AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

11-12-81
Vol. 46 No. 218
Pages 55679-55912

federal register

Thursday
November 12, 1981

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55679 **Government Employees Health Insurance** OPM postpones 1981 open season for new and changed enrollments.

55779 **Grants—Social Programs** HHS/HDSO announces availability of fiscal years 1982 and 1983 financial assistance for Native American Programs.

55709 **Social Security** HHS/SSA proposes to change rules on apportionment between husband and wife of certain trade or business income in community property States.

55894 **Civil Rights—Handicapped** NFAH provides nondiscrimination regulations for Federal financial activities of the National Endowment for the Humanities. (Part IV of this issue)

55695 **Medicare** HHS/HCFA reorganizes rules on public availability of information and records.

55836 **Energy Conservation** DOE/CRE proposes changes to Residential Conservation Service Program and announces hearings. (Part II of this issue)

55770 **Petroleum** DOE/OHA solicits comments on consent order refund procedures.

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

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

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 890

Federal Employees Health Benefits Program; Opportunities To Register To Enroll and Change Enrollment; Open Season

AGENCY: Office of Personel Management.

ACTION: Interim regulations with comments invited for consideration in final rulemaking.

SUMMARY: The Office of Personnel Management (OPM) is amending its Federal Employees Health Benefits (FEHB) regulations to authorize changes in the regularly scheduled open season by announcement of the Director of OPM through an FPM Bulletin specifying the reasons and conditions for the change. The open season scheduled for 1981 is postponed to a time to be announced later or to the applicable period during 1982, whichever is earlier.

This change in regulations is necessary for the following reasons: (1) Fiscal constraints, benefits reevaluations, and the potential for adverse financial impact upon employees and annuitants have resulted in the negotiation of contracts for 1982 FEHB plans that contain significant changes in benefits levels, deductibles, coinsurance requirements, rates, and other material aspects of the FEHB program; (2) the negotiation of contracts for most of the 1982 FEHB plans was not completed until October 31, 1981, a date that is significantly later in the year than usual; (3) the contracts for some plans are still the subject of pending litigation and until these lawsuits reach a stage of final disposition, significant aspects of the 1982 FEHB program will remain indefinite and undetermined; (4) it will be impossible, in light of the foregoing, for full and complete open season informational brochures to be distributed to employees and annuitants in time for the scheduled open season between November 9, 1981 and December 11, 1981; and (5) the fair and proper conduct of open season requires the prior publication and early distribution of accurate information concerning rates, benefits, and other terms of all health insurance plans to employees and annuitants. These interim regulations postpone the open season for the 1982 FEHB program to prevent unfairness and potential financial disadvantage to the participants. Developments relating to the 1981 open season further suggest that OPM should have the flexibility to alter the regularly scheduled open season in future years by issuing a Federal Personnel Manual (FPM) Bulletin specifying the reasons and conditions for the change.

DATES: Effective date: November 12, 1981 and until final regulations are issued.

COMMENT DATE: December 14, 1981.

ADDRESS: Send or deliver written comments to Craig B. Pettibone, Assistant Director, Office of Pay and Benefits Policy, Compensation Group, Office of Personnel Management, P.O. Box 57, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: Lauretta Hall, Issuances and Instructions Branch, (202) 632–4684.

SUPPLEMENTARY INFORMATION: Pursuant to 5 U.S.C. 1103(b)(3) and 1105 by reference to 5 U.S.C. 553(d)(3), it is hereby declared that good cause exists for making this amendment effective in less than 30 days for the reasons stated above. Under authority of 5 U.S.C. §§ 8913 and 8905(e), it is proposed to revise 5 CFR 890.301(d) to provide that open season which has heretofore been held from the Monday of the second full workweek in November through the Friday of the first full workweek in December may be changed when announced by the Director of OPM for reasons and based on conditions specified in an FPM Bulletin. Further, that the open season scheduled for 1981 is postponed to a time to be announced later or to the applicable period during 1982, whichever is earlier.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule for the purpose of E.O. 12291, Federal Regulation, because it will not result in

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

(2) A major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions, or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

I certify that these regulations will not have a significant impact on a substantial number of small entities, including small businesses, small organizational units, and small governmental jurisdictions.

Office of Personnel Management.

Donald J. Devine,

Director.

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

Accordingly, OPM is amending § 890.301, by revising paragraph (d), to read as follows:

§ 890.301 Opportunities to register and enroll and change enrollment.

* * * * *

(d) *Open season.* An open season shall be held from the Monday of the second full workweek in November through the Friday of the first full workweek in December, unless otherwise announced by the Director of the Office of Personnel Management for reasons and based on conditions specified in a Federal Personnel Manual (FPM) Bulletin. The open season scheduled for 1981 is postponed to a time to be announced later or to the applicable period during 1982, whichever is earlier. During this open season:

(1) An eligible unenrolled employee may register to be enrolled;

(2) An enrolled employee or annuitant may change to another plan, another

option, from self only to self and family, or any combination of these changes.

* * * * *

(5 U.S.C. 8913)

[FR Doc. 81-32828 Filed 11-10-81; 9:53 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agriculture Marketing Service

7 CFR Part 907

[Navel Orange Regulation 527]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period November 13–19, 1981. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: November 13, 1981.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. This regulation is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on October 6, 1981. A regulatory impact analysis on the marketing policy is available from William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on November 9, 1981 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navels deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges is weak.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared policy of the act to make this regulatory provision effective as specified, and handlers have been apprised of such provisions and the effective time.

Forms required for operation under this part are subject to clearance by the Office of Management and Budget and are in the process of review.

1. Section 907.827 is added as follows:

§ 907.827 Navel orange regulation 527.

The quantities of navel oranges grown in Arizona and California which may be handled during the period November 13, 1981, through November 19, 1981, are established as follows:

(a) District 1: 765,000 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: 126,000 cartons;
(d) District 4: 9,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 10, 1981.

D. S. Kuryloski,

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

[FR Doc. 81-32872 Filed 11-10-81; 11:42 am]

BILLING CODE 3410-02-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Federal Timber Set-Aside Program

AGENCY: Small Business Administration.

ACTION: Affirmation of final rule.

SUMMARY: SBA has reviewed the timber sales size standard through comments submitted as a result of public hearings, and has concluded that the 500-employee size standard is very effective in supplying the needs of the small business community. The review was necessary because of the time lapse since the last official review in 1975 and because of significant public interest. This is to inform the public that the size standard for the SBA timber program will remain at the 500-employee level.

EFFECTIVE DATE: November 12, 1981.

FOR FURTHER INFORMATION CONTACT: Kaleel C. Skeirik, Director, Size Standards Branch, Office of Industry Analysis, Small Business Administration, 1441 L Street, NW.—Room 500, Washington, D.C. 20416, (202) 653–6373.

SUPPLEMENTARY INFORMATION: Pursuant to a notice published in the **Federal Register** on April 1, 1980, the SBA held public hearings on April 29, May 1, and May 6, in Sacramento, CA; Seattle, WA; and Atlanta, GA, respectively, on the desirability of raising, lowering, or retaining the current 500-employee size standard for the SBA timber set-aside program.

The hearings were well-attended and the various points of view were ably presented. Thereafter, the public was given until May 20, 1980, to submit additional comments. Official transcripts of the hearings will be available for review at SBA Regional Offices at 1375 Peachtree Street, N.W., Atlanta, Georgia 30309; 450 Golden Gate Avenue, San Francisco, California 94102; Dexter Horton Building—5th Floor, 710 Second Avenue, Seattle, Washington 98104; and the SBA Central Office at 1441 L Street, NW., Washington, D.C. 20416.

During the hearings and from the written comments received from the public, SBA received a number of proposals for the timber size standard. These proposals are categorized as follows:

1. Reduce the size standard to 100 employees.
2. Increase to 1,000 employees.
3. Increase to 2,500 employees.
4. Retain the current size standard of 500 employees, but include within the current framework protective bidding for firms with 100 employees or less—two tier.
5. Use gross receipts and/or lumber production (board foot) limitation in conjunction with an employee limitation.
6. Remain at the current 500-employee level.

Summary of Hearings and Comments: The competitive aspects of the forest products industry have undergone dramatic changes within the past 10 to 20 years. What is most startling is the number of small businesses that have left the marketplace during that period.

Testimony has indicated that the industry has lost over 5,000 small firms during that time span. The fall-off of small business is the direct result of a trend toward industry concentration during that same period.

The largest 25 firms have increased their market share threefold in that period. The largest four firms now control 42 percent of the softwood plywood market; the top eight, 59 percent; top 20, 78 percent; and top 25, 83 percent. As a general comment, this industry has become increasingly more concentrated without regard to geographic location.

The factors contributing to the increased concentration are primarily due to the capital intensive nature of the industry. However, the decrease in raw material from private holdings, the need to modernize plant and equipment, market competition from corporate giants, and the increased burden of government regulation are the specific contributing factors.

Because of the large capital requirements and the limited availability of raw material, there is virtually no entry by manufacturers to this industry. Testimony that was received indicates that capital infusion for the construction of a new sawmill will range from $6–$20 million, depending upon the locality and individual milling sophistication. It can be assumed that a buyout would require a similar investment. As ease of entry is directly related to capital investment and competition, it can be assumed that there will not be any significant entry to this industry. Entry, if at all, would come from firms with dominant market position in other industries, or expansion from major firms already in the industry.

Consolidations in the timber industry through purchases and mergers are a continuing process. This takes the form of several large firms buying small business concerns, and large firms buying other large firms or the timber interests held by other large firms. Again, this is related to the capital intensive nature of this industry. It was stated that the capital requirement is the contributing factor in the number of consolidations and mergers that have taken place in the last few years. Small businesses have repeatedly testified that without the timber program there would be virtually no independent firms remaining in this market.

Other than the initial capital infusion, the most difficult problem is access to raw material. There is no question that private landholdings or access thereto provide a definite advantage. Throughout the course of the hearing, small businesses testified that they are heavily dependent upon federal timber for their raw material, and have an insignificant amount of access to private timber. This is in direct contrast to large concerns that have a considerable amount of access to private timber. Many large concerns have either an owned or contracted land base in excess of 1 million acres.

The expansion of many large companies' operations has created an unusual demand for private timber from private tracts in small ownership. Small business contends that it is impossible to compete for this timber, as the cost level becomes unprofitable. Large business is able to subsidize the high prices paid for private timber by cost-averaging it with the low cost bases of their own privately held timber. This is especially significant in the South, as federal timber constitutes only 6 percent of the timber used by industry—which means that the balance, or 94 percent of the timber used, must come from private and state held lands.

Because of the escalated cost of the raw material, more profitable usage of the logs now is required. There is a great need to expand plant facilities, add remanufacturing, or secondary manufacturing to maintain an economically efficient operation. Because of the costs involved in rebuilding or expansion to eliminate obsolescence, a higher return per unit of raw material input is needed to remain competitive in a cost-escalating business. Increasing stumpage prices also are demanding a greater return per unit of primary production. Additional capital plant expansion from remanufacturing or secondary manufacturing places an increased demand on labor expansion. This is especially true for smaller businesses, particularly plywood manufacturers, which are more labor intensive than other forms of manufacturing.

Required compliance with all governmental requirements, rules, and regulations have a substantial impact on firms' operations. This takes the form of:

1. Restraints, requirements, and compliance under federal timber sale contracts.
2. Compliance with state and federal air and water quality standards.
3. Compliance with the various regulatory agencies, federal and state.

In total, timber industry firms whose operation is partially dependent upon federal timber will have to work with over two dozen local, state, and federal agencies.

Testimony was made regarding increasing energy shortage with resultant pressure from the government to utilize wood waste (both woods and mill residue) in power generation. Further, it was stated that the installation of power generating facilities utilizing wood waste should require more employees and major capital investment. In addition, the U.S. Forest Service has formed an energy study unit to explore the feasibility of developing major centralized wood-fired power generating units. A wood-fired power generating unit is currently being developed with a major municipal power utility company in Oregon.

After carefully reviewing the testimony from the hearings and the written comments received to date, the conclusions regarding the above proposals are as follows:

Lower the Size Standard to 100 Employees

We have fully evaluated the statements and written comments submitted in support of this proposal and concluded that a lowering of the size standard to 100 employees is not in the best interest of the small business community. The proponents for lowering the standard argued that size is not a measure of competitiveness and that firms in the 100–500 range do not need SBA assistance. We wish to note that this proposal was set forth by large business concerns and was not supported by preponderance of the smaller firms.

It is our feeling that this proposal would be most beneficial to the large business concerns, not the small business segment, and we cannot consider this as a viable alternative.

Raise the Size Standard to 1,000 Employees

This proposal was set forth by firms near or over the 500-employee limit. They stated that the reasons for this proposal are primarily because of the changing trends in the forest products industry. Raw material is getting more difficult to obtain, as private lands are diminishing and firms between 500 and 1,000 are small compared to the giants and cannot compete against them.

In order to remain competitive, companies in the industry need to expand the operations to maximize the usage of raw materials. This, along with the increased burden of government regulation, requires more people. These independent firms between 500 and 1,000 who cannot compete with the giants of the industry now find themselves excluded from the SBA program.

We do not dispute the accuracy of their argument; however, we cannot

agree that these facts warrant an increase from the 500-employee level. Firms in the 500–1,000 range testified that they have been operating outside the SBA umbrella for long periods and do not seem to be a segment of the industry struggling to remain competitive.

It is our position that firms in this range that have remained competitive without assistance from SBA would have, by virtue of their size and related resources, some competitive advantage in bidding and marketing timber sales.

Increase the Size Standard to 2,500 Employees

One proposal was submitted to increase the employee size standard to 2,500. The arguments supporting this proposal were similar to the ones to increase the number of employees to 1,000. This proposal appeared to assist a single firm to meet the SBA size standard and did not have any industry support.

Two Tier

The basic proposal was made by some small businesses to establish protective bidding for concerns under 100 employees in addition to the 500-employee level. This motion, commonly called a two-tiered system, would provide bidding protection to firms with 100 or less employees on a designated share of federal timber within the overall 500-employee size standard.

Further, this proposal would have no effect on the SSTS program which is a separate and distinct program applicable to salvage timber only and gives protection to concerns employing 25 or less employees.

Proponents of this suggestion were very general as to specific size levels and program administration. They promised to supply written details at a future date within the stated comment period, but have failed to do so.

It is our opinion that a two-tiered system would be administratively unfeasible and would preclude a reasonable distribution of available timber rather than enhance distribution to small business.

Gross Receipts and/or Lumber Production in Conjunction With an Employee Limitation

A few firms suggested the use of a gross sales or board feet limitation instead of employees or in conjunction with the employee size standard. However, no specifics on this proposal were set forth. We agree with those testifying that the only consistently feasible method of establishing and maintaining a size standard is through number of employees. Additional constraints such as dollar or board foot limitations would only be more complicated and would not improve the definition of small business.

Remain at the Current 500-Employee Size Standard

During the course of the hearings and review of the written comments there was virtually no solid evidence which stated that the 500-employee standard was ineffective or detrimental to the small business community or the overall timber industry. Administration of the SBA timber program within the 500-employee size standard and definition has been very effective in providing a stable timber supply to the small business community. Additionally, this program has also greatly slowed the acquisition of strong small business mills by large business. Small business representatives testified that their existence and successful operation was due primarily to the current set-aside program. The program has given small business needed bidding protection in acquiring an adequate and dependable timber supply. Many testified that they would not be able to survive without it.

Generally firms with less than 500 employees do not have private timber tracts or access thereto, which is in contrast to firms exceeding the 500-employee level. We consider this point to be a major difference between the large and small business segments of the timber industry. Firms under 500-employees are almost solely dependent upon federal timber sales for their survival.

The most crucial factor in formulating our determination was the fact that not one firm, through testimony or written comment, suggested that the current 500-employee size standard was inappropriate or not working. To the contrary, the vast majority of firms felt that the program was working quite well. Absent was any evidence that the program, with its 500-employee standard, is ineffective or is not serving the needs of the small business community as intended. It is our decision that the 500-employee standard remain in effect. The SBA timber program has worked well, serving the needs of a broad segment of the small business timber industry which is in need of continued assistance.

PART 121—SMALL BUSINESS SIZE STANDARDS

Accordingly, pursuant to authority contained in Section 5(b)(6) of the Small Business Act, 15 U.S.C. 634, as amended, notice is hereby given that the size standard for timber set-aside in 13 CFR Part 121.3–9 will not be changed.

Dated: November 3, 1981.

Michael Cardenas,

Administrator.

[FR Doc. 81-32589 Filed 11-10-81; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 11, 91, 109, 121, 127, 133, 135, 137, 139, and 183

Various Rules; Disposition of Comments

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of disposition of comments on rules issued without notice.

SUMMARY: Since 1977, the Federal Aviation Administration (FAA) has issued a number of rules without first soliciting public comment. Those rules were either emergency in nature or considered to be so insignificant that prior comment was believed to be unnecessary. In most cases, however, the public was afforded the opportunity to comment after the fact. This notice addresses comments received after the rules were issued.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph A. Sirkis, Regulatory Projects Branch (AVS–24), Safety Regulations Staff, Associate Administrator for Aviation Standards, 800 Independence Avenue, SW., Washington, D.C. 20591. Telephone: (202) 755–8716.

SUPPLEMENTARY INFORMATION:

Discussion of the Comments

Part 91—General Operating and Flight Rules

Temporary Operation of Aircraft Without an Emergency Locator Transmitter (ELT) (43 FR 10905, March 16, 1978; Docket No. 17694; Amdt. No. 91–151)

This amendment adds an exception to the Emergency Locator Transmitter (ELT) requirement to permit the temporary operation for 90 days of aircraft from which the ELT has been removed for inspection, repair, modification, or replacement.

Five commenters favor the amendment as published.

One commenter favors the amendment as published but suggests that endorsement in the aircraft log book is of little value except to set the 90-day time period. That commenter also suggests that use of another permanent record would serve the same purpose without unnecessarily cluttering the aircraft log books.

The amendment as written states, "No person may operate the aircraft unless the aircraft records * * *." This wording already permits the action suggested by the commenter. The records must also be accessible to the pilot of the aircraft so that information such as the removal of the aircraft's ELT can be used to affirm safe operation.

One commenter who opposes the amendment as published recommends that:

1. The time authorized to operate an aircraft without an ELT be reduced from 90 to 30 days;
2. FAA approval be required for any extensions to this time frame;
3. A statement be on all flight plans indicating when the ELT was removed or that the ELT is inoperative; and
4. The U.S. Civil Aircraft Registry be advised when the ELT is removed from an aircraft for 7 days or longer.

The FAA reviewed these recommendations and reached these conclusions:

1. This amendment was adopted without prior notice to permit the temporary operation of aircraft in cases where the ELT had to be returned to its manufacturer for rework or repair. On the basis of available information, the FAA determined that a 90-day period was appropriate to give relief to operators of affected aircraft during the time the limited rework and repair facilities were overloaded.

2. The FAA concluded that the time required to rework the affected ELT's would be somewhat longer than the 30 days suggested by the commenter. The 90-day period was adopted to alleviate any hardship that might occur with the knowledge that the FAA could respond quickly on a case-by-case basis if required to permit longer than 90-day temporary operations without ELT's.

3. The recommendation that flight plans contain a statement indicating that the ELT has been removed or is inoperative has merit; however, the FAA plans to take no action on this comment since prudent pilots already take the opportunity to make such a statement in the "Remarks" block on the flight plan form.

4. The U.S. Civil Aircraft Registry does not have the capability to handle the additional workload that would be developed should it be required to be a clearinghouse for ELT information.

Another commenter opposes the amendment as published. The commenter proposes that a replacement ELT be provided by the repair/overhaul facility that removes the original equipment ELT and that the affected aircraft be grounded if such a replacement is not made.

At the time the amendment was published, there was a shortage of ELT's. The repair/overhaul facilities were overloaded. The FAA decided to alleviate the hardship placed on operators by permitting temporary operation of aircraft without ELT's. The requirement that aircraft be grounded if they did not have installed ELT's due to reasons beyond the control of operators was unreasonable.

Two comments were received that address issues beyond the scope of the amendment and, therefore, were not considered.

Special Federal Aviation Regulation 38

Certificate Requirements: General (43 FR 58366, December 14, 1978; Docket No. 18510)

The Special Federal Aviation Regulation (SPAR) simplifies the certificate issuance procedures for air carriers and other operators engaged in air commerce. Under this SFAR, only one operating certificate will be issued to an air carrier. Each type of operation an air carrier is authorized to conduct and the regulations applicable to each type operation will be specified in the air carrier's operations specifications. The impact of this SFAR is to eliminate both an immediate and a future unnecessary burden due to changes in type of aircraft operation.

The single commenter on this SFAR expresses concern about the wording of the proposed Air Carrier Operating Certificate and of Part A of the Operations Specifications. This commenter wanted the phrase "* * * air carrier's Certificate of Public Convenience and Necessity * * *" to be included in the new Air Carrier's Operating Certificate. The commenter also suggests that the Operations Specifications continue to be titled "Domestic, Flag or Supplemental Air Carrier" where applicable, as opposed to its having no title at all for those carriers originally certificated under 14 CFR Part 121. This suggestion is being considered for inclusion in a forthcoming review of Part 121.

Part 121—Certification and Operations: Domestic, Flag, and Supplemental Air Carriers and Commercial Operators of Large Aircraft

Crewmember Training and Pilot Certificates (44 FR 25201, April 30, 1979; Docket No. 18883; Amdt. No. 121-151)

This amendment revises the training requirements for crewmembers. The FAA has determined that the requirement for crewmembers to jump into emergency evacuation slides during alternate recurrent training can lead to injuries and is not in the public interest. This change also corrects an inadvertent omission regarding pilot certificates.

Two comments were received that include survey data supporting the FAA's action.

Part 109—Indirect Air Carrier Security (44 FR 72344, December 13, 1979; Docket No. 19840)

This regulation requires all indirect air carriers to prepare and carry out a security program designed to prevent or deter the unauthorized introduction into package cargo of any explosive or incendiary device.

Four replies were received in response to the invitation to comment contained in the final rule published in the **Federal Register.** One commenter fully supports the FAA response. Another commenter generally supports the program but is concerned that the program might needlessly duplicate direct air carrier programs or might not be compatible with them. In practice, air carriers accomplish more than is required of indirect air carriers, and each program complements the other; therefore, the commenter's concerns are not justified and the FAA plans no further action.

Two comments were received that address issues beyond the scope of the amendment and, therefore, were not considered.

Part 135—Air Taxi Operators and Commercial Operators

Air Taxi Operators and Commercial Operators; Commuter Pilot in Command Operating Experience Requirements (45 FR 7246, February 1, 1980; Docket No. 20011; Amdt. No. 135-3)

This amendment requires that each commuter air carrier pilot meet increased operating experience levels before serving as a pilot in command. Twenty-one sets of comments were submitted in response to publication of this amendment.

Two of the comments received are from associates. One of those presents the views of aircraft manufacturers and the other, the views of an organization

whose members are airline passengers. The remaining comments are from commuter airlines, air taxi and commercial operators, and other interested persons. The commenters are divided in their support of and opposition to the amendment. A number of them suggest changes and offer specific criticisms.

Two of the commenters, one of which is the association representing the views of airline passengers, are in complete support of the rule as published.

One of the commenters supports the amendment but proposes that a specified number of hours in multiengine aircraft be required of a pilot to qualify as a pilot in command with no further requirement for single-pilot operations.

The FAA has concluded that the established minimum pilot-in-command experience for single-pilot operations is reasonable and is necessary to ensure familiarity with the equipment and to provide sufficient proficiency.

Two commenters who support the rule suggest that the necessary experience be gained under the supervision of a qualified check airman or a designated company training pilot. The FAA does not agree that the experience should be required under the supervision of a designated training pilot or qualified check airman. The operating experience is to be acquired during actual passenger-carrying operations following the completion of the training and proficiency check for PIC on the aircraft. This experience is not considered training but is rather a means to observe a pilot performing the duties of a PIC. Therefore, a qualified check pilot rather than a training instructor should be on board to determine if the pilot qualifies to be designated PIC.

Another commenter who expresses support for the rule thinks that credit should be given for experience gained in similar aircraft. The operating experience was limited to the make and model of aircraft to ensure that the pilot would acquire the piloting experience in the aircraft to be used in the flight operation.

A commenter who supports the rule suggests that credit at the rate of 1 hour per takeoff and landing not be allowed in accruing the required operating experience. This was included as credit toward meeting the requirement because the additional landings and takeoffs provide more pertinent operating experience within the limits specified in the rule.

One commenter agrees with the need for the rule but thinks that the cost to meet the 100-hour requirement would be expensive. Six commenters oppose the rule primarily because of cost.

The accident record in the period preceding the rule, as explained therein, dictated prompt adoption of it to fulfill the agency's safety responsibilities. The agency recognized that there will be an economic impact associated with this requirement. Additional costs will be involved during the qualification of pilots who are going to be PIC's on one-pilot operations. In these cases, an additional pilot (check airman) would be on board during the acquisition of the operating experience. Where two-pilot crews are being used, the check airman would also serve as a second pilot, so no additional costs are involved.

One commenter who completely opposes the amendment recommends an immediate reevaluation. The FAA is continually monitoring training and operational problems with commuters through our field inspectors. Should a problem with this rule become evident, it will be given immediate consideration.

Another commenter, who states that he understands the reasons and intent behind the regulations, strongly disagrees with the solution. However, a similar requirement has been in effect in FAA's air carrier rules for several years with satisfactory results. Ensuring that pilots on commuter operations are familiar with the equipment being flown by them is necessary, and the method established in § 135.244 is considered reasonable and necessary from a safety standpoint.

