage 6	K647P02	K600P13–18

and associated parts in accordance with General Electric CF6–45 and CF6–50 Service Bulletin 72–549, Revision 1, dated July 5, 1979, or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA, New England Region.

(b) Compressor stator assembly vanes:

Name	Remove P/N	Install P/N
Vane—inlet	K001P07	K086P03
Vane—stage 1	K172P01	K186P03
Vane—stage 2	K202P02	K286P03

and associated parts in accordance with General Electric CF6–45 and CF6–50 Service Bulletin 72–550, Revision 1, dated July 5, 1979, or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA, New England Region.

(c) High pressure compressor rotor parts:

Name	Remove P/N	Install P/N
Compressor rotor assembly	9213M37G01	9105M89G03
Blade—stage 3	K1281P01–4	K129P05–8
Blade—stage 4	K110P05–8	K146P09–12
Blade—stage 5	K111P05–8	K147P09–12
Blade—stage 6	K112P05–8	K134P09–12
Blade—stage 7	K113P05–8	K140P09–12
Blade—stage 8	K812P05–8	K142P13–16
Blade—stage 9	K959P01–8	K143P09–12
Spool—stage 3–9	9185M60G17	9136M89G06
or	9185M60G04,3	9136M89G07

and associated parts in accordance with General Electric CF6–45 and CF6–50 Service Bulletin 72–550, Revision 6, dated September 3, 1980, or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA, New England Region.

Note.—For engines installed on McDonnell Douglas DC10–30 aircraft, incorporation of Douglas Aircraft Company Service Bulletins 71–91 which modifies engine mounted brackets and 54–60 which modifies the pylon for increased strength are required concurrently with the installation of engines incorporating the requirements of the proposed AD. For enginers installed on Airbus Industrie A300 Aircraft, concurrent incorporation of A/I Service Bulletin 71–028 which modified engine mounted brackets is required.

The manufacturer's service bulletins identified and described in this proposed directive are filed as part of the original document. All persons affected by this proposed directive who have not already received these documents from the manufacturer may obtain copies upon request to General Electric Company, Neumann Way, Cincinnati, Ohio 45215. These documents may also be examined at Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85)

Note.—The FAA has determined that this proposed regulation involves a regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and will not have a significant effect on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since it involves engines used on only a few aircraft owned by small entities. A draft evaluation has been prepared for this proposed regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Burlington, Mass., on September 10, 1961.

John B. Roach,

Acting Director, New England Region.

[FR Doc. 81-28698 Filed 10-2-81; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 210, 240, and 249

[Release Nos. 33-6350; 34-18121; 35-22204; IC-11957; File No. S7-906]

Instructions for the Presentation and Preparation of Pro Forma Financial Information and Financial Statements of Companies Acquired or to be Acquired

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rules.

SUMMARY: The Commission is proposing uniform instructions for the presentation and preparation of pro forma financial information in Commission filings. In general, the proposed rules codify existing administrative practices; the proposals also include an alternative presentation which would include a financial forecast. The proposed rules are not intended to significantly modify the various situations for which pro forma financial presentations are now required or alter the specific disclosures required by existing accounting literature. In addition, the proposed rules would consolidate existing requirements for including financial statements of companies acquired or to be acquired in registration statements. In conjunction with the proposed rules, the Commission also proposes to relocate the content, with certain minor modifications, of Article 11 of Regulation S-X and to delete Article 11A of Regulation S-X.

DATE: Comments should be received on or before December 18, 1981.

ADDRESSES: Comments should be addressed in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capital Street, Washington, D.C. 20549. Comment letters should refer to File No. S7-906. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: David F. Martin (202-272-2130), or Eugene W. Green, Jr. (202-272-2130), Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission is proposing rules which, if adopted, would incorporate in Regulation S-X ("S-X") its administrative policies and practices applicable to the presentation and preparation of pro forma financial information in proxy statements and other filings with the Commission. The proposed rules are intended to simplify and improve the registration and reporting process by codifying current policies developed on an ad hoc basis by the Commission's Division of Corporation Finance through the comment process as well as those practices generally followed by registrants when presenting pro forma financial information in Commission filings. The presentation of pro forma financial information would be modified from existing practice to more clearly distinguish between the one-time impact and on-going impact of the transaction. The proposed rules are not intended to change or expand the various reporting situations for which pro forma financial information has been presented in the past.

As part of the Commission's effort to encourage presentation of projected financial information, the proposed rules would permit an alternative presentation which would include a financial forecast.

The proposed rules would also bring together Commission requirements relating to historical financial statements of businesses acquired or to be acquired.

As part of the reorganization of certain portions of S-X which will be necessary if the proposed rules are adopted, the Commission is proposing to relocate the content, with certain minor modifications, of Article 11, Content of Statements of Other Stockholders' Equity, and to delete Article 11A, Statement of Source and Application of Funds, because the information required by that Article is also required by generally accepted accounting principles.

The Commission is also requesting comments on whether presentation of pro forma financial information should be required for consummated transactions in filings on Form 8-K.

Background

Pro forma financial information is principally used to show the effect of (a) significant planned or consummated transactions or other events which occur after the date of the historical financial statements or (b) certain significant transactions which have occurred during the year. Pro forma financial information is frequently presented in proxy statements and other filings made with the Commission. In order to clarify and conform the disclosure requirements applicable to pro forma financial information, the Commission proposes to incorporate its administrative policies (which are generally followed but are not presently set forth as Commission rules) into its regulations under S-X. The proposed rules have been stated in general terms to provide the necessary flexibility for tailoring disclosures to particular facts and circumstances.

Need for Codification

Pro forma financial information is required in a number of circumstances under generally accepted accounting principles and is required in certain proxy statements and other filings with the Commission to facilitate investor understanding of proposed transactions. Notwithstanding this frequent use, guidance about the presentation and preparation of pro forma financial information is limited and as a result the form and content of these disclosures vary significantly.

Commission requirements for pro forma financial statements are currently in Rules 3-07 and 3-08 of S-X (§§ 210.3-07 and 210.3-08) and in Regulation 14A of the proxy rules. These rules are brief and pertain generally to situations where business combinations are planned or have occurred. Rule 170 of the Securities Act Rules (17 CFR 230.170) prohibits the use of pro forma statements which give effect to the use of cash proceeds in offerings which are underwritten on a best efforts basis. This rule, which has been incorporated into the proposed rules,[1] is intended to prevent the presentation of pro forma statements which could be misleading should only a portion of the offered

[1] Rule 170 has not been rescinded because Regulation S-X does not apply to Regulation A or Form S-18 filings.

securities be sold. Rule 15c1–9 (17 CFR 240.15c1–9) of the Exchange Act Rules provides that all assumptions on which adjustments are based must be stated.

Problems encountered in specific filings have been resolved by the Commission's staff on a case-by-case basis. As a consequence, informal policies and practices have developed which are not incorporated into Commission rules or regulations. The Commission believes that its administrative policies and practices should be set forth as formal regulations so that registrants planning to file registration statements or prepare proxy statements know when and what pro forma financial information is required. For this reason, the Commission is proposing to amend S–X to establish uniform instructions for the presentation and preparation of pro forma financial information.

Discussion

The remainder of this release will summarize the proposed rules and alternatives which were considered. Existing Rules 3–07 and 3–08 address when registrants are to present pro forma financial information and historical financial statements of businesses acquired or to be acquired. The proposed rules consider these topics individually by proposing revisions to Rules 3–07 and 3–08 insofar as they relate to historical financial statement requirements and a new Article 11 [2] in S–X which will address all aspects of pro forma financial information.

Financial Statements of Businesses Acquired or To Be Acquired

Proposed Rules 3–07 and 3–08 include rules currently specified in existing Rules 3–07 and 3–08 and Securities Act Release No. 4950.[3] Proposed Rule 3–07 would retain the requirement for filing audited income statements for a business acquired before the most recent balance sheet date when the acquired business has major significance relative to the registrant and proposed Rule 3–08 would retain the requirement for filing audited financial statements of a significant business acquired after the most recent balance sheet date or for a business to be acquired. Both rules would contain procedures for requesting a waiver of the audit requirement in unusual circumstances.

The Commission considered reducing the disclosures required by these rules to a summarized or condensed level but determined not to propose changing the existing requirements. In the case of Rule 3–07 an escalating threshold for disclosure is provided so that the disclosures are required only where an acquisition could have a highly significant impact on the registrant's operations. In these situations, the Commission believes a complete income statement should be presented to enable a better understanding of the past transaction.

For Rule 3–08 situation, the fact that the transaction is imminent or just recently completed calls for complete financial statements so that investors can assess the full impact of the transaction.

Pro Forma Financial Information Presentation Requirements

The instructions in existing Rules 3–07 and 3–08 of S–X, insofar as they relate to pro forma financial information, are of a general nature and pertain only to those situations where successions to other businesses have occurred or are planned. Proposed Article 11 would also cover significant dispositions and other events or circumstances for which pro forma financial information should be presented in filings with the Commission.

The proposed rules applicable to business combinations substantially incorproate requirements for pro forma financial information contained in existing Rules 3–07 and 3–08. Therefore, the requirements for presenting pro forma financial information for business combinations are essentially unchanged from existing rules.

A recurring problem in deciding whether to present pro forma financial information for business combinations has been determining if a "business" has been acquired. Is a line of business a "business"? Is a product line a "business"? Is a division a "business"? Are significant amounts of related assets a "business"? The answers to these questions may very well depend on the facts and circumstances of the situation. For purposes of this release the term "business" has not been defined. Commentators are specifically requested to indicate whether they believe that a definition of "business" would be helpful or whether additional criteria should be supplied to better delineate when pro forma financial information is required and to make suggestions about any such definition or criteria.

The proposed rules would articulate the Commission's policy that if an acquisition is planned to take place in two stages pro forma financial information must be presented in a registration statement for the first stage as though the second stage had been completed. For example, a two-stage acquisition might involve selling securities and then using the proceeds to make the acquisition. Pro forma financial information presented in the filing for the sale of the securities should reflect the acquisition to be made with the proceeds. Of course, pro forma financial information could be supplied only if the target company had been identified at the time of filing the first stage registration statement.

The proposed rules applicable to dispositions primarily involve divestitures which have not been consummated. These rules would establish requirements to present pro forma financial information where the registrant plans to dispose of a significant part of its business or assets. They also formalize those practices generally followed by registrants in initial filings wheer the issuer or an acquired business was previously a non-autonomous part of an existing business entity.

In addition to business combinations and dispositions, entities sometimes enter into other types of significant transactions for which pro forma financial information should be presented. Such transactions might include reorganizations, unusual asset exchanges and restructuring of existing indebtedness. It is not possible to anticipate all of the situations for which pro forma financial information should be presented, so a comprehensive listing of situations has not been incorporated in the proposed rules. Registrants must exercise judgment in determining whether pro forma financial information will be meaningful in light of the particular facts and circumstances of the transaction. Commentators are requested to comment on this area and to specifically suggest additional criteria which they believe would be useful in determining those situations for which pro forma financial information should be presented.

Many times a registration statement is filed at a time when management is considering a transaction which is unrelated to the reason for which the registration statement is being filed. In these situations a question arises about whether pro forma financial information reflecting the unrelated transaction should be included in the filing. The proposed rules would state that pro

[2] This release proposes to renumber existing Rule 3–06 as Rule 3–03 and move the substance of existing Article 11 to Rule 3–04. Securities Act Release No. 6316 (May 11, 1981) [46 FR 27344] proposed to rescind Rules 3–03, 3–04 and 3–05. Rules 3–05 and 3–06 would be reserved for future use.

[3] Securities Act Release No. 4950 (February 20, 1969) [34 FR 4686], General Requirements for Certified Financial Statements of Companies Acquired or to be Acquired.

forma financial information is required for "planned" transactions and define planned as the point in time when it seems probable that the transaction will be consummated. Generally, that point is reached when an agreement in principle has been reached or the Board of Directors has reached agreement on the transaction even though the transaction is subject to shareholder approval.

Proposed Article 11 would establish a test for the presentation of pro forma financial information. In essence, this test would provide that pro forma financial information need not be furnished where the change in selected financial items for the latest year, compared to those on a pro forma basis giving effect to the planned or consummated transaction, is less than 10%. This threshold of disclosure would be established to limit the presentation of pro forma financial information to those events which have a significant impact on the entity.

The Commission recognizes that there may occasionally be highly unusual circumstances which would cause pro forma financial information to be misleading or meaningless. Accordingly, the proposed rules would provide that in these limited situations the registrant could request that appropriate information be substituted or that pro forma financial information be omitted. The Commission's intention is that the request for waiver would be used sparingly and that a waiver would be granted only in highly unusual circumstances.

Securities Act Rule 170 prohibits the use of pro forma statements which give effect to the use of cash proceeds in offerings which are underwritten on a best efforts basis. The Commission continues to believe that pro forma financial information would be misleading if presented in these circumstances. Accordingly, the content of Rule 170 has been included in the proposed rules.

Preparation Requirements

The proposed amendments would establish rules and instructions for the preparation of pro forma financial information. Specifically, this proposed section would be divided into three parts covering (1) the objective of pro forma financial information; (2) the form and content of such information; and (3) the periods for which such information is to be presented.

The proposed rules largely incorporate existing practices and administrative policies which are generally followed in connection with business combinations using the purchase method of accounting and so-called "carve-out" transactions whereby a non-autonomous part of a business entity is separated from the existing entity. These rules have been drafted in a broad fashion since flexibility is necessary to tailor pro forma disclosures to particular events and circumstances. Although there will certainly be circumstances which are not covered, the proposed rules provide guidance for the majority of situations in which controversial issues occur. Because of the multiplicity of situations which can occur, a comprehensive rule is not practicable and registrants will be urged to comply with the overall "spirit" established by the proposed rules when specific guidance is lacking and, of course, will be encouraged to consult with the Commission staff in those instances where unique or other special circumstances exist.

1. Objective

The first part of the preparation section states the objective of pro forma financial information. This provision may be the most significant of the proposed rules since it would form the basis for the other proposed rules. In particular, it would specify that the purpose of pro forma financial information is to illustrate the impact on the historical financial statements of a planned or consummated transaction had it occurred earlier. The objective would be to provide shareholders and investors with information which would enable them to better understand the impact on the registrant of a past or proposed transaction or event by showing the effect it might have had on historical financial statements.

2. Form and Content

The second part of the preparation section, the form and content or pro forma financial information, would establish uniform requirements governing the information to be presented, instructions as to its preparation, and the extent of detail deemed necessary for sufficient disclosure. The Commisison thinks that pro forma financial information is most useful when certain information is disaggregated so that investors can clearly distinguish between the one-time and continuing impacts of a transaction. To this end, portions of this section would modify existing practice by separating the two types of impacts.

The financial information to be presented, in most circumstances, would consist of a condensed pro forma balance sheet, condensed pro forma statements of income, a table of nonrecurring charges and credits, and accompanying explanatory notes. Consistent with past practice, a pro forma statement of changes in financial position would not be required. The proposed rules would prescribe the format these disclosures should take and allow condensed pro forma financial statements to be predented in the same degree of detail as the latest Form 10-Q filed with the Commisison. They also would require that the condensed pro forma financial statements be accompanied by a general description of the assumptions underlying the presentation and explanations of the pro forma adjustments made to the condensed historical financial statements in arriving at the condensed pro forma financial statements.

The major problem in the preparation of pro forma financial information is determining what changes should be reflected in the statements. It is difficult to determine that all changes have been identified and considered. The rules proposed herein would require the application of adjustments to reflect all significant changes directly attributable to the transaction or event which created the need for the pro forma financial information. Adjustments would be reflected only for changes which are reasonably certain to occur.

Under the proposed rules certain adjustments which apply to the balance sheet would not be applicable to the income statement. Adjustments which reflect the nonrecurring aspects of an event would not be reflected in the condensed pro forma statement of income whereas the related asset or liability would be reflected in the condensed pro forma balance sheet. For instance, the gain or loss on the disposition of a significant portion of a business would not be reflected as a pro forma adjustment in the condensed pro forma income statement for the continuing entity but would be reflected as a pro forma adjustment of retained earnings in the condensed pro forma balance sheet.

The rule proposals would add a table of nonrecurring charges and credits to existing pro forma disclosures. This table would be prepared on a basis consistent with the condensed pro forma financial statements and presented below the condensed pro forma statement of income. The purpose of the table would be to summarize the one time cost or benefit of the transaction to the registrant so that the user of the pro forma information would be able to better understand the impact of the transaction on current year earnings. Pro forma adjustments for the

nonrecurring aspects of an event, such as the gain or loss on the transaction, would be reflected in this table as well as costs specifically identified with and directly related to the transaction, such as fees for legal, accounting, printing and financial advisory services incurred because of the transaction.

An example of a pro forma adjustment which might be made to reflect the recurring aspects of an event in the condensed pro forma statement of income is an adjustment for lower costs resulting from a combination of businesses which reflects a reasonably certain reduction in compensation expense for specifically identified individual employees whose employment will be terminated and whose principal duties will be abolished or assumed by others. However, the severance or termination pay to be incurred because of the reduction in employees would not be reflected in the condensed pro forma income statement since it is a one-time charge and will not have a continuing impact on operations. The liability for such severance pay would be a pro forma adjustment reflected in the condensed pro forma balance sheet and the charge for such severance pay would be reflected in the table of nonrecurring charges and credits.

For registrants that present "income from continuing operations" in accordance with Accounting Principles Board Opinion No. 30, "Reporting the Results of Operations" or an appropriately modified caption as described in footnote 3 of AC § 2012.08,[4] a significant change from past practice is contained in the proposed rules. The historical income statement, used as the basic starting point in arriving at the condensed pro forma income statement, would report information only through income from continuing operations thus excluding from the determiantion of pro forma operating results such items as previously discontinued operations, extraordinary items and cumulative effects of accounting changes. This format would permit the investor to focus directly on the impact of the transaction on the registrant's continuing operations rather that be confused with unusual transactions which have occurred previously.

As indicated in the above discussion, the presentation of pro forma financial information as prescribed in the proposed rules would be designed to direct the reader's attention to the continuing impact of the transaction on the company. Commentators are requested to address the appropriateness of this approach and provide specific suggestions as to any changes therein.

3. Periods To Be Presented

The third part of the preparation section would specify the periods to be covered by pro forma financial information in proxy statements and other filings with the Commission. The proposed rules would require a condensed pro forma balance sheet for the most recent fiscal yearend or the end of the most recent subsequent interim period, whichever is more current, and condensed pro forma income statements for the most recent fiscal year and any subsequent interim period. The Commission believes that presentation of comparative interim period condensed pro forma income statements is not necessary but would not object if a pro forma income statement for the comparable interim period from the preceding year was presented. When consummated transactions are already reflected in the historical balance sheet, only condensed pro forma income statements would be required.

When a planned business combination will be accounted for as a pooling of interests, the pro forma income statments would be a restatement of the historical income statements as if the combination had been consummated. Such pro forma income statements would be required for all periods for which historical income statements are required in lieu of the proposed requirements discussed in the preceding paragraph.

Financial Forecasts

The Commission has encouraged disclosure of financial projections in the past.[5] In furtherance of the Commission's goal of encouraging the disclosure of projections, the proposed rules contain an option which would permit registrants to file a financial forecast in lieu of the pro forma condensed statements of income.

The financial forecast would be required to be presented in accordance with the guidelines established by Statement of Position 75–4, Presentation and Disclosure of Financial Forecasts, issued by the Auditing Standards Division of the American Institute of Certified Public Accountants in August 1975. The proposed rules would also provide that the forecast cover at least 12 months from the latest of (1) the effective date of the filing or (2) the consummation date or planned consummation date of the transaction. The degree of detail to be presented in the forecast would be the same as that required for pro forma financial information. When the forecast option is elected, disclosure of condensed historical information of the registrant and the business acquired or to be acquired, if any, would be required to facilitate an investor's comparison of the information.

A pro forma condensed balance sheet and table of nonrecurring charges and credits would be required under this option to provide investors with information about the immediate impact of the transaction. Additionally, the proposed rules would not permit the substitution of forecast information for pro forma information required by generally accepted accounting principles.

The proposed rules do not require the association of an independent auditor with a financial forecast. Commentators are requested to address the usefulness of an independent accountant's review and to comment on whether the Commission should require such a review when a forecast is presented in lieu of certain pro forma financial information.

Regulation 14A, Schedule 14A, Item 14

The present instructions for the inclusion of pro forma financial information in proxy statements are contained in Schedule 14A of Regulation 14 under the Securities Exchange Act of 1934. Specifically, Item 14(b)(6) of Schedule 14A pertains to planned transactions and provides that a combined pro forma summary of earnings, as appropriate in the circumstances, be presented if shareholder approval is sought on a merger, consolidation, or acquisition of assets. In practice, however, the disclosures included in proxy or information statements frequently include a pro forma balance sheet and an abbreviated pro forma income statement substituted for the required summary.

The proposed revisions to Regulation 14A recognize that summaries of earnings are no longer required and are designed to codify accepted practices involving pro forma financial disclosures and to attain uniformity where such information is presented in proxy and information statements. The principal changes would delete the existing requirement for the pro forma summary of earnings and refer instead to the newly established instructions in

[4] AICPA Professional Standards, Volume 3 AC Section 2012.08.

[5] See Securities Act Release No. 5992 (November 7, 1978) [43 FR 53246], Guides for Disclosure of Projections of Future Economic Performance and Securities Act Release No. 6084 (June 25, 1979) [44 FR 38810], Safe Harbor Rule for Projections.

Regulation S–X, thereby resulting in a single disclosure requirement applicable to the preparation of pro forma financial information. Additionally, several technical amendments are proposed to clarify and improve the requirements in the existing proxy rules.

Other Commission Rules Possibly Affected

While the Commission is not proposing at this time to revise Form 8–K, comment is specifically invited about whether pro forma financial information for consummated transactions should be required in this form in light of the enhanced role this Exchange Act report plays in the integrated disclosure system, particularly in the context of proposed Forms S–2 and S–3.[6] In addition, the Commission expects to modify provisions of proposed Forms S–2 and S–3 to include references to proposed Article 11 at such time as the proposals in this release are adopted. This modification would permit pro forma financial information contained in Exchange Act filings to be incorporated by reference in a prospectus where the form so allows.

The Commission intends to revisit the disclosure requirements of Rules 13e–3 and 13e–4 as well as those of Schedules 13E–3 (17 CFR 240.13e–100) and 13E–4 (17 CFR 240.13e–100) in connection with a planned re-examination of its regulations pertaining generally to disclosures in the context of negotiated business combinations including mergers and tender offers. At such time, the Commission will address the applicability of the rules proposed herein to those disclosure requirements.

Proposed Deletion of Article 11A of S–X

In conjunction with the rules proposed on pro forma financial information, the Commission plans to reorganize certain sections of S–X to make the sequence of rules more logical. This process includes deleting disclosure requirements which are no longer necessary. The information required by Article 11A of S–X, Statement of Source and Application of Funds, is substantially the same as the information required by Accounting Principles Board Opinion No. 19, Reporting Changes in Financial Position. Therefore, the Commission believes that it is no longer necessary for the Commission to maintain the requirements in Article 11A and is proposing to delete this Article.

In accordance with the foregoing, it is proposed to amend 17 CFR Chapter II as follows:

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

§ 210.3–06 [Redesignated as § 210.3–03]

1. By redesignating § 210.3–06 as § 210.3–03.

2. By removing §§ 210.11–01 and 210.11–02 (Article 11) and combining their substance in a new § 210.3–04 to read as follows:

§ 210.3–04 Contents of statements of other stockholders' equity.

(a) This rule prescribes the content of the statements of other stockholders' equity specified in §§ 210.5–02.31, 210.6–22.26, 210.7–03.22, 210.7a–03.24 and 210.9–02–22.

(b) A reconciliation shall be given for each class of other stockholders' equity set forth in the related balance sheet as follows:

(1) *Balance at beginning of period.* State separately the adjustments to the balance at the beginning of the first period of the report for items which were retroactively applied to periods prior to that period.

(2) *Net income or loss from income statement.*

(3) *Dividends.* For each class of shares state the amount per share and in the aggregate.

(4) *Other.* Specify.

(5) *Balance at end of period.* The balance at the end of the most recent period shall agree with the related balance sheet caption.

3. By revising §§ 210.3–07 and 210.3–08 to read as follows:

§ 210.3–07 Requirements for income statements of businesses acquired before the date of the most recent balance sheet.

(a) If, before the date of the most recent balance sheet filed pursuant to § 210.3–01, the registrant has acquired by the purchase method of accounting a business or an interest in a business, the investment in which is accounted for by the equity method, and such business or investment was significant to the registrant as described below, audited income statements for such business shall be filed for such periods prior to the transaction date as may be necessary when added to the time, if any, for which audited income statements after the transaction date are filed to cover the equivalent of the periods specified in § 210.3–02, or such fewer periods as the business may have been in existence. A business or investment is significant based on the tests used in the definition of "significant subsidiary" in § 210.1–02. The test shall be made for the latest annual consolidated financial statements of the registrant with substituted percentages to be used as follows:

(1) If the transaction was consummated during the last fiscal year or during a subsequent interim period, no substitution.

(2) If the transaction was consummated during the penultimate fiscal year, 25 percent.

(3) If the transaction was consummated prior to the penultimate fiscal year, 45 percent.

If financial statements of an acquired business are not required in the year of acquisition, they would not be required subsequently.

(b) If more than one business has been acquired or more than one investment has been made, the required income statements may be presented on a combined basis, if appropriate.

(c) The Commission may, upon the written request of the registrant and where consistent with the protection of investors, waive the audit requirement of one or more of the income statements required herein or permit the filing in substitution therefor of appropriate statements of comparable character if the required audited income statements are not reasonably available to the registrant because the obtaining thereof would involve unreasonable effort, expense or practical difficulties. See § 210.3–08(c) for procedures to follow in these circumstances.

§ 210.3–08 Requirements for financial statements of businesses acquired after the date of the most recent balance sheet or of businesses to be acquired.

(a) If, after the date of the most recent balance sheet filed pursuant to § 210.3–01, the registrant has succeeded to or plans (as defined in § 210.11–01(b)) to succeed to a business or has acquired or plans to acquire an investment in a business which is to be accounted for by the equity method, and the business or investment is significant to the registrant as described below, financial statements shall be filed for such business in accordance with §§ 210.3–01 and 210.3–02 or such fewer periods as the business has been in existence. A business or investment is significant

[6] Proposed Forms S–2 and S–3, which require pro forma financial information, permit certain information about material changes to be incorporated by reference from a previously filed report. See Item 11 of proposed Form S–2 and Item 11 of proposed Form S–3, Securities Act Release No. 6331 (August 6, 1981) (46 FR 41902).

based on the tests used in the definition of "significant subsidiary" in § 210.1–02.

(b) If more than one business has been acquired or is to be acquired or more than one investment has been made or is to be made, the required financial statements may be presented on a combined basis, if appropriate.

(c) The Commission may, upon the written request of the registrant and where consistent with the protection of investors, waive the audit requirement of one or more of the financial statements required herein or permit the filing in substitution therefor of appropriate statements of comparable character if the required audited financial statements are not reasonably available to the registrant because the obtaining thereof would involve unreasonable effort, expense or practical difficulties. A written request for such relief should be submitted to the Chief Accountant of the Division of Corporation Finance.

(1) The request shall set forth the following information:

(i) The reason(s) for the unavailability of the audited financial statements;

(ii) The estimated costs of the audit;

(iii) An explanation of any practical auditing problems;

(iv) A letter from the registrant's independent accountants confirming the above representations; and

(v) A tabular presentation for the latest fiscal year of the following items of information, comparing the acquired business(es) with the registrant on a consolidated basis (excluding the acquired business(es)):

(A) Gross sales and operating revenues;

(B) Net income;

(C) Total assets;

(D) Total stockholders' equity; and

(E) Total purchase price compared to total assets of registrant.

(2) Provided that the informaton presented in response to paragraphs (c)(1)(i) to (iv) of this section is satisfactory, the tabular information will be evaluated using the following guidelines:

(i) If none of the items exceed 10 percent, audited financial statements will not be required;

(ii) If any of the items exceed 10 percent but none exceed 25 percent, an audited balance sheet and an audited statement of income for at least six months, or such shorter period as the business has been in existence, will be required;

(iii) If any of the items exceed 25 percent but none exceed 45 percent, an audited balance sheet and an audited statement of income for at least 12 months, or such shorter period as the business has been in existence, will be required;

(iv) If any of the items exceed 45 percent, an audited balance sheet and audited statements of income for three years, or such fewer periods as the business has been in existence, will be required.

(3) No relief from the three-year audit requirement for financial statements of a company to be acquired will be available when the securities to be registered are to be offered to the security holders of that company in exchange for their securities or when the proceeds from the offered securities will be used directly or indirectly to purchase such company.

4. By adding §§ 210.11–01, 210.11–02, and 210.11–03 (new Article 11) to read as follows:

Pro Forma Financial Information

§ 210.11–01 Presentation requirements.

(a) Pro forma financial information shall be furnished when any of the following conditions exist:

(1) During the most recent fiscal year or during a subsequent interim period, the registrant has purchased a business or acquired an interest in a business the investment in which is accounted for by the equity method;

(2) After the date of the most recent balance sheet filed pursuant to § 210.3–01, the registrant by purchase or by pooling of interests has acquired or plans to acquire a business or has acquired or plans to acquire an interest in a business the investment in which will be accounted for by the equity method;

(3) Securities being registered by the registrant are to be offered to the security holders of a business to be acquired or the proceeds from the offered securities will be applied directly or indirectly to the purchase of a specific business;

(4) The registrant previously was a part of another entity (e.g., the registrant has succeeded to the business of a corporate division, subsidiary, etc.) and such presentation is necessary to reflect operations and financial position of the registrant as an autonomous entity;

(5) After the date of the most recent balance sheet filed pursuant to § 210.3–01, the registrant plans to dispose of a significant portion of its business either by sale or abandonment or otherwise plans a distribution of a significant portion of its business to shareholders by means of a spin-off, split-up, or split-off; or

(6) After the date of the most recent balance sheet filed pursuant to § 210.3–01, other events or transactions occur or are planned for which disclosure of such information would be meaningful in the particular circumstances. Such events or transactions may include, but are not limited to, a business reorganization, an issuance of debt or equity securities to refinance outstanding securities, an unusual asset exchange or other restructuring of existing indebtedness, or a disposition of a significant amount of assets.

(b) For purposes of this rule a transaction is planned when discussions have reached such a point that consummation of the transaction seems probable. Generally, that point is reached when an agreement in principle has been reached or when the board of directors has reached agreement on the transaction even though the transaction is subject to shareholder approval. Disclosure more limited than that provided for by this Article may be appropriate in filings which occur at an earlier point in the discussions (i.e., where consummation of the transaction is reasonably possible, but not probable).

(c) Pro forma financial information is required when the difference between any of the following items exceeds 10 percent of the item on a historical consolidated basis for the latest fiscal year for paragraphs (a) (1) and (2) of this section, and for the end of the latest fiscal year for paragraphs (a) (3) and (4) of this section:

(1) Net income (income from continuing operations where appropriate) compared to pro forma income before nonrecurring charges or credits;

(2) Earnings per share (for continuing operations where appropriate) compared to pro forma earnings per share before nonrecurring charges or credits;

(3) Total assets compared to pro forma total assets; and

(4) Total shareholders' equity compared to pro forma shareholders' equity.

When a transaction has been consummated and is reflected in the latest historical balance sheet presented, the test for paragraphs (a) (3) and (4) of this section shall not apply. When more than one transaction is planned or consummated during a fiscal year, the above 10 percent tests shall also be applied to the cumulative effect of those transactions.

(d) The Commission may, upon the written request of the registrant and where consistent with the protection of investors, permit the omission of a portion or all of the pro forma financial

information or the filing in substitution therefor of appropriate information, if the registrant can demonstrate that pro forma financial information would be misleading or meaningless in the circumstances. A written request for such relief should be submitted to the Chief Accountant of the Division of Corporation Finance and should set forth all of the pertinent information relative to the request.

(e) Pro forma financial information which gives effect to the receipt and application of proceeds from the sale of securities for cash shall not be presented unless such securities are to be offered through underwriters and the underwriting arrangements are such that the underwriters are or will be committed to take and pay for all of the securities, if any are taken, prior to or within a reasonable time after commencement of the public offering, or if the securities are not so taken to refund to all subscribers the full amount of all subscription payments made for the securities. Escrow arrangements which have the same effect may be used in lieu of underwriters.

(f) This rule does not apply to transactions between a parent company and its totally-held subsidiary.

§ 210.11-02 Preparation requirements.

(a) *Objective.* Pro forma financial information should provide investors with information about the continuing impact of a particular planned or consummated transaction by showing how it might have affected historical financial statements had the transaction been consummated at an earlier time. Such statements should assist investors in analyzing the future prospects of the registrant because they illustrate the possible scope of the change in the registrant's historical financial position and results of operations caused by the transaction.

(b) *Form and content.* (1) Pro forma financial information shall consist of a pro forma condensed balance sheet, pro forma condensed statements of income, a table of non-recurring charges and credits, and accompanying explanatory notes.

(2) The pro forma financial information shall be accompanied by an introductory paragraph which briefly sets forth (i) a description of the transaction, (ii) the entities involved in the transaction, (iii) the periods for which the pro forma financial information is presented, and (iv) the purpose of the pro forma financial information presentation.

(3) The degree of detail in the pro forma financial information need not be greater than the detail in the condensed statements filed on the most recent Form 10-Q pursuant to §§ 210.3-01 and 210.3-02 or in the case of a new registrant the detail which would have been filed had a Form 10-Q been required. Pro forma financial information need not be accompanied by footnotes except as provided below.

(4) Pro forma statements shall ordinarily be in columnar form showing condensed historical statements, pro forma adjustments, and the pro forma results.

(5) Primary and fully diluted earnings per share (for continuing operations where appropriate) and resulting primary and fully diluted pro forma earnings per share before nonrecurring charges or credits reflecting consummation of the transaction shall be presented on the face of the pro forma condensed income statement. The number of shares to be used in the calculation of pro forma earnings per share should be based on the weighted average number of shares outstanding during the period adjusted to give effect to shares subsequently issued or assumed to be issued had the particular transaction or event taken place at the beginning of the period presented. If a convertible security is being issued in the transaction, consideration should be given to the possible dilution of earnings per share on a fully diluted pro forma basis assuming conversion of the security. The number of shares used to compute per share data shall be stated on the face of the statement.

(6) The table of nonrecurring charges and credits shall be presented below the pro forma income statement and shall reflect only nonrecurring charges and credits which are directly attributable to the transaction.

(7) Pro forma adjustments shall include all material adjustments which give effect to events directly attributable to the transaction. Pro forma adjustments should be made only for those events which are reasonably certain to occur.

(8) An explanatory note shall be presented for each assumption and shall be referenced to the adjustments shown in the adjustment column of the statements.

(9) If the transaction is structured in such a manner that significantly different results may occur, additional pro forma presentations shall be made which give effect to the range of possible results.

(10) When an additional significant transaction is planned which will have a material effect on the pro forma results presented, the pro forma financial information shall be supplemented with an additional pro forma financial presentation which gives effect to both transactions. If several additional transactions are planned, pro forma financial information shall be presented which reflects all of these transactions and a note shall be presented which explains the various transactions and sets forth the maximum variances in pro forma financial position and pro forma income which would occur for any of the possible combinations.

Instructions. 1. The historical statement of income used in the pro forma financial information shall not report operations of a segment that has been discontinued, extraordinary items, or the cumulative effects of accounting changes. If the historical statement of income includes such items, only the portion of the income statement through "income from continuing operations" (or the appropriate modification thereof) should be used in preparing pro forma results.

2. The pro forma condensed income statement shall disclose income (loss) before nonrecurring charges or credits. Accordingly, adjustments should be reflected in the pro forma condensed statement of income only when the event giving rise to the adjustment is of a continuing nature.

For example, in a business combination, lower costs resulting from a permanent reduction in specifically identified individual employees may be shown in the pro forma statement of income, but not the related severance pay associated with such reduction. The charge for the severance pay must be shown in the table of nonrecurring charges and credits and the related liability for the severance pay must be shown in the pro forma condensed balance sheet.

3. The table of nonrecurring charges and credits shall include entries for any gain or loss on the transaction and nonrecurring charges and credits which relate to changes in the business resulting from the transaction or which are caused by the transaction (e.g., legal, accounting, printing, financial advisory services, etc.).

4. For a purchase transaction, pro forma adjustments shall include adjustments for amortization and depreciation expense based on the allocated purchase price of the net assets acquired and incremental interest expense on new indebtedness associated with the purchase transaction.

5. For a disposition transaction, pro forma adjustments shall include adjustments of interest expense arising from revised debt structures and expenses which will be or have been incurred on behalf of the newly-created entity, such as advertising costs, executive salaries and other costs which were previously included in fees for corporate overhead.

The pro forma financial information for such situations shall begin with the historical financial statements of the existing entity and show the deletion of the newly created entity along with the pro forma adjustments necessary to arrive at the remainder of the existing entity.

6. (i) For entities which were previously a portion of another entity, adjustments to the historical financial statements may be

required to conform those financial statements to generally accepted accounting principles and to permit an independent accountant to express an unqualified opinion on them. Adjustments may be required when charges for corporate overhead, interest, or income taxes have been allocated to the entity on a basis other than one deemed reasonable by management.

(ii) For such entities, pro forma adjustments shall include adjustments similar in nature to those referred to in 5. above.

7. Tax effects, if any, of pro forma adjustments should be calculated at the current statutory rate and be reflected as a separate pro forma adjustment.

(c) *Periods to be presented.* (1) A pro forma condensed balance sheet shall be filed as of the end of the most recent period for which a balance sheet is required by § 210.3–01. When a consummated transaction is reflected in the latest balance sheet required by § 210.3–01, a pro forma condensed balance sheet is not required.

(2)(i) Pro forma condensed statements of income shall be filed only for the most recent fiscal year and for the period from the most recent fiscal year end to the most recent interim date for which a Form 10–Q has been filed. A pro forma condensed statement of income shall not be filed when the historical income statement reflects the transaction for the entire period.

(ii) When a planned business combination will be accounted for as a pooling of interests, the pro forma income statements filed shall be a restatement of the historical income statements as if the combination had been consummated. Such pro forma income statements shall be filed for all periods for which historical income statements are required in lieu of the requirement in the preceding paragraph.

(3) When the entities involved have different fiscal year ends, the pro forma condensed statement of income shall be filed for the registrant's fiscal year end. If the most recent fiscal year end of the other entity differs from the registrant's most recent fiscal year end by more than 93 days, the other entity's income statement shall be brought up to within 93 days of the registrant's most recent fiscal year end by adding subsequent interim period results to the most recent fiscal year end information and deducting the comparable preceding year interim period results.

(4) Whenever unusual events enter into the determination of the results shown for the most recently completed fiscal year, consideration should be given to presenting a pro forma condensed income statement for the latest twelve month period in addition to those required in paragraph (c)(2) of this section.

§ 210.11–03 Presentation of financial forecast.

(a) A financial forecast may be filed in lieu of the pro forma condensed statements of income required by § 210.11–02(b)(1).

(1) The financial forecast shall cover a period of at least 12 months from the latest of (i) the effective date of the filing or (ii) the consummation date or planned consummation date of the transaction.

(2) The forecasted statement of income shall be presented in the same degree of detail as required by § 210.11–02(b)(3).

(3) Historical condensed financial information of the registrant and the business acquired or to be acquired, if any, shall be presented in parallel columns with the financial forecast.

(b) Such financial forecast shall be presented in accordance with the guidelines established by Statement of Position 75–4, Presentation and Disclosure of Financial Forecasts, issued by the Accounting Standards Division of the American Institute of Certified Public Accountants in August 1975.

(c) Forecasted earnings per share data shall be substituted for pro forma earnings per share data when a financial forecast is filed in lieu of pro forma condensed statements of income.

(d) This rule does not permit the filing of a financial forecast in lieu of pro forma information required by generally accepted accounting principles.

§ 210.11A–01 and 210.11A–02 [Removed]

5. By removing §§ 210.11A–01 and 210.11A–02 (Article 11A).

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

6. By revising paragraph (b)(1) of § 240.14a–3 to read as follows:

§ 240.14a–3 Information to be furnished to security holders.

* * * * *

(b) * * *

(1) The report shall include, for the registrant and its subsidiaries consolidated, audited balance sheets as of the end of the two most recent fiscal years and audited statements of income and changes in financial position for each of the three most recent fiscal years prepared in accordance with Regulation S–X (Part 210 of this chapter), except that the provisions of Article 3, other than §§ 210.3–03(e) and 210.3–04, and Article 11 shall not apply and only substantial compliance with Articles 6, 7, 7A, and 9 is required. Any financial statement schedules or exhibits or separate financial statements which may otherwise be required in filings with the Commission may be omitted. Investment companies registered under the Investment Company Act of 1940 need include financial statements only for the last fiscal year except for statements of changes in net assets which are to be filed for the two most recent fiscal years. If the financial statements of the registrant and its subsidiaries consolidated in the annual report filed or to be filed with the Commission are not required to be audited, the financial statements required by this paragraph may be unaudited.

* * * * *

7. By revising paragraphs (b)(5), (b)(6), and (b)(7) of Item 14 of § 240.14a–101 and the instructions to paragraph (b) to read as follows:

§ 240.14a–101 Schedule 14A. Information required in proxy statement.

* * * * *

Item 14. * * *

(b) * * *

(5) Furnish selected financial data pursuant to Item 301 of Regulation S–K (17 CFR 229.300) and book value per common share as of the end of the most recent period for which a balance sheet is required by § 210.3–01.

(6) Furnish the pro forma financial information pursuant to Article 11 of Regulation S–X, if required, and pro forma book value per common share as of the end of the most recent period for which a balance sheet is required by § 210.3–01.

(7) Furnish the equivalent share information specified in the instructions below for exchange transactions.

* * * * *

Instructions. 1. The historical and pro forma income (loss) per share (from continuing operations where appropriate); cash dividends declared per common share; and book value per common share presented in response to paragraphs (b)(5) and (6) and equivalent share data pursuant to (b)(7) where appropriate shall be set forth in comparative columnar form.

2. Equivalent share amounts of the acquired company shall be calculated by multiplying the pro forma earnings per share, pro forma book value per share, and the historical dividends per share of the acquiring company by the exchange ratio so that the per share amounts are equated to the respective values for one share of the company being acquired. In situations where the fiscal year-ends of the companies involved are different, additional historical information should be presented so that equivalent share amounts may be compared for equivalent periods. If the impact of the planned exchange transaction is immaterial to the registrant, all equivalent share amounts furnished should be determined on the basis of the historical per share amounts of the registrant.

3. Paragraph (b) shall not apply if the plan described in answer to paragraph (a)

involves only the issuer and one or more of its totally-held subsidiaries.

* * * * *

8. By revising paragraph (a)(1) of § 240.14c-3 to read as follows:

§ 240.14c-3 Annual report to be furnished security holders.

(a) * * *

(1) The report shall include, for the registrant and its subsidiaries consolidated, audited balance sheets as of the end of each of the two most recent fiscal years and audited statements of income and changes in financial position for each of the three most recent fiscal years prepared in accordance with Regulation S-X (Part 210 of this chapter), except that the provisions of Article 3, other than §§ 210.3-03(e) and 210.3-04, and Article 11 shall not apply and only substantial compliance with Articles 6, 7, 7A and 9 is required. Any financial statement schedules or exhibits or separate financial statements which may otherwise be required in filings with the Commission may be omitted. Investment companies registered under the Investment Company Act of 1940 need include financial statements only for the last fiscal year except for statements of changes in net assets which are to be filed for the two most recent fiscal years. If the financial statements of the registrant and its subsidiaries consolidated in the annual report filed or to be filed with the Commission are not required to be audited, the financial statements required by this paragraph may be unaudited.

* * * * *

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

9. By revising the first paragraph of Item 8 of § 249.310 to read as follows:

§ 249.310 Form 10-K, annual report pursuant to sections 13 or 15(d) of the Securities Exchange Act of 1934.

* * * * *

Item 8. Financial Statements and Supplementary Data.

Financial statements meeting the requirements of Regulation S-X (17 CFR 210), except §§ 210.3-07 and 210.3-08 and Article 11, and the supplementary financial information required by Item 302 of Regulation S-K (17 CFR 229.300) shall be filed. Financial statements of the registrant and its subsidiaries consolidated (as required by Rule 14a-3(b)) shall be filed under this Item. Other financial statements and schedules required under Regulation S-X may be filed as "Financial Statement Schedules" pursuant to Item 13, Exhibits, Financial Statement Schedules, and Reports on Form 8-K, of this form.

* * * * *

The amendments are proposed to be adopted pursuant to authority in sections 7 and 19a of the Securities Act, 15 U.S.C. 77g, 77s(a), 77aa(25)(26); sections 12, 13, 14, 15(d), and 23(a) of the Securities Exchange Act of 1934, 15 U.S.C. 78*l*, 78m, 78n, 78o(d), 78w(a), sections 5(b), 10(a), 14, 20(a) of the Public Utility Holding Company Act, 15 U.S.C. 79e(a), 79n, 79t(a); sections 8, 20, 30, 31(c), 38(a) of the Investment Company Act of 1940, 15 U.S.C. 80a-8, 80a-20, 80a-29, 80a-30(c), 80a-37(a).

Pursuant to Section 23(a)(2) of the Securities Exchange Act, the Commission has considered the impact of these proposals on competition and is not aware at this time of any burden that such rule amendments, if adopted, would impose on competition. However, the Commission specifically invites comments as to the competitive impact of these proposals, if adopted.

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

By the Commission.

George A. Fitzsimmons,

Secretary.

September 24, 1981.

Regulatory Flexibility Act Certification

I, John S. R. Shad, Chairman of the Securities and Exchange Commission, hereby certify pursuant to 5 U.S.C. 605(b) that the proposed rules for presentation and preparation of pro forma financial information set forth in Securities Act Release No. 6350, if promulgated, will not have a significant economic impact on any entity subject to its provisions and therefore will not have a significant economic impact on a substantial number of small entities. The reasons for this certification are that the proposed rules generally codify existing practice and are limited to specific situations which do not occur regularly for any company.

Dated: September 24, 1981.

John S. R. Shad,

Chairman.

[FR Doc. 81-28858 Filed 10-2-81; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE INTERIOR

Geological Survey

30 CFR Part 250

Outer Continental Shelf; Oil and Gas and Sulphur Operations

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of proposed rulemaking.

SUMMARY: The proposed rule involves the information contained in Environmental Reports (ER's) which are submitted in conjunction with exploration plans and development and production plans filed by lessees operating on the Outer Continental Shelf (OCS). The proposed rule authorizes the tiering of environmental reports and is necessary in order to reduce the information reporting requirements imposed upon OCS lessees. It eliminates the requirement for ER's where the associated plan is not required. The effect of this rule will be to substantially reduce the volume of information that a lessee must submit in many environmental reports.

DATES: Written comments and recommendations on this proposal to amend 30 CFR 250.34 must be received on or before the close of business November 4, 1981.

ADDRESSES: Comments and recommendations may be mailed to: Deputy Division Chief, Offshore Minerals Regulation, Conservation Division, U.S. Geological Survey, National Center, Mail Stop 640, Reston, Virginia 22092.

FOR FURTHER INFORMATION CONTACT: David A. Schuenke, Chief, Branch of Offshore Rules and Procedures, Offshore Minerals Regulation, Conservation Division, U.S. Geological Survey, National Center, Mail Stop 640, Reston, Virginia 22092, (703) 860-7395.

SUPPLEMENTARY INFORMATION:

Background

As part of a larger effort by Department of the Interior (DOI), this proposed rulemaking is the result of a review of existing regulatory requirements in order to identify and subsequently eliminate or modify those requirements found unnecessary, burdensome, or counterproductive. Comments and recommendations are secifically solicited with respect to the proposed rule, and are welcome with respect to any other requirements of 30 CFR 250.34.

This rulemaking does not propose to eliminate any requirements that are

necessary for the administration of DOI responsibilities under the OCS Lands Act and other applicable statutes.

Discussion of Changes

It is proposed to amend the rules concerning ER's to reflect the concept of tiering, thereby eliminating repetition and redundancy to the extent possible. Section 250.34–3 requires submission of an ER with every exploration plan and development and production plan. It is recognized that some environmental issues may already have been addressed, particularly in a presale Environmental Impact Statement (EIS). In lieu of repeating information from any prior document, the proposed rules specifically allow for incorporation by reference. In order to carry out its responsibility to evaluate the submitted plans, much of the environmental information the Department needs is necessarily more site-specific than the information contained in an areawide EIS. For this reason, the plan cannot be evaluated solely from EIS information.

Section 250.34–3(b)(1)(iv) is proposed for deletion in keeping with the previous revisions to 30 CFR 250.34–1 and 250.34–2, that proposed elimination of development and production plans in the western Gulf of Mexico.

Authors

David Nystrom, Jane Roberts, and David Schuenke, Geological Survey, U.S. Department of the Interior, (703) 860–6461, 7541, and 7395, respectively.

Environmental Impact, Regulatory Impact Analysis, and Impact on Small Entities

The Department of the Interior has determined that these proposed amendments to the regulations in 30 § 250.34 do not constitute a major Federal action significantly affecting the quality of the human environment and, therefore, preparation of an environmental impact statement is not required. The Department has also determined that promulgation of these proposed amendments is not a major action and does not require the preparation of a regulatory impact analysis under Executive Order 12291. Finally, the Department has determined that these proposed amendments will not have a significant effect on a substantial number of small entities and does not require a small entity flexibility analysis under the Regulatory Flexibility Act.

June 9, 1981.

William P. Pendley,

Deputy Assistant Secretary of the Interior.

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

For the reasons stated above, it is proposed to amend 30 CFR 250.34–3 as follows:

1. Section 250.34–3 is amended by revising the introductory text of (a) and the introductory text of (b) to read as follows:

§ 250.34–3 Environmental Reports.

(a) Environmental Report (Exploration). At the same time the lessee submits an exploration plan to the Director, an Environmental Report (Exploration) shall be submitted, except as provided for in § 250.34–1(a)(2)(ii). The report shall identify the name of the lessee or operator and the lease(s) involved. The report should be in summary form and shall include information available at the time the related exploration plan is submitted. Information and data which are site-specific or which are developed subsequent to the most recent environmental impact statement or other environmental impact statements and analyses in the immediate area shall be specifically considered. In order to eliminate the repetition of information and data discussed in the related plan, a broader presale environmental impact statement, other Environmental Reports, environmental analyses or impact statements prepared for the geographic area, the lessee shall summarize the information, data, and issues in the other documents and concentrate on the issues specific to the site(s) of exploration activity. Discussion contained in the other documents shall be incorporated by reference when incorporation will cause a decrease in bulk without impeding review of the issues. The material being incorporated shall be cited and described briefly in the Environmental Report (Exploration), and include a statement of where the material is available for inspection. Any material based on proprietary data which is not itself available for inspection shall not be incorporated by reference. The Environmental Report (Exploration) shall include the following:

(1) * * *

* * * * *

(b) Environmental Report (Development/Production). At the same time the lessee submits a development and production plan to the Director, an Environmental Report (Development/Production) shall be submitted, except as provided for in § 250.34–2(a)(2)(ii). The report shall identify the name of the lessee or operator and the lease(s) involved. The report shall be as detailed as necessary to enable identification and evaluation of the environmental consequences of the proposed activities and shall include information available at the time the related plan is submitted. Information and data which are site-specific or which are developed subsequent to the most recent environmental impact statement or other enviromental impact statements and analyses in the immediate area shall be specifically considered. In order to eliminate the repetition of information and data discussed in the related plan, a broader presale environmental impact statement, other Environmental Reports, environmental analyses or impact statements prepared for the geographic area, the lessee shall summarize the information, data, and issues in the other documents and concentrate on the issues specific to the site(s) of development and production activity. Discussions contained in the other documents shall be incorporated by reference when incorporation will cause a decrease in bulk without impeding review of the issues. The material referred to shall be cited and described briefly in the Environmental Report (Development/Production), and include a statement of where the material is available for inspection. Any material based on proprietary data which is not itself available for inspection shall not be incorporated by reference. The Environmental Report (Development/Production) shall include the following:

(1) * * *

* * * * *

§ 250.34–3 [Amended]

2. Section 250.34–3(b)(1) is amended by removing (iv).

(43 U.S.C. 1346)

[FR Doc. 81–28933 Filed 10–2–81; 8:45 am]

BILLING CODE 4310–31–M

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30 CFR Parts 250, 251, and 252

Reimbursement to Lessees and Permittees

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of proposed rulemaking.

SUMMARY: The proposed rule would modify existing Department of the Interior (DOI) practices and procedures related to the reimbursement of lessees and permittees for data and information submitted to and retained by the Director. These proposed amendments are required by section 26 of the Outer Continental Shelf (OCS) Lands Act as amended in 1978 and as interpreted by the Solicitor of the DOI. The effect of this action will be to reduce the cost imposed on a permittee or lessee to collect information and data needed by DOI to perform its evaluation functions as the lessor.

DATES: Written comments and recommendations on this proposal must be received on or before close of business November 4, 1981.

ADDRESSES: Comments and recommendations may be mailed to: Deputy Division Chief, Offshore Minerals Regulation, Conservation Division, U.S. Geological Survey, National Center, Mail Stop 640, Reston, Virginia 22092.

FOR FURTHER INFORMATION CONTACT: David A. Schuenke, Chief, Branch of Offshore Rules and Procedures, Offshore Minerals Regulation, Conservation Division, U.S. Geological Survey, National Center, Mail Stop 640, Reston, Virginia 22092, (703) 860-7395.

SUPPLEMENTARY INFORMATION:

Background

This proposed rulemaking is undertaken as a part of a larger effort by DOI to review existing regulatory requirements with a view to the identification and subsequent elimination or modification of those requirements that are found to be unnecessary, burdensome, or counterproductive. Comments and recommendations are specifically solicited with respect to the proposed rule. Comments and recommendations regarding other regulatory requirements contained in existing provisions of 30 CFR Parts 250, 251, and 252 concerning reimbursement are also welcome.

Discussion of Changes

Prior to the OCS Lands Act Amendments of 1978, there was no statutory authority to reimburse a permittee or lessee for the costs incurred in providing the data and information to the Director required under the pertinent laws and regulations. The 1978 amendments specify certain costs that will be reimbursed to the parties submitting the required data and information. The proposed regulations would implement the requirement established by Congress. The costs to reproduce any geological or geophysical data or information submitted to and retained by the Director will be reimbursed whether the material is submitted by a permittee or a lessee.

Costs will also be reimbursed for certain processing required by the Director to generate geophysical information. Reimbursement would not be authorized for analyzing geological data to generate geological information, collecting geological or geophysical data, or interpreting geological and geophysical information. The terms lessee, permittee, data, information, geological information and data, geophysical information and data, analyzed geological information, processed geophysical information, interpreted geological information, and interpreted geophysical information are all defined in 30 CFR 250.2, 30 CFR 251.2, and 30 CFR 252.2.

The amendments provide that a permittee or a lessee will be reimbursed for the reasonable costs of processing geophysical information when such processing is in a form or manner required by the Director and not used by the permittee or lessee in the normal conduct of its business.

The amendments further provide that the reimbursement of the reasonable costs of processing geophysical information at the lowest rate available in a form or manner normally used by the firm will be allowed only for permittees, not for lessees.

Authors

Dan Palubniak, Jane Roberts, Platte Clark, and David Schuenke, Geological Survey, U.S. Department of the Interior (703/860-6461, 7541, 7396, and 7395, respectively).

Environmental Impact, Regulatory Impact Analysis, and Impact on Small Entities

The Department of the Interior has determined that these proposed amendments to the regulations in 30 CFR Parts 250, 251 and 252 do not constitute a major Federal action significantly affecting the quality of the human environment and, therefore, preparation of an environmental impact statement is not required. The Department has also determined that promulgation of these proposed amendments is not a major action and does not require the preparation of a regulatory impact analysis under Executive Order 12291. Finally, the Department has determined that these proposed amendments will not have a significant economic effect on a substantial number of small entities and does not require a small entity flexibility analysis under the Regulatory Flexibility Act.

William P. Pendley,

Deputy Assistant Secretary of the Interior.

May 27, 1981.

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

For the reasons stated in the preamble, it is proposed that 30 CFR Part 250 be amended as set forth below:

1. Section 250.2 is amended by adding two new definitions, (mmm) and (nnn) to read as follows:

§ 250.2 Definitions

* * * * *

(mmm) Geological information and data means information and data obtained from a well bore drilled into the subsurface. For the purposes of this Part, such information and data would include, but is not limited to, well logs, drill cuttings, cores, and data on samples of formation fluids. Velocity surveys, whose main purpose is to obtain data on the acoustic properties of subsurface rock, are not considered geological information and data.

(nnn) Geophysical information and data means information and data obtained from remote sensing of the earth's crust by physical techniques. For the purposes of this Part, such information and data would include, but is not limited to, that gathered by common-depth-point seismic reflection, high-resolution seismic reflection, seismic refraction, gravity, magnetics, electrical, and radiation methods. Velocity surveys are considered geophysical information and data.

2. Section 250.12 is amended by adding a new sentence to (d)(1) immediately preceding the last sentence as follows:

§ 250.12 Suspension of operation and lease cancellation.

* * * * *

(d)(1) * * * other than the lessee. The lessee may be reimbursed for the costs of the study as otherwise authorized in this Part of the regulations. The Director shall make such results available * * *.

* * * * *

3. Section 250.34-1 paragraph (k) is amended by revising the last sentence to read as follows:

§ 250.34-1 Exploration plan.

* * * * *

(k) * * * The lessee shall provide the Director, upon request, copies of any data or information obtained as a result of those surveys.

* * * * *

4. Section 250.34-2 paragraph (n) is amended by revising the last sentence to read as follows:

§ 250.34-2 Development and production plan.

* * * * *

(n) * * * The lessee shall give the Director, upon request, copies of any data or information obtained as a result of the surveys.

* * * * *

§ 250.39 [Amended]

5. Section 250.39 paragraph (a) is amended by removing the phrase "* * * and without cost to the lessor, * * *"

6. A new § 250.58 is added to read as follows:

§ 250.58 Reimbursement to lessees.

(a) After the delivery of geological data, analyzed geological information, interpreted geological information, geophysical data, processed geophysical information, reprocessed geophysical information, and interpreted geophysical information selected and retained by the Director, and upon receipt of a request for reimbursement and a determination by the Director that the requested reimbursement is proper, the lessee or third party shall be reimbursed for the reasonable costs of reproducing the selected information and data at the lessee's or third party's lowest rate, or at the lowest commercial rate established in the area, whichever is less.

(b) After the delivery of processed or reprocessed geophysical information selected and retained by the Director, and upon receipt of a request for reimbursement and a determination by the Director that the requested reimbursement is proper, the lessee or third party shall be reimbursed for the reasonable costs attributable to processing and reprocessing such information (as distinguished from the cost of data acquisition), but only if the processing or reprocessing was other than that used in the normal conduct of the lessee's business at the request of the director.

(c) Requests for reimbursement shall identify processing and reprocessing costs separate from acquisition costs.

(d) The lessee shall not be reimbursed for the costs of analyzing geological information or for interpreting geological or geophysical information.

PART 251—GEOLOGICAL AND GEOPHYSICAL (G&G) EXPLORATIONS OF THE OUTER CONTINENTAL SHELF

For the reasons stated in the preamble, it is proposed that 30 CFR 251 be amended as set forth below:

1. Section 251.2 is amended by adding two new definitions (pp) and (qq) to read as follow:

§ 251.2 Definitions.

* * * * *

(pp) Geological information and data means information and data obtained from a well bore drilled into the subsurface. For the purposes of this Part, such information and data would include, but is not limited to, well logs, drill cuttings, cores, and data on samples of formation fluids. Velocity surveys, whose main purpose is to obtain data on the acoustic properties of subsurface rock, are not considered geological information and data.

(qq) Geophysical information and data means information and data obtained from remote sensing of the earth's crust by physical techniques. For the purposes of this Part, such information and data would include, but is not limited to, that gathered by common-depth-point seismic reflection, high-resolution seismic reflection, seismic refraction, gravity, magnetics, electrical, and radiation methods. Velocity surveys are considered geophysical information and data.

2. Section 251.13 is revised to read as follows:

§ 251.13 Reimbursement to permittees.

(a) After the delivery of geological data, analyzed geological information, interpreted geological information, geophysical data, processed geophysical information, reprocessed geophysical information, and interpreted geophysical information selected and retained by the Director in accordance with § 251.11 or § 251.12 of this Part, and upon receipt of a request for reimbursement and a determination by the Director that the requested reimbursement is proper, the permittee or third party shall be reimbursed for the reasonable costs of reproducing the selected information and data at the permittee's or third party's lowest rate or at the lowest commercial rate established in the area, whichever is less.

(b) After the delivery of processed or reprocessed geophysical information selected and retained by the Director in accordance with § 251.12(b) of this Part, and upon receipt of a request for reimbursement and a determination by the Director that the requested reimbursement is proper, the permittee or third party shall be reimbursed for the reasonable costs attributable to processing and reprocessing such information (as distinguished from the cost of data acquisition) as follows: (1) If the processing or reprocessing was in the form and manner which is used by the permittee in the normal conduct of business, the Director shall pay the reasonable costs at the lowest rate at which the processed or reprocessed information is made available to any party; or (2) if the processing or reprocessing was other than that used in the normal conduct of the permittee's business at the Director's request, the Director shall pay the reasonable costs of processing and reprocessing such data.

(c) Requests for reimbursement shall identify processing and reprocessing costs separate from acquisition costs.

(d) The permittee or third party shall not be reimbursed for the costs of analyzing geological information or interpreting geological or geophysical information.

PART 252—OUTER CONTINENTAL SHELF (OCS) OIL AND GAS INFORMATION PROGRAM

For the reasons stated in the preamble, it is proposed that 30 CFR Part 252 be amended as set forth below:

1. Section 252.2 is amended by adding two new definitions (u) and (v) to read as follows:

§ 252.2 Definitions.

* * * * *

(u) Geological information and data means information and data obtained from a well bore drilled into the subsurface. For the purposes of this part, such information and data would include, but is not limited to, well logs, drill cuttings, cores, and data on samples of formation fluids. Velocity surveys, whose main purpose is to obtain data on the acoustic properties of subsurface rock, are not considered geological information and data.

(v) Geophysical information and data means information and data obtained from remote sensing of the earth's crust by physical techniques. For the purposes of this Part, such information and data would include, but is not limited to, that gathered by common-depth-point seismic reflection, high-resolution seismic reflection, seismic refraction, gravity, magnetics, electrical, and radiation methods. Velocity surveys are considered geophysical information and data.

(43 USC 1352)

[FR Doc. 81-28932 Filed 10-2-81; 8:45 am]

BILLING CODE 4310-31-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 81-061]

Drawbridge Operation Regulations; Amite River, Louisiana

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Louisiana Department of Transportation and Development, the Coast Guard is considering changing the regulations governing the State Route 42 swing span bridge across the Amite River, mile 32.0, at Port Vincent, Louisiana. The bridge now is required to open on signal. The proposed change would require the bridge to open on at least 48 hours advance notice. This proposal is being made because of the limited number of

requests for opening the draw. The action should relieve the bridge owner of the burden of having a person constantly available to open the draw, while still providing for the reasonable needs of navigation.

DATE: Comments must be received on or before November 4, 1981.

ADDRESS: Comments should be submitted to and are available for examination from 9 a.m. to 3 p.m., Monday through Friday, at the Eighth Coast Guard District, Bridge Administration Branch, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 70130.

FOR FURTHER INFORMATION CONTACT: Joseph Irico, Chief, Bridge Administration Branch, at the address given above (504) 589-2965.

SUPPLEMENTARY INFORMATION: Interested parties are invited to participate in this proposed rule making by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identifying the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped self-addressed postcard or envelope.

The Commander, Eighth Coast Guard District, will evaluate all communications received and determine a final course of action on this proposal. The proposed regulation may be changed in the light of comments received.

Drafting Information

The principal persons involved in drafting this proposal are: Joseph Irico, Project Manager, District Operations Division, and Steve Crawford, General Attorney, District Legal Office.

Discussion of the Proposed Regulation

Data submitted by the Louisiana Department of Transportation and Development indicate that for the period 1974 through 1980, the bridge averaged 3.29 openings per year. The need to provide 48 hours advance notice is not anticipated to have a significant economic impact on the operators of the vessels that now use the waterway, or any other vessels that may use the waterway. Based on these data, the Coast Guard feels that the proposed regulation would provide relief to the bridge owner while still meeting the reasonable needs of navigation.

The two bridges downstream from this bridge operate under special regulations:

1. State Route 16 bridge at mile 21.4 opens on 48 hours advance notice, the same regulation as that being proposed herein for the subject bridge at mile 32.0.

2. State Route 22 bridge at mile 6.0 opens on signal between 5 a.m. and 9 p.m., and on 12 hours advance notice between 9 p.m. and 5 a.m.

These proposed regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, these proposed regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5-22-80). An economic evaluation has not been conducted since the impact is expected to be minimal for the reasons discussed above. In accordance with Section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that these rules, if promulgated, will not have a significant economic impact on a substantial number of small entities.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by revising paragraph (i)(25) of § 117.245 to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(i) * * *

(25) Amite River, LA: State Highway 16 bridge, mile 21.4, near French Settlement, and State Highway 42 bridge, mile 32.0, at Port Vincent. At least 48 hours advance notice required.

* * * * *

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2), 49 CFR 1.46(c)(5), 33 CFR 1.05-1(g)(3))

Dated: August 4, 1981.

W. H. Stewart,

Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 81-28882 Filed 10-2-81; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123

[W-6-FRL 1950-4]

New Mexico Oil Conservation Division; Underground Injection Control; Primacy Application

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of public hearing.

SUMMARY: The purpose of this notice is to announce that: (1) the Environmental Protection Agency (EPA) has received a complete application from the New Mexico Oil Conservation Division requesting primary enforcement responsibility for the Underground Injection Control program; (2) the application is available for inspection and copying; (3) public comments are requested; and (4) a public hearing will be held.

This notice is required by the Safe Drinking Water Act as a part of the response to the States complying with the statutory requirement that there be an Underground Injection Control program in designated States.

The proposed comment period and public hearing will provide EPA the breadth of information and public opinion necessary to approve, disapprove, or approve in part the application from the New Mexico Oil Conservation Division to regulate oil and natural gas related injection wells.

DATES: Requests to present oral testimony should be filed by October 19, 1981; the public hearing will be held on November 5, 1981, in two sessions, one beginning at 10:00 a.m. and the other beginning at 7:00 p.m. The public comment period closes November 12, 1981. Comments must be received by that date.

ADDRESSES: Comments and requests to testify should be mailed to Julie Coston, Ground Water Protection Section, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270. Copies of the application and pertinent material are available between 8:30 a.m. and 4:00 p.m., Monday through Friday at the following locations:

Environmental Protection Agency, Region 6, Library, 28th Floor, 1201 Elm Street, Dallas, Texas 75270 (214) 767-7341

New Mexico Oil Conservation Division, State Land Office Building, 310 Old

Santa Fe Trail, Santa Fe, New Mexico 87501 (505) 827–2533

The hearing will be held in Room 339 at the Round House, State Capitol Building, at the intersection of Old Santa Fe Trail and Paseo de Peralta, Santa Fe, New Mexico.

FOR FURTHER INFORMATION CONTACT: Julie Coston, Ground Water Protection Section, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270, (214) 767–2774.

SUPPLEMENTARY INFORMATION: This application from the New Mexico Oil Conservation Division is for the regulation of all oil and natural gas related injection wells in the State. The application includes a description of the State Underground Injection Control program, copies of all applicable rules and forms, a statement of legal authority and a memorandum of agreement between the New Mexico Oil Conservation Division and the Region 6, Environmental Protection Agency.

Merna Hurd,

Acting Assistant Administrator for Water.

[FR Doc. 81-29037 Filed 10-2-81; 8:45 am]

BILLING CODE 6560-38-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6155]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

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 a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., National Flood Insurance Program, (202) 287–0270, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency 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 the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4 (a)).

These 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. 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 precribe 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)
Illinois	(V) Mt. Prospect, Cook County	Weller Creek	About 600 feet downstream of George Street	*652
			Just upstream of Lincoln Drive	*665
		McDonald Creek	Just upstream of Kensington Road	*634
			About 1,700 feet upstream of the intersection of Euclid Avenue and Wolf Road.	*647
		Des Plaines River	About 1.1 miles upstream of Euclid Avenue	*637
			About 1.3 miles upstream of Euclid Avenue	*637
		Feehanville Ditch	Just upstream of Wolf Road	*645
			About 3,000 feet upstream of Bentswood Lane	*649

Maps available for inspection at the Clerk's Office, Village Hall, 100 South Emerson Street, Mount Prospect, Illinois.

Send comments to Honorable Carolyn Krause, Mayor, Village of Mount Prospect, Village Hall, 100 South Emerson Street, Mount Prospect, Illinois 60056.

Iowa	(C) Center Point, Linn County	Apple Creek	About 300 feet downstream of Confluence of Tributary A.	*790
			About 1,500 feet upstream of Chicago, Rock Island and Pacific Railroad.	*820
		Tributary A	About 150 feet upstream of confluence with Apple Creek.	*791
			Just downstream of Franklin Street	*794

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 the City Hall, 1508 Franklin, Center Point, Iowa.				
Send comments to Honorable Robert L. Peppin, Mayor, City of Center Point, City Hall, 1508 Franklin, Center Point, Iowa 52213.				
Iowa	(C) Marion, Linn County	Indian Creek	About 2,000 feet upstream of 29th Street (at southern corporate limit).	*762
			About 1.3 miles upstream of 10th Street	*797
		Dry Creek	At mouth	*786
			About 1.8 miles upstream of mouth (at western corporate limit).	*795
		Squaw Creek	About 0.8 mile downstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*784
			Just downstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*792
			Just upstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*799
			Just downstream of U.S. Highway 151	*801
		West Fork Squaw Creek	At mouth	*799
			Just downstream of U.S. Highway 151	*800
			Just upstream of U.S. Highway 151	*806
Maps available for inspection at the Community Development Department, City Hall, 1100 8th Avenue, Marion, Iowa.				
Send comments to Honorable William J. Grundy, Jr., Mayor, City of Marion, City Hall, 1100 8th Avenue, Marion, Iowa 52302.				
Iowa	(C) Robins, Linn County	Dry Creek	About 1.6 miles downstream of Main Street	*832
			About 500 feet upstream of Main Street	*842
			About 2,500 feet upstream of Mentzer Road	*847
Maps available for inspection at the Robins Community Building, 95 Front Street, Robins, Iowa.				
Send comments to Honorable Joseph N. LeGrand, Mayor, City of Robins, Robins Community Building, 95 Front Street, Robins, Iowa 52328.				
Kansas	(C) Arkansas City, Cowley County	Arkansas River	Just upstream of Atchison, Topeka and Santa Fe Railway.	*1,071
			Just upstream of U.S. Highway 77	*1,073
			About 2,900 feet upstream of Chestnut Avenue	*1,082
		Walnut River	At Confluence of Mill Canal	*1,070
			Just upstream of of Chestnut Avenue	*1,072
			Just downstream of Kansas Avenue	*1,075
		"C" Street Canal	Just upstream of U.S. Highway 77	*1,087
			About 100 feet downstream of Hickory Avenue	*1,101
			Just upstream of 8th Street	*1,108
			About 0.76 mile upstream of 8th Street (at upstream corporate limits).	*1,125
		North Creek	At downstream corporate limits	*1,063
			About 200 feet downstream of northern corporate limits.	*1,091
		Shallow Flooding (Ponding From Rainfall).	About 200 feet northwest of intersection of F Street and Hickory Avenue, just south of Warren Way.	*1,077
			North of Arkansas River and south of Tyler Avenue, east of Atchison, Topeka and Santa Fe Railway.	*1,070
		Shallow Flooding (Overflow From "C" Street Canal).	North of Kansas Avenue and south of Osage Avenue, just east of U.S. Highway 77 and west of "C" Street.	#1
			North of Kansas Avenue and south of Virginia Avenue, just west of Atchison, Topeka and Santa Fe Railway and east of "C" Street.	#2
Maps available for inspection at the City Hall, 1st and Central, Arkansas City, Kansas.				
Send comments to Honorable Karl Smykil, Mayor, City of Arkansas City, City Hall, 1st and Central, Arkansas City, Kansas 67005.				
Michigan	(V) Clinton, Lenawee County	River Rasin	Approximately 1.5 miles downstream of West Michigan Avenue.	*794
			Approximately 1,000 feet downstream of West Michigan Avenue.	*801
			Approximately 1,900 feet upstream of West Michigan Avenue.	*806
		Mill Race Channel	At the confluence with the River Raisin	*800
			Approximately 200 feet downstream of the divergence from the River Raisin.	*801
Maps available for inspection at the Village Hall, 119, East Michigan Avenue, Clinton, Michigan.				
Send comments to Honorable George Bowman, Village President, Village of Clinton, Village Hall, 119 East Michigan Avenue, Clinton, Michigan 49236.				
Missouri	(C) Neosho, Newton County	Hickory Creek	About 1,600 feet downstream of College Street	*992
			Just upstream of College Street	*995
			About 200 feet upstream of Wood Street	*1,006
			Just upstream of Kansas City Southern Railroad	*1,012
			About 200 feet upstream of State Highway 86	*1,026
			About 1,500 feet upstream of confluence of Shartel Branch.	*1,039
		High School Branch	About 400 feet upstream of mouth	*994
			Just upstream of the Kansas City Southern Railroad	*1,004
			About 200 feet upstream of Lincoln Street	*1,023
			Just upstream of McCord Street Culvert	*1,036
			Just upstream of Spring Street	*1,049
			Just upstream of Hill Street	*1,061
			Just upstream of Walnut Drive	*1,079
			Just upstream of South Street	*1,093
			Just upstream of Service Road	*1,107
		Hatchery Branch	At mouth	*1,013

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			About 150 feet downstream of McKinney Street	*1,024
			Just upstream of Park Street	*1,042
			About 450 feet upstream of Park Street (just upstream of Kansas City Southern Railroad)	*1,048
			About 400 feet upstream of Fain Street	*1,069
			Just upstream of Kansas City Southern Railroad	*1,088
			Just upstream of Daughtery Road	*1,109
		West High School Branch	At mouth	*1,044
			Just upstream of Hillcrest Drive	*1,065
			Just downstream of U.S. Highway 71 Culvert	*1,070
			Just upstream of U.S. Highway 71	*1,076
		Shartel Branch	About 250 feet downstream of Stratford Place	*1,034
			Just downstream of South Street	*1,050
		Buffalo Creek	About 2,000 feet downstream of Lyon Drive	*1,157
			Just downstream of Lyon Drive	*1,160
			Just upstream of Lyon Drive	*1,171
			Just downstream of Howard Bush Drive	*1,211
			About 100 feet upstream of Howard Bush Drive	*1,218
			Just upstream of Kansas City Southern Railroad	*1,220

Maps available for inspection at the City Hall, 221 North College, Neosho, Missouri.

Send comments to Honorable John Clement, Mayor, City of Neosho, City Hall, 221 North College, Neosho, Missouri 64850.

Ohio	(C) Alliance, Stark and Mahoning Counties	Tributary No. 1 to Mahoning River	About 140 feet upstream of Vine Street	*1,060
			Just upstream of North Rockhill Avenue	*1,069
			Just upstream of Johnson Avenue	*1,088
			Just upstream of Buckeye Avenue	*1,092
			Just upstream of Klinger Avenue	*1,098

Maps available for inspection at the City Engineer's Office, City Hall, 470 East Market Street, Alliance, Ohio.

Send comments to Honorable James P. Puckett, Mayor, City of Alliance, City Hall, 470 East Market Street, Alliance, Ohio 44601.

Ohio	(V) Canal Fulton, Stark County	Tuscarawas River	About 150 feet downstream of downstream corporate limit	*944
			About 4,250 feet upstream of Market Street	*947
		Plum Creek	At mouth	*946
			About 400 feet downstream of Manchester Road	*955
			About 1,500 feet upstream of Strauser Street	*967

Maps available for inspection at the Engineer's Office, Town Hall, 155 East Market Street, Canal Fulton, Ohio.

Send comments to Honorable Eugene M. Sellmeth, Mayor, Village of Canal Fulton, Town Hall, 155 East Market Street, Canal Fulton, Ohio 44614.

Ohio	(V) Navarre, Stark County	Tuscarawas River	About 1,100 feet upstream of Wooster Street	*924
			About 650 feet downstream of Blough Avenue	*919

Maps available for inspection at the Mayor's Office, Town Hall, 27 West Canal Street, Navarre, Ohio.

Send comments to Honorable Miles Hay, Jr., Mayor, Village of Navarre, Town Hall, 27 West Canal Street, Navarre, Ohio 44662.

(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 Associate Director)

Issued: September 21, 1981.

John E. Dickey,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 81-28500 Filed 10-2-81; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 581

[Docket No. 73-19; Notice 28]

Bumper Standard; Meeting

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces plans for a public meeting to discuss the National Highway Traffic Safety Administration's proposed amendments to the Part 581, Bumper Standard. The meeting will provide an opportunity for all interested persons to present data, views, and arguments concerning the agency's proposals.

DATES AND TIMES: The public meeting will be divided into two sessions, the first of which will be held on October 22, and if necessary October 23, 1981, and the second November 12, 1981, and if necessary November 13, 1981. The meeting will last from 10 a.m. until 5 p.m. each day, or such earlier time at which all scheduled business has been completed. Persons wishing to make oral presentations should notify the agency by October 12, 1981, for the first session of the meeting and November 2, 1981, for the second session of the meeting.

ADDRESSES: The public meeting will be held in the Federal Aviation Administration auditorium, located on the third floor of Building FOB–10A, 800 Independence Avenue, S.W., Washington, D.C. Persons wishing to make an oral presentation should contact Steven Zaidman, Office of Automotive Ratings, National Highway Traffic Safety Administration, 400 Seventh Street, N.W., Washington, D.C. 20590, 202–426–1740.