One commenter objects to the requirement for time in make and model to be accumulated after the pilot has completed ground school and flight training in make and model, claiming that this procedure is expensive and redundant. In the acquisition of operating experience, ground school is not involved. Flight training does not give the experience required by the rule or the opportunity to evaluate a pilot in command in an actual line operation.

Another commenter, representing manufacturers of aircraft, opposes the amendment as written. He suggests that a requirement for "100 hours pilot time in each category and class of aircraft to be flown" would be sufficient for pilot-in-command ratings. Pilot-in-command time in the make and model rather than in category and class of single-pilot operation is considered necessary. Accident data reveals that within a period of 60 days in late 1979, 2 fatal commuter accidents occurred with 13 fatalities. One-pilot crews were involved in both cases. Both pilots had very low pilot-in-command time in the make and model airplanes flown.

Part 121—Certification and Operations: Domestic, Flag, and Supplemental Air Carriers and Commercial Operators of Large Aircraft

Petition for Rulemaking—Carriage of Weapons; Military Charter Flights (45 FR 13059, February 28, 1980; Docket No. 19652; Amdt. No. 121–156)

This amendment permits the carriage of weapons aboard air carrier flights conducted for the military forces of the Government of the United States when the total cabin load of the airplane is under the exclusive use by those military forces.

One commenter agrees completely with the amendment. Another commenter suggests that the size of carry-on weapons be limited by adding a new § 121.585(e)(3): Such individual carry-on weapons are limited in size and shape to that which will fit under the seat in front of the seat occupied by the person who brought the weapon on board. All carry-on articles must be properly stowed. Baggage and other items that cannot be stowed in accordance with § 121.589 must be handled in accordance with § 121.285 or 121.287 as appropriate. This commenter was notified accordingly.

This amendment is necessary in the national interest to ensure DOD supplemental rapid deployment capability through use of civilian air carriers to meet military contingencies and to provide an exception to § 121.585 relative to carriage of firearms in the cabin of such aircraft by personnel of the military forces of the United States provided specified conditions are met.

Part 183—Representatives of the Administrator

Authorization for the Designation of Acoustical Engineering Representatives (45 FR 32668, May 19, 1980; Docket No. 20339; Amdt. No. 183–7)

This amendment authorizes the use of designated acoustical engineering representatives. These representatives perform specified functions leading to FAA noise-level approval for aircraft covered by noise certification rules. Neither noise-level certification nor approval of equivalencies to prescribed procedures and standards is within the scope of the designated representatives' authority.

Three responses were received in reply to the FAA's request for comments contained in the final rule as published in the **Federal Register**. One commenter expresses complete agreement with the amendment as published.

Another commenter endorses the amendment as published but suggests that manufacturers with Delegation Option be authorized to certify for noise. The FAA concludes that this suggestion may have merit; however, the suggested change would affect another FAA regulation (Part 21) and would therefore be beyond the scope of the amendment.

The third commenter's primary objection to the amendment is that the designated representative may be an employee of the manufacturer. This is quite possible; however, the FAA's qualified designee procedure has been in effect for many years for medical examinations, flight proficiency tests, airframe inspection, engine inspection, and other FAA responsibilities with an established record of success at great savings to the taxpayer. The FAA still has the final responsibility for review, inspection, revocation, and final certification.

Part 91—General Operating and Flight Rules

Minimum Navigation Performance Capability for Operations over the North Atlantic (42 FR 64880, December 29, 1977; Docket No. 17523; Amdt. No. 91-144)

This amendment specifies the minimum navigation capability required of aircraft operated in certain airspace over the North Atlantic Ocean and incorporates into the FAR the navigation performance standards adopted by the International Civil Aviation Organization (ICAO).

No comments were received on this amendment.

Part 11—General Rulemaking procedures

Part 121—Certification and Operations: Domestic, Flag, and Supplemental Air Carriers and Commercial Operators of Large Aircraft

Part 127—Certification and Operations of Scheduled Air Carriers With Helicopters

Part 133—Rotocraft External-Load Operations

Part 137—Agricultural Aircraft Operations

Part 139—Certification and Operations: Land Airports Serving Cab-Certificated Air Carriers

Delegations of Authority (43 FR 52203, November 9, 1978; Docket No. 18434; Amendment Nos. 11-15, 121-150, 127-36, 133-8, 137-9, and 139-12)

These amendments delegate certain powers of the Administrator of the FAA to officials within the FAA. These delegations reduce the number of review levels within the agency with a corresponding saving in time, money, and other resources.

No comments were received on these amendments.

Part 121—Certification and Operations: Domestic, Flag, and Supplemental Air Carriers and Commercial Operators of Large Aircraft

Part 135—Air Taxi Operators and Commercial Operators

Miscellaneous Amendments (44 FR 26737, May 7, 1979; Docket No. 16097; Amdt. Nos. 121-152 and 135-1)

These amemdments clarify and correct certain minor omissions and typographical errors. These amendments are necessary also to express correctly the FAA's intended statement of the rule. In addition, the compliance date was extended for the instrument rating requirement applicable to pilots in command of aircraft under visual flight rules.

No comments were received on these amendments.

Part 121—Certification and Operations: Domestic, Flag, and Supplemental Air Carriers and Commercial Operators of Large Aircraft

Flight Attendant Seats (45 FR 31057, May 12, 1980; Docket Nos. 14779 and 14324; Amdt. No. 121-157)

This amendment extends from May 6, 1980, to July 7, 1980, the date by which a Part 121 certificate holder is to submit an acceptable schedule of compliance to justify a request for extension of the compliance period for providing, in the passenger cabin, an acceptable seat for each flight attendant for takeoffs and landings.

No comments were received on this amendment.

Issued in Washington, D.C., on November 3, 1981.

Anthony J. Broderick,

Deputy Associate Administrator for Aviation Standards.

[FR Doc. 81-32457 Filed 11-10-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-SO-44]

Alteration of Control Zone and Transition Area; Jackson, Mississippi

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the description of the Jackson, Mississippi Control Zone and Transition Area. To satisfy operational needs, changes have been made in instrument flight procedures at Allen C. Thompson Field, Hawkins Field and Bruce Campbell Field. It is necessary to alter the Control Zone and Transition Area descriptions to reflect the changes and provide required controlled airspace protection for Instrument Flight Rule (IFR) aircraft operations.

EFFECTIVE DATE: 0901 G.m.t., January 21, 1982.

FOR FURTHER INFORMATION CONTACT:

James G. Walters, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

History

On Thursday, August 20, 1981 (46 FR 42282), the FAA proposed to amend Part 71 of the Federal Aviation regulations (14 CFR Part 71) to alter the description of the Jackson, Mississippi, Control Zone and Transition Area as follows: (1) Eliminate reference to the Hawkins RBN which has been decommissioned; (2) refine the geographic position of Allen C. Thompson Field, Bruce Campbell Field and Hawkins Field Airports; (3) designate a control zone extension north of Bruce Campbell Field to afford airspace protection for the instrument approach procedures; (4) increase the basic control zone radius at Allen C. Thompson Field to contain Category E aircraft instrument operations; (5) redesignate the control zone extension north of Hawkins Field to provide airspace protection for the VOR-A instrument approach procedure; (6) increase the basic transition area radius at Bruce Campbell Field to provide airspace protection for the VOR-A instrument approach procedure; and (7) redesignate the transition area extension north of Hawkins Field to provide airspace protection for the VOR-A instrument approach procedure.

Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the description of the Jackson, Mississippi, Control Zone and Transition Area to satisfy operational needs and provide

required controlled airspace for IFR aircraft operations.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.171, Subpart F, of Part 71 of the Federal Aviation regulations (14 CFR Part 71) (46 FR 455) and § 71.181, Subpart G, of the Federal Aviation regulations (14 CFR Part 71) as republished (and amended) (46 FR 540) are further amended, effective 0901 GMT, January 21, 1982, as follows:

Jackson, Mississippi

1. By amending § 71.171 in the description of the Jackson, Mississippi, Control Zone by deleting the present description and substituting therefor, "Within a 6-mile radius of Allen C. Thompson Field (lat. 32°18'40" N., long. 90°04'33" W.); within a 5-mile radius of Hawkins Field (lat. 32°20'04" N., long. 90°13'20" W.); within 2.5 miles each side of the Jackson VORTAC 194° radial, extending from the 5-mile radius zone to 1 mile south of the VORTAC; within a 5-mile radius of Bruce Campbell Field (lat. 32°26'17" N., long. 90°06'10' W.); within 3 miles each side of the 006° bearing from the Bruce RBN (lat. 32°26'24" N., long. 90°06'24" W.) extending from the 5-mile radius zone to 8.5 miles north of the RBN."

2. By amending § 71.181 in the description of the Jackson, Mississippi, Transition Area by deleting the present description and substituting therefor, "That airspace extending upward from 700 feet above the surface within a 10-mile radius of Allen C. Thompson Field (lat. 32°18'40" N., long 90°04'33" W.); within an 8-mile radius of Hawkins Field (lat. 32°20'04" N., long. 90°13'20" W.); within 3 miles each side of the Jackson VORTAC 194° radial, extending from the 8-mile radius area to the VORTAC; within a 6-mile radius of Bruce Campbell Field (lat. 32°26'17" N., long. 90°06'10" W.); within 3 miles each side of the 006° bearing from the Bruce RBN (lat. 32°26'24" N., long. 90°06'24" W.), extending from the 6-mile radius area to 8.5 miles north of the RBN."

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

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.

This action involves only a small alteration of navigable airspace and air traffic control procedures over a limited area.

Issued in East Point, Georgia, on October 30, 1981.

Jonathan Howe,

Director, Southern Region.

[FR Doc. 81-32466 Filed 11-10-81; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 10

[T.D. 81-282]

Exclusion of Certain Costs Incurred in the United States From Direct Costs of Processing Operations Under the Generalized System of Preferences

AGENCY: Customs Service, Treasury.

ACTION: Interpretative rule.

SUMMARY: By a notice published in the **Federal Register** comments were requested on whether certain costs incurred in the United States, now excluded from the appraised value of imported merchandise, should continue to be regarded by Customs as "direct costs of processing operations" under § 10.178(a), Customs Regulations, in determining the eligibility of an article for duty-free treatment under the Generalized System of Preferences ("GSP"). Customs has reviewed and analyzed the comments received in response to the notice and determined that if the costs incurred in the United States do not form part of the appraised value of the imported merchandise under section 402 of the Tariff Act of 1930, as amended by the Trade Agreements Act of 1979, then such costs do not form part of the "direct costs of processing operations" for the purposes of GSP.

DATE: This ruling shall be effective as to merchandise entered, or withdrawn from warehouse, for consumption on or after February 10, 1982.

FOR FURTHER INFORMATION CONTACT: Thomas L. Lobred, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-2938).

SUPPLEMENTARY INFORMATION:

Background

In accordance with General Headnote 3(c)(ii), Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202), and section 10.176(a), Customs Regulations (19 CFR 10.176(a)), an article which is the growth, product, manufacture, or assembly of a beneficiary developing country ("BDC") and which is imported into the customs territory of the United States directly from a BDC, may be eligible for duty-free treatment under the Generalized System of Preferences ("GSP"). To be eligible for duty-free treatment, the sum of the cost of materials produced in the BDC plus the direct costs of processing operations performed in the BDC must not be less than 35 percent of the appraised value of the article at the time of its entry into the customs territory.

Section 10.178(a), Customs Regulations (19 CFR 10.178(a)), defines "direct costs of processing operations" as including, among other things, research, development, design, engineering, and blueprint costs insofar as they are allocable to the specific merchandise under consideration. In interpreting this regulation, Customs has ruled that research and development costs incurred in the United States are considered direct costs of processing operations, provided the research and development relates to the specific merchandise under consideration.

Section 201, Trade Agreements Act of 1979 (Pub. L. 96-39, 93 Stat. 194), amended section 402, Tariff Act of 1930, in part, to specifically exclude from appraised value charges for research and development ("R&D") in the form of engineering development, artwork, design work, and plans and sketches necessary from the production of imported merchandise if undertaken in the United States.

In view of this amendment, a notice was published in the **Federal Register** on December 18, 1980 (45 FR 83260), requesting public comments on whether these research and development ("R&D") costs incurred in the United States should continue to be regarded as "direct costs of processing operations" under § 10.178(a), Customs Regulations, in determining the eligibility of an article for duty-free treatment under GSP.

Discussion of Comments

In response to the notice, 14 comments were received. Of these, 8 were in favor of maintaining the present approach of including the previously dutiable R&D costs incurred in the United States as part of the "direct costs of processing operations" under GSP. The other 6 commenters took the position that the changes made by Trade Agreements Act of 1979 required a change in approach.

The following arguments, listed in no particular order, were made in support of excluding certain costs incurred in the

United States from "direct costs of processing" for the purposes of GSP.

1. To do otherwise would be contrary to the primary purpose of GSP which is to encourage economic development in beneficiary countries because it would tend to place indigenous producers at a competitive disadvantage to subsidiaries of United States based multinational corporations and it would encourage the shifting of R&D from the beneficiary country to the United States.

2. United States R&D would be given more weight in determining GSP eligibility than any cost in the beneficiary country, because costs in the beneficiary country are included in both the costs of processing (dividend) and the Customs value (divisor) while United States R&D would be included only in the dividend.

3. Any product with substantial United States R&D could be eligible even if costs in the beneficiary country were as low as 10%, 5%, or 1% of the Customs value.

4. Because Congress did not make a distinction between the application of "assists" to imports from BDC's and other imports, it was apparent that the definition for "assists" was to apply to all imports regardless of origin. To hold otherwise would be inappropriate.

5. Because it is quite difficult to assign a dollar value to some of the direct and indirect costs which go into developing an item, these costs should be excluded from appraised value.

6. This approach is easier for Customs to administer in that a dual system would not be created.

7. The inclusion of "assists" which do not form part of appraised value would be contrary to the Multilateral Trade Negotiations ("MTN") Agreements on Customs Valuation, and other developed nations have not adopted this concept of "assists."

8. To do otherwise would be contrary to the provisions of the Trade Act of 1974, as well as the Trade Agreements Act of 1979.

The following arguments, also listed in no particular order, were made in support of including certain costs incurred in the United States in "direct costs of processing" for the purposes of GSP.

1. Duty savings can be passed through to the American consumer.

2. Another anomolous situation would be created in that domestic United States engineering, development, and design work would no longer qualify while work performed abroad, even if performed in another highly developed country, would qualify. This would have the effect of creating an incentive for United States importers to have development and design work performed outside of the United States in order to have charges for such work includable as local content when attempting to qualify for GSP treatment.

3. The effects of a decision to cease treating the cost of those "assists" as direct costs of processing operations could be avoided by importers simply selling the engineering development, artwork, design work, plans and sketches to the BDC manufacturer.

4. The legislative history of the Trade Agreements Act of 1979, does not indicate that the Congress had any intention of changing the prime considerations for the qualification of duty-free treatment under GSP and that Congress' decision to cease extracting duty on the cost of engineering, etc., undertaken in the United States is not inconsistent with treating those same costs as direct costs of processing operations in a BDC. Further, Congress, made several other changes in GSP and did nothing about this one.

5. Because the entire GSP program is scheduled for congressional review, any change should await the expression of congressional intent resulting from such review.

6. A policy permitting the inclusion of the designated charges as direct costs of processing operations will benefit the economy of the United States.

7. Nothing in the background or legislative history of section 201 of the Trade Agreements Act of 1979, amending section 402 of the Tariff Act of 1930, suggests that the decision to exclude the designated "assists" from transaction value was intended to impact upon the operation of GSP. To take action at this time which would suggest that the opposite inference is true would tend to defeat the legitimate expectations of BDC's and impede business planning by American industry based upon existing administrative practice.

8. Another commenter saw no connection between the deletion of these "assists" from appraised value and their categorization as direct costs of processing operations for GSP purposes, nor any inconsistency between the two, and that they were two different legal concepts. Precedent for this point is the case of *Ford Motor Company* v. *United States*, 29 Cust. Ct. 553 (1952), which remains valid, that is, that a cost is properly includable no matter where it was incurred.

The phrase "direct costs of processing" as used in the Trade Act of 1974 is meant to include all costs which directly relate to the manufacture or production of merchandise.

9. If the so-called "assist" cannot be performed outside the United States, the purposes of the GSP program will be obstructed.

10. Consistency is important in the administration of GSP and Customs law generally. Therefore, Customs should not reject the rationale of the position taken under the previous law.

11. There is no reference to the term "assist" in the relevant portion of the Trade Act of 1974. The term "assist" as defined in section 402 of the Trade Agreements Act of 1979, was not meant to apply to the term "direct costs of processing" as set forth in section 503(b)(2) of the Trade Act of 1974. Furthermore, it is noted that the language of section 402 begins with "as used in this section." In addition, it is argued that if Congress wanted the term "assists" to apply to direct costs of processsing requirements for GSP purposes, Congress could easily have made a reference to section 503(b)(2).

12. Relevant case law has established that the doctrine of legislative approval of administrative practice may be invoked where the practice has been followed by re-enactment of the statute without substantial change.

13. One commenter argues that because a practice by Customs has existed to include certain "assist" costs incurred in the United States as direct costs of processing for purposes of GSP, if Customs changes its position, such change in position should be effective only with regard to merchandise entered, or withdrawn from warehouse, for consumption on or after the 90th day after publication of the change in the **Federal Register**, pursuant to § 177.10(e), Customs Regulations (19 CFR 177.10(e)).

Determination

The arguments submitted on both sides were quite supportive of the respective positions. After careful review and analysis of the arguments, Customs is of the opinion that the better reasoned view is that costs which are not included in the appraised value of imported merchandise under section 402 of the Trade Agreements Act of 1979, are not includable as "direct costs of processing" for the purposes of determining the eligibility of an article for duty-free treatment under GSP. This ruling will be effective as to merchandise entered, or withdrawn from warehouse, for consumption on or after February 10, 1982.

Drafting Information

The principal author of this document was Robert J. Pisani, Regulations Control Branch, Office of Regulations

and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

A. R. De Angelus,

Acting Commissioner of Customs.

Approved: October 16, 1981.

John Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 81-32823 Filed 11-10-81; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Placement of Alprazolam in Schedule IV

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: This is a final rule placing the drug, alprazolam, into Schedule IV of the Controlled Substances Act. As a result of this rule, alprazolam will be subject to the manufacturing, distribution, dispensing, importation and exportation controls of Schedule IV.

EFFECTIVE DATE: November 12, 1981.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Regulatory Control Division, Drug Enforcement Administration, Telephone: (202) 633-1366.

SUPPLEMENTARY INFORMATION: A notice was published in the **Federal Register** on Wednesday, April 29, 1981 (46 FR 23953-4), proposing that alprazolam be placed into Schedule IV of the Controlled Substances Act (21 U.S.C. 801 *et seq.*). All persons were given until June 29, 1981 to submit any comments or objections in writing regarding this proposal. One comment was received from the American Society for Hospital Pharmacists (ASHP), which supported the placement of alprazolam into Schedule IV. No other comments or objections were received in response to this proposal, nor were there any requests for a hearing.

Relying on the scientific and medical evaluation and recommendation of the Acting Assistant Secretary for Health, and based on his independent evaluation in accordance with the provisions of 21 U.S.C. 811(c), the Acting Administrator of the Drug Enforcement Administration, pursuant to the provisions of 21 U.S.C. 811(a) and 811(b), finds that:

(1) Based on information now available, alprazolam has a low potential for abuse relative to the drugs or other substances listed in Schedule III;

(2) Alprazolam has a currently accepted medical use in treatment in the United States; and,

(3) Abuse of alprazolam may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in Schedule III.

The above findings are consistent with the placement of alprazolam into Schedule IV of the Controlled Substances Act.

This control action involves the initial scheduling of a substance not previously approved for marketing in the United States and is necessary for final marketing approval. In order to avoid delays in the initial marketing of alprazolam which may cause economic problems for the manufacturer, the control of alprazolam will be effective on the date of publication of this final order. Further, all regulations applicable to Schedule IV substances will be effective on the date of publication. In the event this imposes special hardships on any registrant, the Drug Enforcement Administration will entertain any justified requests for an extension of time to comply with the Schedule IV regulations.

1. *Registration.* Any person who manufactures, distributes, imports or exports alprazolam or who engages in research or conducts instructional activites, must be registered to conduct such activities in accordance with Parts 1301 and 1311 of Title 21 of the Code of Federal Regulations.

2. *Security.* Alprazolam must be manufactured, distributed and stored in accordance with §§ 1301.71-1301.76 of Title 21 of the Code of Federal Regulations.

3. *Labeling and Packaging.* All labels and labeling for commercial containers of alprazolam must comply with the requirements of §§ 1302.03-1302.05 and 1302.08 of Title 21 of the Code of Federal Regulations.

4. *Inventory.* Every registrant required to keep records who possesses any quantity of alprazolam must take inventories pursuant to §§ 1304.11-1304.19 of Title 21 of the Code of Federal Regulations, of all stocks of these substances on hand.

5. *Records.* All registrants required to keep records pursuant to §§ 1304.21-1304.27 of Title 21 of the Code of Federal Regulations shall maintain such records on alprazolam.

6. *Prescriptions.* All prescriptions for products containing alprazolam shall comply with §§ 1306.01-1306.06 and §§ 1306.21-1306.25 of Title 21 of the Code of Federal Regulations.

7. *Importation and Exportation.* All importation and exportation of alprazolam shall be in compliance with Part 1312 of Title 21 of the Code of Federal Regulations.

8. *Criminal Liability.* The Acting Administrator, Drug Enforcement Administration, hereby orders that any activity with respect to alprazolam not authorized by, or in violation of, the Controlled Substances Act or the Controlled Substances Import and Export Act shall be unlawful.

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

Under the authority vested in the Attorney General by Section 201(a) of the Act (21 U.S.C. 811(a)) and delegated to the Acting Administrator of the Drug Enforcement Administration by regulations of the Department of Justice (28 CFR Part 0.100), the Acting Administrator hereby orders that:

(1) 21 CFR 1308.14(c)(1)-(22) is redesignated as 21 CFR 1308.14(c)(2)-(23); and (2) a new § 1308.14(c)(1) is added to read as follows:

§ 1308.14 Schedule IV.

* * * * *

(c) * * *

(1) Alprazolam	2882

* * * * *

The Food and Drug Administration issued a letter on October 16, 1981, notifying The Upjohn Company of the final approval of their New Drug Application for alprazolam. A copy of this letter was received by DEA. The notification further stated that alprazolam may not be legally marketed until a final order placing alprazolam into Schedule IV of the CSA by the Drug Enforcement Administration is published in the **Federal Register.**

Pursuant to 5 U.S.C. 605(b), the Acting Administrator certifies that the placement of alprazolam into Schedule IV of the Controlled Substances Act will not have a significant impact upon small businesses or other entities whose interests must be considered under the Regulatory Flexibility Act (Pub. L. 96-354). This action involves the initial control of a substance not previously approved for marketing in the United States.

In accordance with the provisions of 21 U.S.C. 811(a), this placement of alprazolam into Schedule IV is a formal rulemaking "on the record after opportunity for a hearing." Such proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557.

and as such, have been exempted from the consultation requirements of Executive Order 12291 (46 FR 13193).

Dated: November 5, 1981.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 81-32635 Filed 11-10-81; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 114

[DoD Instruction 7730.54][1]

Reserve Components Common Personnel Data System

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This rule revises DoD policies and procedures for the Reserve Components Common Personnel Data System (RCCPDS) that have been established to meet statutory requirements. The requirements provide that adequate and current personnel records be maintained to ensure proper management and mobilization readiness of Reserve Components. This rule outlines the process and assigns responsibilities to comply with those requirements, and applies to all male and female officers, warrant officers, and enlisted personnel assigned to the Ready Reserve, the Standby Reserve, and the Retired Reserve.

EFFECTIVE DATE: October 26, 1981.

FOR FURTHER INFORMATION CONTACT: CPT Patrick F. Kelly, USAR, Office of the Deputy Assistant Secretary of Defense (Reserve Affairs), OASD(MRA&L), The Pentagon, Room 3C960, Washington, D.C. 20301, Telephone 202-697-4334.

SUPPLEMENTARY INFORMATION: In FR Doc. 77-29574, appearing in the Federal Register (42 FR 54547) on October 7, 1977, the Office of the Secretary of Defense published Part 114 of this title. In response to mandated program changes, this rule is being revised.

Accordingly, the revised Part 114, now reads as follows:

PART 114—RESERVE COMPONENTS COMMON PERSONNEL DATA SYSTEM

Sec.

114.1 Reissuance and purpose.
114.2 Applicability and scope.
114.3 Policy.
114.4 Procedures.
114.5 Responsibilities.
114.6 Information requirements.

Authority: Title 10 U.S.C., secs. 261, 267, 275, 511, 651, 652, 671, 1209, 1331, 3914, 6330 and 8914.

§ 114.1 Reissuance and purpose.

This Part is reissued to establish new policies and procedures for the Reserve Components Common Personnel Data System (RCCPDS).

§ 114.2 Applicability and scope.

(a) The provisions of this Part apply to the Office of the Secretary of Defense (OSD), the Military Departments (and their National Guard and reserve components), the Organization of the Joint Chiefs of Staff, and the Defense Agencies. The Military Services discussed herein refer to the Army, Navy, Air Force, Marine Corps, and the Coast Guard (by agreement with the Department of Transportation).

(b) Its provisions govern all male and female officers, warrant officers, and enlisted personnel assigned to the Ready Reserve, the Standby Reserve, and the Retired Reserve. Included are reservists on active duty for training who continue their assignment with a reserve component.