FOR FURTHER INFORMATION CONTACT: Steven Zaidman, Office of Automotive Ratings, National Highway Traffic Safety Administration, 400 Seventh

Street, S.W., Washington, D.C. 20590, 202–426–1740.

SUPPLEMENTARY INFORMATION: On September 25, 1981, the National Highway Traffic Safety Administration (NHTSA) issued a notice of proposed rulemaking (46 FR 48262; October 1, 1981) proposing several alternative amendments to the Part 581, Bumper Standard (49 CFR Part 581). Pursuant to Section 102(e)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1912(e)(1)), that notice stated that a public meeting on the proposal would be held at a date to be announced. This notice establishes the dates, times and location of that public meeting.

The first session of the public meeting will be held on October 22 and 23, 1981, and is principally intended to provide an opportunity for interested persons to address legal, technical and economic issues raised by NHTSA's proposed rulemaking action. With the very wide range of alternatives to be considered in the course of this rulemaking action, the agency seeks to narrow the issues through these public hearings. In the first hearing we are seeking technical and economic data that will help focus the debate. Data presented at the hearing will be made available for evaluation by other parties. The second session will then provide an opportunity for follow-up comments on matters discussed at the first session, and for presentations on any other issues relevant to this rulemaking.

All interested persons are invited to attend the public meeting and to present oral or written data, views, and arguments. Persons making oral comments are encouraged to submit their comments in written form either at the meeting or by mail to the docket. All written comments are subject to the deadlines and page limitations stated in the notice of proposed rulemaking.

Persons who desire to make an oral statement at the first session of the public meeting should contact Mr. Steven Zaidman of NHTSA's Office of Automotive Ratings, at the address and phone number stated above, by October 12, 1981, so that time limitations, if necessary, and the need for any special equipment, such as projectors, can be discussed and final arrangements can be made. Persons desiring to make an oral statement at the second session of the meeting should contact Mr. Zaidman by November 2, 1981. If possible, a general outline of each planned oral presentation should also be submitted to Mr. Zaidman by these dates. A schedule of the persons making oral presentations at each session of the meeting will be available on the date of the session.

Persons whose presentations include slides, motion pictures, or any other visual aids should plan to submit copies of them for the record at the meeting. Persons making oral presentations are requested but not required to submit 25 written copies of the full text of their presentation to Mr. Zaidman no later than the beginning of the session at which the presentation will be made.

No opportunity will be afforded for persons to question other participants. However, the presiding officials reserve the right to ask questions of all persons making presentations.

A transcript of the meeting will be made and will be available for examination, along with any written comments submitted, in the NHTSA Docket Section, as soon as possible after the meeting.

(Sec. 102, Pub. L. 92–513, 86 Stat. 947 (15 U.S.C. 1912); Secs. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on September 30, 1981.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 81-28865 Filed 9-30-81; 2:22 pm]

BILLING CODE 4910-59-M

Notices

Federal Register
Vol. 46, No. 192
Monday, October 5, 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

Forest Service

Land and Resource Management Plans; Revision of Notices of Intent To Prepare Environmental Impact Statements on 12 National Forests in the Eastern Region

Pursuant to the National Environmental Policy Act of 1969, notices of intent to prepare environmental impact statements on proposed Land and Resource Managements Plans for twelve National Forests in the Eastern Region were published in the **Federal Register.** The dates for release of the draft environmental impact statements (DEISs) and final environmental impact statements (FEISs) are hereby revised in this notice. The National Forests, along with the **Federal Register** citation in which the original notice of intent appears, are as follows:

Allegheny National Forest, Vol. 26, No. 12, P. 5029, Monday, January 19, 1961
Chequamegon National Forest, Vol. 44, No. 198, p. 58769, Thursday, October 11, 1979
Chippewa National Forest, Vol. 45, No. 109, p. 37711, Wednesday, June 4, 1980
Green Mountain National Forest, Vol. 46, No. 34, p. 13246, Friday, February 20, 1981
Hoosier National Forest, Vol. 45, No. 186, p. 63022, Tuesday, September 23, 1980
Huron-Manistee National Forests, Vol. 44, No. 239, p. 71441, Tuesday, December 11, 1979
Mark Twain National Forest, Vol. 45, No. 41, p. 13165, Thursday, February 28, 1980
Monongahela National Forest, Vol. 46, No. 34, p. 13246, Friday, February 20, 1981
Ottawa National Forest, Vol. 45, No. 42, p. 13490, Friday, February 29, 1980
Shawnee National Forest, Vol. 45, No. 141, p. 48680, Monday, July 21, 1980
Superior National Forest, Vol. 44, No. 16, p. ——, Tuesday January 23, 1979
White Mountain National Forest, Vol. 45, No. 64, p. 21322, Tuesday, April 1, 1980

The original and revised dates for release of the draft environmental impact statements and final environmental impact statements for these National Forests are listed below:

Name of Forest	Original dates published for		Revised dates for	
	DEIS	FEIS	DEIS	FEIS
Allegheny NF	4/83	12/83	12/82	7/83
Chequamegon NF	12/81	None	1/83	8/83
Chippewa NF	2/82	12/82	4/83	12/83
Green Mountain NF	6/82	12/82	3/83	10/83
Hoosier NF	7/81	1/82	12/81	6/82
Huron-Manistee NFs	8/82	2/83	3/83	10/83
Mark Twain NF	1/82	9/82	3/83	9/83
Monongahela NF	1/83	9/83	1/83	8/83
Ottawa NF	12/82	10/83	10/82	5/83
Shawnee NF	1/82	9/82	12/82	7/83
Superior NF	10/79	4/80	12/81	6/82
White Mountain NF	4/82	12/82	8/82	12/82

All other conditions of the original notices of intent remain the same.

Further information about the planning process can be obtained by calling or writing the representative listed in the original Notice of Intent.

James H. Freeman,
Director, Planning, Programming and Budgeting.
September 17, 1981.
[FR Doc. 81-28824 Filed 10-2-81; 8:45 am]
BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD

[Docket No. 40051]

Air One Fitness Investigation; Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge Elias C. Rodriguez. Future communications should be addressed to Judge Rodriguez.

Dated at Washington, D.C., September 29, 1981.

Joseph J. Saunders,
Chief Administrative Law Judge.
[FR Doc. 81-28888 Filed 10-2-81; 8:45 am]
BILLING CODE 6320-01-M

[Docket No. 33068]

Transpacific Low-Fare Route Investigation (Japan Phase); Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge William A. Kane, Jr. Future communications should be addressed to Judge Kane.

Dated at Washington, D.C., September 28, 1981.

Joseph J. Saunders,
Chief Administrative Law Judge.
[FR Doc. 81-28887 Filed 10-2-81; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Foreign Trade Statistics; Automated Data Transmission by Exporting Carriers, Freight Forwarders, and Brokers

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice.

Notice is hereby given that the Bureau of the Census, pursuant to 15 CFR 30.39, will now accept applications from exporting carriers, freight forwarders and brokers, for permission to report export statistical information by electronic means directly to the Bureau in lieu of filing a Shipper's Export Declaration for each shipment.

FOR FURTHER INFORMATION CONTACT: Emanuel A. Lipscomb, Chief, Foreign Trade Division, Bureau of the Census, Washington, D.C. 20233, (301) 763-5342.

Daniel B. Levine,
Acting Director, Bureau of the Census.
[FR Doc. 81-28863 Filed 10-2-81; 8:45 am]
BILLING CODE 3510-07-M

International Trade Administration

Advisory Committee on East-West Trade; Partially Closed Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Advisory Committee on East-West Trade was initially established on February 11, 1974, and rechartered on December 5, 1980 in accordance with the Federal Advisory Committee Act, 5 U.S.C. App. (1976). The Committee advises the Department of Commerce on ways to promote and encourage the orderly expansion of commercial and economic relations between the United States and the communist countries.

Time and place

October 20, 1981, at 9:30 A.M. The Public Portion of the meeting will be

held in Conference Room "B", Departmental Auditorium, Constitution Avenue between 12th and 14th Streets, N.W., Washington, D.C.

Agenda

General Session (9:30 A.M.–11:45 A.M.)

(1) Welcome and Opening Remarks by the Chairman.

(2) Review of U.S. Legislation on Market Disruption by Communist Countries.

(3) Review of Developments in East-West Trade.

(4) Report on P.R.C. Contract Cancellations.

Executive Session (1:15 P.M.–3:30 P.M.)

(5) Committee Views on U.S. Policy on Trade with the U.S.S.R. and Eastern Europe.

Public participation

The General Session of the meeting will be open to the public. Approximately 50 seats will be available (including 5 seats reserved for media representatives) on a first-come first-served basis. A period will be set aside for oral comments or questions by the public which do not exceed ten minutes each. More extensive questions or comments may be submitted in writing at any time before or after the meeting.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 28, 1981 pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters in 5 U.S.C. 552b (c)(1) and (9)(B); i.e., material specifically authorized under criteria established by Executive Order 12065 (3 CFR 190 (1979)) to be kept secret in the interest of national defense or foreign policy and properly classified pursuant to such Executive Order; and whose premature public disclosure would be likely to significantly frustrate implementation of a proposed agency action. A copy of the Notice of Determination to close the aforementioned portion of the October 20, 1981 meeting is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, Washington, D.C. 20230. Telephone: (202) 377–4217. Summary minutes of the General Session will be available 30 days after the meeting.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT: Ronald G. Oechsler, Committee Control Officer, Office of East-West Policy and Planning, International Trade Administration, Room 4816, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202–377–5896.

Dated: September 28, 1981.

Roger D. Severance,

Acting Deputy Assistant Secretary for East-West Trade.

[FR Doc. 81-28876 Filed 10-2-81; 8:45 am]

BILLING CODE 3510-25-M

Southeastern Specialty and Manufacturing Co., et al.; Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from the following firms: (1) Southeastern Specialty and Manufacturing Company, P.O. Drawer 2048, Anniston, Alabama 36202, producer of soil pipe fittings (iron castings), (accepted September 10, 1981); (2) Knotty Pine Dairy, Inc., P.O. Box 266, Zearing, Iowa 50278, producer of cheese (accepted September 10, 1981); (3) Jaxton Manufacturing Corporation, 41 Cooper Street, Glens Falls, New York 12801, producer of wood cheeseboards, carving boards, wine racks, clocks and bookcases (accepted September 14, 1981); (4) Ampower Semiconductor Corporation, 375 Kings Highway, Smithtown, New York 11787, producer of power semiconductors (accepted September 15, 1981); (5) Sunbird Corporation, 6949 Washington Avenue South, Minneapolis, Minnesota 55435, producer of electronic games and power factor controllers (accepted September 15, 1981); (6) AMI Medical Electronics, Inc., P.O. Box 148, Ronkonkoma, New York 11779, producer of electronic moisture and fever thermometers (accepted September 17, 1981); (7) Bon-Art Industries, Inc., 20–21 Wagaraw Road, Fair Lawn, New Jersey 07410, producer of lamp bases, statuary and giftware (accepted September 17, 1981); (8) American Wicker, Inc., Route 3, Church Road, Box 541–C, Boone, North Carolina 28607, producer of baskets, trays, other giftware and furniture (accepted September 17, 1981); (9) United Speaker Systems, Inc., 101 North Park Street, East Orange, New Jersey 07017, producer of loudspeakers (accepted September 23, 1981); (10) H & R Hats and Novelties, Inc., 200 Varick Street, New York, New York 10014, producer of headwear (accepted September 25, 1981); (11) Semtech Corporation, 652 Mitchell Road, Newbury Park, California 91320, producer of silicon rectifiers, capacitors and other electronic components (accepted September 28, 1981); (12) Ratner Corporation, 730 13th Street, San Diego, California 92101, producer of men's suits, coats, slacks, and vests (accepted September 28, 1981); and (13) Masterlite Products, Inc., P.O. Box 10117, Caparra Heights, Toa Baja, Puerto Rico 00922, producer of table tops, furniture and bathtubs (accepted September 29, 1981).

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93–618) and §315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partical separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Director, Certification Division, Office of Trade Adjustment Assistance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalogue of Federal Domestic Assistance official program number and title of the program under which these petitions are submited is 11.309, Trade Adjustment Assistance. Insofar as this notice involves petitions for determination of eligibility under the Trade Act of 1974, the requirements of Office of Management and Budget Circular No. A–95 regarding review by clearinghouses do not apply.

Charles L. Smith,

Acting Director, Certification Division, Office of Trade Adjustment Assistance.

[FR Doc. 81-28871 Filed 10-2-81; 8:45 am]

BILLING CODE 3510-25-M

[A-435-007-001]

Pig Iron From Czechoslovakia; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final Results of administrative review of antidumping finding.

SUMMARY: On August 13, 1981, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on pig iron from Czechoslovakia. The review covered the only known exporter of this merchandise to the United States, Ferromet, and the period October 3, 1978 through September 30, 1980. Interested parties were given an opportunity to submit oral or written comments on these preliminary results. The Department received no comments.

EFFECTIVE DATE: October 5, 1981.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-3814/5289).

SUPPLEMENTARY INFORMATION:

Procedural Background

On October 29, 1968, a dumping finding with respect to pig iron from Czechoslovakia was published in the Federal Register as Treasury Decision 68-262 (33 FR 15904). On August 13, 1981, the Department of Commerce ("the Department") published in Federal Register a notice of the preliminary results of its administrative review of that finding (46 FR 40909). The Department has now completed that administrative review.

Scope of the Review

Imports covered by this review are shipments of pig iron, which is used in steel production and in the iron foundry industry for making iron castings such as pipe, automobile castings, and machinery parts. Pig iron is currently classifiable under items 606.1300 and 606.1500 of the Tariff Schedules of the United States Annotated (TSUSA). The Department knows of only one exporter of pig iron from Czechoslovakia to the United States, Ferromet. The review covers the period October 3, 1978 through September 30, 1980. The Treasury Department reviewed all prior periods.

Final Results of the Review

There is no evidence of any importations of this merchandise during the period of review and there are no known unliquidated entries.

The Department received no comments on the preliminary results of its administrative review. Therefore, the final results are the same as the preliminary results.

Since the exporter has neither requested revocation nor provided the written agreement required by § 353.54(e) of the Commerce Regulations, we will not further consider the tentative revocation published by the Treasury Department.

As provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties of 70 percent, based on the margin calculated during the original fair value investigation, shall be required on all shipments of pig iron from Czechoslovakia entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of October 1982.

(Section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).)

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

September 29, 1981.

[FR Doc. 81-28835 Filed 10-2-81; 8:45 am]

BILLING CODE 3510-25-M

Unrefined Montan Wax From the German Democratic Republic; Allowance of Security in Lieu of Estimated Duty Pending Early Determination of Antidumping Duty

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of allowance of security in lieu of estimated duty pending early determination of antidumping duty.

SUMMARY: The Department of Commerce has determined that, on the basis of information received from the only manufacturer currently subject to the antidumping duty order on unrefined montan wax from the German Democratic Republic, VEB Braunkohlenkombinat "Gustav Sobottka", the Department has sufficient basis to begin an expedited review of this order. The Department shall determine the foreign market value and United States price within 90 days from the date of publication of the order. The posting of bond or other security in lieu of the deposit of estimated dumping duties will be permitted for merchandise from this one manufacturer entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and before December 9, 1981.

EFFECTIVE DATE: October 5, 1981.

FOR FURTHER INFORMATION CONTACT: Francis R. Crowe or John Nolan, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-4697/4347).

SUPPLEMENTARY INFORMATION: On September 10, 1981, the Department of Commerce ("the Department") published in the Federal Register (46 FR 45177) an antidumping duty order relating to unrefined montan wax from the German Democratic Republic ("GDR"). The Department announced in the notice that, pursuant to section 736 of the Tariff Act of 1930 ("the Tariff Act"), Customs officers were to require, along with deposits of estimated normal customs duties on the merchandise, a deposit of estimated antidumping duties pending liquidation for all entries, or withdrawals from warehouse, for consumption.

On August 18, 1981, a manufacturer of the merchandise, VEB Braunkohlenkombinat "Gustav Sobottka" ("BKK"), requested that the Department waive the deposit of estimated duties and make an early determination of duty. Section 736(c) of the Tariff Act provides that under certain conditions the Department may permit, for not more than 90 days after the date of publication of an order, the posting of bond or other security in lieu of the deposit of estimated antidumping duties. Before granting such a waiver, we must be satisfied that, based upon the information presented, we will be able to determine, within 90 days after the date of the publication of the order, the foreign market value and the United States price for all unrefined montan wax manufactured by BKK entered, or withdrawn from warehouse, for consumption on or after the date of publication of the affirmative preliminary determination, under section 733(b) of the Tariff Act, and before the date of publication of the affirmative final determination by the International Trade Commission, under section 735(b) of the Tariff Act.

After reviewing the information submitted by BKK, the Department is satisfied that it will be able to determine foreign market value and United States price for all of the merchandise entered during the relevant time period. Accordingly, the Department is instructing the Customs Service to

waive deposit of estimated duty and accept the posting of a bond or other security for all entries of unrefined montan wax manufactured by BKK entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. A deposit of estimated antidumping duty shall continue to be collected on entries of unrefined montan wax manufactured by any other manufacturer or producer in the GDR, in accordance with the order. Interested parties may submit written comments on or before November 4, 1981 and may request disclosure and/or a hearing on or before October 20, 1981. Any request for an administrative protective order must be made no later than October 13, 1981. The Department will publish a notice in the **Federal Register** of the result of this determination of foreign market value and United States price before December 9, 1981, including the results of its analysis of any such comments or hearing.

(Section 736(c)(2)(A) of the Tariff Act (19 U.S.C. 1675(c)(2)(A)).)

Gary N. Horlick,

Deputy Assistant Secretary, Import Administration.

September 29, 1981.

[FR Doc. 81-28834 Filed 10-2-81; 8:45 am]

BILLING CODE 3510-25-M

Minority Business Development Agency

Portfolio Growth Company Program; Financial Assistance Application Announcement

The Minority Business Development Agency (MBDA) announces that it is seeking applications under its Portfolio Growth Company program to operate one project for a twelve month period, beginning February 1, 1982. The total cost of the project will not exceed $150,000.

Funding Instrument: It is anticipated that the funding instrument, as defined by the Federal Grant and Cooperative Agreement Act of 1977, will be a grant.

Program Description: The Minority Business Development Agency is seeking a management consulting firm to develop a portfolio of, and provide services to, clients selected from a pre-identified listing of large minority businesses. MBDA is offering a competitive grant to consulting firms which are capable of providing such services as:

Assessing resources and capabilities of firms

Provision of in depth marketing and acquisition, mergers and joint venture services

Developing strategic growth and profit-oriented business plans

and a broad range of other business services, excluding legal services.

Applications are invited for the following project: One grant for a management and technical assistance project to operate the Portfolio Growth Company (PGC) program in the southeastern region. This will include supplying specialized consultant services. The Project will operate at a cost not to exceed $150,000, and the Project Number is 04-10-80018-01.

Eligibility Requirements: There are no restrictions. Any profit or non-profit institution is eligible to submit an application.

Pre-application Conference: A Pre-application Conference for this project will be held on October 15, 1981 at 2 p.m. at the following address: U.S. Department of Commerce, Minority Business Development Agency, 1371 Peachtree Street, NE, Suite 505, Atlanta, Georgia 30309.

Application Materials: An application kit for this project may be requested in writing only from the following address: U.S. Department of Commerce, Minority Business Development Agency, 1371 Peachtree Street, NE, Suite 505, Atlanta, Georgia 30309.

In requesting an application kit, the applicant must specify its profit status; i.e., State or Local Government, federally recognized Indian tribal units, educational institutions, hospitals, or other type of profit or non-profit institution. This information is necessary to enable MBDA to include the appropriate cost principles in the application kit.

Award Process: All applications that are submitted in accordance with the instructions in the application kit will be submitted to a panel for review and ranking. Specific criteria by which applications will be evaluated is included in the application kit.

Closing Date: Applicants are encouraged to obtain an application kit as soon as possible in order to allow sufficient time to prepare and submit an application before the closing date of October 30, 1981.

(11.800 Minority Business Development (Catalog of Federal Domestic Assistance). (This program is not subject to the requirements of OMB Circular A-95))

Dated: September 24, 1981.

Gordon M. Anderson,

Contract/Grant Specialist.

[FR Doc. 81-28885 Filed 10-2-81; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

Receipt of Application for General Marine Mammal Permit

Notice is hereby given that the following application has been received to take marine mammals incidental to the pursuit of commercial fishing operations within the U.S. fishery conservation zone during 1982 as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) and the regulations thereunder.

Association Nacional de Armadores de Buques Congeladores de Pesquerias Varias (ANAVAR), Puerto Pesquero, Edificio Vendores, Of. 1A6, Apartado de Correos, 1078, Vigo, Spain, has applied for a Category 1: "Towed or Dragged Gear" general permit to take 20 cetaceans and 20 phocid seals in the North Atlantic Ocean.

The application is available for review in the Office of the Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.

Interested parties may submit written comments on this application on or before November 4, 1981 of this notice to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D.C. 20235.

Dated: September 29, 1981.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 81-28912 Filed 10-2-81; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Changes in the textile category system

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Changes in the Textile Category System.

SUMMARY: The CORRELATION: Textile and Apparel Categories with the Tariff Schedules of the United States, Annotated, provides for placement of Tariff Schedules of the United States, Annotated (T.S.U.S.A.) numbers in the

Textile Category System. Amendments to Schedule 3, part 6, of the T.S.U.S.A. under Presidential Proclamation 4707 of December 1979 and certain administrative changes require amendments to the CORRELATION. These changes are cited on the list which follows this notice.

EFFECTIVE DATE: January 1, 1982.

FOR FURTHER INFORMATION CONTACT: Claire McDermott, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212)

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

January 1, 1982 Changes to the Correlation

Category and type of change:

613 Change 338.5053 to 338.3053, 338.5054 to 338.3054, 338.5055 to 338.3055

333 Add 379.0205, 379.0210, 379.3910, 379.3915

Change 380.0041 to 379.0605, 380.0042 to 379.0610

Fold 380.0940 and 380.0960 into 379.4320

Change 380.1235 to 379.4620, 380.1245 to 379.4630, 380.1265 to 379.3925

Delete 380.3941

Change 380.5104 to 379.6904

Retain 791.7412

334 Retain 376–5408

Change 380.0002 to 379.3915, 380.0609 to 379.3905, 380.0612 to 379.3925, 380.0045 to 379.0615, 380.0915 to 379.4310

Fold 380.0980 and 380.0990 into 379.4330

Change 380.1210 to 379.4610, 380.1220 to 379.4615, 380.1280 to 379.4650, 380.1285 to 379.4660, 380.1295 to 379.4670

Delete 380.3943

Change 380.5108 to 379.6908

Retain 791.7413

335 Retain 376–5412

Change 382.0007 to 383.0240 and 383.0250, 382.0617 to 383.2810, 382.0619, to 383.2805 and 383.2815

Fold 382.0054 and 382.0055 into 383.0520

Add 383.0605 (coats and jackets imported as parts of suits)

Change 382.0900 to 383.3200, 382.1202 to 383.3405, 382.1204 to 383.3410, 382.1206 to 383.3415, 382.1208 to 383.3420, 382.1210 to 383.3425, 382.1212 to 383.3430, 382.1214 to 383.3435, 382.1216 to 383.3440, 382.1217 to 383.3445, 382.1219 to 383.3446, 382.1220 to 383.3455, 382.1222 to 383.3460, 382.1223 to 383.3465, 382.3313 to 383.5005, 382.4208 to 383.5308, 382.1225 to 383.3466

Add 383.4715

Retain 791.7415

336 Change 382.0012 to 383.0305, 382.0014 to 383.0306, 382.0635 to 383.2910, 382.0640 to 383.2920, 382.3908 to 383.5208, 382.6908 to 383.7708, 382.0057 to 383.0805, 382.0059 to 383.0815, 382.0061 to 383.0810, 382.3314 to 383.4814, 382.3316 to 383.4816, 382.3318 to 383.4818, 382.3320 to 383.4820, 382.3321 to 383.4821, 382.3323 to 383.4823, 382.3325 to 383.4825, 382.4212 to 383.5312, 382.7208 to 383.7708

337 Change 380.0015 to 379.0405, 380.0630 to 379.4130, 382.0020 to 383.0335, 382.0655 to 383.3030, 380.0058 to 379.0825, 380.3911 to 379.6420, 380.3914 to 379.6430, 382.0073 to 383.0830, 382.0075 to 383.0835, 382.3329 to 383.5036, 382.3330 to 383.5040, 382.3331 to 383.5045, 382.3332 to 383.5050

338 Fold 380.0018 and 380.0021 into 379.0220

Change 380.0028 to 379.0230, 380.0029 to 379.0240, 380.0640 to 379.4020, 380.0645 to 379.4030, 380.0651 to 379.4040, 380.0652 to 379.4050

339 Change 382.0003 to 383.0205, 382.0004 to 383.0206, 382.0005 to 383.0210, 382.0006 to 383.0211, 382.0022 to 383.0215, 382.0024 to 383.0218, 382.0026 to 383.0221, 382.0031 to 383.0225, 382.0606 to 383.2706, 382.0607 to 383.2707, 382.0608 to 383.2708, 382.0609 to 383.2709, 382.0660 to 383.2720, 382.0665 to 383.2725, 382.0669 to 383.2730, 382.0671 to 383.2731, 382.0684 to 383.3050, 382.3904 to 383.5204, 382.6904 to 383.7704

340 Change 380.0060 to 379.0620, 380.2743 to 379.5510, 380.2745 to 379.5520, 380.2753 to 379.5525, 380.2755 to 379.5530, 380.2770 to 379.5535, 380.2782 to 379.5540, 380.2785 to 379.5545, 380.2787 to 379.5550, 380.2792 to 379.5555, 380.2794 to 379.5560, 380.2796 to 379.5565, 380.5112 to 379.6912, 382.0077 to 383.0570, 382.3368 to 383.4715, 382.3370 to 383.4718

341 Change 382.0039 to 383.0505, 382.0045 to 383.0506, 382.3302 to 383.4702, 382.3304 to 383.4704, 382.3305 to 383.4705, 382.3307 to 383.4707, 382.3309 to 383.4709, 382.3311 to 383.4711, 382.4204 to 383.5304, 382.7204 to 383.7804

342 Change 382.0028 to 383.0340, 382.0675 to 383.3040, 382.3912 to 383.5212, 382.0080 to 383.0840, 382.0082 to 383.0845, 382.3334 to 383.5055, 382.3335 to 383.5056, 382.3336 to 383.5060, 382.3337 to 383.5061, 382.3338 to 383.5065, 382.3340 to 383.5066, 382.3341 to 383.5070, 382.3343 to 383.5071, 382.4216 to 383.5316

345 Change 380.0030 to 379.0250, 380.0030 to 379.0233, 380.0658 to 379.4060, 380.0659 to 379.4070, 382.0681 to 383.2750, 382.0683 to 383.2751, 382.3916 to 383.5216, 382.6912 to 383.7712

347 Change 380.0033 to 379.0260, 380.0662 to 379.3930, 380.0665 to 379.3940, 380.0671 to 379.0630, 380.0672 to 379.0640 and 379.0645, 380.3920 to 379.6210, 380.3921 to 379.6220, 380.3923 to 379.6230, 380.3926 to 379.6250, 380.3928 to 379.6260, 380.3930 to 379.6270, 380.5124 to 379.6924, 380.3924 to 379.6240

Retain 791.7418

348 Change 382.0032 to 383.0260, 382.0673 to 383.2820, 382.0687 to 383.2830, 382.0689 to 383.2835, 382.0691 to 383.2836, 382.3922 to 383.5222, 382.6916 to 383.7716, 382.0079 to 383.0620, 382.0085 to 383.0610 and 383.0615, 382.0087 to 383.0611 and 383.0616, 382.3333 to 383.4720, 382.3347 to 383.4747, 382.3349 to 383.4749, 382.3353 to 383.4753, 382.3355 to 383.4755, 382.3357 to 383.4757, 382.3359 to 383.4759, 382.3361 to 383.4761, 382.3363 to 383.4763, 382.4226 to 383.5326, 382.7218 to 383.7818

Retain 791.7420

350 Change 380.0009 to 379.0405, 380.0620 to 379.4110, 382.0016 to 383.0320, 382.0645 to 383.3010, 380.0049 to 379.0810, 380.1520 to 379.4810, 380.1540 to 379.4820, 380.1820 to 379.4910, 380.1840 to 379.4920, 382.0070 to 383.0820, 382.1500 to 383.3600, 382.1820 to 383.3710, 382.1870 to 383.3770, 382.7212 to 383.7812

351 Change 380.0011 to 379.0410, 380.0625 to 379.4120, 382.0018 to 383.0330, 382.0650 to 383.3020, 380.0050 to 379.0820, 380.2100 to 379.5100, 380.2405 to 379.5210, 380.2410 to 379.5220, 380.3915 to 379.6440, 382.0072 to 383.0825, 382.2100 to 383.3900, 382.2410 to 383.4010, 382.2415 to 383.4015, 382.3326 to 383.5020, 382.3327 to 383.5030, 382.7214 to 383.7814

352 Retain 378.0540, 378.0550, 378.0561, 378.0571, 378.1030, 378.1035, 378.1520, 378.1530, 378.1535, 378.1540

Change 380.0635 to 379.4010

Retain 378.2011, 378.203, 378.2510, 378.2530

353 Change 748.4542 to 748.4541 and 748.4543

354 Change 748.4544 to 748.4545, 748.4547 and 748.4549

359 Retain 372.1010

Change 380.0037 to 379.0270 and 379.0490

Add 383.0290

Change 382.0036 to 383.0350, 382.0037 to 383.0390, 382.0509 to 383.2505

Retain 372.1520, 372.1000

Change 380.0696 to 379.4140, 380.4505 to 379.6605, 380.7205 to 379.8605, 382.0696 to 383.2850 and 383.3060, 382.0697 to 383.3090, 382.3926 to 383.5226, 382.6922 to 383.7722

Retain 702.0600, 791.7402, 372.1040

Change 380.0073 to 379.0650, 380.0078 to 379.0830, 380.0080 to 379.0840, 380.0531 to 379.3510, 382.0088 to 383.0630

Add 383.0640

Change 382.0092 to 383.0850, 382.0095 to 383.0855, 382.0096 to 383.0860, 382.0554 to 383.2550

Retain 372.1540, 372.1560

Change 380.3000 to 379.5600, 380.3300 to 379.5700

Add 379.6280

Change 380.3908 to 379.6410, 380.3982 to 379.6300, 380.3989 to 379.6470, 380.5129 to 379.6929, 380.7505 to 379.8705, 380.9005 to 379.9805

Retain 702.1200, 791.7426, 376.5420

Change 382.2700 to 383.4200, 382.3000 to 383.4300

Add 383.4770, 383.4825

Change 382.3328 to 383.5035, 382.3383 to 383.4900, 382.3388 to 383.5075, 382.3396 to 383.5090, 382.4222 to 383.5322, 382.4232 to 383.5332, 382.7222 to 383.7822, 382.8705 to 383.9505

433 Change 380.0240 to 379.1710, 380.5134 to 379.6934, 380.6310 to 379.7810, 380.6611 to 379.8311, 380.6612 to 379.8312

434 Change 380.0245 to 379.1720, 380.5136 to 379.6936, 380.5137 to 379.6937

Fold 380.6322 and 380.6324 into 379.7820

Change 380.6615 to 379.8315

Fold 380.6618 and 380.6619 into 379.8318

Change 380.6110 to 379.7510 Add 379.1200

435 Change 382.5820 to 383.6200, 382.0255 to 383.1510, 382.4238 to 383.5338, 382.6014 to 383.6520, 382.6315 to 383.7205, 382.6320 to 383.7210

Add 383.5700, 383.1200

436 Change 382.5420 to 383.5820, 382.0210 to 383.1310, 382.3938 to 383.5238, 382.5830 to 383.6330, 382.6928 to 383.7728, 382.4242 to 383.5342, 382.6025 to 383.6610, 382.6325 to 383.7510, 382.7228 to 383.7828

438 Change 382.5410 to 383.5810, 380.0205 to 379.1510, 382.0205 to 383.1305, 380.6120 to 379.7605, 382.3934 to 383.5234, 382.5810 to 383.6310, 382.6924 to 383.7724
440 Change 380.0255 to 379.1730, 380.5142 to 379.6942, 380.6340 to 379.7830, 380.6640 to 379.8340, 382.0250 to 383.1505, 382.4234 to 383.5334, 382.6010 to 383.6510, 382.6310 to 383.6800, 382.7224 to 383.7824
442 Change 382.0215 to 383.1315, 382.3942 to 383.5242, 382.5425 to 383.5825, 382.5840 to 383.6340, 382.0265 to 383.1610, 382.4246 to 383.5346, 382.6035 to 383.6630, 382.6335 to 383.7540
443 Change 380.0260 to 379.1740, 380.5146 to 379.6946, 380.6350 to 379.7840, 380.6651 to 379.8351, 380.6652 to 379.8342
Fold 380.6653 and 380.6654 into 379.8355
444 Change 382.0235 to 383.1335
Fold 382.5846 and 382.5847 into 383.6345
Change 382.0266 to 383.1615, 382.4252 to 383.5352, 382.6040 to 383.6640, 382.6340 to 383.7550
445 Fold 380.5730 and 380.5740 into 379.7240
Change 380.5730 to 379.7250, 380.0209 to 379.1520, 380.5900 to 379.7400, 380.6130 to 379.7610, 380.6140 to 379.7620, 380.6145 to 379.7630, 380.6155 to 379.7640
4643 Change 382.5431 to 383.5830, 382.0129 to 383.1320, 382.3946 to 383.5246, 382.5600 to 383.6000, 382.5850 to 383.6350, 382.5860 to 383.6360, 382.5871 to 383.6371, 382.5972 to 383.6372, 282.6932 to 383.7732
447 Change 380.0265 to 379.1750, 380.5154 to 379.6954, 380.6360 to 379.7850, 380.6660 to 379.8360
448 Change 382.3952 to 383.5252, 382.5885 to 383.6385, 382.6936 to 383.7736, 382.4256 to 383.5356, 382.6045 to 383.6650, 382.6333 to 383.7530, 382.6346 to 383.7560, 382.7238 to 383.7838
459 Retain 372.1020, 372.2500, 372.3000, 372.3500, 373.1500, 378.3510, 378.3530
Change 380.0225 to 379.3520, 380.4515 to 379.6615, 380.5795 to 379.7100
Add 379.7295
Change 380.6160 to 379.7530 and 379.7650, 380.7215 to 379.8615, 382.0240 to 383.1340, 382.0518 to 383.2510, 382.3956 to 383.5256, 382.4800 to 383.5500, 382.5445 to 383.5845, 382.5895 to 383.6395, 382.6942 to 383.7742
Retain 791.7430, 372.1050, 372.4000, 372.4500, 378.4000, 378.4500
Change 380.0250 to 379.2010, 380.0270 to 379.2020, 380.0533 to 379.3520, 380.5158 to 379.6958
Fold 380.6330 and 380.6390 into 379.7900
Change 380.6630 to 379.8410, 380.6690 to 379.8420, 380.7515 to 379.8715, 380.9015 to 379.9815, 382.0260 to 383.1605, 382.0275 to 383.1620, 382.0563 to 383.2560, 382.4262 to 383.5362, 382.6030 to 383.6620, 382.6090 to 383.6690, 382.6330 to 383.7520, 382.6390 to 383.7590, 382.7232 to 383.7832, 382.7234 to 383.7834, 382.7242 to 383.7842, 382.8715 to 383.9515
Retain 702.5400, 702.5600, 702.6000, 702.6500, 702.7000, 702.7500, 702.8000, 791.7440, 700.7510, 700.7520, 700.7530, 700.7540, 700.7550, 700.7560
632 Change 382.9425 to 383.2030, 382.7837 to 383.8640
Retain 374.3530, 374.3550, 374.6020, 374.6040
633 Change 380.0402 to 379.2310, 380.8104 to 379.8904, 380.8105 to 379.8905
Retain 791.7459
Change 380.0443 to 379.3110, 380.5264 to 379.6964, 380.8411 to 379.9510, 380.8412 to 379.9515
Retain 791.7470
634 Change 380.0405 to 379.2320
Fold 380.8101 and 380.8109 into 379.8910
Change 380.8106 to 379.8906, 380.8112 to 379.8910
Retain 791.7460
Change 380.0445 to 379.3120, 380.8410 to 379.9505, 380.8416 to 379.9520, 380.8418 to 379.9525, 380.8419 to 379.9530
Retain 376.5609, 791.7471
Fold 380.5167 and 380.5169 into 379.6968
635 Retain 376.5612
Change 382.0407 to 383.1905, 382.0408 to 383.1910, 382.7807 to 383.8105, 382.7813 to 383.8110, 382.7823 to 383.8115, 382.7828 to 383.8116
Retain 791.7461
Change 382.0462 to 383.2220, 382.0464 to 383.2225, 382.4268 to 383.5368, 382.8145 to 383.9035, 382.8154 to 383.9036, 382.8159 to 383.9040, 382.8160 to 383.9041, 382.8163 to 383.9050, 382.8165 to 383.9051
Retain 791.7473
636 Change 382.0413 to 383.2013, 382.0414 to 383.2014, 382.0416 to 383.2016
Add 383.2520
Change 382.7832 to 383.8620, 382.7833 to 383.8621, 382.7834 to 383.8622, 382.3968 to 383.5268, 382.6948 to 383.7748, 382.0466 to 383.2305, 382.0467 to 383.2310, 382.0469 to 383.2315, 382.4272 to 383.5372, 382.7248 to 383.7848, 382.8173 to 383.9220, 382.8174 to 383.9225, 382.8175 to 383.9230
Add 382.2575
637 Change 380.0414 to 379.2830, 380.8127 to 379.9220, 382.0437 to 383.2035, 382.7841 to 383.8645, 380.8422 to 379.9610, 380.8424 to 379.9615, 382.0473 to 383.2330, 382.0474 to 383.2335, 382.8168 to 383.9211
Fold 382.8171 and 382.8172 into 383.9215
638 Fold 380.0416 and 380.0417 into 379.2610
Change 380.0418 to 379.2620, 380.0419 to 379.2630, 380.8133 to 379.9015, 380.8135 to 379.9020, 380.8138 to 379.9025, 380.8131 to 379.9010, 380.8140 to 379.9030
639 Change 382.0402 to 383.1802, 382.0403 to 383.1803, 382.0404 to 383.1807, 382.0405 to 383.1808, 382.0439 to 383.1820, 382.0441 to 383.1841, 382.0442 to 383.1842, 382.0455 to 383.1925, 382.3964 to 383.5264, 382.6944 to 383.7744, 382.7802 to 383.8002, 382.7803 to 383.8003, 382.7804 to 383.8004
Add 383.2515, 382.7805 to 383.8005, 382.7843 to 383.8043, 382.7844 to 383.8044, 382.7845 to 383.8045, 382.7847 to 383.8047, 382.7879 to 383.8135
640 Change 380.0455 to 379.3130, 380.0458 to 379.3150, 380.0461 to 379.3140, 380.5172 to 379.6972, 380.8431 to 379.9535, 380.8433 to 379.9540, 380.8440 to 379.9545, 380.8441 to 379.9550, 380.8443 to 379.9555
641 Change 382.0459 to 383.2205, 382.0460 to 383.2210, 382.0461 to 383.2215, 382.7244 to 383.7844, 382.4264 to 383.6364, 382.8133 to 383.9010, 382.8137 to 383.9015, 382.8139 to 383.9030, 382.8143 to 383.9020, 382.8144 to 383.9025
Add 383.2570
642 Change 382.0446 to 383.2040, 382.3972 to 383.5272, 382.7831 to 383.8610, 382.7861 to 383.8660, 382.7863 to 383.8661, 382.0476 to 383.2340, 382.4276 to 383.5376, 382.8183 to 383.9245, 382.8184 to 383.9246
643 Change 380.0420 to 379.2330, 380.8145 to 379.8920, 380.8148 to 379.8925, 380.0464 to 379.3160, 380.5176 to 379.6976, 380.8451 to 379.9560, 380.8452 to 379.9565
644 Change 382.0447 to 383.1915, 382.7866 to 383.8125, 382.7868 to 383.8126, 382.0478 to 383.2230, 382.4282 to 383.5382, 382.8187 to 383.9060
645 Change 380.0422 to 379.2640, 380.0426 to 379.2650, 380.8152 to 379.9035, 380.8153 to 379.9040
Retain 791.7454
646 Change 382.0427 to 383.1857, 382.0430 to 383.1860, 382.3976 to 383.5276, 382.6952 to 383.7752, 382.7870 to 383.8070, 382.7873 to 383.8073
Retain 791.7455
647 Retain 376.5618
Change 380.0435 to 379.2350, 380.0436 to 379.2360, 380.8142 to 379.8915, 380.8164 to 379.8930, 380.8168 to 379.8935, 380.8169 to 379.8940, 380.0468 to 379.3180, 380.0469 to 379.3190, 380.5184 to 379.6984, 380.8449 to 379.9585, 380.8456 to 379.9575, 380.8457 to 379.9580
Retain 791.7480
648 Retain 376.5623
Change 382.0444 to 383.1930, 382.0450 to 383.1935, 382.0452 to 383.1940, 382.3982 to 383.5282, 382.6956 to 383.7756, 382.7857 to 383.8160, 382.7889 to 383.8140, 382.7892 to 383.8145, 382.7893 to 383.8146
Retain 791.7458
Change 382.0475 to 383.2240, 382.0481 to 383.2245, 382.0483 to 383.2250, 382.4286 to 383.5386, 382.7258 to 383.7858, 382.8182 to 383.9065, 382.8189 to 383.9070, 382.8190 to 383.9071
Retain 791.7481
650 Change 380.0408 to 379.2810, 380.8117 to 379.9205, 382.0417 to 383.2020, 382.7835 to 383.8630, 380.0449 to 379.3310, 380.8425 to 379.9620, 382.0470 to 383.2320, 382.7252 to 383.7852, 382.8178 to 383.9235
651 Change 380.0411 to 379.2820, 380.8123 to 379.9210, 382.0423 to 383.2025, 382.7836 to 383.8635, 380.0452 to 379.3320, 380.8428 to 379.9625, 380.8429 to 379.9630, 382.0472 to 383.2325, 382.7254 to 383.7854, 382.8180 to 383.9240
653 Change 748.4554 to 748.4553 and 748.4555
654 Change 748.4562 to 748.4563, 748.4565 and 748.4570
659 Retain 372.1030,372.7000 373.2500
Fold 380.0407 and 380.0439 into 379.2340
Change 380.0429 to 379.2340, 380.4525 to 379.6625, 380.7225 to 379.8625
Fold 380.8113 and 380.8192 into 379.9250
Change 380.8163 to 379.9100, 382.0406 to 383.1815, 382.0409 to 383.2005, 382.0449 to 383.1920, 382.0456 to 383.2050, 382.0458 to 383.2060, 382.0527 to 383.2525, 382.3986 to 383.5286, 382.6962 to 383.7762, 382.7806 to 383.8006, 382.7829 to 383.8605, 382.7877 to 383.8300 and 383.8400, 382.7894 to 383.8650, 382.7895 to 383.8670
Retain 703.100, 791.7464, 372.1060, 372.7520, 372.7540, 373.2700, 376.1600, 376.5630
Change 380.0465 to 379.3170, 380.0472 to 379.3330, 380.0475 to 379.3340, 380.0536 to 379.3530, 380.5188 to 379.6988, 380.7525 to 379.8725, 380.8421 to 379.9605, 380.8453 to

379.9570, 380.8460 to 379.9635, 380.8488 to 379.9645, 380.9025 to 379.9825, 380.0479 to 383.2235
Add 383.2260
Change 382.0484 to 383.2345, 382.0487 to 383.2350, 382.0488 to 383.2355, 382.0572 to 383.2560, 382.4292 to 383.5392, 382.7262 to 383.7862, 382.8191 to 383.9255, 382.8192 to 383.9260, 382.8167 to 383.9210, 382.8193 to 383.9265, 382.8199 to 383.9290, 382.8725 to 383.9525
Retain 703.0500, 703.1515, 791.7484
669 Add 706.2700, 706.2840, 706.2850

Note.—There are no changes in T.S.U.S.A. numbers for categories not listed.

[FR Doc. 81-28872 Filed 10-2-81; 8:45 am]
BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Rippowam River Basin Study; Connecticut and New York; Cancellation of Intent To Prepare Draft Environmental Impact Statement

AGENCY: Corps of Engineers, DOD.

ACTION: Cancellation of intent to prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. The U.S. Army Corps of Engineers, New England Division, has cancelled its intent to prepare a draft environmental impact statement for a proposed flood protection plan for the lower Rippowam River Basin. Coordination with local interests revealed that the Corps should continue its evaluation and impact assessment on the bypass tunnel alternative. Scoping with Federal, State and local agencies indicated that impacts associated with this alternative would not be of a significant or controversial nature and would not warrant the processing of an environmental impact statement. Any water quality impacts which may be evident in the tunnel after flooding would be mitigated by the construction of appropriate project features at the inlet structure that would allow a flow of water through the tunnel between flood conditions.

2. An Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) will be prepared. The environmental assessment will address the environmental parameters based on the bypass tunnel plan, the alternative methods of disposal of the tunnel materials considered during project planning, and surviving alternatives and their environmental impacts. A preliminary draft EA and FONSI is scheduled to be completed and available for review in October 1981.

3. This cancellation supersedes the previous Notice of Intent to prepare a DEIS for this proposed action which was published on August 14, 1980, Thursday, 45 FR 54123.

Dated: September 24, 1981.

C. E. Edgar III,

Colonel, Corps of Engineers, Division Engineer.

[FR Doc. 81-28827 Filed 10-2-81; 8:45 am]
BILLING CODE 3710-24-M

DEPARTMENT OF ENERGY

Office of the Secretary

European Atomic Energy Community; Proposed Subsequent Arrangement; France

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the shipment of 50 kilograms of irradiated enriched uranium fuel from the Siloe research reactor in France to the Department of Energy Savannah River facility for reprocessing and storage.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security. This arrangement for returning U.S. origin highly enriched uranium (HEU) to the U.S. is consistent with U.S. non-proliferation policy in that it serves to reduce the amount of HEU abroad.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: September 30, 1981.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 81-28902 Filed 10-2-81; 8:45 am]
BILLING CODE 6450-01-M

European Atomic Energy Community; Proposed Subsequent Arrangement; Sweden

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Sweden Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the retransfer of 5,000 kilograms of uranium, containing 175 kilograms of U-235 (3.5% enrichment) from the Federal Republic of Germany to Sweden for fabrication of power reactor fuel. This material was previously transferred from Sweden to the Federal Republic of Germany as scrap for purification on retransfer document RTD/EU(SW)-58.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the retransfer of this material designated as RTD/SW(EU)-120 will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: September 30, 1981.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 81-28901 Filed 10-2-81; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 5057-001]

Town of Amherst, Mass.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

September 28, 1981.

Take notice that on September 8, 1981, the Town of Amherst (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric Project No. 5057 would be located on the Mill River in the Town of Amherst, Hampshire County, Massachusetts. Correspondence with the Applicant should be directed to: Peter Westover, Director of

Conservation Services, Town Hall, Amherst, Massachusetts 01002.

Project Description—The proposed project would consist of: (1) an existing 110-foot long, 32.5-foot high masonry and concrete dam; (2) a reservoir with a storage capacity of 80 acre-feet; (3) a new 105-foot long, 30-inch diameter steel penstock; (4) a new powerhouse containing two turbine-generators with a total rated capacity of 52 kW; and (5) appurtenant facilities.

Purpose of Project—Energy produced at the project would be sold to Western Massachusetts Electric Company.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Massachusetts Division of Fisheries and Wildlife are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identifed in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before November 13, 1981 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirments of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

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 November 13, 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", "PROTESTS," 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. 81-28851 Filed 10-3-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 5310-000]

Eastern Sierra Energy Development; Application for Preliminary Permit

September 28, 1981.

Take notice that Eastern Sierra Energy Development (Applicant) filed on September 2, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5310 to be known as the Cottonwood Creek #2 Water Power Project located on Cottonwood Creek near the town of Lone Pine in Inyo County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. K. Thomas Miller, President, Fluid Energy Systems, Inc., 2210 Wilshire Blvd., #699, Santa Monica, California 90403.

Project Description—The proposed project would consist of: (1) a 20 to 50-foot high earthfilled/concrete diversion dam across Cottonwood Creek forming; (2) a reservoir with a surface area of approximately 10 acres at elevation 5,600 feet m.s.l.; (3) a 7,500-foot long, 3 to 4-foot diameter penstock; (4) a powerhouse containing two generating units with total rated capacity of 4,050 kW; and (5) a 13,000-foot long transmission line connecting the powerhouse with an existing transmission line west of the powerhouse.

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) the ground surface affected, by test borings (total of 6 holes) and trenchings (two 4-foot by 12-foot trenches), would be reconditioned to the extent possible. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with the Forest Service and other Federal, State and local agencies, preparing a license application, conducting final field surveys and preparing designs is estimated by the applicant to be $500,000.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before December 4, 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 the time specified in § 4.33(c).

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 December 4, 1981.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATIONS," "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. 81-28940 Filed 10-2-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 5263-000]

Eastern Sierra Energy Department; Application for Preliminary Permit

September 28, 1981.

Take notice that Eastern Energy Department (Applicant) filed on August 21, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5263 to be known as the Independence Hydroelectric Project located on Independence Creek in Inyo County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: K. Thomas Miller, President, Fluid Energy Systems Inc., 2210 Wilshire, Blvd. #699, Santa Monica California 90403.

Project Description—The proposed project with two developments would consist of: (A) (1) a 1100-foot long, 20-foot to 50-foot high diversion dam on Independence Creek; (2) a 5-foot to 6-foot diameter, 12,500-foot long diversion conduit; (3) a 300-foot triple pipe penstock; (4) a powerhouse with a total rated capacity of 9,900 kW; and (5) a 100-foot long transmission line from the powerhouse to an existing transmission line. The Applicant estimates that the average annual energy production would be 64.75 million kWh.

(B) (1) a 1100-foot long, 200-foot high concrete arch dam on Independence Creek; (2) a 5-foot to 6-foot diameter, 18,600-foot long diversion conduit; (3) a 3,000-foot long, double pipe penstock; (4) a powerhouse with a total rated capacity of 7,100 kW; and (5) a 7,500-foot long transmission line from the powerhouse to an an existing transmission line. The Applicant estimates that the average channel energy production would be 43.50 million 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 it would conduct technical, environmental, and economic studies, and also prepare an FERC license application. No new roads would be needed for conducting these license application. The Applicant estimates that the cost of undertaking these studies would be $150,000.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before December 4, 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 acceptance competing application no later than the time specified in § 4.33(c).

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 December 4, 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. 81-28941 Filed 10-2-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2895-001]

Kimberly-Clark Corp.; Application for Short-Form License (Minor)

September 28, 1981.

Take Notice that Kimberly-Clark Corporation (Applicant) filed on August 27, 1981, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for the construction and operation of a water power project to be known as Appleton Upper Dam Project No. 2895. The project would be located on the Fox River in Outagamie County, Wisconsin. Correspondence with the Applicant should be directed to: Kimberly-Clark Corporation, 401 North Lake Street, Neenah, Wisconsin 54956.

Project Description—The proposed project would consist of: (1) an existing powerhouse with two proposed generating units rated at 450 kW each for a total installed capacity of 900 kW; (2) an existing 600-foot long power canal; (3) existing transmission lines; and (4) appurtenant facilities. The estimated average annual energy output of the proposed project is 5,137,000 kWh.

The Applicant would utilize an existing dam owned by the U.S. Army Corps of Engineers.

Purpose of Project—The energy produced at the project would be

utilized by the Applicant's Atlas Mill with the excess sold to Wisconsin Electric Power Company.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before November 13, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than the time specified in § 4.33(c). A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d), (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard of to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest or petition to intervene must be filed on or before November 13, 1981. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-28942 Filed 10-2-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. ER81-457-000 and EL81-13-000]

Louisiana Power & Light Co.; Order Denying Rehearing and Alternative Interim Rate Request

September 28, 1981.

Background

On August 7, 1981, Louisiana Power and Light Company (LP&L) filed an application for rehearing of a Commission order issued on July 10, 1981, which, *inter alia*, suspended and set for hearing an interconnection agreement proposed by LP&L for service to the City of Winnfield, Louisiana.[1] The facts have been set forth completely in the previous order. However, to put the present application for rehearing in context, we shall briefly summarize the relevant events.

On April 10, 1981, the City of Winnfield, Louisiana, filed a complaint [2] with the Commission seeking relief from an anticipated change in service by its full requirements supplier, LP&L. Winnfield expressed its concern that, upon expiration of an existing full requirements contract, LP&L might discontinue service or begin charging the city at incremental rates under LP&L's standard interchange agreement. The city asserted that rates based upon incremental costs would be inappropriate for full requirements service and that service to Winnfield under LP&L's standard interchange agreement would be unjust and unreasonable. On May 12, 1981, LP&L tendered for filing an unexecuted copy of its standard interchange agreement [3] for service to Winnfield. Winnfield responded on June 8, 1981, requesting that it be allowed to intervene and further requesting a hearing and a five month suspension of the proposed rates.

By order issued on July 10, 1981, the Commission accepted for filing and suspended the effectiveness of LP&L's proposed rates for five months. The Commission also directed that an expedited hearing be conducted during the suspension period to determine the appropriate form of service Winnfield. Furthermore, LP&L was directed to continue serving Winnfield under its effective filed rate schedule until that rate schedule is superseded in conformity with the Federal Power Act and to refund amounts already collected under the company's increased rates.

Application for Rehearing

In its application for rehearing, LP&L requests that the Commission declare its order of July 10, 1981, to be a nullity. The company asserts that the order is void because the Commission violated the "Government in the Sunshine Act," 5 U.S.C. 552 *et seq.*, by issuing the order without having first discussed the matter at an open meeting. LP&L therefore concludes that pursuant to section 205(d) of the Federal Power Act, absent valid Commission action on its tendered rate schedule within the statutory sixty day notice period, its interconnection agreement for service to Winnfield became effective, without suspension, as of July 12, 1981.[4]

In the alternative, the company asks that the Commission shorten the suspension period applicable to the proposed interconnection agreement to one day. As a further alternative, LP&L requests that it be permitted to charge Winnfield based upon the rates proposed in its most recent rate case, Docket No. ER77-533, during the ordered five month suspension period.[5]

Discussions

As noted, LP&L asserts that the order of July 10, 1981, was approved in contravention of the Government in the Sunshine Act. The Sunshine Act establishes "the policy of the United States that the public is entitled to the fullest practicable information regarding the decisionmaking processes of the Federal Government." [6] Section 552b(b) provides that:

> Members shall not jointly conduct or dispose of agency business other than in accordance with this section. Except as provided in subsection (c), every portion of every meeting of an agency shall be open to public observation.

LP&L notes that the members of the Commission employed notational voting procedures to approve the earlier order. Notational voting, according to LP&L,

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[1] Order Accepting for Filing and Suspending Revised Rates, Denying Motion to Reject, Denying Waiver of Notice, Requiring Refunds, Consolidating Dockets, and Establishing Price Squeeze and Hearing Procedures, Docket Nos. ER81-457-000 *et al.* (July 10, 1981).

[2] Designated as Docket No. EL81-13-000.

[3] Designated as Docket No. ER81-457-000.

[4] Under LP&L's rationale, the company would not be obligated to refund amounts collected in excess of the just and reasonable charges for service to Winnfield.

[5] *See, Louisiana Power and Light Company*, Opinion No. 110, Docket No. ER77-533 (January 28, 1981); Opinion No. 110-A (June 24, 1981).

[6] Pub. L. No. 94-409, § 2, 90 Stat. 1241 (1976).

violates the Sunshine Act in the case of controversial actions and renders the resultant order void.

For the following reasons, we hold that the Commission's reliance on notational voting in this case did not impugn the validity of the underlying order. The Sunshine Act is intended to open to public view meetings of agencies headed by collegial bodies. Open meetings, however, are not required in every instance. Congress provided for the closing of particular meetings because of adverse impact on the public interest. 5 U.S.C. 552b(c). Similarly, Congress did not intend the Act to impede the efficient handling of the burgeoning load of administrative agencies.[7] While the Act itself is silent with respect to the handling of administrative matters by notational voting, the legislative history of the Act clearly contemplates the use of such procedures to expedite the handling of agency business. The conference Committee Report states:

> The conference substitute provided that members shall not jointly conduct or dispose of agency business in a meeting other than in accordance with new section 552b. *This prohibition does not prevent agency members from considering individually business that is circulated to them sequentially in writing.* (italics added)

H.R. Rep. No. 94–1441, S. Rep. No. 94–1178, 94th Cong., 2d Sess. 11 (1976), U.S. Cong. & Ad. News (1976) 2183, 2247.

The United States Court of Appeals for the District of Columbia Circuit has upheld the use of ntational voting as consistent with the requirements of the Sunshine Act. In *Communications System, Inc.* v. *FCC*, 595, F.2d 797, 800 (D.C. Cir. 1978), in upholding the FCC's use of notational voting to refuse a radio station's petition to change its license class, the court stated "[i]t thus clearly appears from the legislative history that Congress intended to permit agency members to act on agency business that is circulated to them 'sequentially in writing'" The court continued its endorsement of this mode of consideration, stating:

> This interpretation of the Sunshine Act is consistent with Congress' desire to open up the federal decision-making process while protecting * * * the ability of the Government to carry out its responsibilities. Notation voting enables Government agencies to expedite consideration of less controversial cases without formal meetings and following the other strictures of the Act. If all agency actions required meetings, then the entire administrative process would be slowed-perhaps to a standstill. Certainly requiring an agency to meet and discuss every trival item on its agenda would delay consideration of the more serious issues that require joint face-to-face deliberation. Clearly Congress did not intend such a result. We accordingly affirm the action of the Commission. (footnotes omitted) 592 F.2d at 800, 801.

It appears clear to us that Congress recognized the need for flexibility and the need to avoid impairment of the efficient functioning of government. This needed flexibility is achieved by individual consideration of matters by notational voting. As such, individual consideration does not require a meeting to take place.

Typically, when feasible, the Commission conducts its business through open meetings. It is important to note, however, that certain decisions of the Commission must be made within a statutory time limit. Such is the case here, where under section 205(d) of the Federal Power Act, it was incumbent upon the Commission to act on LP&L's filing by July 12, 1981, at the risk of sacrificing the suspension authority by inaction. Had LP&L's rates become effective without suspension or a refund obligation, Winnfield would have been denied potentially necessary protection following hearing. LP&L notes that its filing was identified as an item to be considered at the Commission meeting initially scheduled for July 9, 1981. However that meeting was cancelled. Accordingly, the circumstances of Winnfield's allegations of irreparable harm emanating from the imposition of incremental rates and the statutory deadline combined to require that the order be circulated seriatim for review by the individual Commissioners.

Although, the Act and its legislative history clearly permit the use of notational voting, LP&L focuses on the language in *Communications, Systems, supra,* to argue that the validity of the Commission's order is determined by the controversial nature of the action considered. Assuming, *arguendo,* the validity of LP&L's assertion, we do not construe the order in question as a controversial action. While there might be a great deal of "controversy" involved in a contested rate filing, particularly where anticompetitive issues or impairment of service are expressed concerns, the Commission's initial hearing order does not typically resolve such matters.[8] Rather, the Commission evaluates the proposed rates and the pleadings to determine whether suspension is necessary and whether issues have been raised to warrant a hearing. In this sense, the establishment of hearing procedures is a preliminary step taken to preserve the *status quo* pending disposition of the controversy. In setting LP&L's proposed rates for hearing, the Commission took no final action on the issues raised in the pleadings. The order, instead, established a procedure which allows for the parties to fully and completely air their positions.

Under the Commission's articulated policy, electric rate schedule filings are generally suspended for a five month period absent particular circumstances which would warrant a shorter suspension period. *See, e.g., Carolina Power & Light Company,* Order Denying Rehearing, Docket No. ER80–344 (August 8, 1980). Moreover, the decision to suspend proposed rates is committed to non-reviewable agency discretion. *Municipal Light Boards* v. *FPC,* 450 F.2d 1341, 1352 (D.C. Cir. 1971) *cert. denied* 405 U.S. 989 (1972); *Connecticut Light & Power Company* v. *FERC,* 627 F.2d 467, 471 (D.C. Cir. 1981). The decision to suspend the effectiveness of LP&L's rate for five months, therefore, did not require public debate and does not constitute a controversial matter significantly affecting Commission policy. As a result, we do not believe that the Commission's action thus far in this docket rises to the level of a "substantial, controversial issue" which would trigger the need for an open meeting even under LP&L's rationale.

LP&L also requests that the Commission reconsider its decision to suspend the proposed rate for five months. LP&L argues that its existing rate is inadequate to compensate for the costs of serving Winnfield. The company, therefore, requests that if the proposed rate must be suspended, the suspension period be limited to one day.

It is the Commission's responsibility under the Federal Power Act to determine rates appropriate to recover the legitimate costs incurred in providing service to Winnfield as well as the appropriate form of service to that city. As stated in the order of July 10, 1981, the Commission's preliminary analysis indicated that the proposed interchange service and rates have not been shown to be just and reasonable and that they may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Furthermore, we were not pursuaded that the circumstances justified a suspension for less than the full statutory period. In light of Winnfield's allegations that the proposed

[7] Joint Explanatory Statement of the Committee of Congress, H.R. Rep. No. 94–1441, S. Rep. No. 94–1178, 94th Cong., 2d Sess. 11 (1976), U.S. Code Cong. & Ad. News 2183, 2245 (1976).

[8] There are, of course, exceptions such as where summary disposition of particular issues is granted because no material questions of law or fact are presented.

interchange tariff would impair the viability of the city's electric system, the Commission undertook to expedite the proceeding so that a final decision could be issued prior to the expiration of the suspension period and to maintain the *status quo ante* in the interim. The application for rehearing contains no new facts or arguments that would cause us to modify these conclusions and we shall therefore deny LP&L's request for rehearing on the suspension question.

Finally, LP&L requests that it be permitted to collect the rates proposed in a previous filing, Docket No. ER77–533, during the suspension period in the current dockets. LP&L argues that continuation of service at its existing filed rate will inadequately compensate the company for providing service to Winnfield.

Section 35.17(c) of our regulations prohibits changes in rate schedules, continued in effect during the suspension of a proposed rate schedule change, absent Commission permission for good cause shown. The policy underlying this prohibition, as expressed in section 2.4(f) of our regulations, provides that during suspension, the prior existing rate schedule continues in effect and should not be changed. Thus, it is the intention of this Commission to maintain the *status quo* during suspension to allow for an investigation into proposed rate changes which may not meet the statutory requirements of the Federal Power Act. However, upon a showing of good cause, the Commission may in its discretion allow the collection of rates on an interim basis.

In its filing in this docket, LP&L could have proposed to collect the rates requested in Docket No. ER77–533. Instead, the company elected to file higher interchange rates and sought to amend its form of service to Winnfield. Now, on rehearing, without requesting waiver of section 35.17(c), LP&L seeks to impose a charge based upon its Docket No. ER77–533 filing on an interim basis. The company's evident dissatisfaction with the suspension period imposed in this docket does not justify substitution of a rate which LP&L could have applied to Winnfield at the expiration of its fixed rate contract but chose not to apply in favor of seeking a higher rate. LP&L's retrospective request to collect an increased rate during the suspension period lacks the showing of good cause required to waive section 35.17(c) and, therefore, its request will be denied.

The Commission orders

(A) LP&L's August 7, 1981 application for rehearing is hereby denied.

(B) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-28943 Filed 10-2-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 5145-000]

Mac Hydro-Power Co. Inc.; Application for Preliminary Permit

September 28, 1981.

Take notice that Mac Hydro-Power Company, Inc. (Applicant) filed on July 27, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5145 to be known as the Mule Creek Power Project located on Mule Creek in Trinity County, Califorina. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: H. L. Pete Childers, President, Mac Hydro-Power Company, Inc., 2515 Grass Valley Highway, P.O. Box 5193, Auburn, California 95603.

Project Description—The project would consist of: (1) a 5-foot high, 20-foot long diversion structure; (2) a 36-inch diameter, 3500-foot long diversion conduit; (3) a 36-inch diameter, 2000-foot long penstock; (4) a powerhouse containing a total installed capacity of 816 kW; and (5) a 500-foot long, 12.5 kV transmission line from the powerhouse to an eisting Gas & Electric Company transmission line. The Applicant estimates that the average annual energy output would be 7.0 million 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 it would conduct technical, environmental and economic studies; and also prepare an FERC license application. No new roads would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $60,000.

Competing Application—Anyone desiring to file a competing application must submit to the Commission, on or before December 7, 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 the time specified in §4.33(c).

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 December 7, 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. 81-28944 Filed 10-2-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 5259-000]

Modesto Irrigation District; Application for Preliminary Permit

September 28, 1981.

Take notice that Modesto Irrigation District (Applicant) filed on August 20, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5259 to be known as the Cold Creek

Glenn Power Project located on Cold Creek in Glenn County, near the Town of Elk Creek, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. A. Lee DeLano, Modesto Irrigation District, 1231 11th Street, P.O. Box 4060, Modesto, California 95352.

Project Description—The proposed project would consist of 5 facilities. The Upper Facility would consist of: (1) a 5-foot high 140-foot long diversion structure; (2) a 6,800-foot long, 60-inch diameter water conduit; (3) a 600-foot long, 40-inch diameter steel penstock; (4) a powerhouse with an installed capacity of 4.6 MW; and (5) a 16-mile long, 12-kV transmission line to connect to an existing Pacific Gas and Electric Company transmission line. The 2nd Facility would consist of: (1) a 5-foot high by 180-foot long diversion structure; (2) a 3,800-foot long, 66-inch diameter water conduit; (3) a 450-foot long, 80-inch diameter steel penstock; (4) a powerhouse with an installed capacity of 4.5 MW; and (5) a one-mile long, 12-kV transmission line to connect to the Upper Facility. The 3rd Facility would consist of: (1) a 5-foot high by 120-foot long diversion structure; (2) a 5,500-foot long, 56-inch diameter water conduit; (3) a 1,560-foot long, 41-inch diameter penstock; (4) a powerhouse with an installed capacity of 5.8 MW; and (5) a one-mile long, 12-kV transmission line to connect to the 2nd Facility. The 4th Facility would consist of: (1) a 6-foot high by 140-foot long diversion structure; (2) a 5,300-foot long, 60-inch diameter water conduit; (3) an 800-foot long, 39-inch diameter penstock; (4) a powerhouse with an installed capacity of 5.75 MW; and (5) a one-mile long, 12-kV transmission line to connect to the 3rd Facility. The 5th Facility would consist of: (1) a 5-foot high by 190-foot long diversion structure; (2) a 2,250-foot long, 67-inch diameter water conduit; (3) a 950-foot long, 52-inch diameter steel penstock; (4) a powerhouse with an installed capacity of 5.7 MW; and (5) a 0.5-mile long, 12-kV transmission line to connect to the 4th Facility.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 24-month permit to study the feasibility of constructing and operating the project.

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 November 3, 1981.

Competing Applications—This application was filed as a competing application to the Cold Creek Glenn Power Project No. 4415 filed on March 25, 1981, by Consolidated Hydroelectric, 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.

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, 825 North Capitol Street, NW., 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. 81-28945 Filed 10-2-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 5254-000]

Modesto Irrigation District; Application for Preliminary Permit

September 28, 1981.

Take notice that Modesto Irrigation District (Applicant) filed on August 19, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—835(r)] for Project No. 5254 to be known as the Kill Dry Creek Project located on Kill Dry Creek in Glenn County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: A. Lee DeLano, Modesto Irrigation District, 1231 11th Street, P.O. Box 4060, Modesto, California 95352.

Project Description—The proposed project would consist of: (1) a 6-foot high natural fill and concrete diversion structure; (2) a 48-inch diameter, 7,700-foot long conduit; (3) a 37-inch diameter, 1,000-foot long steel penstock; (4) a powerhouse containing a generating unit with a rated capacity of 3,500 kW; and (5) a 15-mile long, 12.0-kV transmission line. The Applicant estimates that the average annual energy output would be 30.3 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 24 months during which time it would conduct engineering, environmental, economic, and feasibility studies, and prepare an FERC license application. No new roads would be required to conduct the studies. The cost of the work to be performed under the preliminary permit is estimated to be $45,000.

Competing Applications—This application was filed as a competing application to Kill Dry Creek, Glenn Project No. 4343 filed on March 16, 1981, by Consolidated Hydroelectric, 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, protest, or petition to intervene must be received on or before November 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. 81-28946 Filed 10-2-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 5292-000]

Robert M. Moore; Application for Preliminary Permit

September 28, 1981.

Take notice that Robert M. Moore (Applicant) filed on August 28, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a) 825(r)] for Project No. 5292 known as the Moore Power Project located on Halls Gulch in Trinity County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Robert M. Moore, Rt. 1, Box 205, Cottonwood, California 96022.

Project Description—The proposed project would consist of: (1) a 50-foot long, 5-foot high diversion structure on Halls Gulch Stream; (2) a 36-inch diameter, 1,850-foot long penstock; (3) a powerhouse with a total rated capacity of 400 kW; and (4) a 3.5-mile long 12 kV transmission line from the powerhouse to an existing Pacific Gas & Electric Company transmission line. The Applicant estimates that the average annual energy production would be 3.6 million 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 24 months during which it would conduct technical, environmental and economic studies, and also prepare an FERC license application. No new roads would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $45,000.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before December 7, 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 the time specified in § 4.33(c).

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 December 7, 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. 81-28947 Filed 10-2-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4889-000]

Puget Sound Power & Light Co.; Application for Preliminary Permit

September 28, 1981.

Take notice that Puget Sound Power & Light Company (Applicant) filed on June 17, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 4889 to be known as the Wells Creek Project located on Wells Creek near Glacier in Whatcom County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Robert V. Myers, Vice-President, Generation Resources, Puget Sound Power & Light Company, Puget Power Building, Bellevue, Washington 98009.

Project Description—The project would consist of: (1) a 25-foot high, 200-foot long concrete gravity dam; (2) a 2600-foot long low pressure pipe and a 3,800-foot long unlined tunnel; (3) a 1,500-foot long, 66-inch diameter steel penstock; (4) a powerhouse with total installed capacity of 7300 kW and (5) a 2600-foot long transmission line which would connect the powerhouse to an existing Nooksack Power Plant Substation. The Applicant estimates that the average annual energy production would be 28.8 million 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 24 months during which time it would conduct technical, environmental and economic studies; and prepare an FERC license application. No new roads would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $250,000.

Competing Applications—This application was filed as a competing application to the Wells Creek Water Power Project No. 4628 filed on May 4, 1981, by Dennis V. McGrew & Associates 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 October 28, 1981.

Filing and Service of Responsive Documents—Any filing must bear in all capital letters the title "COMMENTS," "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. 81-28948 Filed 10-2-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 5299-000]

Surprise Valley Electrification Corp.; Application for Preliminary Permit

September 28, 1981.

Take notice that Sruprise Valley Electrification Corporation (Applicant) filed on August 31, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5299 to be known as the Ana Springs Dam Hydroelectric Project located on Ana River in Lake County, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: N. W. Matthews, General Manager, Surprise Valley Electrification Corporation, P.O. Box 691, Alturas, California 96101.

Project Description—The proposed project would consist of: (1) a 400-foot long, 48-inch diameter penstock; (2) a powerhouse with a total installed capacity of 350 kW; and (3) a 0.5-mile long transmission line from the powerhouse to an existing 14.4-kV Surprise Valley Electrification Corporation transmission line. The Applicant estimates that the average annual energy production would be 2.2 million 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 24 months, during which it would conduct technical, environmental and economic studies, and also prepare an FERC license application. No new roads would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $30,000.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before December 4, 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 the time specified in § 4.33(c).

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 December 4, 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. 81-28949 Filed 10-2-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 5300-000]

Surprise Valley Electrification Corp.; Application for Preliminary Permit

September 28, 1981.

Take notice that Surprise Valley Electrification Corporation (Applicant) filed on August 31, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5300 to be known as the Big Sage Hydroelectric Project located on Rattlesnake Creek in Modoc County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: N. W. Matthews, General Manager, Surprise Valley Electrification Corporation, P.O. Box 691, Alturas, California 96101.

Project Description—The proposed project would consist of: (1) a 1,900-foot long diversion channel; (2) a 36-inch diameter, 1,600-foot long penstock; (3) a powerhouse with a total installed capacity of 1,500 kW; and (4) a 2-mile long 7.2-kV transmission line from the powerhouse to an existing Surprise Valley Electrification Corporation transmission line. The Applicant estimates that the average annual energy production would be 4.4 million 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 24 months, during which it would conduct technical, environmental and economic studies, and also prepare an FERC license application. No new roads would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $275,000.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before December 4, 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 the time specified in § 4.33(c).

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 December 4, 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. 81-28950 Filed 10-2-81; 8:45 am]

BILLING CODE 6450-85-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1948-7]

Anafuel Unlimited; Grant of Application for a Fuel Waiver

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Pursuant to section 211(f) of the Clean Air Act (Act), the Administrator of EPA is conditionally granting the waiver requested by Anafuel Unlimited (Anafuel), for a proprietary fuel known as "Petrocoal" which consists of up to 12 percent, by volume, methanol, up to six percent, by volume, of certain four-carbon alcohols, in the presence of a proprietary inhibitor of not less than 0.023 grams per gallon (gpg) and not more than 0.033 gpg in unleaded gasoline. The waiver is being granted based on the Administrator's determination that Petrocoal will not cause or contribute to a failure of any 1975 or subsequent model year vehicle or engine to comply with the emission standards with respect to which it was certified under section 206 of the Act.

PUBLIC DOCKET: Copies of all public information on this waiver application are available for inspection in public docket EN-81-8 at the Central Docket Section (A-130) of the Environmental Protection Agency, Gallery I-West Tower, 401 M Street, SW., Washington, D.C. 20460, (202) 755-0245, between the hours of 8:00 a.m. and 4:00 p.m. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: James W. Caldwell, Chief, Fuels Section, Field Operations and Support Division (EN-397), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 382-2635.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 211(f)(1) of the Clean Air Act (Act), 42 U.S.C. 7545(f)(1), states that effective upon March 31, 1977, it shall be unlawful for any manufacturer of any fuel or fuel additive to first introduce into commerce, or to increase the concentration in use of, any fuel or fuel additive for general use in light duty motor vehicles manufactured after model year 1974 which is not substantially similar [1] to any fuel or fuel additive utilized in the certification of any model year 1975, or subsequent model year, vehicle or engine under section 206 of the Act.[2] Section 211(f)(4) of the Act, 42 U.S.C. 7545(f)(4), provides that the Administrator of the EPA, upon application of any manufacturer of any fuel or fuel additive, may waive the prohibitions established under section 211(f)(1),[3] if the Administrator determines that the applicant has established that such fuel or fuel additive or a specified concentration thereof, or the emission products of such fuel or additive or specified concentration thereof, will not cause or contribute to a failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Act. If the Administrator does not act to grant or deny an application within 180 days of receipt of the application, the waiver authorized by section 211(f)(4) shall be treated as granted.

Anafuel submitted an application for a waiver for a proprietary fuel known as "Petrocoal" on February 20, 1981. A **Federal Register** notice was published April 13, 1981, 46 FR 21695, acknowledging receipt of the application and soliciting comments. The 180-day review period provided by section 211(f)(4), scheduled to expire on August 19, 1981, was initially extended by thirty days until September 18, 1981 with the consent of Anafuel and EPA pursuant to a request from the Office of Management and Budget (OMB) for additional time to review EPA's proposed action under Executive Order 12291 and was subsequently extended an additional ten days until September 28, 1981 by the consent of Anafuel and EPA.[4]

Anafuel stated in its application that Petrocoal consists of up to 12 percent, by volume, methanol, up to 6 percent, by volume, certain four-carbon alcohols in

[1] The revised definition of "substantially similar" was published in the **Federal Register** on July 28, 1981, 46 FR 38582.

[2] Section 206 of the Act sets forth the certification requirement which vehicle manufacturers must comply with in order to introduce into commerce new model year motor vehicles.

[3] The Administrator may also waive the prohibitions or limitations contained in sections 211(f) (2) and (3).

[4] See **Federal Register** notices 46 FR 43082, August 26, 1981, and 46 FR 47299, September 25, 1981.

the presence of a proprietary inhibitor of not less than 0.023 grams per gallon (gpg) and not more than 0.033 gpg in unleaded gasoline.[5] The actual C–4 alcohols utilized and the chemical composition of the inhibitor have been made available to EPA but are not publicly available pursuant to the business confidentiality provisions at 40 CFR Part 2.

In making a determination on an application, EPA endeavors to gather as much information as possible about a fuel or fuel additive. Thus, it is preferred that the chemical composition of the fuel or fuel additive be made public allowing other interested parties the opportunity to test and comment on the emissions impact of the fuel or fuel additive. When the applicant has a legitimate business confidentiality claim, EPA will honor such claim, but insists that the applicant make the fuel or fuel additive available for testing by interested parties subject to appropriate confidentiality agreements.

Anafuel asserted a claim of business confidentiality over the particular C–4 alcohols utilized, the chemical composition of the inhibitor, and the exact formulation respecting the ratio of alcohols and inhibitor in any particular blend of fuel. The procedure for maintaining confidentiality and providing sample test fuel outlined above was followed. Two parties, General Motors and EPA, obtained Petrocoal samples from Anafuel and each conducted a series of tests.

Anafuel supplied test data with its waiver application. Anafuel concluded that that data would demonstrate that Petrocoal would not cause or contribute to a failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Act.

II. Summary of the Decision

I have determined that Anafuel has met the burden established under section 211(f)(4) necessary to obtain a waiver for Petrocoal provided the concentration of methanol in the finished fuel does not exceed 12 percent, by volume, the concentration of total alcohols in the fuel does not exceed 15 percent, by volume, the ratio of methanol to four-carbon alcohols in the finished fuel does not exceed 6.5 to 1, by volume and the finished fuel is blended such that it meets the American Society for Testing and Materials (ASTM) fuel volatility specifications for the area and time of year in which it is sold. In reaching this decision, I have considered all the available information and data including that provided by persons other than the applicant.