§ 114.3 Policy.

(a) The statutes cited in Title 10, U.S.C., Sections 261, 267, 275, 511, 651, 652, 671, 1209, 1331, 3914, 6330, and 8914 require the armed forces to maintain adequate and current personnel records of reserve components, which shall include each member's:

(1) Physical condition.
(2) Dependency status.
(3) Military qualifications.
(4) Civilian occupation skills.
(5) Availability for service, and such other information as the Secretary of the Military Department concerned may prescribe.

(b) The computerized common data base that has been established to meet the above statutory requirements shall be used to provide statistical tabulations of reserve component's strengths and related data for use throughout the Department of Defense, other government agencies, and the Congress, and for appropriate public release by the Assistant Secretary of Defense (Public Affairs) (ASD(PA)).

(c) The items of personnel data included in this reporting system, for each Reserve category shall be maintained to satisfy the minimum essential data items needed to meet the statutory requirements of 10 U.S.C. Additionally, data falling within the following categories shall be maintained in individual records (either in a manual or automated mode) to satisfy those statutory requirements:

(1) Retirement points earned (all point-earning reservists).

(2) Retirement authority (all retired reservists).

(3) Professional military education for enlisted members (all point-earning enlisted members).

(4) Servicemen's Group Life Insurance option selected (all point-earning reservists).

(5) Current physical condition (all point-earning reservists).

(6) Mobilization availability (all ready reservists) (32 CFR Part 44).

(d) The Military Departments shall maintain only such additional items of data on a member considered necessary to manage adequately their Guard and Reserve forces, and ensure mobilization readiness.

(e) The requirements and procedures prescribed by 32 CFR Part 286a must be followed to safeguard the personnel data maintained in this reporting system. Individuals having access to identifiable personnel information may be held personally responsible and punishable under the law for making unauthorizd disclosures.

§ 114.4 Procedures.

(a) Members who are qualified for Reserve retirement under 10 U.S.C. 1331 and who are eligible to draw benefits at age 60, but who have elected discharge from the Reserve forces rather than transfer to the Retired Reserve should be reported in RCCPDS.

(b) Enlisted members of a regular component who also have a Reserve commission cannot be reported in RCCPDS.

(c) The following categories of full-time support personnel shall be reported in RCCPDS:

(1) *Active Guard/Reserve.* Guardsmen and reservists on active duty solely to provide full-time support to the Ready Reserve and who are paid from the Reserve personnel appropriations of the Military Department concerned.

(2) *Military Technicians.* Federal civilian personnel of a Military Department who occupy technician positions and are members of the reserve component they support.

(d) Members on extended active duty who are part of the active force may not be reported. This does not include members identified in § 114.4(c)(1).

(e) As the official DoD vehicle for reporting Reserve forces manpower strengths, records reported in this system (as prescribed in § 114.2 and

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120. Attention: Code 301.

§ 114.4 (a) through (d)) may not be duplicated in other strength reporting systems. Additionally, to support the accuracy of strength data in the system, DoD Components shall ensure that:

(1) All strength-effecting changes are processed and reported without delay.

(2) All master and transaction files are edited before submission according to the editing procedures.

(f) Requests to provide specifically tailored reports and inquiries to system users shall be directed to the address shown at § 114.4(j)(2). A reserve component may not be provided data relative to another reserve component without prior approval of that component.

(g) Any information available to RCCPDS required by the Director, Selective Service System, shall be provided by magnetic tape extracts of data submitted in compliance with this Part.

(h) Information from RCCPDS shall be provided annually to federal agencies to screen employees who are also members of the Ready Reserve, as required by 32 CFR Part 44.

(i) RCCPDS data accuracy shall be ensured as follows:

(1) The following data items shall be "critical data items" for all Reserve categories, and shall be 100 percent accurate to ensure acceptability in the system.

Record field	Data item	Record position
1	Reserve Component	1
2	Social Security Number	2-10
4	Reserve Category	29
4	Training/Pay/Retired Category	30

(2) The following data items (as applicable within each Reserve category) shall be at least 98 percent accurate:

Record field	Data item	Record position
3	Name of Individual	11-28
5	Pay Grade	31-32
6	Date of Current Pay Grade/Date of Retirement	33-36
7	Date of Birth	39-44
8	Date of Commission/Date of ETS/ECS	45-50
11	Pay Entry Base Date	58-63
17	Sex	81
18	Marital Status	82
20	Civilian Education	84
26	Unit Identification Code	99-105
27	Unit State Code	106-107
28	Unit ZIP Code	108-112
32	20-Year Letter Indicator	117
34	Incentive Termination Status	122-123
39	Mental Group	138

(3) All remaining data items (as applicable within each Reserve category) shall be:

(i) Ninety-five percent accurate for the Ready and Standby Reserve.

(ii) Ninety percent accurate for the Retired Reserve.

(4) The above data reliability rates (§ 114.4(i)(1) through (3)) shall be used as standards for judging the accuracy of this data base, and provided to any audit and inspection agency reviewing their accuracy.

(j) Magnetic tape files and the quality control edit reports shall be forwarded as follows:

(1) Magnetic tape files shall be delivered by the 20th of the month following the reported month to: Defense Manpower Data Center, Attn: Records File Manager, 550 Camino El Estero, Suite 200, Monterey, CA 93940.

(2) The quality control edit reports for the monthly tape submission shall be mailed to: Defense Manpower Data Center (DMDC), Attn: Special Assistant (Reserve Affairs), 300 North Washington Street, Alexandria, VA 22314.

§ 114.5 Responsibilities.

(a) The *Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics)*, or designee, the *Deputy Assistant Secretary of Defense (Reserve Affairs)* shall:

(1) Collect, summarize, and publish periodically the "Official Guard and Reserve Manpower Strengths and Statistics" report for the reserve components of the Department of Defense, and, through the Office of the ASD(PA), for release to the public.

(2) Approve and control all access to the data contained in the system.

(3) Provide policy guidance to the Defense Manpower Data Center on the content, use, and plans for the system.

(b) The *Director, Defense Manpower Data Center (DMDC)*, shall:

(1) Operate and maintain the system, to include computer support, software development, quality control, time sharing, inquiry capability, and administrative support.

(2) Develop, produce, and distribute all current reports.

(3) Modify the system to reflect the changing nature of the Reserve forces.

(c) The *Secretaries of the Military Departments* shall:

(1) Provide their respective National Guard and reserve components with the necessary support to establish personnel data systems that fully support readiness requirements in addition to this reporting requirement.

(2) Prepare, at the end of each month, a Master Officer and Master Enlisted File reflecting the status of each member of the Guard and Reserve as of the last day of each month.

(3) Prepare, at the end of each month, an Officer Transaction File and an Enlisted Transaction File reflecting the gains, losses, reenlistments, and extensions of Selected Reserve personnel that occurred during the reporting month.

(4) Edit monthly submissions according to the editing concept.

(5) Perform a quality control validation of the data before submission to OSD.

§ 114.6 Information requirements.

The reporting requirements for this Part are assigned the following Report Control Symbols:

Master File..... DD-M(M) 1147
Transaction File..... DD-M(M) 1148

Existing standard data elements from DoD 5000.12-M, "DoD Manual for Standard Data Elements," December 1980 are being used in these reporting requirements where applicable.

M. S. Healy,

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

November 6, 1981.

[FR Doc. 81-32878 Filed 11-10-81; 8:45 am]

BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-2-FRL 1956-2]

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

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces approval by the Environmental Protection Agency (EPA) of revisions to the New York State Implementation Plan (SIP). It serves the purpose of: incorporating into the SIP modifications to certain New York State regulations which are already a part of the plan in unmodified form; deleting from the SIP certain other regulations no longer in effect; and adding to the SIP a new regulation concerning sulfuric and nitric acid plants. Furthermore, it adds a new section to the Code of Federal Regulations which clearly identifies those New York State regulations which are a part of the SIP.

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

ADDRESSES: Copies of the SIP revision submitted by New York State, public comments, and EPA's technical support document are available for inspection during normal business hours at the following addresses:

Environmental Protection Agency, Region II, Air Programs Branch—Room 1005, 26 Federal Plaza, New York, New York 10278

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

A copy of the New York SIP revision is also available for inspection during normal business hours at: The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408.

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

SUPPLEMENTARY INFORMATION:

I. Background

On August 10, 1979, the New York State Department of Environmental Conservation (NYSDEC) submitted to the Environmental Protection Agency (EPA) proposed revisions to the New York State Implementation Plan (SIP). This package consisted of numerous revisions to the State's regulations, which are codified under Title 6 of the Codes, Rules and Regulations of the State of New York (6 NYCRR). These proposed revisions, developed either in fulfillment of the provisions of Part D, "Plan Requirements for Nonattainment Areas," of the Clean Air Act, or as a result of the on-going State regulatory revision process, were fully described in a **Federal Register** notice of proposed rulemaking on April 1, 1981 (46 FR 19829).

Today's action reflects EPA's final determinations regarding the approvability of revisions to 6 NYCRR Parts 201, 202, 203, 207, 211, 212, "old" 216, 220, 221, 224, 225, "old" 226, 227, and 230. EPA's final determination on the removal of Parts 217 and 218 from the SIP will be dealt with in a future notice. As discussed in EPA's April 1, 1981 proposal, no action was required on 6 NYCRR Parts 200, 204, 205, 213, 214, 215, 216, 219, 222, 223, 226, 228, 229, and 231, which were also included in the State's August 10, 1979 submittal. Comments on the April 1, 1981 proposal were received from the NYSDEC, Connecticut Department of Environmental Protection, Rochester Gas & Electric Corporation, and the Eastman Kodak Company. A detailed discussion of these comments and EPA's response is provided in a "Technical Support Document" to this rulemaking action. The issues raised by the commentators and EPA's responses are summarized below.

II. Public Comments

No comments were submitted with regard to EPA's proposed rulemaking action on Parts 202, 207, 211, 212, "old" 216, 220, 221, 224, "old" 226, and 230.

Comments submitted by the NYSDEC addressed EPA's proposed actions on Parts 201, 203, 217, 218, 225, and 227. With the exception of comments regarding Part 225, the arguments raised were a reiteration of the previous position taken by the State as discussed in EPA's April 1, 1981 proposal. On this basis, with two exceptions, EPA's proposed findings remain unchanged. As will be discussed, the two exceptions concern EPA's final action on the State's request to remove Part 203, Indirect Sources of Air Contamination, from the SIP and EPA's final action regarding approvability of revision to § 225.1(b) of Part 225, Fuel Composition and Use. In addition, EPA has reevaluated the State's request to remove Part 217, Emissions From Motor Vehicles Propelled by Gasoline Engines, and Part 218, Emissions From Vehicles Propelled By Diesel Engines, from its SIP. On August 4, 1981 (46 FR 39612) EPA proposed to delete numerous provisions of the State's 1973 mobile source pollution control plan from its SIP. Since these two regulations are a part of that plan, they also can be deleted for the same reasons described in the August 4, 1981 proposal. Therefore, EPA intends to take action to delete Parts 217 and 218 from the New York SIP when EPA finalizes its August 4, 1981 proposal. At this time, however, these regulations must continue to be considered applicable.

EPA has proposed only partial approval of the State's request to delete Part 203 from its SIP. EPA was unable to approve deletion of this regulation for the New York City metropolitan area on the basis that the SIP for this area had not been approved (and had, in fact, been proposed to be disapproved) with regard to the Part D requirements of the Clean Air Act. Since the Part D SIP revisions for the New York City metropolitan area have subsequently been approved (September 9, 1981; 46 FR 44979), EPA is now approving the State's proposed revision and is deleting Part 203 in its entirety from the SIP.

With regard to the proposed § 227.3(a) revisions, which concern a relaxation of the particulate matter limitation for fuel burning sources from 0.1 to 0.2 pounds per million BTU heat input, the Connecticut Department of Environmental Protection questioned the absence of an air quality impact evaluation and conformity of the proposal with "reasonably available control technology." These comments basically reiterate EPA's reasons for proposed disapproval of Section 227.3(a)(2). EPA's final action, to disapprove this section, is consistent with its proposal and Connecticut's comments.

The proposed revision to § 225.1(b) restricts to non-attainment areas exclusively the requirement that the sulfur content of coal used by a source converting from fuel oil (or gas) to coal shall not exceed 0.55 times the applicable sulfur content limitation for oil. This requirement previously applied to both nonattainment and attainment areas. EPA has proposed disapproval of this provision on the basis that the SIP would not provide adequate assurance that prevention of significant deterioration (PSD) increments in attainment areas would not be contravened.

NYSDEC has provided a more detailed discussion of its permit review requirements which adequately demonstrate that this revision will not have a significant air quality impact. On this basis, EPA has reevaluated its proposed findings and is approving the proposed revision to § 225.1(b).

Rochester Gas & Electric Company also addressed EPA's proposed disapproval of § 225.1(b) revisions. The commentator indicates that adequate mechanisms are available to EPA to ensure that PSD increments are protected. In addition, the State has the ability to assess the impact of any conversion from fuel oil or gas to coal, under the provisions of Part 201.

As discussed in response to comments received from NYSDEC, EPA has reevaluated its proposed findings and is approving the revision to § 225.1(b). This reevaluation is based on the persuasive argument that the State's permit review requirements, which provide a broad definition of "modifications" including coal conversions and installation of control equipment, provide adequate protection to PSD increments. EPA also agrees with Rochester Gas & Electric's comment that the mechanisms of EPA certification are adequate to deal with sources which have been subject to a federal coal conversion order.

Eastman Kodak Company commented on EPA's proposed action to disapprove § 227.6(f) because it is inconsistent with 40 CFR 51.19(e). The commentator indicates that § 227.6(f) is consistent with the exemption allowed in 40 CFR

51.19(e)(5) and paragraph 6.0 of Appendix P to 40 CFR Part 51 (referenced by 40 CFR 51.19(e)). EPA believes that the first point is not relevant to the issue since 40 CFR 51.19(e)(5) deals with time extensions necessary for equipment installation. The authority for such extensions is present in § 227.6(e), which EPA is approving. With regard to the second point, EPA must emphasize that paragraph 6 of 40 CFR 51 Appendix P requires specific criteria to be set for determining physical limitations or extreme economic situations, as a result of which alternative emission monitoring requirements would be allowed. Such specific criteria have not been incorporated in the State's submission. Consequently, EPA is taking final action to disapprove § 227.6(f), as proposed.

III. Summary of EPA's Final Action

The following table summarizes the final action being taken today on EPA's proposed action of April 1, 1981 (46 FR 19829).

Rule	Action
Part 201, Permits and Certificates	Approval of revisions.
Part 202, Emissions Testing, Sampling and Analytical Determinations.	Approval of revisions.
Part 203, Indirect Sources of Air Contamination.	Approval of request to remove from SIP.
Part 207, Control Measures For An Air Pollution Episode.	Approval of revisions.
Part 211, General Prohibitions	Approval of revisions.
Part 212, Process and Exhaust and/or Ventilation Systems.	Approval of revisions.
"Old" Part 216, Smoke	Approval of request to revoke.
Part 217, Emissions From Motor Vehicles Propelled By Gasoline Engines.	Request to remove from SIP to be dealt with in a future action.
Part 218, Emissions From Vehicles Propelled By Diesel Engines.	Request to remove from SIP to be dealt with in a future action.
Part 220, Portland Cement Plants	Approval of revisions.
Part 221, Asbestos-Containing Surface Coating Materials.	Approval of request to remove from SIP.
Part 224, Sulfuric and Nitric Acid Plants.	Approval of new rule.
Part 225, Fuel Composition and Use.	Approval of revisions.
"Old" Part 226, Fuel Composition and Use—Stationary Air Contaminant Sources.	Approval of request to remove from SIP.
Part 227, Stationary Combustion Installations.	Approval of revisions, with the exception of 227.3(a)(2), 227.5(b), 227.6(a), and 227.6(f).
Part 230, Fuel Composition and Use—Niagara Frontier.	Approval of request to remove from SIP.

Additionally, a new § 52.1679, "EPA-approved New York State regulations," is being promulgated in the regulatory section at the end of this notice. This new section identifies all New York State regulations approved by EPA as part of the New York SIP, the dates when the regulations were made effective by the State, and the dates (and Federal Register citations) when they were last approved by EPA for incorporation into the New York SIP.

Today's action is being made effective immediately since those SIP provisions being approved are already in effect under New York State law, no additional regulatory burdens are being imposed, and no purpose would be served by delaying its effective date.

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

Pursuant to the provisions of 5 U.S.C. section 605(b) I certify that the SIP approvals under Sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. This action generally approves state actions. While action on a few regulatory provisions is being deferred, this has the effect of preserving status quo, leaving in effect similar provisions that are currently part of the applicable State Implementation Plan. No new requirements are being imposed.

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 generally it only approves regulations presently applying under New York State law. A few regulatory provisions are being disapproved. This has the effect of preserving the status quo, leaving in effect similar provisions that are currently part of the applicable State Implementation Plan.

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

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

Dated: November 3, 1981.

Anne M. Gorsuch,

Administrator, Environmental Protection Agency.

Note.—Incorporation by reference of the State Implementation Plan for the State of New York was approved by the Director of the Federal Register on July 1, 1981.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart HH—New York

1. Section 52.1670, is amended by revising paragraph (c)(44)(v) as follows:

§ 52.1670 Identification of plan.

* * * * *

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

* * * * *

(44) * * *

(v) August 10, 1979, providing a comprehensive set of adopted regulations.

* * * * *

2. A new § 52.1679 is added to read as follows:

§ 52.1679 EPA-approved New York State regulations

New York State regulation	State effective date	Latest EPA approval date	Comments
Part 200, General Provisions	8/23/79		
Part 201, Permits and Certificates	3/24/79	11/12/81, 46 FR 55690	
Part 202, Emissions Testing, Sampling, and Analytical Determinations.	3/24/79	11/12/81, 46 FR 55690	
Part 204, Hydrocarbon Emissions from Storage and Loading Facilities—New York City Metropolitan Area.	8/12/72	9/22/72, 37 FR 19814	
Part 205, Photochemically Reactive Solvents and Solvents from Certain Processes—New York City Metropolitan Area.	8/23/79	5/21/80, 45 FR 33981	
Part 207, Control Measures for an Air Pollution Episode.	3/24/79	11/12/81, 46 FR 55690	
Part 211, General Prohibitions	8/23/79	11/12/81, 46 FR 55690	
Part 212, Process and Exhaust and/or Ventilation Systems.	3/24/79	11/12/81, 46 FR 55690	
Part 213, Contaminant Emissions from Ferrous Jobbing Foundries.	6/27/72	9/22/72, 37 FR 19814	
Part 214, By-Product Coke Oven Batteries	8/12/72	9/22/72, 37 FR 19814	
Part 214, By-Product Coke Oven Batteries (with provisions as noted).	8/23/79		Sections 214.2(a) and 214.2(b)(1) are only incorporated provisionally pending additional RACT evaluation (40 CFR 52.1678 (b)(1) and (b)(2).

New York State regulation	State effective date	Latest EPA approval date	Comments
Part 216, Iron and/or Steel Processes (with provisions as noted).	8/23/79		Sections 216.1(a), 216.1(b), 216.1(c) and 216.2(c) are only incorporated provisionally pending additional RACT evaluations (40 CFR 52.1678 (b)(3) and (c)).
Part 217, Emissions from Motor Vehicles Propelled by Gasoline Engines.	8/12/72	9/22/72, 37 FR 19814	
Part 218, Emissions from Vehicles Propelled by Diesel Engines.	5/1/72	9/22/72, 37 FR 19814	
Part 219, Incinerators	5/1/82	9/22/72, 37 FR 19814	
Part 220, Portland Cement Plants	3/14/73	11/12/81, 46 FR 55690	
Part 222, Incinerators—New York City, Nassau and Westchester Counties.	7/17/72	9/22/72, 37 FR 19814	
Part 223, Petroleum Refineries	8/23/79	11/10/80, 45 FR 74472	
Part 224, Sulfuric and Nitric Acid Plants	3/15/73	11/12/81, 46 FR 55690	
Part 225, Fuel Composition and Use (except as noted).	3/24/79	11/12/81, 46 FR 55690	Section 225.3(e) is disapproved (40 CFR 52.1675(d). Variances adopted by the State pursuant to Sections 225.2 (b) and (c), 225.3, and 225.5(c) become applicable only if approved by EPA as SIP revisions (40 CFR 52.1675(e)).
Part 226, Solvent Metal Cleaning	8/23/79	11/10/80, 45 FR 74472	
Part 227, Stationary Combustion Installations (except as noted).	3/24/79	11/12/81, 46 FR 55690	Sections 227.3(a)(2), 227.5(b), 227.6(a) and 227.6(f) are disapproved (40 CFR 52.1676(b), 52.1678(d), and 52.1680(a)).
Part 227, Stationary Combustion Installations/Section 227.2(b)(1).	5/1/72	9/22/72, 37 FR 19814	
Part 228, Surface Coating Processes	8/23/79	11/10/80, 45 FR 74472	
Part 229, Petroleum Liquids Storage and Transfer.	6/21/80	7/1/80, 45 FR 44273	
Part 231, Major Facilities	6/21/80	7/1/80, 45 FR 44273	

3. A new paragraph (d) is added to § 52.1678 to read as follows:

§ 52.1678 Control strategy and regulations: Particulate Matter.

* * * * *

(d) Section 227.3(a)(2) of 6 NYCRR, as submitted on August 10, 1979, is disapproved because it is inconsistent with 40 CFR 51.13, Control strategy: Sulfur oxides and particulate matter.

4. A new paragraph (b) is added to § 52.1676 to read as follows:

§ 52.1676 Control strategy: Nitrogen dioxide.

* * * * *

(b) Section 227.5(b) of 6 NYCRR, as submitted on August 10, 1979, is disapproved because it is inconsistent with 40 CFR 51.14, Control strategy: Carbon monoxide, hydrocarbons, ozone, and nitrogen dioxide.

5. Section 52.1680 is added to read as follows:

§ 52.1680 Control strategy: Monitoring and Reporting.

(a) Sections 227.6 (a) and (f) are disapproved because they are not consistent with the continuous monitoring and reporting requirements of 40 CFR 51.19(e).

[FR Doc. 81-32512 Filed 11-10-81; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 180

[PP 6E1760/6E1874/7E1929/9E2136/OE2309/OE2361/R364; PH-FRL—1983-2]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Benomyl

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the fungicide benomyl and its metabolites containing the benzimidazole moiety (calculated as benomyl). This regulation was requested by the Interregional Research Project No. 4 (IR-4) and by the California Department of Food and Agriculture. This regulation will establish a maximum permissible level for the combined residues of benomyl and its metabolites at 0.2 part per million (ppm) in or on certain raw agricultural commodities.

EFFECTIVE DATE: November 12, 1981.

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

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

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of October 2, 1981 (46 FR 48720) 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 petitions numbers 6E1760; 6E1874; 9E2136; OE2309; and OE2361 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Florida (6E1760); Florida, Louisiana, Wisconsin, Michigan, New York, and Washington (6E1874); California, Maryland, New Jersey, and Virginia (9E2136); Arkansas, California, Oregon, Texas, and Washington (OE2309); and New Jersey (OE2361). These petitions requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for the combined residues of the fungicide benomyl [methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate] and its metabolites containing the benzimidazole moiety (calculated as benomyl) at 0.2 ppm in or on the following raw agricultural commodities resulting from seed treatments: corn, fresh (including sweet, K+CWHR) and sweet corn, fodder and forage ((6E1760); broccoli, brussels sprouts, cabbage, cauliflower, Chinese cabbage, collards, kale, kohlrabi, mustard greens, rutabagas, and turnips (tops and roots) (6E1874); and spinach (OE2309); 0.2 ppm in or on sweet potatoes resulting from transplant root dip treatment (9E2136); and 0.2 ppm in or on eggplants and peppers resulting from greenhouse application to bedding plants prior to transplant but not later than the 8-leaf stage (OE2361).

The California Department of Food and Agriculture, 1220 N St., Sacramento, CA 95814, has submitted pesticide petition 7E1929 requesting 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 benomyl and its metabolites containing the benzimidazole moiety (calculated as benomyl) in or on the raw agricultural commodity garlic at 0.2 ppm from treatment of garlic seed (cloves).

A comprehensive review of the data available for the chemical was conducted in connection with the Rebuttable Presumption Against Registration (RPAR) for benomyl which was published in the **Federal Register** of December 6, 1977 (42 FR 61788).

This presumption was based on information indicating that benomyl posed the risks of mutagenicity (point mutation and non-disjunction), spermatogenic depression and teratogenic effects, acute toxicity to aquatic organisms and significant population reduction in nontarget organisms. In the **Federal Register** of August 30, 1979 (44 FR 51166), the agency issued a Preliminary Notice of Determination, which concluded that benomyl continued to pose the risks noted above with the exception of point mutations and significant population reductions in nontarget organisms. In this Notice and the accompanying Position Document 2/3, the agency weighed the risks and benefits of use together, and determined that certain modifications to the terms and conditions of use were necessary to reduce the risks of use to applicators.

Subsequent to these findings, data have been made available indicating that benomyl is oncogenic and additional teratogenic tests have been submitted. A reexamination of the presently registered uses of benomyl in light of the oncogenic and teratogenic adverse effects is currently being performed.

Food residue studies on the crops for which tolerances are being proposed were submitted and evaluated for the petitions. These studies demonstrated that residues of benomyl in the crops will be less than the limits of sensitivity of analytical methodology, or less than 0.2 ppm. Thus, there will be minimal potential health risk to the general public. These and all currently existing tolerances and registered uses will be reevaluated in a future RPAR position document.

The nature of the residues is adequately understood and adequate analytical methods (fluorometric or colorimetric) are available for enforcement purposes. Since no detectable residues have been found in treated crops, there will be no problem of secondary residues in meat, milk, poultry, and eggs. Even if small quantities of residues were to be found in feed items, the established meat, milk, poultry, and egg tolerances would be adequate to cover residues from these uses.

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

Based on the above information considered by the agency, it is concluded that the amount of benomyl added to the diet from the seed uses is too small to substantially increase the risk to humans. Thus, the tolerances are considered to pose a negligible increment in risk and it is concluded that the tolerances established by amending 40 CFR Part 180 will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after the date of publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 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 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 rule 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 on: November 12, 1981.

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

Dated: November 3, 1981.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

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

Therefore, 40 CFR 180.294 is revised to read as follows:

§ 180.294 Benomyl; tolerances for residues.

Tolerances are established for the combined residues of the fungicide benomyl (methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate) and its metabolites containing the benzimidazole moiety (calculated as benomyl) in or on the following raw agricultural commodities:

Commodities	Parts per million
Almond hulls	1
Apples (pre- and post-H)	7
Apricots (pre- and post-H)	15
Avocados	1
Bananas (pre- and post-H) (NMT 0.2 ppm (N) shall be present in the pulp after peel is removed and discarded)	1
Beans	2
Bean vine forage	50
Beets, sugar, roots	0.2
Beets, sugar, tops	15
Blackberries	7
Blueberries	7
Boysenberries	7
Broccoli	0.2
Brussels sprouts	0.2
Cabbage	0.2
Cattle, fat	0.1
Cattle, meat	0.1
Cattle, mbyp	0.1
Cauliflower	0.2
Celery	3
Cherries (pre- and post-H)	15
Chinese cabbage	0.2
Citrus fruit (pre- and post-H)	10
Collards	0.2
Corn, fresh (inc. sweet K + CWHR)	0.2
Corn, sweet, fodder and forage	0.2
Cucumbers	1
Dewberries	7
Eggplants	0.2
Eggs	0.1
Garlic	0.2
Goats, fat	0.1
Goats, meat	0.1
Goats, mbyp	0.1
Grapes	10
Hogs, fat	0.1
Hogs, meat	0.1
Hogs, mbyp	0.1
Horses, fat	0.1
Horses, meat	0.1
Horses, mbyp	0.1
Kale	0.2
Kohlrabi	0.2
Loganberries	7
Mangoes	3
Melons	1
Milk	0.1
Mushrooms (pre- and post-H)	10
Mustard greens	0.2
Nectarines (pre- and post-H)	15
Nuts	0.2(N)
Peaches (pre- and post-H)	15
Peanuts	0.2
Peanut forage	15
Peanut hay	15
Peanut hulls	2
Pears (pre- and post-H)	7
Peppers	0.2
Pineapples (post-H)	35
Plums (inc. fresh prunes) (pre- and post-H)	15

Commodities	Parts per million
Poultry, fat	0.1
Poultry, liver	0.2
Poultry, meat	0.1
Poultry, mbyp	0.1
Pumpkins	1
Raspberries	7
Rice	5
Rice straw	15
Rutabagas	0.
Sheep, fat	0.1
Sheep, meat	0.1
Sheep, mbyp	0.1
Soybeans	0.2
Spinach	0.2
Squash, summer	1
Squash, winter	1
Strawberries	5
Sweet potatoes	0.2
Tomatoes	5
Turnips, roots	0.2
Turnips, tops	0.2

[FR Doc. 81-32614 Filed 11-10-81; 8:45 am]

BILLING CODE 6560-32-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

42 CFR Parts 54 and 54a

Changes in Requirements for Programs Replaced by Block Grants; Correction

AGENCY: Department of Health and Human Services.

ACTION: Interim final rule with request for comments; Correction.

SUMMARY: This document corrects an interim final rule with request for comments on changes in requirements for programs replaced by block grants that appeared at page 48593 in the **Federal Register** of Thursday, October 1, 1981, (46 FR 48593). This action is necessary to correct a typographical error in a citation.

DATES: The rule is effective October 1, 1981. Comments must be received on or before November 30, 1981. Any amendments suggested in those comments will be considered and any appropriate revisions will be made promptly.

ADDRESS: Comments on this rule should be submitted to: Executive Secretariat, Attn: Charlotte Lewis, Department of Health and Human Services, Room 632-H, Humphrey Building, 200 Independence Avenue, Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Robert L. Spencer, Regulations Officer, Public Health Service, Parklawn Building, Room 17B-08, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-6330.

Dated: November 4, 1981.

Approved:

Robert F. Sermier,

Deputy Assistant Secretary for Management Analysis and Systems.

Accordingly, the Department of Health and Human Services is correcting FR Doc. 81-28343 appearing on 48593 in the issue of October 1, 1981 as follows:

On page 48596 in the middle of column three, "(§ 54.204 [Removed] 6. Section 54.204 is removed.)" is corrected to read:

§ 54a.204 [Removed]

6. Section 54a.204 is removed.

[FR Doc. 81-32610 Filed 11-10-81; 8:45 am]

BILLING CODE 4110-12-M

Health Care Financing Administration

42 CFR Part 401

Medicare Program; Availability of Information and Records to the Public

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: We are changing the Code of Federal Regulations (CFR) location of certain regulations applicable to the Medicare program that concern the availability of information and records to the public. Currently, HCFA shares regulations on that subject with the Social Security Administration (SSA) in Title 20 of the CFR.

This change in location is one of a series intended to consolidate HCFA regulations in one place, Title 42 of the CFR, for the convenience of providers of services, intermediaries and others who use our regulations. This move will combine these regulations on the general availability of information with others in Title 42 on disclosure of official records and information about individuals.

We do not intend any substantive changes. We have merely inserted updated addresses for requesting records, changed certain references to make them applicable to HCFA rather than SSA, and deleted obsolete items from the list of publications. Substantive changes will be proposed at a later date when we publish regulations on the availability of information and records for both the Medicare and Medicaid programs.

EFFECTIVE DATE: November 12, 1981.

FOR FURTHER INFORMATION CONTACT: Stanley Katz, Health Care Financing Administration, Dogwood West, Second Floor, 1848 Gwynn Oak Avenue, Baltimore, Maryland 21207, (301) 594-9595.

SUPPLEMENTARY INFORMATION:

Background

From its inception in 1965 until March 1977, the Medicare program was the responsibility of the Social Security Administration (SSA). Regulations applicable to SSA programs are located in Titles 20 and 45 of the Code of Federal Regulations (20 CFR and 45 CFR).

In 1977, under a Departmental reorganization, responsibility for the Medicare program was transferred to HCFA. Most of the regulations applicable to HCFA programs are located in 42 CFR.

On November 13, 1980, HHS issued final regulations separating SSA rules from HCFA rules on the disclosure of official records and information about individuals to the public (45 FR 74906). These regulations implement the Privacy Act (5 U.S.C. 552b) and section 1106 of the Social Security Act. SSA recodified its portion of the regulations in 20 CFR Part 401, and transferred certain sections applicable to HCFA to a new 42 CFR Part 401, Subpart B, Confidentiality and Disclosure.

SSA's regulations that implement the Freedom of Information Act (FOIA) (5 U.S.C. 552) are located in 20 CFR Part 422, Subpart E, Availability of Information and Records to the Public. The regulations are generally applicable to the various programs administered by SSA (e.g. the Old Age, Survivors and Disability Insurance program) and also to Medicare. SSA's regulations in this area provide the sole source of guidance on HCFA's policies implementing the FOIA.

As the second step in our effort to consolidate HCFA's regulations in the general area of confidentiality and disclosure of information into 42 CFR, we are adopting those provisions of SSA's regulations that apply to Medicare and placing them in 42 CFR Part 401, Subpart B, following the regulations transferred by SSA in the November 13, 1980 **Federal Register**. In doing so, we have updated addresses and references to HCFA offices and personnel, and deleted obsolete items from the list of publications we make available for public inspection. No substantive changes have been made.

Briefly, the regulations contain an explanation of how HCFA implements the requirements of the FOIA. We present in the regulation a description of material that HCFA makes available for public inspection and copying, the addresses where the information may be obtained, and a description of the procedures the public must follow when requesting information.

Reasons for Relocation

This relocation will assist persons needing information about Medicare policies on confidentiality and disclosure by making all information available in one part of the CFR. In addition, it will provide updated points of contact for obtaining information about the Medicare program, thereby helping to avoid delay in HCFA's receipt of and responses to requests by the public for information. Finally, SSA eventually plans to recodify its regulations on this subject and to delete all references to Medicare. Therefore, this relocation will assure, in the long run, easy access to codified Medicare regulations under the FOIA.

We are planning to propose, in a subsequent publication, substantive changes in HCFA policies relating to confidentiality and disclosure. Those changes will be presented in a notice of proposed rulemaking and sufficient time will be allowed for public comment.

Waiver of Proposed Rulemaking and Prospective Effective Date

We are publishing these regulations as final, effective on the date of publication. The regulations essentially restate policies currently applicable to the Medicare program that are located in SSA's chapter of the CFR and differ only in the substitution of references appropriate to HCFA for those specific to SSA.

We have made no substantive changes, and we believe that it is desirable to place all Medicare regulations applicable to confidentiality and disclosure in one title of the CFR. For these reasons, we believe that publication of a notice of proposed rulemaking is unnecessary and that there is good cause to waive proposed rulemaking procedures. For the same reasons, we find good cause to waive the requirement for a prospective effective date of 30 days after the date of publication.

Executive Order 12291

The Secretary has determined that these final regulations do not meet the criteria for a "major rule," as defined by section 1(b) of Executive Order 12291. That is, the proposed regulations will not—

- Have an annual effect on the economy of $100 million or more;
- Result in a major increase in costs or prices for consumers, any industries, any government agencies or any geographic regions; or
- Have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or import markets.

The HHS regulations that establish the Department's policies under the FOIA, and which are required by the FOIA, state that the agencies within the Department may implement the Department's FOIA policies through separate regulations (45 CFR 5.11). Therefore, in addition to making our regulations easier to use, we intend these final regulations to provide details about the availability of Medicare information that are not contained in the Department's regulations.

Regulatory Flexibility Act

We have also reviewed this regulatory initiative in light of the Regulatory Flexibility Act (Pub. L. 96–354), which requires an analysis of the impact of any regulation that will have a significant economic impact on a substantial number of small businesses, small nonprofit organizations or small governmental, jurisdictions. We have concluded that these regulations will not have such an impact on small entities or governmental jurisdictions because they concern HCFA's policy on availability of information to the public generally and do not impose requirements on any entities. Therefore, we believe a final regulatory analysis under the Regulatory Flexibility Act is not required.

Comparability Chart

To assist the user, we have included a chart that shows the location of comparable sections of 20 CFR Part 422, Subpart E (old sections) and 42 CFR Part 401, Subpart B (new sections).

Old sections	New sections
20 CFR 422.401	42 CFR-401.101(a)(2).
422.402	401.102.
422.406	401.106.
422.408	401.108.
422.410	401.110.
422.412	401.112.
422.416	401.116.
422.418	401.118.
422.420	401.120.
422.426	401.126.
422.428	401.128.
422.430	401.130.
422.432	401.132.
422.433	401.133.
422.434	401.134.
422.435	401.135.
422.436	401.136.
422.440	401.140.
422.444	401.144.
422.448	401.148.
422.452	401.152.

Note.—Recent amendments to SSA regulations established 42 CFR Subpart B by transferring 20 CFR Part 401, Subpart A to 42 CFR as §§ 401.101, 401.102 and 401.105 (45 FR 74906, November 13, 1980).

PART 401—GENERAL ADMINISTRATIVE REQUIREMENTS

42 CFR Part 401, Subpart B is amended as set forth below.

1. The table of contents is amended to add §§ 401.106–401.152, as follows:

Subpart B—Confidentiality and Disclosure

* * * * *

Sec.
401.106 Publication.
401.108 Statements of policy and interpretations not published in the **Federal Register.**
401.110 Publications for sale.
401.112 Availability of administrative staff manuals.
401.116 Availability of records upon request.
401.118 Deletion of identifying details.
401.120 Creation of records.
401.126 Information or records that are not available.
401.128 Where requests for records may be made.
401.130 Materials available at social security district offices and branch offices.
401.132 Materials in field offices of the Office of Hearings and Appeals, SSA.
401.133 Availability of official reports on providers of services, State agencies, intermediaries, and carriers under Medicare.
401.134 Release of Medicare information to State and Federal agencies.
401.135 Release of Medicare information to the public.
401.136 Requests for information or records.
401.140 Fees and charges.
401.144 Denial of requests.
401.148 Administrative review.
401.152 Court review.

* * * * *

Authority: Secs. 1102, 1106 and 1871 of the Social Security Act (42 U.S.C. 1302, 1306 and 1395hh); the Freedom of Information Act (5 U.S.C. 552); and the Privacy Act (5 U.S.C. 552a).

2. Section 401.101 is revised as set forth below.

Subpart B—Confidentiality and Disclosure

§ 401.101 Purpose and scope.

(a) The regulations in this subpart (1) Implement section 1106(a) of the Social Security Act as it applies to the Health Care Financing Administration (HCFA). The rules apply to information obtained by officers or employees of HCFA in the course of administering title XVIII of the Social Security Act (Medicare), information obtained by Medicare intermediaries or carriers in the course of carrying out agreements under sections 1816 and 1842 of the Social Security Act, and any other information subject to section 1106(a) of the Social Security Act;

(2) Relate to the availability to the public, under 5 U.S.C. 552, of records of HCFA and its components. They set out what records are available and how they may be obtained; and (3) Supplement the regulations of the Department of Health and Human Services relating to availability of information under 5 U.S.C. 552, codified in 45 CFR Part 5, and do not replace or restrict them.

(b) Except as authorized by the rules in this subpart, no information described in paragraph (a)(1) of this section shall be disclosed. The procedural rules in this subpart (§§ 401.106 through 401.152) shall be applied to requests for information which is subject to the rules for disclosure in this subpart.

(c) Requests for information which may not be disclosed according to the provisions of this subpart shall be denied under authority of section 1106(a) of the Social Security Act and this subpart, and furthermore, such requests which have been made pursuant to the Freedom of Information Act shall be denied under authority of an appropriate Freedom of Information Act exemption, 5 U.S.C. 552(b).

3. Section 401.102 is revised by removing paragraph designations, rearranging definitions in alphabetical order, and adding the definitions of "Act" and "record" as follows:

§ 401.102 Definitions.

For purposes of this subpart: "Act" means the Social Security Act.

"Freedom of Information Act rules" means the substantive mandatory disclosure provisions of the Freedom of Information Act, 5 U.S.C. 552 (including the exemptions from mandatory disclosure, 5 U.S.C. 552(b), as implemented by the Department's public information regulation, 45 CFR Part 5, Subpart F and by §§ 401.106 to 401.152 of this subpart.

"Person" means a person as defined in the Administrative Procedure Act, 5 U.S.C. 551(2). This includes State or local agencies, but does not include Federal agencies or State or Federal courts.

"Record" has the same meaning as that provided in 45 CFR 5.5.

"Subject individual" means an individual whose record is maintained by the Department in a system of records, as the terms "individual," "record", and "system of records" are defined in the Privacy Act of 1974, 5 U.S.C. 552a(a).

4. Section 401.105 is amended by revising paragraph (b)(2) as set forth below:

§ 401.105 Rules for disclosure.

* * * * *

(b) * * *

(1) * * *

(2) Unless prohibited by any other statute (e.g., the Privacy Act of 1974, 5 U.S.C. 552a(b), the Tax Reform Act of 1976, 26 U.S.C. 6103, or section 1106(d) and (e) of the Social Security Act), information may be disclosed to any requester or recipient of the information, including another Federal agency or a State or Federal court, when the information would not be exempt from mandatory disclosure under Freedom of Information Act rules or when the information nevertheless would be made available under the Department's public information regulation's criteria for disclosures which are in the public interest and consistent with obligations of confidentiality and administrative necessity, 45 CFR Part 5, Subpart F, as supplemented by §§ 401.106 to 401.152 of this subpart.

5. Sections 401.106 through 401.152 are added as set forth below:

§ 401.106 Publication.

(a) *Methods of publication.* Materials required to be published under the provisions of The Freedom of Information Act, 5 U.S.C. 552 (a)(1) and (a)(2) are published in one of the following ways:

(1) By publication in the **Federal Register** of HCFA regulations, and by their subsequent inclusion in the Code of Federal Regulations;

(2) By publication in the **Federal Register** of appropriate general notices;

(3) By other forms of publication, when incorporated by reference in the **Federal Register** with the approval of the Director of the Federal Register; and

(4) By publication in the "Health Care Financing Administration Rulings" (HCFA Rulings) of indexes of precedential orders and opinions issued in the adjudication of claims, statements of policy and interpretations which have been adopted but have not been published in the **Federal Register**, and of administrative staff manuals and instructions to staff that affect a member of the public. The HCFA Rulings may be purchased through the Government Printing Office.

(b) *Availability for inspection.* Those materials which are published in the **Federal Register** pursuant to 5 U.S.C. 552(a)(1) shall, to the extent practicable and to further assist the public, be made available for inspection at the places specified in § 401.128.

§ 401.108 Statements of policy and interpretations not published in the Federal Register.

Precedent final opinions and orders and statements of policy and interpretations that have been adopted by HCFA and that are not published in the **Federal Register** will be made available by publication in HCFA Rulings (see § 401.110(d)). HCFA Rulings are published under the authority of the Administrator, HCFA, and are binding on all components of HCFA.

§ 401.110 Publications for sale.

The following publications containing information pertaining to the program, organization, functions, and procedures of HCFA may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

(a) Titles 20, 42, and 45 of the Code of Federal Regulations.

(b) **Federal Register** issues.

(c) Compilation of the Social Security Laws.

(d) HCFA Rulings.

(e) Social Security Handbook. The information in the Handbook is not of precedent or interpretative force.

(f) Medicare/Medicaid Directory of Medical Facilities.

§ 401.112 Availability of administrative staff manuals.

All HCFA administrative staff manuals and instructions to staff personnel which contain policies, procedures, or interpretations that affect the public are available for inspection and copying. A complete listing of such materials is published in HCFA Rulings. These manuals are generally not printed in a sufficient quantity to permit sale or other general distribution to the public. Selected material is maintained at Social Security Administration district offices and field offices and may be inspected there. See §§ 401.130 and 401.132 for a listing of this material.

§ 401.116 Availability of records upon request.

(a) *General.* In addition to the records made available pursuant to §§ 401.106, 401.108, 401.110 and 401.112, HCFA will, upon request made in accordance with this subpart, make identified records available to any person, unless they are exempt from disclosure under the provisions of section 552(b) of Title 5, United States Code (see § 401.126), or any other provision of law.

(b) *Misappropriation, alteration, or destruction of records.* No person may remove any record made available to him for inspection or copying under this part, from the place where it is made

available. In addition, no person may steal, alter, mutilate, obliterate, or destroy in whole or in part, such a record. See sections 641 and 2071 of title 18 of the United States Code.

§ 401.118 Deletion of identifying details.

When HCFA publishes or otherwise makes available an opinion or order, statement of policy, or other record which relates to a private party or parties, the name or names or other identifying details will be deleted.

§ 401.120 Creation of records.

Records will not be created by compiling selected items from the files, and records will not be created to provide the requester with such data as ratios, proportions, percentages, per capitas, frequency distributions, trends, correlations, and comparisons. If such data have been compiled and are available in the form of a record, the record shall be made available as provided in this subpart.

§ 401.126 Information or records that are not available.

(a) *Specific exemptions from disclosure.* Pursuant to paragraph (b) of 5 U.S.C. 552, certain classes of records are exempt from disclosure. For some examples of the kinds of materials which are exempt, see Subpart F of the public information regulation of the Department of Health and Human Services (45 CFR Part 5) and the appendix to that regulation.

(b) *Materials exempt from disclosure by statute.* Pursuant to paragraph (b)(3) of 5 U.S.C. 552, as amended, which exempts from the requirement for disclosure matters that are exempted from disclosure by statute, provided that such statute requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or establishes particular criteria for withholding or refers to particular types of matter to be withheld:

(1) Reports described in sections 1106 (d) and (e) of the Social Security Act shall not be disclosed, except in accordance with the provisions of sections 1106 (d) and (e). Sections 1106 (d) and (e) provide for public inspection of certain official reports dealing with the operation of the health programs established by titles XVIII and XIX of the Social Security Act (Medicare and Medicaid), but require that program validation survey reports and other formal evaluations of providers of services shall not identify individual patients, individual health care practitioners, or other individuals. Section 1106(e) further requires that none of the reports shall be made public until the contractor or provider whose performance is being evaluated has had a reasonable opportunity to review that report and to offer comments. See § 401.133 (b) and (c);

(2) Disclosure of materials described in section 1865(a)(2) of the Social Security Act as amended, is prohibited. Section 1865(a)(2) provides for release by the Joint Commission on the Accreditation of Hospitals (JCAH) to the Secretary (or a State agency designated by him) on a confidential basis accreditation surveys made by JCAH, if the hospitals authorize such release. Materials which are confidential under this provision include accreditation letters and accompanying Recommendations and Comments prepared by the JCAH concerning hospitals surveyed by it; and

(3) Tax returns and return information defined in section 6103 of the Internal Revenue Code, as amended by the Tax Reform Act of 1976, shall not be disclosed except as authorized by the Internal Revenue Code.

(c) *Effect of exemption.* Neither 5 U.S.C. 552 nor this regulation directs the withholding of any record or information, except to the extent of the prohibitions in paragraph (b) of this section. Except for material required to be withheld under the statutory provisions incorporated in paragraph (b) of this section or under another statute which meets the standards in 5 U.S.C. 552(b)(3), materials exempt from mandatory disclosure will nevertheless be made available when this can be done consistently with obligations of confidentiality and administrative necessity. The disclosure of materials or records under these circumstances in response to a specific request, however, is of no precedent force with respect to any other request.

§ 401.128 Where requests for records may be made.

(a) *General.* Any request for any record may be made to—

(1) Any HCFA component;

(2) Director, Office of Public Affairs, HCFA 313–H, Hubert H. Humphrey Building, 200 Independence Avenue, Washington, D.C. 20201; or

(3) Director of Public Affairs in any Regional Office of the Department of Health and Human Services.

The locations and service areas of these offices are as follows:

Region I—John F. Kennedy Federal Building, Boston, MA 02203. Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.

Region II—26 Federal Plaza, New York, NY 10007. New York, New Jersey, Puerto Rico, Virgin Islands.

Region III—Gateway Building, 3535 Market Street, Philadelphia, PA 19101. Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia.

Region IV—101 Marietta Street, Atlanta, GA 30323. Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.

Region V—300 South Wacker Drive, Chicago, IL 60606. Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.

Region VI—1200 Main Tower Building, Dallas, TX 75202. Arkansas, Louisiana, New Mexico, Oklahoma, Texas.

Region VII—601 East 12th Street, Kansas City, MO 64106. Iowa, Kansas, Missouri, Nebraska.

Region VIII—Federal Office Building, 19th and Stout Streets, Denver, CO 80294. Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.

Region IX—Federal Office Building, 50 United Nations Plaza, San Francisco, CA 94102. Arizona, California, Hawaii, Nevada, Guam, Trust Territory of Pacific Islands, American Samoa.

Region X—Arcade Plaza Building, 1321 Second Avenue, Seattle, WA 98101. Alaska, Idaho, Oregon, Washington.

(b) *Records pertaining to individuals.* HCFA maintains some records pertaining to individuals. Disclosure of such records is generally prohibited by section 1106 of the Social Security Act (42 U.S.C. 1306), except as prescribed in § 401.105 (See also § 401.126(b)). Requests for records pertaining to individuals may be addressed to:

Director, Office of Research, Demonstrations and Statistics, HCFA, Baltimore, Maryland 21235, when information is sought from the record of a person who has participated in a research survey conducted by or for HCFA, Office of Research, Demonstrations and Statistics; or whose records have been included by statistical sampling techniques in research and statistical studies authorized by the Social Security Act in the field of health care financing.

(c) *Requests for materials listed in § 401.130 or § 401.132 or indexed in the HCFA Rulings.* A request to inspect and copy materials listed in § 401.130 or § 401.132 or indexed in HCFA Rulings may be made to any district or branch office of the Social Security Administration. If the specific material requested is not available in the office receiving the request, the material will be obtained and made available promptly.

§ 401.130 Materials available at social security district offices and branch offices.

(a) *Materials available for inspection.* The following are available or will be made available for inspection at the social security district offices and branch offices:

(1) Compilation of the Social Security Laws.

(2) The Public Information Regulation of the Department of Health and Human Services (45 CFR Part 5).

(3) Medicare Program regulations issued by the Health Care Financing Administration. 42 CFR Chapter IV.

(4) HCFA Rulings.

(5) Social Security Handbook.

(b) *Materials available for inspection and copying.* The following materials are available or will be made available for inspection and copying at the social security district offices and branch offices:

(1) Claims Manual of the Social Security Administration.

(2) Department Staff Manual on Organization, Department of Health and Human Services, Part F, HCFA.

(3) Parts 2 and 3 of the Part A Intermediary Manual (Provider Services under Medicare HCFA Pub. 13–2 and 13–3).

(4) Parts 2 and 3 of the Part B Intermediary Manual (Physician and Supplier Services).