III. Method of Review

In order to obtain a waiver for a fuel or fuel additive (hereinafter, fuel or fuel additive will be collectively referred to as "fuel") the applicant must establish that the fuel and its emission products will not cause or contribute to a failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Act. This burden, which Congress has imposed on the applicant, if interpreted literally, is virtually impossible to meet as it requires the proof of a negative proposition, i.e., that no vehicle will fail to meet emission standards with respect to which it has been certified. Taken literally, it would require the testing of every vehicle. Recognizing that Congress contemplated a workable waiver provision, mitigation of this stringent burden was deemed necessary. For purposes of the waiver provision, EPA has previously indicated that reliable statistical sampling and fleet testing protocols may be used to demonstrate that a fuel under consideration would not cause or contribute to a significant failure of emission standards by vehicles in the national fleet (see, Waiver Decision on Tertiary Butyl Alcohol (TBA), 44 FR 10530 (1979)).

Emission data submitted with respect to a waiver request are analyzed by appropriate statistical methods in order to characterize the effect that a fuel will have on emission. Which tests are appropriate to characterize the emission effects of a fuel depends on whether the fuel is predicted to have instantaneous effect or a long-term deteriorative effect on emissions or both. If the fuel is predicted to have only an instantaneous effect, i.e., the fuel causes an instantaneous incremental shift in the emission levels relative to a base fuel and that shift remains constant throughout the useful life of the vehicle, then "back-to-back" emission testing will suffice.[6] If, however, a long-term deteriorative effect is predicted, then 50,000-mile durability testing would be required.[7]

The statistical tests applied to emissions data provided with respect to a waiver request for a fuel expected to have an instantaneous emission effect are: a Paired Difference Test, a Sign of Difference Test, and a Deteriorated Emissions Test (a test which compares the deteriorated emissions with the emission standards in lieu of actually having 50,000-mile emissions data). These statistical tests are described in Appendix A to this decision.

An alternative to providing the amount of data necessary to meet the statistical requirements, is to make judgments based upon a reasonable theory regarding emission effects supported by confirmatory testing. If there exists a reasonable theory which predicts the emission effects of a fuel, an applicant may only need to conduct a sufficient amount of testing to demonstrate the validity of such theory. This theory and confirmatory testing then form the basis from which the Administrator may exercise his judgment on whether the additive will cause or contribute to a significant failure of any emission control device or system which results in a failure by the vehicle to achieve compliance with emission standards. In addition to emission data, EPA also reviews data on materials compatibility, driveabilitiy, fuel composition, and specifications. This information is necessary to fully characterize a fuel, and to determine whether such additive will cause or contribute to a significant failure of vehicles to comply with appropriate emission standards.

Such failure could result from any of the above factors. For example, driveability problems such as lean misfire and repeated stalling lead to increased emissions. Materials compatibility problems could lead to failure of fuel systems which are designed to precise tolerances. Deviations beyond the tolerances could result in greater emissions. Volatility specifications could demonstrate a tendency for high evaporative losses.

[5] Petrocoal as defined in this application is not "substantially similar" to any fuel utilized in certification under section 206 of the Act as that term is defined, supra.

[6] Back-to-back emission testing involves testing a vehicle on a base fuel, then testing that same vehicle on the waiver fuel. The difference in emission levels is attributed to the waiver fuel.

[7] 50,000-mile durability testing involves operating a matched set of vehicles for 50,000 miles and testing each vehicle for its emissions at 50,000-mile intervals. This is essentially the same testing pattern which each automobile manufacturer must do for new motor vehicle certification under section 206 of the Act.

Analysis

A. *Exhaust Emission Data.* Experience with other oxygenated hydrocarbon additives similar to the alcohols contained in Petrocoal has led EPA to believe that only an instantaneous emission effect should be observed with Petrocoal. [8] Thus, the emission data were analyzed presuming Petrocoal exhibited only instantaneous emission effects. In reviewing future waiver applications for fuels containing high percentages of methanol without the presence of cosolvents and special inhibitors some long-term durability testing may be [9]

Exhaust emission data were available on 16 vehicles tested on Petrocoal and a base unleaded gasoline. [10] Numerical results of the statistical tests are summarized in Appendix B. The Paired Difference Test (Test 1) and the Sign of Difference Test (Test 2) are used to test the directional effect and the magnitude of the effect which Petrocoal has on emissions and could be used to determine if it contributes to a failure of vehicles to meet emission standards. The Deteriorated Emissions Test (Test 3) is used in lieu of 50,000-mile durability test results and could be used to determine if Petrocoal will cause a failure of vehicles to meet emission standards over their useful like.

The results from the Paired Difference Test (Test 1) and the Sign of Difference Test (Test 2) indicate that exhaust hydrocarbons (HC) do not increase, carbon monoxide (CO) emissions decrease, and oxides of nitrogen (NO_x) likely increase, although the amount of the increase is modest. The Deteriorated Emissions Test (Test 3) indicates that there would not be any significant failure of vehicles to meet HC, CO, or NO_x standards.

The conclusion of these statistical tests is that Petrocoal reduces CO emissions and has essentially no effect on HC emissions. While it does cause NO_x emissions to increase modestly, it is not likely to cause a significant failure of vehicles to meet NO_x emission standards (see Appendix B and discussion of the Energy and Environmental Analysis, Inc. (EEA) report).

B. *Evaporative Emissions.* Anafuel asserted that evaporative emissions are directly related to fuel volatility characteristics, primarily the Front End Volatility Index (FEVI). [11] This relationship has been clearly established when the fuel is composed entirely of hydrocarbon components. It has also been demonstrated to apply when the fuel contains some relatively small percentages of the oxygenated hydrocarbons tertiary butyl alcohol (TBA), methyl tertiary butyl ether (MTBE), and a mixture of TBA and methanol (Oxinol). [12] While the data available on Petrocoal at the higher percentages of alcohols are not complete, the relationship appears to hald also as evidenced by data in the record of Petrocoal's FEVI and the evaporative emission data. Thus, controlling the volatility of Petrocoal within ASTM volatility specifications should adequately control evaporative emissions and they should be no worse than those of commercially available fuels.

It would be disciminatory to require the applicant's fuel to meet a more stringent volatility limit in order to control evaporative emissions then is characteristic of commercially available fuels. [13] The volatility of commercially available gasoline varies over a substantial range, and indeed must be blended with the correct volatility for the particular geographic area and time of year. Therefore, I conclude that Petrocoal will not cause or contribute to the failure of vehicles to meet evaporative emission standards provided it is blended to meet the ASTM volatility specifications appropriate for the area and the time of year as provided in this waiver.

C. *Other Technical Issues—Materials Compatibility.* Materials compatibility is an important factor when reviewing a waiver request. Materials incompatibility can contribute or cause the failure of vehicles to meet either their exhaust or evaporative emission standards. This can occur because a fuel or additive may cause changes in the components in carburetors or fuel systems which exceed the tolerances specified by the manufacturer. Such changes can impair the performance of the vehicle to the point that emissions are adversely affected. Unfortunately, materials compatibility data are not as easily subjected to quantitative analysis as are emission data.

Anafuel was cognizant of this concern about materials compatibility and added a special corrosion inhibitor to ameliorate these problems. Anafuel also performed testing to demonstrate the lack of materials compatibility problems with Petrocoal.

Anafuel performed immersion tests on several metallic parts and elastomeric parts commonly found in carburetors and fuel systems. The results from Anafuel's testing indicated that the corrosion of metallic parts due to Petrocoal would be no worse than that of gasoline. The results for the elastomeric parts indicated that while some components changed in characteristics such changes were not significantly different than for those with gasoline.

Based on these data and our judgement, I conclude that Petrocoal containing the methanol and total alcohols specified and in the presence of the proprietary inhibitor in the conditions of this waiver does not present a materials compatibility problem affecting emissions with the fuel systems currently in use.

2. *Driveability.* Driveability is also an important criterion in judging a waiver application, but is also difficult to objectively quantify. Driveability information is important because poor driveability can directly result in increased emissions due to constant misfires and repeated stalling, and possibly lead to tampering with the emission controls of the vehicle.

The information developed by Anafuel, EPA, and other commenters on driveability, in conjunction with market demands placed on a fuel manufacturer for an acceptable fuel, lead me to conclude that driveability is not a significant problem with Petrocoal.

IV. Findings and Conclusion

I have determined that Anafuel has established that Petrocoal will not cause or contribute to a failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Act.

I am conditioning this waiver to maintenance of a maximum ratio of methanol to four-carbon alcohols of 6.5 to 1.

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[8] See Waiver Decisions for TBA, 44 FR 10530; MTBE, 44 FR 12242; and Oxinol, 44 FR 37074.

[9] General Motors (GM), in its comments on this application (Docket EN-81-8, Document I-D-6), contends that 50,000-mile durability testing should be required before any waiver could be granted. EPA does not fully embrace this position. This does not mean that in the appropriate circumstances long-term durability testing would not be required. Such a decision would have to be made on a case-by-case basis.

[10] For a more detailed list see the Characterization Report—Anafuel Unlimited (Docket EN-81-8). A fifth vehicle was tested by EPA but was not included in this analysis because the results were not available for public comment and would not have altered the results.

[11] FEVI is equal to the Reid Vapor Pressure (partial pressure at 155° F. ASTM D439-78) plus 0.13 times the numerical percentage of fuel evaporated at 156° F.

[12] See Waiver Decisions for TBA, 44 FR 10530; MTBE, 44 FR 12242; and Oxinol, 44 FR 37074.

[13] See Waiver Decision for Oxinol, 44 FR 37074.

I hereby grant the waiver requested by Anafuel for its proprietary fuel Petrocoal provided the following conditions are met:

1. The proprietary fuel is blended such that the concentration of methanol in the finished fuel does not exceed 12 percent, by volume, and the concentration of total alcohols in the finished fuel does not exceed 15 percent, by volume; and

2. The proprietary fuel is blended such that the ratio of methanol to the four-carbon alcohols in the finished fuel does not exceed 6.5 to 1, by volume; and

3. The proprietary fuel is blended such that it meets the American Society for Testing and Materials (ASTM) fuel volatility specifications for the area and time of year in which it is marketed; and

4. The proprietary fuel is subject to all of the regulations applicable to unleaded gasoline in Title 40 of the Code of Federal Regulations Parts 79 and 80. This fuel may also be offered at retail in lieu of unleaded gasoline as required by the above regulations.

This action was submitted to the Office of Management and Budget (OMB) for review pursuant to Executive Order 12291.

This action is not a "rule" as defined in 5 U.S.C. 601(2) because EPA is not required to undergo "notice and comment" under section 553(b) of the Administrative Procedure Act, or other law. Therefore, EPA has not prepared a supporting regulatory flexibility analysis addressing the impact of this action on small business entities.

This is final Agency action of national applicability. Jurisdiction to review this action lies exclusively in the U.S. Court of Appeals for the District of Columbia Circuit. 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 U.S. Court of Appeals for the District of Columbia Circuit within 60 days of (the date of publication). Under section 307(b)(2), today's action may not be challenged later in a separate judicial proceeding brought by the Agency to enforce the statutory prohibitions.

Dated: September 28, 1981.

John W. Hernandez,

Acting Administrator.

Appendix A—Statistical Criteria

The following is a brief description of the statistical tests used to characterize the emission effects of a fuel or fuel additive:

(1) *The Paired Difference Test*—For each vehicle tested on a base fuel and on the waiver fuel or fuel additive, the difference between the waiver fuel or fuel additive emissions and the base fuel emissions is calculated. A 90% confidence interval is constructed for the mean differences. If the resulting interval lies entirely below zero it is indicative of no adverse effect from this waiver fuel or fuel additive. If the entire interval is above zero, it is indicative of an adverse effect from the waiver fuel or fuel additive. If the interval contains zero, there is arguably no difference between the base fuel and the waiver fuel or fuel additive with regard to emissions provided the confidence interval is small.

(2) *The Sign of Difference Test*—For each vehicle tested with a base fuel and the waiver fuel or fuel additive, the sign of the emission difference between the waiver fuel or fuel additive emissions and the base fuel emissions is ascertained. This test is designed to determine whether the number of vehicles demonstrating an increase (+) in emissions with the waiver fuel or fuel additive significantly (at a 90 percent confidence level) exceeded those showing a decrease (−) in emissions with the waiver fuel or fuel additive.

(3) *The Deteriorated Emissions Test*—For each vehicle, the effect the waiver fuel or fuel additive had on emissions is determined. This incremental effect, either positive or negative, is added to the 50,000-mile certification emission value of the certification emission vehicle which the test vehicle represented. This incremented 50,000-mile emission value is compared to emissions standards to determine if it did or did not exceed the standards. Either a pass or fail is assigned accordingly. The pass/fail results are analyzed using a one-sided sign test.

The first two methods of analysis are designed to determine whether the waiver fuel or fuel additive has an adverse effect on emissions as compared to the base fuel. Each characterizes a different aspect of adverse effect. The Paired Difference Test determines the mean difference in emissions between the base fuel and the waiver fuel or fuel additive. The Sign of Difference Test assesses the number of vehicles indicating an increase or decrease in emissions. The two tests are considered together in evaluating whether an adverse effect exists to assure that a mean difference determination is not unduly influenced by very high or very low emission results from only a few vehicles.

The Deteriorated Emissions Test analysis indicates whether the waiver fuel or fuel additive causes a vehicle to fail to meet emission standards. This test examines each vehicle's emission performance as compared to each pollutant standard. It is useful to perform this analysis even if the first two analyses indicate the waiver fuel or fuel additive has no adverse effect. The analysis indicates whether the emissions from any particular type of vehicles or special emission control technologies are uniquely sensitive to the waiver fuel or fuel additive, thus causing vehicles to fail to meet emission standards. This effect could be masked in the previous analyses which consider the emissions results as a group without distinguishing the emissions impact on subgroups.

Appendix B—Numerical Results of the Data

The results of the statistical tests described above are summarized here:

(1) *The Paried Difference Test*—The 90 percent confidence intervals around the mean difference between the base fuel and Petrocoal for each pollutant are:

Hydrocarbon (HC)	−0.11 to +0.05
Carbon Monoxide (CO)	−2.60 to −0.78
Oxides of Nitrogen (NO_x)	+0.01 to +0.16

(2) *Sign of Difference Test*—We list the confidence that Petrocoal will cause an increase in emissions over the base fuel based on the observed increases out of the total vehicles tested:

CONFIDENCE OF INCREASE

		Percent
HC	9 out of 16	60
CO	3 out of 16	
NO_x	13 out of 16	99

(3) *Deteriorated Emissions Test*—The number of vehicles whose incremented 50,000-mile emission values exceed applicable standards is:

HC	1 out of 16.
CO	1 out of 16.
NO_x	2 out of 16.

The statistical Deteriorated Emissions Test is designed to provide a 90 percent probability of failure of the Test if 25 percent or more of the vehicle fleet would fail to meet emission standards using the applicant's fuel or fuel additive. For a 16-vehicle sample, the Test dictates that one vehicle failure

constitutes a pass, two or more constitute a failure. In this case, Petrocoal just fails (by one vehicle) this Test for NO_x. Nevertheless, because the failure was borderline, i.e., small changes to the test criteria would result in a pass, coupled with the small increase in NO_x emissions found in Test 1, I conclude that this problem is not significant enough to warrant a disapproval of the waiver request. In reaching this conclusion, I considered all the information before me including the EEA report submitted by Anafuel.

[FR Doc. 81-28861 Filed 10-2-81; 8:45 am]
BILLING CODE 6560-33-M

[OPTS-51325; TSH-FRL-1949-2]

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). This notice announces receipt of five PMN's and provides a summary of each.

DATES: Written comments by: PMN 81-483, 81-484, 81-485, 81-486, and 81-487—November 27, 1981.

ADDRESS: Written comments, identified by the document control number "[OPTS-51325]" 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-409, 401 M St., SW., Washington, D.C. 20460, (202-755-5687).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, D.C. 20460, (202-426-2601).

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on the PMN's received by EPA:

PMN 81-483

Close of Review Period. December 27, 1981.

Manufacturer's Identity. Day-Glo Color Corporation, 4732 St. Clair Avenue, Cleveland, OH 44103.

Specific Chemical Identity. 4(2'-aminophenyl thio) 1,8-naphthalic anhydride.

Use. The manufacturer states that the PMN substance will be used as a dye intermediate.

IMPORT/PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	10	1,000
2d year	1,000	5,000
3d year	2,000	10,000

Physical/Chemical Properties

Appearance, Yellow powder
Melting point, 200-201°C
Solubility:
Water, Insoluble
Alcohol, Very slightly soluble
Esters, Slightly soluble

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture and use 4 workers may experience dermal exposure up to 8 hrs/day, up to 20 days/yr during transfer operations.

Environmental Release/Disposal. The manufacturer states that no release to the environment is anticipated. Solvent recovery is through conventional distillation apparatus.

PMN-81-484

Close of Review Period. December 27, 1981.

Importer's Identity. Claimed confidential business information. Organization information provided:
Annual sales—Over $500 million
Manufacturing site—Middle Atlantic
Standard Industrial Classification Code—2865

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Aromatic diazo dye.

Use. The importer states that the PMN substance will be used as a dye for leather.

IMPORT ESTIMATES

	Kilogram per year	
	Minimum	Maximum
1st year	1,200	1,800
2d year	1,800	2,500
3d year	3,000	4,000

Physical/Chemical Properties

Appearance, Red powder with characteristic odor
pH, 6-8
Solubility: water @ 20°C, 30 g/l
Biodegradability (static method) 50-100%
Decomposition temperature > 260°C

Toxicity Data

Acute oral toxicity LD_{50} (rat), > 5 g/kg
Skin irritation (rabbit), Slightly irritating
Eye irritation (rabbit), Non-irritating
Ames salmonella, Non-mutagenic

Exposure. The importer states that during processing 2 workers may experience dermal and inhalation exposure 2 hrs/day, 100 days/yr.

Environmental Release/Disposal. The importer states that less than 10 kg/yr will be released to the air and water up to 2 hrs/day, 100 days/yr. Disposal is to an approved landfill.

PMN 81-485

Close of Review Period. December 27, 1981.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:
Manufacturing site—Mid-Atlantic
Standard Industrial Classification Code—285;e

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Polymer of a substituted alkanediol, a carbomonocyclic anhydride and a substituted alkanoic ester.

Use. The manufacturer states that the PMN substance will be used in an open use.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	0	20,000
2d year	20,000	100,000
3d year	100,000	300,000

Physical/Chemical Properties

Viscosity, 184 cps
Density, 1.067 gm/cm³
Acid value, 13.4 (mgKOH/g)
Color (Gardner), 1
Percent solids, @ 105° C 84.0; @ 150° C 76.1

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture and processing 114 workers may experience dermal and occular exposure up to 8 hrs/day, up to 157 days/yr during testing, filtration, and testing.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr will be released to the air and water and 100-1,000 kg/yr will be released to

land. Solvent is used to clean the equipment and is reclaimed by distillation. Sludge is incinerated.

PMN 81-486

Close of Review Period. December 27, 1981.

Manufacturer's Identity. Claimed confidential business information. Organization information provided: Annual sales—Over $500 million Manufacturing site—East North Central Standard Industrial Classification Code—28

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Polyhaloalkylbenzene.

Use. The manufacturer states that the PMN substance will be used as an intermediate.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Boiling point @ 0.5 mm, 74°C
Solubility:
Water, Insoluble
Acetone, Infinitely soluble
Ethanol, Infinitely soluble
Ether, Infinitely soluble
DMSO, Soluble
Dimethoxyethane, Soluble
Density, 1.43 g/ml

Toxicity Data

Acute oral toxicity LD_{50} (rat), 0.5 ml/kg
Skin irritation (rabbit), Highly irritating
Eye irritation (rabbit), Moderately irritating
Ames salmonella, Non-mutagenic

Exposure. The manufacturer states that during manufacture 2 workers may experience dermal and ocular exposure 16 hrs/day, 60 days/yr.

Environmental Release/Disposal. The manufacturer states that release to the environment will be negligible. Vapors will be collected by condensation or adsorption; liquids will be burned or bio-treated.

PMN 81-487

Close of Review Period. December 27, 1981.

Importer's identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Aliphatic ester.

Use. Claimed confidential business information.

IMPORT ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	10	100
2d year	10	1,000
3d year	100	2,000

Physical/Chemical Properties

Appearance, Liquid
Specific gravity @ 25°C, 0.851-0.871
Flash point, Above 100°F
Solubility:
Water, Slightly soluble
Refractive index, 1.401-1.417
Color, pale to light yellow

Toxicity Date

Acute oral toxicity LD_{50} (rat), 5.0 g/kg
Acute dermal toxicity LD_{50} (rabbit), 2.0 g/kg
Skin irritation (rabbit), Mildly irritating
Eye irritation (rabbit), Mildly irritating
Ames salmonella, Non-mutagenic

Exposure. The importer states that during use 2 workers may experience inhalation exposure less than 1 hr/day, less than 20 days/yr.

Environmental Release/Disposal. The importer states that less than 10 kg/yr will be released to the air less than 1 hr/day, less than 20 days/yr. No disposal problems are anticipated.

Dated: September 27, 1981.

Woodson W. Bercaw,

Acting Director for Management Support Division.

[FR Doc. 81-28882 Filed 10-2-81; 8:45 am]

BILLING CODE 6560-31-M

FEDERAL MARITIME COMMISSION

[Docket No. 81-59]

General Transpac System; Order of Investigation and Hearing

Based upon information furnished by the Bureau of Hearings and Field Operations it appears that General Transpac System (General Transpac) may have carried out a cooperative working arrangement with Transpacific Freighting Corporation (Transpacific) without having first filed the agreement and obtained approval from the Commission pursuant to section 15 of the Shipping Act, 1916 (46 U.S.C. 814).

The Commission's Bureau of Hearings and Field Operations asserted a claim for a civil penalty against General Transpac for carrying out an unfiled cooperative working arrangement with Transpacific during the period from April 30, 1976 through August 15, 1977. General Transpac and Transpacific were both non-vessel operating common carriers though Transpacific is no longer in business. Under the agreement General Transpac acted as an agent for Transpacific and received part of the net profit as an agency fee. General Transpac has rejected the claim.

Now Therefore it is ordered, that pursuant to sections 15, 22, 32, and 44 (46 U.S.C. 814, 821, 831 and 841(b)) of the Shipping Act, 1916, a proceeding is hereby instituted to determine:

1. Whether General Transpac System violated section 15, Shipping Act, 1916 by carrying out an unfiled cooperative working arrangement with Transpacific Freight Corporation subject to section 15 of the Shipping Act, 1916; and

2. Whether civil penalties should be assessed against General Transpac System pursuant to 46 U.S.C. 831(e), for violations of section 15 of the Shipping Act, 1916, and, if so, the amount of any such penalty which should be imposed, taking into consideration factors in possible mitigation of such a penalty.

It is further ordered, that General Transpac System be named Respondent in this proceeding.

It is further ordered, that a public hearing be held in this proceeding and that the matter be assigned for hearing and decision by an Administrative Law Judge of the Commission's Office of Administrative Law Judges at a date and place to be hereafter determined by the Presiding Administrative Law Judge, but no later than 180 days after service of this order.

The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examiniation are necessary for the development of an adequate record;

It if futher ordered, that in accordance with Rule 42 of the Commission's Rules of Practice and Procedure (46 CFR 502.42), the Bureau of Hearings and Field Operations shall be a party to this proceeding;

It is further ordered, that this Order be published in the **Federal Register,** and a copy be served upon all parties of record.

It is further ordered, that any person other than parties of record having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72):

It is further ordered, that all future notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be mailed directly to all parties of record;

It is further ordered, that, all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's Rules of Practice and Procedure (46 CFR 502.118), as well as being mailed directly to all parties of record.

By the Commission.

Joseph C. Polking,

Assistant Secretary.

[FR Doc. 81-28916 Filed 10-2-81; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1206]

Jar Freight Forwarders; Order of Revocation

On September 15, 1981, James A. Riley, III d.b.a. Jar Freight Forwarders, 13843 Redskin Drive, Herndon, VA 22070, surrendered his Independent Ocean Freight Forwarder License No. 1201 for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 8, 1977;

It is ordered, that Independent Ocean Freight Forwarder License No. 1206 issued to James A. Riley, III d.b.a. Jar Freight Forwarders be revoked effective September 15, 1981.

It is further ordered, that a copy of this Order by published in the **Federal Register** and served upon James A. Riley, III d.b.a. Jar Freight Forwarders.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 81-28915 Filed 10-2-81; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2239]

Lion Forwarding Co.; Order of Revocation

On August 31, 1981, Larry La Gorio, d.b.a. Lion Forwarding Co., 7131 Owensmouth Avenue, Suite 70B, Canoga Park, CA 91303, surrendered his Independent Ocean Freight Forwarder License No. 2239 for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), § 5.01(c), dated August 8, 1977;

It is ordered, that Independent Ocean Freight Forwarder License No. 2239 issued to Larry La Gorio, d.b.a. Lion Forwarding Co. be revoked effective August 31, 1981.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Larry La Gorio, d.b.a. Lion Forwarding Co.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 81-28914 Filed 10-2-81; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bradford Bancorp, Inc.; Formation of Bank Holding Company

Bradford Bancorp, Inc., Bradford, Illinois, has applied for the Board's approval under section 3(a)(1) if the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Bradford Banking Company, Bradford, 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 Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 28, 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, September 28, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-28840 Filed 10-2-81; 8:45 am]

BILLING CODE 6210-01-M

First Deposit Bancshares, Inc.; Formation of Bank Holding Company

First Deposit Bancshares, Inc., Tompkinsville, Kentucky, 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 94 percent or more of the voting shares of Deposit Bank of Monroe County, Tompkinsville, Kentucky. 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 October 21, 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, September 28, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-28841 Filed 10-2-81; 8:45 am]

BILLING CODE 6210-01-M

Heritage Bancorp; Formation of Bank Holding Company

Heritage Bancorp, Anaheim, California, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Heritage Bank, Anaheim, California. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 28, 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, September 28, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-28842 Filed 10-2-81; 8:45 am]

BILLING CODE 6210-01-M

Pioneer American Bancorporation; Formation of Bank Holding Company

Pioneer American Bancorporation, Pendleton, Oregon, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of The Pendleton Banking Company, Pendleton, Oregon. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 28, 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, September 28, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-28843 Filed 10-2-81; 8:45 am]

BILLING CODE 6210-01-M

Rawlins Bancshares, Inc.; Formation of Bank Holding Company

Rawlins Bancshares, Inc., Atwood, Kansas, 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 90.7 percent or more of the voting shares of Farmers Bank & Trust, Atwood, Kansas. 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 Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 28, 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, September 28, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-28844 Filed 10-2-81; 8:45 am]

BILLING CODE 6210-01-M

Sterling Bancorp; Formation of Bank Holding Company

Sterling Bancorp, Johnson, Vermont, 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 at least 80 percent of the voting shares of Sterling Trust Company, Johnson, Vermont. 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 Boston. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 28, 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, September 28, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-28845 Filed 10-2-81; 8:45 am]

BILLING CODE 6210-01-M

Texas Commerce Bancshares, Inc.; Acquisition of Bank

Texas Commerce Bancshares, Inc., Houston, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of The Hillcrest State Bank, University Park, Texas. 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 Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than October 28, 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, September 28, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-28846 Filed 10-2-81; 8:45 am]

BILLING CODE 6210-01-M

Texas Commerce Bancshares, Inc.; Acquisition of Bank

Texas Commerce Bancshares, Inc., Houston, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Texas Commerce Bank—Barton Creek, National Association, Austin, Texas, a proposed new bank. 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 Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than October 28, 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, September 28, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-28847 Filed 10-2-81; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Physician Agreements To Control Medical Prepayment Plans

AGENCY: Federal Trade Commission.

ACTION: Adoption and publication of enforcement policy with respect to physician agreements to control medical prepayment plans.

SUMMARY: The Federal Trade Commission has adopted, and is publishing with this notice, a statement of enforcement policy with respect to physician agreements to control medical prepayment plans. The statement sets forth the general approach the Commission intends to use in its case-

by-case enforcement program for evaluating physician agreements to form, operate, or control such plans and for evaluating the practices of plans that are controlled by a group of physicians.

FOR FURTHER INFORMATION CONTACT:
Walter T. Winslow, Jr., Assistant Director, or David A. Glacalone, Attorney, Bureau of Competition, Federal Trade Commission, Washington, D.C. 20580 (telephone: (202) 724–1062).

SUPPLEMENTARY INFORMATION: The following is a summary of the analysis and conclusions contained in the statement:

After a substantial, industrywide investigation, including the receipt and review of extensive public comment, the Federal Trade Commission has decided to proceed on a case-by-case basis in addressing the antitrust concerns which may be raised by physician agreements to form, operate, or control medical prepayment plans ("plans"). This Statement of Enforcement Policy sets forth the general approach the Commission intends to use in its enforcement program to evaluate such agreements, as well as the practices of plans that are controlled by a physician group, in order to determine whether they raise serious antitrust concerns which warrant Commission action. The Statement is intended to facilitate voluntary compliance with the antitrust laws by physician groups and plans, by summarizing the Commission's goals, analysis, and enforcement intentions in this area.

If competitive forces are to be permitted to help provide better and less expensive health care services, it is important that there be competition among the sellers of health care financing and among the providers of health care. Medical prepayment plans have the potential to enhance both kinds of competition. Therefore, the Commission is concerned when agreements or concerted actions by physicians injure or threaten such competition. Indeed, such agreements or combinations among physicians, and any resultant concerted activity, are illegal if they unreasonably restrain trade. Antitrust law considers the actions and decisions of an organization or enterprise controlled by a group of competitors to be the joint action of the group's members. Therefore, the actions of a medical society or other organization comprised of competing physicians, and the actions of a plan controlled by a group of competing physicians, are treated as the concerted activity of the physician group.

In evaluating physician group agreements relating to plans, the Commission will view "control" by a physician group as meaning effective overall authority over plan policies and actions. A plan is "physician controlled," then, when a physician group has the formal or informal ability to set overall plan policies by dominating its decisionmaking processes. Such overall control is likely to exist when a physician group selects a majority of the voting members of the plan's governing body. It appears unlikely that a group selecting less than one-fourth of the seats on a plan's governing body would be found to control the plan, without additional evidence that the group dominates the plan's decisionmaking process by other means. Absent such overall physician control, a plan is treated as a single entity that is separate from the physician group.

The Statement characterizes physician-controlled plans as either "merged" or "partially integrated." A plan is "merged" when the controlling physicians have fully merged or integrated their medical practices and therefore are no longer in competition with each other. Plans are characterized as "partially integrated" when the controlling physicians still compete with each other for patients in independent medical practices and have either (1) partially integrated their practices through the plan, or (2) made a substantial financial contribution to support the establishment or operation of the plan. Traditional merger law analysis will be applied to the formation of merged plans, which may often take the form of group or staff model health maintenance organizations. Absent any anticompetitive purpose, the formation of a merged plan by a reasonably small portion of the physicians practicing in an area normally will not raise antitrust concerns. In an unconcentrated market, for example, such antitrust concerns are unlikely to arise if less than thirty percent of area practicing physicians are involved. Since physicians who control or operate a merged plan are no longer competitors once the plan is formed, the actions of a merged plan are treated as those of a single business entity. A merged plan therefore is subject to the same antitrust standards as any plan that is not controlled by competing providers.

In most cases where a physician group has created a partially integrated plan, concerted action by the physicians relating to the plan, and the policies and practices of the controlled plan, will properly be analyzed under the rule of reason. The rule of reason seeks to determine whether an act or practice is, on balance, significantly anticompetitive and therefore unlawful. Under this standard of legality, the purpose and effects of concerted activity are examined to determine whether the activity unreasonably restrains trade.

The Commission's primary enforcement focus with regard to partially integrated plans will be upon the operation rather than the formation of such plans. Enforcement action may be warranted at the formation stage, however, where either (1) the controlling physician group appears to have established the plan for an anticompetitive purpose, or (2) the plan's formation eliminated (or is likely to eliminate) substantial potential competition from other plans. The loss of potential competition appears most likely when the controlling physician group consists of a substantial majority (*e.g.*, two-thirds or more) of area practicing physicians or of any widely-used medical specialties.

Commission enforcement action regarding the operation of partially integrated plans may be warranted in cases involving anticompetitive effects resulting from either (1) agreements by the controlling physician group relating to the plan's operation, or (2) the policies and practices of the plan itself. The Commission ordinarily would apply the rule of reason in analyzing the operation of partially integrated plans. In assessing the overall competitive effect of a challenged practice, the Commission normally will consider the market power of the plan and, where relevant, that of the physician group. In general, the greater the market power possessed by a plan, the greater the probability that a restraint resulting from operation of the plan could have significant anticompetitive effects. The Commission will also take into account any relevant integration of the physicians' medical practices that has been achieved through the plan, and the extent to which a challenged practice is necessary to obtain potential competitive benefits from the integration. In sum, absent anticompetitive purpose, the practices of a partially integrated plan will not violate the antitrust laws unless on balance they have or are likely to have a significant anticompetitive effect.

In an enforcement action, the Commission will take into account any procompetitive effects of a challenged practice and will consider the purpose or business justification for the practice in order to evaluate its overall competitive impact. The respondent(s)

would be permitted to show any legitimate business justification for, and procompetitive effects of, the challenged practice(s). The appropriate remedy would depend upon the facts of each case, and might often be conduct-oriented (*e.g.*, prohibiting the specific practice) rather than structural (*e.g.*, severing the control relationship between the physician group and the plan).

Statement of Enforcement Policy

1. Introduction

Public alarm over rising medical costs and dissatisfaction with government regulation have led in recent years to increased interest in permitting competitive forces to help provide a more efficient and less expensive health care system. Effective competition cannot, however, be taken for granted in the health care field, despite the existence of a large and increasing number of physicians and other providers of health care services. Existing governmental and professional restrictions on the provision of health care can blunt competitive forces. More importantly, the prevalence of third-party payment for health care costs appears to reduce consumer and provider concern about the cost of health care at the point of purchase or treatment. Consequently, for market forces to be effective in helping to achieve cost control, it is important that there be competition among sellers of prepaid health care financing and services. In a competitive market such firms should have considerable incentive to contain costs in order to attract and retain subscribers through lower premiums. Thus, the competitivenes of the health care system depends on the existence of competition among both the sellers of health care financing and the providers of health care services.

Medical prepayment plans[1] have the potential to create such competition in the financing and in the provision of health care. A plan can enhance competition in the health care financing market by offering consumers price or coverage options not otherwise available. To the extent that the plan competes for subscribers on the basis of price (its premiums) or the efficient delivery of health care services, this competition in the health care financing market may also have procompetitive effects in the health care services market. Competing sellers of prepaid health coverage would have an incentive to control fee and utilization levels in the health care services market in order match the plan's premiums.

A plan may also create competition among physicians when it limits the panel[2] of physicians that its subscribers may use to obtain covered, non-emergency care. A prospective subscriber must in effect make a choice between panel and non-panel physicians in deciding whether to join such a plan. The smaller the plan's panel, the more competitively significant that choice may be.

Concern with preserving and encouraging competition in the health care system led the Commission to investigate the extent and effects of agreements by groups of physicians to form, control, operate, or otherwise seek to influence medical prepayment plans. Physician groups may form plans for a variety of reasons, including the provision of better and more efficient care to their patients. However, antitrust concerns can arise when physicians act jointly with regard to such plans, because the plans make decisions that can significantly affect competition among providers of health care services.[3] For example, plans decide how much to pay physicians, what cost containment measures to use to control the price and utilization of health care services, and whether or on what terms to reimburse providers of health care who are not physicians. When a plan is controlled by a physician group,[4] such decisions might be made with the intent or effect of lessening the competition faced by the physicians, and thus could result in higher prices, the unreasonable exclusion of competing providers of health care, or other anticompetitive effects.

After a substantial investigation, including receipt and review of extensive public comments in this matter, the Commission has decided to proceed on a case-by-case basis in addressing the antitrust implications of physician agreements concerning medical prepayment plans rather than to propose an industry-wide rule as had been considered earlier.[5] Concern that an across the board rule could not readily take into account a variety of important factors, and might in some instances have the effect of preventing the development of procompetitive plans, weighed heavily in the Commission's decision. Case-by-case analysis and law enforcement appears to be the best method for preventing anticompetitive agreements without

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[1] As used in this Statement, a *medical prepayment plan ("plan")* is an organization or entity which, in return for advance, periodic payments made by or on behalf of persons enrolled as "subscribers," accepts contractual responsibility to provide, arrange for, or pay, in full or in part, for a specified range of health services for those subscribers. The covered services are usually, though not necessarily, comprehensive in scope. Plans may be either for-profit or not-for-profit intities. Various types of plans exist, and they differ in their ownership, structure, size, and mode of operation. Health maintenance organizations (HMOs) and Blue Shield plans are two of the best-known types of medical prepayment plans.

[2] As used in this Statement, a plan's *"panel"* consists of those physicians whom the plan will pay for providing non-emergency services to plan subscribers. In order to join a plan's panel and keep or gain access to its subscribers as patients, physicians usually must agree to abide by a variety of restrictions imposed by the plan on both the medical and business aspects of their practices.

[3] This Statement is concerned with agreements that may unreasonably lessen competition. Such anticompetitive agreements can occur when persons or businesses, especially competitors, act as a group—when two or more persons agree on a particular course of action or agree to let a representative act on their behalf. Therefore, this Statement focuses on the actions and agreements of physician groups with respect to plans, not on individual physicians acting in their individual capacities rather than in combination with or as representatives of other physicians. The 1979 Bureau of Competition Staff Report, "Medical Participation in Control of Blue Shield and Certain Other Open-Panel Medical Prepayment Plans," raised the possibility that participation on the governing board of a plan by physicians serving in their individual capacities, rather than as members of a physician organization, might also raise antitrust concerns and constitute an "unfair method of competition." The Commission has rejected such an application of Section 5 of the Federal Trade Commission Act. *See* Advance Notice of Proposed Rulemaking, 45 FR 17,019, 17,022–23 n.2 (1980).

For the purposes of this Statement, a *"physician group"* is any combination of physicians, some or all of whom are in competition with each other, who act jointly. The term includes any organization primarily comprised of physicians that has the authority to act on behalf of the member physicians. The group may be large or small. It may be *ad hoc*, existing for a limited purpose and a limited time, or may be a formal, continuing organization. It may have some members who are not physicians. The term physician group includes (among other groups): medical societies and medical specialty and subspecialty societies; individual practice associations, medical service bureaus, and other associations of physicians who participate in a plan; foundations for medical care; and medical clinics, hospital medical staffs, and some group practices. Whether an agreement or combination exists for antitrust purposes, so that the physicians in question can be said to be acting jointly as a group, will be a question of fact in each particular case.

[4] As used in this Statement, a physician group has *"control"* of a plan when it has overall power or authority over plan policies and actions—the practical ability to determine plan decisions and actions through formal or informal dominance of its decision-making process. *"Physician control"* refers to such control of a plan by a physician group. A *"controlled plan"* is a plan whose overall operations are controlled by a physician group. The Commission's general approach in determining the existence of physician control is discussed below.

[5] *See* Advance Notice of Proposed Rulemaking, 45 FR 17,019 (1980); Notice of initiation of case-by-case law enforcement program, 46 FR 27,768 (May 21, 1981). Having received and considered extensive public comment on the relevant factual and legal issues, the Commission is issuing this Statement without requesting additional public comment.

discouraging the formation of procompetitive plans.

This Statement sets forth the general approach the Commission intends to use in its enforcement program to determine which physician agreements to control a plan, and which practices of a controlled plan, raise serious antitrust concerns.[6] It is designed to assist physician groups and plans in understanding the Commission's goals, analysis, and enforcement intentions, and thus to facilitate voluntary compliance with the requirements of the antitrust laws. Whether particular conduct raises serious antitrust concerns will often depend upon a number of interrelated factors peculiar to the particular plan, physician group, and market. Therefore, as with most other facets of antitrust law, very few precise or hard and fast rules can be given in this area, because such rules usually cannot take into account the many variables that may affect a practice's competitive impact. Nonetheless, the Commission has attempted to be as specific as possible in this Statement, in order to give practical guidance to the industry and the public. Where possible, illustrative examples are given to help identify the practices or market situations in which antitrust concerns are most likely to arise.

The legal analysis and enforcement intentions and priorities indicated in this Statement are based on the Commission's current understanding of relevant legal, factual, economic, and policy factors. If those factors change or increased experience with physician-plan relationships alters any of the conclusions drawn herein, the Commission may make appropriate changes in its enforcement policy. If further explanation is desired, industry members or the public may contact the staff of the Bureau of Competition. With regard to future or contemplated activities, industry members may seek a formal or informal opinion from the Bureau staff or a formal Advisory Opinion from the Commission.[7]

II. General Antitrust Principles Relating to Physician-Plan Agreements

The antitrust standards discussed in this Statement have evolved from the application of the antitrust laws to groups of competitors throughout our economy, including professionals and competitors in the health care field.[8] Section 5 of the Federal Trade Commission Act[9] prohibits "unfair methods of competition." It encompasses practices that violate federal antitrust policy as set forth in the letter and the spirit of the Sherman and Clayton Antitrust Acts.[10] The antitrust principle most directly applicable to the issues addressed in this Statement is the fundamental declaration that agreements among competitors, and any resultant concerted activity, are illegal if they unreasonably restrain trade. This Statement expresses the Commission's interpretation of the manner in which Section 5's prohibition of unfair methods of competition generally applies to physician groups which agree to form, operate, or control plans, and to the operation of such controlled plans.

A. *Concerted Activity*—Antitrust law focuses upon agreements and combinations of competitors because such concerted activity can distort market forces and cause significant injury to competition. Concerted activity can be found not only when competitors have expressly or implicitly agreed to a particular course of action, but also when a group of competitors is ultimately responsible for an act or practice—when an action is taken with the general authorization of the competitors, at their behest, or by their agent.[11]

Therefore, when a business,[12] trade association,[13] or any other similar organization is controlled by a group of competitors, its actions are scrutinized under the antitrust laws as the concerted activity of competitors, without having to trace the activity directly back to a specific agreement or directive of the controlling group. Antitrust law treats the controlled entity, in effect, as the agent of the group of competitors, and its actions are attributed to the group.[14]

This attribution principle has two important applications in the physician-plan context. First, a decision by a medical society or other organization comprised of competing physicians to form or control a plan, or to operate it in a particular way, is treated under the antitrust laws as joint action by the competing physicians, even if the members did not specifically vote for, or otherwise explicity agree upon, the organization's action. The attrubution of

[6] The antitrust issues addressed in this Statement involve physician agreements that may lessen competition in the health care services market. The Commission believes that such restraints on competition in the health care services market do not constitute the "business of insurance" under the McCarran-Ferguson Act, 15 U.S.C. 1011 *et seq.*, even though the agreements may be implemented through control of a plan. While the Supreme Court has not addressed the specific issues directly, the Court's reasoning as to the McCarran-Ferguson Act's purposes and the limits of the antitrust exemption established by that Act indicate that concerted action by groups of physicians is not the business of insurance. *See* Group Life and Health Ins. Co. v. Royal Drug Co., 440 U.S. 205 (1979). *See also* Virginia Academy of Clinical Psychologists v. Blue Shield of Va., 624 F.2d 476 (4th Cir. 1980), *cert. denied*, 450 U.S. —— (Feb. 23, 1981) (No. 80-930) ("*Va. Academy*"). In its case-by-case law enforcement program, however, the Commission will consider whether particular practices or relationships constitute the business of insurance and, if so, whether they are exempt from the FTC Act under the McCarran-Ferguson Act.

Under Section 4 of the FTC Act, 15 U.S.C. 44, the Commission has jurisdiction over non-profit entities only when they operate in substantial part for the pecuniary benefit of their members. *See* American Medical Ass'n, 94 FTC 701 (1979), *aff'd as modified*, 638 F.2d 443 (2d Cir. 1980), *cert. granted*, 452 over U.S. —— (June 22, 1981) (No. 80-1690) ("*AMA*"); National Commission on Egg Nutrition, 88 FTC 89, 175–79 (1976), *aff'd*, 570 F.2d 157 (7th Cir. 1977), *cert. denied*, 439 U.S. 821 (1978); *see also* Federal Trade Commission v. National Commission on Egg Nutrition, 517 F.2d 485, 487–88 (7th Cir. 1975); Ohio Christian College, 80 FTC 815 (1972). The Commission will therefore determine on a case-by-case basis whether it has jurisdiction over particular not-for-profit plans or physician groups. Similarly, a practice may be immunized from antitrust liability under the doctrine of Parker V. Brown, 317 U.S. 341 (1943), if it embodies a clearly articulated and affirmatively expressed state policy to displace competition and is actively supervised by the State itself. California Retail Liquor Dealers Ass'n v. Midcal Aluminum, Inc., 445 U.S. 97 (1980). The Commission will therefore consider the applicability of the *Parker* doctrine in deciding whether to challenge the particular acts or practices of a plan or group of physicians.

[7] Federal Trade Commission, Organization, Procedures, Rules of Practice, and Standards of Conduct, 16 CFR 1.1–1.4.

[8] The first important case applying the federal antitrust laws to groups of professionals was American Medical Ass'n v. United States, 317 U.S. 519 (1943), in which the AMA and the District of Columbia Medical Society were convicted of a criminal conspiracy to obstruct the development of an HMO. More recent Supreme Court cases have made it clear that the antitrust laws are fully applicable to concerted action by professionals. National Soc'y of Prof. Eng'rs v. United States, 435 U.S. 679 (1978) ("*Prof. Eng'rs*"); Goldfarb v. Virginia State Bar, 421 U.S. 773 (1975). Recent cases applying the antitrust laws in the health care field include National Gerimedical Hospital and Gerontology Center v. Blue Cross of Kansas City, —— U.S. —— (June 15, 1981); Group Life and Health Ins. Co. v. Royal Drug Co., *supra*; *Va. Academy*, *supra*; *AMA*, *supra*.

[9] 15 U.S.C. 45.

[10] 15 U.S.C. 1–7 (Sherman Act); 15 U.S.C. 12–27 and 29 U.S.C. 52 (Clayton Act).

[11] *See* United States v. Sealy, Inc., 388 U.S. 350 (1967); Silver v. New York Stock Exchange, 373 U.S. 341, 348 n. 5 (1963); United States v. Masonite Corp., 316 U.S. 265 (1942).

[12] *See, e.g.* United States v. Sealy, Inc., *supra*; *Va. Academy*, *supra*.

[13] *See, e.g.*, *AMA*, *supra*; Marrese v. American Academy of Orthopaedic Surgeons, 1980–81 Trade Cas. ¶63,759 (N.D. Ill. 1980); McCreery Angus Farms v. American Angus Ass'n, 379 F. Supp. 1008, 1017 (S.D. Ill.), *aff'd by unpub'd order*, 506 F. 2d 1404 (7th Cir. 1974).

[14] While this attribution to the group of competitors makes it appropriate to treat the actions of the controlled entity as concerted action, each of the individual members of the group may not be liable under Section 5 of the Federal Trade Commission Act for every act of the controlled entity. Such individual liability would depend upon the facts in each case.

the decision or action to the members is appropriate so long as the organization had the general authority to take such an action. Second, a plan that is controlled by a group of competing physicians [15] is treated as the agent of the physician group, and the plan's practices and policies are scrutinized under the antitrust laws as concerted activity, even without evidence that the members of the group specifically agreed upon the particular action or decision of the plan.[16]

B. *Rule of Reason*—Agreements and concerted activities are illegal only if they unreasonably restrain trade.[17] Under this "rule of reason," there must be an examination of the purpose for which the parties have entered into the agreement or course of conduct and of the effects that have resulted or are likely to result from their concerted activity. Any procompetitive effects are weighed against anticompetitive effects in determining whether the restraint, on balance, is unreasonable. This standard permits consideration of factors which are unique to a particular industry or profession, and it permits justifications that relate not merely to price competition, but also to competition based on quality and convenience. As the Supreme Court recently made clear, however, antitrust law does not recognize proffered justifications for a restraint which argue that competition would be harmful in a particular market.[18] Instead, it assesses whether the restraint will on balance benefit competition in that market *(e.g.,* by creating efficiencies that permit less expensive or higher quality services to be offered). Thus, the focus of the inquiry "is whether the restraint imposed is such as merely regulates and perhaps thereby promotes competition or whether it is such as may suppress or even destroy competition."[19]

The Commission and the courts have also developed rules of *per se* unreasonableness. The *per se* rules are applicable only to

> Agreements or practices which because of their pernicious effect on competition and lack of any redeeming virtue are conclusively presumed to be unreasonable and therefore illegal without elaborate inquiry as to precise harm they have caused or the business excuse for their use.[20]

As is discussed below, the Commission believes that agreements among physicians to form a plan, or to control or operate a plan that they have formed, will ordinarily be analyzed under the rule of reason.

C. *Determining the Existence of Physician Control*—As explained above, a finding that a plan is physician controlled will subject the plan's actions and policies to the antitrust standards applicable to concerted activity by competitors. In determining whether such control exists, the Commission intends to analyze the relationship between the plan and the physician group to ascertain whether the group has effective, overall power over plan policies and actions. Such control may be either formal or *de facto.*

The analysis of control is a practical one, asking whether the plan's lines of authority give the physician group the ability (either "on paper" or in practice) to make overall plan policy.[21] The existence of control will be clearest when a physician group owns the plan. It is also likely when a group selects [22] a majority of the voting members of the plan's governing body. When neither of these conditions is present, *de facto* control may nevertheless exist.[23] For example, a physician group may be able to dominate a plan's decisionmaking processes through the selection of a minority of members of a plan's governing body. The larger and more cohesive or influential that minority representation is, especially in relation to other interests on the board, the more likely it may be that the physician group effectively controls the plan without selecting a majority of board seats. Based upon the Commission's current knowledge, however, it appears unlikely that a group selecting less than one-fourth of the seats on a plan's governing body would be found to control the plan, without additional evidence of dominance over the plan's decisionmaking processes.[24]

The Commission will consider whether physician control exists on a case-by-case basis. It will consider, for example, applicable state statutory or regulatory provisions relating to plan structure and organization.[25] As with factual issues in other areas of antitrust enforcement, substance will govern over form in determining whether control exists.[26]

D. *Agreements in the Absence of Control*—This Statement focuses on physician control of a plan, because such control means that the actions of a plan are attributed to the controlling group of physicians. Physician agreements relating to a plan can also exist in the absence of overall control of a plan's decision-making processes by the physician group. These situations are briefly discussed below in order to distinguish them from the physician control relationships that are the subject of this Statement. In situations where physician control does not exist, the plan's operations are not in themselves concerted action and therefore do not raise the antitrust concerns that are discussed in Section III. Even absent physician control of a plan, however, an agreement between a group of physicians and a plan could unreasonably restrain trade. In some cases, the *per se* rule may be applicable to such agreements.[27]

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[15] As is discussed below, if the physicians forming a plan have fully merged their medical practices, they are no longer competitors and the plan's actions are treated as those of a single entity, not as those of a combination of competitiors.

[16] *See Va. Academy, supra,* 624 F. 2d at 481. See footnote 4, above, for the definitions of "control" and "physician control."

[17] *Prof. Eng'rs, supra,* 435 U.S. at 687–92.

[18] *Id.* at 689–90.

[19] Chicago Bd. of Trade v. United States, 246 U.S. 231, 238 (1918), *quoted in Prof. Eng'rs, supra,* 435 U.S. at 691.

[20] Northern Pacific Ry. Co. v. United States, 356 U.S. 1, 5 (1958). Examples of such agreements are those to fix prices, divide markets, or boycott competitiors.

[21] *See Va. Academy, supra,* 624 F. 2d at 479–81 (sufficient physician control to establish collective nature of Blue Shield plan's actions was found on basis of plan bylaws requiring that majority of its board be physicians, and that one-third of plan's board be chosen from candidates nominated by state medical society sponsoring the plan).

[22] The Commission will ordinarily consider a plan governing body member to be "selected" by a physician group if the group elected, approved, or otherwise appointed the governing body member. In some cases, a governing body member nominated by a physician group could be found to have been selected by the group.

[23] *See* Human Resources Institute v. Blue Cross of Virginia, 498 F. Supp. 63 (E.D. Va. 1980) (subscriber majority on Blue Cross plan board does not necessarily preclude possibility of plan control by member hospitals, but control not established from mere "structural factor" that one-third of board consists of hospital representatives, absent direct evidence that structure allowed provider control).

[24] Where a physician group has less than a majority of seats of a plan's governing body, the ability of the group's representatives to influence key plan decisions will be a central factor in determining the existence of control. The existence of some or all of the following factors may warrant a finding by the Commission that physician control exists: power to vote on plan reimbursement or coverage proposals; representation on (or selection of) key plan policy-making committees (especially those dealing with reimbursement and coverage decisions); delegated authority, including veto or approval power, over plan policies and decisions; power to appoint or approve plan officers of executives; financing of plan operations (including capital contributions); directors, officers, or executives common to both the plan and the affiliated physician group; and the absence of other strong interest groups on the plan governing body whose influence is likely to preclude a physician group minority from exerting effective control over the plan. In assessing such factors, the Commission will focus on whether the physician group has, in practice, the ability to set *overall* plan policies by dominating its decision-making processes.

[25] *See Va. Academy, supra,* 624 F.2d at 478.

[26] *Id.* at 481.

[27] In the three general situations discussed in this subsection (unlike those analyzed in Section III), the physician group does not control the plan and

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1. *Participation in Overall Plan Decision-Making.* When a physician group plays a formal role in the overall decision-making processes of a plan (*e.g.*, by selecting one or more of the plan's directors) but does not have effective control of the plan, the Commission will not consider the plan to be "controlled" by the physician group. The actions of the plan are therefore not treated for antitrust purposes as the concerted action of the competing physicians. This situation arises, for example, when the physician group selects a non-controlling share of the plan's board of directors and does not otherwise dominate the plan's decision-making processes. In such situations, the plan and the physician group will be treated as independent entities. Therefore, the operations or practices of such a non-controlled plan do not raise antitrust concerns as agreements in restraint of trade. However, agreements by the physician group will be treated as concerted activity subject to the usual restrictions of the antitrust laws.

2. *Power Over Discrete Plan Functions.* A plan that is not controlled by any physician group may nonetheless give a group decision-making authority over discrete functions or policy areas. For example, a physician group may be given veto power over plan decisions involving reimbursement levels. Under antitrust standards, such formal or informal delegation of decision-making authority by a plan to a physician group amounts to a combination or agreement between the plan and the group. Plan actions or policies resulting from the delegation, as well as physician group activities in exercise of its delegated authority, will be analyzed as concerted conduct and will therefore be unlawful if they unreasonably restrain trade. Their lawfulness will depend upon their purpose and/or their effects.

3. *Agreements Made Outside the Plan's Formal Decisionmaking Process.* Physician groups can also influence, or try to influence, the policies or actions of a plan even when they have no formal role in the plan's decisionmaking processes. Such physician group actions can range from coercive group boycotts by the group's members to the mere submission to a plan of suggestions that the physician group urges the plan to adopt. Attempts by groups of physicians to influence a plan by collective boycotts will raise serious antitrust concerns, and in some cases may be *per se* unlawful.[28] However, antitrust law does not automatically bar a physician group from presenting its recommendations to a plan.[29] Particularly serious concerns would arise if proposals were made concerning future fee levels or were made in a coercive manner. The lawfulness of the group action will depend upon its purpose and/or effects. The plan may also be liable for any resultant restraint of trade if it enters into an agreement with the physician group to implement the group's proposals or demands.

III. Enforcement Policy Concerning the Formation and Operation of Plans Controlled by Physician Groups

Agreements by a physician group to establish, control, or operate a plan, and the practices and policies of a controlled plan, are treated under the antitrust laws as the concerted action of the competing physicians. The lawfulness of such concerted action depends upon its purpose and/or its effects. This section sets forth the general analysis which the Commission intends to use to determine when the operation or formation of a controlled plan raises antitrust concern warranting enforcement action.

A. *General Analysis of Purpose and Effects*—1. *Purpose.* If competing physicians enter into an agreement with the primary intent to reduce the competition which they face (either from each other or from outsiders), their purpose is anticompetitive and the agreement is unlawful, even without direct evidence of anticompetitive effects.[30] The law assumes that joint action aimed at lessening competition is likely to succeed. It will not allow an intentionally anticompetitive arrangement to continue merely because the perpetrators assert their inability to achieve their own goal.

The existence of anticompetitive purpose in a particular situation is a question of fact. A finding of an unlawful anticompetitive purpose would be warranted where the facts demonstrated that the group was acting principally to reduce or prevent competition, rather than to meet or create competition.[31] In some instances, the statements or actions of the participants, or the nature of their joint enterprise, may leave no doubt that an agreement was made in order to reduce or the eliminate competition. In most instances, however, the motives of the group of competitors will be mixed or ambiguous and therefore more difficult to characterize, and in such cases the effects of the group's actions may be useful evidence in analyzing the purpose of those actions.[32] When dealing with physician agreements relating to the formation or operation of plans, the Commission will examine all relevant evidence to determine whether, on balance, the primary purpose of the agreement or the joint action was to compete more effectively or to stifle competition.[33] If the group's primary purpose is not anticompetitive, and no rule of *per se* illegality is applicable, the actual or likely effects of the agreement must be assessed to determine the lawfulness of the concerted arrangement.

2. *Competitive Effects.* A number of factors may be relevant in measuring the actual or likely effects of an agreement to control a plan. In addition to weighing any direct evidence that competition has been injured, the Commission may often find it useful to

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cannot be said to have created a new entity in the health care financing or health care services market that requires its members to make joint pricing or coverage decisions. Therefore, restraints resulting from the agreements discussed in this section may frequently be "naked restraints" in that they may not be ancillary to cooperative productive activity or necessary to the operation of the plan. In such situations, the plan is an independent entity that can operate without dealing with the physicians as a group, and the physicians are outsiders with no right to dictate terms to the plan. As naked restraints, they may be judged under *per se* standards when they involve agreements to fix prices, divide markets, or exclude competitors.

[28] *See* American Medical Ass'n v. United States, 317 U.S. 519 (1943); Group Health Cooperative v. King County Medical Society, 237 P. 2d 737, 1952-1953 Trade Cas. ¶67,201 (Wash. Sup. Ct. 1951).

[29] *See Va. Academy, supra*, 624 F. 2d at 483.

[30] *See* United States v. United States Gypsum Co., 438 U.S. 422, 436 n.13 (1978); United States v. Container Corp., 393 U.S. 333, 337, 341 (1969); United States v. Socony-Vacuum Oil Co., Inc., 310 U.S. 150, 224-26 n.60 (1940). *See also* Sullivan, *Antitrust* 186 (1977); Bork, *The Rule of Reason and the Per Se Concept: Price Fixing and Market Division*, 75 Yale L.J. 373, 389 (1966).

[31] For example, a physician group's purpose is not anticompetitive merely because it seeks to gain a competitive advantage for its members or to maintain their competitive position. The competing physicians must, however, seek to achieve those goals through competition on the merits—*e.g.*, by forming a plan that offers patients the services, prices or coverage they desire—and not simply by reducing competition among the group's members or impending competition offered by other providers of health care services or financing.

[32] *See* E. I. du Pont de Nemours & Co., 96 F.T.C. 653 (1980), where the Commission examined the relationship of conduct to intent in the single-firm context. The intent of a group of competitors can be as ambiguous as that of a single firm that is trying to maintain or enhance its market position if, for example, the group is forming or operating a joint venture. In the other hand, the intent of a group is sometimes clear, especially when the agreement relates to no legitimate, procompetitive business activity but only serves to restrain trade. *See*, for example, *AMA, supra*.

[33] If only a few members of the group appear to be acting with anticompetitive intent, a finding of violation based upon purpose alone normally will not be warranted. Where only a few members are acting with anticompetitive incentives, an important factor in assessing intent would be whether those few participants were leaders of the group or active in the operation of the plan.

consider the purpose or objectives of the controlling physicians, since the evidence of intent may help the Commission to interpret the facts surrounding such an agreement and to predict its consequences.[34] The Commission will normally also consider two other important factors in measuring the actual or likely effects of an agreement: (1) The market power of the plan and, where relevant, of the physician group; and (2) the degree of integration achieved by the physicians through the agreement.

"Market power" is the ability to affect market prices or exclude competitors from the market. It is the ability to affect or shape competitive forces in the marketplace. The acts of a group or an enterprise are unlikely to have significant effects on competition absent market power. On the other hand, a group or enterprise that possesses market power has the ability to injure competition substantially, even if its purposes are not primarily anticompetitive. The existence of market power is, therefore, often relevant in assessing antitrust liability under the rule of reason, which focuses upon the competitive effects of concerted activity.

In general, the greater the market power possessed by a controlled plan, the greater the probability that a restraint of trade resulting from the actions of the plan will have significant anticompetitive effects.[35] For example, a physician group controlling a plan may wish to pay its members higher fees for their services than are currently available from third-party payers in the local market. To do so, they might have to raise the premiums of the controlled plan. The more market power possessed by the plan, the higher its premiums could be raised above competitive levels without losing a substantial number of subscribers, and the more the controlling physicians could increase reimbursement levels for physician services.

The Commission will use traditional economic and antitrust concepts in analyzing a plan's power in the health care financing market. As in other areas of antitrust enforcement, the Commission will define market power within the relevant product market(s) [36] and relevant geographic market(s).[37] In addition to any evidence pointing to the exercise of market power, the Commission will normally consider the "structural" factors traditionally used by the Commission and the courts in identifying and measuring market power. These include entry barriers,[38] the size and number of competitors, and plan market share.[39]

"Integration" is the joining together or coordination of functions (*e.g.*, production, promotion, management, distribution, financing, debt collection) normally performed separately by discrete business entities. Integration is relevant to the effects that are likely to flow from an agreement among competitors because (1) any procompetitive economic efficiency achieved by the joint enterprise will primarily be the result of the integration of functions, and (2) the competitors will generally reduce or may even cease competitive rivalry with regard to any functions that are integrated. Thus, integration can facilitate both a procompetitive increase in efficiency and an anticompetitive decrease in competition.

3. *Categorization of Plans Controlled by a Physician Group.* In fashioning the legal standard to apply in determining whether an agreement unreasonably restrains trade, antitrust law has traditionally made distinctions based on the degree of integration achieved through the concerted arrangement. Thus, varying legal standards are applied to mergers (which represent the total integration of functions by formerly separate business entities), joint ventures (which represent a significant but partial integration of functions or a significant financial contributions by the group to the existence of the venture), and cartels (which represent a combination of competitors that serves anticompetitive purposes and has achieved no significant operational integration).

Plans controlled by a physician group or organization are analyzed in this Statement either as *merged plans* or as

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[34] Chicago Bd. of Trade v. United States, *supra*, 246 U.S. at 238–39. Thus, even if the group's primary purpose is not found to be unlawful, the existence of some anticompetitive intent on the part of the group or some of its members may be probative in determining whether the effects of the agreement are likely to be anticompetitive. It is reasonable to assume that "[t]he actors in the marketplace will often be themselves the best judges of what they are capable of achieving." Sullivan, *supra*, at 195. In addition, the group members who are acting with anticompetitive intent may be able to shape an agreement or practive to achieve their ends.

[35] A finding of plan market power would not be necessary to a finding of significant anticompetitive effects where the challenged restraint was not implemented solely through the actions of the plan, but depended upon the joint or collective action of the controlling physicians for its effectiveness. Thus, if the controlling physicians agreed to make their plan's policy on reimbursements the yardstick they would use for deciding how to deal with all other third-party payers, the effects of their agreement would depend more on the power of the physician group than the power of the plan. Indeed, the *per se* rule of illegality might apply in this situation, since the physicians' agreement goes beyond how their plan would be operated and instead seems to be the attempt of a cartel to impose its will upon independent third-party payers. The rule of reason would not automatically apply merely because a controlled plan plays some role in the challenged restraint. The legal standard used and the relevance of the plan's market power will depend on the substance and purpose of the physician agreement, not merely on the presence of a physician control relationship.

[36] The relevant product market for measuring a plan's market power will depend upon the facts in each particular case. As the Supreme Court has noted, "no more definite rule can be declared than that commodities reasonably interchangeable by consumers for the same purposes" make up a relevant product market for antitrust purposes. United States v. E.I. du Pont de Nemours & Co., 351 U.S. 377, 395 (1956). The Commission believes that one or both of the following product markets will usually be relevant in assessing the presence and magnitude of market power in the context of the issues addressed in this Statement: (1) the market for the sale of health care financing and (2) the market for the sale of health care services. The precise product market(s) will depend upon the individual fact situation and the issues being analyzed. In some cases, there may be one or more relevant product "submarkets," such as the physician services market or a portion thereof, within which it is also important to assess market power.

[37] The relevant geographic market will also depend upon the facts in each particular case. In general, it will comprise the geographic area in which the relevant sellers operate and to which the relevant buyers of health care financing and/or health care services can "practicably turn" to make purchases. *See* United States v. Philadelphia National Bank, 374 U.S. 321, 359 (1963), *quoting from* Tampa Elec. Co. v. Nashville Coal Co., 365 U.S. 320, 327 (1961). In many cases the relevant geographic market may consist of the "service area" within which a plan enrolls subscribers and contracts with participating physicians. In other cases, the appropriate relevant market may consist of a broader region. However, in each instance the Commission will also consider whether there are discrete, relevant geographic "submarkets" in which measurement of a plan's power may be necessary. For example, these may consist of a city, county, or "Standard Metropolitan Statistical Area."

[38] Examples of entry barriers in the plan context might include: product differentiation barriers, including a well-established and commercially significant trademark; laws or regulations limiting entry or giving advantages only to certain types of plans, including smaller reserve requirements or less stringent rate increase review; unwillingness of area physicans to affilitate with new plans; the existence of a "hospital discount" or other purchasing allowance not available to all plans; medical profession sponsorship, endorsement, or "approval" of one or more plans already in the market; tax advantages, including lower income, premium, or property taxes, that are not available to all plans; capital barriers and "start up" costs; and control by plans already in the market over access to health care facilities of competitive significance to new plans.

[39] The manner in which the Commission ascertains a plan's market share as a seller of prepaid health care financing may vary depending upon the information available and the issues to which market power appears relevant. Where appropriate and available, the Commission may utilize the plan's percentage of the total dollar amount of premiums paid to all private (non-governmental) sellers of health care financing. Other measures may also be used in some circumstances. For example, it may be appropriate for the Commission to utilize the plan's percentage of the total dollar payments made to physicians in the relevant geographic market (directly by patients and indirectly by sellers of health care financing).

partially integrated plans. A plan is "merged" when the physicians who control the plan have fully merged or integrated their medical practices and therefore do not compete with each other in separate medical practices.[40] A plan is "partially integrated" when the controlling physicians still compete with each other for patients in independent medical practices and have either (1) partially integrated their practices into the plan or (2) made a substantial financial contribution to support the establishment or operation of the plan.[41]

"Cartel analysis"[42] does not appear applicable to physician agreements to form a merged or partially integrated plan or to control or operate a plan formed by the physician group.[43] The Commission believes, however, that traditional merger analysis under the FTC, Sherman, and Clayton Acts is directly applicable when evaluating the antitrust concerns that can arise from the formation or operation of a merged plan by a group of physicians.

Partially integrated plans (*e.g.*, Blue Shield plans, IPA-type HMOs) cannot be so readily categorized for purposes of antitrust analysis. Unlike in a merger situation, the controlling physicians retain their independent medical practices and therefore at least in part continue to compete with each other for patients in solo or group practices. The formation and operation of a partially integrated plan therefore may present many of the same antitrust implications as a traditional joint business venture—*i.e.*, procompetitive effects may result from the creation of a new business entity or from operational efficiencies achieved by the group, but the integration and cooperation by competitors may also reduce competition among them or otherwise restrain trade. Therefore, joint venture cases may often provide useful guidance in analyzing the formation or operation of partially integrated plans. But the great variation in the degree and type of integraton achieved by such plans, the unique structural relationship between the health care financing and health care services markets, and the unusual economic dynamics of the health care industry counsel against automatically applying to all partially integrated plans antitrust principles that are still evolving in industrial joint venture cases.[44]

Therefore, while the Commission intends to look to prior cases involving integration by competitors for useful guidance in assessing the competitive impact of physician agreements relating to partially integrated plans, it will normally use a straightforward rule of reason approach in making this assessment.[45] Under that standard, the likely procompetitive and anticompetitive effects of the particular arrangement or practice are balanced in order to assess its overall competitive impact.[46] That process will, of course, take into account the existence of any market power, as well as the type and degree of integration achieved by the physician group and the extent to which the challenged restraint is necessary to gain potential competitive benefits from that integration. Despite the existence of partial integration and the creation of a new joint enterprise, an agreement or practice based on an anticompetitive purpose could be found to be illegal without explicitly weighing its effects.[47]

B. *Commission Enforcement Policy*—While plans have the potential to enhance competition in the health care services market, antitrust concerns can arise when a relatively large number of physicians join together to control a plan, when a controlled plan has market power, or when a physician group of any size forms or operates a plan to effectuate an anticompetitive purpose. Based on its current understanding of the legal, economic, and policy factors involved, the Commission will apply the following analysis to agreements by a

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[40] Physicians who have formed or joined a merged plan (*e.g.*, a group model HMO) will normally only have patients who are plan subscribers. If their *joint* medical practice also includes a fee-for-service clinic or group practice, they will also have non-plan patients within that joint practice. In addition, the Commission recognizes that physicians affiliated with merged plans may also have their own "outside" patients during the period when the plan is just beginning operation, phasing out such non-plan patients as the plan enrolls more subscribers. There may also be some other exceptional circumstance in which a plan would be considered "merged" even though a small portion of its controlling physicians have not fully integrated their practices.

[41] The "financial contribution" may be in the form of a traditional equity or capital contribution to the plan by the group or may entail an "indirect" financial contribution to the plan's existence or operation through an agreement that the group will be financially at risk for adverse financial results caused by unexpectedly high costs or utilization.

[42] "Cartel analysis" treats an agreement among competitors as merely the "naked" conspiracy of a cartel when competitors agree to restrict competition relating to such factors as price, output, or marketing without achieving any significant operational integration or creating either new productive capacity or a new business enterprise. *See* Brunswick Corp., 94 FTC 1174, 1265–66 (1979), *modified as to relief*, 96 FTC 151 (1980), *aff'd as modified sub nom.* Brunswick Corp. v. FTC, No. 80–1913, and Yamaha Motor Co., Ltd. v. FTC, No. 80–1760 (8th Cir. July 29, 1981). Thus, cartel agreements that amount to price fixing, market division, or refusals to deal with competitors are treated as *per se* illegal, because the agreements are not related to any integration or activity that could arguably have procompetitive effects to be assessed under the rule of reason. The restraints are deemed to be "naked" because they are not related or "ancillary" to any arguably legitimate business venture or practice; their sole aim is to restrict competition.

[43] *See* Brunswick Corp., *supra*, 94 FTC at 1265–66. *Cf.* Broadcast Music, Inc. v. CBS, 441 U.S. 1, 23 (1979).

[44] Some partially integrated plans apparently entail substantial operational integration of the medical practices of the controlling physicians and therefore coincide with the conventional notion of a true joint venture among competitors. But other plans may be integrated in significantly different ways, such as a centralization of billing and debt collection functions or the sharing of some of the financial risks for adverse financial results caused by unexpectedly high costs or utilization. These differences in integration make it difficult to generalize about the competitive effects of the formation or operation of such plans.

[45] Rule of reason analysis appears appropriate when dealing with the formation and general operation of a partially integrated plan because, in forming the plan, the controlling physicians have created a new entity that has the potential to enhance competition. That situation is distinguishable from the apparent arrangement in Arizona v. Maricopa County Medical Society, 643 F.2d 553 (9th Cir. 1980), *cert. granted*, 450 U.S. —— (March 9, 1981) (No. 80–419). In *Maricopa*, the defendant physician organizations allegedly attempted to fix maximum fee levels for care given to covered subscribers, although the health care coverage was offered and underwritten by independent insurance companies, not by the physician organizations. The physician groups apparently did not form or create the plans (having taken no business risk) and apparently have got created any significant productive integration through the plan that requires price fixing by the physician groups. Thus, instead of creating a physician controlled plan to compete against other third-party payers, the physicians seem merely to have agreed upon maximum payment levels for insurers that wish to offer a plan approved by the physician groups. Therefore, the *per se* rule against price fixing may well be the appropriate antitrust standard in *Maricopa*. However, should the Supreme Court agree with the Ninth Circuit that rule of reason analysis is warranted in that case, use of the rule of reason standard would clearly also be appropriate in the case of physician agreements relating to partially integrated plans which they have formed and control.

[46] The same legal standards would apply whether the controlling physician group is composed of the plan's participating physicians or some broader group, such as a state or local medical society. The plan-related agreements of medical societies and other such groups, however, may be subject to greater scrutiny to determine whether the agreements have the purpose or effect of unreasonably restraining trade. A plan's physician panel may favor plan policies that promote competition by the plan, because they may benefit from the plan's success. On the other hand, a broader group such as a medical society, whose membership includes many non-participating physicians, may be more likely to oppose plan activities that would exert competitive pressure on physicians throughout the area. Moreover, the Commission's Bureau of Economics, in its study of medical control of Blue Shield plans, found the strongest association with higher fees to occur when a plan was controlled by a medical society or other formally organized group of physicians. *See* K. Anderson, D. Kass, P. Pautler, *Physician Control of Blue Shield Plans: A Further Discussion of the Issues* (January, 1981).

[47] United States v. Sealy, Inc., 388 U.S. 350 (1967); Timken Roller Bearing Co. v. United States, 341 U.S. 593 (1951); United States v. Columbia Pictures Industries, Inc., 507 F. Supp. 412 (S.D.N.Y. 1980), *aff'd without pub'd op., Dkt. 81-6003 (2d Cir. April 7, 1981).*

physician group to control a plan and to the policies and practices of controlled plans.

1. *Merged Plans*—a. *Formation.* When members of a physician group fully integrate their practices into a prepayment plan, they have merged their formerly competing businesses; thus, the lawfulness of their action will be judged using traditional antitrust analysis under Section 7 of the Clayton Act and Section 5 of the FTC Act. Merger analysis takes into account the history, structure, and dynamics of each industry and market. A merger violates the antitrust laws when its effect may be to substantially lessen competition or tend to create a monopoly. The ultimate issue is whether the merger changes the structure of the particular industry or market in such a way that competition may be affected adversely and substantially. Because merged plans usually involve only a small portion of physicians practicing in an area, and the integration is likely to facilitate gains in efficiency, their formation would not normally warrant antitrust concern or Commission action, in the absence of an anticompetitive purpose.

Since most physicians practice in small groups or solo practices, the formation of a typical merged plan normally would not raise fears of overconcentration leading to oligopolistic interdependence or the increased probability of collusion. More important, the formation of a merged prepayment plan may change the structure of an atomistic physician services market in a procompetitive manner. Like any merger, the formation of a joint medical practice may create efficiencies not achieveable by the individual physicians. In addition, because their plan provides both health care services and financing, the controlling physicians may have the financial incentive to provide those medical services as efficiently as possible, so as to keep their premiums at a competitive level. In their prior roles an individual fee-for-service practitioners receiving payment from third-party payers, the controlling physicians may have faced less pressure to provide efficient, low-cost services.

A precise market share guideline cannot be given in this area, because local market factors and other considerations must be taken into account in a particular case. It seems unlikely, however, that antitrust concerns would arise when physicians totally merge their practices to form such a plan in an unconcentrated market, except in the unusual case where a very substantial percentage of area practicing physicians—*i.e.*, 30% or more is involved.[48] Even in that range, the characteristics of the specific market would have to be studied to determine whether the particular merger was anticompetitive.[49]

b. *Operation.* The operation of a merged plan is also unlikely to raise the types of antitrust concerns that prompted the Commission to investigate physician control of medical prepayment plans. The physicians forming or operating a merged plan are, for the most part, no longer competitors (since they do not customarily have outside practices in competition with each other). Therefore, the actions of a merged plan are treated as those of a single business entity, not as those of a combination of competitors, and the applicable antitrust standards are no different than for any plan that is not provider controlled. Except to the extent that an exemption may be available under the McCarran-Ferguson Act, such plans would violate the antitrust laws if, for example, they engaged in monopolization or attempts to monopolize, took part in an anticompetitive merger with another plan, or joined in anticompetitive conspiracies or combinations with outside persons or businesses (*e.g.*, market division, fixing premium levels). But, like any non-controlled plan,[50] their unilateral operational decisions do not usually raise antitrust concerns. For example, a merged plan may unilaterally refuse to deal with any provider without its conduct being considered an illegal group boycott (although such a plan may not use refusals to deal in an attempt to monopolize). Similarly, a merged plan may unilaterally set reimbursement levels without engaging in unlawful concerted price fixing.

2. *Partially Integrated Plans*—A different antitrust analysis will apply when a group or organization of physicians has established a plan without fully merging their practices into the plan. In this circumstance, the physicians controlling the plan retain their independent medical practices and are thus still competitors. Although strict "cartel analysis" does not seem appropriate where the physician group has created the plan,[51] antitrust enforcement action would nonetheless be warranted when the physician agreements or the actions of a controlled plan unreasonably restrain trade. Serious antitrust concerns are most likely to arise from the formation or operation of a partially integrated plan for an anticompetitive purpose and from the operation of a plan that has market power.

a. *Formation.* A plan's competitive impact in the health care services market will not depend merely on the fact that it is controlled by a group of physicians. Rather, its impact will usually depend upon the policies and practices that the plan adopts, and on any market power possessed by the plan. Therefore, Commission enforcement action will not normally be warranted at the formation stage of a partially integrated plan unless (1) the plan is created by the controlling physician group for an anticompetitive purpose, or (2) the evidence indicates that the plan's formation is reasonably likely to eliminate substantial potential competition in the local health care services and/or health care financing markets.

Serious antitrust concerns would arise if a group of physicians establishing a partially integrated plan were acting to achieve an anticompetitive purpose. Such an unlawful purpose would include the intent to stabilize or raise physician fees, to prevent the formation of another plan or eliminate an existing plan, or to create a plan that would dominate the health financing market and exercise market power for the group's benefit. If such a purpose were found, Commission enforcement action would be warranted.