(5) Intermediary Letters Related to Parts 2 and 3 of the Part A and Part B Intermediary Manuals.

(6) State Buy-In Handbook (State Enrollment of Eligible Individuals under the Supplementary Medical Insurance Program) and Letters.

(7) Group Practice Prepayment Plan Manual (HIM–8) and Letters.

(8) State Operations Manual (HIM–7).

(9) HCFA Letters to State Agencies on Medicare.

(10) Skilled Nursing Facility Manual (HCFA Pub. 12).

(11) Hearing Officers Handbook (Supplementary Medical Insurance Program—HIM–21).

(12) Hospital Manual (HIM–10).

(13) Home Health Agency Manual (HIM–11).

(14) Outpatient Physical Therapy Provider Manual (HIM–9).

(15) Provider Reimbursement Manual (HIM–15).

(16) Audit Program Manuals for Hospital (HIM–16), Home Health Agency (HIM–17), and Extended Care Facilities (HIM–18).

(17) Statements of deficiencies based upon survey reports of health care institutions or facilities prepared after January 31, 1973, by a State agency, and such reports (including pertinent written statements furnished by such institution or facility on such statements of deficiencies), as set forth in § 401.133(a). Such statements of deficiencies, reports, and pertinent written statements shall be available or made available only at the social security district office and regional office servicing the area in which the institution or facility is located, except that such statements of deficiencies and pertinent written statements shall also be available at the local public assistance offices servicing such area.

(18) Indexes to the materials listed in paragraph (a) of this section and in this paragraph (b) and an index to the Bureau of Hearings and Appeals Handbook.

§ 401.132 Materials in field offices of the Office of Hearings and Appeals, SSA.

(a) *Materials available for inspection.* The following materials are available for inspection in the field offices of the Office of Hearings and Appeals, SSA.

(1) Title 45 of the Code of Federal Regulations (including the public information regulation of the Department of Health and Human Services).

(2) Regulations of the Social Security Administration and HCFA.

(3) Title 5, United States Code.

(4) Compilation of the Social Security Laws.

(5) HCFA Rulings.

(6) Social Security Handbook.

(b) *Handbook available for inspection and copying.* The Office of Hearings and Appeals Handbook is available for inspection and copying in the field offices of the Office of Hearings and Appeals.

§ 401.133 Availability of official reports on providers of services, State agencies, intermediaries, and carriers under Medicare.

The following shall be made available to the public under the conditions specified:

(a) *Statements of deficiencies and survey reports on providers of services prepared by State agencies.* (1) Statements of deficiencies based upon official survey reports prepared after January 31, 1973, by a State agency pursuant to its agreement entered into under section 1884 of the Social Security Act and furnished to HCFA, which relate to a State agency's findings on the compliance of a health care institution or facility with the applicable provisions in section 1861 of the Act and with the regulations, promulgated pursuant to those provisions, dealing with health and safety of patients in those institutions and facilities; and (2) State agency survey reports. The statement of deficiencies or report and any pertinent written statements furnished by the institution or facility on the statement of deficiencies shall be disclosed within 90 days following the completion of the survey by the State agency, but not to exceed 30 days following the receipt of the report by HCFA. (See § 401.130(b)(17)) for places where statements of deficiencies, reports, and pertinent written statements will be available.)

(b) *HCFA reports on providers of services.* Upon request in writing, official reports and other formal evaluations (including followup reviews), excluding references to internal tolerance rules and practices contained therein, internal working papers or other informal memoranda, prepared and completed after January 31, 1973, which relate to the performance of providers of services under Medicare: *Provided,* That no information identifying individual patients, physicians, or other practitioners, or other individuals shall be disclosed under this paragraph. Those reports and other evaluations shall be disclosed within 30 days following the final preparation thereof by HCFA during which time the providers of services shall be afforded a reasonable opportunity to offer comments, and there shall be disclosed with those reports and evaluations any pertinent written statements furnished HCFA by those providers on those reports and evaluations.

(c) *Contractor performance review reports.* Upon request in writing, official contractor performance review reports and other formal evaluations (including followup reviews), excluding references to internal tolerance rules and practices contained therein, internal working papers or other informal memoranda, prepared and completed after January 31, 1973, which relate to the evaluation of the performance of (1) intermediaries and carriers under their agreements entered into pursuant to sections 1816 and 1842 of the Social Security Act and (2) State agencies under their agreements entered into pursuant to section 1864 of the Act (including comparative evaluations of the performance of those intermediaries, carriers, and State agencies). The latest Contract Performance Review Report pertaining to a particular intermediary or carrier, prepared prior to February 1, 1973, may also be disclosed to any person upon request in writing. Those reports and evaluations shall be disclosed within 30 days following their final preparation by HCFA (or 30 days following the request therefor, in the case of the contract performance review report prepared prior to February 1, 1973), during which time those intermediaries, carriers, and State agencies, as the case may be, shall be afforded a reasonable opportunity to offer comments, and there shall be

disclosed with those reports and evaluations any pertinent written statements furnished HCFA by those intermediaries, carriers, or State agencies or those reports and evaluations.

§ 401.134 Release of Medicare information to State and Federal agencies.

(a) Except as provided in paragraph (b) of this section, the following information may be released to an officer or employee of an agency of the Federal or a State government lawfully charged with the administration of a program receiving grants-in-aid under title V and XIX of the Social Security Act for the purpose of administration of those titles, or to any officer or employee of the Department of Army, Department of Defense, solely for the administration of its Civilian Health and Medical Program of the Uniformed Services (CHAMPUS):

(1) Information, including the identification number, concerning charges made by physicians, other practitioners, or suppliers, and amounts paid under Medicare for services furnished to beneficiaries by such physicians, other practioners, or suppliers, to enable the agency to determine the proper amount of benefits payable for medical services performed in accordance with those programs; or

(2) Information as to physicians or other practioners that has been disclosed under § 401.105.

(3) Information relating to the qualifications and certification status of hospitals and other health care facilities obtained in the process of determining whether, and certifying as to whether, institutions or agencies meet or continue to meet the conditions of participation of providers of services or whether other entities meet or continue to meet the conditions for coverage of services they furnish.

(b) The release of such information shall not be authorized by a fiscal intermediary or carrier.

(c) The following information may be released to any officer or employee of an agency of the Federal or a State government lawfully charged with the duty of conducting an investigation or prosecution with respect to possible fraud or abuse against a program receiving grants-in-aid under Medicaid, but only for the purpose of conducting such an investigation or prosecution, or to any officer or employee of the Department of the Army, Department of Defense, solely for the administration of its Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), provided that the agency has filed an agreement with HCFA that the information will be released only to the agency's enforcement branch and that the agency will preserve the confidentiality of the information received and will not disclose that information for other than program purposes:

(1) The name and address of any provider of medical services, organization, or other person being actively investigated for possible fraud in connection with Medicare, and the nature of such suspected fraud. An active investigation exists when there is significant evidence supporting an initial complaint but there is need for further investigation.

(2) The name and address of any provider of medical services, organization, or other person found, after consultation with an appropriate professional association or a program review team, to have provided unnecessary services, or of any physician or other individual found to have violated the assignment agreement on at least three occasions.

(3) The name and address of any provider of medical services, organization or other person released under paragraph (c)(1) or (2) of this section concerning which an active investigation is concluded with a finding that there is no fraud or other prosecutable offense.

§ 401.135 Release of Medicare information to the public.

The following shall be made available to the public under the conditions specified:

(a) Information as to amounts paid to providers and other organizations and facilities for services to beneficiaries under title XVIII of the Act: *Provided*, That no information identifying any particular beneficiaries shall be disclosed under this paragraph.

(b) The name of any provider of services or other person furnishing services to Medicare beneficiaries who—

(1) Has been found by a Federal court to have been guilty of submitting false claims in connection with Medicare; or

(2) Has been found by a carrier or intermediary, after consultation with a professional medical association functioning external to program administration or, if appropriate, the State medical authority, to have been engaged in a pattern of furnishing services to beneficiaries which are substantially in excess of their medical needs; except that the name of any provider or other person shall not be disclosed pursuant to a finding under this paragraph (b)(2) of this section, unless that provider or other person has first been afforded a reasonable opportunity to offer evidence on his behalf.

(c) Upon request in writing, cost reports submitted by providers of services pursuant to section 1815 of the Act to enable the Secretary to determine amounts due the providers.

§ 401.136 Requests for information or records.

(a) A request should reasonably identify the requested record by brief description. Requesters who have detailed information which would assist in identifying the records requested are urged to provide such information in order to expedite the handling of the request. Envelopes in which written requests are submitted should be clearly identified as Freedom of Information requests. The request should include the fee or request determination of the fee. When necessary, a written request will be promptly forwarded to the proper office, and the requester will be advised of the date of the receipt and identification and address of the proper office.

(b) Determinations of whether records will be released or withheld will be made within 10 working days from date of receipt of the request in the office listed in § 401.128 except where HCFA extends this time and sends notice of such extension to the requester. Such extension may not exceed 10 additional working days and shall apply only where the following unusual circumstances exist:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the requests;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are requested in a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the request or among two or more components of HCFA having a substantial interest in the subject matter of the request.

(c) If an extension is made, the requester will be notified in writing before the expiration of 10 working days from receipt of the request and will be given an explanation of why the extension was necessary and the date on which a determination will be made.

(d) Authority to extend the time limit with respect to any request for information or records is granted to the Director, Office of Public Affairs, HCFA

and to the Director of Public Affairs in any HHS Regional Office. Those officers and employees of HCFA who are listed in § 401.144(a) as having authority to deny requests for information from records maintained on individuals are granted authority to extend the time limit for responding to requests for information from such records.

§ 401.140 Fees and charges.

(a) *Statement of policy.* It is HCFA's policy to comply with certain requests for information services without charge. Except as otherwise determined pursuant to paragraph (c) of this section, fees will be charged for the following services with respect to all other requests for information from records which are reasonably identified by the requesters:

(1) Reproduction, duplication, or copying of records;

(2) Searches for records; and

(3) Certification or authentication of records.

(b) *Fee schedules.* The fee schedule is as follows:

(1) *Search for records.* Three dollars per hour: *Provided, however,* That no charge will be made for the first half hour.

(2) *Reproduction, duplication, or copying of records.* Ten cents per page where such reproduction can be made by commonly available photocopying machines. The cost of reproducing records which cannot be so photocopied will be determined on an individual basis at actual cost.

(3) *Certification or authentication of records.* Three dollars per certification or authentication.

(4) *Forwarding materials to destination.* Any special arrangements for forwarding which are requested shall be charged at actual cost; however, no charge will be made for postage.

(5) No charge will be made when the total amount does not exceed five dollars.

(c) *Waiver or reduction of fees.* Waiver or reduction of the fees in paragraph (b) of this section may be made upon a determination that such waiver or reduction is in the public interest because furnishing the information can be considered as primarily benefiting the general public. Such determination may be made by the appropriate officer or employee identified in § 401.144.

(d) *Sale of documents.* On occasion, a previously printed document may be available for sale to the public; the cost of supplying the document is one cent per page unless the document is available for sale from the Superintendent of Documents, in which case the price shall be that determined by the Superintendent.

§ 401.144 Denial of requests.

(a) *General authority.* Only the Director, Office of Public Affairs, HCFA, and the Regional Directors of Public Affairs, HHS, are authorized to deny written requests to obtain, inspect or copy any HCFA information or record.

(b) *Forms of denials.* (1) Oral requests may be dealt with orally, but the requester should be advised that the oral response is not an official determination and that an official determination may be obtained only by submitting the request in writing. Appropriate available assistance will be offered.

(2) Written Requests—Denials of written requests will be in writing and will contain the reasons for the denial including, as appropriate, a statement that a document requested is nonexistent or not reasonably described or is subject to one or more clearly described exemption(s). Denials will also provide the requester with appropriate information on how to exercise the right of appeal.

§ 401.148 Administrative review.

(a) *Review by the Administrator.* A person whose request has been denied may initiate a review by filing a request for review with the Administrator of HCFA, 700 East High Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235, within 30 days of receipt of the determination to deny or within 30 days of receipt of records which are in partial response to his request if a portion of a request is granted and a portion denied, whichever is later. Upon receipt of a timely request for review, the Administrator will review the decision in question and the findings upon which it was based. Upon the basis of the data considered in connection with the decision and whatever other evidence and written argument is submitted by the person requesting the review or which is otherwise obtained, the Administrator or his designee will affirm or revise in whole or in part the findings and decision in question. A decision to affirm the denial will be made only upon concurrence of the Assistant Secretary for Public Affairs, or his designee, after consultation with the General Counsel or his or her designee, and the appropriate program policy official. Written notice of the decision of the Administrator will be mailed to the person who requested the review. A written decision will be made within 20 working days from receipt of the request for review. Extension of the time limit may be granted under the circumstances listed in § 401.136(b) to the extent that the maximum 10 days limit on extensions has not been exhausted on the initial determination. The decision will include the basis for it and will advise the requester of his right to judicial review.

(b) *Failure of the Administrator to comply with the time limits.* Failure of the Administrator to comply with the time limits set forth in § 401.136 and this section constitutes an exhaustion of the requester's administrative remedies.

§ 401.152 Court review.

Where the Administrator upon review affirms the denial of a request for records, in whole or in part, the requester may seek court review in the district court of the United States pursuant to 5 U.S.C. 552(a)(4)(B).

(Catalog of Federal Domestic Assistance Programs No. 13.773, Medicare—Hospital Insurance; No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: August 26, 1981.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: October 20, 1981.

Richard S. Schweiker,

Secretary.

[FR Doc. 81-32491 Filed 11-10-81; 8:45 am]

BILLING CODE 4120-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket No. 81-110; RM-3389; FCC 81-511]

Amendment of Rules to Facilitate Interservice Sharing of Frequencies in the Private Land Mobile Services Below a Certain MHz Frequency

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document adopts rules amending Part 90 of the Commission's Rules and Regulations, relating to Private Land Mobile Radio Services, and establishing procedures to accommodate broader interservice-sharing of 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.

DATE: Effective December 10, 1981.

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

FOR FURTHER INFORMATION CONTACT: Neal Pike, Private Radio Bureau, Rules Division, 202–632–7597.

SUPPLEMENTARY INFORMATION: In the matter of amendment of Subpart H of Part 90 of the Commission's rules and regulations to facilitate interservice sharing of frequencies in the private land mobile services below 470 MHz; Report and order.

Adopted: October 22, 1981.

Released: November 5, 1981.

By the Commission.

1. On March 11, 1981, a Notice of Proposed Rule Making (NPRM) was released in response to a petition (RM–3389) filed jointly by the Central Committee on Telecommunications of the American Petroleum Institute (API), Forest Industries Telecommunications (FIT) and the Special Industrial Radio Service Association, Inc. (SIRSA). The petition proposed amendment of Subpart H, Part 90 (47 CFR 90.1 *et seq.*) of the Commission's Rules and Regulations to facilitate interservice sharing of private land mobile radio service frequency assignments.[1]

2. In the NPRM the Commission proposed to establish two categories of users in the private land mobile radio service. The first category would include governmental eligibles in the Public Safety and Special Emergency Radio Services; the second category would include non-government eligibles in the Special Emergency Radio Service and all other eligibles in the Industrial and Land Transportation Radio Services, except the Radiolocation Service. Generally, within a category of users, the proposed rules would permit frequencies allocated to one radio service to be used in another radio service in the same group, if the proposed criteria were met, without the need for a rule waiver or a rule making as is presently the case.[2]

3. It was proposed that the criteria for sharing a frequency assigned to another radio service within an applicant's category would be that the applicant provide us at the time of application with:

(1) A determination by his or her frequency advisory committee, or a demonstration by a field study, that there is no satisfactory frequency available within the applicant's own radio service in the area of desired operation.

(2) A demonstration that the frequency(s) requested in another radio service is not assigned in that radio service in the desired area of operation;[3]

(3) A statement that the frequency coordinator(s) having responsibility for the coordination in the radio service(s) in which the frequency in question is assigned concur in its assignment in the manner proposed, and that it will not result in harmful interference to existing licensees or applicants for pending systems in the service(s) in which the frequency is assigned; and

(4) A statement or showing that the proposed use of the assignment will not violate any of the technical limitations applicable in the service or services to which the frequency is regularly allocated.

4. Interservice sharing as proposed would be confined to the following frequency bands: 25–50, 150–174, and 450–470 MHz and would not extend to frequencies which are not assigned to the private land mobile radio services on a primary basis. In addition, we further excluded the frequencies allocated to the Special Emergency Radio Services because of the nature of the service, the number of frequencies available in this service below 450 MHz, and the specialized use of the 463/469 MHz group of frequencies for medical purposes. The frequencies above 470 MHz were not included in this proposed rule change because these frequencies are not assigned in the same manner as below 470 MHz.

5. The parties which filed comments and replies are listed in Appendix A. All parties supported interservice sharing in principle. Many, however, requested changes to the plan proposed by the Commission. Five parties[4] felt that instead of all frequencies allocated in these bands being available only frequencies listed in a Master Interservice Sharing Plan[5] drawn up by the coordinators should be available. They also felt this Master Interservice Sharing Plan should be incorporated into the Commission's interservice sharing proposal. They argue that without such a plan there would be no guidelines to assist potential out-of-service users in selecting frequencies for sharing and consequently these applicants would be no better off than they are now. They also maintain that without such a plan the workload on coordinators would be excessive since processing of shared frequencies would be on a case-by-case basis. Finally, they felt that there would be no way to reserve frequencies for future use of individual services unless the frequency candidates for sharing were selected in advance through such a plan.

6. Five parties[6] opposed the Commission's proposal to establish two categories[7] of users in the Private Land Mobile Services. APCO, however, supported it. UTC objected to such a division of service for sharing because they said that frequencies in the Forestry Conservation and Highway Maintenance Services have been successfully shared in the past by the Power Radio Service. SIRSA argued that there are geographic areas in which there is underutilization of public safety frequencies and that these frequencies should not be precluded from sharing by other services. The others maintained that the blanket exclusion of any service from sharing would be inappropriate, since there would be adequate safeguards under the sharing proposal to protect all services.

7. APCO, on the other hand, maintained that the safety of life and property aspects of the Public Safety Radio Services and governmental entities in the Special Emergency Radio Services make them incompatible with

[1] Specifically, the petition proposed that the private land mobile rules be amended to facilitate the interservice sharing of frequencies under the following conditions:

(1) There be a Master Interservice Sharing Plan drawn up by the coordinators for the private land mobile services and submitted to the Commission that includes a listing of available frequencies;

(2) There are no frequency assignments available in the radio service in which the applicant is primarily eligible;

(3) The frequency requested by the applicant is one on the Master Inferservice Sharing Plan list;

(4) The frequency advisory committee(s) having responsibility for the coordination of the frequency concur in its "out-of-service" assignment;

(5) The proposed "out-of-service" assignment will not result in harmful interference to any existing or planned systems;

(6) The "out-of-service" user agrees to comply with all of the technical requirements of the service to which the assignment is regularly allocated; and

(7) The Commission finds that the assignment is in the public interest.

[2] While the eligibles of the Special Emergency Radio Service were included, the frequencies allocated to the Special Emergency Radio Service would not be available for out-of-service sharing.

[3] We did not propose to adopt petitioners suggestion that only frequencies designated as eligible for sharing on a Master Interservice Frequency list be made available for interservice sharing because we believed that all allocated frequencies should be available and that the safeguards proposed were adequate to protect against the concerns that petitioners expressed and we saw no need to limit the range of frequencies which could be shared.

[4] UTC, FIT, API, AAR, and SIRSA.

[5] As proposed by the petitioners, a Master Interservice Sharing Plan would be a list of available frequencies drawn up by the coordinators for Private Land Mobile Services and submitted to the Commission.

[6] UTC, FIT, NABER, APL and SIRSA.

[7] The first category would include governmental eligibles in the Public Safety and Special Emergency Radio Services; the second category would include non-government eligibles of the Special Emergency Radio Service and all other eligibles in the Industrial and Land Transportation Radio Services, except the Radiolocation Service.

all other services and therefore they should rightfully be placed in a separate category. AAR argued that the diverse nature of railroad use of radio and the wide area of operation of railroad equipment makes the Railroad Radio Service incompatible with other radio services and therefore this service should be excluded from interservice sharing. Similarly, AT&T maintained that unique requirements of the Telephone Maintenance Radio Service make this service incompatible with other radio services and that this service should be excluded from interservice sharing.

8. UTC and AASHTO also requested that frequencies below 50 MHz be exempted from interservice sharing because these frequencies are subject to long distance radio propagation (skip) under certain, frequent, atmospheric conditions. They maintain that such circumstances make coordination of frequencies very difficult, even among like services, and with unlike services it would create chaos.

9. NABER opposed the establishment of two groups on the basis that Public Safety Radio Services have unused frequencies and should be subjected to sharing as well as others. It further requested an alternative proposal [*] for interservice sharing which is more limited in scope than either the one proposed by the Commission or the one proposed by the petitioners.

10. NABER also felt that any interservice sharing plan should include criteria for implementation of such a plan. It also raised questions concerning the status of a shared frequency, i.e. would that frequency be reallocated to eligibles in the new service in a particular geographic area or remain in the designated service and be available to eligibles in any service.

11. We have considered these comments and decided not to incorporate into our rules a Master Interservice Sharing Plan. We feel that the spectral efficiency gains which might be attainable by the more broad based proposal made in the NPRM outweigh any countervailing considerations. Furthermore, there is no impediment to the informal establishment of such lists by the coordinating entities should they find them useful. Also we feel that the interservice sharing criteria proposed in the NPRM provide adequate protection against incompatible sharing of frequencies in any service while allowing potential applicants maximum flexibility in frequency selection. Accordingly, we are not limiting the frequencies available for sharing as comments have requested and we have not included provisions for a Master Interservice Sharing Plan in the sharing criteria.

12. We also disagree with those parties who opposed the Commission's proposal to establish two categories of users in the Private Land Mobile Radio Service.

As we noted in our NPRM, we are presently exploring ways of differentiating between public safety licensees and other private land mobile licensees in how we approach the allocation and assignment of private land mobile spectrum. We think, therefore, it is premature to make public safety frequencies generally available for commercial use. Also we feel that the safety of life and property aspects of the Public Safety Radio Services and governmental entities in the Special Emergency Radio Services may make them less compatible with the other services. Accordingly, the sharing criteria we are adopting retain the provisions for two categories of users.

13. We have considered and rejected AAR and AT&T's comments that the Railroad and Telephone Maintenance Services should be excluded from interservice sharing of frequencies. Their arguments for exclusion of these services on the basis of unique use of frequencies were not sufficiently convincing that such consideration should override benefits which may be derived from sharing unused frequencies with other users in particular instances. Further, we feel that the sharing criteria offers adequate safeguards against incompatible usage of frequencies by users in other services. Therefore we have not adopted these suggestions in the Rules.

14. Another point addressed by NABER in its comments and UTC in its reply comments was the need for additional criteria as to the ground rules to determine how such sharing will be accommodated and among which services. We feel that the criteria adopted in this *Report and Order* are adequate to afford protection to all radio services. We also feel that it is unnecessary to limit sharing of frequencies only among licensees having "effective frequency coordination" as suggested by UTC. The field survey option has proven to be an effective alternative in the past to frequency coordinating committees and nothing in the comments persuades us it will not be effective here. As for the criteria for sharing, we feel that coordinators should be thoroughly familiar with the radio systems already in operation and are competent to make decisions concerning compatibility with out-of-service radio systems.

15. We have also considered the comments concerning the exclusion of frequencies in the 25–50 MHz band from interservice sharing. We agree that this portion of the spectrum presents unique and complex coordination problems which may outweigh the benefits of interservice sharing in this band. Accordingly, we are excluding this band from interservice sharing in our rules.

16. We have considered the alternative interservice sharing plan proposed by NABER and find it too restrictive. We feel that such restrictions would inhibit interservice sharing rather than encourage it and therefore we have not incorporated these proposed criteria in the rules. With regard to an out-of-service frequency assignment we believe the rules are clear that the frequency involved would not be reallocated but would remain in the radio service to which it is allocated. Compatible out-of-service users would be expected to share the frequency.

17. We feel that the AMST proposal that the Commission establish a nationwide data base and that the Commission do the interservice frequency coordination is not feasible at this time and is not within the scope of this proceeding.

18. In consideration of the foregoing, the rules are amended to include the following interservice sharing criteria in the frequency bands 150–174 MHz and 450–470 MHz.

(a) Interservice sharing will be allowed in all land mobile services governed by Part 90 of the rules in the 150–174 and 450–470 MHz bands except for radiolocation and fixed radio services.

(b) Eligibles in all radio services must submit applications for frequencies to be shared which must be accompanied by:

(1) A determination by the applicant's frequency advisory committee, or a demonstration by a field study, that there are no satisfactory frequencies available within the applicant's own radio service in the area of desired operation;

(2) A demonstration that the frequency(s) requested in another radio

[*] NABER proposed that an initial decision be made by the Commission, together with the coordinators, wherein fifty per cent (50%) of the unused frequencies in each service would be placed in reserve for use only by eligibles in that service for five years. After this time, if they were still unused, they would be made available for sharing. The remaining fifty per cent (50%) of unused frequencies would be made immediately available for interservice sharing. The designation of available frequencies would have to be the result of a review of the Commission's records, as well as those of the coordinators.

service are not assigned in that radio service in the area of desired operation;

(3) A statement from the frequency coordinator(s) having responsibility for the coordination in the radio service(s) in which the frequency in question is assigned concurring in its assignment in the manner proposed and stating that it will not result in harmful interference to existing or planned systems in the service(s) in which the frequency is assigned. In uncoordinated services or bands, in lieu of the foregoing, a statement from all co-channel users within 75 miles and in the 150–174 MHz band from all licensees within 10–35 miles of the proposed station on a frequency 15 kHz removed that they concur in the assignment of the requested frequency; and

(4) A statement or showing that the proposed use of the assignment will not violate any of the technical limitations applicable in the service or services to which the frequency is regularly allocated.