Serious antitrust concerns might also arise if the formation of a plan appeared to eliminate a significant amount of "potential competition"—competition or competitive discipline stemming from entities that have not yet entered a market but are likely, or appear likely, to do so. Therefore, if the formation of a plan by a physician group prevents or makes impracticable the formation of other plans that would otherwise be

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[48] As in other industries, if particular markets are already concentrated to tending toward concentration, antitrust concerns may arise when a smaller percentage of competitors merge. *See* United States v. Phillipsburgh Nat'l Bank & Trust Co., 399 U.S. 350 (1970); United States v. Von's Grocery Co., 384 U.S. 270 (1966). In such cases, as with any merger, the antitrust analysis will take into account any likely procompetitive effects from the merger, as well as any tendency to reduce competition.

[49] In addition, where appropriate, the Commission would consider whether the relatively small physician population in a particular area necessitated merging a large portion of practicing physicians in order to create a viable plan.

[50] *See, e.g.*, Quality Auto Body, Inc. v. Allstate Ins. Co., 1980-2 Trade Cas. ¶ 63,507 (N.D. Ill. 1980); Blue Cross and Blue Shield of Michigan v. Michigan Ass'n of Psychotherapy Clinics, 1980-2 Trade Cas. ¶ 63,351 (E.D. Mich. 1980); Chick's Auto Body v. State Farm Mutual Automobile Insurance, 401 A. 2d 722, 1979-1 Trade Cas. ¶ 62,642 (N.J. Super. 1979).

[51] *See* footnotes 42-43, *supra.*

likely to enter the market, potential competition from those plans may be eliminated and antitrust enforcement action may be warranted. Whether significant potential competition has been eliminated by the formation of a plan will depend upon conditions in the particular market.

The formation of a partially integrated plan would not raise serious antitrust issues relating to potential competition unless the evidence indicated that the plan's purpose or its structure and operation are likely to foreclose other meaningful competitive options. The issue would be a question of fact in each case and would depend upon the marketplace realities of each situation, rather than the automatic application of particular market share figures or other such rules-of-thumb. It appears, however, that these concerns over the loss of potential competition may be most likely to arise when the physician group forming a plan comprises a substantial majority (*e.g.*, two-thirds or more) of area practicing physicians or of any significant physician specialty.[52] When so many physicians control or participate in a plan, their combination in the plan could effectively eliminate the only pool of physicians from which another new plan could recruit a competitive medical panel. If such a large percentage of area physicians is involved, and if there is additional evidence that potential new entrants are effectively precluded from recruiting a competitive physician panel—either because the plan is designed to accomplish that objective or because there are ancillary agreement or other plan features that inhibit new entry—then Commission enforcement action may be warranted.

b. *Operation.* Antitrust concerns warranting Commission enforcement action may be more likely to arise from agreements by the controlling physician group relating to the operation of a partially integrated plan and from the policies and practices of the plan itself. Beyond their basic agreement to form and control a plan, the controlling physicians may additionally agree to operate the plan in specific ways, or to have the plan adopt particular policies or practices. When such agreements are made for an anticompetitive purpose—*e.g.*, an agreement to change the plan's reimbursement system in order to raise physician fees above market levels, or an agreement to harm a group of competitors by denying them reimbursement for covered services—serious antitrust concerns arise. On the other hand, if the group agrees to operate a plan in a specific manner in an attempt to carry out the legitimate business functions of the plan, and not for an anticompetitive purpose, it would raise serious antitrust concerns only if it caused, or were likely to cause, significant anticompetitive effects.

The Commission will usually apply the rule of reason in analyzing the operations of a partially integrated plan. The *per se* rules against concerted price fixing or boycotts do not generally appear to be applicable to a plan's reimbursement and coverage decisions, because such decisions are not "naked" restraints. The everyday decisions and practices of the plan are "ancillary" to the agreement of the physicians to control and operate the plan—the plan cannot operate without making such decisions. Therefore, the rule of reason is ordinarily used to determine the legality of such plan practices.

In general, therefore, the practices of a partially integrated plan that is controlled by a physician group will not violate the antitrust laws unless they have, or are likely to have, a significant anticompetitive effect. Since some degree of market power is usually necessary for an act or practice to have a significant marketplace effect, the practices and policies of plans without market power will usually not violate the antitrust laws, in the absence of an unlawful purpose.

On the other hand, the activities of plans with market power would raise serious antitrust concerns, and might warrant commission enforcement action, if they appeared to unreasonably limit competition among the participating physicians or to unreasonably injure competing providers or plans. Such concerns would arise, for example, if a controlled plan with market power appeared to reduce the existing market incentives for price competition among its participating physicians by such practices as adopting a reimbursement policy or mechanism that had the tendency to increase physician fees above market levels. Likewise, a plan with market power would raise serious antitrust concerns if it unreasonably excluded from coverage providers of health care who competed with its controlling group, when such exclusion seriously disadvantaged the other providers.[53] Antitrust concern would also arise if a partially integrated plan required its participating physicians to sign contracts that effectively barred them from participating in any other prepayment plan, and so many physicians were signed up that it was difficult for other plans to recruit a sufficient physician panel.[54]

In the analysis of the effects of a physician group's control of a plan that has market power, it might be reasonable to infer (1) that the market power is exercised for the benefit of the controlling physician group, and (2) that this concerted exercise of market power has anticompetitive effects. If these inferences were warranted, evidence that a controlled plan has market power would constitute evidence that concerted behavior is resulting in anticompetitive effects, and such evidence—if not counterbalanced by sufficient evidence of procompetitive effects—could provide a sufficient basis for finding an antitrust violation. However, the Commission does not intend to adopt that general approach in its immediate enforcement program, because it wants to have greater experience with the market dynamics of the health care industry and the physician-plan relationship before determining whether these general inferences of anticompetitive conduct and effects are warranted. If empirical studies or future investigations or cases indicate that physician control combined with market power customarily leads to higher physician fees, the unreasonable exclusion of competitors, the loss of potential competition, or other significant anticompetitive effects, the Commission will consider appropriate enforcement action based solely on market power and physician control. Until that time, the Commission's general policy will be

[52] *See* Malcolm and Ellwood, "Competitive Approach May Ease Problems in Delivery Systems," Hospitals (August 16, 1979), at 68 ("IPAs that involve more than 60 percent of the physicians in any given community can be seen as major obstacles to the formation of competing plans"); McClure, "On Broadening the Definition of and Removing Barriers to a Competitive Health Care System," 3 Journal of Health Politics, Policy and Law 303 (1978).

[53] *See Va. Academy, supra;* Ballard v. Blue Shield of Southern West Virginia, 543 F.2d 1075 (4th Cir. 1976). *See also* Associated Press v. United States, 326 U.S. 1 (1945); United States v. Realty Multi-List, Inc., 629 F.2d 1351 (5th Cir. 1980).

[54] A substantial lessening of competition in violation of the antitrust laws can be found where such participation agreements, akin to exclusive dealing arrangements, injure existing or potential competitors by forcelosing them from a substantial share of the practicing physicians in the area. *See* Tampa Elec. Co. v. Nashville Coal Co., 365 U.S. 320 (1961); Standard Oil Co. of Cal. v. United States, 337 U.S. 293 (1949). Indeed, if a plan imposing such a requirement has almost universal participation by physicians in its marketing area, in the absence of a strong factual justification, the requirement could constitute strong evidence of an anticompetitive intent to obstruct the development of new prepayment plans in the market. *See* Medical Service Corp. of Spokane County, 98 F.T.C. 906 (1976) (consent order).

to take action only when there is evidence of an unlawful purpose or when there is evidence that plan practices are causing or will likely cause significant anticompetitive effects.[55]

In considering the need for enforcement action, as well as in any proceedings after the issuance of a complaint, the Commission will take into account any procompetitive effects of a challenged practice and will consider the purpose or business justification for the practice in order to evaluate its overall competitive impact. If a practice is found to unreasonably restrain trade, the appropriate remedy will depend upon the circumstances in the case. It may be conduct-oriented (*e.g.*, prohibiting the specific anticompetitive practice) or structural (*e.g.*, severing the control relationship).[56]

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 81-28887 Filed 10-2-81; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

[Intervention Notice 140]

Philadelphia Electric Co.; Pennsylvania Public Utility Commission; Proposed Intervention in Electric Rate Increase Proceeding

The General Services Administration (GSA) seeks to intervene in a proceeding before the Pennsylvania Public Utility Commission concerning the application of the Philadelphia Electric Company for an increase in electric rates. GSA represents the interests of the executive agencies of the United States Government as users of utility services.

Persons desiring to make inquiries to GSA concerning this case should submit them in writing to Albert A. Vicchiolla, Assistant General Counsel, Transportation and Public Utilities Division, General Services Administration, 425 I Street, N.W., Room 3001, Washington, D.C. (mailing address: General Services Administration (LT), Chester A. Arthur Building, Washington, D.C. 20406), 202-275-6101, on or before November 4, 1981 and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make persons parties of record in the proceeding.

(Section 201(a)(4), Federal Property and Administrative Services Act, 40 U.S.C. 481(a)(4))

Dated: September 23, 1981.

Ray Kline,

Deputy Administrator of General Services.

[FR Doc. 81-28874 Filed 10-2-81; 8:45 am]

BILLING CODE 6820-AM-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[Docket No. N-81-1092]

Florida; Request for State Certification

AGENCY: Office of Interstate Land Sales Registration, HUD.

ACTION: Notice of application by the States of Florida for State certification.

SUMMARY: The Secretary gives public notice that the State of Florida has applied for certification of its land sales program under 24 CFR 1710.502, published June 13, 1980. The purpose of giving this public notice is to give other states and interested parties the opportunity to review and comment on Florida's application.

DATE: Comments should be submitted no later than December 4, 1981.

ADDRESS: 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: Roger Henderson, Director, Program Development and Control Division, Department of HUD, Room 4106, Washington, D.C. 20410. Telephone: (202) 755-5618. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The amendments to the Interstate Land Sales Full Disclosure Act were signed into law by the President on December 21, 1979 (Pub. L. 96-153). On June 13, 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 Florida has submitted an application which is under consideration. The States of California, Oregon, Minnesota and Arizona have submitted applications. California's application had been approved, and a formal agreement signed on January 6, 1981. The Oregon, Minnesota and Arizona applications are presently under negotiation.

Any person(s) interested in receiving the application materials prepared by the State of Florida may request copies of them from the Office of Interstate Land Sales Registration from the address above. After the 60 day public comment period ends (December 4, 1981), the Secretary's final determination to accept or reject Florida's application for certification will be published in the **Federal Register.**

Issued at Washington, D.C. on September 29, 1981.

William O. Anderson,

General Deputy Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.

[FR Doc. 28881 Filed 10-2-81; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit; Emergency Exemption; Take (Capture) of Wild-Released Whooping Crane

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: a required **Federal Register** notice on the receipt of an Endangered

[55] Empirical studies can be useful evidence but they are not the only means of establishing the existence or nonexistence of anticompetitive effects. For example, an empirical study of the effects of fee reimbursement policies would not be necessary to determine whether a particular policy has adverse price effects. Such price effects might be shown in a number of other ways, including the use of (1) evidence that the physicians involved intended to raise or stabilize prices or that individual physicians actually changed their pricing patterns in a manner that lessened price competition, or (2) expert testimony on the likely effects of a reimbursement decision. Moreover, concerted action can be anticompetitive without having demonstrable pricing effects—when, for example, it eliminates options available to consumers.

[56] Thus, a conduct remedy may be appropriate if prohibiting a particular practice will remove and undo its anticompetitive effects. On the other hand, an actual severing of control may be appropriate if the Commission concludes that the controlling physician group is operating the plan with an overall anticompetitive purpose. Such a conclusion could be based on a finding that the plan had engaged in a large number of anticompetitive practices, or on more direct evidence of anticompetitive purpose. Structural relief might also be appropriate if a conduct remedy would require the Commission to engage in unduly intrusive oversight of the plan's day-to-day decisions.

Species permit application for soliciting public comment has been waived for emergency actions.

FOR FURTHER INFORMATION CONTACT: Steve Funderburk, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240; Telephone: 703/235–1903.

SUPPLEMENTARY INFORMATION: On September 28, 1981, a memorandum waiving the 30 day public comment period required prior to issuance of an Endangered Species permit was issued to Dr. Scott Derrickson, Patuxent Wildlife Research Center, USFWS, authorizing emergency actions to enhance the survival of one captive bred female Whooping crane (*Grus americana*), which was released to the wild at the Grays Lake National Wildlife Refuge, Idaho. This waiver was granted to allow for the capture of the bird, which did not assimilate to the wild population, to assure its survival for another attempt at release to the wild during the 1982 breeding season. The bird, which will not migrate south with the wild population, would probably die of exposure if left in the wild at the Grays Lake Refuge, which normally encounters harsh winters.

It was determined by the U.S. Fish and Wildlife Service that an emergency does in fact exist and that the health and well being of this bird is threatened, and that no reasonable alternative to the proposed action is available to the applicant. This emergency waiver is provided in accordance with Section 10(c) of the Endangered Species Act of 1973, as amended by Pub. L. 95–632 (92 Stat. 3751).

The issued permit was assigned the following number: PRT 2–8158. The permit, memorandum of waiver, and other relative documents and information concerning this permit are available to the public during normal business at the above address.

Dated: September 30, 1981.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 81–29035 Filed 10–2–81; 8:45 am]

BILLING CODE 4310–55–M

Geological Survey

Mobil Oil Exploration and Producing Southeast Inc.; Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Development and Production Plans

AGENCY: Geological Survey, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Mobil Oil Exploration and Producing Southeast Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Leases OCS–G 3596 and 3597, Blocks 20 and 21, Grand Isle Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the Office of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: September 28, 1981.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 81–28873 Filed 10–2–81; 8:45 am]

BILLING CODE 4310–31–M

Bureau of Land Management

[OR 19177]

Oregon; Order Providing for Opening of Land

Correction

In FR Doc. 81–24649 appearing on page 42920 in the issue for Tuesday, August 25, 1981, make the following correction:

On page 42920, in the second column, under "Willamette National Forest", under "T. 21 S., R. 3.", in the fourth line, "Sec. 35, Lot SE¼SE¼" should have read "Sec. 35, SE¼SE¼".

BILLING CODE 1505–01–M

[U–49772]

Salt Lake District, Utah Realty Action—Public Land Sale

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following described land has been identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713) at no less than the fair market value shown.

T. 5 N., R. 4 E., SLM

Section 24, Lot 3, Containing 33.25 acres.
Appraised Value $5,000.00.

DATE: The sale will be made on December 1, 1981, at 1:00 p.m., 13th floor–BLM Conference Room, 136 East South Temple, Salt Lake City, Utah.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning the sale, including the planning documents, environmental assessment and the record of public involvement, is available for review at the Salt Lake District, Bureau of Land Management Office, 2370 South 2300 West, Salt Lake City, Utah 84119.

SUPPLEMENTARY INFORMATION: The purpose of the proposed public land sale is to dispose of public land which because of its location and other characteristics is difficult and uneconomical to manage. The public interest will be well served by offering these lands for sale.

Said lands will be sold at public auction through competitive bidding.

Bids may be made by a principal or duly qualified agent. All bidders must qualify pursuant to 43 CFR 2711.26.

Sealed bids shall be considered only if received at the place of sale, BLM, 136 East South Temple, Salt Lake City, Utah 84111, prior to 12:00 noon the day of the sale and for at least the appraised value. Each bid shall be accompanied by a certified check, postal money order, bank draft or cashier's check, made payable to the Bureau of Land Management for not less than one-fifth of the amount of bid and shall be enclosed in a sealed envelope clearly marked "Bid for Public Land Sale U–49772, Morgan County." If two or more bids for the same amount are received, the apparent high bidder shall be determined by drawing pursuant to 43 CFR 2711.3–1(C).

The sealed bids shall be opened and publicly declared at the beginning of the sale. Oral bids will then be entertained. The oral bids must be made in increments of $500 or more. A maximum

of three minutes will be allowed between oral bids for the submission of a higher bid. After oral bids are entertained, the apparent high bidder will be declared. The person declared to have entered the apparent high qualifying oral bid shall submit payment by cash, personal check, bank draft, money order or any combination; thereof, any additional amount necessary to bring the amount tendered with their sealed bids up to one-fifth of the amount of the oral bid, immediately following the close of the sale.

The acceptance or rejection of any offer to purchase shall be in writing no later than 30 days after receipt of such offer.

The terms and conditions applicable to the sale are:

1. The apparent high bidder shall submit the remainder of the full bid price within 30 days from the date of sale. Failure to submit the full bid price prior to, but not including the 30th day following the sale, shall result in cancellation of the sale of the above described lands and the deposit shall be forfeited.

2. The authorized officer may reject the highest qualified bid and release the bidder from his obligation and withdraw the tract for sale, if he determines that consummation of the sale would be inconsistent with the provisions of any existing law or collusive or other activities have hindered or restrained free and open bidding or consummation of the sale would encourage or promote speculation in public lands.

3. The patent will contain a reservation for ditches and canals and be subject to all valid existing rights.

4. The sale is for surface estate only. All minerals will be reserved to the United States.

For a period of 45 days from the date of this notice, interested parties may submit comments to the State Director, BLM, 136 East South Temple, Salt Lake City, UT 84111. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination.

Martha Burbidge,

Acting District Manager.

[FR Doc. 81-28766 Filed 10-2-81; 8:45 am]

BILLING CODE 4310-84-M

[M 45991 (SD)]

South Dakota; Noncompetitive Sale of Public Lands; Correction

September 24, 1981.

In FR Doc. 81-26801 appearing on pages 45819 and 45820, September 15, 1981, the legal description should read Sec. 12, Lots 2 and 3 instead of Sec. 2.

Roland F. Lee,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-28826 Filed 10-2-81; 8:45 am]

BILLING CODE 4310-84-M

[W-69981; W-73096]

Wyoming; Coal Lease Offerings by Sealed Bid

September 24, 1981.

U.S. Department of the Interior, Bureau of Land Management, Wyoming State Office, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyoming 82001. Notice is hereby given that at 2:00 p.m., October 28, 1981, certain coal resources in the lands hereinafter described in Carbon and Sheridan Counties, Wyoming, will be offered for competitive lease by sealed bid of $25.00 per acre or more (and possibly followed by oral auction) to the qualified bidder submitting the highest bonus bid in accordance with the provisions of the Mineral Leasing Act of 1920 (41 Stat. 437), as amended, and the Department of Energy organization Act of August 4, 1977 (91 Stat. 565, 42 U.S.C. 7101). However, no bid will be accepted for less than fair market value as determined by the authorized officer.

The sale will be held in the third floor Conference Room, 2515 Warren Avenue, Cheyenne, Wyoming. No bids received after 1:00 p.m., October 28, 1981, will be considered.

For lease offering W-69981, the coal resources to be offered consists of all coal recoverable from the following lands:

6th Principal Meridian, Wyoming

T. 57 N., R. 84 W.,
Sec. 14, SW¼NE¼;
Sec. 23, S½NE¼;
Sec. 24, W½W½;
Sec. 25, W½NW¼.
Containing 360.00 acres.

The estimated total strippable reserves are 27.8 million tons. The coal quality is as follows: BTU—8,200 to 9,400/lb; Sulfur—0.5 to 1.8 percent; Ash—4.0 to 14.0 percent. The coal classifies as subbituminous C rank when calculated on an ash free basis. The track lies within the Powder River known recoverable coal resource area in Sheridan County, Wyoming and contains seven minable coal beds averaging between 7.4 and 24.1 feet in thickness. The U.S. Geological Survey Report (dated May 15, 1981) indicating demonstrated in-place and recoverable reserves by coal seam is available for public review in case file W-69981 at the above address.

For lease offering W-73096, the coal resource to be offered consists of all the coal recoverable by surface mining methods in the following lands located approximately 25 miles southwest of Rawlins, Wyoming:

6th Principal Meridian, Wyoming

T. 17 N., R. 91 W.,
Sec. 4, lots 1, 2, 3, 4, S½N½;
Sec. 6, lots 1, 2, 3, 4, N½SE¼NE¼.
T. 18 N., R 91 W.,
Sec. 2, lots 7, 8, 9, 10, 14, 15, 16, 17, 18, 19, 20;
Sec. 10, All;
Sec. 12, lots 1 through 16 (All);
Sec. 14, All;
Sec. 22, All;
Sec. 28, All;
Sec. 32, All;
Sec. 34, All.
T. 19 N., R. 91 W.,
Sec. 34, All.
Containing 5,974.09 acres.

The estimated total in-place reserves are 73.8 million tons and the estimated recoverable reserves are 62.73 million tons. The in-place reserves were calculated using a 10:1 mining ratio (feet of overburden: feet of coal), a maximum highwall of 200 feet, a minimum coal thickness of 4 feet, and a density of 1,770 tons/acre-foot. The recoverable reserves were determined by the application of an estimated 85% recovery rate. The coal quality is as follows: BTU—8,800/lb; Sulphur—.56 percent; Ash—7.35 percent; Moisture—25.57 percent. This tract lies within the Rawlins Little Snake known recoverable coal resource area (KRCRA), Carbon County, Wyoming.

The leases issued as a result of these offerings will provide for payment of an annual rental of $3.00 per acre or fraction thereof and a royalty payable to the United States.

Notice of Availability: Bidding instructions are included in the Detailed Statements of of the Lease Sale. Copies of the Statements and of the proposed coal leases are available at the Bureau of Land Management, 2515 Warren Avenue, Cheyenne, Wyoming 82001. All case file documents and written comments submitted by the public on Fair Market Value or royalty rates, except those portions identified as proprietary by the commentor and meeting exemptions stated in the Freedom of Information Act, are available for public inspection at the above address on the fourth floor.

Maxwell T. Lieurance,

State Director.

[FR Doc. 81-28823 Filed 10-2-81; 8:45 am]

BILLING CODE 4310-84-M

[W-8427]

Wyoming; Termination of Classification

September 22, 1981.

1. The following described lands were classified pursuant to the Small Tract Act of June 1, 1938 (43 U.S.C. 682a; 43 CFR 2411.1–1) by classification document dated March 11, 1968, and as amended October 8, 1970, for conditional leases for residential purposes. The classification document limited the issuance of the leases to owners and successors in interest to owners of habitable improvements in Gebo, Wyoming.

Sixth Principal Meridian, Wyoming

T. 44 N., R. 95 W.,
Sec. 11, S½SW¼, SW¼SE¼;
Sec. 12, NE¼NW¼.

The area described contains 160 acres in Hot Springs County, Wyoming.

2. The classification segregated the above lands from all appropriations under the public land laws, including location under the mining laws, except as to applications under the Mineral Leasing Laws and the Small Tract Act.

3. The Small Tract Act was repealed by Section 702 of the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1701), accordingly the classification is no longer applicable. Therefore, pursuant to the authority contained in 43 CFR 2400.04 and the authority delegated by Bureau of Land Management Order 701 the classification is hereby terminated.

4. At 7:45 a.m. on November 6, 1981 the land shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. All valid applications received at or prior to 7:45 a.m. on November 6, 1981, shall be considered as simultaneously filed at that time. Those received thereafter, shall be considered in the order of filing.

5. The lands will be open to location under the United States mining laws at 7:45 a.m. on November 6, 1981. They have been and will continue to be open to application and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyoming 82001.

Maxwell T. Lieurance,
State Director.

[FR Doc. 81-28825 Filed 10-2-81; 8:45 am]
BILLING CODE 4310-84-M

[W-76944]

Wyoming; Invitation for Coal Exploration License; Kerr-McGee Coal Corp.

September 24, 1981.

Kerr-McGee Coal Corporation hereby invites all interested parties to participate on a pro rata cost sharing basis in its coal exploration program concerning Federally owned coal underlying the following-described land in Campbell County, Wyoming:

Sixth Principal Meridian, Wyoming

T. 43 N., R. 70 W.,
Sec. 4, Lots 1, 2, 3, 4, S½N½, S½;
Sec. 5, Lots 1, 2, 3, 4, S½N½, S½;
Sec. 8, All;
Sec. 9, All.
T. 44 N., R. 70 W.,
Sec. 28, All;
Sec. 29, All;
Sec. 32, All;
Sec. 33, All.
Containing 4,168.43 acres.

All of the coal in the above lands consists of unleased Federal coal within the Powder River Basin Known Recoverable Coal Resource Area. The purpose of the exploration program is to provide geologic data to define quantity, quality and mineability of coal within the boundaries of the above-described area.

A detailed description of the proposed drilling program is available for review during normal business hours in the following offices (under Serial Number W–76944): Bureau of Land Management, 2515 Warren Avenue, Cheyenne, Wyoming 82001, and the Bureau of Land Management, 951 Rancho Road, Casper, Wyoming 82601.

This notice of invitation will be published in the newspaper once each week for two (2) consecutive weeks beginning the week of October 12, 1981, and in the **Federal Register**. Any party electing to participate in this exploration program must send written notice to both the Bureau of Land Management and Kerr-McGee Coal Corporation no later than November 4, 1981. The written notices should be sent to the following addresses:

Kerr-McGee Coal Corporation, Attention: Mr. James R. Nielsen, Staff Engineer, P.O. Box 25861, Oklahoma City, Oklahoma 73125, and the Bureau of Land Management, Wyoming State Office, Attention: Lands and Mining Section, P.O. Box 1828, Cheyenne, Wyoming 82001.

The foregoing notice is published in the **Federal Register**, pursuant to Title 43 of the Code of Federal Regulations, § 3410.2–1(d)(1).

Harold G. Stinchcomb,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-28877 Filed 10-2-81; 8:45 am]
BILLING CODE 4310-84-M

Bureau of Reclamation

Contact Negotiations for Utah International Inc.; Navajo Unit, Colorado River Storage Project, New Mexico; Intent To Negotiate Amendatory Water Service Contract

The Department of the Interior, through the Bureau of Reclamation (Bureau), intends to initiate negotiations for an amendatory water service contract with Utah International, Inc. (UII), a Delaware corporation with its principal office located in San Francisco, California. Under the origianl contract, municipal and industrial water was to be furnished for beneficial use by UII in mining, processing, and utilizing coal deposits from its surface mining operation on the Navajo Indian Reservation near Farmington, New Mexico. The amendatory water service contract will be negotiated under authority of the Act of April 11, 1956 (70 Stat. 105).

The Bureau and UII will negotiate for certain amendments to the company's existing water service contract, dated April 11, 1968, amended June 11, 1975. The 1975 amendatory contract establishes that the contract may be terminated as to water not put to beneficial use by January 1, 1982, in the coal gasification project proposed by UII. Plans have not progressed to the point that the water can be put to beneficial use before the amendatory contract expires. A new beneficial use date will be negotiated. The proposed amendatory contract will include updated Bureau policies, including those for water marketing and pricing, wherever appropriate.

The proposed amendatory contract would continue to limit UII's annual consumptive use to 35,300 acre-feet annually. No more than 44,000 acre-feet of water will be released annually from Navajo Reservoir for withdrawal from UII's point of diversion.

All meetings scheduled by the Bureau with UII for the purpose of discussing terms and conditions of the proposed amendatory contract will be open to the

general public as observers. Advance notice of meetings will be furnished only to those parties who have submitted a written request for notification at least 1 week prior to such meetings. Requests should be addressed to the Regional Director, Bureau of Reclamation, Attn: UC-440, P.O. Box 11568, Salt Lake City, Utah 84147. All written correspondence concerning the proposed amendatory contract will be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

The public is invited to submit written comments on the form of the proposed amendatory contract for a 30-day period after the completed contract draft is made available to the public. However, in the event little or no public interest is evidenced in response to this notice and local news releases, the availability of the contract draft may not be published through the **Federal Register** or other media.

For further information on the contract negotiations, contact Ms. Deborah Linke, Chief, Repayment Staff, at the above address, or telephone (801) 524-5435 or Mr. Richard Gjere (303) 247-0247.

Dated: September 29, 1981.

Darrell D. Mach,

Acting Assistant Commissioner of Reclamation.

[FR Doc. 81-28868 Filed 10-2-81; 8:45 am]

BILLING CODE 4310-09-M

Contract Negotiations With Cedar Bluff Irrigation District No. 6; Intent To Begin Contract Amendment Negotiations for Deferment of the 1981 Construction Charge and Its Subsequent Repayment

The Department of the Interior, through the Regional Director of the Lower Missouri Region of the Bureau of Reclamation (Bureau), intends to begin negotiations with the Cedar Bluff Irrigation District (district) for deferment of the 1981 construction charge and its subsequent repayment. The deferment is being negotiated in compliance with the Act of September 21, 1959 (73 Stat. 584), Pub. L. 86-308.

The district, located in central Kansas near the town of Ellis, has experienced an extremely low storage condition in the Cedar Bluff Reservoir during the 1979 and 1980 irrigation seasons. Because of the undue economic burden imposed on the irrigators in 1980, the Cedar Bluff Irrigation District is seeking a deferment of the $18,267 annual construction charge due in 1981 and is proposing to repay the deferment in equal annual payments of $553.50 over the remaining 33 years of the existing contract.

All meetings scheduled by the Bureau with the district for the purpose of discussing terms and conditions of the proposed contracts shall be open to the general public as observers. Advance notice of the meetings shall be furnished to those parties having previously furnished a written request for such notice at least 1 week prior to the meeting.

The public is invited to submit written comments on the form of the proposed contract not later than 30 days after the completed contract draft is declared to be available to the public. In the event that little or no public interest is stimulated by this notice or local publicity, the availability of the proposed contract for public review and comment will not be publicized further through the **Federal Register** or other media.

Written comments and requests for information should be directed to Mr. Robert D. Kutz, Project Manager, Bureau of Reclamation, P.O. Box 1607, Grand Island, Nebraska 68801, telephone (308) 382-3660. All written correspondence made available in response to public requests will be governed by the Freedom of Information Act, as amended.

Dated: September 29, 1981.

Darrell D. Mach,

Acting Assistant Commissioner of Reclamation.

[FR Doc. 81-28869 Filed 10-2-81; 8:45 am]

BILLING CODE 4310-09-M

Municipal Water Service Contract Negotiations; Boysen Unit, Pick-Sloan Missouri Basin Program, Wyoming; Intent To Negotiate for Municipal Water Service

The Department of the Interior, through the Bureau of Reclamation (Bureau) intends to begin negotiations with officials of the city of Riverton, Wyoming, for an exchange agreement for a water allocation from Boysen Reservoir storage. The proposed contract will be drafted pursuant to section 9(c) of the Reclamation Project Act of August 4, 1939 (53 Stat. 1186). The city has a population of about 10,000. With current growth trends, city officials have estimated the population could exceed 18,000 by year 2020. Officials have requested water service arrangements be discussed. Water supplies ranging from 1,000 to 4,000 acre-feet annually, are needed to supplement the city's existing water rights which have a late priority date.

City officials have requested that the Bureau allocate water from Boysen Reservoir storage for a future municipal water supply. The city has a Wyoming water permit to divert water through the LeClair Canal to its treatment plant but because of the late priority date may need supplemental water during times of drought.

All meetings and/or negotiation sessions scheduled by the Bureau with the city of Riverton for the purpose of discussing terms and conditions of the proposed contract will be furnished to those parties having submitted a written request for a meeting scheduled at least 1 week prior to any meeting.

Requests should be addressed to Regional Director, Bureau of Reclamation, Attention Code UM-440, P.O. Box 2553, Billings, Montana 59103. All written correspondence concerning the proposed contract will be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

The public is invited to submit written comments on the form of the proposed contract not later than 30 days after the completed contract draft is declared to be available to the public. In the event little or no public interest is evidenced in the negotiations as gauged by the response to this notice and local news releases or announcement, the availability of the proposed form of contract for public review and comment will not be further publicized through the **Federal Register** or other media.

For further information on scheduled contract negotiating sessions and copies of the proposed contract form, please contract Mr. William Crosby, Chief, Economics and Repayment Branch, Division of Water and Land, at the above address or by telephone (406) 657-6413.

Darrell D. Mach,

Dated: September 29, 1981.

Acting Assistant Commissioner of Reclamation.

[FR Doc. 81-28870 Filed 10-2-81; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

[Volume No. 22]

Motor Carrier Intrastate Application(s)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by

Special Rule 245 of the Commission's general rules of practice (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

Montana Docket No. T-5881, filed August 7, 1981. Applicant: LEE YORK, P.O. Box 134, Wisdom, MT 59761. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: Passengers and general freight, Class A, over Highways 115, 43 and 278, serving the points of Butte, Divide, Dewey, Wise River, Wisdon and Jackson, Montana. Intrastate, interstate and foreign commerce authority sought. Hearing: September 15, 1981, Wisdom, Montana. Request for procedural information should be addressed to Montana Public Service Commission, 1227 11th Ave., Helena, Montana 59620, and should be directed to the Interstate Commerce Commission.

New York Docket No. T-1538, filed August 25, 1981. Applicant: KILLIAN BULK TRANSPORT INC., 100 Katherine Street, Buffalo, NY 14210. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General Commodities—Between Niagara County on the one hand, and, on the other, the Counties of: Allegany, Cattaraugus, Cayuga, Chautauqua, Chemung, Genesee, Monroe, Niagara, Onondaga, Ontario, Oswego, Orleans, Seneca, Steuben, Tompkins, Wayne and Yates. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Request for procedural information should be addressed to New York Department of Transportation, 1220 Washington Ave., State Campus, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

New York Docket No. T-3487, filed September 1, 1981. Applicant: E. YOUNG'S EXPRESS, INC., 1200 Bradley Street Road, Watertown, NY 13601. Representative: Herbert M. Canter, and Benjamin D. Levine, 305 Montgomery Street, Syracuse, NY 13202. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General Commodities, as defined in Section 800.1 of Title 17 of the Official Compilation of Codes, Rules and Regulations of the State of New York: Between all points in a territory consisting of Cayuga, Clinton, Franklin, Jefferson, Lewis, Oneida, Onondaga, Oswego and St. Lawrence Counties and the Village of Lake Placid (Essex County), New York. Intrastate, interstate and foreign commerce authority sought. Hearing: date, time and place not yet fixed. Request for procedural information should be addressed to Department of Transportation, 1220 Washington Avenue, State Campus, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

New York Docket No. T-9390, filed August 11, 1981. Applicant: MAJESTIC MESSENGER SERVICE, INC., 160 Eileen Way, Syosset, NY 11791. Representative: Anthony Mastroianni, Esq., 343 Maple Ave., Westbury, NY 11590. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities in messenger service in packages not to exceed 100 pounds, to be delivered within 4 to 6 hours of time of tender. Between the Counties of Suffolk, Nassau, Rockland, Westchester, Putnam, Dutchess, Orange, Albany, Sullivan, Ulster, Tioga, Chemung, Schoharie, Rensselaer, Columbia, Greene, Montgomery, Schenectady, Alleghany, Broome, Cattaraugus, Cayuga, Chautauque, Chenango, Clinton, Cortland, Delaware, Erie, Essex, Franklin, Fulton, Genesse, Hamilton, Hermika, Jefferson, Kings, Lewis, Livingston, Madison, Monroe, Niagara, Oneida, Onondaga, Ontario, Orleans, Oswego, Ostego, Richmond, St. Lawrence, Saratoga, Schuyler, Seneca, Steuben, Suffern, Washington, Wayne, Wyoming, Yates, Tompkins, and New York City. Intrastate, interstate and foreign commerce authority sought. Hearing: date, time and place not yet fixed. Request for procedural information should be addressed to the New York State Department of Transportation, 1220 Washington Ave., State Campus, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

By the Commission.

James H. Bayne,

Acting Secretary.

[FR Doc. 81-28848 Filed 10-2-81; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs

Decided: September 29, 1981.

In our recent decisions, an 18.0-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

The weekly figure set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 17.7 percent. Accordingly, we are authorizing that the surcharge for this traffic remain at 18.0 percent. All owner-operators are to receive compensation at this level.

No change is authorized in the 3.0-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not using owner-operators, the 2.0-percent surcharge for United parcel Service, or the 6.6-percent surcharge for bus carriers.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commission or Boards of each State having jurisdiction over transportation by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. for public inspection and by depositing a copy to the Director, Office of the Federal Register, for publication therein.

It is ordered:

This decision shall become effective Friday 12:01 a.m., October 2, 1981.

By the Commission, Chairman Taylor, Vice Chairman Clapp, Commissioners Gresham and Gilliam.

James H. Bayne,

Acting Secretary.

September 28, 1981.

APPENDIX.—*Fuel Surcharge*

Base date and price per gallon, including cents (including tax)

January 1, 1979 ..... 63.5

Date of current price measurement and price per gallon (including tax)

September 28, 1981 ..... 130.2

	Transportation performed by—			
	Owner operator [1]	Other [2]	Bus carrier	UPS
	(1)	(2)	(3)	(4)
Average percent fuel expenses (including taxes) of total revenue	16.9	2.9	6.3	3.3
Percent surcharge developed	17.7	3.0	6.6	[3] 2.8
Percent surcharge allowed	18.0	3.0	6.6	[4] 2.0

[1] Apply to all truckload rated traffic.
[2] Including less-than-truckload traffic.
[3] The percentage surcharge developed for UPS is calculated by applying 81 percent of the percentage increase in the current price per gallon over the base price per gallon to UPS average percent of fuel expense to revenue figure as of January 1, 1979 (3.3 percent).
[4] The developed surcharge is reduced 0.8 percent to reflect fuel-related increases already included in UPS rates.

[FR Doc. 81-28853 Filed 10-2-81; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. 175]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: September 28, 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, Ewing, and Shaffer.

James H. Bayne,

Acting Secretary.

MC 21455 (Sub-51)X, filed September 14, 1981. Applicant: GENE MITCHELL CO., West Liberty, IA. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Applicant seeks to remove restrictions in its Sub-Nos. 19, 25, 31, 34, 44, 45, 49F, and 50F certificates to (1) broaden commodity descriptions in each to "food and related products" from soy flour, soy protein and soy flour products in Sub-Nos. 19, 31, 34, 45, and 49, from meats, meat products and byproducts, and articles distributed by meat packinghouses as described in the Descriptions case, 61 M.C.C. 209 and 766 in Sub-No. 25, and from wheat products and wheat gluten in Sub-Nos. 44 and 50; (2) remove restrictions excluding transportation of "soybean meal," "commodities in bulk," and "hides" in Sub-Nos. 19, 25, 31, 34, and 45; (3) remove restrictions prohibiting service in AK and HI in Sub-Nos. 19 and 44; (4) remove restrictions limiting service to that originating at a plantsite and named points in Sub-Nos. 25 and 44; (5) broaden facilities and named points to countywide authority as follows: Sub-No. 25, Marshall County, IA (facilities near Marshalltown, IA); Sub-No. 31, Linn and Muscatine Counties, IA (Cedar Rapids and Muscatine, IA); Sub-No. 34, Floyd and Macon Counties, IL (Gibson City and Decatur, IL); Sub-No. 45, Buchanan County, MO (St. Joseph, MO); Sub-No. 49, Blue Earth, Nicollet and Le Sueur Counties, MN (Mankato, MN); and Sub-No. 50, Lee County, IA and Clark County, MO (Keokuk, IA); and (6) change one-way service to radial service in each certificate.

MC 22254 (Sub-86)X, filed September 22, 1981. Applicant: TRANSAMERICAN VAN SERVICE, INC., P.O. Box 12608, Fort Worth, TX 76116. Representative: Marshall Kragen, 1919 Pennsylvania Ave., NW., Suite 300, Washington, DC 20006. Applicant seeks to remove restrictions in its Sub-Nos. 59, 75, and 77 certificates to broaden the commodity descriptions to (1) in Sub-No. 59 "furniture and fixtures" from furniture; (2) in Sub-No. 75 "furniture and fixtures, and lumber and wood products" from store fixtures and wood products, related to store fixtures; (3) in Sub-No. 77 "rubber and plastic products and instruments and photographic goods" from hydrotherapeutic pools, uncrated; (4) in Sub-Nos. 59 and 77 certificates replace one-way with radial authority; in Sub-Nos. 59 and 75 certificates replace city-wide with countywide authority to (5) in Sub-No. 59 Cochise County from Benson (6) in Sub-No. 75 Weber County from Ogden; and (7) in Sub-No. 77 remove the except AK and HI restriction.

MC 24583 (Sub-47)X, filed September 21, 1981. Applicant: FRED STEWART COMPANY, P.O. Box 340, El Dorado, AR 71730. Representative: James M. Duckett, 221 W. 2nd, Suite 411, Little Rock, AR 72201. Applicant seeks to remove restrictions in its Sub-Nos. 35, 37, and 38 certificates to (1) broaden the commodity description to (a) "chemicals and related products" from sodium hydrosulfide in Sub-No. 35; (b) "petroleum and related products" from waste petroleum refinery sulfide in Sub-No. 35; (c) "chemicals and related products" from bromine chloride in Sub-No. 37; (d) "chemicals and related products" from ethylene in Sub-No. 38; (2) remove in containers restriction in Sub-No. 37 and in bulk, in tank vehicles restriction in Sub-No. 38; (3) remove named facilities restrictions in Sub-Nos. 37 and 38; (4) replace one-way authority with radial authority in Sub-No. 35; and (5) remove except AK and HI restriction in Sub-No. 37.

MC 30530 (Sub-14)X, filed September 14, 1981. Applicant: NORTH EASTERN MOTOR FREIGHT, INC., 5601 Holly Street, Commerce City, CO 80022. Representative: Leslie R. Kehl, 1660 Lincoln St., Suite 1600, Denver, CO 80264. Applicant seeks to remove restrictions in its lead and Sub-Nos. 6, 8, and 12 certificates to (1) broaden the commodity descriptions for general commodities, with exceptions, to "general commodities (except classes A and B explosives)" in each certificate; (2) authorize service to all intermediate points in each certificate; (3) change city to county-wide from Laporte, CO, and points within three miles of Laporte to Larimer County, CO, in Sub-No. 6; and (4) remove the restriction "serving points in the oil and gas fields known as the Adena and Little Beaver Fields and the Yenter Field" to allow off-route service at all points in the counties in the lead; and remove the joinder only restriction in Sub-No. 8.

MC 30618 (Sub-23)X, filed September 17, 1981. Applicant: HENRY V. RABOUIN, INC., P.O. Box 204, Pittsfield, MA 01201. Representative: Sherwood Guernsey II, 57 Wendell Ave., Pittsfield, MA 01201. Applicant seeks to remove restrictions in its lead certificate to broaden the commodity description from general commodities (with exceptions) to "general commodities (except classes A and B explosives)" in its regular and irregular route authority to serve northeastern States.

MC 33566 (Sub-5)X, filed September 22, 1981. Applicant: BAY STATE TRANSFER & STORAGE CO., INC., 60 Haynes Circle, Chicopee, MA 01020. Representative: James M. Burns, 1383 Main Street, Suite 413, Springfield, MA 01103. Applicant seeks to remove restrictions in its lead and Sub-Nos. 2F and 4F certificates to broaden the commodity description (1) from

household goods to "household goods and furniture and fixtures".

MC 34767 (Sub-44)X, filed August 12, 1981, previously noticed in the Federal Register of September 4, 1981, republished as follows. Applicant: GOOD'S TRANSFER, INC., 234 Charles Street, Harrisonburg, VA 22801. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street, NW, Washington, DC 20005. Applicant seeks to remove restrictions in its lead and Sub-No. 42 certificates to (1) broaden certain commodity descriptions to: (a) "farm products" from alfalfa meal, livestock and hay; (b) "food and related products" from butter and dressed poultry, food products, meats, packinghouse products, and frozen foods, dressed poultry, frozen foods, canned foods, poultry and eggs, eggs (other than frozen), fresh fruits, fresh fruits and vegetables, apples and peaches, apples, ingredients for animal and poultry food and meat scrap, feeds, feed materials, feed materials and seeds, cottonseed meal, corn, wheat, flour, flour and mixed feed, coffee and tea, malt beverages, feathers, offal of fowls and animals and oils, greases and solids therefrom, feather meal in bulk and in bags, feathers in bags, dressed poultry fresh or frozen, and poultry plant and packinghouse waste products; (c) remove all exceptions in the general commodities authority "except classes A and B explosives"; (d) "petroleum, natural gas and their products" from oils and greases, and inedible oil and grease; (e) "pulp, paper and related products, and rubber and plastic products" from bags, empty containers for feathers, and empty bags; (f) "farm products and food and related products" from farm and dairy products (other than frozen); (g) "lumber and wood products, pulp, paper and related products, rubber and plastic products", from egg cases and chicken coops; (h) "lumber and wood products, and food and related products" from egg crates and fresh fruits; (i) "chemicals and related products, and food and related products" from fertilizer and wholesale grocery products; (j) "chemicals and related products" from fertilizer and fertilizer materials, and fungicides and insecticides; (k) and related products, and machinery" from feed and feed materials, hardware and wholesale food products; (l) "clay, concrete, glass or stone products" from bottles, and marble and marble products; (m) "machinery" from bottle washing machine parts and fittings, and dairy and refrigeration equipment; (n) "petroleum, natural gas and their products, and machinery" from oils, greases, and filling station equipment; (o) "lumber and wood products" from lumber, and empty barrels; (p) "building materials" from roofing; (q) "metal products" from small castings, empty containers used in the transportation of the commodities specified on sheet 10, para 8; (r) "furniture and fixtures" from pianos; (s) "coal and coal products" from coal; (t) "containers" from empty malt beverage containers; and (u) "commodities in bulk" from offal of fowl in bulk or in barrels, in the lead certificate; and in Sub-No. 42, "food and related products" from animal and poultry feed ingredients and supplements; (2) broaden regular-route authorities in the lead certificate to: authorize service at all intermediate points; remove restrictions limiting service to "delivery only" or "pickup only," and specifying "other than Timberville, VA and points within 10 miles thereof" on service from Rockingham County (sheet 6, para 3); and change one-way service to authorize two-way authority; (3) broaden off-route points in the lead certificate to county-wide authority as follows: Shenandoah, Rockingham, Augusta and Page Counties, VA (Lantz Hills, Broadway, Timberville, Weyers Cave, Elkton, Bridgewater, Luray, and Stanley, VA): Albemarle, Augusta, Greene, Madison, Page, Rockingham and Shenandoah Counties, VA (points within 25 miles of Harrisonburg, VA): and Page, Rockingham and Warren Counties, VA (Shenandoah, Elkton, Luray, Stanley, Dayton, Front Royal, and Riverton, VA); (4) broaden irregular-route authorities in the lead and Sub-No. 42 certificates to substitute radial authority in place of one-way service; and broaden named points to county-wide authority as indicated: lead certificate, Rockingham County, VA (Broadway, VA and points within 2 miles thereof): Frederick County, VA (Alma, VA and points within 2 miles of Alma): Albemarle County, VA (Crozet and Greenwood, VA): Shenandoah County, VA (New Market, VA and points within 4 miles thereof): Augusta County, VA (Stuarts Draft, VA and points within 4 miles thereof): Pendleton County, WV (Brandywine, WV): Hardy County, WV (Moorefield, WV): Shenandoah County, VA (Strasburg, Edinburg, Woodstock, and Mt. Jackson, VA): Page County, VA (Luray, Shenandoah, and Stanley, VA): Frederick County, VA (Stephens City, VA): Pulaski County, KY (Somerset, KY): Grant and Hardy Counties, WV (Moorefield, WV and points in WV within 12 miles thereof): Washington County, MD (Hagerstown, MD): Frederick County, MD (Knoxville and Frederick, MD): Gloucester County, NJ (Pitman, NJ): Montgomery County, PA (Schwenckville, PA): Orange County, VA (Orange, VA): Warren County, VA

(Front Royal, VA): Fauquier County, VA (Marshall and Warrenton, VA): Rockingham County, VA (Bridgewater, Broadway, Elkton, Timberville, Cross Keys, Lantz Mills, Mt. Crawford, and Linville, VA): Page, Rockingham and Shenandoah Counties, VA (Timberville, VA and points in VA within 10 miles thereof): Augusta County, VA (Fishersville, Crimora, Weyers Cave, Mt. Solon, and Fort Defiance, VA): Albermarle, Augusta, Greene, Page, Rockingham and Shenandoah Counties, VA (points in Virginia within 20 miles of Harrisonburg, VA): Adams County, PA (Gettysburg, PA): Berkeley County, WV (Martinsburg, WV): Hampshire County, WV (Romney, WV): Newport News, VA (Denbigh, VA): Jefferson County, WV (Charles Town and Shepherdstown, WV): Essex County, NJ (Irvington, NJ): Hudson County, NJ (Harrison, NJ): Sussex County, NJ (Newton, NJ): Howard County, MD (Ellicott City, MD): Botetourt County, VA (Cloverdale, VA): Rockbridge County, VA (Raphine, VA): Culpeper County, VA (Culpeper, VA): Anne Arundel County, MD (Camp Meade, MD): Kershaw County, SC (Kershaw and Camden, SC): Lee County, SC (Bishopville, SC): Lancaster County, SC (Lancaster, SC): Darlington County, SC (Hartsville, SC): Wake County, NC (Raleigh, NC): Cabarrus County, NC (Concord, NC): Gaston County, NC (Gastonia, NC): Forsyth, Davidson, Davie and Yadkin Counties, NC (Winston-Salem, NC): Randolph and Guilford Counties, NC (High Point, NC): Stokes and Rockingham Counties, NC (Pine Hall, NC): Chester County, SC (Lando, SC): York County, SC (Rock Hill, SC): Chesterfield County, SC (Pageland, SC): Fairfield County, SC (Winnsboro, SC): Albermarle, Augusta, Greene, Madison, Page, Rockingham and Shenandoah Counties, VA (points in Virginia within 25 miles of Harrisonburg, VA): Rockingham County, NC (Reidsville, NC): Guilford County, NC (Greensboro, NC): York County, PA (York and Clay, PA): Lancaster County, PA (Lancaster, PA): Philadelphia and Delaware Counties, PA (Lester, PA): Schuylkill County, PA (Pottsville and Tower City, PA): Dauphin County, PA (Lykens and Williamstown, PA): Allegany County, MD and Mineral County, WV (Cumberland, MD): Berks County, PA (Reading, PA): Rockingham County, PA (points on a described highway between Broadway and Timberville, VA): and Jessamine County, NY (Nicholasville, KY): and Bergen, Essex, Hudson, Passaic, and Union Counties, NJ and Brooklyn, Manhattan, Queens and Staten Islands Boroughs, KY (Kearney, NJ); and Middlesex County, NJ and Bronx Borough, NY (Jersey City, NJ); and in Sub-No. 42, Rockingham County, VA (Linnville, VA). The purpose of this republication is to correct certain omissions of broadened territories.

MC 53965 (Sub-198)X, filed September 14, 1981. Applicant: GRAVES TRUCK LINE, INC., P.O. Box 1387, Salina, KS 67401. Representative: Bruce A. Bullock, One Woodward Avenue, 26th Floor, Detroit, MI 48226. Applicant seeks to remove restrictions in its Sub-Nos. 156 and 173F certificates to (1) broaden the commodity descriptions from general commodities (with exceptions) to "general commodities (except classes A and B explosives)" in Sub-Nos. 156 and 173F; and (2) allow service at all intermediate points on regular routes in the midwest and south in both Sub-Nos.

MC 55847 (Sub-14)X, filed September 17, 1981. Applicant: TRP, INC., 3320 S. Third Street, Philadelphia, PA 19148. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107. Applicant seeks to remove restrictions in its Sub-Nos. 10F, 11F, and 13 permits to: (1) broaden commodity description to (a) "pulp, paper and related products" from part (1) unprinted paper and part (2) materials equipment and supplies used in the manufacture thereof, (except commodities in bulk), in Sub-No. 10F; (b) "food and related products" from part (1) foodstuffs and pet foods and part (2) materials, equipment and supplies used in the manufacture and distribution thereof (except commodities in bulk), in Sub-No. 11F, and (c) "food and related products" from frozen bakery goods, and mechanically refrigerated equipment, and dressed poultry, iced and frozen, in Sub-No. 13; (2) broaden territorial scope to between points in the United States under continuing contract(s) (a) with named shippers in Sub-Nos. 10F, 11F, and 13; (b) with unnamed shippers in Sub-No. 13.

MC 67866 (Sub-42)X, filed September 14, 1981. Applicant: FILM TRANSIT, INC., 3931 Homewood Road, Memphis, TN 38118. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Popular Ave., Memphis, TN 38137. Applicant seeks to remove restrictions in its Sub-No. 39F certificate which authorizes the transportation of general commodities (except classes A and B explosives) between points in New Madrid County, MO, points in LA, AR, MS and specified portions of TN, KY, AL, FL, OK and KS to remove the size and weight restrictions as follows: (1) any package or article weighing more than 100 pounds, or exceeding 110 inches in length or 150 inches in length and girth

combined and (2) packages or articles weighing in the aggregate more than 500 pounds from one consignee on any one day.

MC 73533 (Sub-21)X, filed July 29, 1981, and previously noticed in the Federal Register of August 24, 1981, and September 21, 1981, republished as corrected this issue. Applicant: KEY WAY TRANSPORT, INC., 820 S. Oldhám St., Baltimore, MD 21224. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Dr., Gaithersburg, MD 20879. Applicant seeks to remove restrictions in its lead and Sub-Nos. 8F, 9F, 10F, 11, 12F, and 13 certificates and MC–146656 Sub-Nos., 5F, 6F, 9F, 59F, 60F,and 61F permits as previously noticed and, in addition, to replace city-wide with county-wide authority, Albany, NY with Albany, Schenectady, Saratoga, and Rensselaer Counties, NY. The purpose of this republication is to correct the inadvertent omission of Saratoga County.

MC 104104 (Sub-28)X, filed September 21, 1981. Applicant: GEORGE A. FETZER, INC., Newton-Sussex Road, P.O. Box 68, Augusta, NJ 07822. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904. Applicant seeks to remove restrictions in its Sub-No. 25F certificate to (1) broaden the commodity description from plastic articles, insulating materials and scrap to "plastic articles, building materials, and scraps "; (2) replace one-way with radial authority; and (3) remove except commodities in bulk in its authority to serve the eastern U.S.

MC 111676 (Sub-6)X, filed September 9, 1981. Applicant: CROWDER'S TRANSFER & STORAGE COMPANY, INC., 1219 First Street, Alexandria, VA 22314. Representative: Thomas R. Kingsley, 10614 Amherst Avenue, Silver Spring, MD 20902. Applicant seeks to remove restrictions in its Sub-No. 4 certificate to broaden the commodity description from household goods, as defined by the Commission, to "household goods and furniture and fixtures and materials, equipment, and supplies used in the manufacture, sale and distribution of funiture and fixtures.

MC 112304 (Sub-262)X, filed September 21, 1981. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock St., Cincinnati, OH 45223. Representative: A. Charles Tell, Baker & Hostetler, 100 E. Broad St., Columbus, OH 43215. Applicant seeks to remove restrictions in No. MC–112304 (Sub-No. 64) to (1) broaden the commodity description from general commodities (with exceptions), to "general commodities (except classes A and B explosives)"; and (2) authorize service at all intermediate points along its regular route between Carlyle, IL and St. Louis, MO.

MC 125329 (Sub-1)X, filed September 21, 1981. Applicant: APEX TRUCKING CO., INC., 120 Seaview Drive, Secaucus, NJ 07094. Representative: Edward L. Nehez, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Applicant seeks to remove restrictions from its MC–117184 and Sub-Nos. 7 and 9 permits to authorize service between points in the U.S. under continuing contract(s) with named shippers.

MC 127005 (Sub-3)X, filed September 21, 1981. Applicant: CENTRAL STORAGE & VAN COMPANY, 828 South 17th Street, Omaha, NE 68108. Representative: Carl E. Munson, 469 Fischer Building, Dubuque, IA 52001. Applicant seeks to remove restrictions in its Sub-No. 1 certificate to (1) broaden the commodity descriptions from meats, meat products, meat by-products, dairy products, and articles distributed by meat packinghouses, as described in Sections A, B and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 and foodstuffs to "food and related products"; (2) remove the following restrictions, (a) in vehicles equipped with mechanical refrigeration, (b) except commodities in bulk, and (c) against the transportation of confectionary products to points in IA south of IA Hwy 92; and (3) change its one-way authority to radial authority.

MC 133037 (Sub-8)X, filed August 17, 1981, previously noticed in the Federal Register of September 3, 1981, republished as corrected this issue. Applicant: MILE-HI EXPRESS, INC., 1335 E. 40th St., Denver, CO 80205. Representative: Jack B. Wolfe, 1600 Sherman St. #665, Denver, CO 80203. Applicant seeks to remove restrictions in its Sub-Nos. 2, 5F, and 6F certificates to (1) broaden its commodity description in all Subs to "Food and related products" from foodstuffs and meat, meat products and meat by-products, dairy products, and articles distributed by meat packinghouses, as described in Sections A, B and C of Appendix I to the Report in the Descriptions case, 61 M.C.C. 209 and 766; (2) remove the restriction prohibiting the transportation (a) of specified commodities in vehicles equipped with mechanical refrigeration, and (b) traffic destined to a named point in Sub-No. 2; (3) replace city-wide authority with county-wide authority: Denver, CO in all Subs, with Denver, Adams, Arapahoe, Jefferson, Douglas and Boulder Counties, CO; and (4) expand one-way authority to radial authority between points in 3 western States, in all Subs. The purpose of this republication is to correct the scope of the territorial authority sought to more closely represent that requested by the applicant.

MC 133132 (Sub-1)X, filed September 24, 1981. Applicant: DON R. FRUCHEY, INC., 5609 Maumee Road, Ft. Wayne, IN 46803. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Applicant seeks to remove restrictions in its lead certificate to (1) broaden the commodity description to "building materials" from precast and prestressed concrete, (2) replace one-way authority with radial authority, (3) remove a restriction which limits transportation to only when moving at the same time and in the same vehicle with precast and prestressed concrete and (4) broaden the territorial description by substituting county-wide authority facilities as follows: Dekalb, Allen and Kosciusko Counties, IN (for facilities at Auburn, North Webster and Fort Wayne, IN).

MC 133591 (Sub-148)X, filed September 21, 1981. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mount Vernon, MO 65712. Representative: Harry Ross, 58 South Main Street, Winchester, KY 40391. Applicant seeks to remove restrictions in its Sub-No. 97 certificate to (1) broaden the commodity description from alcoholic liquors and materials, equipment, and supplies used in their manufacture and distribution to "food and related products and materials, equipment, and supplies used in the manufacture and distribution thereof"; (2) remove the facilities limitation; (3) replace city-wide with county-wide authority as follows: Fort Smith with Sebastian and Crawford Counties, AR, Plainfield with Will County, IL, and Louisville with Jefferson, Clark and Floyd Counties, KY; and (4) remove the except in bulk, in tank vehicles and except AK and HI restrictions.

MC 138635 (Sub-P132)X, filed September 14, 1981. Applicant: CAROLINA WESTERN EXPRESS, INC., P.O. Box 3995, Gastonia, NC 28052. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Avenue, NW, Washington, DC 20005. Applicant seeks to remove restrictions in its MC–136464 Sub-No. 22 permit to (a) broaden the commodity description from hosiery, apparel and materials and supplies to "textile mill products and materials and supplies used in the manufacture thereof"; and (b) expand the territorial descriptions to between points in the U.S. under continuing contract(s) with a named shipper.

MC 140553 (Sub-19)X, filed September 14, 1981. Applicant: ROGERS TRUCK LINE, INC., 3325 Highway 24 East, Logansport, IN 46947. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Applicant seeks to remove restrictions in its lead and Sub-Nos. 2, 4, 6F, 7, 9F, 10F, 15 and 16 (issued under MC-140569 Sub-No. 2F) certificates to (1) broaden the commodity descriptions to "food and related products" from meats, meat products and meat by-products and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carriers Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles and hides), in the lead and Sub-Nos. 2, 4, 6F, 9F, and 10F; wine and liquors (except in bulk), in Sub-No. 15 and malt beverages, in Sub-No. 16; to "rubber and plastic products" from plastic resin and scrap plastic, in Sub-No. 7, (2) replace one-way authority with radial authority in the lead and all subs, (3) broaden the territorial description by substituting county-wide authority and city-wide authority for city-wide authority and facilities as follows: Buena Vista and Cherokee Counties, IA (for facilities at Storm Lake and Cherokee, IA), in Sub-No. 2; Polk, Mills, Marshall and Woodbury Counties, IA (for facilities at Des Moines, Glenwood, Marshalltown and Sioux City, IA), Douglas and Hall Counties, NE (for facilities at Omaha and Grand Bland, NE) in Sub-No. 4; Emmet County, IA (for facilities at Estherville, IA), Minnehaha County, SD (for facilities at Sioux Falls, SD), and Sioux City, IA (for facilities at Sioux City, IA), in Sub-No. 6F; Trenton, NJ (for facilities at Trenton, NJ), in Sub-No. 7; Cass County, IN (for facilities at Logansport, IN), Will County, IL (for Plainfield, IL), in Sub-No. 9F; Cass County, IN (for facilities at Logansport, IN), Sub-No. 10F; New York, NY, and Jersey City, NJ (for facilities at New York, NY and Jersey City, NJ), in Sub-No. 15 and Trenton, NJ, and Norfolk, VA (for facilities at Trenton, NJ and Norfolk, VA), in Sub-No. 16; (4) remove the originating at and deszined to restrictions, in Sub-Nos. 2, 4, 6, 7, 9F, 10F, and 15, and (5) remove the restriction against the transportation of commodities in bulk in Sub-No. 7.

MC 141034 (Sub-10)X, filed September 21, 1981. Applicant: MARGIN LEASING, INC., 21 Baltic Road, Worcester, MA 01613. Representative: Ronald I. Shapps, 450 Seventh Avenue, New York, NY 10123. Applicant seeks to remove restrictions in its Sub-No. 9X permit to broaden the commodity description from beverages and beverage containers to "food and related products".

MC 144029 (Sub-8)X, filed September 14, 1981. Applicant: CUMBERLAND TRANSPORTATION CORP., 5950 Fisher Road, P.O. Box 487, East Syracuse, NY 13057. Representative: Michael R. Werner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Applicant seeks to remove restrictions in its lead, and Sub-Nos. 3 and 4 permits to (1) broaden the territorial description to between points in the U.S., under continuing contracts with named shippers; (2) broaden the commodity description in the lead and Sub-No. 3F from part (1) pulpboard and pulpboard products, (except commodities in bulk), to "printed matter, pulp, paper and related products."

MC 145252 (Sub-9)X, filed September 16, 1981. Applicant: HENRY ANDERSON, INC., P.O. Box 75, King George, VA 22485. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth St., N.W., Washington, D.C. 20005. Applicant seeks to remove restrictions from its Sub-Nos. 1, 5 and 6 certificates to (1) broaden the commodity description to "metal products, lumber and wood products, and clay, concrete, glass or stone products", form chimney assemblies, gas vents, and doors, in Sub-No. 1; to "textile mill products, clay, concrete, glass or stone products, and waste or scrap materials", from glass fiber, glass fiber rovings, yarn, fabric, strand, mats, matting, and waste, in Sub-No. 5; and to "food and related products" from meats, meat products, meat by-products, etc., in Sub-No. 6, (2) replace one-way authority with radial authority, in all subs, (3) remove the Alaska, Hawaii and Virginia exceptions, in Sub-No. 1, (4) remove the "except hides and commodities in bulk" restriction, in Sub-No. 6, (5) broaden the territorial description by substituting county-wide authority for city-wide authority and facilities as follows: Cleveland and Davidson Counties, NC (for facilities at West Shelby and South Lexington, NC), in Sub-No. 5, and Lincoln and Minnehaha Counties, SD and Lyon County, IA (for facilities at Sioux Falls, SD); Dickinson and Emmet Counties, IA (for facilities at Esterville, IA); Plymouth and Woodbury Counties, IA and Dakota County, NE (for Sioux City, IA); and Nobles County, MN (for facilities at Worthington, MN), in Sub-No. 6 and (6) remove the originating at and/or destined to restrictions, in Sub-Nos. 5 and 6.

MC 145810 (Sub-1)X, filed September 21, 1981. Applicant: THREE L CORPORATION, Second & Seigel Streets, Tama, IA 52339. Representative: James M. Hodge, 1000 United Central Bank Bldg., Des Moines, IA 50309. Applicant seeks to remove restrictions in its lead permit to (1) broaden the commodity description from meat, meat products, meat by-products, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766 (except hides and commodities in bulk) to "food and related products;" and (2) broaden the territorial authority to between points in the United States, under continuing contract(s) with a named shipper.

MC 145990 (Sub-6)X, filed September 17, 1981. Applicant: LAWRENCEBURG TRUCKING, INC., 21 Catalpa Avenue, Lawrenceburg, IN 47025. Representative: John R. Bagileo, 918 16th St. NW., Washington, DC 20006. Applicant seeks to remove restrictions in its Sub-No. 4F certificate to broaden the commodity descriptions from alcoholic beverages to "food and related products" in its authority to serve 8 midwestern States.

MC 146516 (Sub-8)X, filed September 14, 1981. Applicant: ALEXANDER TRUCKING CO., INC., 1209 S. Woodland Dr., Dothan, AL 36302. Representative: Daniel O. Hands, 205 West Touhy Ave., Suite 200A, Park Ridge, IL 60068. Applicant seeks to remove restrictions in its Sub-No. 6F certificate to (1) broaden the commodity description to "food and related products" from bananas, (2) broaden city to county-wide authority from Gulfport, MS, to Harrison County, MS and (3) change one-way to radial authority.

MC 146796 (Sub-3)X, filed September 16, 1981. Applicant: ROBERT HANSEN, d.b.a. HANSEN TRUCKING, 121 W. 4th St. (Tilton), Danville, IL 61832. Representative: Robert Hansen (same address as applicant). Applicant seeks to remove restrictions in its Sub-No. 2F certificate to (1) broaden the commodities description from general commodities (with exceptions) to "general commodities (except classes A and B explosives)"; (2) remove the vehicle restriction; and (3) remove a restriction requiring traffic to have a prior or subsequent movement by rail.

MC 149137 (Sub-11)X, filed September 18, 1981. Applicant: MASTER TRANSPORT SERVICES, INC., 5000 Wyoming, Suite 203, Dearborn, MI 48126. Representative: William B. Elmer, 624 Third Street, Traverse City, MI 49684. Applicant seeks to remove restrictions in its Sub-Nos. 4F and 5F certificates to (1) broaden the commodity descriptions to "chemicals

and related products" from cleaning compounds, fabric softeners, shoe dressings, toilet preparations, and dyes in Sub-No. 4F and industrial cleaning compounds, lubricants, and disinfectants in Sub-No. 5F; (2) eliminate the facilities limitation in Sub-No. 4F; (3) change its one-way to radial authority and expand Jamaica, NY to New York, NY and its commercial zone in Sub-No. 4F; and (4) remove the except AK, HI, and NY restriction in Sub-No. 4F.

MC 149219 (Sub-3)X, filed September 21, 1981. Applicant: GERALD TRANSPORT CHAMBLY, INC., 1155 Brunelle Boulevard, Carignan, Quebec J3L 4A7, Canada. Representative: W. Norman Charles, P.O. Box 724, Glen Falls, NY 12801. Applicant seeks to remove restrictions in its Sub-No. 2 certificate to (1) broaden the commodity description from general commodities (with exceptions) to "general commodities (except classes A and B explosives)" (part 1), and from marine containers to "containers" (part 2); (2) remove the restriction limiting service to transportation in marine containers; and (3) remove the restriction limiting transportation to traffic having a prior or subsequent movement by water.

MC 149365 (Sub-4)X, filed September 24, 1981. Applicant: WOOD DALE LEASING & TRUCKING CO. INC., 212 Frederick Place, Wood Dale, IL 60191. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. Applicant seeks to remove restriction from its Sub-No. 2F certificate to (1) remove the "in bulk" restriction; (2) broaden the commodity description from scrap wire, cable, telephone equipment and metals and processed scrap, molten aluminum and aluminum ingots to "metal products and machinery"; (3) remove facilities limitation at Chicago, IL; and (4) replace one-way with radial authority.

MC 149546 (Sub-24)X, filed September 14, 1981. Applicant: D & T TRUCKING CO., INC., P.O. Box 12505, New Brighton, MN 55112. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440. Applicant seeks to remove restrictions in its lead and Sub-No. 2F certificates to (1) broaden the commodity description from meats, meat products, meat byproducts, and articles distributed by meat-packing houses to "food and related products" in the lead; and (2) remove the restrictions (a) "except hides and commodities in bulk" in the lead; and (b) "except AK and HI" in Sub-No. 2F.

[FR Doc. 81-28854 Filed 10-2-81; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 29451 (Sub-1)]

Royal-Manson Shippers' Association—Purchase (Portion)—Chicago, Rock Island, and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) Between Royal and Manson, Iowa

AGENCY: Interstate Commerce Commission.

ACTION: Proceedings scheduled.

SUMMARY: The Commission is setting a procedural schedule for supplementing this application, and for the filing of comments and evidence.

DATES:

1. On or before October 15, 1981, applicant shall file information supplementing its application.
2. On or before October 26, 1981, verified statement supporting or opposing this proposal must be filed.
3. On or before October 30, 1981, verified statements in reply must be filed.

ADDRESSES: The original and 10 copies of each submission should be sent to: Section of Finance, Room 5414, Interstate Commerce Commission, 12th & Constitution Ave., N.W., Washington, D.C. 20423, Attn: RITEA Acquisitions.

FOR FURTHER INFORMATION CONTACT: Ellen D. Hanson (202) 275-7245, or Elaine Sehrt (202) 275-7899

SUPPLEMENTARY INFORMATION: By application filed September 12, 1980, the Royal Manson Shippers' Association (RMSA) sought approval of its purchase of Chicago, Rock Island, and Pacific Railroad Company (Rock Island) trackage between Royal and Manson, IA. The proposed purchase was filed under Section 17(b) of the Milwaukee Railroad Restructuring Act (MRRA), Pub. L. No. 96-101 (1979). The Gateway Railroad Corporation also filed an application to acquire this line segment in Finance Docket No. 29459 (Sub-No. 1); furthermore, the Chicago and North Western Transportation Company has announced its desire to acquire this segment.

By decision served December 18, 1980, the Commission determined that RMSA's application was incomplete. The Commission treated the RMSA application as a purchase offer and stated that this offer would be handled expeditiously as an application when the pertinent information was provided.

On June 23, 1981, RSMA and the Trustee of the Rock Island entered into an agreement for the sale of the line. On June 30, 1981 the Bankruptcy Court issued its order (No. 361) granting preliminary approval of the agreement. The court also directed the Federal Railroad Administration (FRA) to notify the court of its ruling on the funding application by September 1, 1981. RMSA supplemented its application on September 3, 1981 by filing the contract for sale.

The criteria the Commission considers in proposals of this kind is the extent to which the proposal has been demonstrated to be viable and the ability of the applicant to implement the proposal. See *Continental Group, Inc.—Pur.—Chicago, R. I. & P. R. Co.*, 363 ICC 822 (1980). The record, as supplemented, is still insufficent for the Commission to render a meaningful decision. For example, RSMA has not demonstrated that FRA funding has been made available. Moreover, since the original application was filed over one year ago, applicant should update its original responses with the best information currently available to it.

To meet its responsibility to report back to the court quickly, the Commission has adopted the timetable set forth above for the final submission by the applicant and other interested parties.

Decided: September 30, 1981.

James H. Bayne,
Acting Secretary.

[FR Doc. 81-29038 Filed 10-2-81; 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** 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 a public need for the proposed operations and that it 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. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OPY–2–183

Decided: September 24, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Chandler not participating.)

MC 158052, filed September 2, 1981. Applicant: J & E TRANSPORT, INC., 106 Meadowlane, Hot Springs, AR 71913. Representative: JoAnn Sheets (same address as applicant), 501–624–1628. Transporting *general commodities*, between Primrose and Lutherville, GA, Cardwell, Arbyrd, Hornersville, Edna, Lewistown, Hurdland, and Ewing, MO, McHenry, ND, Narcisso, Russellville, Roaring Springs, Crandall, Kaufman, Kemp, Mabank, Reklaw, Mobeetie, Briscoe, and Allison, TX, Raymond, Oakley, Adams, and Myles, MS, Snyder and Hamburg, AR, Holly Springs and Stokedale, NC, Radcliff, Ellsworth, and Lawn Hill, IA, Henry and Clark, SD, Esmond, Astoria, Teheran, Biggs, Easton, and Richmond, IL, Shell Lake, Cumberland, Gillett, Green Valley, Lake Geneva, and Genoa City, WI, Elgin, NE, Benton and Barlow, LA, Center, Oak Ridge, Philpot, Deanefield, Thompsonville, Masonville, Edgoten, and Lewisburg, KY, Kenwood, Hickory Point, Doddsville, Fox Bluff, Chapmansboro, Ashland City, Scottsboro, Jordonia, and Riverside, TN, Reydon, Cheyenne, Strong City, Hammon, and Butler, OK, McDonald, OH, and Paris Crossing and Paris, IN, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor-carrier for abandoned rail-carrier service.

MC 158232, filed September 15, 1981. Applicant: RIMINI EXPRESS, INC., 170 Main St., Holyoke, MA 01040. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103, 413–781–6205. As a *broker of general commodities* (except household goods), between points in the U.S. 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 2, Room 2379.

Volume No. OPY–4–389

Decided: September 28, 1981.

By the Commission, Review Board No. 2, Members Charleton, Fisher, and Williams.

MC 61166 (Sub-5), filed September 22, 1981. Applicant: PEARSON TRUCKING & RIGGING, INC., 13105 Lakeland Rd., Santa Fe Springs, CA 90670. Representative: Robert Fuller, 13215 E. Penn St., Ste. 310, Whittier, CA 90602, (213) 945–3002. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 119546 (Sub-1), filed September 21, 1981. Applicant: CONTINENTAL TRUCK & TOWING CO., INC., 2021 E. 25th St., Los Angeles, CA 90058. Representative: Robert G. Harrison, 4299 James Dr., Carson City, NV 89701, (702) 882–5649. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 135326 (Sub-31), filed September 18, 1981. Applicant: SOUTHERN GULF TRANSPORT, INC., 4277 North Market St., P.O. Box 7959, Shreveport, LA 71107, (318) 222–8106. Representative: Fredrick S. Wetzel, III, 2500 McCain Blvd., Suite 103, North Little Rock, AR 72116, (501) 758–1058. Transporting *general commodities* (except classes A and B explosives), between Hosston, Good Roads Spurs, Gilliam, and Belcher, LA, on the one hand, and, on the other points in the U.S.

MC 146856 (Sub-2), filed September 22, 1981. Applicant: EUGENE P. SCHREINDL, 40849 Sundale Dr., Fremont, CA 94538. Representative: Eugene P. Schreindl (same address as applicant), (415) 656–2802. 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, between points in the U.S.

MC 158366F, filed September 21, 1981. Applicant: GUY A. GRANGER, doing business as GRANGER TRUCKING CO., 10203 64th Ave. So., Seattle, WA 98178. Representative: Guy A. Granger (same address as applicant), (206) 725–0554. 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 158377, filed September 21, 1981. Applicant: BILL & GEORGE GILL TRUCKING, 2420 N. Hwy 1247, Somerset, KY 42501. Representative: Bill Gill (same address as applicant), (606) 679–7295. 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 158396F, filed September 22, 1981. Applicant: PEARSON TRUCKING &

RIGGING, INC., 13105 Lakeland Rd., Santa Fe Springs, CA 90670. Representative: Robert Fuller, 13215 E. Penn St., Suite 310, Whittier, CA 90602. As a *broker of general commodities* (except household goods), between points in the U.S.

Volume No. OPY–5–168

Decided: September 25, 1981.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 35858 (Sub-2), filed September 17, 1981. Applicant: ARC TRUCKING & MESSENGER CORP., 415 West Street, New York, NY 10014. Representative: Michael R. Werner, 423 Edgewood Ave., Teaneck, NJ 07666, (201) 575–7700. 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.

MC 142059 (Sub-171), filed May 8, 1981. Applicant: CARDINAL TRANSPORT, INC., P.O. Box 911, Joliet, IL 60434. Representative: Jack Riley (same address as applicant), (815) 729–3808. Transporting *general commodities*, between Fallbrook, CA, Alexander, IA, Dexter and Sedan, KS, Roaring Springs, TX, and Lake Kapowsin, WA, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor carrier service for complete abandonment of rail carrier service.

Volume No. OPY–5–170

Decided: September 28, 1981.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 156088, filed September 22, 1981. Applicant: R & S TRUCK LEASING, INC., 1651 Walker Rd., Muskegon, MI 49442. Representative: D. Richard Black, Jr., 7610 Cottonwood Drive, P.O. Box 294, Jenison, MI 49428, (616) 457–9290. Transporting for and on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materals, and sensitive weapons and munitions), between points in the U.S.

MC 158309, filed September 17, 1981. Applicant: JIMRICK TRUCKING COMPANY, 1416 Irby Street, Greenville, MS 38701. Representative: Richard B. Tubertini, P.O. Drawer G T, Mississippi State, MS 39762, (601) 325–6863. 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 158339, filed September 21, 1981. Applicant: RONALD D. GEDDES and MELINDA E. GEDDES, d.b.a. R & M GEDDES TRUCKING, P.O. Box 1372, Glendora, CA 91740. Representative: Ronald D. Geddes (same address as applicant), (213) 966–1429. 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 158379, filed September 21, 1981. Applicant: JOE SANCHEZ, 1819 N. Broadway, Shawnee, OK 74801. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. 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 158369, filed September 21, 1981. Applicant: D & D TRANSPORT, INC., Rural Route 1, Forest, IL 61741. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740, (301) 797–6060. As a *broker of general commodities* (except household goods) between points in the U.S.

James H. Bayne,

Acting Secretary.

[FR Doc. 81–28640 Filed 10–2–81; 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 a public need for the proposed operations and that it 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. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OPY–2–184

Decided: September 24, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Chandler not participating.)

MC 52793 (Sub-83), filed September 8, 1981. Applicant: BEKINS VAN LINES CO., 333 S. Center St., Hillside, IL 60162. Representative: David A. Gallagher

(same address as applicant), 312–547–2184. Transporting *household goods*, between points in the U.S., under continuing contract(s) with The Atchison, Topeka and Santa Fe Railway Co., of Chicago.

MC 52793 (Sub-84), filed September 8, 1981. Applicant: BEKINS VAN LINES CO., 333 S. Center St., Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant), 312–547–2184. Transporting *household goods*, between points in the U.S., under continuing contract(s) with Northern Telecom, Inc., of Nashville, TN.

MC 52793 (Sub-85), filed September 14, 1981. Applicant: BEKINS VAN LINES CO., 333 S. Center St., Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant), 312–547–2184. Transporting *household goods*, between points in the U.S., under continuing contract(s) with Gulf & Western, of Southfield, MI.

MC 124032 (Sub-16), filed September 15, 1981. Applicant: REED'S FUEL COMPANY, 4080 Commercial Ave., Springfield, OR 97477. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave., Portland, OR 97210, (503) 226–3755. Transporting (1) *lumber and wood products*, and (2) *pulp, paper and related products*, between points in OR, WA, CA, NV, ID, UT and AZ.

MC 146463 (Sub-3), filed September 15, 1981. Applicant: SLACK TRANSPORT, LIMITED Box 579, Caledonia, Ontario, Canada NOA 1AO. Representative: William J. Hirsch, 1124 Convention Tower, 43 Court ST., Buffalo, NY 14202, 716–853–0200. Transporting *building materials*, between points in the U.S., under continuing contract(s) with Slack Lumber & Supply Ltd., of Caledonia, Ontario, Canada.

MC 147702 (Sub-3), filed September 16, 1981. Applicant: DOUBLE AA PARKING & TRUCKING, INC., 462 W Second St., Calexico, CA 92231. Representive: Arturo Rioseco (same address as applicant), (714) 357–2244. Transporting *Rubber and plastic products, and machinery, supplies, and plastic pellet molds*, between points in the U.S. under a continuing contract(s) with Poliespuma, S.A. Mexicali, B.C.

MC 150783 (Sub-19), filed September 14, 1981. Applicant: SCHEDULED TRUCKWAYS, INC., P.O. Box 757, Rogers, AR 72756. Representative: James H. Berry, P.O. Box 32, Wesley, AR 72773, 501–456–2453. Transporting *such commodities* as are dealt in or used by wholesale, retail, discount, variety, and department stores, between points in Pulaski County, AR, on the one hand, and, on the other, points in the U.S.

MC 155732, filed September 14, 1981. Applicant: HEAD INTERSTATE TRANSPORT, INC., P.O. Box 629, Longview, TX 75606. Representative: Jackson Salasky, P.O. Box 45538, Dallas, TX 75245, 214–358–3341. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of earthenware, between the facilities of Marshall Pottery Company, Inc., at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 48632 (Sub-17)(correction), filed August 25, 1981, published in the **Federal Register** issue of September 22, 1981, and corrected as published this issue. Applicant: WILLIG FREIGHT LINES, 123 Loomis St., San Francisco, CA 94124. Representative: Robert L. La Vine, 415 Nearst Bldg., San Francisco, CA 94103, 415–981–6677. (1) Route (5) line four should read "Dayton, NV" instead of "Payton, NV"; and (2) Routes (13 thru 17) should be excluded from the publication. The purpose of this correction is to correct the spelling of a city and remove routes that were inadvertently included in the previous publication. The remainder of the publication of September 22, 1981 shall remain the same.

Volume No. OPY–2–185

Decided: September 28, 1981.

By the Commission, Review Board No. 1. Members Parker, Chandler, and Fortier. (Member Chandler not participating.)

MC 94992 (Sub-4), filed September 21, 1981. Applicant: AUSTIN VERITY & SON, INC., 3685 Merrick Road, Seaford, NY 11783. Representative: Kenneth M. Piken, Queens Office Tower, 95–25 Queens Boulevard, Rego Park, NY 11374, (212) 275–1000. Transporting *household goods* between points in NY, NJ, CT, MA, RI, PA, DE, MD and DC, on the one hand, and, on the other, points in the U.S.

MC 115022 (Sub-34), filed September 16, 1981. Applicant: CHAMBERLAIN MOBILEHOME TRANSPORT, INC., 64 East Main St., Thomaston, CT 06787. Representative: Bernard J. Hasson, Jr., 1600 South Joyce St., Arlington, VA 22202, (703) 521–3435. Transporting *trailers, mobilehomes, buildings, and buildings in sections*, between points in the U.S.

MC 134612 (Sub-10), filed September 17, 1981. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Rd., Brookfield, IL 60513. Representative: Albert A. Andrin, 180 North LaSalle St., Chicago, IL 60601 (312) 332–5106. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with John F. Cunco Co., of Melrose Park, IL.

MC 136012 (Sub-13), filed September 21, 1981. Applicant: UNITED STATES TRANSPORTATION, INC., 4963 Provident Drive, Cincinnati, OH 45246. Representative: Michael Spurlock, 275 E. State St., Columbus, OH 43228 (614) 228–8575. Transporting *commodities in bulk* between points in the U.S., under a continuing contract(s) with Ashland Chemical Company, Division of Ashland Oil, Inc., of Dublin, OH.

MC 139323 (Sub-7), filed September 17, 1981. Applicant: KARS TRANSPORT, INC., 3333 NW 116th St., Miami, FL 33167. Representative: Robert L. Cope, Suite 501, 1730 M St., NW, Washington, D.C. 20036 (202) 296–2900. Transporting *general commodities* (except classes A and B explosives), between points in FL, AL, CA, GA, LA, MS, and TX.

MC 141932 (Sub-48), filed September 9, 1981. Applicant: POLAR TRANSPORT, INC., 176 King St., Hanover, MA 02339. Representative: Alton C. Gardner (same address as applicant) (617) 871–2550. Transporting (1) *agricultural and grain products, (2) such commodities* dealt in by chain discount, grocery, and brokerage houses, and (3) *food and related products*, between points in the U.S.

MC 151383 (Sub-9), filed September 22, 1981. Applicant: NICKELL TRUCKING CO., 4901 West 51st Street, Tulsa, OK 74107. Representative: Fred Rahal, Jr., Suite 305 Reunion Center, 9 East Fourth Street, Tulsa, OK 74103 (918) 445–0138. Transporting *general commodities* (except classes A and B explosives) between points in the U.S., under continuing contract(s) with Ozark Engineering Co. of Joplin, MO.

MC 156003 (Sub-2), filed September 18, 1981. Applicant: BARRY FREIGHTWAYS, INC. Box 14786, Minneapolis, MN 55414. Representative: Ronald B. Sieloff, Ninth Floor Commerce Bldg., St. Paul, MN 55101 (612) 291–8044. Transporting *such commodities* as are dealt in by department stores, between points in the U.S.

MC 156512, filed September 18, 1981. Applicant: BUFFALO WOOD, INC., P.O. Box 307, Crosby, MS 39633. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205 (601) 948–882. Transporting *lumber and wood products*, between points in the U.S., under continuing contract(s) with Georgia Pacific Corporation, of Crossett, AR.

MC 156513, filed September 14, 1981. Applicant: TOWNSEND TRUCKING

CO., Gen. Del., Leeco, KY 41343. Representative: George W. Townsend (same address as applicant) (606) 464–8281. Transporting *chemicals and elated products*, between Atlanta, Winder, and Columbus, GA, Hammond, IN, and points in Lee County, KY. Condition: To the extent any certificate to be issued in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited to a period expiring 5 years from its date of issuance.

MC 158152F filed September 8, 1981. Applicant: BAXLEY TRUCKING CO., INC., Route 1, Box 13, Hemingway, SC 29554. Representative: C. Bradley Ruffin, Jr., P.O. Box 218, Hemingway, SC 29554. Transporting *Rubber and Plastic Products, Textile Mill Products, and Machinery* between points in SC, on the one hand, and, on the other, points in the U.S.

MC 158372, filed September 21, 1981. Applicant: METAL HAULERS, INC., 7345 Milnor St., Philadelphia, PA 19136. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517 (717) 344–8030. Transporting *scrap metals* between points in MD, DE, CT, MA, RI, PA, NH and NY.

Volume No. OPY–2–186

Decided: September 28, 1981.

By the Commission, Review Board No. 1, members Parker, Chandler, and Fortier. (Member Chandler not participating.)

MC 18202 (Sub-13), filed September 9, 1981. Applicant: R. C. BARSTOW TRUCKING CO., INC., 102 Middle St., Hadley, MA 01035. Representative: Norman C. Barstow, Sr., (same address as applicant) (413) 584–2523. Transporting *general commodities* (except classes A and B explosives, between points in MA, MD, NJ, and NY, on the one hand, and, on the other, points in CT, DE, MA, MD, ME, NH, NJ, NY, PA, RI, VA, VT, WV and DC.

MC 66143 (Sub-5), filed September 9, 1981. Applicant: JJL DISTRIBUTION SYSTEMS, INC., 557 Brook St., Garden City, NY 11530. Representative: Piken & Piken, Queens Office Tower, 95–25 Queens Blvd., Rego Park, NY 11374, 212–275–1000. Transporting *sound recordings, sound recording jackets, discs and tapes*, between New York, NY, and points in Suffolk County, NY, and Lackawanna County, PA, on the one hand, and, on the other, points in NY, NJ, and CT.

MC 71652 (Sub-54), filed September 8, 1981. Applicant: BYRNE TRUCKING, INC., P.O. Box 280, Medford, OR 97501. Representative: James C. Hardy (same address as applicant) 503–779–8151. Transporting (1) *lumber and wood products*, (2) *metal products*, and (3) *rubber and plastic products*, between points in Washington County, OR, and Greene County, AR, on the one hand, and, on the other, points in the U.S.

MC 73533 (Sub-24), filed September 10, 1981. Applicant: KEY WAY TRANSPORT, INC., 820 South Oldham St., Baltimore, MD 21224. Representative: William F. Lamperelli (same address as applicant) (301) 327–5800. Transporting *such commodities* as are dealt in by retail department stores, between points in the U.S., under continuing contract(s) with K-Mart Corporation, of Troy, MI.

MC 107012 (Sub-740), filed September 15, 1981. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant) (219) 429–2110. Transporting *direct printing plates*, between points in San Diego County, CA, on the one hand, and, on the other, points in the U.S.

MC 111432 (Sub-20), filed September 14, 1981. Applicant: FRANK J. SIBR & SONS, INC., 5240 West 123rd Place, Alsip, IL 60658. Representative: Douglas G. Brown, 913 South Sixth St., Springfield, IL 62703. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with FMC Corporation of Chicago, IL.

MC 126642 (Sub-7), filed September 11, 1981. Applicant: BLACK HILLS MOVERS, INC., 610 E. Omaha, Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, SD 57701 (605) 343–4036. Transporting *used household goods* as defined by the Commission, between those points in the U.S. in and west of MN, IA, MO, AR, and TX.

MC 127012 (Sub-5), filed September 10, 1981. Applicant: WILLIAM B. HUFF, R.F.D. #1 Box 361, Spanish Fork, UT 84660. Representative: William B. Huff (same address as applicant) (801) 489–9441. Transporting *chemicals and related products* between points in UT, NV, CA, and AZ. Condition: To the extent any certificate issued in this proceeding authorizes the transportation of liquified petroleum gas, it shall be limited in point of time to a period expiring 5 years from its date of issuance.

MC 128302 (Sub-24), filed September 18, 1981. Applicant: THE MANFREDI MOTOR TRANSIT CO., 14841 Sperry Rd., Newbury, OH 44065. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215, 614–228–1541. Transporting *commodities in bulk*, between points in the U.S., under continuing contract(s) with Calgon Corporation, of Pittsburgh, PA. Condition: To the extent any permit issued in this proceeding authorizes the transportation of hazardous materials, it shall be limited in point of time to a period expiring 5 years from its date of issuance.

MC 142603 (Sub-54), filed September 17, 1981. Applicant: CONTRACT CARRIERS OF AMERICA, INC., P.O. Box 179, Springfield, MA 01101. Representative: Tami L. Quinlan (same address as applicant) 413–732–6283. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of sound recordings, between points in the U.S., under continuing contract(s) with CBS Division of CBS, Inc., of New York, NY.

MC 144572 (Sub-61), filed September 14, 1981. Applicant: MONFORT TRANSPORTATION COMPANY, P.O. Box G, Greeley, CO 80632.Representative: Steven K. Kuhlmann, 2600 Energy Center, 717–17th St., Denver, CO 80202, 303–892–6700. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Inter State Express, Inc., of Brooklyn, NY.

MC 145102 (Sub-81), filed September 18, 1981. Applicant: FREYMILLER TRUCKING, INC., 1400 South Union Ave., Bakersfield, CA 93307. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703, 608–256–7444. Transporting *such commodities* as are dealt in or used by retail stores and grocery stores, between points in the U.S., under continuing contract(s) with Smitty's Super Valu, Inc., of Phoenix, AZ.

MC 146792 (Sub-4), filed September 17, 1981. Applicant: OASIS LINES, INC., 805 N. Cage St., Pharr, TX 78577. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Ft. Worth, TX 76112, 817–457–0804. Transporting *food and related products*, between points in the U.S.

MC 147402 (Sub-8), filed September 18, 1981. Applicant: WACO DRIVERS SERVICE, INC., 138 Atando Ave., Charlotte, NC 28206. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345 (404) 321–1765. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Charlotte Freight Association, Incorporated, of Charlotte, NC.

MC 147632 (Sub-9), filed September 14, 1981. Applicant: M & M FARM

LINES, INC., Route 1, Bertrand, MO 63823. Representative: Edward P. Bocko, P.O. Box 496, Mineral Ridge, OH 44440 (216) 652–2789. Transporting *glass, glass products, wood, wood products, and building materials,* between the facilities used by General Glass International, at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 149472 (Sub-10), filed September 11, 1981. Applicant: INTER-COASTAL, INC., 131 Beaverbrook Rd., Lincoln Park, NJ 07035. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110 (215) 561–1030. Transporting *pulp, paper and related products,* between points in the U.S., under continuing contract(s) with Harley Corporation, of Spartanburg, SC.

MC 154513 (Sub-2), filed September 11, 1981. Applicant: EAGLE LINES, INC., 1523 Maryland, Ave., Bluefield, WV 24701. Representative: Robert B. Walker, 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004 (202) 737–1030. Transporting *malt beverages and wine,* between points in Mercer, Raleigh, and McDowell Counties, WV, on the one hand, and, on the other, Cincinnati, OH, Baltimore, MD, points in Seneca County, OH, Campbell County, KY, Forsyth and Rockingham Counties, NC, and Vanderburgh County, IN.

MC 155232, filed September 11, 1981. Applicant INTERNATIONAL TRUCKING & RIGGINIG, CO., INC., 5950 NW 77th Ct., Miami, FL 33166. Representative: Richard B. Austin, 320 Rochester Bldg., 8390 NW 53rd St. Miami, FL 33166 (305) 592–0036. Transporting *telephone equipment, and materials, equipment, and supplies* used in the construction and maintenance of telephone systems, between points in the U.S., under continuing contracts with Western Electric Co., Inc., of Atlanta, GA

MC 158082, filed September 4, 1981. Applicant: ROBERT BELL d.b.a. B & B DELIVERY, 3930 Summit Valley, Houston, TX 77082. Representative: Joe G. Fender, 9601 Katy Freeway, Suite 320, Houston, TX 77024, 713–827–1407. Transporting *dated real estate mutiple listing books,* between points in Harris County, TX, on the one hand, and, on the other, St. Louis, MO, Wichita, KS, Oklahoma City, OK, Chattanooga and Memphis, TN, Shreveport, LA, Gulf Port, MS, and Montgomery, Mobile, and Birmingham, AL.

MC 158312, filed September 17, 1981. Applicant: ESPINOSA CARTAGE COMPANY, 801 Nikanda, NE, Albuquerque, NM 87107. Representative; Edward J. Kiley, 1730 M St. NW., Suite 501, Washington, DC 20036–4579, 202–296–2900. Transporting *general commodities* (except classes A and B explosives), between Albuquerque, NM, on the one hand, and, on the other, points in NM.

Volume No. OPY–3–178

Decided: September 24, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 1745 (Sub-15), filed September 16, 1981. Applicant: INTERSTATE VAN LINES, INC., 5801 Rolling Rd., West Springfield, VA 22152. Representative: Marshall Kragen, 1919 Pennsylvania Ave., N.W., Suite 300, Washington, DC 20006, (202) 466–3778. Transporting *general commodities,* between points in the U.S., under continuing contract(s) with AEM, Inc., of Springfield, VA. 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 3, Room 2158.

Note.—The permit in this proceeding to the extent it authorized the transportation of classes A and B explosives shall expire 5 years from the date of issuance.

MC 43685 (Sub-31), filed September 18, 1981. Applicant: MERCER TRUCKING COMPANY, INC., P.O. Box 11585, Spokane, WA 99211. Representative: Dwight Dively (same address as applicant), (509) 535–3597. Transporting *general commodities* (except classes A and B explosives), between points in CA, ID, MT, NV, OR, UT, WA, and WY, on the one hand, and, on the other, those points in the U.s. in and west of MI, IN, IL, MO, AR, and LA.

MC 97394 (Sub-37), filed September 11, 1981. Applicant: BOWLING GREEN EXPRESS, INC., 4449 Orange Ave., Lousiville, KY 40213. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 415 13th St., NW., Washington, DC 20004, (202) 347–8862. Transporting (A) over regular routes, *general commodities* (except classes A and B explosives), (1) between Nashville, TN and Evansville, IN: from Nashville over Interstate Hwy 24 to junction U.S. Hwy 41 near Hopkinsville, KY, then over U.S. Hwy 41 to Evansville; (2) between Henderson, KY, and Lexington, KY: from Henderson over U.S. Hwy 60 to Louisville, then over Interstate Hwy 64 to Lexington, KY; (3) between Louisville, KY, and Nashville, TN: From Louisville over Interstate Hwy 65 to junction U.S. Hwy 231, then over U.S. Hwy 231 to junction U.S. Hwy 31W at or near Bowling Green, then over U.S. Hwy 31W to Nashville; (4) between Cincinnati, OH, and Williamsburg, KY, over Interstate Hwy 75; (5) between Bowling Green, KY, and Williamsburg, KY: from Bowling Green over KY Hwy 80 to junction KY Hwy 90, then over KY Hwy 90 to junction KY Hwy 92, then over KY Hwy 92 to Williamsburg; (6) between Nashville, TN and Morgantown, KY: (a) from Nashville over U.S. Hwy 41 to Springfield, TN, then over U.S. Hwy 431 to Russellville, KY, then over KY Hwy 79 to junction U.S. Hwy 231, then over KY Hwy 231 to Morgantown; and (b) from Nashville over U.S. Hwy 31 to Bowling Green, then over U.S. Hwy 231 to Morgantown; (7) between Nashville, TN and Lexington, KY: from Lexington over U.S. Hwy 27 to Somerset, then over Ky Hwy 80 to junction Interstate Hwy 65, then over Interstate Hwy 656 to Nashville; (8) between Morgantown, KY and Petroleum, KY, over U.S. Hwy 231; (9) between Bowling Green, KY and London, Ky, over KY Hwy 80; (10) between Ressell Springs, KY and Burkesville, KY: from Russell Springs over U.S. Hwy 127 to junction KY Hwy 90, then over KY Hwy 90 to Burkesville; (11) between junction Interstate Hwy 75 and U.S. Hwy 25W and junction U.S. Hwy 27 and KY Hwy 92: from junction Interstate Hwy 75 and U.S. Hwy 25W near Corbin, over U.S. Hwy 25W to junction KY Hwy 90, then over KY Hwy 90 to junction U.S. Hwy 27, then over U.S. Hwy 27 to junction KY Hwy 92 near Stearns, KY; (12) between Somerset and Monticello, KY: from Somerset over U.S. Hwy 27 to junction KY Hwy 90, then over KY Hwy 90 to Monticello; (13) between Bowling Green and Russell Springs, KY: from Bowling Green over Interstate Hwy 65 to junction Cumberland Parkway, then over Cumberland Parkway to Russell Springs; (14) between Beach Grove, KY and Hardinsburg, KY: from Beach Grove over KY Hwy 56 to junction KY Hwy 54, then over KY Hwy 54 to junction KY Hwy 261, then over KY Hwy 261 to Hardinsburg; serving in (A) above points in Daviess and Wayne Counties, KY and Rutherford County, TN as off-route points; and (B) over irregular routes, transporting (1) *clay, concrete, glass or stone products,* between Nashville, TN and Detroit, MI; (2) *textile mill products,* between points in Warren County, KY, on the one hand, and, on the other, Dayton, OH; (3) *transportation equipment,* between points in Warren County, KY, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, MS, NC, OH, SC, TN, VA, and WV;

and (4) *general commodities* (except classes A and B explosives), (a) between Nashville, TN, on the one hand, and, on the other, points in IL, IN, and OH; (b) between Nashville, TN and points in Warren County, KY, on the one hand, and, on the other, points in IN; (c) between Nashville, TN and Cincinnati, OH, on the one hand, and, on the other, points in KY; and (d) between cincinnati, OH, and Louisville, KY, and points in Warren County, KY, on the one hand, and, on the other, points in TN.

Note.—Applicant states that the sole purpose of this application is to consolidate existing certificates and remove restrictions.

MC 110325 (Sub-182), filed September 17, 1981. Applicant: TRANSCON LINES, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Midland Bldg., 1221 Baltimore Ave., Kansas City, MO 64105, (816) 221–1464. Over regular routes, transporting *general commodities* (except classes A and B explosives), (1) between Omaha, NE and Noyes, MN, from Omaha over Interstate Hwy 680 to junction Interstate Hwy 29, then over Interstate 29 to junction U.S. Hwy 75, then over U.S. Hwy 75 to Noyes, and return over the same route, (2) between Quincy, IL and International Falls, MN, from Quincy over U.S. Hwy 24 to junction U.S. Hwy 61, then over U.S. Hwy 61 to LaCrosse, WI, then over U.S. Hwy 53 to International Falls, and return over the same route, (3) between Moorhead, MN and Manitowoc, WI, over U.S. Hwy 10, (4) between Duluth, MN and Kansas City, MO, over Interstate Hwy 35, (5) between Moorhead, MN and Milwaukee, WI, over Interstate Hwy 94, (6) between Sioux City, IA and Rockford, IL, over Interstate Hwy 94, (7) between junction U.S. Hwys 75 and 18 and Madison, WI, over U.S. Hwy 18, (8) between junction Interstate Hwy 90 and U.S. Hwy 75 and Chicago, IL over Interstate Hwy 90, (9) between Council Bluffs, IA and Galesburg, IL, from Council Bluffs over U.S. Hwy 275 to junction U.S. Hwy 34, then over U.S. Hwy 34 to Galesburg, and return over the same route, (10) between Green Bay and Madison, WI, from Green Bay over U.S. Hwy 41 to junction U.S. Hwy 151, then over U.S. Hwy 151 to Madison, and return over the same route, (11) between Omaha, NE and Moline, IL, over U.S. Hwy 6, (12) between Keokuk, IA and Austin, MN over U.S. Hwy 218, (13) between Bettendorf, IA and Rochester, MN, from Bettendorf over U.S. Hwy 67 to junction U.S. Hwy 52, then over U.S. Hwy 52 to Rochester, and return over the same route, (14) between Lake Benton, MN and LaCrosse, WI, over U.S. Hwy 14, (15) between Wausau and Madison, WI, from Wausau over U.S. Hwy 51 to junction U.S. Hwy 151, then over U.S. Hwy 151 to Madison, and return over the same route, (16) between Manitowoc, WI and Rockford, IL, from Manitowoc over U.S. Hwy 141 to junction Interstate Hwy 43, then over Interstate Hwy 43 to junction Interstate Hwy 94, then over Interstate Hwy 94 to junction Interstate Hwy 894, then over Interstate HWY 894 to junction WI Hwy 15, then over WI Hwy 15 to junction U.S. Hwy 51, then over U.S. Hwy 51 to Rockford, and return over the same route, serving all intermediate points in connection with (1) through (16), and all points in IA, MN, and WI as offroute points.

MC 140054 (Sub-3), filed September 18, 1981. Applicant: Z & S CONSTRUCTION CO., INC., P.O. Box 310, Kimball, NE 69145. Representative: Charles M. Williams, 1600 Sherman, #665, Denver, CO 80203, (303) 839–5856. Transporting (1) *petroleum, natural gas and their products* and (2) *Mercer commodities*, between points in NE, CO and WY.

MC 145595 (Sub-7), September 21, 1981. Applicant: WARREN G. GORMLEY, d.b.a. GORMLEY TRUCKING, 1607 West Swan, P.O. Box 47, Springfield, MO 65805. Representative: Ronald R. Adams, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting *chemicals and related products*, between points in Eddy County, NM, and Newton, Jasper, and Greene Counties, MO, on the one hand, and, on the other, points in Muskogee County, OK.

MC 145815 (Sub-3), filed September 21, 1981. Applicant: COBRA TRUCKING, INC., 132 Hwy 80 West, P.O. Box 2137, Clinton, MS 39056. Representative: John A. Crawford, 17th Fl. Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205, (601) 948–5711. Transporting *glass heads, glass spheres and thermal plastic marking materials*, between points in Rankin County, MS and points in AL, AZ, AR, CA, CO, FL, GA, ID, IA, KS, LA, MN, MO, MT, NE, NV, NM, NC, ND, OK, OR, SC, SD, TN, TX, UT, WA, WY, and DC.

MC 145984 (Sub-4), filed September 21, 1981. Applicant: A. T. BYRUM & SON, INC., Rt. 4, P.O. Box 85, Ahoskie, NC 27910. Representative: Jack L. Schiller, 502 Flatbush Ave., Brooklyn, NY 11225, (212) 941–9291. Transporting *lumber and lumber products*, between points in the U.S., under continuing contract(s) with Ramsey Lumber Co., Inc. of Suffolk, VA, Ramsey Lumber Co. of Ahoskie, Inc. of Ahoskie, NC, and Quality Forest Products, Inc. of Enfield, NC.

MC 146035 (Sub-7), filed September 21, 1981. Applicant: SOUTHERN DRAYAGE, INC., 4223 Space Center Dr., P.O. Box 1983, Jackson, MS 39205. Representative: John A. Crawford, 17th Floor Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205, (601) 948–5711. Transporting *such commodities* as are dealt in or used by department, discount and variety stores, between points in AL, AR, CA, CT, DE, FL, GA, IL, IN, KS, KY, LA, MA, ME, MD, MI, MS, MO, NH, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VA, VT, WV, WI, and DC.

MC 150554 (Sub-1), filed September 18, 1981. Applicant: KELLY TRUCKING, INC., 74 N. Westmoor, Columbus, OH 43204. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *chemicals and related products*, between points in Franklin County, OH, on the one hand, and, on the other, points in the U.S.

MC 150645 (Sub-5), filed September 17, 1981. Applicant: TILEWAYS, INC., 7834 C. F. Hawn Freeway, Dallas, TX 75217. Representative: Jackson Salasky, P.O. Box 45538, Dallas, TX 75245, (214) 358–3341. Transporting *steel strapping and related products and accessories*, between points in the U.S., under continuing contract(s) with Total Packaging Systems & Supplies, Inc. of Dallas, TX.

MC 150645 (Sub-6), filed September 18, 1981. Applicant: TILEWAYS, INC., 7834 C. F. Hawn Freeway, Dallas, TX 75217. Representative: Jackson Salasky, P.O. Box 45538, Dallas, TX 75245, (214) 358–3341. Transporting *food and related products*, between points in the U.S. under continuing contract(s) with Cullum Company of Dallas, TX.

MC 151655 (Sub-11), filed September 18, 1981. Applicant: FRANK BROS. TRUCKING CO., P.O. Box 241, 349 Abbott Ave., Hillsboro, TX 76645. Representative: Charles E. Munson, 500 W. Sixteenth St., P.O. Box 1945, Austin, TX 78767, (512) 478–9808. Transporting *gypsum and gypsum products, paper and paper products, metal products and building materials*, (a) between points in TX, OK LA, AR, NM and (b) between points in TX, OK, LA, AR, NM, on the one hand, and, on the other, points in GA, AL, TN, MS, MO, IL, KS, ND, SD, NE, CO, WY, UT and AZ.

MC 152935 (Sub-4), filed September 21, 1981. Applicant: HILL-ROM COMPANY, INC., Hwy 46, Batesville, IN 47006. Representative: Steve A. Oldham (same address as applicant), (812) 934–7169. Transporting *furniture and fixtures and metal products*, between points in the U.S., under continuing contract(s)

with Filex Products, Inc. of Ossining, NY.

MC 156764 (Sub-1), filed September 10, 1981. Applicant: WELCH TRUCKING, INC., 1105 South Boulder, Portales, NM 88130. Representative: John R. Welch (same address as applicant), (505) 356–8548. Transporting *lumber and wood products*, between points in TX, AZ, NM, NV, UT, CA, WA, OR, MT, ID, WY, CO, LA, OK and AR.

MC 158275, filed September 15, 1981. Applicant: MATHIS ENTERPRISES, INC., P.O. Box 2111, Cypress, CA 90630. Representative: Jerry Mathis (same address as applicant), (714) 761–4504. Transporting (1) *liquid nitrogen converter systems*, and (2) *machinery*, between points in the U.S., under continuing contract(s) with CRYOMEC, Inc., of Anaheim, CA.

Note.—The permit in this proceeding to the extent it authorizes the transportation of classes A and B explosives shall expire 5 years from the date of issuance.

MC 158284, filed September 16, 1981. Applicant: SALVATORE MARESCA, d.b.a. BART TRUCKING CO., 94 E. 19th St., Bayonne, NJ 07002. Representative: Kenneth M. Piken, Queens Office Tower, 95–25 Queens Blvd., Rego Park, NY 11374, (212) 275–1000. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Container Transport International, American President Lines, Ltd., Barber Steamship Lines, Inc., Hapag-Lloyd, A.G. all of New York, NY.

MC 158345, filed September 18, 1981. Applicant: BOGDANOVICH & SCHROEDER, d.b.a. LANDWEHR MOVING & STORAGE, 515 23rd Ave. No., St. Cloud, MN 56301. Representative: Lee E. Lucero, 445 Capitol Life Center, E. 16th Ave. at Grant, Denver, CO 80203–1670, (303) 861–8046. Transporting *household goods*, between points in Benton, Sherburne and Stearns Counties, MN, on the one hand, and, on the other, points in CO, IL, IN, IA, KS, MI, MO, MT, NE, ND, SD, WI and WY.

MC 87855 (Sub-4), filed July 24, 1981, previously noticed in the Federal Register on August 11, 1981. Applicant: J. V. MOTOR LINES, INC., 69 Thomas St., East Hartford, CT 06108. Representative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841, (617) 241–8296. Transporting *general commodities* (except classes A and B explosives), between points in MA, CT, RI, ME, VT, NH, NJ, and NY.

Note.—This republication corrects the territorial description to show *non-radial*, instead of *radial authority*.

Volume No. OPY–4–387

Decided: September 25, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fishers and Williams.

MC 30867 (Sub-223), filed September 17, 1981. Applicant: CENTRAL FREIGHT LINES, INC., 5601 West Waco Dr., Waco, TX 76703. Representative: Phillip Robinson, P.O. Box 2207, Austin, TX 78768, (515) 476–6391. Over regular routes, transporting *general commodities*, between 66 specified south TX points generally between Houston, Austin, San Antonio, Laredo, McAllen, and Brownsville.

Note.—The purpose of this application is to remove the restriction imposed in the Decision served September 15, 1981 in MC 30867 (Sub-222), in paragraph 244, restriction (3) which reads as follows: "(3) transporting shipments, from or between any of the following Texas points: Alamo, Alvin, Angleton, Arcola, Barreda, Bay City, Beasley, Bishop, Blessing, Bonney, Brownsville, Chemcel, Clute, Danevang, Donna, Driscoll, East Columbia, Edcouch, Edinburg, El Campo, Elmaton, Elsa, Freeport, Fresno, Harlingen, Hidalgo, Hillje, Hungerford, Jones Creek, Kendleton, Kingsville, LaFeria, Lake Jackson, Lane City, Laredo, LaVilla, Lon Hill, Los Fresnos, Louise, Mackay, Markham, Matagorda, McAllen, Mercedes, Midfield, Mission, Old Ocean, Olmito, Palacious, Pharr, Pierce, Port Isabel, Ricardo, Riviera, Rosharon, San Benito, San Carlos, Sandy Point, San Juan, Santa Rosa, Sweeny, Van Vleck, Wadsworth, Weslaco, West Columbia, and Wharton."

Condition: To the extent the certificate granted in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from its date of issue.

MC 139467 (Sub-3), filed September 18, 1981. Applicant: LONG TRANSPORT, INC., P.O. Box 96, Rusk, TX 75785. Representative: Timothy Mashburn, P.O. Box 2207, Austin, TX 78768, (512) 476–6391. Transporting (1) *farm products*, (2) *food and related products*, (3) *chemicals and related products*, (4) *such commodities* as are dealt in or used by grocery business houses, and (5) *machinery*, between points in TX, on the one hand, and, on the other, points in the U.S.

MC 141297 (Sub-6), filed September 18, 1981. Applicant: UNITED INDUSTRIES, INC., 487 Parrish St., P.O. Box 231, Houston, MS 38851. Representative: W. DeWayne Griffin (same address as applicant), (601) 456–3734. Transporting *furniture and fixtures*, between points in the U.S., under continuing contract(s) with Franklin Mfg. Company, of Houston, MS.

MC 142467 (Sub-1), filed September 18, 1981. Applicant: DIXIE FREIGHT LINE, INC., 3291 Hwy 82 East, Greenville, MS 38701. Representative: Harold H. Mitchell, Jr., P.O. Box 1295, Greenville, MS 38701, (601) 335–3576. Over (1) regular routes, transporting *general commodities* (except classes A and B explosives), (a) Between Memphis, TN and Rolling Fork, MS, over U.S. Hwy 61, serving all intermediate points, (b) Between Leland and Greenville, MS, over U.S. Hwy 82, serving all intermediate points, (c) Between Rolling Fork, MS and junction of U.S. Hwy 49 and 61, serving all intermediate points: From Rolling Fork over MS Hwy 14 to junction MS Hwy 1, then over MS Hwy 1 to junction U.S. Hwy 49, then over U.S. Hwy 49 to junction U.S. Hwy 61, and return over the same route, and (d) Serving all points in Bolivar, Coahoma, DeSoto, Issaquena, Sharkey, Tunica and Washington Counties, MS, as off-route points in connection with carrier's otherwise authorized regular route service, and (2) over irregular routes, transporting *such commodities* as are dealt in or used in the manufacture, repair and servicing of vessels and watercraft, between points in AL, AR, DE, FL, GA, KS, KY, IA, IL, IN, LA, MI, MN, MO, MS, NC, OH, OK, PA, SC, TN, TX, VA, WI, and WV.

MC 143127 (Sub-82), filed September 17, 1981. Applicant: K. J. TRANSPORTATION, INC., 6070 Collett Rd., Victor, NY 14564. Representative: Catherine Jablonski (same address as applicant), (716) 924–9951. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Xerox Corporation, of Rochester, NY.

MC 154677, filed September 18, 1981. Applicant: THREE R TRANSPORTATION, INC., Padelford St., Berkley, MA 02780. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108, (617) 742–3530. Transporting (1) *hazardous materials*, and (2) *waste or scrap materials*, between points in CT, ME, MA, NH, RI, and VT, on the one hand, and, on the other, those points in the U.S. in and east of WI, IL, KY, TN, and MS.

Volume No. OPY–4–388

Decided: September 29, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 66746 (Sub-29), filed September 21, 1981. Applicant: SHIPPERS EXPRESS, INC., 1651 Kerr Dr., P.O. Box 8308, Jackson, MS 39204. Representative: John A. Crawford, 17th Floor Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205, (601) 948–5711.

Transporting *powered outdoor lawn and garden equipment and accessories,* between points in the U.S., under continuing contract(s) with Yazoo Manufacturing Co., of Jackson, MS.

MC 129026 (Sub-11), filed September 17, 1981. Applicant: J.C.D. TRANSPORTATION CORP., 5950 Fisher Rd., P.O. Box 487, East Syracuse, NY 13057. Representative: Michael R. Werner, 423 Edgewood Ave., Teaneck, NJ 07666, (201) 575–7700. Transporting *containers,* between points in the U.S., under continuing contract(s) with Thatcher Glass Manufacturing Inc., of Elmira, NY.

MC 134286 (Sub-173), filed September 22, 1981. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Charles J. Kimball, 1600 Sherman St., #663, Denver, CO 80220, (303) 839–5856. Transporting *such commodities* as are dealt in or used by grocery and food business houses and food service companies, between points in the U.S.

MC 138146 (Sub-2), filed September 23, 1981. Applicant: OLYMPIA TRAILS BUS COMPANY, INC., 50 So. 20th St., Irvington, NJ 07111. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Ave., N.W., Washington, DC 20005, (202) 347–9332. Transporting *passengers and their baggage,* in the same vehicle with passengers, in charter and special operations, beginning and ending at points in Union and Essex Counties, NJ, and extending to points in the U.S.

MC 139006 (Sub-34), filed September 23, 1981. Applicant: RAPIER SMITH, R.R. 5, Loretto Rd., Bardstown, KY 40004. Representative: William P. Whitney, Jr. (same address as applicant), (502) 348–5159. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of agricultural chemicals and related products, between points in the U.S. Condition: To the extent the certificate granted in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from its date of issue.

MC 143346 (Sub-8), filed September 17, 1981. Applicant: BILLY JACK HOLLINGSWORTH, d.b.a. HOLLINGSWORTH GRAIN & TRUCKING, P.O. Box 384, Sanger, TX 76266. Representative: Timothy Mashburn, 1806 Rio Grande, P.O. Box 2207, Austin, TX 78768, (512) 476–6391. Transporting (1) *farm products,* (2) *food and related products,* (3) *chemicals and related products,* (4) *such commodities* as are dealt in or used by grocery business houses, and (5) *machinery,* between points in TX, on the one hand, and, on the other, points in the U.S.

MC 144566 (Sub-2), filed September 17, 1981. Applicant: BROCIOUS TRUCKING, INC., P.O. Box 261, Brockway, PA 15824. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219, (412) 471–1800. Transporting (1) *clay, concrete, glass or stone products,* (2) *rubber and plastic products,* (3) *pulp, paper and related products,* and (4) *metal products,* between the facilities of Brockway Glass Company, Inc., at those points in the U.S. in and east of MN, IA, MO, AR, and LA, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 148676 (Sub-4), filed September 23, 1981. Applicant: R. F. PETERSON, INC., 3525 Walnut, Denver, CO 80205. Representative: James P. Beck, 717 17th St., Ste. 2600, Denver, CO 80202, (303) 892–6700. Transporting (1) *alcoholic liquors and beverages,* and (2) *such commodities as are dealt in or used by wholesale, retail and chain grocery and food business houses,* between points in AR, CO, IL, LA, MN, MT, NE, ND, TX and WY on the one hand, and, on the other, points in AZ, AR, CA, CO, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, NY, ND, OH, OK, OR, PA, SD, TX, UT, VA, WA, WV, WI and WY.

MC 149216 (Sub-4), filed September 10, 1981. Applicant: WELLINGTON TRANSPORTATION, INC., 67 Andrew St., Newton Highlands, MA 02161. Representative: James E. Mahoney, 148 State St., Boston, MA 02109, (617) 523–2660. Transporting *such commodities* as are dealt in or distributed by a manufacturer of (1) plastic products, (2) food and related products, (3) textile mill products, and (4) shoe products, between points in the U.S., under continuing contract(s) with Chelsea Industries, Inc., of Boston, MA.

MC 149486 (Sub-1), filed September 23, 1981. Applicant: RANGEN TRANSPORTATION, INC., P.O. Box 706, Buhl, ID 83316. Representative: Bruce W. Shand, Ste. 280, 311 S. State St., Salt Lake City, UT 84111, (801) 531–1300. Transporting *food or kindered products, chemicals and related products, farm products, hatchert supplies, and animal and fish feed ingredients,* between points in the U.S. in and west of MT, WY, CO, and NM. Condition: To the extent the certificate granted in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from the date of issue.

MC 149497 (Sub-16), filed September 17, 1981. Applicant: HAUPT CONTRACT CARRIERS, INC., P.O. Box 1023, Wausau, WI 54401. Representative: Robert A. Wagman (same address as applicant), (715) 359–2907. Transporting *general commodities,* between points in the U.S., under continuing contract(s) with TNS, Incorporated, of Jonesboro, TN. Condition: To the extent the certificate to be issued in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from its date of issue.

MC 155066, filed September 21, 1981. Applicant: RICHMOND TRUCKING, INC., Box 66, Glen Morgan, WV 25847. Representative: John M. Friedman, 2930 Putnam Ave., Hurricane, WV 25526, (304) 562–3460. Transporting *mining equipment,* and *machinery,* between points in the U.S., under continuing contract(s) with A. L. Lee Corporation, of Lester, WV, Fan Systems, Inc., of Beckley, WV, R & F Machinery Company, of Glen White, WV, CWS, Inc., of Beckley, WV, The Dosco Corporation, of Beckley, WV, and Simmons Mine Supply, of Mabscott, WV.

MC 157737, filed September 21, 1981. Applicant: WOODFIN BROTHERS, INC., 9916 Jefferson Davis Hwy, Richmond, VA 23234. Representative: Paul D. Collins, 7761 Lakeforest Dr., Richmond, VA 23235, (804) 745–0446. Transporting *motor vehicles,* and *trailers,* in truckaway service between points in VA, on the one hand, and, on the other, points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 158056, filed September 3, 1981. Applicant: G AND G TOURS, 5563 W. 79th St., Los Angeles, CA 90045. Representative: Walter J. Garrison (same address as applicant) (213) 645–6394. Transporting *passengers and their baggage,* in charter and special operations, between points in CA and NV.

MC 158306F, filed September 22, 1981. Applicant: RICHARD J. WARREN, doing business as WARREN TRANSPORT, 10031 McGee Rd., Box 57, McBain, MI 49657. Representative: Richard J. Warren (same as applicant), (616) 825–2192. Transporting *vacuum cleaners,* between points in Wexford County, MI and Alameda County, CA.

MC 158336, filed September 18, 1981. Applicant: CROWN TRANSPORT SYSTEMS, INC., 3420 New Cummings Rd., Chattanooga, TN 37419. Representative: James E. Elgin (same address as applicant), (615) 821–1000.

Transporting *such commodities* as are dealt in or used by food distribution centers, grocery stores, fast food outlets, and discount stores, between points in the U.S.

MC 158367, filed September 21, 1981. Applicant: ODIS L. HILL, d.b.a. H & M TRUCKING, Rt. #2, Box 392, Decherd, TN 37324. Representative: Odis L. Hill (same address as applicant), (615) 967–6280. Transporting *textile mill products*, between points in Franklin County, TN on the one hand, and, on the other, New York, NY, Los Angeles, CA and points in San Joaquin County, CA, Ware County, GA and Sampson County, NC.

MC 158387, filed September 21, 1981. Applicant: LEONARD KRANZ, d.b.a. LENCO TRANSPORT, P.O. Box 1251, Aurora, IL 60507. Representative: Leonard D. Kranz (same address as applicant), (312) 851–9250. Transporting *general commodities* (except classes A and B explosives), between points in IL, on the one hand, and, on the other, points in IN, MI, IA, KY, OH, MO, and WI.

MC 158397, filed September 22, 1981. Applicant: J. F. MORAN COMPANY, INC., 10 Jefferson Blvd., Warwick, RI 02888. Representative: Robert A. Mega, 25 Esten Ave., Pawtucket, RI 02860, (401) 724–1200. Transporting *general commodities* (except classes A and B explosives), between points in RI, on the one hand, and, on the other, Boston, MA.

MC 158406, filed September 22, 1981. Applicant: COMPU-TRANSPORT, INC., 5800 Corporate Way, West Palm Beach, FL 33407. Representative: H. Nathan Yagoda, 75 Anderson Dr., Wayne, NJ 07040, (201) 595–5177. Transporting (1) *traffic control machinery*, (2) *equipment*, and (3) *transportation equipment*, between points in the U.S.

Volume No. OPY–4–390

Decided: September 28, 1981.

By the Commission, Review Board No. 2, members Carleton, Fisher, and Williams. (Member Williams not participating.)

MC 120737 (Sub-98), filed September 21, 1981. Applicant: STAR DELIVERY & TRANSFER, INC., P.O. Box 39, Canton, IL 61520. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, Il 60602, (312) 236–5944. Transporting *metal products*, between Peoria and Chicago, IL, Santa Clara, CA, Sherman, TX, and points in Montgomery County, IN, on the one hand, and, on the other, points in the U.S.

MC 129827 (Sub-5), filed September 21, 1981. Applicant: BLAIR MOTOR SERVICE, INC., 1531 E. 14th St., St. Louis, MO 63106. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. Transporting *boots and shoes*, between St. Louis, and points in Franklin, Gasconade, Pulaski, Phelps, Crawford, Washington, Wright, Texas, Iron, Madison, Cape Girardeau, Reynolds, Wayne, Stoddard, Mississippi, Pemiscot, Scott, and New Madrid Counties, MO, on the one hand, and, on the other, points in Lake, Obion, Dyer, Gibson, Carroll, Madison, Henderson, Hardin, McNairy, and Shelby Counties, TN.

MC 134197 (Sub-21), filed August 7, 1981, previously noticed in the **Federal Register** of August 28, 1981. Applicant: JACKSON AND JOHNSON, INC., P.O. Box 327, Savannah, NY 13146. Representative: Raymond A. Richards, 35 Curtice Park, Webster, NY 14580, (716) 265–9510. Transporting *plastic products*, between points in the U.S.

Note.—The purpose of this republication is to delete the plantsite restriction reflected in the prior notice.

MC 144757 (Sub-16), filed September 21, 1981. Applicant: DAKOTA PACIFIC TRANSPORT, INC., 3104 E. St. Patrick, Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, SD 57701, (605) 343–4036. Transporting *general commodities* (except classes A and B explosives), between points in CA, CO, ID, MT, NV, OR, UT, WA, and WY, on the one hand, and, on the other, points in the U.S.

MC 144927 (Sub-37), filed September 22, 1981. Applicant: REMINGTON FREIGHT LNES, INC., Box 315, U.S. 24 West, Remington, IN 47977. Representative: Jack Luck (same address as applicant), (219) 261–3461. Transporting *malt beverages and related advertising materials*, between points in Jefferson County, CO, on the one hand, and, on the other, points in AZ, AR, CA, IA, LA, MS, MO, NE, TN, and TX.

MC 145627 (Sub-1), filed September 21, 1981. Applicant: M & T TRUCKING, INC., 4290 State Rt. #7, New Waterford, OH 44445. Representative: Joseph F. Mullins, Jr., 1700 K St., NW, Washington, D.C. 20006, (202) 833–8884. Transporting *coal*, between points in Columbiana County, OH, on the one hand, and, on the other, points in Marshall County, WV.

MC 146876 (Sub-6), filed September 21, 1981. Applicant: WILLIAM W. EGGERS, d.b.a. CEDAR VALLEY TRANSPORT, Box 309, Webster City, IA 50595. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309, (515) 245–4300. Transporting *such commodities* as are dealt in by grocery stores, between points in IA, on the one hand, and, on the other, points in MO, IL, WI, MN, KS, and CO.

MC 147877 (Sub-2), filed September 21, 1981. Applicant: SANFORD M. HEDRICK, JR., d.b.a. HEDRICK TRUCKING CO., P.O. Box 769, Darlington, SC 29532. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. Transporting (1) *lumber and wood products*, between points in Darlington County, SC, on the one hand, and, on the other, points in the U.S. and (2) *pulp, paper and related products*, between points in Florence County, SC on the one hand, and, on the other, points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 151457, filed September 21, 1981. Applicant: BOMBARDO CORPORATION, d.b.a. FAIRFIELD FREIGHT LINES, 411 Main St., Ridgefield, CT 06877. Representative: ALEXANDER J. HOLLAND, ESQ. c/o DUEL AND HOLLAND, 283 Greenwich Ave., Greenwich, CT 06830. Transporting *textile mill products*, between points in Los Angeles County, CA, Ogle County, IL, Dallas and Tarrant Counties, TX, Baltimore, MD, Berks County, PA, Norfolk and Middlesex Counties, MA, Clinton County, NY, Passaic County, NJ, New London County, CT, Providence County, RI, Roane County, TN, Catawba County, NC and Whitfield County, GA.

MC 151607 (Sub-2), filed September 21, 1981. Applicant: TRANS-OVERLAND XPRESS, INC., 297 County Line Road, Midlothian, TX 76065. Representative: Doris Hughes, P.O. Box 47861, Dallas, TX 75247–0861, (214) 721–0360. Transporting *general commodities* (except classes A and B explosives) between points in the U.S., under continuing contract(s) with Shippers Warehouse Co., of Dallas, TX, RSR Corporation, of Dallas, TX, Dr Pepper Company, of Dallas, TX and J.C. Penny Co. of New York, NY.

MC 152987, filed September 22, 1981. Applicant: MAGANN EQUIPMENT, INCORPORATED, P.O. Box 1694, Highway 17–A North, Summerville, SC 29483. Representative: W. F. Magann, (same address as applicant), (803) 881–0811. Transporting (1) *metal products*, between points in Richmond County, GA, Berkeley, Charleston, Georgetown, Dorchester, Calhoun, Richland, Horry, Lexington, Chester, Fairfield, Orangeburg, and Aiken Counties, SC, on the one hand, and, on the other, points in the U.S., and (2) *construction equipment, materials and supplies*, between points in Berkeley, Charleston, Dorchester, Calhoun, Georgetown, Richland, Horry, Lexington, Chester,

Fairfield, Orangeburg, and Aiken Counties, SC, on the one hand, and, on the other, points in GA, FL, AL, NC, SC, VA, LA, MS, and KY.

MC 154907 (Sub-3), filed September 22, 1981. Applicant: THE BUCK COMPANY, 631 W. Cherry St., Wayland, MI 49348. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503 (616) 459–6121. Transporting *general commodities* (except classes A and B explosives) between points in the U.S., under continuing contract(s) with the Peavey Company, of Minneapolis, MN.

MC 155687, filed September 21, 1981. Applicant: COASTLINE TRUCKING, INC., 401 North Seventh Street, Post Office Box 2464, Lake City, FL 32055. Representative: Felix A. Johnston, Jr., 1030 E. Lafayette Street, Suite 112, Tallahassee, FL 32301 (904) 877–7191. Transporting *fertilizer and dolomite products, road building and construction aggregates* between points in Jefferson, Taylor, and Alachua Counties, FL, and points in Grady, Thomas, Decatur, Clinch, Appling, Atkinson, Bacon, Baker, Ben Hill, Berrien, Bibb, Bleckley, Brantley, Brooks, Bryan, Bulloch, Calhoun, Camden, Charlton, Chatham, Chattahoochee, Colquit, Coffee, Cook, Crawford, Dodge, Dooly, Doughtery, Early, Echols, Evans, Glynn, Houston, Irwin, Jeff Davis, Lanier, Laurens, Lee, Liberty, Long, Lowndes, Macon, Marion, Miller, Mitchell, Montgomery, McIntosh, Peach, Pierce, Pulaski, Quitman, Randolph, Schley, Seminole, Sumter, Stewart, Talbot, Tattnall, Taylor, Telfair, Terrell, Tift, Truetlen, Turner, Toombs, Twiggs, Ware, Wayne, Webster, Wheeler, Wilcox, and Worth Counties, GA.

MC 157497 (Sub-1), filed September 21, 1981. Applicant: IVAN HABECK, Rte. 1, Box M–8, Ipswich, SD 57451. Representative: John T. Wirth, 717—17th St., Ste. 2600, Denver, CO 80202 (303) 892–6700. Transporting *such commodities as are dealt in or used by manufacture and distributors of metal products, machinery and transportation equipment*, between points in the U.S., under continuing contract(s) with Pearson Construction Company of Othello, WA; Specialty Manufacturing Co., Inc. of Bath, SD; and Dakota Manufacturing Company of Mitchell, SD.

MC 158337, filed September 18, 1981. Applicant: TOWN & COUNTRY TRAVEL BUREAU, INC., 9153 Roosevelt Blvd., Philadelphia, PA 19115. Representative: David M. Weinfield (same address as applicant) (215) 568–1200. To operate as a *broker*, at Philadelphia, PA, in arranging for the transportation of *passengers and their baggage*, in special and charter operations, between Philadelphia, PA, on the one hand, and, on the other, points in the U.S.

MC 158376, filed September 21, 1981. Applicant: WILLIAMS TRUCKING, 8394 LeSourdsville Rd., West Chester, OH 45069. Representative: Martin Williams, 4220 Cornell Rd., Sharonville, OH 45241 (513) 769–5736. Transporting *those commodities* which because of their size and weight require the use of special handling or equipment, between points in OH, on the one hand, and, on the other, points in IN and KY.

Volume No. OPY–S–165

Decided: September 24, 1981.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 140119 (Sub-7), filed September 15, 1981. Applicant: RAYMOND J. GALLAHER, P.O. Box 185, Irvona, PA 16656. Representative: Arthur J. Diskin, 806 Frick Bldg., Pittsburgh, PA 15219 (412) 281–9494. Transporting *metal products*, between points in Centre County, PA, on the one hand, and, on the other, points in CA.

MC 143648 (Sub-8), filed September 4, 1981. Applicant: CORALVILLE TRANSPORT, INC., Rural Route #1, Lamont, IA 50650. Representative: Ronald R. Adams, 600 Hubbell Bldg., Des Moines, IA 50309 (515) 244–2329. Transporting *gasoline and fuel oil*, between points in Dubuque and Scott Counties, IA, on the one hand, and, on the other, points in WI, IL, and MN.

MC 151339 (Sub-3), filed September 11, 1981. Applicant: LOCK TRUCK LEASING, INC., P.O. Box 274, Irving, TX 75060. Representative: Jackson Salasky, P.O. Box 45538, Dallas, TX 75245, 214–358–3341. Transporting *floor coverings*, between the facilities used by L. D. Brinkman Corporation at points in Pulaski County, AR; Maricopa County, AZ; Wyandotte and Sedgwick Counties, KS; Denver County, CO; Orleans and Caddo Parish, LA; Hinds County, MS; Tulsa and Oklahoma Counties, OK; Salt Lake County, UT; and Bexar, Harris, Dallas, Travis, Nueces, Lubbock and El Paso Counties, TX, on the one hand, and, on the other, points in the U.S.

MC 151998, filed September 15, 1981. Applicant: AMERICAN WAY TRANSPORT, INC. 315 W. Victoria, Gardena, CA 90248. Representative: W. G. Reese III, P.O. Box 7000–438, Redondo Beach, CA 90277 (213) 375–4678. Transporting textile products, between points in Passaic County, NJ, Los Angeles and Orange Counties, CA, on the one hand, and, on the other, points in NC and SC.

MC 154108 (Sub-2), filed September 16, 1981. Applicant: CALHOUN TRANSPORTATION SERVICE, INC., Old Route 11, P.O. Box 10, Calhoun, TN 37309. Representative: M. C. Ellis, Chattanooga Freight Bureau, Inc., 1001 Market Street, Chattanooga, TN 37402 (615) 756–3620. Transporting *paper and paper products*, between the facilities of Westvaco Corporation, its divisions and subsidiaries, at points in the U.S., in and east of ND, SD, NE, KS, OK, and TX, 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 156138, filed September 1, 1981. Applicant: STONEWALL TRANSPORT, INC., 3010 Knight St., Suite 300, Shreveport, LA 71105. Representative: Thomas P. Brown (same address as applicant), (318) 869–3084. Transporting (1) *petroleum, natural gas, and their products*, (a) between points in LA, AR, OK, and TX, on the one hand, and, on the other, points in AR, KS, LA, MS, MO, OK, TN, and TX, (b) between points in AL and FL, on the one hand, and, on the other, points in FL, (c) between points in IL, on the one hand, and, on the other, points in IL and MO, (d) between points in Cape Girardeau County, MO, on the one hand, and, on the other, points in TN and KY, and (e) between points in Daviess County, KY, on the one hand, and, on the other, points in IN, IL, KY, and TN; and (2) *chemicals*, between points in LA, on the one hand, and, on the other, Chicago, IL, Trenton, NJ, Atlanta, GA, and points in TX, OK, MS, and LA.

MC 156358, filed September 9, 1981. Applicant: PHIL TERESE, d.b.a. PHIL TERESE CARTAGE, 7800 W. 99th Place, Palos Hills, IL 60465. Representative: Philip A. Lee, 120 W. Madison St., Chicago, IL 60602, (312) 236–8225. Transporting (1) *trailers and chassis with containers*, between points in Rock County, WI, on the one hand, and, on the other, points in MN, WI, IL, MI, IN, and IA, (2) in foreign commerce, *general commodities* (except classes A and B explosives), between points in IL, IA, IN, OH, MI, MN, and WI, and (3) *trailers*, between points in IL, IN, and WI.

James H. Bayne,
Acting Secretary.

[FR Doc. 81–28852 Filed 10–2–81; 8:45 am]
BILLING CODE 7035–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-471]

Boston Edison Company, et al. (Pilgrim Nuclear Power Station, Unit 2), Order Granting Motion to Continue

September 28, 1981.

At the request of Counsel for Applicant, Boston Edison Company, to continue this matter generally in view of the decision of Applicant's Board of Directors to cancel the Pilgrim II project, it is ordered that the Prehearing Conference and further hearings presently scheduled in this matter be cancelled pending final action by this Board on Applicant's further motions.

Dated at Bethesda, Maryland, this 28th day of September, 1981.

For the Atomic Safety and Licensing Board.

Andrew C. Goodhope,

Chairman, Administrative Judge.

[FR Doc. 81-29863 Filed 10-2-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-325 and 50-324]

Carolina Power & Light Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 40 and 63 to Facility Operating License Nos. DPR-71 and DPR-62 issued to Carolina Power & Light Company (the licensee) which revised the Technical Specifications for operation of the Brunswick Steam Electric Plant, Units Nos. 1 and 2 (the facility), located in Brunswick County, North Carolina. The amendments are effective as of the date of issuance.

The amendments revise the Technical Specifications to delete one sample station from the Radiological Environmental Monitoring Program.

The application for 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 Commmission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of the 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 the amendments.

For further details with respect to this action, see (1) the application for amendments dated May 13, 1981, (2) Amendment Nos. 40 and 63 to License Nos. DPR-71 and DPR-62, and (3) the Commission's related Safety Evaluation. 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 Southport-Brunswick County Library, 109 West Moore Street, Southport, North Carolina 28461. 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 28th day of September 1981.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 81-29854 Filed 10-2-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-369]

Duke Power Co.; Issuance of Amendment, Facility Operating License No. NPF-9

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 5 to Facility Operating License No. NPF-9, issued to Duke Power Company (licensee) for the McGuire Nuclear Station, Unit 1 (the facility) located in Mecklenburg County, North Carolina. This amendment corrects the setpoint associated with the reactor trip initiated by a turbine trip. The amendment is effective as of its date of issuance.

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 regulations. The Commission has made appropriate findings as required by the Act and the Commission's 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) and 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) Duke Power Company letter dated September 21, 1981, (2) Amendment No. 5 to Facility Operating License No. NPF-9 with Appendix A Technical Specification page change, and (3) the Commission's related Safety Evalutation.

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 the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223. 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 23rd day of September 1981.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Acting Chief, Licensing Branch No. 4, Division of Licensing, NRR.

[FR Doc. 81-29855 Filed 10-2-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-302]

Florida Power Corp., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 43 to Facility Operating License No. DPR-72, issued to the Florida Power Corporation, City of Alachua, City of Bushnell, City of Gainesville, City of Kissimmee, City of Leesburg, City of New Smyrna Beach and Utilities Commission, City of New Smyrna Beach, City of Ocala, Orlando Utilities Commission and City of Orlando, Sebring Utilities Commission, Seminole Electric Cooperative, Inc., and the City of Tallahassee (the licensees) which revised the Technical Specifications (TSs) for operation for the Crystal River Unit No. 3 Nuclear Generating Plant (the facility) located in Citrus County, Florida.

The amendment revises the Technical Specifications to authorize a delay of three days in the monthly operational tests of the control rods.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate

findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated September 24, 1981, (2) Amendment No. 43 to License No. DPR-72, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida: 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 25th day of September 1981.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 81-28956 Filed 10-2-81: 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-376]

Puerto Rico Electric Power Authority (North Coast Nuclear Plant, Unit 1); Reconstitution of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this construction permit proceeding:

Alan S. Rosenthal, Chairman
Dr. John H. Buck
Stephen F. Eilperin

Dated: September 29, 1981.

C. Jean Bishop,

Secretary to the Appeal Board.

[FR Doc. 81-28957 Filed 10-2-81: 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-413 A and 50-414A]

Duke Power Co.; Receipt of Antitrust Information Accompanying Operating License Application

Note.—This document was originally published in the issue of September 21, 1981. It is reprinted at the request of the NRC.

The Duke Power Company has submitted antitrust information in connection with the owner's plans to operate two pressurized water reactors located in York County, South Carolina. The reactors have been designated as Catawba Nuclear Station, Units 1 and 2. The data submitted contain antitrust information for review pursuant to NRC Regulatory Guide 9.3 necessary to determine whether there have been any significant changes since the completion of the antitrust review at the construction permit stage.

On completion of staff antitrust review of the above-named application, the Director of Nuclear Reactor Regulation will issue an initial finding as to whether there have been "significant changes" under section 105c(2) of the Act. A copy of this finding will be published in the **Federal Register** and will be sent to the Washington and local public document rooms and to those persons providing comments or information in response to this notice. If the initial finding concludes that there have not been any significant changes, request for reevaluation may be submitted for a period of 60 days after the date of the **Federal Register** notice. The results of any reevaluation that is requested will also be published in the **Federal Register** and copies sent to the Washington and local public document rooms.

A copy of the general information portion of the application for operating licenses and the antitrust information submitted is available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the local public document room at the York County Library, 325 South Oakland Avenue, Rock Hill, South Carolina 29730.

Any person who desires additional information regarding the matter covered by this notice or who wishes to have his views considered with respect to significant changes related to antitrust matters which have occurred in the licensee's activities since the construction permit antitrust review for the above-named plant should submit such requests for information or views to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Utility Finance Branch, Office of Nuclear Reactor Regulation, on or before November 20, 1981.

Dated at Bethesda, Md., this 31st day of August 1981.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Acting Branch Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 81-27452 Filed 10-1-81: 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANGEMENT AND BUDGET

Agency Forms Under Review

September 28, 1981.

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act (44 U.S.C. chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available)
The office of the agency issuing this form
The title of the form
The agency form number, if applicable
How often the form must be filled out
Who will be required or asked to report
The Standard Industrial Classification (SIC) codes, referring to specific respondent groups that are affected
Whether small businesses or organizations are affected
A description of the Federal budget functional category that covers the information collection

An estimate of the number of responses
An estimate of the total number of hours needed to fill out the form
An estimate of the cost to the Federal Government
An estimate of the cost to the Public
The number of forms in the request for approval
An indication of whether section 3504(h) of Pub. L. 96-511 applies
The name and telephone number of the person or office responsible for OMB review and
An abstract describing the need for and uses of the information collection.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**. But occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Deputy Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—202-447-6201

New

• Agricultural Marketing Service
South Texas Onion—Marketing Order No. 959
On occasion, annually
Farms/businesses or other institutions
Onion handlers in the production area
SIC: 515
Small businesses or organizations
Agricultural research and services: 802 responses; 31 hours; $508 Federal cost; 5 forms; $117 public cost; not applicable under 3504(h)
Charles A. Ellett, 202-395-7340

The south Texas onion committee forms are used to ensure compliance by handlers who wish to be exempted from grade, size, pack or container requirements of the order.

• Food and Nutrition Service
Child Care Food Program Evaluation Child Impact Study
Nonrecurring
Individuals or households/businesses or other institutions, child care food program sponsors, day care centers, etc.
SIC: 948
Food and nutrition assistance: 2,015 responses; 559 hours; $494,176 Federal cost; 6 forms; $3,000 public cost; not applicable under 3504(h)
Charles A. Ellett, 202-395-7340

The information is vital for estimating the effects of targeting and the net impact on participation of changes in reimbursement. It will provide a data base that can be used to decide how to allocate resources within and across programs. It will help to identify strengths and weaknesses in the program, to streamline requirements and guidelines and to determine if multiple participation is desirable.

• Agricultural Marketing Service
California Tokay Grapes—Marketing Order No. 926
On occasion
Businesses or other institutions
California tokay grape handlers under marketing order 916
SIC: 515 017
Small businesses or organizations
Agricultural research and services: 96 responses; 29 hours; $500 Federal cost; 1 form; $134 public cost; not applicable under 3504(h)
Charles A. Ellett, 202-395-7340

The industry committee form is used to obtain information from handlers relating to shipment date, mode of transport, number of packages, and city and State destination for tokay grapes.

• Agricultural Marketing Service
South Texas Melons—Marketing Order No. 979
On occasion, annually
Farms/businesses or other institutions
Melon handlers in the production area
SIC: 515 016
Small businesses or organizations
Agricultural research and services: 78 responses; 2 hours; $500 Federal cost; 2 forms; $14 public cost; not applicable under 3504(h)
Charles A. Ellett, 202-395-7340

South Texas melon committee forms are used by the committee to ensure compliancy by handlers who wish to be exempted from grade and container requirements of the order.

• Agricultural Marketing Service
Domestic dates produced or packed in Riverside County, California—Marketing Order No. 987
On occasion—Monthly—Annually
Businesses or other institutions
Affects 29 date handlers in Riverside County, California
SIC: 203,206
Agricultural research and services: 504 responses; 227 hours; $755 Federal cost; 14 forms; $1,364 public cost; not applicable under 3504(h)
Charles A. Ellett, 202-395-7340

The 14 committee forms used by date handlers enable the date administrative committee to determine acquisitions, productions and inventory information, and disposition of marketable dates, exempt dates, date products, substandard grade dates, and restricted dates.

• Farmers Home Administration
Request for moratorium on payments
FmHA 1951-22
On occasion
Individuals or households
Persons living in rural areas with populations of 10,000 or less
Mortgage credit and thrift insurance: 4,750 responses; 2,375 hours; $18,570 Federal cost; $14,250 public cost; 1 form; not applicable under 3504(h)
Charles A. Ellett, 202-395-7340

Section 502 of the Housing Act of 1949, as amended, authorizes FmHA county offices to obtain formal requests from borrowers seeking a moratorium and principal and interest payment of their sections 502-504 rural housing accounts.

DEPARTMENT OF COMMERCE

Agency Clearance Officer, Edward Michals, 202-377-3627

New

• Bureau of the Census

1982 Census of service industries
See attachment A
Nonrecurring
Businesses or other institutions
Service establishments
SIC: Multiple
Small businesses or organizations
Other advancement and regulation of commerce: 945,000 responses; 1 hour; $67,000,000 Federal cost; 43 forms; not applicable under 3504(h)
Statistical Policy Branch, 202–395–7313

The 1982 economic censuses, conducted under the provision of Title 13, constitute the primary source of facts about the structure and functioning of a large segment of the economy, and as such, provide essential information for government, business, and the general public. They furnish an important part of the framework for the national accounts and serve as benchmarks for key economic indicators.

• Bureau of the Census
Auxiliary establishment report
ES–9200
Nonrecurring
Businesses or other institutions
Auxiliary establishments of multiestablishment companies
SIC: Multiple
Other advancement and regulation of commerce: 40,000 responses; 20,000 hours; 1 form; not applicable under 3504(h)
Statistical Policy Branch, 202–395–7313

The 1982 economic censuses constitute the primary source of facts about the structure and functioning of a large segment of the economy. They provide essential information for government, business, and the general public. These censuses furnish an important part of the framework for the national accounts and serve as benchmarks for key economic indicators.

• Bureau of the Census
Enterprise summary report
ES–9100
Nonrecurring
Businesses or other institutions
Large companies with 500 or more employees
SIC: Multiple
Other advancement and regulation of commerce: 1 response; 1 hour; 1 form; not applicable under 3504(h)
Statistical Policy Branch, 202–395–7313

The 1982 economic censuses constitute the primary source of facts about the structure and functioning of a large segment of the economy. They provide essential information for government, business, and the general public. These censuses furnish an important part of the framework for the national accounts and serve as benchmarks for key economic indicators.

Revisions

• Bureau of the Census
Annual wholesale trade survey
E–450, B–451
Annually
Businesses or other institutions
Form will be mailed to a sample of merchandise wholesalers, etc.
SIC: Multiple
Small businesses or organizations
Other advancement and regulation of commerce: 6,500 responses; 1,950 hours; $310,000 Federal cost: 2 forms; not applicable under 3504(h)
Statistical Policy Branch, 202–395–7313

The annual wholesale trade survey is the only continual source of annual wholesale sales and inventory data. Also, it is the only complete sample providing data about the method of inventory valuation for wholesale firms.

DEPARTMENT OF EDUCATION

Agency Clearance Officer—Wallace McPherson—202–426–5030

New

• Office of Postsecondary Education
Program announcement—Minority institutions
Science improvement program
ED 0007
Annually
Businesses or other institutions
Minority institutions non-profit science organizations
SIC: 822
Higher education: 150 responses; 6,450 hours; $8,000 Federal cost; $8,000 public cost; 1 form; not applicable under 3504(h)

Federal Education Data Acquisition Council, 202–426–5030

This is a grant application for competitive awards.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph Strnad—202–245–7488

New

• Social Security Administration
Employer classification updates
SSA–L378 (4–81)
On occasion
Individuals or households/state or local governments/farms/businesses or other institutions
New employers having supplied insufficient information on SS–4
SIC: All
Small businesses or organizations
General retirement and disability insurance: 75,000 responses; 3,750 hours; $112,500 Federal cost; 1 form; not applicable under 3504(h)
Robert Neal, 202–395–6880

This form is used to further clarify employer information as completed on form SS–4. The employer responses are translated into various statistical codes for use in maintaining SSA's employer coding file, the continuous work history sample and other research projects.

Revisions

• Health Care Financing Administration
Preprinted state plans in place as of September 1981, and "transmittal and notice of approval of state plan material" (HCFA–179)
HCFA–179
On occasion
State or local governments
State medicaid agencies
SIC: 919
Health: 108 responses; 966 hours; $6,000 Federal cost; $2,700 public cost; 1 form; not applicable under 3504(h)
Richard Eisinger, 202–395–6880

The Reconciliation Act of 1981 revised Title XIX of the Social Security Act. This revision changed the provisions of the medicaid medically needy program. The medically needy section of the medicaid state plan preprint must also be revised.

• Health Care Financing Administration
End-stage renal disease demonstration project-cost report HCFA–48T HCFA–49T HCFA–9734A through C
Annually
Businesses or other institutions
24 ESRD hospital and nonhospital facilities
SIC: 808
Small businesses or organizations
Health: 24 responses; 1,200 hours; $18,000 Federal cost; $12,000 public cost; 3 forms; not applicable under 3504 (h)
Richard Eisinger, 202–395–6880

The cost report, used by HCFA's office of direct reimbursement, ensures proper and timely payments to the facilities.

• Social Security Administration
Statement of care and responsibility for beneficiary
SSA–788
On occasion
Individuals or households
Individuals or institutions having custody of beneficiary
General retirement and disability insurance: 130,000 responses; 21,667 hours; $78,714 Federal cost; 1 form; not applicable under 3504(h)
Robert Neal, 202–395–6880

Section 205(j) of the Social Security Act provides for certification of payment to be made either to the applicant or to a relative or some other person acting on the applicant's behalf. This form is used to ensure payment to the proper representative payee when the beneficiary is in custody of that payee.

DEPARTMENT OF THE INTERIOR

Agency Clearance Officer—Vivian A. Keado—202–343–6191

Extensions (No Change)

- United States Fish and Wildlife Service

Fish applications for stocking purposes
3–1688
On occasion
Individuals or households
Individuals who have waters suitable for fish populations
Recreational resources: 30,000 responses; 5,000 hours; $8,000 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

The information obtained from the fish stocking application is needed to determine the eligibility of applicants who wish to obtain fish for stocking and the suitability of applicant's locations for maintaining a fish population. The information requested provides the service with the necessary data to prepare statistical analysis of fish populations.

Reinstatements

- Bureau of Land Management

Special recreation application and permit (long form)
8370–1
On occasion
Individuals or households/businesses of other institutions Commercial recreation operators
SIC: 799
Conservation and land management: 1,500 responses; 750 hours; $10,500 Federal cost; 1 form; not applicable under 3504 (h)
Robert Shelton, 202–395–7340

This form is an application and a permit for authorizing special recreation uses of the public lands administered by the Bureau of Land Management.

DEPARTMENT OF JUSTICE

Agency Clearance Officer—Larry E. Miesse—202–633–4312

Extensions (No Change)

- Office of Justice Assistance, Research and statistics

Exemplary and promising projects recommendation
COARS 2300/6
Annually
State or local governments
State and local criminal justice agencies
SIC: 922
Criminal justice assistance: 100 responses; 800 hours; $11,958 Federal cost; $8,000 public cost; 1 form; not applicable under 3504(h)
Andy Uscher, 202–395–4814

The exemplary projects program is a system of identifying outstanding criminal justice programs throughout the country, then publicizing and sharing successful experiences. This form is used to recommend such a program.

DEPARTMENT OF LABOR

Agency Clearance Officer—Paul E. Larson—202–523–6331

Revisions

- Employment and Training Administration

Monthly determinations, allowance activities and employability services under the Trade Act
ETA 563
Monthly
State or local governments
Reports prepared by state employment security agencies
SIC: 944
Unemployment compensation: 42,000 responses; 5,040 hours; $43,000 Federal cost; 1 form; not applicable under 3504(h)
Laverne V. Collins, 202–395–6880

To provide information on determinations, allowance payments, employment services and training under the Trade Adjustment Assistance Amendments of 1961. The report identifies key workload data on the delivery of TAA benefits to adversely affected workers.

- Employment and Training Administration

PSE participant outcome and termination data
ETA–RC40, ETA–RC40A
Monthly—Other—See SF83
State or local governments
State and local governments
SIC: 944
Training and employment: 13,811 responses; 3,448 hours; $23,886 Federal cost; 1 form; not applicable under 3504(h)
Laverne V. Collins, 202–395–6880

Data are needed to effectively monitor and manage the phaseout of public service employment and to provide management assistance to sponsors experiencing difficulty in transitioning participants into unsubsidized employment or training.

- Bureau of Labor Statistics

International price program—U.S. import product information
BLS 3007B, 3007C, 3008
Quarterly
Businesses or other institutions
Importers
SIC: All
Small businesses or organizations
Other labor services: 43,860 responses; 5,017 hours; $3,000,000 Federal cost; 3 forms; not applicable under 3504(h)
Statistical policy branch, 202–395–7313

In order to produce accurate measures of price change for U.S. imports and exports.

DEPARTMENT OF THE TREASURY

Agency Clearance Officer—Ms. Joy Tucker—202–634–5394

New

- Internal Revenue Service

Tax shelter questionnaire master recordings
DIR–DET 4–292
On occasion
Individuals or households/businesses or other institutions
All taxpayers who invest in a master recording tax shelter
SIC: All
Small businesses or organizations
Central fiscal operations: 1,500 responses; 1,125 hours; $62,347 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880.

The questionnaire has been devised with district counsel to properly develop each tax shelter case. Without this questionnaire, Internal Revenue Service may overlook pertinent areas of examination and will be unable to determine the taxpayer's intent for investing in the shelter.

- Internal Revenue Service

VITA Test (English)
6744
Annually
Individuals or Households
Gen. Vol., include col. students, mbrs of exis. retirmt, etc.
Central fiscal operations: 36,615 responses; 73,230 hours; $9,500 Federal cost; 1 form; not applicable under 3504 (h)
Irene Montie 202–395–6880

As part of the training program, all volunteers are requested to take a test at the end of the VITA/TCE course to insure that students have been adequately trained. It is a pass/fail system.

- Internal Revenue Service

CP notice 23 corrections to estimated tax and arithmetic (form 4602)

CP 23 4602
On occasion
Individuals or households
All individual taxpayers who filed estimated tax payments
Central fiscal operations: 407,000 responses; 135,531 hours; $2,429,659 Federal cost; 1 form; not applicable under 3504 (h) Irene Montie, 202-395-6880

Form 4602 is used to advise the taxpayer that there is a discrepency between the amount of estimated payments claimed on the income tax return and the amount we have credited to his account.

• Comptroller of the Currency
Adjustable-rate mortgages
Nonrecurring
Businesses or other institutions
National banks
SIC: 602
Small businesses or organizations
Other advancement and regulation of commerce: 20 responses; 80 hours; $4,140 Federal cost; 1 form not applicable under 3504 (h)
Irene Montie, 202-395-6880

The office's arm regulation—12 CFR Part 29—permits the offering on non-conforming payment-capped arms subject to office review. The submitted documents are reviewed to evaluate the bank's program protections against extreme payment volatility, provisions for timely repayment of the loan, and the adequacy of the accompanying disclosure documents.

• Internal Revenue Service
Request for wage information from employer after report to IRS from SSA
Letter 99C, 99SC, 99SC/SP
On occasion
Individuals or households/farms/businesses or other institutions
All employers paying wages subject to FICA tax
SIC: All
Small businesses or organizations
Central fiscal operations: 2,372 responses; 1,186 hours; $10,638 Federal cost; 3 forms; not applicable under 3504(h)
Irene Montie, 202-395-6880

Tax law requires employers to pay social security tax on certain wage payments made to employees. When the Social Security Administration advises the Internal Revenue Service that such payments have not been reported, this letter is sent to the employer. The information is used to determine whether wage payments were made, the amount of such payments, and whether tax is due.

• Internal Revenue Service
Availability statement for revenue agent positions
RCMW 1-727
Nonrecurring
Individuals or households
Applicants for Federal employment
Central fiscal operations: 1,800 responses; 144 hours; $1,822 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202-395-6880

The form is used to ascertain the applicant's geographic preference for appointment location. This facilitates certification to the appropriate appointing office.