19. Accordingly, it is hereby ordered, That, pursuant to Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, Part 90 of the Commission's Rules is amended, effective December 10, 1981, as set forth in the attached Appendix B. It is further ordered, That this proceeding is terminated.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

Parties Filing Comments

Utilities Telecommunications Council (UTC)
The American Telephone and Telegraph Co. (AT&T)
The American Association of State Highway and Transportation Officials (AASHTO)
National Association of Business and Educational Radio, Inc. (NABER)
Associated Public-Safety Communications Officers, Inc. (APCO)
Association of Maximum Service Telecaster, Inc. (AMST)
Forest Industries Telecommunications (FIT)
Central Committee on Telecommunications of the American Petroleum Institute (API)
Association of American Railroads (AAR)
The Special Industrial Radio Service Association, Inc. (SIRSA)
The County of Los Angeles/Department of Communications
California Public-Safety Radio Association
The Manufacturers Radio Frequency Advisory Committee, Inc. (MRFAC)

Parties Filing Reply Comments

The American Association of State Highway and Transportation Officials (AASHTO)
Central Committee on Telecommunication of the American Petroleum Institute
The Special Industrial Radio Service Association, Inc. (SIRSA)
The County of Fresno
Utilities Telecommunications Council (UTC)

Appendix B

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

1. Section 90.173 of the Commission's rules is amended to add paragraph (j) to read as follows:

§ 90.173 Policies governing the assignment of frequencies.

* * * * *

(j) Except for those frequencies that are not allocated to the Private Land Mobile Radio Services on a primary basis and those frequencies shared with the Federal Government, frequencies allocated to specific services and listed in the tables in Subparts B, D, and E may also be available for assignment in services other than those to which they are allocated provided that such interservice sharing assignments meet the requirements of § 90.176 or 90.261 of the rules.

2. A new § 90.176 is added to read as follows:

§ 90.176 Interservice sharing of frequencies in the 150–174 and 450–470 MHz bands.

(a) Local governmental entities eligible in the Public Safety and Special Emergency Radio Services governed by this rule part may apply to use any of the frequencies allocated to these services excluding those allocated to the Special Emergency Radio Services. Applications must be accompanied by:

(1) A determination by the applicant's frequency advisory committee, or a demonstration by a field study, that there are no satisfactory frequencies available within the applicant's own radio service in the area of desired operation;

(2) A demonstration that the frequency(s) requested in another radio service are not assigned in that radio service in the area of desired operation.

(3) A statement from the frequency coordinator(s) having responsibility for the coordination in the radio service(s) in which the frequency in question is assigned concurring in its assignment in the manner proposed and stating that it will not result in harmful interference to existing or planned systems in the service(s) in which the frequency is assigned. In uncoordinated services or bands, in lieu of the foregoing, a statement from all co-channel users within 75 miles and in the 150–174 MHz band from all licensees within 10–35 miles of the proposed station on a frequency 15 kHz removed that they concur in the assignment of the requested frequency; and

(4) A statement or showing that the proposed use of the assignment will not violate any of the technical limitations applicable in the service or services to which the frequency is regularly allocated.

(b) Non-governmental entities eligible in the Special Emergency Radio Service and eligibles in the Industrial (except for the Radiolocation Service) and Land Transportation Radio Services governed by this part may apply to use any of the frequencies allocated to these services (excluding those allocated to the Special Emergency Radio Service). Applications must be accompanied by:

(1) A determination by the applicant's frequency advisory committee, or a demonstration by a field study, that there are no satisfactory frequencies available within the applicant's own radio service in the area of desired operation;

(2) A demonstration that the frequency(s) requested in another radio service are not assigned in that radio service in the area of desired operation;

(3) A statement from the frequency coordinator(s) having responsibility for the coordination in the radio service(s) in which the frequency in question is assigned concurring in its assignment in the manner proposed and stating that it will not result in harmful interference to existing or planned systems in the service(s) in which the frequency is assigned. In uncoordinated services or bands, in lieu of the foregoing, a statement from all co-channel users within 75 miles and in the 150–174 MHz band from all licensees within 10–35 miles of the proposed station on a frequency 15 kHz removed that they concur in the assignment of the requested frequency; and

(4) A statement or showing that the proposed use of the assignment will not violate any of the technical limitations applicable in the service or services to which the frequency is regularly allocated.

[FR Doc. 81-32588 Filed 11-10-81; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Service Order No. 1498]

Oklahoma, Kansas, and Texas Railroad Co., Authorized To Use Tracks and/or Facilities of the Chicago, Rock Island and Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1498.

SUMMARY: Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Public Law 96-254, this order authorizes the Oklahoma, Kansas and Texas Railroad Company (OKKT) to provide interim service over the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), and to use such tracks and facilities as are necessary for those operations. This order permits OKKT to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE DATE: 12:01 a.m., December 1, 1981, and continuing in effect until 11:59 p.m., January 31, 1982, unless otherwise modified, amended or vacated by order of this Commission.

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

SUPPLEMENTARY INFORMATION:

Decided: November 5, 1981.

Pursuant to Section 122 of the Rock Island Transition and Employee Assistance Act, Public Law 96-254 (RITEA), the Commission is authorizing the Oklahoma, Kansas and Texas Railroad Company (OKKT) to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), (RI) and to use such tracks and facilities as are necessary for that operation.

In view of the urgent need for implementation of long range solutions for continued rail service over RI lines, and in consideration of a recent complaint by the Trustee regarding compensation for the use of his property, the Railroad Service Board (RSB) hereby remainds OKKT that compensation to the Trustee is an integral part of the interim authority and an obligation of all interim operators as specified by paragraph (c) of the order.

Appendix A of this order describes the authority for the OKKT to operate between points in Missouri, Kansas, Oklahoma, and Texas. This service was previously provided under authority of Finance Docket No. 29372, which authority expired upon termination of the OKKT's lease agreement with the Trustee.

Appendix B of Twenty-Sixth Revised Service Order No. 1473 is unchanged, and, to the extent that it is applicable, governs certain authorities contained in Appendix A with respect to track and signal maintenance, dispatching, and supervision of these activities between Fort Worth and Dallas, Texas.

It is the opinion of the Commission that an emergency exists requiring that the railroads listed in the attached appendices be authorized to conduct operations using RI tracks and/or facilities; that 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:

§ 1033.1498 Service Order No. 1498.

(a) *Oklahoma, Kansas and Texas Railroad Company authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company, debtor (William M. Gibbons, Trustee).* Oklahoma, Kansas and Texas Railroad Company (OKKT) is authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company (RI), as listed in Appendix A to this order, in order to provide interim service over the RI; and as listed in Appendix B of Twenty-sixth Revised Service Order No. 1473, to provide for continuation of joint or common use facility agreements essential to these operations as previously authorized in Service Order No. 1435.

(b) The Trustee shall permit the affected carrier to enter upon the property of the RI to conduct service as authorized in paragraph (a).

(c) The Trustee will be compensated on terms established between the Trustee and the affected carrier; or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 122(a) Public Law 96-254.

(d) Interim operator, authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service Board of the date on which interim operations were commenced or the expected commencement date of those operations. Termination of interim operations will require at least (30) thirty days notice to the Railroad Service Board and affected shippers.

(e) Interim operator, authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the RI Trustee of those facilities it believes are necessary or reasonably related to the authorized operations.

(f) During the period of the operations over the RI lines authorized in paragraph (a), the interim operator shall be responsible for preserving the value of the lines, associated with each operation, to the RI estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

(1) In those instances where more than one railroad is involved in the joint use of RI tracks and/or facilities described in Appendix B of Twenty-sixth Revised Service Order No. 1473, one of the affected carriers will perform the maintenance and have supervision over the operations in behalf of all the carriers as may be agreed to among themselves, or as may be decided by the Commission.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties or, failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to authorized operations shall be the sole responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Government.

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

(j) *Rate applicable.* Inasmuch as the operations described in Appendix A by the interim operator over tracks previously operated by the RI are deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable become effective.

(1) The operator under this temporary authority will not be required to protect transit rate obligations incurred by the RI or the directed carrier, Kansas City Terminal Railway Company, on transit balances currently held in storage.

(k) In transporting traffic over these lines, the interim operator described in Appendix A shall proceed even though no contracts, agreements, or arrangements may exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between

the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(l) To the maximum extent practicable, the carrier providing service under this order shall use the employees who normally would have performed the work in connection with traffic moving over the lines subject to this Order.

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

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., January 31, 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 Section 122, Public Law 96–254.

This order shall be served upon the Association of American Railroads, Transportation 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.

By the Commission, Railroad Service Board, members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

Appendix A—Rock Island Lines Authorized To Be Operated by Interim Operator

(A) *Herington-Ft. Worth-Dallas line of Rock Island:* Beginning at milepost 172 within the City of Herington, Kansas, to Purina Junction at milepost 611.9 within the City of Ft. Worth, Texas, including (i) Rock Island trackage between Purina Junction and Tower 55 in Ft. Worth (approximately 1 mile); (ii) assignment of Trustee's right of use of FW&D trackage between Purina Junction and Tower 55 in Ft. Worth; and (iii) that segment of trackage between Dalwor Junction and 6th Street Junction, a distance of 0.3 miles, in the City of Ft. Worth; thence extending for a distance of 34.2 miles to milepost 646.1 within the City of Dallas, Texas, including use of the Cadiz Street Yard and including use of Trustee's interest in and to the Dallas Right of Way District.

(B) *El Reno—Oklahoma City line of Rock Island:* Beginning at milepost 513.3 within the City of El Reno, Oklahoma, and extending for a distance of 16.9 miles to milepost 498.4 within the City of Oklahoma City, Oklahoma, exclusive of the heavy repair car shops located at El Reno, Oklahoma, but including connecting track from Belt Jct. to Pacific Jct. at El Reno.

(C) *Salina Branch line of Rock Island:* Beginning at milepost 171.4 within the City of Herington, Kansas, and extending for a distance of 27.4 miles to milepost 198.8 in the City of Abilene, Kansas, and the Rock Island line in the City of Salina, Kansas, between E. Salina to and including trackage within Salina, Kansas, together with the right to use trackage rights over the line of the Union Pacific Railroad Company, extending for a distance of 20.0 miles between the City of Abilene, Kansas, to the City of Salina, and including right of use over the AT&SF track (0.4 mile) in Abilene, and use of Rock Island's trackage rights over the AT&SF and Union Pacific railroads at Salina.

(D) *Richards Spur Branch Line of Rock Island:* Beginning at milepost 0.0 in Chickasha, Oklahoma, and extending to Anadarko, Oklahoma, at milepost 18.0 (also milepost 460.5); thence extending on Rock Island's A & W line from milepost 460.5 to milepost 486.0 at Richards Spur in Comanche County, Oklahoma, a total distance of 43.5 miles.

(E) *Herington-Topeka-St. Joseph-Atchison line of Rock Island:* Between milepost 172.0 within the City of Herington, Kansas, and extending for a distance of 82.7 miles to S. J. Junction, at milepost 89.3 in the City of Topeka, Kansas (affecting Trustee's one-half interest therein), from milepost 519.4 in Atchison, Kansas, to milepost 498.3 within the City of St. Joseph, Missouri (including Rock Island's yard trackage at St. Joseph), and from milepost 7.0 in West Wathena, Kansas, to milepost 89.3 in the City of Topeka, Shawnee County, Kansas, a total distance of 103.4 miles, including necessary connecting tracks to the Herington-Topeka line.

[FR Doc. 81-32593 Filed 11-10-81; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 46, No. 218
Thursday, November 12, 1981

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1032

Milk in the Southern Illinois Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rules.

SUMMARY: This notice invites written comments on a proposed suspension of a portion of the pooling standards for supply plants and the limit on how much milk not needed for fluid (bottling) use may be moved directly from farms to nonpool manufacturing plants and still be priced under the order. The action was requested by a cooperative association to accommodate the efficient and orderly disposition of reserve milk supplies that are available to the market. The recent loss of a major fluid milk outlet, reduced school milk sales and increased production prompted the request by the cooperative association. The proposed suspension would apply during November 1981 through January 1982.

DATE: Comments are due not later than November 19, 1981.

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

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-4824.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified "not significant" and, therefore, not a major action.

It also has been determined that any need for suspending certain provisions of the order on any emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register.** However, this would not permit the completion of the required suspension procedures and the inclusion of November 1981 in the suspension period if this is found necessary. The initial request for the action was received on November 3, 1981.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Notice is hereby given that, pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provisions of the order regulating the handling of milk in the Southern Illinois marketing area is being considered for the months of November 1981 through January 1982.

PART 1032—MILK IN SOUTHERN ILLINOIS MARKETING AREA

§ 1032.7 [Amended]

1. In § 1032.7(b), the words "which have at least 50 percent Class I use (not including filled milk) of the total of such supply plant milk and producer milk recipts" and the words "through February".

§ 1032.13 [Amended]

2. In § 1032.13, paragraph (b)(2).

3. In § 1032.13(b)(3), the words, "that is another order plant,".

All persons who want to send written data, views, or arguments about the proposed suspension should send two copies of such material to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, not later than November 19, 1981. The period for filing comments is limited because a longer period would not provide the time needed to complete the required procedures and include November 1981 in the suspension period.

The Comments that are sent will be made available for public inspection in the Hearing Clerk's office during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed suspension would reduce the amount of milk that supply plants must ship to pool distributing plants to attain pool plant status under the order. Under the suspension, the percentage of its receipts that a supply plant must ship would be reduced from 50 percent to 40 percent.

The proposed suspension also would increase the amount of milk that may be moved directly from farms to nonpool manufacturing plants and still be priced under the order. This would be done by increasing the limit on the amount of milk that may be diverted from pool plants to nonpool plants up to the number of days of production of a producer that is received at pool plants. Currently, such diversions are limited to not more than 8 days' production in November and January and 12 days' production in December.

The action was requested by a cooperative association that represents producers supplying the market. The cooperative requested the action because of the recent loss of a major fluid milk outlet, declining school milk sales, and increasing production by its member producers. Because of the circumstances, the cooperative association contends that it would have to make costly and inefficient movements of milk solely for the purpose of pooling the milk of dairy farmers who have regularly been associated with the market.

Signed at Washington, D.C. on November 6, 1981.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 81-32677 Filed 11-10-81; 8:45 am]
BILLING CODE 3410-02-M

7 CFR Part 1133

Milk in the Inland Empire Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites written comments on a proposal to suspend certain provisions of the Inland Empire Federal milk order that affect the regulatory status of distributing plants. The action was proposed by a cooperative association at a public hearing to consider merging the Puget Sound and Inland Empire orders. The public hearing was held in Seattle, Washington on September 15–19, 1981, and on September 21, 1981, in Spokane, Washington. The proposed suspension would begin December 1981 and would continue until final disposition is made of the hearing proceeding.

DATE: Comments are due not later than November 19, 1981.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–7183.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing: Issued June 11, 1981; published June 16, 1981 (46 FR 31424).

Notice of Postponement of Hearing: Issued June 30, 1981; published July 6, 1981 (46 FR 34805).

Notice of Rescheduling of Hearing: Issued July 23, 1981; published July 28, 1981 (46 FR 38524).

The amendatory proceeding under which this action would be taken has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified "not significant" and, therefore, not a major action.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

PART 1133—MILK IN THE INLAND EMPIRE MARKETING AREA

§ 1133.7 [Amended]

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provisions of the order regulating the handling of milk in the Inland Empire marketing area is being considered for a period beginning December 1981 and continuing until final disposition is made of the hearing proceeding on the proposal to merge the Puget Sound and Inland Empire orders:

In § 1133.7 paragraph (a)(2).

All persons who want to send written comments about the proposed suspension should send two copies of them to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, not later than November 19, 1981. The period for filing comments is limited because a longer period would not provide the time needed to complete the required procedures and include December 1981 in the suspension period.

The comments that are sent will be made available for public inspection in the Hearing Clerk's office during normal business hours (CFR 1.27(b)).

Statement of Consideration

The proposed action would make inoperative the minimum total route disposition requirement that a distributing plant must meet to qualify as a pool plant under the order. The order now requires that a distributing plant must dispose of at least 40 percent of its milk receipts as fluid milk products on routes during February through August and 50 percent of such receipts during other months before the plant is qualified for pool plant status.

The suspension was requested by Northwest Dairymen's Association (NDA), a cooperative association, at the above mentioned hearing. The cooperative represents a majority of the dairy farmers supplying the market and its marketing agent, Consolidated Dairy Products Co. (Consolidated), operates two pool distributing plants and a nonpool manufacturing plant in the market.

At the hearing, proponent testified that the need for the suspension stems from changes in plant operations and milk movements contemplated by Consolidated as a result of the September 1, 1981, merger of Mayflower Farms (Mayflower) with NDA. Proponent's spokeman testified that among the changes under consideration is the combining of the nonpool manufacturing plant operated by Consolidated with the former Mayflower pool distributing plant at Spokane into one integrated plant. Both of these plants are located on the same premises but presently are operated separately. The witness stated that this change would result in significant operating efficiencies. He indicated, however, that if these plants are combined, the total Class I route disposition of the combined plant would be less than the order's present requirement for a pool distributing plant. He claimed that failure of the combined plant to meet the pooling requirements would result in the milk of many of NDA's member producers who are regular suppliers on the market not being priced and pooled under the order. The witness indicated that the suspension should be effectuated soon so that Consolidated could proceed with the desired revamping of its Spokane facilities.

No action has been taken to date on the suspension request. This is because the period for filing post-hearing briefs does not expire until November 30. Consideration of post-hearing briefs on this limited issue prior to its final disposition may be important since there was some concern expressed on the record about the suspension.

NDA has renewed its suspension request and has asked that it be considered prior to the time that a complete review can be made of the post-hearing briefs on the issue considered at the hearing. The basis of this latest request is that the plans to combine the two plants at Spokane have been finalized and the suspension is needed to make the change feasible. Whether the plants should be combined had not yet been decided at the time of the hearing.

Accordingly, it may be appropriate to suspend the pooling requirement that was considered at the hearing prior to the time a complete review of this issue can be made on the basis of the hearing proceeding. Since there was some concern indicated on the record about the proposed suspension, interested parties should have the opportunity to comment on the proposed action. This notice of proposed suspension provides this opportunity to interested parties.

Signed at Washington, D.C., on November 6, 1981.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 81-32675 Filed 11-10-81; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 81-ANE-15]

Designation of Restricted Area R-4102; Extension of Comment Period

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of extension of comment period.

SUMMARY: This notice extends the period for the submission of comments relating to Airspace Docket No. 81–ANE–15 that was published in the **Federal Register** on October 15, 1981 (46 FR 50807). The New England Regional Office has determined that an extension to the comment period is necessary in order to permit all interested persons ample opportunity to submit their views, concurrences, or objections to the proposal. This action extends the comment period for Airspace Docket No. 81–ANE–15 from November 16, 1981 to November 30, 1981.

DATES: Comments must be received on or before November 30, 1981.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA New England Region, Attention: Chief, Air Traffic Division, Docket No. 81–ANE–15, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803.

FOR FURTHER INFORMATION CONTACT:
Lewis W. Still, Airspace Regulations and Obstructions Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: (202) 426–8783.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the comment period for Airspace Docket No. 81–ANE–15, published in the **Federal Register** on October 15, 1981 (46 FR 50807) is hereby extended from November 16, 1981, to November 30, 1981.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); ad 14 CFR 11.69)

The FAA has determined that this notice of extension of comment period 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 effect on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on November 6, 1981.

Harold W. Becker,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 81-32756 Filed 11-10-81; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

Old-Age, Survivors, and Disability Insurance; Employment and Self-Employment

AGENCY: Social Security Administration, HHS.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Social Security Administration (SSA) proposes to amend its regulations by revising § 404.1086 of Part 404 of Title 20, Code of Federal Regulations which applies to the apportionment between husband and wife for social security purposes of income from a trade or business (other than a partnership) in a community property State. The current regulation is based on section 211(a)(5)(A) of the Social Security Act, 42 U.S.C. 411(a)(5)(A). Several Federal courts have held that section unconstitutional because it discriminates against women in violation of the equal protection guarantees of the Due Process clause of the Fifth Amendment to the Constitution. In non-community property States, in the absence of a partnership, the income from a trade or business is credited to the spouse who is operating the business. However, under section 211(a)(5)(A), if any income from a trade or business, other than one operated by a partnership, is community income under community property laws, all the gross income and deductions are treated as the gross income and deductions of the husband, unless his wife exercises substantially all the management and control of the trade or business.

We propose to eliminate the exception to the rule governing the treatment of income from a trade or business that was made in community property States so that this income would be treated the same as in States that do not have community property laws. We would begin doing this with the first taxable year (either calendar or fiscal) within which the month of October 1980 falls. This is the month in which the Attorney General notified the Congress that there would be no further appeal of the court decisions.

The Department of Health and Human Services has classified this regulation as technical.

FOR FURTHER INFORMATION CONTACT:
Mr. Bruce Dailey, Social Security Administration, 3–F–26 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, Telephone (301) 594–3666.

Dated: October 19, 1981.

Approved:

John A. Svahn,
Commissioner of Social Security.

[FR Doc. 81-32809 Filed 11-10-81; 8:45 am]
BILLING CODE 4190-11-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Big Cypress National Preserve, Florida Indian Use and Occupancy Regulations

AGENCY: National Park Service, Interior.

ACTION: Proposed rules.

SUMMARY: The proposed regulations set forth below are necessary to adequately define the statutory rights of the members of the Miccosukee Tribe of Indians of Florida and the members of the Seminole Tribe of Indians of Florida granted in the Big Cypress Act of 1974 which established the preserve. This Act provides that the Indians shall be allowed to continue their usual and customary use and occupancy of Federal lands and waters within the preserve, including hunting, fishing and trapping on a subsistence basis and traditional tribal ceremonials; and provides for maximum Indian participation in any authorized future revenue-producing visitor services within the preserve.

DATES: Written comments, suggestions or objections will be accepted until December 14, 1981.

ADDRESS: Comments should be directed to: Superintendent, Everglades National Park, P.O. Box 279, Homestead, Florida 33030.

FOR FURTHER INFORMATION CONTACT:
Fred Fagergren, Park Manager, Big Cypress National Preserve, Telephone: (813) 695–2000.

SUPPLEMENTARY INFORMATION:

Background

These regulations are being proposed by the National Park Service to define

the statutory rights granted to the members of the Miccosukee and Seminole Tribe of Indians of Florida in Pub. L. 93–440, (88 Stat. 1258; 16 U.S.C. 698f *et seq.*)

On October 11, 1974, the Congress established Big Cypress National Preserve "to assure the preservation, conservation and protection of the natural, scenic, hydrologic, floral and faunal, and recreational values of the Big Cypress Watershed in the State of Florida and to provide for the enhancement and public enjoyment thereof. . . ."

In Section 5 of Pub. L. 93–440 the Congress provided that: "Notwithstanding this section or any other provision of this act, members of the Miccosukee Tribe of Indians of Florida and members of the Seminole Tribe of Florida shall be permitted, *subject to reasonable regulations established by the Secretary* (emphasis added) to continue their usual and customary use and occupancy of Federal or federally acquired lands and waters within the preserve, including hunting, fishing, and trapping on a subsistence basis and traditional tribal ceremonials." Section 6 went on to provide for maximum Indian participation in authorized revenue-producing visitor services within the preserve.

A Draft Environmental Impact Statement for the proposed Big Cypress National Preserve was made available for public comment on February 5, 1972, with a Final Environmental Impact Statement (FES 75–39) completed and approved on April 11, 1975. This FES dealt with the impacts of the Federal legislation establishing Big Cypress, including the continuation of customary use and occupancy of the preserve by the Seminoles and Miccosukees, and their preferential rights to future revenue-producing services. Copies of this document are available at the address noted above.

Since the Indian's statutory right to remain within the Big Cypress National Preserve is "subject to reasonable regulations established by the Secretary," it is contingent upon the Service (NPS) to interpret and define that statutory right through the promulgation of regulations which are consistent with Congressional intent in establishing the preserve and which meet the needs of the Indians and the NPS.

A formal opinion was requested from the Office of the Solicitor, Washington, D.C. asking them to define the legal parameters of the Seminole and Miccosukee right of usual and customary use and occupancy of the preserve as granted in Pub. L. 93–440. Their opinion of April 25, 1979 has provided a basis for subsequent development of regulations consistent with Congressional intent and existing case law.

Several preliminary meetings have been held with individual Indians, Tribal representatives and the Tribal legal counsels to get their views and expectations of what constitutes "usual and customary use and occupancy" and "traditional," and to insure that their needs are reflected in the draft regulations to the maximum extent possible. Copies of the Solicitor's opinion of April 25, 1979 were also provided to the legal representatives of the Indians on an information basis.

Existing Conditions

Residential Use

There are an estimated 100 to 150 Miccosukee and Seminole Indians residing within the preserve. Some of these Indians are carried on the tribal rolls of their respective tribes and others are eligible for tribal membership but are unaffiliated by personal choice. They reside in 11 camps, villages, or individual homes within the preserve. The majority of these camps are on federally acquired lands.