• Internal Revenue Service
Explanation of income tax adjustments on employer's Federal tax return
4234
On occasion
Individuals or households/state or local governments/farms/businesses or other institutions
All employers required to withhold income taxes
SIC: All
Small businesses or organizations
Central fiscal operations: 135,000 responses; 67,500 hours; $744,197 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202-395-6880

An employer is allowed to use his/her current tax return to adjust the amount of income tax withheld in prior periods. Form 4234 allows us to break out the adjustment amount by tax period, and explains the reasons for the adjustments.

• Internal Revenue Service
Employer's statement to support claim under Federal Insurance Contributions Act
On occasion
Individuals or households/state or local governments/farms/businesses or other institutions
All employers
SIC: All
Small businesses or organizations
Central fiscal operations: 7,500 responses; 1,500 hours; $41,363 Federal cost; 2 forms; not applicable under 3504(h)
Irene Montie, 202-395-6880

An employer is required to ensure that the employee's share of FICA tax is properly accounted for prior to claiming a refund. When the refund claim does not contain an indication that this requirement has been met, we provide Form 5071 to the employer to obtain this certification.

• Internal Revenue Service
Special examining unit (SEU) recruitment form
MSC RM-27
On occasion
Individuals or households
Individuals taking civil service written examinations
Central fiscal operations: 6,000 responses; 1,998 hours; $2,243 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202-395-6880

NSC Form RM-27 is completed (in part) by individuals taking written civil service examinations. Since IRS uses it as a registration and control card, it asks for identifying information from the applicants. Examiners enter other information. MSC form RM-27 also gathers information to determine the best advertising media for employment opportunities.

• Internal Revenue Service
Pattern paragraph for group exemption letters
Annually
Businesses or other institutions
Tax-exempt organizations
SIC: Multiple
Small businesses or organizations
Central fiscal operations: 2,700 responses; 1,350 hours; $6,503 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202-395-6880

Parent organizations to whom a group exemption letter is issued must annually update the list of affiliates covered by the letter. Information regarding covered affiliates would otherwise have to be provided by them. For affiliates to be added, significantly less information is required than if those affiliates submitted separate applications for themselves.

• Internal Revenue Service
Caveat for conditional letters of exemption
1591(P)
Nonrecurring
Businesses or other institutions
Organizations seeking tax-exempt status
SIC: multiple
Small businesses or organizations
Central fiscal operations: 1,980 responses; 7,920 hours; $8,648 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202-395-6880

Generally, organizations with faulty organizational documents are not recognized as exempt unless and until they properly amend their faulty governing instruments. In exceptional cases, IRS will recognize the exempt status of an organization with a faulty governing instrument if the organization otherwise qualifies for exemption and

agrees to correct its governing instrument promptly. Letter 1591(p) is used for this purpose.

• Internal Revenue Service
Request for information to establish status as minister, member of religious group or Christian Science practitioner
B-01-b-04
Nonrecurring
Individuals or households
Ministers, members of religious orders
Central fiscal operations: 450 responses; 187 hours; $2,630 Federal cost; 2 forms; not applicable under 3504(h)
Irene Montie, 202-395-6880

The information is needed to determine whether a minister, member of a religious group or a Christian Science practitioner qualifies for exemption from self-employment tax. Data is used to determine if the exemption should be granted.

• Bureau of Government Financial Operations
Request for refund from banks (reclamations)
TFS 6536
Nonrecurring
Businesses or other institutions
Commercial and stock savings banks, mutual savings banks
SIC: 602, 603
Small businesses or organizations
Central fiscal operations: 209,128 responses; 104,564 hours; $86,420 Federal costs; $69,842 public cost; .1 form; not applicable under 3504(h)
Irene Montie, 202-395-6880

Request of refund from the presenting bank in the amount of the paid check when a forged, or otherwise unauthorized endorsement is determined to exist.

• Internal Revenue Service
Public affairs film transmittal notice
506-6-17 (Rev. 8-81)
On occasion
Businesses or other institutions
Civic clubs, church groups, schools and universities
SIC: 821, 822, 832, 839, 862, 864
Small businesses or organizations
Central fiscal operations: 25 responses; 4 hours; $269 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202-395-6880

The form is used to advise users of certain IRS films when such films are to be returned. It also requests information on the number of viewers of the films. The service needs the information to determine the effectiveness and audience reach of the films.

• Internal Revenue Service
Royalty owner's credit for overpaid windfall profit tax
6249-A
Annually
Individuals or households, farms/ businesses or other institutions
Individuals who qualify for the royalty owner credit
SIC: All
Small businesses or organizations
Central fiscal operations: 50,000 responses; 2,720 hours; $31,068 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202-395-6880

Form 6249-A is used by qualified royalty owners to claim a credit or refund of overpaid windfall profit tax. The IRS uses form 6249-A to verify if the roylty owner qualifies for the credit and that the amount is correctly computed.

• Internal Revenue Service
Request for information to determine if a worker is an employee for employment tax and income tax withholding purposes
A-03, A-04, A-08
On occasion
Individuals or households/farms/ businesses or other institutions
Employers and workers
SIC: All
Small businesses or organizations
Central fiscal operations: 1,500 responses; 713 hours; $10,025 Federal cost; 3 forms; not applicable under 3504(h)
Irene Montie, 202-395-6880

The information is used to supplement the information received on Form SS-8 for the IRS to determine whether a worker is an employee. The data is used to make this determination and assure that the employer is paying the correct amount of employment tax and withholding the correct amount of inome tax.

• Internal Revenue Service
Request for information to comply with the requirements of section 6110 of the code
5751
Nonrecurring
Individuals or households/businesses or other institutions
Taxpayers that request a letter ruling from IRS
SIC: All
Small businesses or organizations
Central fiscal operations: 825 responses; 210 hours; $3,030 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202-395-6880

The Information is needed to determine what deletions are to be made from a ruling request in order for it to be made available to the public under section 6110 of the code. Data is used to enable the IRS to make the ruling available to the public.

Revisions

• Internal Revenue Service
Information return with respect to controlled foreign corporations
2952
Annually
Businesses or other institutions/ individuals or houeholds
Any U.S. per. (indiv. or bus.) who cont. a foreign corp.
SIC: All
Small businesses or organizations
Central fiscal operations: 37,000 responses; 25,530 hours; $380,359 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202-395-6880

Form 2952 is required by the regulations under IRC secton 6038. It identifies a foreign corporation that is controlled by a U.S. person. Form 2952 is filed as an attachment to the U.S. persons income tax return. Form 2952 is used by IRS to identify the U.S. person and show transactions between the U.S. person and the corporation. 1.6038-2(a) of the regulations.

• Internal Revenue Service
Summary and transmittal of windfall profit tax information
6248T
Annually
Businesses or other institutions
Taxpayers who file form 6248
SIC: 131, 621, 651, 679, 492, 461
Small businesses or organizations
Central fiscal operations: 21,000 responses; 3,494 hours; $18,906 Federal cost; 1 form not applicable under 3504(h)
Irene Montie, 202-395-6880

This form is used to transmit forms 6348, annual information return of windfall profit tax—1980, to the IRS. (IRC Section 4997.) The information obtained in used to reconcile and total forms 6248.

• Internal Revenue Service
Depreciation
4562
Annually
Businesses or other institutions/ individuals or households/farms
Taxpayers claiming a deduction for depreciation
SIC: All
Small businesses or organizations
Central fiscal operation: 5,00,000 responses; 4,086,000 hours; $248,592 Federal cost; 1 form; not applicable under 3504 (h)
Irene Montie 202-395-6880

Form 4562 is used to report the depreciation deduction and to elect additional first-year depreciation. The

data is used to verify that the proper deduction has been taken.

• Internal Revenue Service
Computation of minimum tax-corporations and fiduciaries
4626
Annually
Farms/businesses or other institutions of tax pref.
SIC: All
Small businesses or organizations
Central fiscal operations: 5,000 responses; 3,325 hours; $80,581 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie 202-395-6880

Form 4626 is used by corporations and fiduciaries (trusts or estates) to calculate the minimum tax on items of tax preference that total $10,000 or more. The information collected is used to determine whether the correct minimum tax has been paid.

Extensions (Burden Change)

• Internal Revenue Service
Employer's annual Federal unemployment tax return
940, 940PR
Annually
Individuals or households/farms/businesses or other institutions (other than tax exem. or State and local government, etc.
SIC: All
Small businesses or organizations
Central fiscal operations: 4,829,000 responses; 10,105,556 hours; $13,915,087 Federal cost; 2 forms; not applicable under 3504(h)
Irene Montie 202-395-6880

Internal Revenue Code section 3301 imposes a tax on most employers based on the first $6,000 of annual wages paid to each employee. IRS uses the information to ensure that employers have reported and computed the correct FUTA (Federal Unemployment Tax Act) wages and FUTA tax.

• Internal Revenue Service
Statement for recipients of total distributions from profit-sharing, retirement plans and individual retirement arrangements
1099R
Annually
State or local governments/businesses or other institutions
Ent., such as insur. agen., banks, agents for pension, etc.
SIC: All
Small businesses or organizations
Central fiscal operations: 3,264,000 responses; 2,197,000 hours; $261,048 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie 202-395-6880

Form 1099R is used to report total distributions from profit-sharing, retirement plans, or individual retirement arrangements (IRC sections 402, 408, and 6047). This information helps the IRS verify income reporting compliance on the part of the recipient.

• Internal Revenue Service
Statement for recipients of interest income
1099-INT and 1087-INT
Annually
Individuals or households/businesses or other institutions
Banking, saving and loans, investment offices
SIC: 602, 603, 605, 612, 614, 672
Small businesses or organizations
Central fiscal operations: 256,255,000 responses; 24,124,000 hours; $3,698,444 Federal cost; 1 form not applicable under 3504(h)
Irene Montie 202-395-6880

The forms are used to report interest income paid, as required by IRC Section 6049. Form 1087-INT is used to report interest received as a nominess on behalf of another person. It tells the IRS who is responsible for reporting the income. Both are used to verify compliance on the part of the recipient.

Extensions (No Change)

• Bureau of Alcohol, Tobacco and Firearms
Airlines withdrawing stock from customs custody—copy of requisition.
ATF Rec 5620/2 plan
Other—See SF83
Businesses of other institutions
Commercial airlines
SIC: 592
Small businesses or organizations
Federal law enforcement activities: 6,500 responses; 1,083 hours; $1,000 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202-395-6880

Audit trail, accounting tool, protection of the revenue. Provides a record of amounts withdrawn used for export (nontax).

• Bureau of Alcohol, Tobacco and Firearms
Vinegar plants (records of wine received) records of daily operations
ATF Rec 5510/1
On occasion
Businesses or other institutions
Producers of vinegar
SIC: 209
Small businesses or organizations
Federal law enforcement activities: 190 responses; 47 hours; $50 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202-395-6880

Records of wine received, for and used in production of vinegar, all vinegar produced and disposed. These records of daily operation include receipts of vinegar produced and removed, quantity of low wines produced the quantity of distilling material used.

• Bureau of Alcohol, Tobacco and Firearms
Manufacturers of nonbeverage products (verification of records)
ATF Rec 5530/2
On occasion
Businesses or other institutions
Manufacturers of nonbeverage products
SIC: 289
Small businesses or organizations
Federal law enforcement activities: 107,550 responses; 10,755 hours; $100 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202-395-6880

Accounting tool, audit trail, protection of revenue, ensure appropriate tax has been paid and supporting documents verify records reflecting the distilled spirits.

• Internal Revenue Service
Claim of income tax return preparers
6118
On occasion
Businesses or other institutions
Income tax return preparers
SIC: 729
Small businesses or organizations
Central fiscal operations: 10,000 responses; 8,000 hours; $8,931 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202-395-6880

Form 6118 is used to file for refund of penalties overpaid by preparers. The information enables the service to process the claim and have the refund issued to the tax return preparers.

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—Christine Scoby—202-287-0793

New

• Data collection for the economic analysis of a nationwide urban runoff program
Nonrecurring
State or local governments/businesses or other institutions
NURP project staff, private consultants, and others
SIC: 739
Small businesses or organizations
Pollution control and abatement: 200 responses; 615 hours; $235,000 Federal cost; 1 form; not applicable under 3504(h)
Edward H. Clarke, 202-395-7340

Survey of public and business agencies in 10 urban areas to identify methods and costs of controlling urban stormwater runoff. This survey is conducted under authority of sections 208 and 211 of the Clean Water Act and the results will be incorporated into the 1983 report to Congress of the nationwide urban runoff program (NURP).

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Clearance Officer—Linda Shilkey—202–254–9515

New

- Certificate of labor standards compliance

FEMA 85–26
On occasion
State of local governments
State and local emergency management organizations
SIC: 919
Defense-related activities: 800 responses; 800 hours; $400 Federal cost; 800 forms; not applicable under 3504(h)
Robert Veeder, 202–395–4814

Form is needed and used to assure compliance by contractors and subcontractors under FEMA project grants with Federal labor standards where construction costs are in excess of $2,000.

- Applicant insurance certificate

HUD 9968
On occasion
Individuals or households
Victims of declared disasters
Disaster relief and insurance: 3,000 responses; 750 hours; $30,000 Federal cost; 1 form; not applicable under 3504(h)
Robert Veeder, 202–395–4814

This form is used to provide the agency with information concerning the extent of insurance coverage for temporary living expenses.

- Damage assessment for temporary housing assistance

FEMA 90–56
On occasion
State or local governments
Damage assessments
SIC: 919
Disaster relief and insurance: 3,000 responses; 3,000 hours; $60,000 Federal cost; 1 form; not applicable under 3504(h)
Robert Veeder, 202–395–4814

A damage assessment must be performed to determine the eligibility of each applicant.

FEDERAL HOME LOAN BANK BOARD

Agency Clearance Officer—Frank J. Crowne—202–377–6025

Revisions

- Beneficial ownership and proposed acquisitions under the Securities Exchange Act of 1934

Nonrecurring—on occasion annually
Businesses or other instutitions
Savings and loan associations
SIC: All
Mortgage credit and thrift insurance: 1,500 responses; 4,500 hours; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

15 U.S.C. S781(i) requires FHLBB to adopt "substantially similar regulations to those of the "Sec under SS1, M, N(a), (c), (d) and (f), and p of 15 U.S.C. S78 as regards securities of associations the accounts of which are insured by FSLIC. 15 U.S.C. S78B sets forth the necessity for regulation. In general, these provisions require appropriate public disclosure regarding the beneficial ownership of publicly held stock associations and in connection with proposed.

- Minority background survey questionnaire 79–2

OPM 1386
Nonrecurring
Individuals or households
Federal job applicants
Mortgage credit and thrift insurance: 1,000 responses; 167 hours; $556 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

This form is used to collect minority group data from applicants so that we can assess the effectiveness of recruitment efforts and the impact of selection procedures.

Extensions (Burden Change)

- Request for a service corp activity

Nonrecurring
Businesses or other institutions
Savings and loan industry
SIC: 999
Mortgage credit and thrift insurance: 2 responses; 4 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

12 CFR 543.1 and 544.2 require a Federal association to obtain bank board approval of any change in its charter which is not preapproved by regulation. The purpose of the charter amendment application is to evaluate whether there is a necessity for the proposed charter amendment, and whether the change could be accomplished under existing statutes, regulations and board policy.

- Request to amend Assoc charter

Nonrecurring
Businesses or other institutions
Savings and loan industry
SIC: 999
Mortgage credit and thrift insurance: 202 responses; 404 hours;
1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880.

12 CFR 543.1 and 544.2 requires federal associations to obtain bank board approval of any change in its charter which is not preapproved by regulation. The purpose of the charter amendment application is to evaluate whether there is a necessity for the proposed charter amendment, and whether the change could be accomplished under existing statutes, regulations and Board policy.

FEDERAL RESERVE SYSTEM

Agency Clearance Officer—Carolyn B. Doying—202–452–2983

Extensions (No Change)

- Application for municipal securities principal or municipal securities representative associated with a bank municipal securities dealer

FR MSD–4
Nonrecurring
Individuals or households/businesses or other institutions
Banks and per. desig. as municipal Sec. Prin. and repre., etc.
SIC: 602
General government: 103 responses; 309 hours; $3,500 Federal cost; $6,180 public cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

Filing application required of person associated with municipal securities dealer (MSD) bank and MSD prior to such person functioning in professional capacity. Verify compliance with municipal securities rulemaking board rules and related securities and banking laws. Source document for entry into interagency computer system of records.

NATIONAL CREDIT UNION ADMINISTRATION

Agency Clearance Officer—Mr. Troy Robinson—202–357–1202

New

- Insurance and group purchasing activities

FCU 2000
On occasion
Businesses or other institutions
Federal credit unions
SIC: 614
Small businesses or organizations
Mortgage credit and thrift insurance: 3,100 responses; 5,500 hours; $120,000

Federal cost: 1 form; not applicable under 3504(h)
Phillip T. Balazs, 202–395–4814

This regulation governs Federal credit union insurance and group purchasing activities. It represents a substantial deregulation permitting considerably greater latitude in the group purchasing area, some new requirements have been provided to assure reasonable protection of member interests. We estimate zero or minimum costs to Federal credit unions since all of the expenses a credit union may incur are reimbursable.

RAILROAD RETIREMENT BOARD

Agency Clearance Officer—Pauline Lohens—312–751–4692

Extensions (No Change)

- Statement of authority to act for employee

SI–10
On occasion
Individuals or households/businesses or other institutions
Applicants, personal physicians
SIC: 801
Small businesses or organizations
Multiple functions: 500 responses; 42 hours; $6,000 Federal cost; 1 form; not applicable under 3504(h)
Robert Neal, 202–395–6880

Under Section 5 of the Railroad Unemployment Insurance Act, if an individual awarded sickness benefits is incapable of signing documents and transacting business, payments shall be made on his behalf to a qualified individual. The application will obtain information needed for the board to select the individual who will serve in the best interest of the employee.

- Application for accrued benefits unpaid at death

UI–63
On occasion
Individuals or households
Claimants for accrued benefits under RUIA
Multiple functions: 600 responses; 70 hours; $7,300 Federal cost; 1 form; not applicable under 3504(h)
Robert Neal, 202–395–6880

Section 2 of the RUIA provides for payment of unemployment benefits accrued but not paid at the death of the employee to the same individual(s) who are entitled to the benefits paid under Section 6 of the RRA without further claim. The application will obtain information needed for paying the individual(s) entitled to the benefits are due under the RRA.

- Claim for sickness benefits due employee but not paid at death

SI–62
On occasion
Individuals or households
Claimants for accrued sickness benefits under RUIA
Multiple functions: 3,000 responses; 500 hours; $72,000 Federal cost; 1 form; not applicable under 3504(h)
Robert Neal, 202–395–6880

Section 2 of the RUIA provides for payment of sickness benefits accrued but not paid at the death of the employee to the same individual(s) who are entitled to the benefits paid under Section 6 of the RRA without further claim. The application will obtain information needed for paying the individual(s) entitled to the benefits when no benefits are due under the RRA.

SECURITIES AND EXCHANGE COMMISSION

Agency Clearance Officer—George B. Kundahl—202–272–2142

Extensions (No Change)

- Form 13F, report of institutional investment managers pursuant to Section 13(f) of the Securities Exchange Act of 1934

1685
Quarterly—Annually
Businesses or other institution
Certain institutional investment managers
SIC: Multiple
Other advancement and regulation of commerce: 3,200 responses; 99,000 hours; $12,002 Federal cost; $1,760,000 public cost; 1 form; not applicable under 3504(h)
Robert Veeder, 202–395–4814

Form 13(f) is made necessary by the statutory obligation of Section 13(f) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(f) and Rule 13f–1 thereunder (17 CFR 24C.13F–1)).

Arnold Strasser,

Acting Chief, Reports Management Branch.

[FR Doc. 81–28913 Filed 10–2–81; 8:45 am]

BILLING CODE 3110–01–M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

When executive departments and agencies proposed public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act (44 U.S.C., Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected;

Whether small businesses or organizations are affected;

A description of the Federal budget functional category that covers the information collection;

An estimate of the number of responses;

An estimate of the total number of hours needed to fill out the form;

An estimate of the cost to the Federal Government;

An estimate of the cost to the public;

The number of forms in the request for approval;

An indication of whether section 3504(h) of Pub. L. 96–511 applies;

The name and telephone number of the person or office responsible for OMB review; and

An abstract describing the need for and uses of the information collection.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained

from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Deputy Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—202–447–6201

Reinstatements

• Farmers Home Administration
National rural community facilities assessment study
Nonrecurring
State or local governments
Providers of community services and local officials
SIC: 494, 495, 922, 951, 963, 919
Area and regional development: 1,572 responses; 1,258 hours; $1,000,000 Federal cost; $237,643 public cost; 3 forms; not applicable under 3504(h)
Charles A. Ellett, 202–395–7340

Study is a sample survey of the condition and cost to bring all rural community facilities up to national standards.

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—202–377–3627

Revisions

• National Oceanic and Atmospheric Administration
Sea grant budget
NOAA 90–4
Annually
Businesses or other institutions
Colleges and other grantees
SIC: 822, 892
Other natural resources: 450 responses; 200 hours; $6,125 Federal cost; $2,000 public cost; 1 form; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

Information is needed to determine cost of each project of a multiproject proposal and to determine allowability of matching costs offered. Also, used in negotiating costs and administrative control of expenditures by both grantee and grantors. (Required by Pub. L. 94–461)

Extensions (Burden Change)

• National Oceanic and Atmospheric Administration
Application for commission in the NOAA corps
NOAA 56–42, 42A, 42C, and 42D
On occasion
Individuals or households
Individuals applying for commissions
Other natural resources: 200 responses; 200 hours; $15,000 Federal cost; $1,400 public cost; 4 forms; not applicable under 3504(h)
William T. Adams, 202–395–4814

Required in recruiting of officers for the NOAA corps. Applicants selected become commissioned officers of a uniformed service not civil service.

DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wenderoth—703–697–1195

New

• Department of the Army
Invitation for bids/proposals for leasing real property of the United States
Nonrecurring
Individuals or households/farms/businesses or other institutions
Indiv. and sml bus. leasing prop. for agri. and graz. pur. etc.
SIC: 021, 027, 029
Small businesses or organizations
Recreational resources: 12,000 responses; 3,000 hours; $300,000 Federal cost; 1 form; not applicable under 3504(h)
Andy Uscher, 202–395–4814

The bids and proposals furnished enable the Corps of Engineers to determine the highest bidder on a lease of government-owned real estate or the highest qualified purposes. Lease award is based on this determination.

DEPARTMENT OF EDUCATION

Agency Clearance Officer—Wallace McPherson—202–426–5030

New

• Office of Elementary and Secondary Education
Education consolidated grant application
ED 1000
Annually
State or local governments
State education agency
SIC: 821, 941
Elementary, secondary, and vocational education: 57 responses; 114 hours; $100,000 Federal cost; $1,140 public cost; 1 form; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

Each eligible jurisdiction must submit an annual application to the secretary as a precondition to receiving the authorized funds.

• Office of Educational Research and Improvement
High school and beyond first follow-up survey
ED (NCES) 2409–30A, B, C, 2409–33
Nonrecurring
Individuals or households/businesses or other institutions
Sopho and subsample of senios of 1980 who were elect., etc.
SIC: 821
Research and general education aids: 39,800 responses; 34,008 hours; $4,060,000 Federal cost; $145,371 public cost; forms; not applicable under 3504 (h)
Federal Education Data Acquisition Council, 202–426–5030

Data will be needed by various agencies within and outside of Department of Education in policy-related analyses in such areas as school effectiveness/excellence, quality of instruction, quality of educational opportunity, access to postsecondary education, student financial aid needs, vocational education, bilingual education, education for the handicapped, and relationships between education and career patterns.

DEPARTMENT OF ENERGY

Agency Clearance Officer—John Gross—202–633–9770

New

• Economic Regulatory Administration
Annual compilation of proposed and final list of utilities covered by PURPA and NECPA
ERA–750

Annually
State or local governments
State Regulatory authorities
SIC: 919
Energy information, policy, and regulation: 53 responses; 212 hours; $14,641 Federal cost; 1 form; not applicable under 3504(h)
Jefferson B. Hill, 202-395-7340

DOE publishes a list in the Federal Register of utilities to which Titles I, III of PURPA and Titles II, VII of NECPA apply. The information determines the accuracy of proposed list and is supporting evidence of those electric and gas utilities exceeding thresholds in PURPA and NECPA. Collection begins in October 1981.

DEPARTMENT OF JUSTICE

Agency Clearance Officer—Larry E. Miesse—202-633-4312

New

• Immigration and Naturalization Service
Supplemental qualifications statement immigration inspector, GS-5
G-777
On occasion
Individuals or households
Non-status candidated for entry level inspector positions
Federal law enforcement activities: 4,000 responses; 4,000 hours; $113,500 Federal cost; $40,000 public cost; 1 form; not applicable under 3504(h)
Andy Uscher, 202-395-4814

Office of Personnel Management has requested INS to conduct the competitive examinations for GS-5 immigration inspectors positions. Non-status candidates for these positions will be required to take this exam in lieu of the Pace exam.

DEPARTMENT OF LABOR

Agency Clearance Officer—Paul E. Larson—202-523-6331

Revisions

• Bureau of Labor Statistics
International price program—U.S. export product
Information
BLS 2894A, 2894B, 2894C, 2894D, 3008
Quarterly
Businesses or other institutions
Exporters
SIC: All
Small businesses or organizations
Other labor services: 41,280 responses; 4,616 hours; $3,000,000 Federal cost; 5 forms; not applicable under 3504(h)
Statistical Policy Branch, 202-395-7313

In order to produce accurate measures of price change for U.S. imports and exports.

DEPARTMENT OF THE TREASURY

Agency Clearance Officer—Ms. Joy Tucker—202-634-5394

New

• Internal Revenue Service
U.S. Mutual Insurance Company income tax return
1120M
Annually
Businesses or other institutions
Mutual insurance companies other than life insurance
SIC: 632, 633, 635, 637, 639
Small businesses or organizations
Central fiscal operations: 1,200 responses; 13,004 hours; $31,629 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202-395-6880

A mutual insurance company (other than a life insurance company and other than a fire, flood, or marine insurance company), uses this form to report its income and figure and pay tax. The data is used to verify that the income is properly reported and the correct tax is paid.

Revisions

• Internal Revenue Service
U.S. fiduciary income tax return and schs. on cap. gains and losses, trust alloc. of accum. dist., beneficiary share of inc. etc.
1041 sch D (1041) sch J (1041)
Annually
Businesses or other institutions/ individuals or households
Fiduciaries for estates and trusts
SIC: 673
Central fiscal operations: 5,941,984 responses; 9,962,521 hours; $5,369,206 Federal cost; 4 forms; not applicable under 3504(h)
Irene Montie, 202-395-6880

IRC Section 6012 requires that an annual income tax return be filed for estates and trusts. Section 6041 requires a return be filed reporting payments to recipients. The data is used to determine that the estates, trusts, and beneficiaries filed the proper returns and paid the correct tax.

• Internal Revenue Service
U.S. life insurance company income tax return
Insurance Co income tax return
1120L
Annually
Businesses or other institutions
Life insurance companies
SIC: 631, 632, 637
Small businesses or organizations
Central fiscal operations: 1,800 responses; 33,153 hours; $106,387 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202-395-6880

Life insurance companies are required to file an annual return of income and comute and pay any tax due. The data is used to ensure that companies have correctly reported taxable income and paid the correct tax.

1120L) is used to compute this alternative tax. The information

• Bureau of Government Financial Operations
List of states and other areas licensed to transact Surety Business on application date
TFS 2208A
On occasion
Businesses or other institutions
Comp. hldg cert. of auth. as accep. sureties on Fed. bonds
SIC: 616, 635, 639, 641, 671
Small businesses or organizations
Central fiscal operations: 20 responses; 2 hours; $359 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202-395-6880

This list is used to show the states in which a new insurance company is licensed to write surety bonds.

• Internal Revenue Service
U.S. Small Business Corporation Income Tax Return Capital Gains and Losses, and Shareholder's Share of Undistributed Taxable Income, Etc.—1981
Form 1120S, Sch. D (Form 1120S), Sch. K-1 (Form 1120S)
Annually
Farms/businesses or other institutions
Corp. that have elected to be a subchapter S corp, etc.
SIC: All
Small businesses or organizations
Central fiscal operations: 1,780,200 responses; 5,386,183 hours; $2,229,927 Federal cost; 3 forms; not applicable under 3504(h)
Irene Montie, 202-395-6880

Form 1120S, schedule D (form 1120S), and schedule K-1 (form 1120S) are used by a subchapter S corporation to figure its taxable income, undistributed taxable income, and other tax-related information. Copy B of schedule K-1 (form 1120S) is given to shareholders of the corporation to assist them in preparing their separate income tax returns. IRS uses the information to determine the correct tax.

Extensions (Burden Change)

• Bureau of Government Financial Operations
Federal Process Agent Appointments
TFS 6312
Annually
Businesses or other institutions

Cos. holding certificates of authority as accep. sureties
SIC: 616, 635, 639, 641, 671
Small businesses or organizations
Central fiscal operations: 300 responses; 30 hours; $11,494 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

This form is used by insurance companies to report the different U.S. judicial districts in which Federal process agents have been appointed.

• Bureau of Alcohol, Tobacco and Firearms
Application for Tax-Exempt Transfer of Firearm and Registration to Special Occupational Taxpayer
ATF F 3 (7560.3)
ATF F 4
On occasion
Businesses or other institutions
Taxpayers wishing to receive approval of NFA firearms regs.
SIC: 594
Small businesses or organizations
Federal law enforcement activities: 8,630 responses; 4,315 hours; $84,946 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

NFA requires a special taxpayer to submit this form and receive the approved copy prior to any disposition of a NFA firearm to another special taxpayer. Action transfers the firearm from the transferor to the transferee.

• Bureau of Alcohol, Tobacco and Firearms
Notice of Firearms Manufactured or Imported
ATF F 2 (7560.2)
On occasion
Businesses or other institutions
NFA licensed importers and manufacturers
SIC: 348, 504
Small businesses or organizations
Federal law enforcement activities: 1,890 responses; 945 hours; $37,452 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

NFA requires licensed importers and manufacturers to notify ATF on a daily basis when NFA firearms are imported or manufactured. This action registers the firearms in the NFRTR.

• Bureau of Alcohol, Tobacco and Firearms
Application for Tax-Paid Transfer and Registration of a Firearm
On occasion
Individuals or households/businesses or other institutions
Firearms dealers
SIC: 594
Small businesses or organizations
Federal law enforcement activities: 3,200 responses; 12,800 hours; $80,342 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

NFA requires this form to be submitted for the tax-paid transfer of a NFA firearm. Approval of the form transfers registration from the seller to the buyer (transferee).

• Bureau of Alcohol, Tobacco and Firearms
• Application and Permit for Permanent Exportation of Firearms
AFT Form 9 (7560.9)
On occasion
Businesses or other institutions
Firearms exporters
SIC: 504
Small businesses or organizations
Federal law enforcement activities: 130 responses; 455 hours; $3,984 Federal cost; 1 form; not applicable under 3504 (h)
Irene Montie, 202–395–6880

Form is submitted by a business entity that exports a firearm. When approved and satisfactory proof of exportation is supplied to ATF, the exporter is exempt from the $200 transfer tax on each firearm exported. Also, it serves to amend the records in the NFRTR to reflect the exportation.

• Bureau of Alcohol, Tobacco and Firearms
Application for Tax-Exempt Transfer and Registration of Firearms
ATF F 5 (7560.5)
On occasion
Individuals or households/State or local governments/businesses or other institutions
Firearms dealers or private citizens
SIC: 965
Federal law enforcement activities: 3,580 responses; 10,740 hours; $55,472 Federal cost; 1 form; not applicable under 3504 (h)
Irene Montie, 202–395–6880

NFA requires this form to be submitted for the tax-exempt transfer of a NFA firearm. Approval of the form amends the records in the NFRTR to show the transferee as the registered owner.

• Internal Revenue Service
United States Estate Tax Return
Form 706
Nonrecurring
Individuals or households/businesses or other institutions
Estates of decedents who were U.S. citizens or residents
SIC: 601 602 603 604 605 611
Small businesses or organizations
Central fiscal operations: 151,000 responses; 4,236,909 hours; $2,145,450 Federal cost; 1 form; not applicable under 3504 (h)
Irene Montie, 202–395–6880

Form 706 is used to report and compute the fFderal estate tax imposed by IRC sections 2001–2057. The form is required by code section 6018.

IRS uses the information to enforce this tax by verifying that the tax has been properly computed.

Extensions (No Change)

• Bureau of Alcohol, Tobacco and Firearms
Quarterly Firearms Manufacturing and Exportation Report
ATF F 4483–A (5300.11)
Quarterly
Businesses or other institutions
Firearms manufacturers/exporters
SIC: 348
Small businesses or organizations
Federal law enforcement activities: 2,000 responses; 2,000 hours; $2,745 Federal cost; 1 form; not applicable under 3504 (h)
Irene Montie, 202–395–6880

Used to collect statistics on the domestic manufacture and exportation of firearms. Form is the only vehicle which provides the Government with an accurate total of firearms manufactured in the U.S.

• Bureau of Government Financial Operations
Form Letter for Confirmation of Time Deposit Accounts, Demand Deposit, and Treasury General Account Balances
None
Annually
Businesses or other institutions
Banks and institutions closely related to banking
SIC: 602, 603, 605, 612, 614
Small businesses or organizations
Central fiscal operations: 530 responses; 233 hours; $4,386 Federal cost; 1 form; not applicable under 3504 (h)
Irene Montie, 202–395–6880

This computer-produced form letter is used to obtain confirmation of certain account balances maintained by depositaries covered by Treasury Department circular No. 176.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Clearance Officer—Thomas P. Goggin—202–634–6983

Extensions (Burden Change)

• Recordkeeping Requirements Under the Equal Pay Act

On occasion
Businesses or other institutions/State or local governments/farms
Employers covered by Fair Labor Standards Act of 1938
SIC: Multiple
Federal law enforcement activities: 1 response; 0 hour; $0 Federal cost; 1 form; not applicable under 3504 (h)
Laverne V. Collins, 202–395–6880

Required by Equal Pay Act of 1963 and enacted as subsection 6 (D) of the Fair Labor Standards Act of 1938, as amended. Employers, employment agencies, and labor organizations which are subject to the act are required to maintain certain records. The data are needed in order that the EEOC may enforce the provisions of the Equal Pay Act.

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Clearance Officer—Panos Konstas—202–389–4481

Extensions (Burden Change)

• Certified Statement
6420/07, 6420/11, 6420/10, 6400/01
Semiannually
Businesses or other institutions
All FDIC insured commercial and mutual savings banks.
SIC: 602, 603
Small businesses or organizations
Mortgage credit and thrift insurance: 29,500 responses; 14,750 hours; $38,785 Federal cost; 1 form; $147,500 public cost; not applicable under 3504 (h)
Irene Montie, 202–395–6880

These forms are the vehicles for the computation and collection of assessments due from all FDIC insured banks for the deposit insurance protection given each depositor.

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Clearance Officer—Linda Shiley—202–254–9515

New

• Post Construction Elevation Certificate/Floodproofing Certificate
On occasion
State or local governments
State or local government
SIC: 919
Disaster relief and insurance: 18,000 responses; 3,000 hours; $3,750 Federal cost; 1 form; not applicable under 3504 (h)
Robert Veeder, 202–395–4814

The National Flood Insurance program regulations require the elevation of floodproofing of structures to the designated flood elevation.

FEDERAL HOME LOAN BANK BOARD

Agency Clearance Officer—Frank J. Crowne—202–377–6025

Revisions

• Thrice-Monthly Survey of Deposit Balances by Type
Other—See SF 83
Businesses or other institutions
FSLIC-Insured Savings and Loan Associations
SIC: 612
Mortgage credit and thrift insurance: 8,640 responses; 5,789 hours; $20,752 Federal cost; 1 form; not applicable under 3504 (h)
Irene Montie, 202–395–6880

Only means of monitoring volume and structure of deposit flows at associations between monthly reports. Used for determining and projecting deposit trends that may require changes in FHLBB credit and regulatory policy. Used by FRB for preliminary estimates of the monetary aggregates used in establishing monetary policy.

Extensions (burden change)

• Consumer Complaints
On occasion
Individuals or households/businesses or other institutions insured Sav. & Loan Assoc. Indiv. Comp.
SIC: 612
Mortgage credit and thrift insurance: 10,000 responses; 20,000 hours; $19,000 Federal cost; 1 form; $200,000 public cost; not applicable under 3504 (h)
Irene Montie, 202–395–6880

Investigation of consumer complaints based entirely on the consumer's request for assistance. Bank board requests and institutions provide information and in turn, bank board responds to consumer. (Consumers infrequently use the bank board's complaint form per se)

FEDERAL RESERVE SYSTEM

Agency Clearance Officer—Carolyn B. Doying—202–452–2983

Extensions (burden change)

• Community Reinvestment Act Questionnaire
FR–1283
On occasion
Businesses or other institutions
State member banks
SIC: 602
Small businesses or organizations
General government: 883 responses; 662 hours; $2,015 Federal cost; 1 form; $16,550 public cost; not applicable under 3504 (h)
Irene Montie, 202–395–6880

As part of a compliance examination an officer of the State member bank is asked to complete this questionnaire regarding the bank's efforts to serve the credit needs of its local community. This is used by examiners to assess and rate the bank's performance relative to the Community Reinvestment Act.

• Officer's Questionnaire
FR 410–OQ CA 12/78(R)
On occasion
Businesses or other institutions
State member banks
SIC: 602
Small businesses or organizations
General government: 883 responses; 88 hours; $15 Federal cost; 1 form; $2,200 public cost; not applicable under 3504 (h)
Irene Montie, 202–395–6880

As part of a compliance examination, an officer of the State member bank is asked to fill out and sign this questionnaire regarding past, present or potential lawsuits (including out-of-court settlements) the bank has been involved in regarding consumer credit protection laws or regulations.

NATIONAL FOUNDATION ON THE ARTS

Agency Clearance Officer—D. Keith Stephens—202–634–6160

New

• Basic State Grant Application Narrative Format
Annually, biennially
State or local governments
State arts agencies
SIC: 919
Research and general education aids; 36 responses; 576 hours; $2,008 Federal cost; 1 form; not applicable under 3504 (h)
Diane Wimberly, 202–395–6880

Requested information is needed to enable the endowment to determine whether applicants meet eligibility requirements and criteria for funding, to enable the endowment to determine whether applicants should be funded on a multi-year basis, and to provide basic information about State arts agencies necessary for the normal functioning of the endowment.

OFFICE OF PERSONNEL MANAGEMENT

Agency Clearance Officer—John P. Weld—202–632–7737

Revisions

• PATC—LOB Spring 1982 Survey
BLS 3111A thru 3111E
Annually
Businesses or other institutions
Private businesses with over 100 employees
SIC: MVL 152, 161, 162, 171, 393, 411, 581, 541, 531

Small businesses or organizations
Central personnel management: 1,500 responses; 3,750 hours; $1,000,000 Federal cost; 5 forms; not applicable under 3504(h)
Robert Veeder, 202–395–4814

This questionnaire is part of OPM's program to develop a total compensation comparability system in support of the "Federal Pay Comparability Reform Act of 1981." The survey results will be used to make total compensation adjustments for Federal employees in the following year if proposed legislation is enacted.

Extensions (burden change)

- Notify us if Your Child is Unable to Quality for Survivor Benefits

BRI 49–235A
On occasion
Individuals or households
Survivor annuitants (students)
Federal employee retirement and disability: 2,000 responses; 167 hours; $33,060 Federal cost; 1 form; not applicable under 3504(h)
Robert Veeder, 202–395–4814

This form is used to inform OPM of changes in a child's status which would make him or her ineligible for annuity payments in order to avoid an overpayment of annuity and the resulting recovery actions.

SECURITIES AND EXCHANGE COMMISSION

Agency Clearance Officer—George G. Kundahl—202–272–2142

New

- Form SR, Sales of Securities and Use of Proceeds Therefrom

Sec 1809
On occasion
Businesses or other institutions
Iss. offering sec. to the pub. pursuant to a regist., etc.
SIC: Multiple
Small businesses or organizations
Other advancement and regulation of commerce: 529 responses; 3,174 hours; $8,187 Federal cost; 1 form; $163,990 public cost; not applicable under 3504(h)
Robert Veeder, 202–395–4814

Form SR elicit information from first-time issuers concerning the progress of their offering and the use of proceeds therefrom in order that the Commission may monitor compliance with prospectus delivery and updating requirements and investors and the Commission may determine whether the proceeds are used in the manner described in the prospectus.

- Family of Form U–1, Amend. Thereto, (17 CFR 259.101, 17 CFR 250.20(C)), Filings Containing Data Following U–1 (17 CFR 259.501), Req. for hearings

1476
Other-see SF83
Businesses or other institutions
Util Hldg Cos. subj to Pub Util Hldg Co. Act and Elec., etc.
SIC: 491 492 493
Other advancement and regulation of commerce: 300 responses; 78,300 hours; $597,000 Federal cost; 1 form; $2,803,424 public cost; not applicable under 3504(h)
Robert Veeder, 202–395–4814

This family of information requests is needed to meet statutory filing requirements and to provide a legally required record upon which determinations under the Holding Company Act can be made. Included in this family is an "Information Request" which permits companies to claim exemption from rules while a filing is pending.

- Reports of

Authorized Under the Act
Monthly
Businesses or other institutions
Cos. their subsidiaries and other persons, etc.
SIC: 491 492
Other advancement and regulation of commerce: 420 responses; 500 hours; $2,010 Federal cost; 1 form; $7,250 public cost; not applicable under 3504(h)
Robert Veeder, 202–395–4814

Rule 24 requires certification to the commission within 10 days or such other time period as specified by order, after the consummation of any authorized transaction that such transaction has been carried out in accordance with the terms and conditions of the Order. This submittal ensures that the commission's order has been complied with.

- Non-Disclosure of Information Filed With the Commission and With any Exchange (17 CFR 240.24B02)

Rule No. 17 CFR 240.24B2
On occasion
Businesses or other institutions
Any person who files a document pursuant to the act and req. etc.
SIC: Multiple
Small businesses or organizations
Other advancement and regulation of commerce: 165 responses; 83 hours; $2,785 Federal cost; 1 form; $4,125 public cost; not applicable under 3504(h)
Robert Veeder, 202–395–4814

Under 24 of the Securities Exchange Act of 1934 (The "Act"), it is unlawful for the Commission to release information in contravention of the Freedom of Information Act (5 U.S.C. 552) or the Commission's rules thereunder. Rule 24B–2, adopted in 1976, is designed to provide the Commission with information necessary to enable it to determine whether information filed in various documents should be withheld from disclosure.

- Application for Extension of Unlisted Trading Privileges

Rules 12F–1 (17 CFR 240.12F–1)
Rule No. 17 CFR 240.12F–1
On occasion
Businesses or other institutions
National Securities Exchanges
SIC: 623
Small businesses or organizations
Other advancement and regulation of commerce: 670 responses; 670 hours; $11,390 Federal cost; 1 form; $27,470 public cost; not applicable under 3504(h)
Robert Veeder, 202–395–4814

Under Section 12(F) of the Securities Exchange Act of 1934 ("Act") a National Securities Exchange may apply to the Commission for unlisted trading privileges in a security. The information required by rule 12F–1, adopted in 1934, is designed to provide the Commission with information necessary for it to make the required statutory findings in order to approve the application.

- Initial Fees for SECO Broker-Dealers and Associated Persons (17 CFR 240.15B9–1 (A) and (B), and Form SECO–5 (17 CFR 249.505)

Rule No. 17 CFR 240.15B9–1(A) and SECO–5
Nonrecurring
Businesses or other institutions
Securities brokers and dealers
SIC: 621
Small businesses or organizations
Other advancement and regulation of commerce: 125 responses; 42 hours; $4,200 Federal cost; 1 form; $875 public cost; not applicable under 3504(h)
Robert Veeder, 202–395–4814

Rule 15B9–1, adopted in 1967, requires broker-dealers not members of a securities association to register as SECO firms with the Commission by filing form SECO–5 (adopted in 1966) and paying the prescribed fee.

- Notice of Non-Compliance With Turnaround Standard (17 CFR 240.17AD–2 (C), (D) and (H) Rule No. 17 CFR 240.17AD–2 (C), (D), and (H)

Monthly
Businesses or other institutions
Registered Transfer Agents
SIC: 628
Small businesses or organizations
Other advancement and regulation of Commerce: 7 responses; 4 hours; $480

Federal cost: $105 public cost: 1 form; not applicable under 3504(h)
Robert Veeder, 202–395–4814

A notice filed under rule 17AD02 (c), (d) and (h) adopted June 16, 1977, is needed to inform the appropriate regulatory agencies ("ARA's") (see 3(a)(34)(b) of the Exchange Act) of the failure to meet the minimum performance standards of the Commission's rules. The notice is used (1) to alert the ARA of the need to monitor the situation and (2) to allow an ARA to take appropriate remedial action, if necessary.

• Records of Non-Resident Brokers and Dealers. Rule 17A–7
(17 CFR 240.17A–79)
Rule No. 17 CFR 240.17A–7
Nonrecurring
Businesses or other institutions
Non-resi. broker-dealers reg. with the Comm., etc.
SIC: 621
Other advancement and regulation of Commerce: 1 response; 1 hour; $70 Federal cost; $70 public cost; 1 form; not applicable under 3504(h)
Robert Veeder, 202–395–4814

Rule 17A–7 was adopted in 1956 and requires foreign broker-dealers registering or registered with the Commission to maintain copies of their books and records in the United States or to file an undertaking agreeing to make them available upon request.

• General Requirements as to Form and Content of Application
Statements and reports under the Trust Idenure Act of 1939
17 CFR 260.7A–15–260.7A–37
On occasion
Businesses or other institutions
Iss. of debt sec in pub ofrg & ident trustees for sec hldrs
SIC: Multiple
Other advancement and regulation of Commerce: 1 response; 1 hour; $1,000 Federal cost; 1 form; not applicable under 3504(h)
Robert Veeder, 202–395–4814

The rules set forth the general requirements relating to the applications, statements and reports that must be filed under the 1939 act by issuers and trustees qualifying indentures under the 1939 act for offerings of debt securities.

Revisions

Voluntary Survey of Private Noninsured Pension Plans
1266 R–4A
Quarterly
Businesses or other institutions
Private noninsured pension funds
SIC: 602
Other advancement and regulation of Commerce: 400 responses; 1,600 hours; $20,655 Federal cost; $25,000 public cost; 1 form; not applicable under 3504(h)
Robert Veeder, 202–395–4814

These data are used to estimate the quarterly assets and common stock transactions of private noninsured pension funds, an important group of institutional investors. Such data are unavailable from alternative sources, but are necessary for analysis of trends in institutional investment and the flow of funds in the economy.

Arnold Strasser,

Acting Chief, Reports Management.

[FR Doc. 81–28864 Filed 10–2–81; 8:45 am]

BILLING CODE 3110–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 18129; SR–CBOE–81–7]

Chicago Board Options Exchange, Incorp.; Order Approving Proposed Rule Change

September 29, 1981.

On April 27, 1981, the Chicago Board Options Exchange, Incorporated ("CBOE"), LaSalle at Jackson, Chicago, Illinois 60606, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act") and Rule 19b–4 thereunder, a proposed rule change to increase position and exercise limits for options on Government National Mortgage Association pass-through securities ("GNMAs")[1] from 1,000 to 2,000 contracts.[2]

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exhange Act Release No. 17768 (May 4, 1981)) and by publication in the **Federal Register** (46 FR 26209 (May 11, 1981)).[3] No comments were received directly by the Commission with respect to the proposed rule change, although the CBOE forwarded to the Commission a letter received from a prominent dealer in the GNMA cash market suggesting that, while a 1,000 contract limit may be adequate to enable mortgage bankers to hedge the risks associated with the production of GNMA pools, the ceiling is too low to accommodate the hedging needs of many institutional investors and as a consequence would discourage institutional participation.[4] In addition, several commentators in responding to the CBOE's initial position and exercise limit proposals indicated that 1,000 contracts may be too restrictive for certain market participants.[5]

The Commission views position and exercise limit rules principally as regulatory devices designed to minimize the manipulative potential inherent in large options positions and to diminish the possibility that options trading activity could cause dislocation in the underlying market. At the same time, the Commission is cognizant that the viability of an options market, particularly a market for debt security options, may be contingent upon attracting sufficient institutional and professional participation.

Since the CBOE has not yet commenced trading in GNMA options, actual trading experience is not available as a basis for projecting the prospective impact of the proposed position and exercise limits.[6] The Commission believes, however, that given the size of the underlying GNMA cash market relative to the proportion of that market potentially could be

[1] The CBOE's rules governing its GNMA options program including the position and exercise limit rules were approved by the Commission in Securities Exchange Act Release No. 17577 (February 26, 1981), 46 FR 15242 (March 4, 1981). CBOE has not yet begun trading in GNMA options.

[2] CBOE Rule 20.3 currently provides that no member of the exchange shall enter into a GNMA options transaction for its own account, for an account in which it has an interest, or for the account of a customer, if the member has reason to believe that it or the customer, acting alone or in concert with others, as a result of the transaction would have an aggregate position in puts and calls on the same side of the market in excess of 1,000 contracts. CBOE Rule 20.4 imposes a comparable prohibition against the exercise of more than 1,000 contracts in either GNMA put or call options within a period of five consecutive business days.

[3] The proposed rule change also includes a change in the text of CBOE Rule 20.4 relating to exercise limits to clarify that puts and calls are *not* aggregated for exercise limit purposes (*i.e.*, up to 2,000 put option contracts and 2,000 call option contracts can be exercised within the span of five consecutive business days). *See* letter to Gene E. Carasick, Assistant Director, Division of Market Regulation, from Anne Taylor, Secretary and Associate General Counsel, CBOE (July 29, 1981).

[4] Letter to Walter Auch, Chairman, CBOE, from Richard G. Rosenthal, General Partner, Salomon Brothers (April 15, 1981).

[5] *See, e.g.*, letter to George A. Fitzsimmons, Secretary, SEC, from Robert L. Shomaker, Vice Chairman, Mortgage-Backed Securities Division, Public Securities Association (November 5, 1980); letter to Douglas Scarff, Director, Division of Market Regulation, SEC, from Stephen H. Axilrod, Staff Director for Monetary and Financial Policy, Board of Governors of the Federal Reserve System (November 5, 1980).

[6] Of course, once GNMA options trading commences, the Commission in conjunction with the CBOE intends to monitor trading activity closely and, if necessary, will take the necessary measures to modify the position and exercise limits accordingly.

controlled by a single options market participant, the proposed increase would not contribute materially to the potential for manipulative abuse of the GNMA options market or to the possibility of price dislocation in the GNMA cash market.[7] Moreover, there appears to be a significant likelihood that the proposed increases would contribute to market liquidity. Accordingly, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

It Is Therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-29669 Filed 10-2-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11962; 812-4816]

Fidelity Fund, Inc., et al.; Filing of Application

September 29, 1981.

In the Matter of Fidelity Fund, Inc., Fidelity Puritan Fund, Inc., Fidelity Trend Fund, Inc., Fidelity Equity-Income Fund, Inc., Fidelity Contrafund, Inc., Fidelity Congress Street Fund, Inc., Fidelity Magellan Fund, Inc., Fidelity Destiny Fund, Inc., Fidelity Corporate Bond Fund, Inc., Fidelity Daily Income Trust, Fidelity Thrift Trust, Fidelity High Income Fund, Fidelity Asset Investment Trust, Fidelity Money Market Trust, Fidelity Cash Reserves, Fidelity Triad Fund, Inc., Fidelity Exchange Fund, Fidelity Municipal Bond Fund, Inc., Fidelity Limited Term Municipals, Fidelity High Yield Municipals, Fidelity Tax-Exempt Money Market Trust, Fidelity Government Securities Fund, Ltd., Fidelity Qualified Dividend Fund, Fidelity Select Portfolios and Fidelity Ready Cash Fund and Fidelity Management & Research Company.

Notice is hereby given that Fidelity Fund, Inc., Fidelity Puritan Fund, Inc., Fidelity Trend Fund, Inc., Fidelity Equity-Income Fund, Inc., Fidelity Contrafund, Inc., Fidelity Congress Street Fund, Inc., Fidelity Magellan Fund, Inc., Fidelity Destiny Fund, Inc., Fidelity Corporate Bond Fund, Inc., Fidelity Daily Income Trust, Fidelity Thrift Trust, Fidelity High Income Fund, Fidelity Asset Investment Trust, Fidelity Money Market Trust, Fidelity Cash Reserves, Fidelity Triad Fund, Inc., Fidelity Exchange Fund, Fidelity Municipal Bond Fund, Inc., Fidelity Limited Term Municipals, Fidelity High Yield Municipals, Fidelity Tax-Exempt Money Market Trust, Fidelity Government Securities Fund, Ltd., Fidelity Qualified Dividend Fund, Fidelity Select Portfolios and Fidelity Ready Cash Fund ("Funds"), 82 Devonshire St. Boston, Massachusetts 02109 each of which is registered under the Investment Company Act of 1940 ("Act") as an open-end, management investment company, and Fidelity Management & Research Company ("FMR"), the Funds' investment adviser (collectively, "Applicants"), filed an application on February 2, 1981, and amendments thereto on June 18, 1981, and July 27, 1981, requesting an order of the Commission pursuant to Section 17(d) of the Act and Rule 17d-1 thereunder permitting the arrangement hereinafter described. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that the Funds comprise the funds of the Fidelity Group of Funds, and that those Funds which presently invest in repurchase agreements (which are all of the Funds in the Fedility Group of Funds except those Funds which invest in tax-exempt securities and Fidelity Government Securities Fund, Ltd., which invests only in securities issued by the U.S. Government, its agencies or instrumentalities or commitments to purchase such securities on a "when-issued" basis) had as of May 31, 1981, total net assets of $8,928,200,662. Applicants state that those Funds which do not presently invest in repurchase agreements are joining in this Application in anticipation that they may wish to do so in the future and that, in this regard, statements with respect to the practices and wishes of the Funds should be read to include only those Funds which presently invest in repurchase agreements where the context so requires. Applicants state that all of the Funds have currently effecive registration statments under the Act, although not all of the Funds are currently offering their shares for sale to the public. In addition, each of the Funds has entered into an Advisory and Service Contract with FMR pursuant to which FMR provides investment advice and management services to the Fund.

Applicants state that each of the Funds, has, or may be expected to have, uninvested cash balances at the end of each trading day which in the normal course are or would be invested in overnight repurchase agreements with a bank or major brokerage house in order to earn additional income for the Fund. Applicants are seeking permission to deposit these cash balances, which are presently invested daily in individual repurchase agreements, into a single joint account the daily balance in which would be used to enter into one or more large repurchase agreements in a total amount equal to the aggregate daily balance in the account.

According to the Application, the repurchase desk operated by FMR on behalf of the Funds currently begins at 8:45 a.m. negotiating the interest rate for repurchase agreements for that day and lining up the U.S. government obligations required as collateral, the estimated amount of the required collateral being based on the figures for repurchase agreements entered into on the previous trading day. Through continuous communication with the portfolio managers of the various Funds, the trading desk is in a position to start placing definitive East coast orders between 10:30 a.m. and 12:30 p.m. Since any one of the Funds may engage in portfolio trades up to the close of business in the securities markets in which securities in which it invests are traded, it is usually necessary to enter into West coast repurchase agreements on a daily basis which are available up to 3:00 p.m. Occasionally, in unusual circumstances, an East coast repurchase agreement may be entered into as late as 3:00 p.m.

Each repurchase agreement is made by calling a bank, a non-bank government securities dealer or a major brokerge house and indicating the rate of interest and size of the desired repurchase agreement. Particular U.S. government obligations are then identified and the Fund custodian is notified. The securities are either wired to the account of the Fund custodian at the Boston Federal Reserve Bank, transferred to a sub-custodian account of the Fund at the particular bank

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[7] As of the end of 1980, the aggregate principal amount of GNMA certificates outstanding was $91.6 billion, an increase of $17.1 billion over the end of 1979 and $38.9 billion over 1978. *Federal Reserve Bulletin*, Table A39 (June 1981). On this basis, position and exercise limits of 2,000 contracts would permit a single market participant to control or acquire only approximately 0.2 percent of the GNMA certificates outstanding. Even assuming that a substantial portion of the deliverable supply is unavailable or economically unsuitable for delivery, the maximum attainable position in GNMA options would not be excessive.

entering into the repurchase agreement if that bank is a non-Boston bank or segregated on the records of the bank if it is the custodian bank of the Fund entering into the repurchase agreement. The procedure occurs on almost every trading day for each of the nineteen Funds which presently enter into repurchase agreements. Applicants state that the usual administrative charge (which is a processing fee only and not related to the size of the transaction) by a custodian bank for processing a repurchase agreement is approximately $12.00 per transaction, that during the twelve months ended October 31, 1980, there were 247 business days on which the Funds invested in an aggregate of 5704 repurchase agreements with total transaction charges of $68,436, and that during this same period the average total amount invested daily in repurchase agreements by all Funds approximated $215,000,000. Applicants further state that if the proposed joint account had been in place and assuming that daily balances in the account were invested in an average of four repurchase agreements per business day, the total transaction cost would have amounted to $11,856, an aggregate saving of $56,580.

Applicants state the proposed joint account would operate as follows:

a. A separate custodian cash account, or where necessary because the bank holding the account would not be acting as custodian for a particular Fund, a sub-custodian cash account, would be established into which each Fund would cause its daily net cash balances to be deposited daily. Each Fund which has as custodian a bank other than the bank at which the proposed joint account would be maintained would appoint the later bank as a sub-custodian for the limited purpose of receiving cash for deposit into the proposed joint account.

b. Cash in the joint account would be invested solely in repurchase agreements collateralized by U.S. government obligations, i.e., obligations issued or guaranteed as to principal and interest by the government of the U.S. or by any of its agencies or instrumentalities ("U.S. Government Obligations").

c. All investments held by the joint account would be valued on an amortized cost basis.

d. Each Fund subject to an exemptive order permitting valuation of portfolio securities on the basis on the amortized cost valuation method would use the average maturity of the joint account for the purpose of computing the Fund's average portfolio maturity.

e. In order to assure that there would be no opportunity for one Fund to use any part of a balance of the joint account credited to another Fund, no Fund would be allowed to create a negative balance in the joint account for any reason, although it would be permitted to draw down its entire balance at any time.

f. Each Fund would participate in the income earned or accured in the joint account on the basis of the percentage of the total amount in the account on any day represented by its share of the account.

g. FMR would administer the investment of the cash balances in and operation of the joint account as part of its duties under its exiting or future Advisory and Service Contract with each Fund and the administration of the joint account would be within the fidelity bond coverage required by Section 17(g) of the Act.

Section 17(d) of the Act and Rule 17d–1 taken together provide, among other things, that it shall be unlawful for any affiliated person of or principal underwriter for a registered investment company or any affiliated person of such a person or principal underwriter, acting as principal, to participate in, or effect any transaction in connection with any joint enterprise or other joint arrangement or profit sharing plan in which any such registered company, or a company controlled by such registered company, is a participant unless an application relating thereto has been granted by an order of the Commission. In passing upon such an application, the Commission will consider whether the participation of such registered or controlled company in such joint enterprise, joint arrangement or profit sharing plan on the basis proposed is consistent with the provisions, policies and purposes of the Act, and the extent to which such participation is on a basis different from, or less advantageous than that of other participants.

Applicants state that each Fund, by participating in the proposed joint account, and FMR, by managing the proposed joint account, could be deemed to be "a joint participant" "in a transaction" within the meaning of Section 17(d)(1) of the Act and that the proposed account could be deemed to be a "joint enterprise or other joint arrangement" within the meaning of Rule 17d-1 under the Act. Although each Fund does not believe that it is an "affiliated person" of any other Fund, since FMR is the investment adviser of each Fund and the same persons are directors, trustees or managing partners, as the case may be, and principal officers of each Fund, each Fund might be deemed an "affiliated person" of each other Fund under the definition set forth in Section 2(a)(3) of the Act. In addition, while FRM asserts that it does not believe that it would be participating as a principal in a "joint enterprise or other joint arrangement" in effecting transactions on behalf of the Funds in Connection with operation of the proposed joint account, under the circumstances the Funds and FMR state that they believe it is appropriate to file the Application in order to eliminate any doubts as to the legality of their participation in the proposed joint trading account.

Applicants state that the proposed joint trading account would not be distinguishable from any other custodian cash or securities account maintained by a Fund, except that monies from the Fund could be deposited in it on a commingled basis, so that it would not have any separate existence which would have indicia of a separate legal entity. Applicants further state that each Fund would automatically transfer its uninvested cash remaining after the conclusion of its daily trading activity into the account, and that the sole function of this account would be to provide a convenient way of aggregating what otherwise would be the one or more individual daily transactions for each Fund necessary to manage the daily univested cash balances of the Fund.

Applicants state that it is difficult to predict (i) the average size of the joint account, since the daily needs of each Fund will fluctuate (as indicated above, during the twelve months ended October 31, 1980, the average total daily amount invested by all of the Funds in repurchase agreements amounted to approximately $215,000,000), (ii) the average percent of the joint account which any single Fund's participation would represent, since fluctuations in both the size of the joint account and a particular Fund's needs are both likely to be substantial on any given day or (iii) the average percent of any single Fund's assets which might be deposited in the joint account, since the funds remaining uninvested on any given day can fluctuate widely as the result of, for example, sales of portfolio securities required by unexpectedly large redemptions, failure of a sizeable purchase transaction to settle at the anticipated time or scarcity of appropriate portfolio securities for investment on any given day.

Applicants assert that the existence and operation of the proposed joint account would not be inconsistent with the "Findings and Declaration of Policy" set forth in Section 1 of the Act. Applicants point out that each Fund would participate in the joint trading account on the same basis as every other Fund, and that FMR would have no monetary participation in the joint account, but would be responsible for investing amounts in the account, establishing accounting and control procedures and ensuring the equal treatment of each Fund.

Applicants further state that they believe that the proposed joint trading account would have the following benefits for the Funds:

(a) The Funds would collectively save approximately $56,000 in yearly transaction fees by the substitution of relatively few transactions for the approximately 5700 yearly transactions which are necessary currently.

(b) Experience has shown that normally on any given day and under most market conditions it is possible to negotiate a rate of return on large repurchase agreements which is greater than the rate of return which can be negotiated on smaller repurchase agreements.

(c) By reducing the number of trade tickets which each non-bank government securities dealer or major brokerage house will have to write and by reducing from three to one the number of custodian banks involved, repurchase transactions will be simplified for those organizations with whom repurchase agreements are entered into, with a concomitant reduction in the opportunities for errors, which may result in the Funds having the first opportunity to consider the rate offered by such organizations on any given day.

(d) Each Fund will have the opportunity to benefit from the fact that an institution entering into a very large repurchase agreement is almost always able and willing to increase the amount covered by such agreement near the end of a day, which possibility generally does not exist with smaller repurchase agreements where the institution may have already committed its securities eligible for repurchase agreements by early afternoon. This opportunity could benefit a Fund which unexpectedly had funds made available to it so late in the day that the repurchase agreement departments of the institutions with which it normally enters into such agreements would be unable to accommodate the Fund. Thus, flexibility in the management of the cash balances of the Funds would be enhanced and the possibility that any given Fund might have a cash balance uninvested overnight would be reduced.

The Funds point out that their respective governing bodies have considered the relative benefits to each of them and to FMR to be derived from the proposed arrangement and determined that use of the proposed joint account would be beneficial to each Fund that engages in repurchase transactions, that there is no basis on which to predicate greater benefit to any one Fund than to another under the proposed joint account, and that while FMR will benefit from use of the proposed joint account in possibly reduced clerical costs and added administrative convenience the primary beneficiaries of such account will be the Funds. It was also determined that the proposed method of operating the joint account will not result in any conflicts of interest between any of the Funds or between a Fund and FMR. On the basis of its consideration, the governing body of each Fund has determined that the operation of the proposed joint account will be free of any inherent bias favoring one Fund over another; the qualitative benefits to the Funds of the proposed joint account outweigh the inevitable quantitative disparities in the allocation of economic benefits among such Funds; and the anticipated benefits flowing to each Fund under the proposed joint account will fall within an acceptable range of fairness. They further determined that future participation in such joint trading account by one or more Funds which do no presently exist or, if existing, have not entered into an Advisory and Service Contract with FMR, would not alter their conclusions with respect to participation by the present Funds and that it would be desirable to permit such future participation without the necessity of applying for an amended order.

Applicants state that the Directors, Trustees, or Managing General Partners, as the case may be, of the individual Funds having considered the requirements of Section 2(a)(41) of the Act and Rule 2a–4 under the Act, and having due regard for the pronouncements of the Commission in Investment Company Act Release No. 9786 with respect to the inappropriateness of using the amortized cost valuation method in valuing assets of "money market" funds and other registered open-end investment companies that hold a significant amount of debt securities in their portfolios, have determined that, since the proposed joint account will invest only in repurchase agreements which (1) have, with rare exceptions, an overnight or over-the-weekend duration, and in no event will have a duration of more than seven days, (2) by their nature are held to maturity and (3) have no trading market, the value of the joint account would be best reflected by use of the amortized cost method of valuation.

In considering the establishment of this joint account the Directors, Trustees or Managing General Partners, as the case may be, have sought and received advice both from Fund legal counsel and from legal counsel to the Directors, Trustees and Managing General Partners, as the case may be, who are not interested persons of each Fund, which legal counsel is retained by each Fund on their behalf on a continuing basis. On the basis of the determinations of the Board of Directors, Trustees and Managing General Partners, as the case may be, of all the Funds, Applicants submit that the criteria of Rule 17d–1 for issuance of an order under Section 17(d) of the Act and Rule 17d–1 to allow the Funds to use the proposed joint trading account are met. Specifically, Applicants assert that participation in the proposed joint account by each Fund would not be on a basis less advantageous than that of other Fund participants, and that the participation by FMR is such account would be ministerial only.

Notice is further given that any interested person may, not later than October 26, 1981, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Security and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with he request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81–28891 Filed 10–2–81; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 22208; 70-6640]

Middle South Utilities; Proposal To Issue and Sell Common Stock

September 29, 1981.

Middle South Utilities ("Middle South"), 225 Baronne Street, New Orleans, Louisiana, a registered holding company, has filed a declaration with this Commission pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50 thereunder. Middle South proposes to issue and sell, subject to competitive bidding, not more than 10,000,000 authorized but unissued shares of its common stock, $5 par value ("Additional Common Stock"), to underwriters or investment bankers who will agree promptly to make a public offering thereof. Middle South believes that the sale of the Additional Common Stock may require the assistance of underwriters if market conditions at the time of the offering of the securities are unfavorable. Accordingly, Middle South may amend this declaration to seek an exemption from the competitive bidding requirements of Rule 50. Middle South will reserve the right to reduce the number of shares which shall constitute the Additional Common Stock to less than 10,000,000 shares. The net proceeds, estimated at $120,000,000, to be derived from the sale of the Additional Common Stock will be applied toward the reduction of the then outstanding bank loans and for other corporate purposes.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by October 20, 1981, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-28890 Filed 10-2-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11963; 812-4936]

Newton Income Fund, Inc.; Filing of Application for Exemptions

September 29, 1981.

Notice is hereby given that Newton Income Fund, Inc. ("Applicant"), 733 North Van Buren Street, Milwaukee, Wisconsin 53202, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on August 3, 1981, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 under the Act to the extent necessary to permit Applicant to compute the net asset value per share of the class of its shares designated as Newton Money Market Fund (the "Money Market Portfolio") according to the amortized cost method of valuing portfolio securities. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

Applicant states that it is incorporated under the laws of Maryland, and that its investment adviser is Heritage Investment Advisors, Inc., 733 North Van Buren Street, Milwaukee, Wisconsin. Applicant states that it is presently offering one class of shares of its $1.00 par value capital stock designated as Newton Income Fund which has an investment objective of achieving above-average current income consistent with preservation of capital. Its assets are invested in a diversified portfolio of investment grade bonds and common stocks. On October 28, 1980, Applicant's stockholders adopted an amendment to its Articles of Incorporation authorizing it to issue two additional classes of shares, one of which constitutes the Money Market Portfolio. Applicant has no plans at the present time to issue shares of the remaining class of its capital stock. The assets attributable to each class of Applicant's capital stock are maintained separately and are invested in accordance with the investment objectives and policies applicable to the particular class. Applicant has not yet commenced a public distribution of shares of its Money Market Portfolio.

According to the application, the investment objective of Applicant's Money Market Portfolio is to provide stability of principal and as high a rate of current income as is consistent with preservation of capital and liquidity. In order to achieve this objective, the assets of the Money Market Portfolio will be invested in high quality money market instruments having maturities of one year or less consisting of: (a) obligations issued by or guaranteed as to principal and interest by the U.S. Government or its agencies or instrumentalities; (b) obligations (including certificates of deposit, letters of credit and bankers' acceptances) of banks or other financial institutions organized under the laws of the United States, or any state or territory thereof, that are members of the Federal Reserve System, the Federal Deposit Insurance Corporation (the "FDIC") or the Federal Savings and Loan Insurance Corporation (the "FSLIC") (including obligations of foreign branches of such members) if either (i) the principal amount of the obligation is insured in full by the FDIC or the FSLIC or (ii) the issuer of the obligation has capital, surplus and individual profits in excess of $100 million or total assets of $1 billion; (c) commercial paper or variable amount master notes issued by corporations which at the time of purchase (i) are rated "A-1" or "A-2" by Standard & Poor's Corporation or "Prime-1" or "Prime-2" by Moody's Investors Service, Inc., or (ii) if not rated, are issued by a corporation, which at the date of purchase, has an outstanding debt issue rated at least "A" by Standard & Poor's or by Moody's and as to which Applicant's Board of Directors has made an independent determination that the instrument presents minimal credit risks and is of "high quality"; (d) corporate bonds and debentures which at the time of purchase have a rating of at least "AA" by Standard & Poor's or "Aa" by Moody's and which mature in one year or less at the time of purchase; and (e) certain repurchase agreements with respect to obligations which, without regard to maturities, the Money Market Portfolio is authorized to invest. In no event may the Money Market Portfolio's investment portfolio contain any securities maturing more than one year from the date of acquisition.

Applicant seeks an order of the Commission pursuant to Section 6(c) of the Act exempting it from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent

necessary to permit the Money Market Portfolio to value its portfolio securities by means of the amortized cost valuation method. Under the amortized cost valuation method, portfolio instruments are valued at their cost as of the date of acquisition and thereafter assuming a constant rate of amortization to maturity of any discount or premium, regardless of the impact of fluctuating interest rates on the market value of such instruments.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c–1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the investment company. Prior to the filing of the application, the Commission expressed its view that, among other things, (1) Rule 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provision of the Act or of any rule or regulation there under, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes farily intended by the policy and provisions of the Act.

Applicant states that its use of the amortized cost method of valuation for the assets of the Money Market Portfolio will assist the Money Market Portfolio's shareholders in easily determining the value of their holdings by allowing the Money Market Portfolio to maintain a constant net asset value per share (preferably at $1.00 per share) and to pay dividends which do not fluctuate due to daily changes in the value of the Money Market Portfolio's portfolio securities. In light of the perceived desires of potential shareholders of the Money Market Portfolio and in light of competitive conditions in the marketplace, Applicant asserts that the valuation of the Money Market Portfolio's investment securities on the amortized cost basis will benefit its shareholders by enabling the Money Market Portfolio to more effectively maintain its net asset value per share at $1.00, while providing shareholders with the opportunity to receive a flow of investment income less subject to fluctuation than would be the case under procedures whereby its daily dividend would be adjusted by all realized and unrealized gains and losses on its portfolio securities. Applicant's board of directors has determined that the amortized cost method of calculating the net asset value per share of the Money Market Portfolio under such circumstances is appropriate and in the best interests of that Portfolio's stockholders.

As a condition to the granting of its requested exemptions Applicant has agreed that the following conditions may be contained in any order issued on its Application:

1. In supervising the operations of the Money Market Portfolio and delegating special responsibilities involving portfolio management to the Applicant's investment adviser, Applicant's board of directors undertakes—as a particular responsibility within its overall duty of care owed to the Money Market Portfolio's shareholders—to establish procedures reasonably designed, taking into account current market conditions and the Money Market Portfolio's investment objectives, to stabilize the Money Market Portfolio's net asset value per share, as computed for the purpose of distribution, redemption and repurchase at $1.00 per share.

2. Included within the procedures to be adopted by Applicant's board of directors shall be the following:

(a) Review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the Money Market Portfolio's net asset value per share as determined by using available market quotations from the Money Market Portfolio's $1.00 amortized cost price per share, and maintenance of records of such review.[1]

(b) In the event such deviation from the Money Markep Portfolio's $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of directors will promptly consider what action, if any, should be initiated.

(c) Where the board of directors believes that the extent of any deviation from the Money Market Portfolio's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which action may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the Money Market Portfolio's average portfolio maturity; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. The Money Market Portfolio will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that the Money Market Portfolio will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

[1] To fulfill this condition, Applicant states that it intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its board of directors in the exercise of its discretion to be appropriate indicators of value, which may include among others, (i) quotations or estimates of market value for individual portfolio instruments, or (ii) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, the Money Market Portfolio will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

4. Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act as though such documents were records required to be maintained pursuant to rules adopted under Section 31(b) of the Act.

5. The Money Market Portfolio will limit its portfolio investments, including repurchase agreement, if any, to those U.S. dollar-denominated instruments which the board of directors determines present minimal credit risks, and which are of high quality as determined by any major rating service, or, in the case of any instrument that is not rated, of comparable quality as determined by the board of directors.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursant to condition 2(c) was taken during the preceding calendar quarter, and, if any action was taken, will describe the nature and circumstances of such action.

On the basis of the foregoing, Applicant requests an order of the Commission exempting its Money Market Portfolio from the provisions of Section 2(a) (41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to value the portfolio securities of its Money Market Portfolio using the amortized cost method of valuation. Applicant submits that such order is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than October 26, 1981, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-28892 Filed 10-2-81; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 81-074]

Port Access Route Study

AGENCY: Coast Guard, DOT.

ACTION: Notice of Study Results.

The purpose of this notice is to publish results of the Port Access Route study announced on April 16, 1979, in the **Federal Register** (44 FR 22543) and modified on January 31, 1980 (45 FR 7026). Only the results for study areas 5, 5a, and 6 are published in this notice. Generally, these areas include New York and Delaware Bay approaches and Long Island Sound. Results for areas 13 to 20 (coast of South Carolina, Georgia, Florida) were published in 46 FR 48376, October 1, 1981. Results for the remaining study areas (1 to 4 in New England, 7 to 12 for Maryland, Virginia and North Carolina, and 21 to 32 , including the Gulf Coast, West Coast and Alaska) will be published in a future **Federal Register.**

The Port Access Route study was mandated by the Ports and Waterways Safety Act (PWSA) (Pub. L. No. 95–474; 92 Stat. 1472; 33 U.S.C. 1223) to determine any need for routing measures for vessels using U.S. ports. The study has been performed in accordance with standards contained in sections 4 and 5 of the Act. Final study results are to be published as a notice in the **Federal Register.** However, areas may be restudied in the future as conditions warrant.

The Third Coast Guard District performed the study for areas 5, 5a and 6. Geographically, these areas extend from the coast on a line bearing 180°T from Watch Hill Light (41°18.2'N; 71°51.5'W) to 40°40.0'N. latitude; thence a line bearing 090°T to 69°57.0'W longitude; thence a line bearing 180°T to 39°44.5'N latitude; thence a line bearing 234°T to 38°31.4'N latitude, 72°07.0'W longitude; thence a line bearing 230°T to 37°38.6'N latitude, 73°26.1'W longitude; thence a line bearing 302°T to Fenwick Island Light (38°27.1'N, 75°03.3'W).

The findings and conclusions of the Third Coast Guard District Port Access Study are as follows:

Findings

(a) An analysis of exploratory activity thus far, indicates a maximum of 9 exploratory rigs operating on the Atlantic Outer Continental Shelf (OCS) since exploration began in March 1978. Since that time, on the average, only four rigs have been operating at any given time.

(b) No economically retrievable oil or gas finds have been made to date and significant production efforts in BLM lease areas 40, 42 and 49 are considered doubtful. According to the Department of Interior: Sale area 42 has not yet had a well drilled although there is considerable industry interest. Sale area 40 has been found to contain significant amounts of hydrocarbons and only further delineation drilling can determine if the resource is commercially recoverable.

(c) Available data does not indicate clearly defined vessel routes through the OCS.

(d) The risks to vessels, associated with the initial phases of offshore development, seem very low.

(e) While the establishment of a regulatory access system may reduce the already low risk of vessel/structure collision, it would probably increase the risk of vessel/vessel collision due to concentration of traffic within designated routes.

(f) Concentration of traffic into designated routes is likely to impact negatively on commercial fishing, by interfering with the movement of fishing vessels in or across such routes.

Conclusions

(a) Further regulation of the shipping, oil and fishing industries by vessel routing measures in areas 5, 5a and 6 is

not warranted by the current or projected levels of activity on the OCS.

(b) Current procedures for making and lighting structures, and publishing their locations in the Local Notice to Mariners are appropriate alternatives that will be continued.

(c) The Third Coast Guard District will continue to monitor OCS activity for its impact on vessel traffic. If economically retrievable oil or gas is found, or a significant increase in OCS exploration activity occurs, the affected area or areas will be restudied.

(d) It is expected that any future port access routes, if they become necessary in areas 5, 5a and 6, will utilize existing voluntary Traffic Separation Schemes extended to the 1800 meter contour (approximately 1,000 fathoms).

Summary

Based on available data and the first two and a half years of exploratory OCS activity in the region, it seems unnecessary to pursue further routing systems at this time in study areas 5, 5a and 6. Mandatory port access routes are not now required in these areas, nor does it appear that they will be in the foreseeable future. If a significant increase in OCS activity is detected, the affected areas will be restudied.

FOR FURTHER INFORMATION CONTACT:

Mr. Christopher Young, Office of Marine Environment and Systems (G-WWM-2), Room 1608, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593, (202) 426-4958 between 7:30 a.m. and 4:30 p.m. Monday through Thursday, except holidays.

Dated: September 24, 1981.

W. E. Caldwell,

Chief, Office of Marine Environment and Systems.

[FR Doc. 81-28883 Filed 10-2-81; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Realigning of Regional Organizations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of regional organization.

Notice is hereby given that on October 1, 1981, the Federal Aviation Administration's regional organizational structure and geographic boundaries are reconfigured from the present 11 regions to 9.

a. The existing Northwest and Rocky Mountain (except North and South Dakota) Regions are combined. Regional headquarters of the new Northwest Mountain Region will be in Seattle, Washington.

b. The existing Pacific-Asia and Western Regions are combined. Regional headquarters of the new Western-Pacific Region will be in Los Angeles, California.

c. The existing Great Lakes Region will include the States of North and South Dakota previously in Rocky Mountain Region.

d. The existing New England, Eastern, Southern, Southwest, Central and Alaskan Regions remain unchanged.

The new regional configurations become operational on October 1, 1981. On that date, the Regional directors for Northwest Mountain, Western-Pacific and Great Lakes Regions (for the States of North and South Dakota), will assume all responsibility for actions within the reconfigured regions, including, for example, personnel, regulatory and enforcement actions. These responsibilities may be delegated by the Regional Directors for the reconfigured regions.

(Secs. 301, 302, 313, Federal Aviation Act of 1958, as amended (49 U.S.C. 1341, 1342, 1343 and 1354); and the Administrative Procedure Act, as amended (5 U.S.C. 552(a)(1))

Issued in Washington, D.C., on September 30, 1981.

J. Lynn Helms,

Administrator.

[FR Doc. 81-29023 Filed 10-2-81; 8:45 am]

BILLING CODE 4910-13-M

Air Traffic Procedures Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-643; 5 U.S.C. App. 1) notice is hereby given of a meeting of the Federal Aviation Administration Air Traffic Procedures Advisory Committee to be held from, October 26 at 1 p.m. through October 30 at 1 p.m., at FAA Headquarters, 800 Independence Avenue, SW., Washington, D.C.

The agenda for this meeting is as follows: A continuation of the Committee's review of present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, Mr. L. Lane Speck, Executive Director, Air Traffic Procedures Advisory Committee, Air Traffic Service, AAT-300, 800 Independence Avenue, Washington, D.C. 20591, telephone (202) 426-3725.

Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on September 28, 1981.

L. Lane Speck,

Executive Director, ATPAC.

[FR Doc. 81-28650 Filed 10-2-81; 8:45 am]

BILLING CODE 4910-09-M

Effectiveness of Aircraft Noise Abatement Procedures; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The Federal Aviation Administration (FAA) hereby announces that the rsults of the evaluation of the effectiveness of aircraft noise abatement procedures will be discussed as a major topic of the Transport Airplane Takeoff Performance Requirements Conference.

DATE: The conference will be held November 16-20, 1981, beginning at 8:30 a.m. and adjourning at 5:00 p.m. each day.

ADDRESS: The conference will be held at the Seattle Hilton, Sixth and University, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles H. Huettner, Air Transportation Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591. Telephone (202) 426-8166.

SUPPLEMENTARY INFORMATION:

Background

The Federal Aviation Administration (FAA) is currently evaluating the effectiveness of aircraft noise abatement procedures at John Wayne Airport, Santa Ana, California, during September and October.

The 8-week study involves noise measurement readings of actual takeoff operations as well as FAA in-flight monitoring of noise reduction procedures. The study includes a survey response on possible benefits of the different procedures on the local community, as well as an analysis of airport noise complaints.

The takeoff procedures will utilize various thrust reduction procedures at different altitudes designed to reduce the overall impact of aircraft takeoff noise.

John Wayne Airport in Orange County was chosen for the study because of the interest expressed by the local community and the noise monitoring system already in place on the airport.

The results will be presented at the Tranport Airplane Takeoff Performance Requirements Conference announced in the **Federal Register** on August 3, 1981 (46 FR 39558). Discussion of these results will be limited to the takeoff performance aspects of the various thrust reduction procedures which were used, insofar as such procedures affect overal takeoff performance.

Conference Procedures

Persons interested in attending the conference should contact Ms Brenda Courtney, Regulatory Review Branch, Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, Telephone (202) 755–8714.

An agenda of discussion areas will be developed and published in the **Federal Register** as soon as details are obtained.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423), sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c))

Issued in Washington, D.C., on September 22, 1981.

Walter S. Luffsey,

Associate Administrator for Aviation Standards.

[FR Doc. 81–28648 Filed 10–2–81; 8:45 am]

BILLING CODE 4910–09–M

Radio Technical Commission for Aeronautics (RTCA), Special Committee 137—Airborne Area Navigation Systems; Meeting

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 137 on Airborne Area Navigation Systems to be held on October 27–29, 1981 in RTCA Conference Room 267, 1717 H Street, NW., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of Sixth Meeting Held on June 29–30 and July 1, 1981; (3) Review of Comments Received on Fifth Draft of Minimum Operational Performance Standards for Airborne Area Navigation Systems; and (4) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1717 H Street NW., Washington, D.C. 20006; (202) 296–0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on September 28, 1981.

Karl F. Bierach,

Designated Officer.

[FR Doc. 81–28649 Filed 10–2–81; 8:45 am]

BILLING CODE 4910–09–M

[Summary Notice No. PE–81–27]

Summary of Petitions Received and Dispositions of Petitions Issued; Petitions for Exemption

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: October 26, 1981.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on September 25, 1981.

Edward P. Faberman,

Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
21990	International Air Associates, Inc	14 CFR 91.31(e)(3)	To permit petitioner the use of 5 percent increased zero fuel and landing weight in all cargo operations.
22118	British Aerospace	14 CFR 145.73(a)	To permit petitioner's FAA-approved foreign repair station to work on U.S.-registered aircraft which are not operating wholly or partly outside the United States.
21903	Mr. Dale Logsdon	14 CFR 65.91(c)(1)	To permit petitioner to become eligible for an Inspection Authorization without meeting the three year waiting period requirement after aquiring an airframe and powerplant ratings.
20818	Ransome Airlines, Inc	14 CFR 135.429	Extension of Exemption No. 3166 which permits petitioner to continue using certain foreign repair facilities to repair and inspect parts for its Nord-262 aircraft.
22143	Airwest Offshore, Inc	14 CFR 43.3(h)	To permit petitioners pilot's to remove, check, and reinstall magnetic chip detector plugs on Allison 250C series engines used on Bell 206 helicopters.
22129	Chaparral Airlines	14 CFR 121.61(a)	To permit Mr. Frank Eddy to serve as Director of Operations without the required 3 years of experience as pilot in command of a large aircraft or as Directory of Operations of an operation using large aircraft.

PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought
21916	Deere & Company	14 CFR 91.45	To permit petitioner's Pilots to perform ferry flights with one engine inoperative from time to time as the necessity arises without obtaining a ferry permit for each flight.

DISPOSITIONS OF PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
21801	Valley-Todeco	14 CFR 21.303(a)	To allow petitioner temporary relief from the Parts Manufacturer Approval requirements for certain replacement and modification parts they manufacture and sell for installation on type certificated aircraft or engines. *Withdrawn 9/17/81.*
21882	China Airlines Limited	Portions of 14 CFR Parts 21, 61, 63 and 91	To permit petitioner to operate a leased, U.S.-registered, Boeing B-747SP aircraft, N4508H, using an FAA-approved master minimum equipment list and an FAA-approved continuous airworthiness maintenance program. *Granted 9/16/81.*
21610	Acme Aircraft Co.	14 CFR 145.35(a) and 145.37(b)	To permit petitioner to acquire a repair station rating for Convair series aircraft although they are unable to completely house the aircraft being worked on. *Denied 9/14/81.*
21884	Mr. Allan W. Markahm	14 CFR 121.291(a)(1)	To permit petitioner to commence initial passenger service in DC-8-52 series aircraft in a seating configuration of not more than 186 passenger seats without first conducting a full-scale evacuation demonstration. *Considered withdrawn 9/15/81.*
21962	Wright Air Lines, Inc	14 CFR 121.291(a)(2)(i)	To allow petitioner to increase the seating capacity of its Convair 600 series aircraft from 44 to 48 passenger seats without first conducting an emergency evacuation demonstration of the full passenger-seating capacity. *Granted 9/22/81.*
21711	Sun Air, Inc	14 CFR 121.292(a)	To permit petitioner to introduce its DC-9-15F series aircraft into passenger-carrying service in a 85-seat configuration using two flight attendants without first conducting a full-seating capacity emergency evacuation demonstration. *Granted 9/22/81.*
21810	Alaska International Air	14 CFR 65.53	To permit petitioner to be eligible for an aircraft dispatcher certificate prior to his attaining 23 years of age. *Denied 9/22/81.*
21508	Peninsula Airways, Inc	14 CFR 135.243(d)(2)	To permit Mr. Tibbetts to act as pilot in command on an airplane engaged in part 135 operations without holding an instrument rating. *Partial grant 9/18/81.*

[FR Doc. 81-29647 Filed 10-2-81; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

National Highway Safety Advisory Committee; Public Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., App. I), notice is hereby given of meetings of the National Highway Safety Advisory Committee to be held on October 26-28, 1981.

The agenda will consist of briefings by Department staff on: (1) Administrative Adjudication of Traffic Violations, (2) Driver Education, and, (3) Market Demand for Auto Safety, and also discussion of routine Committee business.

All meetings will be held in the DOT Headquarters Building, 400 Seventh Street, SW., Washington, D.C. starting at 9:00 a.m. On the 26th and 27th the meeting will be held in room 4234 and on the 28th the meeting will be held in room 8334. Attendance is open to the interested public, but limited to the space available. Members of the public may present a written statement to the Committee at any time.

This meeting is subject to the approval of the appropriate DOT officials. Additional information may be obtained from the NHTSA Executive Secretariat, 400 Seventh Street, SW., Washington, D.C. 20590, telephone 202-426-2872.

Issued in Washington, D.C. on September 30, 1981.

Robert E. Doherty,

Executive Secretary.

[FR Doc. 81-28834 Filed 10-2-81; 8:45 am]

BILLING CODE 4910-59-M

Urban Mass Transportation Administration

[Docket No. 81-B]

Elimination of Advanced Design Bus Specification

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: The Department of Transportation is announcing its intent to rescind the policy of making the Urban Mass Transportation Administration's (UMTA) Baseline Advanced Design Transit Coach Specification ("White Book") mandatory for its grantees. This change would become effective on October on October 1, 1982. Current DOT policy is that grantees must use the "White Book" specification when purchasing Advanced Design Buses (ADB's). The purpose of this Notice is to give all affected parties a fair opportunity to comment on the proposed change in policy.

DATE: Comments must be received on or before January 4, 1982.

ADDRESS: Comments must be submitted to UMTA Docket No. 81-B, 400 Seventh Street, SW, Washington, D.C. 20590. All comments will be available for examination in Room 9320 at the above address between 8:30 a.m. and 5:00 p.m. local time Mondy through Friday. Receipt of comments will be acknowleged by UMTA if a self-addressed, stamped postcard is included with the comment.

FOR FURTHER INFORMATION CONTACT: Wilbur Hare, Office of Program Management, UMTA, Room 9306, 400 Seventh Street, SW, Washington, D.C. 20590, 202/426-1428.

SUPPLEMENTARY INFORMATION: All comments received before the expiration of the comment period will be

considered before final action is taken. Comments received after the expiration of the comment period will be considered to the extent feasible.

Background Information

Since its introduction in 1959, the "New Look" bus has dominated the transit bus industry. In 1968, a report by the National Academy of Engineering urged the building of a more reliable, easier to board, more attractive bus to attempt to halt the decline in public transit ridership. This report was followed, in 1971, by DOT's award of a contract to Booz, Allen and Hamilton, Inc. to design such a bus. Each of the three major transitbus manufacturers contracted to develop prototypes of a bus to meet the objectives of the research program. (The new bus was to be known as Transbus.) The Transbus prototypes were delivered for testing in 1974. General Motors Corporation (GMC), concurrent with its obligations under this contract, was working on a new bus model of its own which was to become the RTS–II.

In January 1975, the UMTA Administrator announced that although UMTA expected to mandate Transbus in the near future, manufacturers were free to offer new models of their own in the interim. In mid 1975, after GMC introduced its interim bus, the RTS–II, UMTA concurred in specifications developed by a consortium of six grantees led by Houston, Texas to solicit bids for this type of coach. These specifications received UMTA concurrence only after several changes had been made, at the request of the manufactuers, to prevent their being restrictive. At that time, the Flxible, which later became the Grumman Flxible Corporation (Flxible), was also preparing to introduce a new coach using some of the Transbus technology. The specifications prevented the "New Look" bus from being bid, leading AM General Corporation, the remaining manufacturer of "New Look" buses, to file suit. The ruling in the suit (*AM General Corp.* v. *Department of Transportation*, 433 F. Supp. 1166 (D.D.C. 1977)) upheld the consortium's action in excluding the "New Look" bus. Subsequently, GMC was the sole bidder on the Houston Consortium purchase. Following this procurement, Flxible introduced the 870 coach as its ADB in competition with the RTS-II. Although the two buses were both part of a new generation of buses, there were marked differences in the basic design philosophy of the two buses which resulted in two substantially different vehicles. UMTA concluded that a method had to be found that would permit them to be bid against each other competitively to meet the requirements of the UMT Act of 1964.

In order to make competition between the two manufacturers possible, the "White Book" specification was prepared in performance terms with the participation and agreement of the bus manufacturers, the operating properties represented by the American Public Transit Association Bus Technology Committee, and UMTA. The policy that this specification be used to purchase ADBs was published in the **Federal Register** on March 14, 1977 (42 FR 13816). The "White Book" specification is a dynamic document that is periodically revised to reflect product improvements offered by manufacturers and desired by transit operators, to eliminate those items found not to be cost effective, and to correct deficiencies or to improve the wording in the specification.

However, there has been a great deal of criticism and dissatisfaction recently with this process by UMTA recipients and UMTA believes that the "White Book" specification has outlived its purpose of fostering competition in the bus industry. There are at least three manufacturers currently bidding ADBs, and it is UMTA's position that a mandatory "White Book" specification is no longer needed to insure competition. It is also believed that rescission of the policy of mandating the "White Book" specification may encourage greater innovation in transit bus design, and will give transit operators greater flexibility in specifying buses which meet their particular operating needs. This action is also consistent with the President's policy of eliminating unnecessary Federal intervention in local and State decision-making. In a separate action, UMTA has deleted the price offsets and weight incentive provision from the "White Book" specification.

Discussion

Making the "White Book" specification optional may have some significant effects on the industry. Several of these possible effect are listed below, and specific comments are requested on these effects. Interested parties are, of course, also invited to comment on any other possible effects of the proposed action.

1. Effect on Protests.

Rescission of the policy that use of the "White Book" specification be mandatory may cause an increase in the number of protests to UMTA, based on allegations that specifications are exclusionary or discriminatory. If so, UMTA proposes to deal with them in accordance with the review standards set forth in Office of Management and Budget (OMB) Circular A–102, Attachment "O." Under these standards UMTA will review protests only after the protester has exhausted all administrative remedies at the grantee level. Further, UMTA will only review protests which involve a violation of Federal law or regulations, as opposed to local or State law, *or* a violation of the grantee's own protest procedures. When the basis of the protest is that a recipient utilized a discriminatory or exclusionary specification, UMTA prosposes to review the protest only to the extent necessary to ensure that the recipient has justified its requirement for the particular item through a "needs analysis," and that such justification is reasonable and does not arbitrarily or capriciously disqualify or exclude an otherwise qualified bidder. Further, where a recipient chooses to use the "White Book" specification, UMTA intends that protests alleging that such specifications are exclusionary or discriminatory would not be accepted. UMTA proposes to accept only protests related to particular items which differ from or are in addition to the "White Book" specification.

2. Effect on Competition.

It is possible that if grantees develop their own ADB specifications, there may be some attempt, at least in the short term, to reduce competitiveness of the procurements. On the other hand, there is the possibility that, in the long term, elimination of mandatory "White Book" specifications would allow for greater competition due to greater flexibility in designing specifications as well as increased ability of manufacturers to offer innovative features. UMTA solicits comments on possible ways to balance the potential loss of competition with the needs of transit operators to specify particular features.

3. Effect on the Life-Cycle Cost Process.

UMTA is required by the 1980 and 1981 Appropriations Acts (Pub. L. 96–131 and Pub. L. 96–400) to provide assistance to grantees in setting up procedures to comply with the life-cycle cost requirement. The "White Book" specification with the price offsets and weight incentive provision was a mandatory method of assuring compliance with the life-cycle cost requirement until July 24, 1981, when the price offsets and weight incentive provision were deleted. Since recipients will still be required to certify that they have considered life-cycle costs in procurements of rolling stock, recipients

will have to assure that the specifications which they ultimately utilize, whether they are similar to the "White Book" or not, take this into account. New procurement techniques may have to be developed by recipients to adequately address life-cycle costs when the "White Book" specification is no longer mandatory.

UMTA is particularly interested in knowing how transit operators intend to implement the requirement, and what manner of assistance might be required from UMTA.

4. Effect on Standardization and Performance.

Grantees are required to consider standardization and performance in the purchase of buses. These requirements have been met in the "White Book" specification. It is expected that recipients will develop specifications which consider these factors. UMTA is interested in knowing how transit operators intend to implement the requirement, and what manner of assistance, if any, might be required from UMTA.

5. Effect on Bus Prices.

There is a possibility that without the mandatory "White Book" specification, prices for ADB's could be higher, at least in the short term. The principal cause of a price increase could be that manufacturers might be required to make changes in their standard products and might charge not only for optional equipment but also for increased costs due to loss of standardization. It is possible that in the long term, however, bus prices could decrease due to increased competition resulting from the ability of new manufacturers to bid on less rigid specifications.

6. Effect of Methods of procurement.

The rescission of the policy of mandatory use of the "White Book" specification could give rise to variations in the method of procurement, such as the two-step formally advertised method. UMTA solicits comments on whether and what types of variations in the competitive sealed bid method of procurement might be appropriate.

7. Effect of Voluntary Retention.

Comments are specifically requested on whether the "White Book" specification should be retained on a voluntary basis or totally eliminated. If the "White Book" is retained on a voluntary basis, UMTA believes that the following considerations are relevant and solicits comment on these and any other considerations pertinent to voluntary retention of the "White Book."

a. It might serve as a standard for possible new firms desiring to enter the industry.

b. It might aid smaller grantees that do not have the staff expertise to develop their own specifications.

c. It might aid smaller grantees in complying with the life-cycle cost, performance and standardization requirements.

d. If the "White Book" specification is retained for use on a voluntary basis, it will be necessary to update, modify, and provide for changes to the specification. Appropriate methods and procedures will be required to implement this activity. Comments are requested regarding how this activity should be accomplished, by whom, and whether UMTA should play any role in such a process.

Dated: September 30, 1981.

Andrew L. Lewis, Jr.,

Secretary, Department of Transportation.

[FR Doc. 81-28880 Filed 10-2-81; 8:45 am]

BILLING CODE 4910-57-M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 192
Monday, October 5, 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

CIVIL AERONAUTICS BOARD.

[M-333 Amdt. 1, September 28, 1981]

Notice of addition and deletion of items for the October 1, 1981 board meeting.

TIME AND DATE: 9:30 a.m., October 1, 1981.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT: Deletion:

2. Rules on Government Travel Fares: Draft order to show cause why tariffs containing the "YCA" fare designator by carriers which do not have government contracts should not be cancelled. (Memo 791, BCCP, BDA, OGC)

Addition:

19a. Docket 39000—Final rule classifying and exempting Canadian charter air taxi operators from certain requirements of the Act and adopting a simple registration procedure to grant them operating authority. (Memo 086-A, BIA, OGC)

STATUS: 1-28 (open)—29 (closed).

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

[S-1507-81 Filed 10-1-81; 3:24 pm]

BILLING CODE 6320-01-M

2

CIVIL AERONAUTICS BOARD.

[M-333 Amdt. 2, September 30, 1981]

Notice of Addition of Items to the October 1, 1981 Board Meeting

TIME AND DATE: 9:30 am., October 1, 1981.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT: Addition:

17a. Dockets 36244, 35390, 38279, Petition of Air U.S. for Reconsideration of Order 81-8-49; Application of Pioneer Airways, Inc. for adjustment of interim rate. (BDA)

30. Docket 39831, Finalization of Show-Cause Order 81-7-160, which suspended and investigated tariffs of Air India. (BIA)

STATUS: 1-28 (open)—29 and 30 (closed).

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

[S-1508-81 Filed 10-1-81; 3:24 pm]

BILLING CODE 6320-01-M

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-1460-81.

TIME AND DATE: 10 a.m. (eastern time), Friday, September 25, 1981.

CHANGE IN THE MEETING: The following item was added to the agenda:

"Delegation of Authority"

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible.

The vote was as follows:

In favor of change:
J. Clay Smith, Jr., Acting Chairman
Daniel E. Leach, Vice Chairman
Armando M. Rodriguez, Commissioner
Opposed: None

CONTACT PERSON FOR MORE INFORMATION: Treva I. McCall, Executive Officer, Executive Secretariat, at (202) 634-6748.

This notice issued September 25, 1981.

[S-1509-81 Filed 10-1-81; 7:14 pm]

BILLING CODE 6570-06-M

4

FEDERAL COMMUNICATIONS COMMISSION.

Deletion of agenda items from September 30th open meeting.

The following items have been deleted at the request of the Office of the Chairman from the list of agenda items scheduled for consideration at the September 30, 1981, Open Meeting and previously listed in the Commission's Notice of September 23, 1981.

Agenda, Item No., and Subject

Television—1—*Title:* Application for Review and request for stay filed by Video 44 (WSNS-TV, Chicago) directed against Broadcast Bureau grant of minor change application of WFBN(TV), Joliet, Illinois. *Summary:* The Commission considers the application for review and request for stay filed by licensee of STV Station WSNS(TV), Chicago, against Broadcast Bureau's grant of application to change transmitting facilitites of STV Station WFBN(TV) from Sears Building in Chicago to Hancock Center, also in Chicago. Question is whether grant of original application for CP for new station can be vacated and application designated for hearing on *de facto* reallocation issue.

Issued: September 28, 1981.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-1502-81 Filed 10-1-81; 10:27 am]

BILLING CODE 6712-01-M

5

FEDERAL COMMUNICATIONS COMMISSION.

Additional item to be considered at open meeting, Wednesday, September 30th

The Federal Communications Commission will consider an additional item on the subject listed below at the Open Meeting scheduled for 9:30 a.m., Wednesday, September 30, 1981 at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

Common Carrier—8—*Title:* Application of Teleglobe Canada for a license to land and operate in the United States on the Island of Oahu, Hawaii, a submarine cable system between Australia and Canada. File No. S-C-L-52. *Summary:* The item considers whether a grant of a license to land two submarine cables in Hawaii is part of an integrated cable between Australia and Canada (ANZCAN) is in the public itnerest.

The prompt and orderly conduct of Commission business requires that less than 7-days notice be given consideration of this additional item.

Action by the Commission September 29, 1981. Commissioners Folwer, (Chairman), Quello, Washburn, Fogarty Dawson and Rivera voting to consider this additional item; Commissioner Jones concurring.

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: September 29, 1981.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-1503-81 Filed 10-1-81; 10:27 am]

BILLING CODE 6712-01-M

6

FEDERAL COMMUNICATIONS COMMISSION.

Deletion of agenda items from September 30th open meeting.

The following items have been deleted at the request of the Office of the General Counsel from the list of agenda items scheduled for consideration at the September 30, 1981, Open Meeting and previously listed in the Commission's Notice of September 23, 1981.

Agenda, Item No., and Subject

Private Radio—3—Title: Memorandum Opinion and Order concerning application for review, filed by John Fabick Tractor Company, of Private Radio Bureau action denying its request for rule waivers and dismissing its applications for authority to use a VHF band Forestry Conservation Radio Service frequency in the Business Radio Service. *Summary:* The FCC will consider whether to grant or deny the application for review, filed by John Fabick Tractor Company, of Private Radio Bureau action which denied Fabick's request for waivers of Sections 90.25(b) and 90.75(b) of the rules to permit its use of a VHF band frequency allocated to the Forestry Conservation Radio Service for a wide area land mobile radio system in portions of Illinois and Missouri in the Business Radio Service.

Private Radio—6—Title: Amendment of Subpart H of Part 90 of the Commission's Rules and Regulations for Broader Interservice Sharing of Private Land Mobile Frequency Assignments. *Summary:* The Commission will consider the adoption of final rules to establish a procedure to accommodate broader interservice sharing of private land mobile radio service frequencies on a coordinated basis and to avoid having to act either by waiver or through rule making each time such a request for interservice sharing is received.

Additional information concerning these items may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: September 29, 1981.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-1504-81 Filed 10-1-81; 10:27 am]

BILLING CODE 6712-01-M

7

FEDERAL COMMUNICATIONS COMMISSION.

Deletion of agenda item from September 30th closed meeting

The following item has been deleted at the request of the Office of the General Counsel from the list of agenda items scheduled for consideration at the September 30, 1981 Closed Meeting, which is scheduled to follow the Open Meeting, in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

Hearing—2—Application for Review of a Memorandum Opinion and Order by the Chief, Mobile Services Division, Common Carrier Bureau, which designated for hearing the application of AAA Anserphone Inc.—Jackson for a new paging frequency at Brookhaven, Mississippi (CC Docket No. 81-342).

Additional information concerning this item may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: September 29, 1981.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-1505-81 Filed 10-1-81; 10:27 am]

BILLING CODE 6712-01-M

8

FEDERAL COMMUNICATIONS COMMISSION.

Additional item to be considered at, closed meeting, Wednesday, September 30th

The Federal Communications Commission will consider an additional item on the subject listed below at the Closed Meeting, scheduled to follow the Open Meeting, which will commence at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

General—2—Subpoenas by A.T. & T. in connection with *United States* v. *American Telephone and Telegraph Company, et al.*

The prompt and orderly conduct of Commission business requires that less than 7-days notice be given consideration of this additional item.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this item may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: September 29, 1981.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-1506-81 Filed 10-1-81; 10:27 am]

BILLING CODE 6712-01-M

federal register

Monday
October 5, 1981

Part II

Department of Agriculture

Federal Grain Inspection Service

United States Standards for Beans; Proposed Revisions

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service [1]

7 CFR Part 68

Proposed Revisions to United States Standards for Beans

AGENCY: Federal Grain Inspection Service,[1] USDA.

ACTION: Proposed rule.

SUMMARY: In compliance with the requirements for the periodic review of existing regulations, the Federal Grain Inspection Service (FGIS) has reviewed and is proposing changes to the U.S. Standards for Beans. In the interest of clarity, to promote a better understanding of the standards, and to facilitate the marketing of dry beans, FGIS proposes to change the format of the grade tables in the U.S. Standards for Beans and eliminate the special and premium grades in all classes of beans except the class Pea beans. This proposed action replaces a previous proposal made in the October 28, 1980 **Federal Register** (45 FR 71486). The previous proposal is hereby withdrawn.

DATE: Written comments must be submitted on or before December 4, 1981.

ADDRESS: Comments must be submitted in writing, in duplicate, to Lewis Lebakken, Jr., Director, Issuance and Coordination Staff, USDA, FGIS, Room 1127, Auditor's Building, 1400 Independence Avenue, SW., Washington, DC 20250; Telephone (202) 447-3910. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., telephone (202) 447-3910.

SUPPLEMENTARY INFORMATION: The U.S. Standards for Beans were established under the authority of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.;* the Act). This proposed action has been issued in conformance with Executive Order 12291 and because the proposed changes are revisions in format to clarify the standards and delete certain special and premium grades, the action has been determined to be nonmajor. Kenneth A. Gilles, FGIS Administrator, has determined that the proposed action will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.)* because this action applies only to FGIS and those limited number of States which have entered into cooperative agreements with FGIS to perform inspection services under the Act. Further, the proposed changes will not have a significant economic impact on the industry because the proposal involves format changes of a non-substantive nature and deletion of certain special and premium grades which more closely reflect current trading practices.

This review included a determination of the continued need for the standards; a review of changes in marketing factors and functions affecting the standards; a review of changes in technology and economic conditions in the area affected by the standards; and a determination of the potential for improving the standards and their application through the incorporation of grading factors or tests which better indicate end-use properties. The objective was to assure that the standards continued to serve the needs of the market to the greatest possible extent. Although changes are being proposed at this time, FGIS will continue to study and evaluate the standards to meet the future needs of the industry.

On October 28, 1980, a proposed rule to review the format of the grade tables in the U.S. Standards for Beans (7 CFR 68.101 *et seq.)* was published in the **Federal Register** (45 FR 71486). A majority of the comments objected to the proposed revision of the grade tables on the basis that the tables included the "Choice handpicked" and "Handpicked" special grades for beans. The comments indicated that the handpicked grades should be deleted in the grade table revision for the following reasons:

1. The term "Handpicked" is misleading because beans are now mechanically or electronically sorted rather than handpicked.
2. Premiums are not paid for handpicked grades.
3. Handpicked grades are confusing. U.S. No. 1 should be the highest quality.
4. Handpicked grades complicate transactions involving letters of credit.
5. Canners do not utilize handpicked grades to obtain canning quality beans.
6. Buyers and sellers are satisfied with trading on a U.S. No. 1 basis.

Further, recommendations made by representatives of the National Dry Bean Council in a February 6, 1981 meeting with FGIS indicated that the U.S. Standards for beans should be changed to delete the special or premium grades of "Choice handpicked", "Handpicked", and "Extra No. 1" in their respective classes of beans except for the class Pea beans. National Dry Bean Council representatives from the State of Michigan, which produces over 90 percent of the U.S. production of Pea beans, wished to retain the premium grades "Choice handpicked" and "Prime handpicked" for the class Pea beans. These premium grades for Pea beans have been a part of the grade tables since August 1, 1969, and are effectively utilized by the Pea bean industry.

Based upon the above, the proposed rule as published in 45 FR 71486 is hereby withdrawn. The present proposal as stated below reflects the comments received as a result of the withdrawn proposal.

In summary, it is proposed that:

Section 68.133, *Grades and grade requirements for the class Pea beans,* be revised by changing the format of the table and incorporating information previously shown in footnotes. The heading for § 68.133 is changed to read *Grades, grade requirements, special grades and special grade requirements for the class Pea beans.*

Section 68.134, *Grades and grade requirements for the classes Blackeye, Cranberry, Yelloweye, Pinto, Marrow, Great Northern, Small White, Flat Small White, White Kidney, Light Red Kidney, Dark Red Kidney, Small Red, Pink, Black Turtle Soup, Mung, and Miscellaneous beans,* be revised to apply only to the class Blackeye beans and by changing the format of the table and incorporating information previously shown in footnotes into the body of the table. Further, the grades and grade requirements for the remaining classes of beans which appear in the current § 68.134 are revised and redesignated as §§ 68.135 through 68.138 as listed below, by changing the format of the tables, and incorporating information previously shown in the footnotes into the body of the tables:

Section 68.135, *Grades and Grade Requirements for the Classes Yelloweye Beans and Cranberry Beans,* § 68.136, *Grades and Grade Requirements for the Class Pinto Beans,* § 68.137, *Grades and Grade Requirements for the Classes Marrow, Great Northern, Small White, Flat Small White, White Kidney, Light Red Kidney, Dark Red Kidney, Small Red, Pink, Black Turtle Soup, and Miscellaneous Beans,* and § 68.138, *Grades and Grade Requirements for the Class Mung Beans.*

[1] Authority to exercise the functions of the Secretary of Agriculture contained in the Agricultural Marketing Act of 1946 as amended (7 U.S.C. 1621-1627) concerning inspection and standardization activities related to grain and similar commodities and products thereof, has been delegated to the Administrator, Federal Grain Inspection Service (7 U.S.C. 75a; 7 CFR 68.2(e)).

Current § 68.135, *Grades and grade requirements for the class Large Lima beans,* and § 68.136, *Grades and grade requirements for the class Baby Lima beans, and for the classes of Miscellaneous Lima beans,* be redesignated as §§ 68.139 and 68.140 respectively and revised by deleting the premium grades of "Extra No. 1", changing the format of the tables, and incorporating information previously shown in the footnotes into the body of the tables.

Current § 68.137, *Grade Designations,* be redesignated as § 68.141 and that the designation for the grade "U.S. Substandard" be amended by deleting the requirement that the percentages of splits, damaged beans, contrasting classes and foreign material be shown as part of the grade designation. This factor information is shown elsewhere on the certificate if an official determination is made during the course of inspection.

Current § 68.138, *Special grades, special grade requirements, and special grade designation for all classes of beans,* be redesignated as § 68.142, *Special Grade Designations,* and be revised by deleting the grade "Handpicked" from all applicable classes of beans and the grade "Choice handpicked" from all classes except Pea beans. The current premium grades "Choice handpicked" and "Prime handpicked" for the class Pea beans are designated as special grades in the proposed revision.

In addition to the above, § 68.119, *Good Natural Color,* would be removed because it is only applicable to the premium grade "Extra No. 1" which would be eliminated under this proposal. The § 68.119 would be reserved for future use. Further, § 68.103, *Grades,* would be amended to delete the term "premium" as that term is no longer necessary in view of the proposed revisions to the regulations.

PART 68—REGULATIONS AND STANDARDS FOR INSPECTION AND CERTIFICATION OF CERTAIN AGRICULTURAL COMMODITIES AND PRODUCTS THEREOF

Accordingly, it is proposed that § 68.103 be revised, § 68.119 be removed and reserved, §§ 68.133 through 68.138 of the United States Standards for Beans be revised, and §§ 66.139 through 66.142 be added to read as follows:

Subpart B—U.S. Standards for Beans [1]

§ 68.103 Grades.

Grades shall be the numerical grades, substandard grades, sample grades, and special grades provided for in §§ 68.133–68.142.

§ 68.119 [Reserved]

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[1] Compliance with the provisions of these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or other Federal Laws.

Grades, Grade Requirements, Grade Designations, Special Grades and Special Grade Requirements

§ 68.133 Grades, grade requirements, special grades and special grade requirements for the class Pea beans.

SPECIAL GRADE and GRADE	GENERAL APPEARANCE	PERCENT MAXIMUM LIMITS OF -						
		MOISTURE 1./	TOTAL DEFECTS (Total damaged, Total foreign material, Contrasting classes, Splits)	BADLY DAMAGED	FOREIGN MATERIAL: TOTAL (Includes Stones)	FOREIGN MATERIAL: STONES	CONTRASTING CLASSES 2./	CLASSES THAT BLEND 3./
U.S. Choice Handpicked	SHALL NOT GRADE OFF-COLOR	18.0	1.5	0.3	0.01	0.01	0.01	2.0
U.S. Prime Handpicked	SHALL NOT GRADE OFF-COLOR	18.0	3.0	0.3	0.01	0.01	0.01	2.0
U.S. No. 1	SHALL NOT GRADE OFF-COLOR	18.0	2.0	2.0	0.4	0.2	0.5	4.0
U.S. No. 2	THE SPECIAL GRADE OFF-COLOR MAY BE APPLIED AFTER THE REMOVAL OF TOTAL DEFECTS	18.0	3.0	3.0	0.8	0.4	1.0	4.0
U.S. Substandard	THE SPECIAL GRADE OFF-COLOR MAY BE APPLIED AFTER THE REMOVAL OF TOTAL DEFECTS	18.0	U.S. Substandard shall be beans which do not meet the requirements for the grades U.S. Choice Handpicked through U.S. No. 2 or U.S. Sample grade. Beans which are not well screened shall also be U.S. Substandard, except for beans which meet the requirements for U.S. Sample grade.					
U.S. Sample grade	THE SPECIAL GRADE OFF-COLOR MAY BE APPLIED AFTER THE REMOVAL OF TOTAL DEFECTS	18.0	U.S. Sample grade shall be beans which are musty, sour, heating, materially weathered, or weevily; which have any commercially objectionable odor; which contain insect webbing or filth, animal filth, any unknown foreign substance, broken glass, or metal fragments; or which are otherwise of distinctly low quality.					

1./ Beans with more than 18.0 percent moisture are graded High moisture.
2./ Beans with more than 2.0 percent contrasting classes are classed Mixed beans.
3./ Beans with more than 15.0 percent classes that blend are classed Mixed beans.

§ 68.134 Grades and grade requirements for the class Blackeye beans.

GRADE	GENERAL APPEARANCE	PERCENT MAXIMUM LIMITS OF ---							
		MOISTURE 1./	TOTAL DEFECTS (Total damaged, Total foreign material, Contrasting classes, Splits)	TOTAL DAMAGED	CLEAN CUT WEEVIL BORED 2./	FOREIGN MATERIAL: TOTAL (Includes Stones)	FOREIGN MATERIAL: STONES	CONTRASTING CLASSES 3./	CLASSES THAT BLEND 4./
U.S. No. 1	THE SPECIAL GRADE OFF-COLOR MAY BE APPLIED AFTER REMOVAL OF TOTAL DEFECTS	18.0	4.0	2.0	0.0	0.5	0.2	0.5	5.0
U.S. No. 2	THE SPECIAL GRADE OFF-COLOR MAY BE APPLIED AFTER REMOVAL OF TOTAL DEFECTS	18.0	6.0	4.0	0.2	1.0	0.4	1.0	10.0
U.S. No. 3	THE SPECIAL GRADE OFF-COLOR MAY BE APPLIED AFTER REMOVAL OF TOTAL DEFECTS	18.0	8.0	6.0	0.5	1.5	0.6	2.0	15.0
U.S. Substandard	THE SPECIAL GRADE OFF-COLOR MAY BE APPLIED AFTER REMOVAL OF TOTAL DEFECTS	18.0	U.S. Substandard shall be beans which do not meet the requirements for the grades U.S. No. 1 through U.S. No. 3 or U.S. Sample grade. Beans which are not well screened shall also be U.S. Substandard, except for beans which meet the requirements for U.S. Sample grade.						
U.S. Sample grade	THE SPECIAL GRADE OFF-COLOR MAY BE APPLIED AFTER REMOVAL OF TOTAL DEFECTS	18.0	U.S. Sample grade shall be beans which are musty, sour, heating, materially weathered or weevily; which have any commercially objectionable odor; which contain insect webbing, or filth, animal filth, or any unknown foreign substance, broken glass, or metal fragments; or which are otherwise of distinctly low quality.						

1./ Beans with more than 18.0 percent moisture are graded High moisture.
2./ Beans with more than 0.5 percent clean cut weevil bored beans are graded U.S. Sample grade.
3./ Beans with more than 2.0 percent contrasting classes are graded Mixed beans.
4./ Beans with more than 15.0 percent classes that blend are graded Mixed beans.

§ 68.135 Grades and grade requirements for the classes Yelloweye beans and Cranberry beans.

GRADE	GENERAL APPEARANCE	PERCENT MAXIMUM LIMITS OF ---						
		MOISTURE 1./	TOTAL DEFECTS (Total damaged, Total foreign material, Contrasting classes, Splits)	TOTAL DAMAGED	FOREIGN MATERIAL		CONTRASTING CLASSES 2./	CLASSES THAT BLEND 3./
					TOTAL (Includes Stones)	STONES		
U.S. No. 1	THE SPECIAL GRADE OFF-COLOR MAY BE APPLIED AFTER REMOVAL OF TOTAL DEFECTS	18.0	2.0	2.0	0.5	0.2	0.5	5.0
U.S. No. 2		18.0	4.0	4.0	1.0	0.4	1.0	10.0
U.S. No. 3		18.0	6.0	6.0	1.5	0.6	2.0	15.0
U.S. Substandard		18.0	U.S. Substandard shall be beans which do not meet the requirements for the grades U.S. No. 1 through U.S. No. 3 or Sample grade. Beans which are not well screened shall also be U.S. Substandard, except for beans which meet the requirements for U.S. Sample grade.					
U.S. Sample grade		18.0	U.S. Sample grade shall be beans which are musty, sour, heating, materially weathered, or weevily; which have any commercially objectionable odor; which contain insect webbing or filth, animal filth, any unknown foreign substance, broken glass or metal fragments; or which are otherwise of distinctly low quality.					

1./ Beans with more than 18.0 percent moisture are graded High moisture.
2./ Beans with more than 2.0 percent contrasting classes are graded Mixed beans.
3./ Beans with more than 15.0 percent classes that blend are graded Mixed beans.

§ 68.136 Grades and grade requirements for the class Pinto beans.

GRADE	GENERAL APPEARANCE	PERCENT MAXIMUM LIMITS OF ---							
		MOISTURE 1./	TOTAL DEFECTS (Total damaged, Total foreign material, Contrasting classes, Splits)	TOTAL DAMAGED	CLEAN-CUT WEEVIL BORED 2./	FOREIGN MATERIAL		CONTRASTING CLASSES 3./	CLASSES THAT BLEND 4./
						TOTAL (Includes Stones)	STONES		
U.S. No. 1	THE SPECIAL GRADE OFF-COLOR MAY BE APPLIED AFTER REMOVAL OF TOTAL DEFECTS	18.0	2.0	2.0	0.1	0.5	0.2	0.5	5.0
U.S. No. 2		18.0	4.0	4.0	0.2	1.0	0.4	1.0	10.0
U.S. No. 3		18.0	6.0	6.0	0.5	1.5	0.6	2.0	15.0
U.S. Substandard		18.0	U.S. Substandard shall be beans which do not meet the grade requirements for the grades U.S. No. 1 through U.S. No. 3 or U.S. Sample grade. Beans which are not well screened shall also be U.S. Substandard, except for beans which meet the requirements for U.S. Sample grade.						
U.S. Sample grade		18.0	U.S. Sample grade shall be beans which are musty, sour, heating, materially weathered, or weevily; which have any commercially objectionable odor; which contain insect webbing or filth, animal filth, any unknown foreign substance, broken glass or metal fragments or are otherwise of distinctly low quality.						

1./ Beans with more than 18.0 percent moisture are graded High moisture.
2./ Beans with more than 0.5 percent clean cut weevil bored beans are graded U.S. Sample grade.
3./ Beans with more than 2.0 percent contrasting classes are graded Mixed beans.
4./ Beans with more than 15.0 percent classes that blend are graded Mixed beans.

§ 68.137 Grades and grade requirements for the classes Marrow, Great Northern, Small White, Flat Small White, White Kidney, Light Red Kidney, Dark Red Kidney, Small Red, Pink, Black Turtle Soup, and Miscellaneous beans.

GRADE	GENERAL APPEARANCE	PERCENT MAXIMUM LIMITS OF ---							
		MOISTURE 1./	TOTAL DEFECTS (Total damage, Total foreign material, Contrasting classes, Splits)	TOTAL DAMAGE	FOREIGN MATERIAL		CONTRASTING CLASSES 2./	CLASSES THAT BLEND 3./	IN ADDITION TO CLASSES THAT BLEND, WHITE BEANS SIMILAR IN SIZE AND SHAPE IN THE CLASS YELLOWEYE BEANS
					TOTAL (Includes Stones)	STONES			
U.S. No. 1	THE SPECIAL GRADE OFF-COLOR MAY BE APPLIED AFTER REMOVAL OF TOTAL DEFECTS	18.0	4.0	2.0	0.5	0.2	0.5	5.0	5.0
U.S. No. 2		18.0	6.0	4.0	1.0	0.4	1.0	10.0	5.0
U.S. No. 3		18.0	8.0	6.0	1.5	0.6	2.0	15.0	---
U.S. Substandard		18.0	U.S. Substandard shall be beans which do not meet the requirements for the grades U.S. No. 1 through U.S. No. 3, or U.S. Sample grade. Beans which are not well screened shall also be U.S. Substandard, except for beans which meet the requirements for U.S. Sample grade.						
U.S. Sample grade		18.0	U.S. Sample grade shall be beans which are musty, sour, heating, materially weathered, or weevily; which have any commercially objectionable odor; which contain insect webbing or filth, animal filth, any unknown foreign substance, broken glass or metal fragments; or which are otherwise of distinctly low quality.						

1./ Beans with more than 18.0 percent moisture are graded High moisture.
2./ Beans with more than 2.0 percent contrasting classes are graded Mixed beans.
3./ Beans with more than 15.0 percent classes that blend are graded Mixed beans.

§ 68.138 Grades and grade requirements for the class Mung beans.

GRADE	GENERAL APPEARANCE	PERCENT MAXIMUM LIMITS OF ---						
		MOISTURE 1./	TOTAL DEFECTS (Total damaged, Total foreign material Contrasting classes, Splits)	TOTAL DAMAGED	FOREIGN MATERIAL		CONTRASTING CLASSES 2./	CLASSES THAT BLEND 3./
					TOTAL (includes Stones)	STONES		
U.S. No. 1	THE SPECIAL GRADE OFF-COLOR MAY BE APPLIED AFTER REMOVAL OF TOTAL DEFECTS	18.0	3.0	3.0	0.5	0.2	0.5	5.0
U.S. No. 2		18.0	5.0	5.0	1.0	0.4	1.0	10.0
U.S. No. 3		18.0	7.0	7.0	1.5	0.6	2.0	15.0
U.S. Substandard		18.0	U.S. Substandard shall be beans which do not meet the requirements for the grades U.S. No. 1 through U.S. No. 3 and U.S. Sample grade. Beans which are not well screened shall also be U.S. Substandard, except for beans which meet the requirements for U.S. Sample grade.					
U.S. Sample grade		18.0	U.S. Sample grade shall be beans which are musty, sour, heating, materially weathered, or weevily; which have any commercially objectionable odor; which contain insect webbing or filth, animal filth, any unknown foreign substance, broken glass, or metal fragments; or which are otherwise of distinctly low quality.					

1./ Beans with more than 18.0 percent moisture are graded High moisture.
2./ Beans with more than 2.0 percent contrasting classes are graded Mixed beans.
3./ Beans with more than 15.0 percent classes that blend are graded Mixed beans.

§ 68.139 Grades and grade requirements for the class Large Lima beans.

GRADE	GENERAL APPEARANCE	PERCENT MAXIMUM LIMITS OF ---											
		MOISTURE 1./	TOTAL BLISTERED WRINKLED AND DEFECTS (Blistered, wrinkled, Total damage, Total foreign material, Contrasting classes, Splits)	DAMAGED BEANS		FOREIGN MATERIAL		CONTRASTING CLASSES 2./	SPLITS	BROKENS	CLASSES THAT BLEND 3./	BEANS THROUGH A SIEVE	
				TOTAL	BADLY DAMAGED	TOTAL (Includes Stones)	STONES					28/64"	24/64"
U.S. No. 1	THE SPECIAL GRADE OFF-COLOR MAY BE APPLIED AFTER REMOVAL OF TOTAL DEFECTS	18.0	6.0	2.0	0.5	0.5	0.2	0.5	3.0	5.0	5.0	25	5
U.S. No. 2		18.0	9.0	3.0	1.0	1.0	0.3	1.0	5.0	5.0	10.0	40	5
U.S. Substandard		18.0	U.S. Substandard shall be beans which do not meet the requirements for the grades U.S. No. 1 through U.S. No. 2 or U.S. Sample grade. Beans which are not well screened shall also be U.S. Substandard, except for beans which meet the requirements for U.S. Sample grade.										
U.S. Sample Grade		18.0	U.S. Sample grade shall be beans which are musty, sour, heating, materially weathered, or weevily; which have any commercially objectionable odor; which contain insect webbing or filth, animal filth, any unknown foreign substance, broken glass or metal fragments; or which are otherwise of distinctly low quality.										

1./ Beans with more than 16.0 percent moisture are graded High moisture.
2./ Beans with more than 2.0 percent contrasting classes are graded Mixed beans.
3./ Beans with more than 15.0 percent classes that blend are graded Mixed beans.

§ 68.140 Grades and grade requirements for the classes Baby Lima and Miscellaneous Lima beans.

GRADE	GENERAL APPEARANCE	PERCENT MAXIMUM LIMITS OF ---								
		MOISTURE 1./	TOTAL DEFECTS (Total damage, Total foreign material, Contrasting classes)	BADLY DAMAGED	FOREIGN MATERIAL		CONTRASTING CLASSES 2./	BLISTERED WRINKLED AND/OR BROKEN	SPLITS	CLASSES THAT BLEND 3./
					TOTAL (Includes Stones)	STONES				
U.S. No. 1	THE SPECIAL GRADE OFF-COLOR MAY BE APPLIED AFTER REMOVAL OF TOTAL DEFECTS	18.0	2.0	1.0	0.5	0.2	0.5	3.0	3.0	5.0
U.S. No. 2		18.0	3.0	1.5	1.0	0.3	1.0	5.0	5.0	10.0
U.S. No. 3		18.0	5.0	2.0	1.5	0.6	2.0	8.0	8.0	15.0
U.S. Substandard		18.0	U.S. Substandard shall be beans which do not meet the requirements for the grades U.S. No. 1 through U.S. No. 3 and U.S. Sample grade. Beans which are not well screened shall also be U.S. Substandard, except for beans which meet the requirements for U.S. Sample grade.							
U.S. Sample grade		18.0	U.S. Sample grade shall be beans which are musty, sour, heating, materially weathered or weevily; which have any commercially objectionable odor; which contain insect webbing or filth, animal filth, any unknown foreign substance, broken glass or metal fragments; or which are otherwise of distinctly low quality.							

1./ Beans with more than 18.0 percent moisture are graded High moisture.
2./ Beans with more than 2.0 percent contrasting classes are graded Mixed beans.
3./ Beans with more than 15.0 percent classes that blend are graded Mixed beans.

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§ 68.141 Grade designations.

The grade designation for all classes of beans shall include in the following order: (a) The letters "U.S."; (b) the name or number of the grade or the name of any applicable special grade designation as appears in Section §8.142 (a) and (b); (c) the class, and in the case of Mixed beans, the name and percentage of each class in the mixture; and (d) the special grade designations, if applicable, as appears in § 68.142 (c) and (d). In addition, the designation for the grade "U.S. Substandard" shall include the percentage of sound beans. Mixed beans shall be graded according to the grade requirements of the class of beans which predominates in the mixture. The factors of contrasting classes, classes that blend and sieve size requirements in the class Large Lima beans shall be disregarded in Mixed beans.

§ 68.142 Special grade designations.

(a) *Choice handpicked.* The special grade designation "Choice handpicked" shall be applicable only to the class Pea beans. The "Choice handpicked" designation shall include in the following order: (1) The letters "U.S."; (2) the words "Choice handpicked"; and (3) "Pea beans."

(b) *Prime handpicked.* The special grade designation "Prime handpicked" is applicable only to the class Pea beans. The "Prime handpicked" designation shall include in the following order: (1) The letters "U.S."; (2) the words "Prime handpicked"; and (3) "Pea beans."

(c) *High moisture.* The special grade designation "High moisture" is applicable to all classes of beans containing over 18.0 percent moisture. The words "High moisture" and the percentage of moisture shall follow the class name.

(d) *Off-color.* The special grade designation "Off-color" shall be applicable to all classes of beans that, upon the removal of total defects, are distinctly off-color due to age or any other natural cause but are not materially weathered. The words "Off-color" shall follow the name of the class. The special grades "Choice Handpicked", "Prime Handpicked", and the grade "U.S. No. 1", in the class Pea beans shall not be applied if the beans are determined to be off-color.

(Secs. 203, 205, 60 Stat 1087, 1090 as amended; 7 U.S.C. 1622, 1624)

Dated: September 18, 1981.

K. A. Gilles,

Administrator.

[FR Doc. 81-28813 Filed 10-2-81; 8:45 am]

BILLING CODE 3410-EN-M

federal register

Monday
October 5, 1981

Part III

Department of Agriculture

Federal Grain Inspection Service

Official Designation of the New York State Department of Agriculture and Markets and Assignment of Geographic Area

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Official Designation of the New York State Department of Agriculture and Markets and Assignment of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces the designation of the New York State Department of Agriculture and Markets as the official agency responsible for providing grain inspection services under the U.S. Grain Standards Act (7 U.S.C. 71, *et seq.*) (Act) at all locations within the State of New York, except for export port locations, which will continue to be serviced by the Federal Grainl Inspection Service.

EFFECTIVE DATE: October 1, 1981.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, Chief, Regulatory Branch, Compliance Division, FGIS, U.S. Department of Agriculture, Washington, DC 20250; (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore the Executive Order and Secretary's Memorandum do not apply to this action.

The December 17, 1980, issue of the **Federal Register** (45 FR 83187) contained a notice from the Federal Grain Inspection Service (FGIS) announcing that A. E. Herron, Pittsford, New York, had requested voluntary cancellation of its designation as an official agency under the Act and requesting applications for designation as the official agency to provide official inspection and weighing services in Pittsford Township, New York, and the remainder of the State of New York, excluding export port locations. The notice also requested comments on the need for a replacement agency and for official inspection and weighing services in the remainder of the State of New York. Applications and comments were to be postmarked by February 17, 1981.

The New York State Department of Agriculture and Markets (New York State) proposed to establish a new official agency and applied for designation for the entire State, excluding export port locations. It was determined from comments and other information received that official grain inspection services are needed in the entire State of New York. It was further determined that there is no need for official weighing services at this time; however, FGIS will review the situation in the future if the need should arise.

FGIS announced the name of New York State as the only applicant and requested comments on New York State in the May 6, 1981, issue of the **Federal Register** (46 FR 25330). Comments were to be postmarked by June 10, 1981. Four comments were received regarding the request for comments on the designation of New York State as the official agency in the entire State of New York, excluding export port locations. Two commentors recommended New York State as the official agency; the other two commentors submitted comments that were not relevant to the specific request for comments on New York State.

After considering all available information in relation to the criteria for designation in section 7(f)(1)(A) of the Act, and in accordance with section 7(f)(1)(B), it has been determined that New York State is able to provide official services in the geographic area for which it has been designated. This assigned geographic area is the entire State of New York, excluding export port locations, which will continue to be serviced by FGIS.

Effective October 1, 1981, the responsibility for providing official inspection services in its geographic area as described above will be assigned to New York State. The Agency's designation will terminate October 31, 1984.

A specified service point for the purpose of this Notice is a city, town, or other location specified by an agency for the conduct of official inspection and where the agency or one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the agencies will provide official inspection services not requiring a licensed inspector to all other areas within their geographic area.

Interested persons may obtain a list of the specified service points by contacting the agency at the following address: New York State Department of Agriculture and Markets, Building 8, State Campus, Albany, New York 12235.

Interested persons may also contact the Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250; 202 447–8525, to obtain this information.

(Sec. 8, Pub. L. 94–582, Stat. 2870 (7 U.S.C. 79))

Dated: September 29, 1981.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 81-28838 Filed 10-2-81; 8:45 am]

BILLING CODE 3410-02-M

federal register

Monday
October 5, 1981

Part IV

Department of Transportation

Coast Guard

Ocean Thermal Energy Conversion Facility and Plantship Requirements; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 50, 66, 106, and 110

[CGD 80-161]

Ocean Thermal Energy Conversion Facility and Plantship Requirements

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard proposes to issue regulations implementing its responsibilities under the Ocean Thermal Energy Conversion Act of 1980. The Act requires the Coast Guard to prescribe rules for ocean thermal energy conversion (OTEC) facilities and plantships for the purpose of protecting the marine environment and promoting the safety of life and property at sea.

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

ADDRESS: Comments may be mailed to the Commandant (G-CMC/44) (CGD 80-161), U.S. Coast Guard, Washington, D.C. 20593. Comments may be delivered to and will be available for inspection at the Marine Safety Council (G-CMC/44), Room 4402, U.S. Coast Guard Headquarters, 2100 2nd St., S.W., Washington, D.C. (202) 426-1477 between the hours of 7:00 A.M. and 5:00 P.M. Monday through Thursday, except holidays. Also available for examination is a draft evaluation which addresses specific issues considered during the development of this rulemaking. Copies of written comments received will be furnished to interested persons upon request and payment of the fees prescribed in 49 CFR 7.95.

FOR FURTHER INFORMATION CONTACT: Lt. Thomas M. Curelli, Office of Merchant Marine Safety, Room 1302, U.S. Coast Guard Headquarters, 2100 2nd St. S.W., Washington, D.C. 20593 (202-426-2197). Frank A. Martin Jr., Office of Marine Environment and Systems, Room 2110, U.S. Coast Guard Headquarters, 2100 2nd St. S.W., Washington, D.C. 20593 (202-472-5052).

SUPPLEMENTARY INFORMATION: The public is invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Comments should include the name and address of the person submitting them, identify this notice (CGD 80-161) and the specific section of the proposal to which each comment applies, and give the reasons for the comments. If an acknowledgement is desired, a stamped, addressed postcard should be enclosed. All comments received before the expiration of the comment period will be considered before fianl action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will be beneficial.

Drafting Information

The principal persons involved in this rulemaking are LT Thomas M. Curelli, Office of Merchant Marine Safety, Mr. Frank A. Martin, Jr., Office of Marine Environment and Systems, and LT Michael Tagg, Office of the Chief Counsel.

Background

The Ocean Thermal Energy Conversion Act of 1980 (Act) (Pub. L. 96-320; 94 Stat. 974; 42 U.S.C. 9101) was enacted on August 3, 1980. The main purpose of this new law is the establishment of a legal regime which will permit and encourage domestic development of OTEC as a commercial energy technology. The development is to occur with due regard for other uses of the coastal waters and high seas in a manner which protects the marine environment and promotes the safety of life and property at sea.

Title I of the Act, "Regulation of Ocean Thermal Energy Conversion Facilities and Plantships," sets forth a federal licensing scheme and attendant procedures for authorizing the ownership, construction, and operation of OTEC facilities and plantships. The Coast Guard, through the Secretary of Transportation, is directed to prescribe and enforce regulations to (1) promote the safety of life and property at sea, (2) prevent pollution of the marine environment, (3) clean up any pollutants which may be discharged, and (4) otherwise prevent or minimize any adverse impact from the construction and operation of OTEC facilities and plantships licensed under the Act. The Coast Guard is also directed to prescribe regulations for the movement and navigation of licensed OTEC plantships to prevent interference by the thermal plumes of plantships with other OTEC facilities or with the jurisdictional areas of other nations. Additionally, Title I directs the Coast Guard to develop technical regulations concerning documentation, design, construction, alteration, equipment, repair, maintenance, inspection, certification, and manning of OTEC facilities and plantships licensed under the Act as is shown to be necessary for ocean thermal energy conversion development.

This rulemaking complements the National Oceanic and Atmospheric Administration rulemaking under the Act. NOAA's regulations under the Act addressed in detail the specific information required in an OTEC license application including the procedures and criteria by which NOAA conducts the license application review. The Act and NOAA's implementing regulations make provision for a coordinated federal, state, and local governmental agency review of each individual OTEC license application. Within NOAA's final rules are the Coast Guard requirements which an applicant needs to consider at the time of preparing an application. These rules require an applicant to address and submit information relative to the following items:

(a) Pollution prevention, abatement and cleanup for operational and accidental discharges, including a requirement for an emergency discharge contingency plan.

(b) Recommended ships' routing measures considered necessary or appropriate for the protection of OTEC facilities.

(c) A description of navigational lighting on OTEC plantships.

(d) A description of communications systems employed in the operation of OTEC facilities to communicate with transient shipping for safety at sea.

(e) A description of navigation safety equipment required for plantships.

(f) Aids to navigation employed on OTEC facilities.

In view of the many OTEC facility and plantship configurations under consideration by industry, the Coast Guard believes specific regulations might have the undesirable effect of constraining rather than encouraging OTEC development. Therefore, general performance standards are proposed where established regulations are not applicable, and existing regulations are made applicable with only slight modifications where needed to minimize any regulatory burdon on the developing technology. As OTEC technology and the related industry emerge, the Coast Guard may propose future rulemaking applicable to other specific OTEC matters impacting on the safety of life and property at sea and marine environmental protection. The Coast Guard's position on specific regulatory issues authorized under the Act but not addressed in this rulemaking is discussed in the draft evaluation prepared for this project.

Discussion

The purpose of this rulemaking is to prescribe the requirements for safety of life and property at sea and marine

environmental protection applicable to the construction, location, and operation of OTEC facilities and plantships. The regulations resulting from this rulemaking will affect prospective OTEC licensees and related private industry support interests. Vessel marking requirements in this rulemaking will also affect general navigation interests.

This rulemaking establishes the minimal rules necessary to fulfill the Coast Guard's regulatory mandates under the Act. This rulemaking also minimizes the costs of developing new regulations by directly referencing, where possible, existing regulations based on safety standards developed for similar marine operations. Moreover, to allow an absolute maximum of flexibility, the Coast Guard will examine innovative or unique designs that do not meet these existing requirements on an individual basis. If future developments show that there is a need for more specific regulations as the industry emerges, the Coast Guard may propose additional rules. However, our initial effort is to propose regulations that will promote rather than discourage OTEC development. To effect this, authority citations and applicability statements have been revised as needed. A new part of 46 CFR is proposed to reference existing rules determined applicable to OTEC technology, and contains new requirements unique to OTEC facilities. Details of the proposed rulemaking are addressed in the following discussion.

Pollution Prevention

OTEC discharges may include pollutants other than heat from their thermal plume, such as accidental discharges of oil or ammonia (or other working fluid), operational discharges of chlorine (or other biocides) and other waste products from facility or plantship operations.

In view of the regulatory authority contained in section 108(a) of the Act, the Coast Guard has determined after discussions with interested agencies that the term "pollutants" means oil of any kind or in any form, including, but not limited to petroleum, fuel oil, sludge, oil refuse, oil mixed with water, and hazardous substances designated as such under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Pub. L. 96–510). Discharge of pollutants from OTEC facilities or plantships is partially addressed in the Coast Guard comments on NOAA's licensing requirements.

As effected, NOAA's rules will require an OTEC license applicant to address pollution prevention and response to accidental discharges. Additionally, the applicant must provide an emergency discharge contingency plan to minimize the impact of, and outline the response to, an accidental discharge of a pollutant. The operational discharges from OTEC systems will also be addressed by the Environmental Protection Agency under its National Pollutant Discharge Elimination System (NPDES) program. Additional specific Coast Guard measures to minimize the risk of pollution from OTEC development are discussed below.

At present, 33 CFR Parts 154, 155, and 156 prescribe oil pollution prevention regulations for marine oil transfer facilities, vessels, and transfer operations involving vessels. The Coast Guard proposes to make these regulations applicable to the operation of OTEC facilities by cross-referencing the existing oil pollution prevention regulations to § 106.005 of proposed Part 106 of 46 CFR. It is intended that both OTEC facilities and plantships will fall within the applicability of these regulations.

Navigation Safety

Section 108(b) (42 U.S.C. 9118(b)) of the Act authorizes regulations "with respect to lights and other warning devices . . . on any (OTEC) facility or plantship. . .". The Coast Guard proposes to implement this statutory provision by applying the following existing regulations:

a. 33 CFR Part 64, which addresses marking requirements for sunken vessels or other obstructions.

b. 33 CFR Part 66, which prescribes requirements for private aids to navigation, particularly the § 66.01–35 provisions for the marking of structures and floating obstructions, which will apply to an OTEC facility of either the fixed bottom-founded type or one of the fixed floating type which is permanently moored at one location during operation.

c. 33 CFR Part 87, Appendix A (the International Regulations for Prevention of Collisions at Sea, 1972) which will apply to OTEC plantships.

The Coast Guard proposes to apply the above to OTEC technology as follows:

a. Require an applicant for an OTEC license to address how his proposed OTEC facility or plantship will meet the requirements listed above. This requirement exists as part of the NOAA's license application requirements.

b. Establish §§ 106.009 and 106.011 in the new Part 106 in 46 CFR which specifically state that the requirements of 33 CFR Parts 64, 66, and 87 apply to OTEC facilities and plantships; and

c. Under separate rulemaking (CGD 78–156), already initiated to amend 33 CFR Part 64, by adding a paragraph to emphasize that Part 64 applies to and includes fixed bottom founded and fixed floating OTEC facilities.

Section 108(b) of the Act also authorizes regulations "with respect to . . . safety equipment." In the area of navigation safety there exist several regulations which will be appropriately made available to OTEC units. The vessel bridge-to-bridge radiotelephone regulations (33 CFR Part 26) will apply to all OTEC facilities and plantships located within the navigable waters of the United States (46 CFR Part 7). If similar regulations are internationally adopted, suitable radio equipment and watch requirements will be imposed on OTEC facilities and plantships located beyond the navigable waters.

It is proposed that all plantships comply with the appropriate sections of the Navigation Safety Regulations (33 CFR Part 164) as applicable to the OTEC facility configuration.

Documentation, Design, and Manning

Section 108(e)(2) of the Act requires that regulations be promulgated which require that any OTEC facility or plantship:

(1) Be documented;

(2) Comply with minimum design, construction, alteration, and repair standards; and

(3) Be manned or crewed by U.S. citizens or "resident aliens."

In order that OTEC plantships and facilities be entitled to documentation, a revision of 46 CFR 66.03–5 and addition of 46 CFR 66.03–21 and 66.03–23 is proposed. This will encompass all OTEC configurations which are based seaward of the highwater mark. The Coast Guard does not intend to document or require standards of design on facilities which are land based or constructed on the landward side of the highwater mark. Excluded also from Coast Guard design and documentation requirements are any appurtenances which extend seaward of the highwater mark from a land based facility.

The general areas of safety for OTEC facilities are similar to those for any vessel or platform operations in the marine environment. Accordingly, the cross-referencing of Subchapter I–A, Mobile Offshore Drilling Units, requirements was determined by the Coast Guard to be the most suitable way to prescribe many of the rules for OTEC facilities and plantships. The safety requirements drawn from Subchapter I–A have been modified as

necessary for the identified peculiarities of OTEC facilities and plantships.

Design and construction requirements are specified within the proposed Part 106. Subpart B—Inspection and Certification, adopts by reference the corresponding requirements of Subchapter 1–A, Mobile Offshore Drilling Units. Proposed 46 CFR 106.105 addresses the requirements for special examinations in lieu of drydocking. This section specifies the examination requirements for fixed facilities, floating facilities and plantships.

The Coast Guard intends that the primary means of inspection of the submerged portions of the facility or plantship be by drydocking. However, it is recognized that by nature of the design and operation of the OTEC facility or plantship, there will be situations where drydocking for inspection will not be feasible and provisions for special examinations have been made. Mooring systems are considered as integral and essential components with regard to the safety of floating facilities. Inspection of the mooring system will be required on the same periodic schedule as the OTEC facility.

Proposed § 106.107 prescribes procedures for plan approval by referencing the corresponding requirements from Subchapter I–A. Additional information is specified and provisions are made for the uniqueness of many designs.

Proposed Subpart C specifies construction and arrangement requirements for OTEC facilities and plantships. Accommodation arrangements should be similar for all OTEC facilities and appropriate sections of Subchapter I–A, Rules for Mobile Offshore Drilling Units, are considered applicable. Structural requirements are specified in § 106.203. Construction in compliance with the standards of the American Bureau of Shipping for the appropriate type of facility or plantship will be acceptable. As fixed facility (platform) construction has previously been subject to only limited Coast Guard standards, the Coast Guard proposes to use ABS guidelines when reviewing fixed facility designs. The proposed rules provide for examining innovative or unique designs on an individual basis.

Proposed § 106.209—Marine and Electrical Engineering Requirements requires that all installations comply with Subchapters F and J of 46 CFR. Industrial systems and components will be reviewed for comparability and equivalent level of safety to similar subsystems described within these subchapters. When sufficient experience has been gained, and should conditions warrant, the Coast Guard may consider devleopment of specific regulations for OTEC industrial systems.

In the interim, review will be conducted as described in § 106.209 (c) and (d). For example, any automatically controlled burner unit and associated fuel piping will be expected to have a level of safety comparable to § 56.50–65 for fuel oil piping and 46 CFR Part 63 for burner controls. National standards will be used when the marine and electrical engineering regulations are not applicable but a suitable national standard is available. It will generally be necessary to adopt these standards to marine use. There are several examples of this in existing marine regulations. The ASME boiler and pressure vessel code has been adapted in 46 CFR Parts 52, 53, 54, and 57; the power piping code ANSI B31.1 has been adapted in Part 56; and the refinery piping code has been adapted in § 58.60–7 and by the addition of § 58.60–9.

Experience with early OTEC's, MODU's, and other such industrial vessels has shown that it is essential that designers consult with the Commandant as soon as conceptual design is firmly established and prior to detailed design or ordering of long lead time components. Once agreement has been reached as to the applicability of regulations, codes, standards, and other requirements, detailed design and formal plan review can then be conducted. Agreement may also be reached for a certification program by a registered professional engineer for compliance with accepted standards for certain industrial systems or their components.

Proposed Subpart D—Hazardous Materials, prescribes the level of safety to be maintained for a safe environment for personnel. It appears that the working fluids of OTEC facilities and plantships could be hazardous to the personnel employed aboard these facilities. These personnel must be protected during the transportation, transfer and operations with those materials. They are afforded protection by two means: (1) Passively, through the design, construction, and operation of systems and components, and (2) actively, through the use of personnel protection equipment and safety procedures prescribed by this subpart. It is proposed that the owner or operator present a plan for personnel safety in the event of accidental leakage of hazardous materials. Plans will be reviewed and approved on an individual basis.

Proposed Subpart K—Operations, directly adopts Part 109 of Subchapter I–A with the exceptions noted in § 106.1001. An operating manual as prescribed by Part 109 is not required for the OTEC facility or plantship.

Proposed Subpart L—Manning, restates those requirements mandated by the OTEC Act of 1980. Established regulations for manning of vessels will apply to all OTEC facilities and plantships.

Regulatory Evaluation

These proposed regulations are considered non-significant and a draft evaluation has been prepared and placed in the public docket as required by the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of May 22, 1980). The Order requires that the draft evaluation contain an economic analysis which quantifies the estimated costs of the regulations to the private sector, consumers, and governments, as well as the anticipated benefits and impacts of the regulations. These regulations will impose no unanticipated costs on the OTEC industry since they largely incorporate existing regulations which apply to similar vessels. The regulations establish a framework within which the emerging OTEC industry may develop. This will permit the rapid and orderly development of a vital alternative energy resource.

The regulations have also been found to be non-major under Executive Order 12291. The proposed regulations are designed to facilitate OTEC development through a minimum of regulatory control. The ocean thermal energy conversion system will produce usable energy at a minimal societal cost, and by doing so will maximize the benefits to be received by all. The exact costs of compliance cannot be determined at this stage of OTEC technology development. The estimated costs of regulatory compliance should not constitute more than 2½ percent of the total costs of the OTEC facility.

This estimation is based on experience with similar regulations concerning marine facilities. These costs should not significantly increase consumer prices due to the competitive nature of the energy industry. The approval of OTEC facility design and equipment will be carried out with a view towards allowing designs which maximize flexibility and are consistent with the needs of safety and environmental protection. This minimizing of regulatory control and cooperation with the OTEC industry should produce maximum benefits for all parties, and by fostering an emerging industry productivity, innovation and

employment of United States industries should be enhanced.

The proposed regulations have also been determined to have no significant economic impact on a substantia] number of small entities as required by the Regulatory Flexibility Act (94 Stat. 1164, 5 U.S.C. 601). No more than twenty OTEC facilities are anticipated and the cost of each facility will be such as to preclude participation by all but the major energy companies and consortiums. While the number of entities involved will be small, the relative economic size of those entities is unlikely to be within the scope of the small business activities envisioned by the Act. Since small entities are not involved, it is certified that the regulations will not have a significant economic impact on a substantial number of small entities.

The Coast Guard has concluded that the environmental impact of these particular proposals will be minimal. Coast Guard actions performed under statutory authority for documentation and inspection of vessels are not normally actions with significant effect on the environment and do not require an Environment Assessment, Findings of No Significant Impact, or Environmental Impact Statement (EIS). Thus, a detailed EIS is not being prepared for this rulemaking.

(Ocean Thermal Energy Conversion Act of 1980, Pub. L. 96-320; 94 Stat. 974; (42 U.S.C. 9118, 9119(c), 9127, 9153(a), (b); 49 CFR 1.46(ee).])

Accordingly, it is proposed that Chapter I of Title 46 of the Code of Federal Regulations be amended as follows:

PART 50—GENERAL PROVISIONS

1. Paragraph (k) is added to § 50.01–1 to read as follows:

§ 50.01–1 Authority for regulations.

* * * * *

(k) OTEC facilities and plantships. The citation regarding authority to prescribe requirements for OTEC facilities and plantships is in Part 106 of this Chapter.

2. Paragraph (c) is added to § 50.05–15 to read as follows:

§ 50.05–15 Vessels subject to regulations in this subchapter.

* * * * *

(c) The provisions in this subchapter apply to OTEC facilities and plantships licensed under the Ocean Thermal Energy Conversion Act of 1980 (46 U.S.C. 1901).

PART 66—GENERAL PROVISIONS

3. By revising § 66.03–5 to read as follows:

§ 66.03–5 Vessel.

The word "vessel" includes the following:

(a) Every description of watercraft or other contrivance used or capable of being used as a means of transportation on water, but does not include aircraft.

(b) An ocean thermal energy conversion facility as defined in § 66.03–21 of this part and an ocean thermal energy conversion plantship as defined in § 66.03–23 of this part.

4. By adding new §§ 66.03–21 and 66.03–23 to read as follows:

§ 66.03–21 Ocean thermal energy conversion facility.

"Ocean thermal energy conversion facility" means any facililty which is standing or moored in or beyond the territorial sea of the United States and which is designed to use temperature differences in ocean water to produce electricity or another form of energy capable of being used directly to perform work.

§ 66.03–23 Ocean thermal energy conversion plantship.

"Ocean thermal energy conversion plantship" means any vessel which is designed to use temperature differences in ocean water while floating unmoored or moving through such water to produce electricity or another form of energy capable of being used directly to perform work.

5. By adding a new Part 106 to read as follows:

PART 106—OCEAN THERMAL ENERGY CONVERSION FACILITIES AND PLANTSHIPS

. Subpart A—General

Sec.
106.001 Purpose.
106.003 Applicability.
106.005 Definitions of terms used in this part.
106.007 Pollution prevention.
106.009 Lights and warning devices.
106.011 Navigation rules for plantships.
106.013 Radiotelephone requirements.
106.015 Navigation safety requirements.

Subpart B—Inspection and Certification

106.100 Application.
106.103 Special examination in lieu of drydocking.
106.105 Plan approval

Subpart C—Construction and Arrangement

Sec.
106.200 General.
106.203 Structural standards.
106.205 General fire protection.
106.207 Structural fire protection.
106.209 Marine and electrical engineering requirements.
106.211 Means of escape.
106.213 Ventilation.
106.215 Accommodation spaces.
106.217 Rails.
106.219 Helicopter facilities.

Subpart D—Hazardous Materials

106.300 Purpose.
106.303 Designation of materials.
106.305 Safety.

Subpart E—Stability

106.400 Application.
106.403 Tension tendon tethered facility stability.
106.405 Stability test.

Subpart F—Fire Extinguishing System

106.501 Application.

Subpart G—Lifesaving Equipment

106.601 Application.

Subpart H—Cranes and Power Operated Industrial Trucks

106.701 Application.

Subpart I—Equipment Markings and Instructions

106.801 Application.

Subpart J—Miscellaneous Equipment

106.901 Application.

Subpart K—Operations

106.1001 Application.

Subpart L—Manning

106.1101 Requirements.

Authority: Pub. L. 96-320, 94 Stat. 974, (42 U.S.C. 9118, 9119(c), 9153(a), (b)); 49 C.F.R. 1.46(ee).

Subpart A—General

106.001 Purpose.

This part states the requirements for the promotion of safety of life and property on ocean thermal energy conversion facilities and plantships, protection of the marine environment from adverse impact resulting from OTEC activities, and implementation of the requirements of § 108 of the Ocean Thermal Energy Conversion Act of 1980.

106.003 Applicability.

The part applies to facilities, plantships, vessels, and persons engaged in the production of energy from seawater temperature differences and licensed under the provisions of the Ocean Thermal Energy Conversion Act of 1980.

§ 106.005 Definition of terms used in this part.

As used in this Part:

"Ocean Thermal Energy Conversion Facility (OTEC Facility)" means any facility which is standing or moored in

or beyond the territorial sea of the United States and which is designed to use temperature differences in ocean water to produce electricity or another form of energy capable of being used directly to perform work, and includes any equipment installed on such facility to use this electricity or other form of energy to produce, process, refine or manufacture a product, and all other associated equipment and appurtenances of the facility to the extent they are located seaward of the high water mark.

"Ocean Thermal Energy Conversion Plantship (Plantship)" means any vessel which is designed to use temperature differences in ocean water while floating unmoored or moving through such water, to produce electricity or another form of energy capable of being used directly to perform work, and includes any equipment installed on such vessel to use this electricity or other form of energy to produce, process, refine, or manufacture a product, and any equipment used to transfer the product to other vessels for transportation to users, and all other associated equipment and appurtenances of such vessels.

"OTEC" means ocean thermal energy conversion.

"Fixed Bottom Founded OTEC Facility (fixed facility)" means any facility which is permanently fixed to the ocean floor and does not use liquid buoyancy as a means of support.

"Floating OTEC Facility (floating facility)" means any buoyant facility securely and substantially moored to the ocean floor so that it cannot be moved without a special effort.

"Person" means any individual (whether or not a citizen of the United States), any corporation, partnership, association, or other entity organized or existing under the laws of any nation, and any federal, state, local or foreign government or any entity of any such government.

§ 106.007 Pollution prevention.

OTEC facilities and plantships are subject to the oil pollution regulations of 33 CFR Parts 154, 155, and 156.

§ 106.009 Lights and warning devices.

OTEC facilities are subject to the provisions of 33 CFR Part 64, concerning the marking of sunken vessels and other obstructions and 33 CFR Part 66, concerning private aids to navigation.

§ 106.011 Navigation rules for plantships.

The navigation and marking of OTEC plantships shall be in compliance with 33 CFR Part 87.

§ 106.013 Radiotelephone requirements.

The owner or operator of an OTEC facility or plantship shall comply with the radiotelephone requirements of 33 CFR Part 26.

§ 106.015 Navigation safety requirements.

The owner of an OTEC plantship shall ensure that the plantship is in compliance with the navigation safety regulations of 33 CFR Part 164.

Subpart B—Inspection and Certification

§ 106.100 Application.