Historically (pre-1900) Indians in the preserve relocated frequently in search of better hunting and agricultural lands. In the 1930's and 1940's after the construction of U.S. Highway 41, the Indian lifestyle changed gradually. Camps were located more and more frequently beside the highway and the Indians came to rely heavily on income from the tourist trade or from jobs in local communities and thus, became less dependent on a subsistence lifestyle. In recent years, these camps have been relatively stable in population and location. Expansion of existing camps or establishment of new camps has been due primarily to marriage and family growth, with some in and out migration from other areas.

Camps are generally one acre or less in size and consist of six to ten structures, most of which are traditional chickees—a roofed, open-sided shelter constructed of cypress poles and thatched with a palm frond roof. Cleared and filled ground generally does not extend much beyond the actual living area.

Subsistence Use

Subsistence use within the preserve by Indians has declined substantially in recent years. Only a few camps within the preserves have lands that are cleared specifically for agriculture. Several camps do contain small orchards of fruit-bearing trees. Some corn is grown by Indians on hammocks within the preserve. Gathering of native plants for food, medicine, and ceremonial purposes also continues on a limited scale.

Backcountry use by Indians for hunting and gathering activities is limited. This is evidenced by the general lack of off-road vehicle trails near Indian camps. The low level of use is perhaps due in part to low population levels of game species. The primary species taken by Indians are garfish, mudfish, deer, hog and turtles.

Commercial Use

The number of camps open for commercial tourist trade is variable. At present four camps within the preserve are known to be open to tourists, but at least three other camps have been open in the past. Commercial activity at these camps usually consists of a small souvenir shop where various handmade articles can be purchased. A self-guided walking tour of the village is sometimes available allowing observation of Indian lifestyle.

Some Indians are involved in commercial frogging within the preserve. This activity is regulated by the State of Florida. Currently the guiding of hunting parties by Indians is infrequent, but there is a potential for expansion of this activity.

The most significant Indian commercial activity within the preserve is the collection of native materials for souvenir and chickee construction. The material most actively sought is cypress. Small diameter cypress poles are carved into toy canoes, knives and tomahawks. Cypress knees and slabs from larger cypress trunks are also harvested for sale as souvenirs. Most cypress are taken for use as building materials in the construction of chickees.

Since chickees have become popular as decorative shelters in nearby urban areas, their construction has become a commercial enterprise. An estimated seven Indian families within the preserve are dependent to a greater or lesser degree on chickee construction for cash income. An average-sized chickee requires about 40 poles (trees) of various sizes down to two inches in diameter. Since only straight trees of certain diameters are desirable, cypress stands are selectively cut and not clear cut. Due to access and transportation problems, suitable cypress stands near existing camps and roads are generally favored for pole-cutting.

Saw palmetto fronds for thatching of chickee roofs are also collected from the preserve. However, since there are

relatively few conveniently located large stands of palms, this activity is minimal, and most palmetto fronds come from areas outside the preserve.

The extent of cypress harvesting for chickee construction is unknown. The preserve can sustain harvest of cypress for use at a subsistence level, but the ability of the preserve to sustain expanded commercial harvesting of cypress poles is questionable.

Religious Use

The Miccosukee Indians currently utilize two sites which are in Federal ownership for their major religious ceremony, the Green Corn Dance—a celebration of tribal purification and renewal. The ceremony is normally held in June or July, and runs several days.

Ceremonial sites are usually located on hammocks. Development associated with the Ceremony site is limited to some clearing of vegetation and construction of ceremonial chickees and the overall impact is minimal. The Indians normally utilize a site for several years. As Federal acquisition of lands proceeds other ceremonial sites will become potentially available to the Indians.

The extent of Miccosukee and Seminole use of native plant and animal life for religious purposes is not well known. Egret, turkey, and anhinga feathers and box turtle shells are reported to be used. Statements by the Chairman of the Miccosukee Tribal Council (Mr. Buffalo Tiger) call for the opportunity for Indians to collect, maintain, and use all plant and animal species traditionally employed in Indian medicine, religious, or cultural practices, unless protected by law as endangered species.

Impacts of the Proposed Regulations

Paragraph (g)(1) Definitions.

Paragraph (g)(2) Indian Residential Use.

Paragraph (i) states that Indian owners of lands and improved properties are subject to the same acquisition authorities, rights of retention and use and occupancy as spelled out in the Act, and goes on to insure that Indians who retain improved private property or a term estate would continue to have all other statutory rights granted to Indians as members of the Seminole or Miccosukee Tribes of Florida. This subsection is a clarification and statement of applicability of Sections 1 and 5 of the Act; and has no impact.

Paragraph (ii) states that Indians would be able to continue their usual and customary occupancy of camps existing at the time of preserve establishment and not more than four abandoned residential sites which are located on federally acquired lands. All areas are located on previously filled and impacted areas, and continuance of these camps would have no additional impact on the preserve environment.

Paragraph (ii)(A) and (ii)(B) provide for the maintenance of existing structures and construction of new structures in existing camps. They also provide for NPS review and permitting of any new structures to insure that these structures would meet appropriate zoning requirement and construction codes; and that any new developments in Indian camps would be environmentally compatible. Since development would be confined to previously disturbed camp areas, there would be no additional environmental impact, and requiring local and State code compliance for other construction would enhance safety and improve environmental conditions, particularly in regard to effluent disposal.

Paragraph (ii)(C) would provide for limited expansion of existing camps, limited resettlement of abandoned camps and establishment of new camps as consistent with recent Indian living patterns. Through consultation and the permitting process, the Superintendent would be able to regulate location and construction of camps developed in order to minimize environmental impacts.

Paragraph (ii)(D) would prohibit refuse disposal within the preserve. Open garbage dumps and refuse pits are a common practice at some camps within the preserve. However, this activity is not in keeping with preserve purposes to protect the watershed and other resource values, and should be terminated. This regulation would require some camp residents to seek new means for waste disposal.

Paragraph (ii)(E) would provide for continuance of subsistence agriculture. Since this activity is generally restricted in location and scope to existing disturbed sites, it has little effect on the preserve environment. Opportunity would be provided for the Superintendent to analyze expansion of agricultural activities in order to identify potential impacts.

Paragraph (ii)(F) would provide for timely consideration of permit applications and has no environmental impact.

Paragraph (g)(3) Indian Hunting, Fishing, Trapping, Gathering, and Access.

Paragraph (i) states that Indians would be able to continue their subsistence activities on a year round basis. Year round subsistence activities are already permitted under Florida Statute 380.055 and by the Act. Regulation of these activities is a joint state/Federal responsibility. Existing conditions would remain unchanged by this regulation. Because the existing level of subsistence activities is low, this regulation would not have a significant effect on preserve resources.

Paragraph (i)(A) requires that all Indians carry a tribal identification card while hunting. This card is issued by the Tribe for purposes of Tribal member identification. This requirement would preclude noneligibles from claiming they are Indians hunting on a subsistence basis. Effective enforcement of subsistence hunting regulations would be enhanced and illegal harvest of game and non-game species would be limited by this regulation.

Paragraph (i)(B) requires Indians to obtain any licenses or other permits as may be required by the State of Florida. This requirement is consistent with existing conditions and has no environmental impact.

Paragraph (i)(C) requires Indians accompanying hunting parties to observe regular season, possession and bag limits. When Indians are accompanying or guiding non-Indian hunting parties, the requirement that all persons observe bag limits provides resource protection by eliminating the possible claim that animals were taken under subsistence hunting rights.

Paragraph (ii)(A) provides that all species protected under the Endangered Species Act of 1973, as amended, (16 U.S.C. 1531 *et seq.*) or protected from taking by Florida state law are protected from taking under subsistence hunting rights. Congressional intent is clear on the protection of endangered and rare species within the preserve; therefore, establishment of reasonable regulations to preclude their taking on a subsistence basis is appropriate: Statements from the Miccosukee Tribal Council Chairman indicate Indian support of this concept. Therefore, the regulation would have no adverse effect on Indian use, and environmental protection of endangered species would be enhanced.

Paragraph (ii)(B) provides for commercial fishing and frogging consistent with state law. Section 4 of the Act provides for hunting, fishing, and trapping under applicable laws of the United States and Florida. Current Florida laws which provide for commercial fishing and frogging are designed to protect viable populations of commercial species. Preservation of the ecological diversity of the preserve is compatible with the intent of Congress

in the Act, and no additional environmental impact would result.

Paragraph (ii)(C) provides for the taking of renewable and non-renewable resources for religious purposes (except those protected in (ii)(A) above). The statutory authority for Indian taking of resources necessary for religous purposes has been granted by the American Indian Religious Freedom Act (42 U.S.C. 1996, *et seq.)* and by Section 5 of the Act which provides for usual and customary Indian uses. This regulation recognizes these statutes and provides for continuation of existing conditions. Known Indian ceremonial use of these resources is restricted to common species in the preserve.

Paragraph (ii)(D) provides that Indians would be subject to public-wide closure of preserve areas to hunting, fishing, trapping, and entry. This regulation insures inclusion of the Indians wherever the Superintendent identifies the need to close portions of the preserve for resource protection, or other emergency conditions.

Paragraph (g)(4) Commercial Activities.

Paragraph (i) (A) through (i)(C) delineates guidelines for the taking of natural resource products necessary for the construction of chickees and other structures. The Act provides for the taking of cypress for construction of chickees, which is a customary use. The Service is seeking comments on the provision that only seven permits of this type be issued annually. Seven represents the maximum number taking cypress poles at the present time. This regulation provides for the continuance of pole cutting at existing levels and provides the authority for the establishment of cutting site rotation. While the current level of harvest has a negligible overall impact on the resources of the entire preserve, concentrated pole cutting in one area may have a significant impact on the resource in the specific cutting area. Therefore, the Service needs the authority to rotate cutting sites. Additionally, permittees are limited to removal of no more than one half the palm fronds from any one tree, since removal in excess of one half may kill the tree.

Paragraph (ii) provides for the continuance of curio sales outlets at existing camps and establishment of small new chickee outlets as permitted by the Superintendent. The regulation restricts new structures to those of chickee construction. This is in keeping with the intent of the legislation which is to allow the continuation of "usual and customary uses" in existence in 1974, the date of the Act's passage. Curio sales outlets have always been of chickee construction, and the statute requires this continuation. Currently, there are four to seven Indian camps within the preserve which have curio sales outlets. This regulation ensures that existing outlets would not be terminated and establishment of new outlets would be controlled and environmentally compatible through permitting by the Superintendent.

Paragraph (iii) allows the NPS to enforce Federal and Florida statutes on signing. This regulation would limit certain Indian advertising practices, but the visual quality along highway corridors would be improved following the elimination of non-conforming signs.

Paragraph (iv) denotes NPS intent to implement Section 6 of the Act and would have no adverse environmental effect.

Paragraph (g)(5) Indian Religious Use

Paragraph (i) is a restatement of statutory rights granted to Indians under the American Indian Religious Freedom Act (42 U.S.C. 1996, *et seq.*).

Paragraph (i)(A) provides protection to the two Green Corn Dance sites currently used by precluding general public use and access. The regulation would close two areas comprising a total of 320 acres (about .06 percent of the preserve) to public access. It would provide Indians the opportunity to conduct their religious ceremonies with customary privacy.

Paragraph (i)(B) would allow motorized access to the ceremonial sites. One of the sites is located in an area recently closed to off-road vehicle (ORV) use less than one mile off U.S. Highway 41, inside of the Loop Road Unit. The regulation providing access would allow the Indians to utilize the site in a customary manner. Since ORV access to this site has been previously established, additional impacts associated with continued use of this existing trail would be minimal.

Paragraph (i)(C) provides for construction and maintenance of facilities necessary for the Indians to exercise their religious beliefs. Construction impacts associated with the small chickees in these two previously disturbed ceremonial sites would be minimal.

Paragraph (i)(D) provides for review by the Superintendent during new site selection. Knowledge of needed ceremonial site location changes would insure the NPS could better aid the Indians in pursuit of their religious rights by providing needed closures of areas on a temporary or permanent basis. The Superintendent would also be able to insure that sensitive natural or cultural resources are not disturbed during selection of new ceremonial sites.

Public Participation

It is the policy of the Department of the Interior, whenever practicable to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions or objections regarding this proposed regulation to the address noted at the beginning of the rulemaking.

Drafting Information

The principal author of this proposed rulemaking is Irvin L. Mortenson, Glen Canyon National Recreation Area, Page, Arizona, assisted by James G. Becker of the Office of the Solicitor, Atlanta, Georgia.

Compliance With Other Laws

Pursuant to the National Environmental Policy Act (42 U.S.C. 4332) the Service prepared a draft Environmental Impact Statement for the proposed Big Cypress National Preserve and circulated it for public comment on February 5, 1972, with a final EIS (FES 75–39) completed and approved April 11, 1975. This FES dealt with the impacts of the Federal legislation establishing Big Cypress, including the continuation of customary use and occupancy of the preserve by the Miccosukee and Seminole Indians, and their preferential right to future revenue producing services.

The Service has determined that this rulemaking is not a "major rule" within the meaning of Executive Order 12291 [(46 FR 13193); February 19, 1981].

This rulemaking contains provisions that would entail the collection of information and require compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq).* an SF–83 form and justification statement will be transmitted to OMB for approval shortly.

In accordance with the Regulatory Flexibility Act (Pub. L. 96–354) which became effective January 1, 1981, the Service has determined that these proposed regulations will not have a significant economic effect on a substantial number of small entities, nor will they require the preparation of a regulatory analysis.

(The Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 1–4); Pub. L. 93–440 (88 Stat. 1258; 16 U.S.C. 698f *et seq.);* Pub. L. 93–

205 (87 Stat. 884; 16 U.S.C. 1531); Pub. L. 95-341 (92 Stat. 469; 42 U.S.C. 1996 *et seq*)).

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

In consideration of the foregoing, it is proposed to amend § 7.86 of Title 36, Code of Federal Regulations by the addition of a new paragraph (g) as follows:

§ 7.86 Big Cypress National Preserve.

* * * * *

(g) *Indian Use and Occupancy*

(1) Definitions:

(i) The term "Indian" means those persons who are members of the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida.

(ii) The term "tribe" or "tribes" means the Seminole Tribe of Florida and/or the Miccosukee Tribe of Indians of Florida.

(iii) The term "subsistence" means customary and traditional use by Indians of wild, renewable resources for personal or family use or consumption as food, shelter, fuel, clothing, tools, or transportation, and for the making of small handicraft articles out of the nonedible byproducts of plant, fish and wildlife resources taken for personal or family consumption.

(iv) The term "Preserve" means all lands within the exterior boundaries of Big Cypress National Preserve that are in Federal ownership.

(v) The term "Commission" means the state agency having jurisdiction over hunting, fishing and trapping activities, now known as The Florida Game and Fresh Water Fish Commission.

(vi) The term "existing camp" means all those residential and/or commercial structures occupied by Indians on October 11, 1974 and not more than four (4) designated abandoned residential sites proveiously occupied by Indians on Federal or federaly-acquired lands; all of which are shown on a map available for public inspection in the office of the Superintendent.

(vii) The term "Service" means the National Park Service.

(viii) The term "Act" means Pub. L. 93-440 (88 Stat. 1258i 16 U.S.C. 698f *et seq*).

(2) Indian Residential Use:

(i) Indians who own lands and improved property within the exterior boundaries of the Preserve are subject to the same acquisition authorities, retention rights and use and occupancy as set out in the Act. The acquisition of private property from Indian owners, with or without a retention of use and occupancy by them pursuant to Section 1(c) of the Act, will in no way deny or restrict rights of Indian owners or former owners within the Preserve from enjoying the rights of usual and customary use and occupancy of Federal lands within the Preserve as members of the Seminole or Miccosukee Tribes of Florida under Section 5 of the Act and as defined under these regulations.

(ii) Indian residential use at existing camps shall continue at the October 11, 1974 levels of use, occupancy and size, except that:

(A) Existing camps may be maintained, repaired and replaced only with like type of construction and materials.

(B) Any new structures other than the traditional Indian chickee may only be constructed upon obtaining a permit from the Superintendent authorizing such construction and the issuance of a permit is conditioned upon proof that such structures will comply with all state and county zoning requirements and meet all construction codes.

(c) Expansion of existing camps, the establishment of new camps resulting from marriage and family growth or the resettlement of a designated abandoned residential site may be permitted upon application to the Supperintendent, stating proposed location, the reason for the camp expansion, type and number of chickees and other structures to be built, and provision made for sewage disposal.

(D) Open garbage pits, refuse dumps or burying of garbage is prohibited.

(E) Indians may continue or establish subsistence, non-mechanized agricultural plots in the Preserve with written notice to the Superintendent stating the location, size of plot, type of crops being grown and expected period of use.

(F) Permits authorized under this paragraph (ii) shall not be unreasonably withheld or delayed by the Superintendent.

(3) Indian Hunting, Fishing, Trapping, Gathering and Access.

(i) Indians shall have year-round subsistence hunting, fishing, trapping and gathering privileges within the Preserve, and, to exercise such privileges:

(A) A tribal identification card must be carried by each Indian while subsistence hunting; and

(B) Indians must possess all licenses, permits, tags and stamps required by the Commission;

(C) If an Indian is accompanying a non-Indian hunting party, all members of the group shall observe the hunting seasons, possession rules and bag limits established by the Commission for the Preserve.

(ii) Except that:

(A) No animal or plant that is identified by the U.S. Fish and Wildlife Service as an endangered or threatened species shall be taken, nor shall any animal or plant whose taking is prohibited by the State of Florida be taken.

(B) Commercial fishing and frogging, consistent with Florida State Law, is permitted.

(C) The taking of plants, animals or minerals (other than those in (A) above) for use in Indian religious ceremonials is permitted.

(D) Indians are subject to any and all public-wide (unless specifically exempted elsewhere in these special regulations) temporary or permanent closures of areas or zones where and for the periods when no hunting, fishing, trapping, or entry may be permitted for reasons of public safety, floral and faunal protection, and administration and management of the Preserve as may be determined by the Service.

(4) Commercial Activities.

(i) The taking of natural resource products for the purpose of construction of chickees or other structures by Indian for non-Indian use inside or outside the Preserve is permitted by permits issued by the Superintendent, subject to:

(A) No more than seven Indians shall be issued permits for the taking of cypress poles for chickee construction and the authorized permit holders shall be entitled to use a reasonable number of persons to accomplish any authorized taking under permit.

(B) The areas for pole cutting may be rotated every two years, with the areas allocated for pole cutting described in the permit for each permittee after consultation with the permittee and the Service.

(C) The taking of palm fronds for thatching by Indians for chickee construction under permit is permitted provided that no more than half the palm fronds are removed from any one tree.

(ii) Indians residing in existing camps shall have the right of continuing or establishing the sale of curio and small Indian handcraft items from (A) present structures of existing camps; or (B) at new locations in chickee-type structures as approved and allowed by the Superintendent.

(iii) All Indians advertising signs must conform to Federal and Florida State Laws regarding roadside signs.

(iv) The Service will take every reasonable effort to ensure that the tribes are kept current on all Service

planning and development plans by advising the tribes of its plans for development of the Preserve in a timely manner so that adequate time is available to the tribes to exercise their right of first refusal to provide or develop any new revenue-producing visitor services within the Preserve as provided by Section 6 of Pub. L. 93-440.

(5) Indian Religious Activities.

(i) The Indians in the Preserve have the inherent right of freedom to believe, express, and exercise their traditional religions, including, but not limited to, access to sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites, and in the exercise of these religious rights:

(A) The two Corn Dance sites currently used by the Indians shall be reserved exclusively for Indian use and shall be closed to non-Indian public use and access through the posting of signs by the Service.

(B) The Indians shall be allowed motorized access to these sites notwithstanding any other provision of these regulations.

(C) The Indians shall be allowed to construct chickees or other traditional structures as may be needed for the exercise of their religious beliefs on the sites provided for in 5(i)(A) and (D) of this part.

(D) If a religious site is to be abandonded, relocated or reestablished, the tribe may be allowed to carry out such action upon application to the Superintendent who may effect a temporary or permanent closure as required at the new site(s) and release the former religious site from closure.

[FR Doc. 81-32632 Filed 11-10-81; 8:45 am]

BILLING CODE 4310-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9—FRL—1961-6]

Approval and Promulgation of Implementation Plans; Arizona Department of Health Services NSR/PSD Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: Parts C and D of the Clean Air Act require states to revise their State Implementation Plan (SIP) to include an acceptable program for preconstruction review of new and modified major stationary sources. The Arizona Department of Health Services (ADHS) has developed draft New Source Review (NSR) and Prevention of Significant Deterioration (PSD) regulations to satisfy these requirements. The ADHS has proposed adoption of the draft regulations, and will hold public hearings on October 26 and 27, 1981. In this notice, EPA is proposing to approve these draft regulaltions contingent upon the official adoption and submittal of regulations by ADHS which are substantively equivalent to the draft regulations.

The EPA invites public comments on whether these regulations should be approved, disapproved or conditionally approved, especially with respect to the requirements of Parts C and D of the Clean Air Act.

DATES: Comments may be submitted up to December 14, 1981.

ADDRESSES: Comments may be sent to: Acting Regional Administrator, Attn: Air and Hazardous Materials Division, Air Programs Branch, Stationary Source Section (A-2-2), Environmental Protection Agency, Region 9, 215 Fremont St., San Francisco, CA 94105.

Copies of the draft regulations and EPA's associated evaluation report are contained in document file NAP-AZ-04NSR/PSD, and are available for public inspection during normal business hours at the EPA Region 9 office at the above address and at the following locations:

Arizona Department of Health Services, Bureau of Air Quality Control, 1740 West Adams St., Phoenix, AZ 85007

Public Information Reference Unit, Room 2404 (EPA Library), 401 "M" Street, S.W., Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT: Wallace Woo, Chief, Stationary Source Section, Air Programs Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region 9, (415) 556-8063.

SUPPLEMENTARY INFORMATION:

Background

PSD—Part C (Sections 160 to 169) of the Clean Air Act contains requirements for the Prevention of Significant Deterioration (PSD) in areas which are designated either attainment or unclassified for the criteria (Section 109) pollutants. The PSD requirements apply to the attainment pollutants as well as the non-criteria pollutants (regulated under Sections 111 and 112 of the Act). Part C also contains a classification system for designating areas as either Class I, II or III. The class of an area determines what incremental increases in ambient pollutant concentrations are allowed for the area. Preconstruction requirements for new or modified major stationary sources locating in attainment or unclassified areas are also outlined in Part C.

The detailed requirements for a PSD program are contained in 40 CFR 51.24, "Prevention of Significant Deterioration of Air Quality". Presently, EPA is administering the PSD program in Arizona under the federal regulation 40 CFR 52.21, "Prevention of Significant Deterioration of Air Quality". When PSD regulations for Arizona are approved, the federal regulation 40 CFR 52.21 will be rescinded as applicable to Arizona and the PSD program will be administered by the State.

The primary requirements for a PSD program include: (1) The application of Best Available Control Technology (BACT) to the new or modified major stationary sources; (2) A requirement for a demonstration that the increased emissions in the area affected by the new or modified source will not violate any National Ambient Air Quality Standard or the applicable air quality increment; (3) Administrative procedures to handle sources impacting Class I areas; and (4) Procedures for redesignating the PSD classification of an area.

NSR—Section 110 and Part D (Section 173) of the Clean Air Act specify the requirements for a permit program for new or modified major stationary sources constructing in areas which are designated as nonattainment for one or more of the criteria pollutants. Section 110(a)(2)(I) of the Act also prohibits the construction of new or modified major sources, unless there is an approved nonattainment area plan. One of the key elements of an approvable nonattainment area plan is an NSR program which satisfies the requirements of Section 173 of the Act and 40 CFR 51.18, "Review of New Sources and Modifications".

The primary requirements for an NSR program include: (1) A requirement that the applicant certify state-wide compliance with applicable air pollution regulations for other sources owned or controlled by the applicant; (2) A requirement for the application of control technology which is consistent with the Lowest Achievable Emission Rate (LAER) to the new or modified equipment; and (3) A requirement for a reduction in emissions from air pollution sources such that there is a net air quality benefit and reasonable further progress (RFP) toward attainment of the standards. This last requirement may be met by either establishing a growth increment as part of the nonattainment area plan (Section 172) or by requiring the new source to obtain sufficient

offsetting emission reductions from existing air pollution sources.

Revisions to NSR and PSD Requirements—On May 13, 1980 (45 FR 31307) and August 7, 1980 (45 FR 52676) EPA published major amendments to the NSR and PSD regulations. Included were amendments to 40 CFR 51.18, 51.24 and 52.21. These amendments were in response to the changes mandated by the "Alabama Power" court decision 13 ERC 1993. In addition, the Federal Regulation 40 CFR 52.24, "Stationary Restriction on New Stationary Sources" was also amended. As a result of the revised Federal requirements, states are required to amend their NSR and PSD regulations.

On September 11, 1980 (45 FR 59874) EPA published minor amendments and clarifications to the "Emission Offset Interpretative Ruling." In addition, on October 14, 1981 (46 FR 50766) EPA published further amendments to the Emission Offset Interpretative Ruling, 40 CFR 51.18 and 52.24. The amendments proposed on March 12, 1981, would make the definition of "stationary source" for NSR review consistent with the PSD definition (i.e., a "stationary source" would be considered the entire plant, and not *either* the entire plant or an individual piece of process equipment). The October 14, 1981 **Federal Register** also dropped the requirement that "reconstructions" be subject to NSR review.

Arizona Regulations

EPA recently published a Notice of Proposed Rulemaking for the Arizona Lead SIP. In that notice EPA proposed that the ADHS NSR regulations were deficient since they did not require a permitting program for the review of stationary sources of lead emissions. The notice indicated that a permitting program must apply to stationary sources of lead with actual emissions of 5 tons/year or more in order to satisfy the requirements of 40 CFR 51.18.