Each OTEC facility shall meet Part 107, Subpart B—Inspection and Certification of this chapter, except that reference will be made to Subpart C of this part for the requirements of § 107.231(a)(1).

§ 106.103 Special examination in lieu of drydocking.

(a) Each fixed facility must be examined at intervals not to exceed 24 months. This examination must be in accordance with paragraph (c) of this section.

(b) Plantships and floating facilities may be specially examined in lieu of the drydocking required by § 107.261 when approved by the Commandant and in accordance with a plan—

(1) Submitted in accordance with paragraph (c) of this section; and

(2) Accepted by the Commandant.

(c) To meet the requirements in paragraphs (a) and (b), the owner of the OTEC facility or plantship must submit a plan to the cognizant OCMI that describes the methods used to determine the condition of the hull and mooring system or supporting structure for fixed facilities. The plans must contain the following information:

(1) The planned location where the facility or plantship is to be examined.

(2) The draft at which a hull is to be examined, or the depth of supporting structure.

(3) The names of the divers or diving company selected for the examination.

(4) The method of visual presentation for the examination.

(5) The method used to clean the underwater portion of the hull or structure.

(6) The method and location of gauging the underwater portion of the hull or structure.

(7) The number of underwater hull fittings and number of compartments to be opened.

(8) The underwater high stress areas and the welds in those areas to be examined.

(9) The method used to examine the intake and discharge pipes and joints.

§ 106.105 Plan approval.

(a) The list of required plans is general in character, but includes all plans which normally show construction and safety features coming under the cognizance of the Coast Guard. In the case of a particular vessel, all of the plans listed may not be applicable, and it is intended that only those plans and specifications be submitted as will clearly show the vessel's arrangement, construction, and required equipment.

(b) Plans must be submitted in accordance with the requirements of Subchapter I–A, §§ 107.305, 107.309 and 107.317 of this Chapter.

(c) An operating manual is not required for OTEC facilities.

(d) Plans required in addition to those of § 107.305 of this Chapter are:

(1) Outboard profile showing entire mooring and cold water pipe schemes.

(2) Cold water, warm water, and discharge pipe arrangements and details.

(3) Structural calculations and plans showing special structural features.

(4) Bottom attachment details and calculations for fixed structures.

(5) Support structure details and calculations for fixed structures.

(6) The hazardous material plan required by § 106.305 of this part.

Subpart C—Construction and Arrangement

§ 106.200 General.

(a) To use the rules of a classification society other than the American Bureau of Shipping in meeting the requirements of this Section, the owner or operator must request approval from the Commandant. The relevant rules must be submitted with the request.

(b) Substitutes for fittings, materials, apparatus, equipment, arrangements, calculations and tests required in this section are accepted by the Commandant if the substitute provides an equivalent level of safety.

(c) Where the use of any particular equipment, apparatus, arrangement, or test is impracticable, the Commandant may permit the use of alternate methods that maintain a degree of safety consistent with the minimum standards set forth in this section.

(d) Each item of lifesaving and firefighting equipment maintained in addition to those required by this Subpart must meet the requirements of this Part for that item of equipment. Use of nonapproved fire detection systems may be acceptable as excess equipment provided that they do not endanger the vessel or crew in any way.

§ 106.203 Structural standards.

(a) Except as provided for in § 106.200(b) of this chapter, each OTEC facility or plantship must meet the structural standards of the American Bureau of Shipping for the most appropriate vessel or structural configuration.

(b) Appliances for watertight and weathertight integrity must meet the requirements of § 108.114 of this chapter.

(c) If a plantship or floating facility is equipped with sliding watertight doors, each sliding watertight door must be approved under Subpart 163.001 of this chapter.

§ 106.205 General fire protection.

OTEC facilities and plantships must meet the requirements of §§ 108.123 and 108.127 of this chapter.

§ 106.207 Structural fire protection.

OTEC facilities and plantships must meet §§ 108.131 through 108.147 of this chapter.

§ 106.209 Marine and electrical engineering requirements.

(a) Except as noted in paragraphs (b) and (c) of this section, all installations must comply with the marine and electrical engineering requirements of Subchapters F and J of this chapter.

(b) Where unusual design or equipment needs make compliance impractical, alternative proposals that provide an equivalent level of safety may be accepted, as provided by §§ 50.20–30, 106.200(c), and 110.20–1 of this chapter.

(c) Detailed design and operating requirements for marine and electrical engineering aspects of OTEC industrial systems have not been fully developed. The general system or design concepts will comply with Subchapters F and J of this chapter where practicable.

(d) If a unique aspect of an installation is not covered by these regulations and is regarded as potentially hazardous to the vessel or personnel or to the marine environment, the proposed design and operating standards will be compared to applicable national or industry standards, adapted for marine applications as necessary. Where no national or industry standards exist, the installation will be reviewed for a level of safety consistent with that required by the marine and electrical engineering regulations.

(e) Conceptual diagrams or schematics including general requirements for materials and a written description of system operation must be submitted to the Commandant for evaluation and determination of applicable standards and requirements. Upon completion of conceptual review, detailed plan review will be conducted by a designated merchant marine technical field office using the requirements and standards established by the Commandant.

(f) The Commandant may accept certification of compliance with accepted standards, by a registered professional engineer, for certain industrial systems and their components in lieu of plan review and inspection by the Coast Guard.

§ 106.211 Means of escape.

OTEC facilities and plantships must meet §§ 108.151 through 108.167 of this chapter.

§ 106.213 Ventilation.

OTEC facilities and plantships must meet § 108.181 of this chapter.

§ 106.215 Accommodation spaces.

(a) OTEC facilities and plantships must meet § 108.193 and §§ 108.197 through 108.215 of this chapter.

(b) No section of the accommodation spaces deck shall be below the level of the deepest loadline.

(c) The elevation of the accommodation spaces deck of a fixed facility shall provide adequate clearance above the crest of the design wave.

(d) Each OTEC facility with accommodations for 12 or more persons shall have a hospital space as provided for in §§ 108.209 or 108.210 of this chapter.

§ 106.217 Rails.

(a) Except as permitted in paragraph (b) of this section, OTEC facilities and plantships must meet §§ 108.217 through 108.223 of this chapter.

(b) Fixed facilities need not comply with the requirements of § 108.221 (b) and (c) of this chapter.

§ 106.219 Helicopter facilities.

OTEC facilities must meet §§ 108.231 through 108.241 of this chapter.

Subpart D—Hazardous Materials

§ 106.300 Purpose.

This subpart defines those materials considered hazardous to personnel employed aboard an OTEC facility or plantship and prescribes a level of safety in their use onboard as working materials and during their transfer between vessels engaged in OTEC operations.

§ 106.303 Designation of materials.

(a) Hazardous material means any liquid material or substance which is:

(1) Flammable or combustible;

(2) Designated a hazardous substance under section 311(b) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321); or

(3) Designated a hazardous material under section 104 of the Hazardous Material Transportation Act (49 U.S.C. 1803).

(b) Materials which are incompatible due to reactivity shall be provided segregation in compliance with Part 150 of this chapter, or 49 CFR Part 176.

§ 106.305 Safety.

(a) The total complement of personnel must be protected in the event of accidental leakage, spillage, or combustion of hazardous materials through the use of facility or plantship arrangement, design and construction, and portable protective devices.

(b) Plans, procedures, and specifications for safety and protection measures are approved on an individual facility basis by the Commandant.

Subpart E—Stability

§ 106.400 Application.

(a) Plantships and floating facilities must meet Part 108, Subpart C—Stability, of this chapter, as modified by paragraph (b) of this section.

(b) "Normal operating condition" means a condition of the plantship or facility when loaded and arranged for producing energy or when in ocean transit.

§ 106.403 Tension tendon tethered facility stability.

Each OTEC facility of the tension tendon configuration must be designed so that it continually maintains a tension on each tendon when subjected to the forces described in § 108.311 of this chapter.

§ 106.405 Stability test.

A stability test is not required for a floating facility or plantship if it is shown to the satisfaction of the Commandant that, because of its configuration, testing of the facility is not practicable and the facility has inherent adequate stability by design.

Subpart F—Fire Extinguishing Systems

§ 106.501 Application.

OTEC facilities and plantships must meet Part 108, Subpart D—Fire Extinguishing Systems, of this chapter.

Subpart G—Lifesaving Equipment

§ 106.601 Application.

OTEC facilities and plantships must meet Part 108, Subpart E—Lifesaving Equipment, of this chapter.

Subpart H—Cranes and Power Operated Industrial Trucks

§ 106.701 Application.

OTEC facilities and plantships must meet Part 108, Subpart F—Cranes and Power Operated Industrial Trucks, of this chapter.

Subpart I—Equipment Markings and Instructions

§ 106.801 Application.

OTEC facilities and plantships must meet Part 108, Subpart G—Equipment Markings and Instructions, of this chapter.

Subpart J—Miscellaneous Equipment

§ 106.901 Application.

OTEC facilities and plantships must meet Part 108, Subpart H—Miscellaneous Equipment, of this chapter.

Subpart K—Operations

§ 106.1001 Application.

OTEC facilities and plantships must meet Part 109—Operations, of this chapter, except for §§ 109.103, 109.121 and 109.583(c).

Subpart L—Manning

§ 106.1101 Requirements.

(a) OTEC facilities and plantships must be manned or crewed by United States citizens or aliens lawfully admitted to the United States for permanent residence, unless—

(1) There is not a sufficient number of United States citizens, or aliens lawfully admitted to the United States for permanent residence, qualified and available for such work, or

(2) The President makes a specific finding with respect to the particular OTEC facility or plantship that application of this requirement would not be consistent with the national interest.

(b) Manning requirements for floating facilities and plantships are contained Subchapter P—Manning of Vessels, of this chapter. The application of these regulations is in the same manner and to the same extent as they are applied to conventional vessels.

PART 110—GENERAL PROVISIONS

6. A new paragraph (h) is added to § 110.01–10 to read as follows:

§ 110.01–10 Authority for regulations.

* * * * *

(h) *OTEC facilities and plantships.* The citation regarding authority to prescribe requirements for OTEC facilities and plantships is in Part 106 of this chapter.

7. A new paragraph (b) is added to § 110.05–1 to read as follows:

§ 110.05–1 Vessels subject to the requirements of this subchapter.

* * * * *

(b) The provisions in this Subchapter apply to OTEC facilities and plantships licensed under the Ocean Thermal Energy Conversion Act of 1980 (42 USC 9101 *et seq*).

Dated: September 29, 1981.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 81–28936 Filed 10–2–81; 8:45 am]

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federal register

Monday
October 5, 1981

Part V

National Aeronautics and Space Administration

Privacy Act of 1974; Annual Publication of Systems of Records

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[81-68]

Privacy Act of 1974; Systems of Records

In accordance with 5 U.S.C. 552a(e)(4) of the Privacy Act of 1974 (Pub. L. 93-579), the National Aeronautics and Space Administration hereby publishes the systems of record currently maintained by the agency.

Ann P. Bradley,

Deputy Associate Administrator for Management Operations.

TABLE OF CONTENTS

NASA 10ACMQ

System name: Aircraft Crewmembers Qualifications and Performance Records - NASA

System location: Locations 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, and 12 as set forth in Appendix A.

Categories of individuals covered by the system: Crewmembers of NASA aircraft.

Categories of records in the system: System contains: (1) record of qualification, experience, and currency, e.g., flight hours (day, night, and instrument), types of approaches and landings, crew position, type aircraft, flight check ratings and related examination results, training performed and medical records; (2) flight itineraries and passenger manifests; and (3) biographical information.

Authority for maintenance of the system: 42 U.S.C. 2473 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA for; evaluation of crewmember performance by supervisory flight operations personnel and staff; by the individuals whose records are maintained; on occasion by flight operations and safety survey teams; and by the NASA Aircraft Office. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) In cases of accident investigations, access to this system of records may be granted to federal or local agencies such as Department of Defense, Federal Aviation Administration, National Transportation Safety Board, or foreign governments; (2) To other agencies, companies, or governments requesting qualifications of crewmembers prior to authorization to participate in their flight programs; or to other agencies, companies, or governments whose crewmembers may participate in NASA's flight programs; (3) With prior approval by the individual - publicity or press releases; and (4) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders, charts, punched cards, computer printouts.

Retrievability: Records are indexed by name or aircraft number.

Safeguards: Records are protected in accordance with the requirements and procedures which appear at 14 C.F.R. Part 1212.

Retention and disposal: Records are retained indefinitely.

System manager(s) and address: Chief, NASA Aircraft Office, Location 1.

Subsystem Managers: Chief, Aircraft Operations Division, Location 2; Director, Flight Operations, Location 3; Chief, Aircraft Operations Division, Location 5; Chief, Aircraft Operations Section, Location 6; Chief, Operations Branch, Flight Research Division, Location 7; Chief, Aircraft Operations Branch, Location 8; Chief, Aircraft Operations, Location 9; Chief Contract Management, Location 10; Data Acquisition Manager, Earth Resources Laboratory, Location 11; Chief, Aeronautical Programs Branch, Location 12 (Locations are set forth in Appendix A).

Notification procedure: Information may be obtained from the cognizant system or subsystem manager listed above.

Record access procedures: Requests from individuals should be addressed to: Same address as stated in the notification section above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 C.F.R. Part 1212.

Record source categories: Individuals, training schools or instructors, medical units or doctors.

NASA 10BRPA

System name: Biographical Records for Public Affairs - NASA

System location: Locations 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, and 12 as set forth in Appendix A.

Categories of individuals covered by the system: Principal and prominent management and staff officials, program and project managers, scientists, engineers, speakers, other selected employees involved in newsworthy activities, and other participants in agency program.

Categories of records in the system: Current biographical information about the individual with a recent photograph when available. Data items are those generally required by NASA or the news media in preparing news or feature stories about the individual and/or his activity with NASA.

Authority for maintenance of the system: 42 U.S.C 2473 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is compiled, updated, and maintained at NASA installations for ready reference material and for immediate availability when required by the news media for news stories about the individual generally involving his participation in a major NASA activity.

The data serves as background information about the individual and is used within NASA to prepare public appearance announcements of key officials, speaking engagements, special appointments, participation in professional societies, etc.; to write news stories about special achievements, awards, participation in major NASA activities, programs, etc.; and to prepare responses to inquiries submitted to the Office of Public Affairs from the news media.

Users are the staff members of the public information office within each office of Public Affairs.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: these records are made available to professional societies, civic clubs, industrial and other organizations, news media representatives, researchers, authors, Congress, other agencies and other members of the public in connection with NASA public affairs activities.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records are maintained in file folders.

Retrievability: Records are indexed by name.

Safeguards: Since the records are a matter of public information, no safeguard requirements are necessary.

Retention and disposal: Records are maintained as long as there is potential public interest in them and are disposed of when no longer required.

System manager(s) and address: Head, Public Information Section, Location 1.

Subsystem Managers: The Public Affairs Officer at Locations 2, 3, 4, 5, 6, 7, 8, 9, 11, and 12 as set forth in Appendix A.

Notification procedure: An individual desiring to find out if a Biographical System of Records contains a record pertaining to him

should call, write, or visit the Office of Public Affairs at the appropriate NASA location.

Record access procedures: An individual may request access to his record by calling, writing, or visiting the Office of Public Affairs at the appropriate NASA locations. Individuals may examine or obtain a copy of their biographical record at any time.

Contesting record procedures: The information in the record was provided voluntarily by the individual with the understanding that the information will be used for public release. The individual is at liberty at any time to revise, update, add, or delete information in his biographical record to his own satifaction.

Record source categories: Information in the biography of an individual in the system of records is provided volutarily by the individual generally with the aid of a form questionnaire.

NASA 10EEOR

System name: Equal Opportunity Records - NASA

System location: Locations 1 through 9 inclusive and Locations 11 and 12 as set forth in Appendix A.

Categories of individuals covered by the system: Complainants and applicants.

Categories of records in the system: (1) Complaints and (2) applications..

Authority for maintenance of the system: 42 U. S. C. 2473; 44 U. S. C. 3101; Executive Order 11478, dated August 8, 1969; EEOC Regulations; 29 C.F.R Part 1613; MSPB Regulations; 5 C.F.R. Parts 1200 - 1202; Equal Opportunity Act 1972, as amended (P.L. 92-261); Section 15 of the Age Discrimination in Employment Act of 1967, as amended (P.L. 93-259).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA to process complaints of alleged discrimination, including investigations, hearings, and appeals; to maintain active discrimination complaints files; to retain inactive discrimination complaints files; to analyze Headquarters workforce; to track the status of the Equal Opportunity programs; to provide Equal Employment Opportunity Commission and Merit Systems Protection Board with budget outlays for the Civil Rights Activity Report; to refer applicants (minorities and females); and to determine contractors' compliance with Executive Orders 11246 and 11375 as amended.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Disclosures to the Equal Employment Opportunity Commission and the Merit Systems Protection Board to facilitate their processing of discrimination complaints, including investigations, hearings and reviews on appeals; (2) Responses to other Federal agencies and other organizations having legal and administrative responsibilities related to the NASA Equal Employment Opportunity Programs and to individuals in the record; (3) Disclosures may be made to a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made at the request of that individual; and (4) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

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 indexed by any combination of name, birthdate, social security number, ethnic groups, grades, topics, statistics.

Safeguards: Records are located in locked metal file cabinets, or in metal file cabinets in secured rooms with access limited to those whose official duties require access and are locked during non duty hours.

Retention and disposal: Complaint casefiles for cases resolved within the agency, by EEOC, or by U.S. Court, are destroyed four years after resolution of the case. Other routine office records are reviewed periodically, and are retained or destroyed as appropriate.

System manager(s) and address: Director of Equal Opportunity Programs, Location 1.

Subsystem managers: Equal Employment Opportunity Officer at Locations 1, 3, and 8; Chief, Equal Employment Opportunity Programs Office at Location 2; Head, Equal Opportunity Programs Office at Location 4; Equal Employment Opportunity Programs Officer at Location 5; Equal Opportunity Officer at Location 6; Head, Equal Opportunity Programs Office at Location 7; Director, Equal Employment Opportunity Office at Location 9; Equal Opportunity Officer at Location 11; Equal Opportunity Officer at Location 12. Locations are as set forth in Appendix A.

Notification procedure: Information may be obtained from the cognizant system or subsystem manager listed above.

Record access procedures: Requests from individuals should be addressed to the same address as stated in the notification section above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 C.F.R. Part 1212.

Record source categories: Employees, applicants, installation EEO officers, complainants, EEO counselors, EEO investigators, EEOC complaints examiners, MSPB officials, complaints coordinators, Director of Equal Opportunity Programs.

NASA 10ERMS

System name: Executive Resources Management System - NASA

System location: Location 1, as set forth in Appendix A.

Categories of individuals covered by the system: Approximately 2,000 individuals with experience and education unique to the NASA mission in the technical and administrative fields who are considered to be candidates for key positions within NASA.

Categories of records in the system: Biographical data, education, training, work experience, career interests.

Authority for maintenance of the system: 42 U.S.C. 2473, 44 U.S.C. 3101, 5 U.S.C. 4103; 5 U.S.C. 3396..

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA for the identification of replacement candidates. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Disclosures may be made to organizations or individuals having contract, legal, administrative or cooperative relationships with NASA, including labor unions, academic organizations, governmental organizations, non-profit organizations, and contractors; and to organizations or individuals seeking or having available a service or other benefit or advantage. The purpose of such disclosures is to satisfy a need or needs, further cooperative relationships, offer information, or respond to a request; (2) Statistical or data presentations may be made to governmental or other organizations or individuals having need of information about individuals in the records; (3) Responses may be made to other federal agencies, and other organizations having legal or administrative responsibilities related to programs and individuals in the records; (4) Disclosure may be made to a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made at the request of that individual; and (5) Standard routine uses 1 through 4 inclusive as set forth in Appendix B may also apply.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders, lists, forms, index cards, microfilm, microfiche, and/or various computer storage devices such as discs, magnetic tapes and punched cards.

Retrievability: The records are indexed by social security number.

Safeguards: Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 C.F.R. Part 1212.

Retention and disposal: Records are retained for varying periods of time depending on the need for use of the files and are destroyed or otherwise disposed of when no longer needed.

System manager(s) and address: Director, Office of Development, Location 1.

Subsystem Managers: None.

Notification procedure: Information may be obtained from the System Manager only.

Record access procedures: Requests from individuals should be addressed to the same address stated in the notification section above.

Contesting record procedures: The NASA regulations pertaining to access to records and for contesting contents and appealing initial determinations by the individual concerned are set forth in 14 C.F.R. Part 1212.

Record source categories: Individuals to whom the records pertain, NASA employees, other Federal employees, other oranizations and individual, and NASA personnel records.

NASA 10GMVP

System name: Government Motor Vehicle Operators Permit Records - NASA

System location: Locations 1 through 15 inclusive as set forth in Appendix A.

Categories of individuals covered by the system: NASA employees, contractor employees, other federal and state government employees.

Categories of records in the system: Name, home address, Social Security Number, physical description of individual, physical condition of individual, traffic record.

Authority for maintenance of the system: 42 U.S.C. 2473; 44 U.S.C. 3101; Federal Personnel Management Manual, Chapter 930; Federal Property Management Regulations Subpart 101-39.601; NASA Management Issuance 6720.1A.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA for the purpose of identifying and checking record of applicant and issuing permits for operation of Government vehicles. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) National Driver Register, Department of Transportation, where Form 1047 is received for check and (2) Standard routine uses 1 through 4 inclusive, as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: Indexed by name.

Safeguards: Records are kept in a locked metal file cabinet with access limited to those whose official duties require access. Room is locked during non-duty hours.

Retention and disposal: Records are maintained for a period of three years when permit expires or until permit holder leaves the Agency or requests cancellation. Records are destroyed when no longer reguired.

System manager(s) and address: Chief, Budget and Support Branch, Location 1.

Subsystem Managers: Chief, Security Branch, Location 2; Transportation Officer, Location 3; Chief, Logistics Management Division, Location 4; Chief, Transportation Branch, Location 5; Chief of Transportation, Location 6; Chief, Management Support Division, Location 7; Head, General Services Section, Location 8; Director, Logistics Office, Location 9; Chief Contract Management, Location 10; Chief Installation Operations, Location 11; Director of Administration, Location 12; Contract and Property Specialist, Location 13; Chief, Maintenance and Administration Office, Location 14; Chief of Facilities, Location 15. Locations are as set forth in Appendix A.

Notification procedure: Information may be obtained from the cognizant system manager listed above.

Record access procedures: Requests from individuals should be addressed to the same address as stated in the notification section above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 C.F.R. Part 1212.

Record source categories: Individual NASA employees and individual contractor employees.

NASA 10HABC

System name: History Archives Biographical Collection-NASA

System location: Locations 1 and 5 as set forth in Appendix A.

Categories of individuals covered by the system: Individuals who are of historical significance in aeronautics, astronautics, space science, and other concerns of NASA.

Categories of records in the system: Biographical data; speeches and articles by the individual.

Authority for maintenance of the system: 42 U.S.C. 2473 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA for researching and writing official histories and answering queries from various NASA offices. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: Disclosure to scholars (historians and other disciplines), or any other interested individuals for research and writing dissertations, articles, and books, for government, commercial and non-profit publication.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are stored in file folders.

Retrievability: The records are indexed by name.

Safeguards: Because these records are archive material and therefore a matter of public information, there are no special safeguard procedures required.

Retention and disposal: Most biographical files are retained indefinitely, either in the archives or retired to the appropriate Federal Records Center.

System manager(s) and address: Director, History Office, Code LH, Location 1.

Subsystems Managers: Historian, Code BE-4, Location 5 (Locations are set forth in Appendix A).

Notification procedure: Information may be obtained from the cognizant system or subsystem manager listed above.

Record access procedures: Requests from individuals should be addressed to: Same address as stated in the notification section above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 C.F.R. Part 1212.

Record source categories: Press releases, newspapers, journals, and the individuals themselves.

NASA 10HERD

System name: Human Experimental and Research Data Records - NASA

System location: Locations 2, 3, 5, 6, 9, and 13 as stated in Appendix A.

Categories of individuals covered by the system: Individuals who have been involved in space flight, aeronautical research flight, and/or participated in NASA tests or experimental or research programs; Civil Service employees, military, employees of other government agencies, contractor employees, students, human subjects (volunteer or paid), and other volunteers on whom information is collected as part of an experiment or study.

Categories of records in the system: Data obtained in the course of an experiment, test, or research medical data from inflight records; other information collected in connection with an experiment, test, or research.

Authority for maintenance of the system: 42 U.S.C. 2473 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used by NASA for the purposes of evaluating new analytical techniques, equipment, and re-examining flight data for alternative interpretations, developing applications of experimental techniques or equipment, reviewing and improving operational procedures with respect to experimental protocols (both inflight and ground), life support systems operating procedures, determining human engineering requirements, and carrying out other research.

In addition to the internal use of the information contained in this system of records, the following are routine uses outside of NASA: (1) Disclosures to other individuals or organizations, including Federal, State, or local agencies, and nonprofit, educational, or private entities, who are participating in NASA programs or are otherwise furthering the understanding or application of biological, physiological, and behavioral phenomena as reflected in the data contained in this system of records; and (2) the standard routine use 4 as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are in file folders; on punch cards, magnetic tapes, or discs; on microfilm, microfiche, still photographs, or motion picture film; and on various medical recordings such as electrocardiographic tapes, stripcharts, and x-rays.

Retrievability: By name, experiment or test; arbitrary experimental subject number; flight designation; or crew member designation on a particular space or aeronautical flight.

Safeguards: Access is limited to Government personnel requiring access in the discharge of their duties, and to appropriate support contractor employees on a need-to-know basis. Computerized records are identified by code number and records are maintained in locked rooms or files. Records are protected in accordance with the requirements and procedures which appear in the NASA regulations set forth in 14 C.F.R. Part 1212.

Retention and disposal: Astronaut records are retained indefinitely. Ground test and research data are retained for varying periods of time depending on the need for use of the files, and are destroyed or

otherwise disposed of when no longer needed, except that significant medical data will be handled in accordance with CSC regulations and NASA Control Schedule 11.

System manager(s) and address: Chief, NASA Occupational Health Office, Location 1.

Subsystem Managers: Research Assistant to the Director, Location 2; Director of Man/Systems Integration Division, Location 3; Assistant Director for Life Sciences, Space and Life Sciences Directorate, Location 5; Director, Biomedical Office, Location 6; Director, Management Services Office, Location 9; Manager, White Sands Test Facility, Location 13. Locations are as set forth in Appendix A.

Notification procedure: Information may be obtained from the system or subsystem manager named above.

Record access procedures: Requests from individuals should be addressed to the same address as stated in the notification section above.

Contesting record procedures: The NASA regulations for access to records and for contesting and appealing initial determinations by the individual concerned appear at 14 C.F.R. Part 1212.

Record source categories: Experimental test subjects, physicians, principal investigators and other researchers, and previous experimental test or research records.

NASA 10IGIC

System name: Inspector General Investigations Case Files - NASA

System location: National Aeronautics and Space Administration, Washington, DC 20546.

Subsystem Locations: Locations 2, 5, 6, 7, 8, 9 and 10 as set forth in Appendix A.

Categories of individuals covered by the system: Current and former employees of NASA, contractors and sub-contractors, and others whose actions have affected NASA.

Categories of records in the system: Case files pertaining to matters including, but not limited to, the following classifications of cases: (1) Fraud against the Government, (2) Theft of Government property, (3) Bribery, (4) Lost or stolen lunar samples, (5) Misuse of Government property, (6) Conflict of interest, (7) Waiver of claim for overpayment of pay, (8) Leaks of Source Evaluation Board information, (9) Improper personal conduct, (10) Irregularities in awarding contracts.

Authority for maintenance of the system: 42 U.S.C. 2473; 44 U.S.C. 3101; 28 U.S.C. 535 (b); 5 U.S.C. App. I; 4 C.F.R. 91; Executive Order 11478.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA for: (1) Providing management with information which will serve as a possible basis for appropriate administrative action or the establishment of NASA policy; (2) Providing the Administrator of NASA (or the Comptroller General, as appropriate) sufficient information to provide a basis for decision concerning a request for waiver of claim in the case of an erroneous payment of pay.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Responding to the White House regarding matters inquired of; (2) Disclosure to a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made at the request of that individual; (3) Providing data to Federal intelligence elements; (4) Providing data to any source from which information is requested in the course of an investigation, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested; (5) Providing personal identifying data to Federal, State, local or foreign law enforcement representatives seeking confirmation of identity of persons under investigation; (6) Disclosing, as necessary, to a contractor, subcontractor, or grantee firm or institution to the extent that the disclosure is in NASA's interest and is relevant and necessary in order that the contractor/subcontractor/grantee is able to take administrative or corrective action; (7) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information in the system is stored in file folders, index cards and on computer tapes and disks.

Retrievability: Information is retrieved by name of individual.

Safeguards: Information is kept in locked metal file cabinets, and in secured vault and secured computer rooms. Access is limited to Inspector General Division personnel.

Retention and disposal: Special interest case files are reviewed for destruction or further retention 10 years after case is closed and routine interest case files are destroyed 5 years after case is closed. Case is not closed until all judical and administration avenues and considerations have been finally exhausted. (Special interest files are those investigative files which the Assistant Inspector General for Investigations determines should be retained because of especially significant, sensitive, or historical content. All other files are routine interest files.)

System manager(s) and address: Assistant Inspector General for Investigations, Location 1.

Subsystem Managers: Director of Investigations, Western Regional Inspector General Office, Location 2; Acting Director of Investigations, Eastern Regional Inspector General Office, Location 4; Investigations Manager, Johnson Investigations Office, Location 5; Investigations Manager, Kennedy Investigations Office, Location 6; Inspector in Charge, Langley Investigations Office, Location 7; Inspector in Charge, Lewis Investigations Office, Location 8; Acting Director of Investigations, Southern Regional Inspector General Office, Location 9; Investigations Manager, JPL Investigations Office, Location 10. Locations are as set forth in Appendix A.

Notification procedure: None. System is exempt. See below.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Exempt.

Systems exempted from certain provisions of the act: The Inspector General Investigations Case Files system of records is exempt from all sections of the Privacy Act of 1974 (5 U.S.C. 552a), EXCEPT the following:

(b) relating to conditions of disclosure; (c)(1) and (2) relating to keeping and maintaining a disclosure accounting; (e)(4)(A) through (F) relating to publishing an annual system notice setting forth name, location, categories of individuals and records, routine uses, and policies regarding storage, retrievability, access controls, retention and disposal of the records; (e)(6), (7), (9), (10) and (11) relating to agency requirements for maintaining systems; and (i) relating to criminal penalties.

The determination to exempt this system of records has been made by the Administrator of NASA in accordance with 5 U.S.C. 552a(j) and Subpart 7 of the NASA regulations appearing in 14 C.F.R. Part 1212, for the reason that the Office of Inspector General, NASA, is a component of NASA which performs as its principal function activity pertaining to the enforcement of criminal laws, within the meaning of 5 U.S.C. 552a(j)(2).

NASA 10PAYS

System name: Payroll Systems - NASA

System location: Locations 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, and 12 as set forth in Appendix A.

Categories of individuals covered by the system: Present and former NASA employees.

Categories of records in the system: The data contained in this system of records includes payroll, employee leave, insurance, labor and manpower distribution and overtime information.

Authority for maintenance of the system: 42 U.S.C. 2473; 44 U.S.C. 3101; 5 U.S.C. 5501 et seq.; 5 U.S.C. 6301 et seq.; General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies, Title 6; Treasury Fiscal Requirements Manual, Part III; Federal Personnel Manual; and NASA Financial Management Manual, Sections 9300 and 9600.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA for maintaining the payroll records and related areas.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) To furnish to a third party a verification of an employee's status upon written request of the employee; (2) To facilitate the verification of employee contributions and insurance data with carriers and collection agents; (3) To report to the Office of Personnel Management (a) withholdings of premiums for life insurance, health benefits and retirement, and (b) separated employees subject to retirement; (4) To furnish the U. S. Treasury magnetic tape reports on net pay, net savings allotments and bond transmittal pertaining to each employee; (5) To provide the Internal Revenue Service with detail of wages taxable under the Federal Insurance Contributions Act and to furnish a magnetic tape listing on Federal tax withholdings; (6) To furnish various financial institutions itemized listings of employee's pay and

savings allotments transmitted to the institutions in accordance with employee requests; (7) To provide various Federal, state, and local taxing authorities itemized listing of withholdings for individual income taxes; (8) To respond to requests by State employment security agencies and the U.S. Department of Labor for employment, wage, and separation data on former employees for the purpose of determining eligibility for unemployment compensation; (9) To report to various Combined Federal Campaign offices total contributions withheld from employee wages; (10) To furnish leave balances and activity to the Office of Personnel Management upon request; (11) To furnish data to labor organizations in accordance with negotiated agreements; (12) To furnish pay data to the Department of State for certain NASA employees located outside the United States; and (13) Standard routine uses 1 through 4 inclusive as set forth in Apprndix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders, magnetic tape, and microfilm.

Retrievability: Records are indexed by name and/or social security number.

Safeguards: Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 C.F.R. Part 1212.

Retention and disposal: Records are retained for audit by the General Accounting Office and are transferred to the National Personnel Records Center, St. Louis, Missouri, anywhere from one to three years. Records are retained and destroyed in accordance with the policies and procedures outlined in NASA Records Disposition Handbook - NHB 1441.1A.

System manager(s) and address: Director, Financial Management Division, Office of the Comptroller, Location 1.

Subsystem Managers: Chief, Financial Management Division, Locations 2, 4, 5, and 7; Financial Management Officer, Locations 3; Chief, Financial Management Office, Location 6; Director of Resources Management, Location 8; Director, Financial Management Office, Location 9; Chief, Resources and Financial Management Office, Location 11; and Head, Financial Management Branch, Location 12. Locations are as set forth in Appendix A.

Notification procedure: Information may be obtained from the cognizant system or subsystem manager listed above.

Record access procedures: Requests from individuals should be addressed to the same address as stated in the notification section above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 C.F.R. Part 1212.

Record source categories: Individual on whom the record is maintained, personnel office, and the individual's supervisor.

NASA 10SCCF

System name: Standards of Conduct Counselling Case Files - NASA.

System location: National Aeronautics and Space Administration, Washington, DC 20546.

Categories of individuals covered by the system: Current, former, and prospective NASA employees, who have sought advice or have been counselled regarding conflict of interest requirements for government employees.

Categories of records in the system: Depending upon the nature of the problem, information collected may include employment history, financial data, and information concerning family members.

Authority for maintenance of the system: 42 U.S.C. 2473; 44 U.S.C 3101; 18 U.S.C. 201, 203, 205, 207-209; 5 U.S.C. 7324-7327; Executive Order 11222.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in the system of records is used within NASA for the purpose of counseling employees regarding conflict of interest problems. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Office of Personnel Management and Merit Systems Protection Board: for investigation of possible violations of standards of conduct which the agencies directly oversee; (2) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are documentary and maintained in loose leaf binders or file folders.

Retrievability: By name of individual.

Safeguards: Restricted access to a few authorized persons; stored in combination lock safe.

Retention and disposal: Retained indefinitely.

System manager(s) and address: Assistant General Counsel for General Law, Code GG, NASA Headquarters, Washington, DC 20546.

Notification procedure: Information may be obtained from the System Manager.

Record access procedures: Requests from individuals should be addressed to the System Manager and must include employee's full name and NASA installation where employed.

Contesting record procedures: The NASA regulations and procedures for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 C.F.R. Part 1212.

Record source categories: Information collected directly from individual and from his official employment record.

NASA 10SECR

System name: Security Records System - NASA.

System location: Locations 1 through 9 inclusive and Location 11, 12, 13, and 15 as set forth in Appendix A.

Categories of individuals covered by the system: Employees, applicants, NASA committee members, NASA consultants, NASA experts, NASA Resident Research Associates, guest workers, contractor employees, detailees, visitors, correspondents (written and telephonic), Faculty Fellows, sources of information.

Categories of records in the system: Personnel Security Records, Criminal Matter Records, Traffic Management Records.

Authority for maintenance of the system: National Aeronautics and Space Act, P.L. 85-568; Espionage and Information Control Statutes, 18 U.S.C. 793 through 799; Sabotage Statutes, 18 U.S.C. 2151 through 2157; Conspiracy Statute, 18 U.S.C. 371; 18 U.S.C. 202-208 and 3056; Internal Security Act of 1950, 5 U.S.C. 781 through 798; Atomic Energy Act of 1954, P.L. 703; Executive Order 11653, Classification and Declassification of National Security Information and Material; Executive Order 10865, Safeguarding Classified Information Within Industry; Executive Order 10450, Security Requirements for Government Employees; P.L. 81-733; Executive Order 11490, Assigning Emergency Preparedness Functions to Federal Departments and Agencies; Federal Property Management Regulation, 41 C.F.R. Subpart 101-11; Federal Personnel Manual, Chapters 732 and 736; 14 C.F.R. Part 1203a; 42 U.S.C. 2473 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Personnel Security Records: The information contained in this category of records is used within NASA for the purpose of granting security clearances; for determining qualifications, suitability, and loyalty to the United States Government; for determining qualifications for access to classified information, security areas, and NASA installations, and for determining qualifications to travel to Communist controlled areas.

In addition to the internal uses of the information contained in this category of records, the following are routine uses outside of NASA: (1) To determine eligibility to perform classified visits to other Federal agencies and contractor facilities; (2) To provide data to Federal intelligence elements; (3) To provide data to any source from which information is requested in the course of an investigation, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested; (4) To provide a basis for determining preliminary visa eligibility; (5) To respond to White House inquiries; (6) Disclosures may be made to a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made at the request of that individual; (7) To provide personal identifying data to Federal, State, local, or foreign law enforcement representatives seeking confirmation of identity of persons under investigation; (8) Disclosure to a NASA contractor, subcontractor, grantee, or other government organization information developed in an investigation or administrative inquiry concerning a violation of a Federal or State statute or NASA regulation on the part of an officer or employee of the contractor, subcontractor, grantee, or other government organization; and (9) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Criminal Matter Records: The information contained in this category of records is used within NASA for providing management with information which will serve as a possible basis for administrative action. In addition to the internal uses of the information contained in this category of records, the routine uses outside of NASA

are: (1) To provide personal identifying data to Federal, State, local, or foreign law enforcement representatives seeking confirmation of identity of persons under investigation; (2) To provide a NASA contractor, subcontractor, grantee, or other government organization information developed in an investigation or administrative inquiry concerning a violation of a Federal or State statute or NASA regulation on the part of an officer or employee of the contractor, subcontractor, grantee, or other government organization; and (3) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Traffic Management Records: The information contained in this category of records is used within NASA to provide designated officials and employees with data concerning vehicle ownership, traffic accidents, violation of traffic laws, suspension of driving privileges, traffic control, vehicle parking, and car pools. In addition to the internal uses of the information contained in this category of records, the routine uses outside of NASA are: (1) To provide personal identifying data to Federal, State, local, or foreign law enforcement representatives seeking confirmation of identity of persons under investigation; (2) To provide a NASA contractor, subcontractor, grantee, or other government organization information developed in an investigation or administrative inquiry concerning a violation of a Federal or State statute or NASA regulation on the part of an officer or employee of the contractor, subcontractor, grantee, or other government organization; and (3) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders, magnetic tape, punch cards, microfilm, and film.

Retrievability: Records are indexed by name, file number, organization, place of origin, badge number, decal number, date of event, space number, payroll number, and social security number.

Safeguards: Access to Personnel Security Records is controlled by Government personnel exclusively. Access to Criminal Matter Records is controlled by either Government personnel or selected personnel of NASA contractor guard forces. After presenting proper identification and requesting a file or record, a person with a need-to-know and, if appropriate, a proper clearance may have access to a file or record only after it has been retrieved and approved for release by a NASA security representative. These records are secured in security storage equipment.

Traffic Management Records: Access to these records is controlled by either Government personnel or selected personnel of NASA contractor guard forces. Access to these records is permitted after a determination has been made that the requestor has an official interest. These records are stored in locked containers.

Retention and disposal: Records, depending upon type, are retained from 6 months to 30 years before being destroyed. When current immediate need no longer exists, records are either transferred to the appropriate Federal Records Center or destroyed in accordance with records disposal instructions.

System manager(s) and address: Chief, NASA Security Office, Location 1.

Subsystem Managers: Chief, Security Branch, Locations 2, 4, and 5; Security Officer, Location 3; Chief, Security Office, Location 6; Security Officer, Locations 7, 8, 11, and 12; Chief, Security Division, Location 9; Privacy Officer at Location 13; Safety and Security Officer at Location 15. Locations are as set forth in Appendix A.

Notification procedure: Information may be obtained from the cognizant system or subsystem manager listed above. Requests must contain the following identifying data concerning the requestor: first, middle, and last name; date of birth; social security number; period and place of employment with NASA, if applicable.

Record access procedures: Personnel Security Records compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information have been exempted by the Administrator under 5 U.S.C. 522a (k) (5) from the access provisions of the Act.

Criminal Matter Records compiled for civil or criminal law enforcement purposes have been exempted by the Administrator under 5 U.S.C. 552a (k) (2) from the access provisions of the Act.

Traffic Management Records: Requests from individuals should be addressed to the same address as stated in the notification section above.

Contesting record procedures: For Personnel Security Records and Criminal Matters Records see Access, above. For Traffic Management Records, the NASA rules for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in the NASA rules section of the FEDERAL REGISTER.

Record source categories: Personnel Security Records: Exempt

Criminal Matter Records: Exempt

Traffic Management Records: Employees, civil investigative agencies, civil law enforcement agencies, Federal and local judicial systems, medical records.

Systems exempted from certain provisions of the act: Personnel Security Records compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a confidential source, are exempt from the following sections of the Privacy Act of 1974, 5 U.S.C. 552a:

(c) (3) relating to access to the disclosure accounting; (d) relating to access to the records; (e) (1) relating to the type of information maintained in the records; (e) (4) (G) (H) and (I) relating to publishing in the annual system notice information as to agency procedures for access and correction and information as to the categories of sources of records; and (f) relating to developing Agency rules for gaining access and making corrections.

The determination to exempt this portion of the Security Records System has been made by the Administrator of NASA in accordance with 5 U.S.C. 552a (k) (5) and Subpart 7 of the NASA regulations appearing in 14 C.F.R. Part 1212.

Criminal Matter Records to the extent they constitute investigatory material compiled for law enforcement purposes are exempt from the following sections of the Privacy Act of 1974, 5 U.S.C. 552a:

(c) (3) relating to access to the disclosure accounting; (d) relating to access to the records; (e) (1) relating to the type of information maintained in the records; (e) (4) (G) (H) and (I) relating to publishing in the annual system notice information as to agency procedures for access and correction and information as to the categories of sources of records; and (f) relating to developing Agency rules for gaining access and making corrections.

The determination to exempt this portion of the Security Records System has been made by the Administrator of NASA in accordance with 5 U.S.C. 552a (k) (2) and Subpart 7 of the NASA regulations appearing in 14 C.F.R. Part 1212.

Records subject to the provisions of 5 U.S.C. 552 (b) (1) (required by Executive order to be kept secret in the interest of national defense or foreign policy) are exempt from the following sections of the Privacy Act of 1974, 5 U.S.C. 552a:

(c) (3) relating to access to the disclosure accounting; (d) relating to the access to the records; (e) (1) relating to the type of information maintained in the records; (e) (4) (G) (H) and (I) relating to publishing in the annual system notice information as to agency procedures for access and correction and information as to the categories of sources of records; and (f) relating to developing Agency rules for gaining access and making corrections.

The determination to exempt this portion of the Security Records System has been made by the Administrator of NASA in accordance with 5 U.S.C. 552A (k) (1) and Subpart 7 of the NASA regulations appearing in 14 C.F.R. Part 1212.

NASA 10OMEH&S

System name: System OF Occupational Medicine, Environmental Health Offices and Safety Records - NASA

System location: In Medical Clinics/Units, Environmental Health Offices and Safety Offices at locations 1 through 15 inclusive as set forth in Appendix A.

Categories of individuals covered by the system: NASA Civil Service employees & applicants; other Agency civil service & military employees working at NASA; visitors to field installations; on-site contractor personnel who receive job related examinations, have mishaps or accidents, or come to clinic for emergency or first aid treatment; space flight personnel and their families.

Categories of records in the system: General medical records of first aid, emergency treatment, examinations, exposures, and consultations, and safety records.

Information resulting from physical examinations, laboratory and other tests, and medical history forms; treatment records; screening examination results; immunization records; administration of medications prescribed by private/personal physicians; statistical records; examination schedules; daily log of patients; correspondence; chemical, physical, and radiation exposure records; other environmental helth data, alcohol/drug patient information; consultation records; and safety and abatement data.

Astronauts and their families - more detailed and complex physical examinations.

Authority for maintenance of the system: 42 U.S.C. 2473; 44 U.S.C. 3101; OMB Circular A-72; Public Law 92-255; Public Law 79-658.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA for the following purposes: Reference by examining physicians in conduct of physical examinations; review by physicians in consideration of fitness for duty; evaluation for physical disability retirement; statistical data development; patient recall; in-space medical evaluation for astronauts; exposure data for radiation/toxic exposure limits, compliance and examinations; consultations; evaluation of employees, applicants, and contractor employees for specialized or hazardous duties for determining reliability pursuant to the Space Transportation System--Personnel Reliability Program (14 CFR 1214.5, NASA Management Instruction (8610.13), and for safety purposes.

Alcohol/drug patient case files (Employee Assistance Program Records) to be maintained separate from medical record, kept to an absolute minimum and handled with extreme privacy in accordance with Section 408 of Public Law 92-255. Disclosure of these records beyond officals of the Office having a bona fide need for them or to the person to whom they pertain, is not to be made. Disclosures of informations pertaining to an individual with a history of alcohol or drug abuse must be limited in compliance with the restrictions of the confidentiality of Alcohol and Drug Abuse Patient Records Regulations, 42 CFR Part 2.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Referral to private physicians designated by the individual when requested in writing; (2) Patient referrals; (3) Referral to OPM, OSHA and other Federal agencies as required in accordance with these special program responsibilities; (4) Referral of information to a non-NASA individual's employer; (5) Evaluation by medical consultants; (6) Disclosure to the employer of non-NASA personnel, information affecting the reliability of such office or employee for purposes of the Space Transportation System; and (7) Standard routine use 4 as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are in file folders, punch cards, electrocardiographic tapes and x-rays, and computer discs and tapes. They are handled between NASA installations by telecommunications.

Retrievability: By name, date of birth and social security number.

Safeguards: Access limited to concerned medical environmental health and safety personnel on a need-to-know basis. Computerized records are identified by code number and records are maintained in locked rooms or files. Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 C.F.R. Part 1212.

Retention and disposal: In accordance with CSC regulations and NASA Control Schedule II. Records on astronauts are retained permanently.

System manager(s) and address: Chief, NASA Occupational Health Office, Location 1

Subsystem Managers: Medical Director or Medical Administrator at Locations 1 through 15 inclusive as set forth in Appendix A.

Notification procedure: Information may be obtained from the cognizant system or subsystem manager listed above.

Record access procedures: Requests from individuals should be addressed to the same address as stated in the notification section above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in 14 C.F.R. Part 1212.

Record source categories: Individuals, physicians and previous medical records of individuals.

NASA 10SPER

System name: Special Personnel Records - NASA

System location: Locations 1 through 9 inclusive and Locations 11 and 12 as set forth in Appendix A.

Categories of individuals covered by the system: Candidates for and recipients of awards or NASA training; civilian and active duty military detailees to NASA; participants in enrollee programs; Faculty, Science, National Research Council and other Fellows, Associates and Guest Workers including those at NASA installations but not on NASA rolls; NASA contract and grant awardees and their associates having access to NASA premises and records; individuals with interest in NASA matters including Advisory Committee Members; NASA employees and family members, prospective employees and former employees.

Categories of records in the system: Special Program Files including: (1) Alien Scientist files; (2) Award files; (3) Counseling files, life and health insurance, retirement, upward mobility, and work injury counseling files; (4) Military and Civilian Detailee files; (5) Personnel Development files such as nominations for and records of training or education, Upward Mobility Program files, Intern Program files, Apprentice files, and Enrollee Program files; (6) Special Employment files such as Federal Junior Fellowship Program files, Stay-in-School Program files, Summer Employment files, Worker-Trainee Opportunity Program files, NASA Executive Position files, Expert and Consultant files, and Cooperative Education Program files; and (7) Supervisory appraisals under Competitive Placement Plan.

Correspondence and related information including: (1) Claims correspondence and records about insurance such as life, health, and travel; (2) Congressional and other Special Interest correspondence, including employment inquiries; (3) Correspondence and records concerning travel related to permanent change of station; (4) Debt complaint correspondence; (5) Employment interview records; (6) Information related to outside employment and activities of NASA employees; (7) Placement follow-ups; (8) Pre-employment inquiries and reference checks; (9) Preliminary records related to possible adverse actions; (10) Records related to reductions-in-force; (11) Records under agency as well as negotiated grievance procedures; (12) Separation information including exit interview records, death certificates and other information concerning deaths, retirement records, and other information pertaining to separated employees; (13)Special planning, analysis, and administrative information; (14) Work performance records; (15) Working papers for prospective or pending retirements.

Special Records and Rosters including: (1) Locator files; (2) Ranking lists of employees; (3) Repromotion candidate lists; (4) Retired military employee records; (5) Retiree records.

Agencywide and installation automated personnel information.

Rosters, applications, recommendations, assignment information and evaluations of Faculty, Science, National Research Council and other Fellows, Associates and Guest Workers including those at NASA installations but not on NASA rolls; also, information about NASA contract and grant awardees and their associates having access to NASA premises and records.

Information about members of advisory committees and similar organizations.

All NASA-maintained information of the same types as, but not limited to, that information required in systems of records for which the Office of Personnel Management and other Federal personnel-related agencies publish governmentwide Privacy Act Notices in the Federal Register.

Authority for maintenance of the system: 42 U.S.C. 2473; 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used by officials and employees within NASA for preview, planning, review and management decisions regarding personnel and activities related to the records.

In addition to the internal uses of the information contained in this system of records the following are routine uses outside of NASA: (1) Disclosures may be made to organizations or individuals having contract, legal, administrative or cooperative relationships with NASA, including labor unions, academic organizations, governmental organizations, non-profit organizations, and contractors; and to organizations or individuals seeking or having available a service or other benefit or advantage. The purpose of such disclosures is to satisfy a need or needs, further cooperative relationships, offer information, or respond to a request; (2) Statistical or data presentations may be made to governmental or other organizations or individuals having need of information about individuals in the records; (3) Responses may be made to other Federal agencies, and other organizations having legal or administrative responsibilities related to programs and individuals in the records; (4) Disclosure may be made to a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made at the request of that individual; and (5) Standard routine uses 1 through 4 inclusive as set forth in Appendix B may also apply.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders, lists, forms, index cards, microfilm, microfiche, and/or various computer storage devices such as discs, magnetic tapes and punched cards.

Retrievability: Records are indexed by any one or a combination of name, birthdate, social security number, or identification number.

Safeguards: Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 C.F.R. Part 1212.

Retention and disposal: Records are retained for varying periods of time depending on the need for use of the files, and are destroyed or otherwise disposed of when no longer needed.

System manager(s) and address: Director, Personnel Programs Division, Location 1

Subsystem Managers: Director, Headquarters Personnel Division, Location 1; Director of Personnel, Locations 2, 3, 4, 5, 6, 7, 8, 9, and 12; Chief, Personnel Office, Location 11. Locations are as set forth in Appendix A.

Notification procedure: Apply to the System or Subsystem Manager at the appropriate location above. In addition to personal identification (name, social security number, etc.), indicate the specific type of record, the appropriate date or period of time, and the specific kind of individual applying (e.g., employee, former employee, contractor employee, etc.).

Record access procedures: Same as notification procedures above.

Contesting record procedures: The NASA regulations pertaining to access to records and for contesting contents and appealing initial determinations by the individual concerned are set forth in 14 C.F.R. Part 1212.

Record source categories: Individuals to whom the records pertain, NASA employees, other Federal employees, other organizations and individuals.

NASA 10XROI

System name: Exchange Records on Individuals - NASA

Security classification: Locations 6, 7, 8, 9, and 12 as set forth in Appendix A.

Categories of individuals covered by the system: Present and former employees of, and applicants for employment with, NASA Exchanges, Recreational Associations, and Employees' Clubs at NASA installations. Individuals with active loans or charge accounts at one or more of the several organizations.

Categories of records in the system: Exchange Employees' personnel and payroll records, including injury claims, unemployment claims, biographical data, performance evaluations, annual and sick leave records, and all other employee records. Credit records on NASA employees with active accounts.

Authority for maintenance of the system: 42 U.S.C. 2473 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA for (1) maintaining exchange employees' payroll, leave, and other records; (2) determining pay adjustment eligibility; (3) determining Federal, State, and City tax withholdings; (4) determining leave eligibility; (5) determining person to notify in emergency; (6) certification of unemployment or injury claims; (7) determining eligibility for employment and promotion; and (8) determining credit standing.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) To furnish a third party a verification of an employee's status upon written request of the employee; (2) To facilitate the verification of employee contributions for insurance data with carriers and collection agents; (3) To provide various Federal, State, and local taxing authorities itemized listing of withholdings for individual income taxes; (4) To respond to State employment compensation requests for wage and separation data on former employees; (5) To report previous job injuries to workmen's compensation organizations; (6) For emergency notice to person designated by employee; (7) To report unemployment record to appropriate State and local authorities; (8) When requested, provide other employers with work record; and (9) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

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 indexed by name.

Safeguards: Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 C.F.R. part 1212.

Retention and disposal: Exchange personnel records are permanent. .

System manager(s) and address: Associate Administrator - NASA Comptroller, Location 1.

Subsystem Managers: Chairman, Exchange Council, Locations 6 and 7; Treasurer, NASA Exchange, Location 8; Exchange Operations Manager, Location 9; Head, Administrative Management Branch, Location 12. Locations are as set forth in Appendix A.

Notification procedure: Individuals may obtain information from the cognizant subsystem managers listed above.

Record access procedures: Requests from individuals should be directed to the same address as stated in the notification section above.

Contesting record procedures: The NASA rules for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in the NASA rules section of the FEDERAL REGISTER.

Record source categories: Individual on whom the record is maintained and the individual's supervisor.

NASA 22ORER

System name: LeRC Occupational Radiation Exposure Records - NASA.

System location: Locations 8 and 14, as set forth in Appendix A.

Categories of individuals covered by the system: Present and former LeRC employees and contractor personnel who may be exposed to radiation.

Categories of records in the system: Name, date of birth, exposure history, name of license holder, Social Security Number, employment and training history.

Authority for maintenance of the system: 42 U.S.C. 2473; 44 U.S.C 3101; 42 U.S.C. 2021, 2073, 2093, 2095, 2111, 2133, 2134, 2201; Title 10 Code of Federal Regulations, Part 20.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA to inform individuals of their radiation dosage.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Standard routine uses 1 through 4 inclusive as set forth in Appendix B and (2) The Nuclear Regulatory Commission (formerly Atomic Energy Commission) may inspect records pursuant to fulfilling their responsibilities in administering and issuing licenses to use radiation sources.

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 indexed by name.

Safeguards: Records are personally supervised during the day and locked in the office at night.

Records are protected in accordance with the requirements and procedures which appear in the NASA rules section of the FEDERAL REGISTER.

Retention and disposal: Records are retained indefinitely.

System manager(s) and address: Chief, Office of Environmental Health, location 8.

Subsystem manager: Manager, Plum Brook Reactor Facility, Location 14. Locations are set forth in Appendix A.

Notification procedure: Individuals may obtain information from the System cognizent Manager or subsystem manager listed above.

Record access procedures: Same as above.

Contesting record procedures: The NASA rules for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in the NASA rules section of the FEDERAL REGISTER.

Record source categories: Individual is sole source.

NASA 51RSCR

System name: GSFC Radiation Safety Committee Records - NASA

System location: Goddard Space Flight Center, National Aeronautics and Space Administration, Greenbelt, Maryland 20771.

Categories of individuals covered by the system: Radiation users and custodians under GSFC cognizance.

Categories of records in the system: Employment and training history.

Authority for maintenance of the system: 42 U.S.C. 2473; 44 U.S.C. 3101; USNRC License and GHB 1860.1, 'Radiation Safety Handbook'; GHB 1860.2 'Radiation Safety Radio-Frequency'; GHB 1860.3 'Radiation Safety Laser'.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this sytem of records is used within NASA for review and approval of custodians and users of ionizing and non-ionizing radiation by the Radiation Safety Committee. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside NASA: (1) The Nuclear Regulatory Commission (formerly Atomic Energy Commission) may inspect records pursuant to fulfilling their responsibilities in administering and issuing licenses to use radiation sources; (2) Occupational Safety and Health Administration (Federal and State) may inspect records pursuant to fulfilling their responsibilities under the Occupational Safety and Health laws. (3) The Environmental Protection Agency may inspect records pursuant to fulfilling their responsibilities under the Environmental Protection laws and executive order; (4) The Food and Drug Administration, DHEW, may inspect records pursuant to fulfilling their responsibilities respecting use of lasers and x-rays; (5) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

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 indexed by name only.

Safeguards: Records are located in locked metal file cabinet in locked room with access limited to those whose official duties require access.

Retention and disposal: Records are kept for two years. If employee does not wish to be renewed for position at the end of 2-year period, his record is removed and placed in inactive file.

System manager(s) and address: Chief, Health, and Safety, and Security Office; address same as shown for system location.

Notification procedure: Individuals may obtain information from the system manager.

Record access procedures: Same as above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 C.F.R. Part 1212.

Record source categories: Employees

NASA 53BHTR

System name: Wallops Flight Center Base Housing Tenant Record - NASA.

System location: Wallops Flight Center, National Aeronautics and Space Administration, Wallops Island, Virginia 23337

Categories of individuals covered by the system: Tenants of Wallops Housing area.

Categories of records in the system: Housing Rental Agreements, records of rent receipts and records of dormitory occupants.

Authority for maintenance of the system: 42 U.S.C. 2473 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA for control of family housing and dormitory facilities. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside NASA: (1) To furnish to a third party a verification of an employee's tenant status upon a written request of tenant; (2) To furnish verification of residency to various Federal, State, and local authorities; and (3) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders and card files.

Retrievability: Records are indexed by name and/or room number.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access. Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 C.F.R. Part 1212.

Retention and disposal: Records are retained and destroyed in accordance with the policies and procedures outlined in NASA Records Disposition Handbook, NHB 1441.1A.

System manager(s) and address: Head, Administrative Management Branch, address same as shown for System Location.

Notification procedure: Individuals may obtain information from the System Manager.

Record access procedures: Same as above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and initial determinations by the individual concerned appear at 14 C.F.R. Part 1212.

Record source categories: Tenants and dormitory occupants and Administrative Management records.

NASA 62FHAP

System name: MSFC Federal Housing Administration (FHA) 809 Housing Program - NASA.

System location: George C. Marshall Space Flight Center, National Aeronautics and Space Administration, Marshall Space Flight Center, Alabama 35812.

Categories of individuals covered by the system: MSFC Civil Service and contractor personnel who have applied for FHA 809 housing.

Categories of records in the system: Contains personal (name, home address, home phone, age, marital status), realtor/mortgage and employment data. Contains certification by employee, MSFC, and FHA.

Authority for maintenance of the system: 42 U.S.C. 2473; 44 U.S.C. 3101; and 12 U.S.C. 1748h-1 (Section 809, National Housing Act).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA for identification of employees who have applied for and received or not received FHA 809 certificates. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Disclosures to the Federal Housing Administration to facilitate their issuing or denying 809 housing certificates; (2) Disclosures to realtors and builders to facilitate their activities with respect to the real estate transaction; and (3) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders and index cards.

Retrievability: Records are indexed by certificate number and person's name.

Safeguards: Records are located in locked metal file cabinets or in metal file cabinets in secured rooms with access limited to those whose official duties require access.

Retention and disposal: Certificates are held for five years after issuance and then destroyed by shredding. Index cards are held indefinitely in order that an employee will not be authorized more than one certificate.

System manager(s) and address: Director, Personnel Office, address same as shown for System Location.

Notification procedure: Individuals may obtain information from the System Manager.

Record access procedures: Same as above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in 14 C.F.R. Part 1212.

Record source categories: Individual on whom the record is maintained.

NASA 72XOPR

System name: JSC Exchange Activities Records - NASA.

System location: Lyndon B. Johnson Space Center, National Aeronautics and Space Administration, Houston, Texas 77058.

Categories of individuals covered by the system: Employees and past employees of JSC Exchange Operations, applicants under the JSC Exchange Scholarship Program, and JSC employees or JSC contractor employees participating in sports or special activities sponsored by the Exchange.

Categories of records in the system: For present and past employees of the JSC Exchange Operations, the system includes a variety of records relating to personnel actions and determinations made about an individual while employed by the NASA Exchange-JSC. These records contain information about an individual relating to birth date; social security number; home address and telephone number; marital status; references; veteran preference, tenure, handicap; position description, past and present salaries, payroll deductions, leave; letters of commendation and reprimand; adverse actions, charges and decisions on charges; notice of reduction-in-force; personnel actions, including but not limited to, appointment, reassignment, demotion, detail, promotion, transfer and separation; minority group; records relating to life insurance, health and retirement benefits; designation

of beneficiary; training; performance ratings; physical examinations; criminal matters; data documenting the reasons for personnel actions or decisions made about an individual; awards; and other information relating to the status of the individual.

For successful applicants under the JSC Exchange Scholarship Program, the system contains information supplied by individual Center employees who have applied for an Exchange Scholarship for their son or daughter and includes, but is not limited to, education, financial transactions or holdings, employment history, medical data and other related information.

For participants in social or sports activities sponsored by the Exchange, information includes employees' or contractors' employee identification number, organization, location, telephone number, and other information directly related to status or interest in participation in such activities.

Authority for maintenance of the system: 42 U.S.C. 2473; 44 U.S.C. 3101; NASA Management Issuance 9050.6; Treasury Fiscal Requirement Manual, Part III, Payroll Deductions and Withholdings; Federal Personnel Manual; JSCM 31712A, Exchange Activities Manual, dated May 1980.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA for the following purposes: (1) With respect to past or present employees of the JSC Exchange Operations, information in the system is used to: (a) pay employees and advise employees through Leave and Earnings Statements, (b) provide for promotion opportunities, disciplinary actions, staffing controls, budget requirements, employee fringe benefits, and other related personnel managerial purposes, and (c) submit reports in accordance with legal or policy directives and regulations to center management and NASA Headquarters; (2) With respect to successful applicants under the JSC Scholarship Program, the information in the system is used to award scholarships to the sons and daughters of NASA-JSC employees; and (3) With respect to participants in the social or sports activities sponsored by the Exchange, the information maintained in the system is used to facilitate participation in such activities.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA for information maintained on JSC Exchange Operations employees only: (1) Provide information in accordance with legal or policy directives and regulations to the Internal Revenue Service, Department of Labor, Department of Commerce, Texas State Government Agencies, labor unions; (2) Provide information to insurance carriers with regard to workman's compensation, health and accident, and retirement insurance coverages; (3) Provide employment or credit information to other parties as requested by a current or former employee of the JSC Exchange Operations; and (4) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: For Exchange employees, records are maintained by name and filed as current or past employee. For Scholarship applicants, records are maintained by name. For participants in social or sports activities, records are maintained by name.

Safeguards: Records are located in locked metal file cabinets with access limited to those whose official duties require access.

Retention and disposal: For employees of JSC Exchange Operations, Personnel Records are retained indefinitely to satisfy payroll, reemployment, unemployment compensation, tax and employee retirement purposes.

For successful applicants under the JSC Exchange Scholarship Program, records are maintained until completion of awarded scholarship and then destroyed. Records pertaining to unsuccessful applicants are returned to them.

For participants in social or sports activities, records are maintained for a stated participation period, and are then destroyed.

System manager(s) and address: Manager, Exchange Operations, NASA Exchange - JSC, address same as shown for System Location.

Notification procedure: Individuals may obtain information from the System Manager.

Record access procedures: Same as above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in 14 C.F.R. Part 1212.

Record source categories: For employees of the JSC Exchange Operations, information is obtained from the individual employee, the employee references, insurance carriers, JSC Health Services Division, JSC Security, employment agencies, Texas Unemployment Commission, credit bureaus, and creditors.

With respect to the JSC Exchange Scholarship Program, the information is obtained from the parents or guardians of the scholarship participants.

For JSC employees and JSC contractor employees participating in social or sports activities sponsored by the Exchange, information is obtained from the individual participant.

NASA 73FHAP

System name: WSTF Federal Housing Administration (FHA) 809 Housing Program - NASA.

System location: JSC White Sands Test Facility, National Aeronautics and Space Administration, P. O. Drawer MM, Las Cruces, New Mexico 88001.

Categories of individuals covered by the system: WSTF Civil Service and contractor personnel who have applied for FHA 809 housing.

Categories of records in the system: Contains personal (name, home address, home phone, age, marital status), realtor/mortgage and employment data. Contains certification by employee, WSTF, and FHA.

Authority for maintenance of the system: 42 U.S.C. 2473; 44 U.S.C. 3101; and 12 U.S.C. 1748h-1 (Section 809, National Housing Act).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA for identification of employees who have applied for and received or not received FHA 809 certificates. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Disclosures to the Federal Housing Administration to facilitate their issuing or denying 809 housing certificates; (2) Disclosures to realtors and builders to facilitate their activities with respect to the real estate transaction; and (3) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders and index cards.

Retrievability: Records are indexed by certificate number and person's name.

Safeguards: Records are located in locked metal file cabinets or in metal file cabinets in secured rooms with access limited to those whose official duties require access.

Retention and disposal: Certificates are held for five years after issuance and then destroyed by shredding. Index cards are held indefinitely in order that an employee will not be authorized more than one certificate.

System manager(s) and address: Chief, Administration Office, address same as shown for System Location.

Notification procedure: Individuals may obtain information from the System Manager.

Record access procedures: Same as above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 C.F.R. Part 1212.

Record source categories: Individual on whom the record is maintained.

NASA 76RTES

System name: KSC Radiation Training and Experience Summary - NASA

System location: John F. Kennedy Space Center, National Aeronautics and Space Administration, Kennedy Space Center, Florida 32899.

Categories of individuals covered by the system: Custodians and/or users of sources radiation (ionizing and non-ionizing). Applicable to all users or custodians at KSC and NASA or NASA contractor personnel at Cape Canaveral Air Force Station, Florida, or Vandenberg Air Force Base, California.

Categories of records in the system: Individuals name and radiation related training and experience.

Authority for maintenance of the system: 42 U.S.C. 2473; 44 U.S.C. 3101; 42 U.S.C. 2021, 2111, 2201, 2232, 2233, Title 10 Code of Federal Regulations, Part 33 for Federal Licensee, and Florida Administrative Code, Chapter 10 D-56 for State Licensee.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information con-

tained in this system of records is used within NASA to determine the suitability of individuals for specific assignments dealing with radiation and to preclude unnecessary exposure to self and others.

In addition to the internal uses of the information contained in this system of records, routine uses outside of NASA include: (1) Disclosure to Air Force Radiation Protection Officers at Eastern Space and Missile Center, Patrick Air Force Base, Florida, and Vandenberg Air Force Base, California, to governmental and private license holders, and to NASA contractors using sources of radiation to facilitate protection of the individual and the public; (2) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Duplicate copies of the records are maintained for Kennedy Space Center by Pan American World Airways Occupational Medicine and Environmental Health Services. All records maintained by the KSC Biomedical Office or Pan American World Airways consist of 8 1/2 x 11 inch paper files.

Retrievability: Records are indexed by name, program/project title. Use authorization number and/or license number as applicable.

Safeguards: Records are personally supervised during the day and locked in the office at night. Records are protected in accordance with the requirements and procedures which appear in the applicable NASA regulations at 14 C.F.R. Part 1212.

Retention and disposal: Records are retained indefinitely.

System manager(s) and address: KSC Radiation Protection Officer; address same as shown for System Location.

Notification procedure: Individuals may obtain information from the system manager.

Record access procedures: Same as above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 C.F.R. Part 1212.

Record source categories: Individual is sole source.

NASA 76STCS

System name: KSC Shuttle Training Certification System (YC 04)

System location: John F. Kenndey Space Center Systems Training and Employee Development Branch Kenndey Space Center, FL 32899

Categories of individuals covered by the system: KSC Civil Service, KSC contractor, and DOD personnel who have received systems, skills, or safety training in support of KSC or Space Shuttle Operations.

Categories of records in the system: Records of training attendance and certifications, including certifications of physical ability to perform hazardous tasks.

Authority for maintenance of the system: 42 U.S.C. 2473, 44 U.S.C. 3101

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA to determine training needs, and the operational readiness of the work force, to provide data for badging and access control to hazardous areas or critical operations, to determine the size of individual protective equipment and to identify personnel with needed skill combinations. In addition to the internal uses the information contained in this systems of records, the following are routine uses outside of NASA: (1) Disclosure is made of information on employees of KSC contractors to those contractor organizations and to the Computer Sciences Corporation to facilitate the performance of the contracts. These disclosures are made by Boeing Services International which compiles these training records for KSC; (2) Standard routine uses 1-4 inclusive as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained for KSC by Computer Sciences Corporation on computer tape with printouts made periodically as required. Complete printouts are filed in the KSC Systems Training and Employee Development Branch, and The Boeing Services International Training Office. Records containing raw data on course attendance and trainee statistics are maintained by Boeing Services International for KSC.

Retrievability: Indexed by name, organization, and skill.

Safeguards: These listings are automated systems, skills, and safety training records maintained under administrative control of responsible organizations in areas that are locked when not in use. Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 C.F.R. Part 1212.

Retention and disposal: Outdated records are destroyed.

System manager(s) and address: Chief, Systems Training and Employee Development Branch, Kennedy Space Center, FL 32899

Notification procedure: Individuals may obtain information from the Systems Manager.

Record access procedures: Same as above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and for appealing initial determinations by the individual concerned appear at 14 C.F.R. Part 1212.

Record source categories: Information is obtained from class rosters, operational records, reports of physical examination completions and actions of certification boards.

NASA 76XRAD

System name: KSC USNRC Occupational External Radiation Exposure History for Nuclear Regulatory Commission Licenses - NASA.

System location: John F. Kennedy Space Center, National Aeronautics and Space Administration, Kennedy Space Center, Florida 32899.

Categories of individuals covered by the system: KSC civil servants and KSC contractor personnel who have received radiation exposure.

Categories of records in the system: Name, date of birth, exposure history, name of license holder, social security number.

Authority for maintenance of the system: 42 U.S.C. 2473; 44 U.S.C. 3101; 42 U.S.C. 2021, 2073, 2093, 2095, 2111, 2133, 2134, and 2201; 10 C.F.R., Part 20 for Federal Licensee; and Florida Administrative Code, Chapter 10 D-56 for State Licensee.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA to record exposure and to inform individuals of their approaching or exceeding radiation dose limits.

In addition to the internal uses of the information contained in this system of records the following are routine uses outside of NASA: (1) Disclosure to Air Force Radiation Protection Offices at Eastern Space and Missile Center, Patrick Air Force Base, Florida and Vandenberg Air Force Base, California, to governmental and private license holders, and to NASA contractors using radioactive materials or ionizing radiation producing devices, to facilitate the protection of individuals; (2) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Duplicate copies of the records are maintained for Kennedy Space Center by Pan American World Airways Occupational Medicine and Environmental Health Services. All records maintained by the KSC Biomedical Office or Pan American World Airways consist of 8 1/2 x 11 inch paper files.

Retrievability: Records are indexed by name in personnel dosimetry files.

Safeguards: Records are personally supervised during the day and locked in the office at night. Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 C.F.R. Part 1212.

Retention and disposal: Records are maintained indefinitely.

System manager(s) and address: KSC Radiation Protection Officer; address same as shown for System Location.

Notification procedure: Individuals may obtain information from the System Manager.

Record access procedures: Same as above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 C.F.R. Part 1212.

Record source categories: Individual is sole source.

APPENDIX A.

LOCATION NUMBERS AND MAILING ADDRESSES OF NASA INSTALLATIONS AT WHICH RECORDS ARE LOCATED.

Location 1.

National Aeronautics and Space Administration
Washington, DC 20546

Location 2

Ames Research Center
National Aeronautics and Space Administration
Moffett Field, CA 94035
Location 3
Hugh L. Dryden Flight Research Center
National Aeronautics and Space Administration
P. O. Box 273
Edwards, CA 93523
Location 4
Goddard Space Flight Center
National Aeronautics and Space Administration
Greenbelt, MD 20771
Location 5
Lyndon B. Johnson Space Center
National Aeronautics and Space Administration
Houston, TX 77058
Location 6
John F. Kennedy Space Center
National Aeronautics and Space Administration
Kennedy Space Center, FL 32899
Location 7
Langley Research Center
National Aeronautics and Space Administration
Langley Station
Hampton, VA 23665
Location 8
Lewis Research Center
National Aeronautics and Space Administration
21000 Brookpark Road
Cleveland, OH 44135
Location 9
George C. Marshall Space Flight Center
National Aeronautics and Space Administration
Marshall Space Flight Center, AL 35812
Location 10
NASA Resident Office-JPL
National Aeronautics and Space Administration
4800 Oak Grove Drive
Pasadena, CA 91103
Location 11
National Space Technology Laboratories
National Aeronautics and Space Administration
NSTL Station, MS 39529
Location 12
Wallops Flight Center
National Aeronautics and Space Administration
Wallops Island, VA 23337
Location 13
JSC White Sands Test Facility
National Aeronautics and Space Administration
P.O. Drawer MM
Las Cruces, NM 88001
Location 14
LeRC Plum Brook Station
National Aeronautics and Space Administration
Sandusky, OH 44870
Location 15
Michoud Assembly Facility
National Aeronautics and Space Administration
P.O. Box 29300
New Orleans, LA 70129

APPENDIX B

STANDARD ROUTINE USES - NASA

The following routine uses of information contained in systems of records subject to the Privacy Act of 1974 are standard for many NASA systems. They are cited by reference in the paragraph 'Routine uses of records maintained in the system, including categories of users and the purpose of such uses' of the FEDERAL REGISTER notice on those systems to which they apply.

Standard Routine Use No. 1 - LAW ENFORCEMENT - In the event that this system of records indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

Standard Routine Use No. 2 - DISCLOSURE WHEN REQUESTING INFORMATION - A record from this system of records may be disclosed as a 'routine use' to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

Standard Routine Use No. 3 - DISCLOSURE OF REQUESTED INFORMATION - A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Standard Routine Use No. 4 - COURT PROCEEDINGS - In the event there is a pending court or formal administrative proceeding, any records which are relevant to the proceeding may be disclosed to the Department of Justice or other agency for purposes of representing the Government, or in the course of presenting evidence, or they may be produced to parties or counsel involved in the proceeding in the course of pre-trial discovery.

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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/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/OPM		DOT/FHWA	USDA/OPM
DOT/FRA	LABOR		DOT/FRA	USDA/LABOR
DOT/MA	HHS/FDA		DOT/MA	MSPB/FDA
DOT/NHTSA			DOT/NHTSA	
DOT/RSPA			DOT/RSPA	
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.

List of Public Laws

Last Listing September 30, 1981

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

H.R. 2903 / Pub. L. 97–47 To extend by one year the expiration date of the Defense Production Act of 1950. (Sept. 30, 1981; 95 Stat. 954) Price: $1.50.

H.J. Res. 266 / Pub. L. 97–48 To provide for a temporary increase in the public debt limit. (Sept. 30, 1981; 95 Stat. 955) Price: $1.50.

H.J. Res. 265 / Pub. L. 97–49 To provide for a temporary increase in the public debt limit. (Sept. 30, 1981; 95 Stat. 956) Price: $1.50.

S. 1475 / Pub. L. 97–50 To extend the expiration date section 252 of the Energy Policy and Conservation Act. (Sept. 30, 1981; 95 Stat. 957) Price: $1.50.

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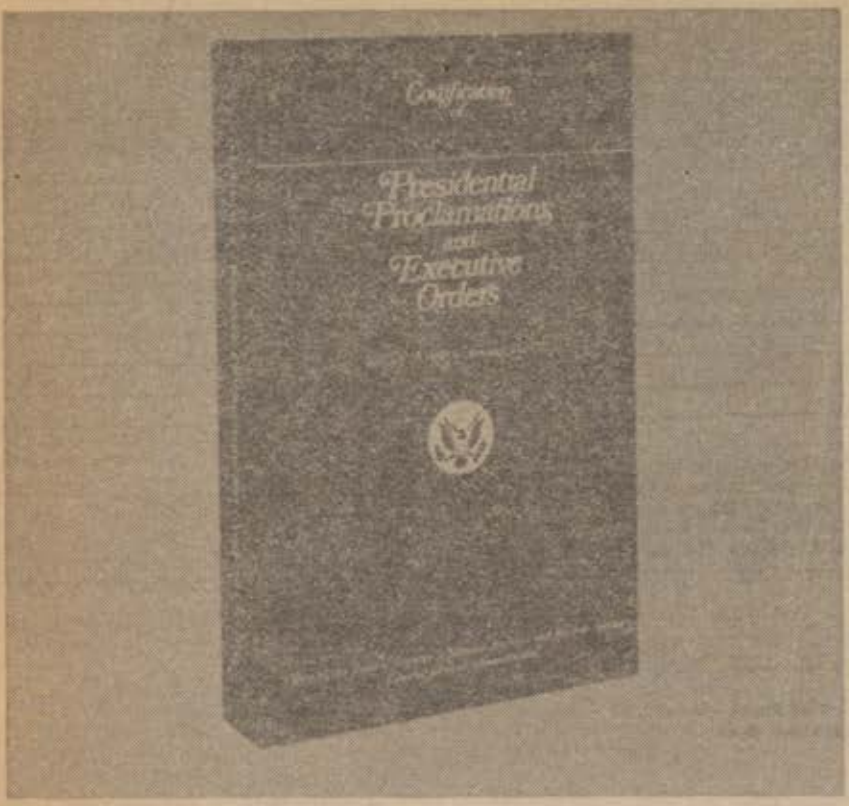

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