The ADHS has overall jurisdiction for the permitting of new or modified major sources in both attainment and nonattainment areas throughout the State of Arizona. The State may, however, delegate to local air pollution control agencies the NSR and PSD permitting programs, provided the local agencies have adopted regulations which are at least as stringent as the ADHS regulations. ADHS has delegated the authority for NSR review to Pima County (except for the review of sources which have the potential to emit over 75 tons/day of air pollutants).

Description of Regulations

In response to the revised NSR and PSD criteria published by EPA on August 7, 1980, the ADHS has drafted revisions to their NSR and PSD regulations. Public hearings on the revisions were held on October 26 and 27, 1981. The ADHS has requested EPA to solicit comments on the acceptability of their revised regulations concurrently with their public notice, public hearing and rule adoption actions. Included with their September 4, 1981 request were the following revised sections of their regulations:

R-9-3-101, "Definitions" (Paragraphs 3, 7, 8, 17, 18, 19, 20, 21, 29, 34, 35, 37, 56, 61, 62, 63, 68, 69, 75, 77, 78, 79, 88, 89, 90, 91, 98, 99, 101, 117, 122, 129, 133, 136, 146, and 157; paragraphs 53 and 123 were deleted.)

R9-3-217, "Attainment Areas: Classification and Standards." (Paragraph B.4 only)

R9-3-301, "Installation Permits: General". (Paragraphs A to E, J and L only)

R9-3-302, "Installation Permit in Nonattainment Areas".

R9-3-303, "Offset and Net Air Quality Benefit Standards". (Paragraphs A, and D to I only)

R9-3-304, "Installation Permits in Attainment Areas".

R9-3-305, "Air Quality Impact Analysis and Monitoring Requirements".

R9-3-306, "Operating Permits". (Paragraph A only)

R9-3-307, "Innovative Control Technology".

R9-3-320, "Revised Definitions of New Major Source and Major Alteration". (Entire section to be rescinded)

R9-3-1101, "Jurisdiction". (Paragraphs A, C & D only)

Appendix 1, "Filing Instructions for Installation Permit Applications". (Paragraphs A1.4, A1.4.1, A1.4.3, A1.5, A1.6.4.1, A1.6.4.5 and A1.6.7.1 to A1.6.7.3 only).

Appendix 2, "Filing Instructions for Operating Permit Application" (Paragraphs A2.2.5, A2.3 and A2.3.8 only).

These revisions to ADHS regulations are being set forth as proposed rulemaking in this notice. In addition, the following portions of the ADHS regulations were officially submitted to EPA for inclusion in the SIP on April 1, 1980. These regulations are also being considered in this notice.

Appendix 1, "Filing Instructions for Installation Permit Applications", (only those portions not amended by the proposed revision listed above).

Appendix 2, "Filing Instructions for Operating Permit Application". (Only those portions not amended by the proposed revision listed above).

Today's notice considers the acceptability of ADHS's entire set of NSR and PSD regulations. In addition to the draft regulations and officially submitted appendices listed above, EPA has considered those unamended portions of Sections R9-3-101, 217, 301, 303, 306 and 1101, submitted on January 1, 1979, April 1, 1980 and July 17, 1980. These regulations were proposed to be approved by EPA on July 23, 1980 and October 22, 1980, and EPA will take final action on these rules in a separate **Federal Register** notice.

Evaluation

EPA has evaluated the regulations listed above to determine whether they satisfy all of the criteria for an acceptable NSR and PSD program. EPA believes that the ADHS regulations will: (1) Require the necessary preconstruction review of the same group of sources which would be subject to the federal guidelines; (2) Require BACT, and air quality protection in a manner consistent with EPA's PSD requirements (40 CFR 51.24); and (3) Require certification of statewide compliance, application of LAER, and offsets in a manner consistent with EPA's NSR requirements (40 CFR 51.18). The ADHS regulations also contain adequate guidelines and procedures for the administration and enforcement of the NSR and PSD programs. The ADHS PSD regulations do not, however, satisfy the requirements of Section 165(e)(3) of the Clean Air Act, since they do not require EPA approval for the use of alternative air quality models. In addition, the ADHS regulations have been amended to require the permitting of all stationary sources of lead with actual emissions of 5 tons/year or more. A detailed discussion and evaluation of the ADHS regulations is contained in EPA's Evaluation Report (available at the locations listed in the ADDRESSES section of the notice).

Proposed Action

EPA proposes to approve under Section 110 and Parts C and D of the Clean Air Act, the draft ADHS regulations listed in the DESCRIPTION OF REGULATIONS section of this Notice.

EPA also proposes to approve those revisions listed above which were officially submitted to EPA on April 1, 1980. EPA believes that the draft regulations and the officially submitted regulations together with the previously

approved and unamended regulations are fully consistent with Sections 110, 160 to 169 and 173 of the Clean Air Act and 40 CFR 51.18, and 40 CFR 51.24 and should therefore be approved for inclusion in the SIP.

Therefore, EPA proposes to fully approve the NSR portion of the Maricopa County NAP. Further, EPA proposes to rescind 40 CFR 52.21, "Prevention of Significant Deterioration of Air Quality" as it applies to Arizona. This action would result in administration of the PSD program throughout Arizona by the ADHS, rather than by EPA. EPA also proposes that the ADHS NSR regulation now satisfies the requirements of 40 CFR 51.18 as they relate to the Arizona Lead SIP. EPA would, however, as a stipulation of approval of the PSD regulations, require EPA approval of alternative air quality models. All of the actions proposed in this notice are contingent upon the final adoption and submittal of regulations by ADHS which are substantively the same as those sent to EPA by the State on September 4, 1981.

Public Comments

Under Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove revisions to the SIP submitted by the State. The Regional Administrator hereby issues this notice, setting forth the revisions described above as proposed rulemaking, and advises the public that interested persons may participate by submitting written comments to the Region 9 office. EPA's review of the ADHS NSR and PSD regulations indicates that they are approvable, if they are not substantively changed during the State's public hearing and adoption process. In the interest of shortening the Federal review period, EPA is proposing approval of these changes now, before the completion of the State's public review period, and thus before final submittal of the regulations to EPA. EPA refers to this new procedure as "parallel processing".

If the regulations are substantively altered during the public review period, EPA would re-evaluate them and publish a revised notice of proposed rulemaking. However, since the NSR and PSD portions of the regulations are being reviewed separately, any substantive changes to one would not affect EPA's rulemaking action on the other. If no substantive changes are made, EPA would issue a final rulemaking notice on the revisions.

Comments received on or before December 14, 1981, will be considered. Comments received will be available for public inspection at the EPA Region 9 office and at the locations listed in the ADDRESSES section of this notice. The Administrator's decision to approve or disapprove will be based on comments received and on a determination of whether the submitted amendments meet the requirements of Parts C and D and Section 110(a)(2) of the Clean Air Act, and 40 CFR Part 51.

Pursuant to the provisions of 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals under Sections 110 and 172 of the Clean Air Act will not, if promulgated, have a significant economic impact on a substantial number of small entities. This action proposes approval of a State action. It imposes no new requirements.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirements for a Regulatory Impact Analysis. These regulations are not major because they propose to approve state actions. They impose no new regulatory requirements.

These regulations were submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

(Sections 110, 129, 160 to 169, 171 to 173 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7410, 7429, 7470 to 7479, 7501 to 7503, and 7601(a)))

Dated: September 16, 1981.

Sheila M. Prindiville,

Acting Regional Administrator.

[FR Doc. 81-32621 Filed 11-10-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-1-FRL-1963-3]

Approval and Promulgation of Implementation Plans; Connecticut Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Revisions to the State Implementation Plan (SIP) for the state of Connecticut were submitted to EPA on December 15, 1980. This submittal consisted of regulations governing the control of volatile organic compounds from sources included in the Group II Control Technique Guidelines, revisions to various existing state regulations for monitoring stationary sources and ambient air, and adoption of ambient air quality standards for ozone and lead consistent with national standards. The purpose of this notice is to discuss the Connecticut submittal and EPA's proposed action.

DATE: Comments must be received on or before December 14, 1981.

ADDRESSES: Copies of the Connecticut submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, Air Branch, Room 1903, JFK Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and Air Compliance Unit, Department of Environmental Protection, State Office Building, Hartford, Connecticut 06115.

Comments should be sent to Harley F. Laing, Chief, Air Branch, Room 1903, JFK Federal Building, Boston, MA 02203.

FOR FURTHER INFORMATION CONTACT: Alan E. Dion, Air Branch, EPA, Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203, (617) 223-5630.

SUPPLEMENTARY INFORMATION:

I. Control of Volatile Organic Compounds (VOCs)

In the December 23, 1980 **Federal Register** (45 FR 84769) EPA approved the ozone portion of the Connecticut State Implementation Plan (SIP) and noted that continued satisfaction of the requirements of Part D for the ozone portion of the SIP depends on the adoption and submittal of Reasonably Available Control Technology (RACT) requirements by January 1, 1981 for the sources covered by the Control Technique Guidelines (CTGs) issued between January 1978 and January 1979. EPA published the CTGs in order to assist the states in determining RACT. The recommended emission limitations contained in the CTGs are a "presumptive norm," that is, they are emission limitations which EPA believes may be attained by applying RACT. EPA acknowledges that what is RACT for a general source category may not be reasonably available for a particular source or even several sources within a source category. It is EPA policy to accept, as part of a state's VOC control strategy, emission limitations for particular sources or source categories which are different from the EPA recommended numbers, if such new emission limitations are based upon documented evaluations of what is reasonably available control technology for each source or groups of sources within the source category.

On December 15, 1980, Connecticut submitted to EPA as SIP revisions regulations for pharmaceutical manufacture, rubber tire manufacture,

coating of miscellaneous metal parts, graphic arts and perchloroethylene dry cleaning. In addition, the state has a previously regulation governing storage facilities for VOC, with a section that covers external floating roof tanks. In a letter dated August 18, 1981 Connecticut has certified that it has no sources in the categories of flatwood paneling and petroleum refinery leaks, and consequently did not submit any regulations governing these categories. In the same letter it was certified that the state no longer has any sources which manufacture pneumatic rubber tires. Therefore, Regulation 19–508–20(u) which was submitted December 15, 1980 to cover this category will not be included in the SIP.

Moreover, Connecticut did not submit a regulation controlling leaks from gasoline tank trucks, since the state shares the opinion generally held by other Northeast States for Coordinated Air Use Management (NESCAUM) members that the CTG does not represent RACT for their area (this viewpoint will be explained in greater detail later on in this Notice). The submittal also deals with applicability, compliance methods and compliance schedules. A discussion of EPA's review of these regulations follows.

A. Surface Coating of Miscellaneous Metal Parts and Products

Regulation 19–508–20(s) was submitted to control this category and covers a number of processes involving the coating of a metal substrate for those industries not covered by other regulations. The regulation recommends low solvent control technology and sets emission limits for four categories based upon the type of coating and manner of application. This approach is consistent with the CTG. The regulation also and has two exemptions not specifically mentioned in the CTG.

First, the state has specifically exempted aircraft interiors and exteriors. EPA did not anticipate that either aircraft exteriors or interiors, which refer to the aircraft superstructure, would be covered under this regulation, and therefore this exemption is consistent with EPA guidance. EPA understands that this rule does not exempt coated metal components, used in constructing the interior of an aircraft.

The state has explained that the second exemption is for small metal components having a lacquer surface area less than 10 square inches, and refers only to plastic, glass or other nonmetallic parts such as plastic cosmetics caps which have undergone a vacuum metalization process to acquire a thin metal surface after they are coated with a lacquer base coat and before they receive a lacquer topcoat. Since all true metallic parts which are lacquer coated are subject to the provisions of this regulation regardless of the size of their coated surface, and since the CTG is not intended to cover plastic, glass or other nonmetallic parts with metallized surfaces, this regulation is acceptable.

PROPOSED ACTION: EPA proposes to approve 19–508–20(s) on the coating of miscellaneous metal parts. This regulation exempts nonmetallic components with a thin metal coating acquired from vacuum metalization which have a lacquer surface area less than 10 square inches.

B. Manufacture of Synthesized Pharmaceutical Products

Regulation 19–508–20(t) was submitted to control the emission of VOC from all operations at a synthetic pharmaceutical manufacturing facility. The control measures presented are consistent with the CTG, except in the case of the emission limit for air dryers and process equipment exhaust systems emitting less than 150 Kg/day (330 pounds/day) VOC uncontrolled. The Connecticut regulation requires 90% control or greater for emissions equal to or exceeding 150 Kg/day, but sets a maximum emission limit of 18.2 Kg/day (40 pounds/day) when the uncontrolled emssions are less than 150 Kg/day. While the 90% control strategy follows the EPA recommendation, the 18.2 Kg/day figure exceeds the 15 Kg/day emission limit set by the CTG for air dryers and process equipment emitting less than 150 Kg/day VOC.

A review by EPA of affected facilities within the state of Connecticut indicates that this rule variation will not result in more than a five percent deviation from the emissions reduction expected from the CTG recommendations. Therefore, this regulation is acceptable to EPA.

PROPOSED ACTION: EPA proposes to approve Regulation 19–508–20(t) on manufacture of synthesized pharmaceuticals.

C. Graphic Arts—Rotogravure and Flexography

Regulation 19–508–20(v) was submitted to restrict VOC emissions from rotogravure and flexography processes as applied to both publication and packaging printing. The regulation follows the CTG in this category by requiring that low solvent inks or a capture/control system be utilized. The state regulation is more stringent than the CTG in that it covers sources which emit less than 100 tons per year (TPY). The Connecticut regulation is approvable as written.

PROPOSED ACTION: EPA proposes to approve the Graphic Arts—Rotogravure and Flexography Regulation 19–508–20(v).

D. Perchloroethylene Dry Cleaning Systems

Regulation 19–508–20(w) was submitted to control the VOC emissions from coin-operated, commercial and industrial dry cleaning facilities which utilize perchloroethylene or other nonaqueous cleaning solvent. Subsection (w)(2) requires the owner or operator of facilities which use perchloroethylene to install control equipment and employ good maintenance and disposal practices to reduce emissions as necessary, except when such controls are infeasible due to plant limitations or economic hardship.

It should be noted that some of the wording in subdivison (w)(2)(l)(4) is misleading. EPA interprets the phrase "60 Kg of wet waste material" to mean "60 Kg per 100 Kg of wet waste material", and is proposing approval based upon this interpretation.

PROPOSED ACTION: EPA proposes to approve the perchloroethylene dry cleaner Regulation 19–508–20(w).

E. Petroleum Liquid Storage in External Floating Roof Tanks

The state has referenced an existing Regulation 19–508–20(a)(2) under Storage of VOCs which is intended to cover this category. Subdivision (a)(2)(i) deals with external floating roof tanks, but does not conform to the CTG. This regulation does not have mandatory requirements for secondary seals, inspections or recordkeeping, nor does it specify exemptions for particular materials and tank sizes. It has not been demonstrated that this regulation is RACT for this source.

The state has cited the fact that all sources in this category presently conform with this regulation, which has been in existence since 1973. The state wishes to continue this regulation in effect until a new regulation which conforms to the provisions of the CTG can be included with the regulatory package which will be submitted with the 1982 SIP.

PROPOSED ACTION: EPA will take no action at this time. EPA expects the state to develop and submit either a new regulation for the control of VOC emissions from external floating roof tanks that is equivalent to the CTG, or an adequate demonstration that the existing regulation represents RACT.

F. Leaks From Gasoline Tank Trucks

Connecticut did not submit a regulation for leaks from gasoline tank trucks and vapor collection systems. Northeast States for Coordinated Air Use Management (NESCAUM), which includes the six states in Region I plus New York and New Jersey, has identified several problems associated with developing regulations in a highly urbanized area such as the Northeast where the states are so small that there is a significant amount of interstate transport of gasoline by tank trucks. The problems include: the need for regulatory consistency, lack of resources, lack of procedures for enforcing the program, lack of any readily available inventory tank trucks and self-certification problems with independents. NESCAUM believes that the solutions to these problems should be consistent throughout the region, and therefore the states are working collectively with EPA to develop a suitable control strategy which will be consistent regionwide.

PROPOSED ACTION: EPA will take no action on this matter at the present time but will continue to meet with NESCAUM states to develop and submit a satisfactory approach to gasoline tank truck control by July 1, 1982.

G. Applicability

Regulation 19–508–20(aa) exempts from the provisions of 19–508–20(m)–(v) processes which emit less than 40 pounds per day VOC or less than 8 pounds in any one hour. Connecticut has maintained this exemption since 1972, and has consistently applied this threshold to rulemaking. This exemption will not have a significant impact on major sources for the categories covered, nor adversely affect Connecticut's progress towards attainment of the ambient oxidant standard by 1987.

PROPOSED ACTION: EPA proposes to approve Regulation 19–508–20(aa) on applicability.

H. Compliance Methods

Regulation 19–508–20(bb) denotes general methods of complying with the emissions limits required in subsections 19–508–20(m)–(v). However, subsections 19–508–20(s), (t) and (v) all contain specific control requirements which represent RACT in each individual category. While both the general and specific compliance methods offered are consistent with EPA guidance, the specific compliance methods embodied in the specific rules provide more detail. EPA recognizes that in cases where both regulations apply to a source there may be confusion over which compliance methods are best. EPA assumes that each source will adhere to the provisions of the specific compliance methods of the rule governing its category over the more general aspects of (bb) in such cases.

PROPOSED ACTION: EPA proposes to approve Rule 19–508–20(bb) governing compliance methods.

I. Seasonal Operation of Afterburners

Reglation 19–508–20(dd) which concerns the shutdown of natural gas-fired afterburners during the months of December, January and February was revised to extend its applicability to processes covered under subsections 19–508–20(m)–(v). This rule is approvable as now written.

Connecticut has also proposed to revise this regulation by extending the shutdown period to include the months of November and March. EPA is proposing to approve this change in a Notice of Proposed Rulemaking dated September 11, 1981 (46 FR 45378). Final approval will be given once this revision has been formally adopted by the State and submitted to EPA.

PROPOSED ACTION: EPA proposes to accept the revision to Regulation 19–508–20(dd) which extends the applicability of the seasonal operation of afterburners.

J. Compliance Schedules

In Regulation 19–05–8 concerning compliance plans and schedules, Subsection (c)(4) allows rotogravure and graphic arts sources which have actual emissions of less than 100 tons per year to submit a compliance plan as late as July 1, 1984 with a final compliance date of July 1, 1985. However, 100 TPY or larger sources are required to adhere to the EPA recommended July 1, 1982 compliance date, so this regulation is acceptable.

PROPOSED ACTION: EPA proposes to approve Regulation 19–508–8 on compliance schedules.

II. Revisions To Montoring Requirements

In the December 15, 1980 revision package Connecticut also submitted other changes to its SIP which deal with the monitoring of stationary sources and ambient air.

A. Opacity Monitors

The State revised Regulation 19–508–4(b) dealing with smoke and opacity monitoring requirements for fuel-burning equipment and incinerators. An amendment was made to Subdivision 19–508–4(b)(1)(ii) to require sources having a maximum heat input value of 250 MM Btu/hour or more to install and operate opacity monitors. The old regulation required all sources in Connecticut with a heat input rate of 5.0 MM Btu/hour or more to install opacity monitoring equipment. The minimum Federal requirements concerning opacity monitors are contained in 40 CFR Part 51.19(e), Appendix P, which references 40 CFR Part 60, Appendix B. The State's revision is approvable since the minimum monitoring requirements for fossil fuel-fired steam generators, 40 CFR Part 51, Appendix P, 2.1.1 requires that any such source over 250 MM Btu/hour heat input install and operate continuous monitoring equipment in accordance with all provisions of Appendix P.

It is further states in Subdivision 19–508–4(b)(1) that sources shall install and operate opacity monitors in accordance with Subdivision 19–508–4[d][1). Subdivision (d)(1) gives the Commissioner of the Connecticut DEP the discretion of approving design, performance, and installation specifications for opacity monitors. The Connecticut regulations in this respect do not follow the minimum Federal requirements for SIP revisions under 40 CFR 51, Appendix P. Under Appendix P, the Commissioner does not have the authority to use any method not approved by EPA.

PROPOSED ACTION: EPA proposes to approve the revision to Regulation 19–508–4(b) on the condition that the State either: 1) submit certification that only EPA-approved monitors will be approved by the Commissioner, or 2) modify the language in Rule 19–508–4(d) to indicate that any monitor selected by the Commissioner of the Connecticut DEP must be consistent with the minimum Federal requirements specified in 40 CFR 51, Appendix P.

B. Ambient Air Monitoring

Connecticut amended Regulation 19–508–24 dealing with primary and secondary standards by adding a definition for "Acceptable Method", 19–508–24(a)(4) to mean "A referenced method, an equivalent method, or any other method determined by the Commissioner". Subsection (b) of this regulation states that ambient pollutant concentrations will be measured by an acceptable method. However, EPA has stated in 40 CFR 50.4–50.12 that all criteria pollutant concentrations must be measured with a reference method or equivalent method as defined in 40 CFR 53.1 (e) and (f) for compliance with the NAAQS, and any Federal enforcement action must be based on such methods. Therefore, the DEP Commissioner may

not approve a method that has not been previously approved by EPA.

PROPOSED ACTION: EPA proposes to approve Regulation 19–508–24 on primary and seconary standards, on the condition that either: 1) the State submit certification that only EPA-approved reference methods or equivalent methods will be considered to be accepable methods, or 2) the State submit a modification to the definition for "Acceptable Method". An approvable definition is as follows: "Acceptable Method" means an approved reference method (40 CFR Part 53) or equivalent method.

III. Ambient Air Standards

In another amendment to Regulation 19–508–24, the state revised the standard for photochemical oxidants (ozone), and submitted a new standard for lead. In both cases the Connecticut standards are the same as the NAAQS.

PROPOSED ACTION: EPA proposes to approve Regulations 19–508–24 (i) and (l) setting primary and secondary ambient air standards for ozone and lead, respectively.

All comments received will be available for inspection at EPA's Region I Office, Room 1903, JFK Federal Building, Boston, MA 02203.

Pursuant to the provisions of 5 U.S.C. Section 605(b) the Administrator has certified that SIP approvals under Sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities, 46 FR 8709 (January 27, 1981). The attached rule, if promulgated, constitutes a SIP approval under Section 110 and 172 within the terms of the January 27, 1981 certification. This action only approves state actions, and as such imposes no new requirements.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it proposes acceptance of regulations already promulgated by the state of Connecticut, and imposes no new requirements.

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

The Administrator's decision to approve or disapprove the plan revisions will be based on whether they meet the requirements of Section 110(a)(2) (A)–(K) and 110(a)(3) of the Clean Air Act as amended, and EPA regulations 40 CFR Part 51.

This revision is being proposed pursuant to Sections 110(a) and 301 of the Clean Air Act, as amended 42 U.S.C. 7401 and 7601.

Dated: September 23, 1981.

Leslie Carothers,

Acting Regional Administrator.

[FR Doc. 81-32827 Filed 11-10-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-1-FRL-1958-1]

Revision to the Vermont State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve amendments to the Vermont State Implementation Plan (SIP) revising that plan's requirements for the permitting of new major sources and major modifications in both attainment and nonattainment areas. These amendments revise Vermont Regulations 5–101, "Definitions"; 5–501, "Review of Construction or Modification of New Air Contaminant Sources"; 5–502, "Major Stationary Sources"; and Section 9 of the narrative portion of the SIP, entitled "New Source Review." Vermont has revised its SIP in accordance with the requirements of state plans for the prevention of significant deterioration (PSD) of air quality 40 CFR 51.24, and for new source review (NSR) for nonattainment purposes, 40 CFR 51.18(j), as those sections were amended on August 7, 1980 (45 FR 52729–52735 and 52743–52746, respectively).

EPA is also proposing to approve a revision to delete Regulations 5–253(1) and 5–253(3), which require reasonably available control technology (RACT) of major sources of volatile organic compounds (VOCs), from the federally approved Vermont SIP; a revision to 5–101 (34), to define the term Major Stationary Source for sources of lead emissions; a revision to repeal 5–231(4), "Potentially Hazardous Particulate Matter"; a revision to add 5–261, "Control of Hazardous Air Contaminants"; and a revision to Table 3 of the Regulations, "Levels of Significant Impact for Nonattainment Areas."

The Vermont Agency of Environmental Conservation (AEC) has proposed the adoption of the above mentioned changes through their SIP revision administrative procedures. Concurrently, EPA is proposing to approve the revisions prior to their final adoption at the state level. This concurrent review, which EPA refers to as "parallel processing" is designed to reduce the time necessary for EPA reveiw of SIP revisions.

DATE: Comments must be received on or before December 14, 1981.

ADDRESSES: Copies of Vermont's submittal, EPA's evaluation, and all documents referenced herein are available for public inspection during normal business hours at EPA Region I, J. F. K. Federal Bldg., Rm. 1903, Boston, MA 02203; the Public Information Reference Unit, EPA, 401 M Street S.W., Washington, D.C. 20460; and at the Vermont Agency of Environmental Conservation, State Office Bldg., Montpelier, VT 05602.

Comments should be addressed to Harley F. Laing, Chief, Air Branch EPA Region I, J. F. K. Federal Bldg., Rm. 1903, Boston, MA 02203.

FOR FURTHER INFORMATION CONTACT: Marcia L. Spink, EPA Region I, J. F. K. Federal Bldg., Rm. 1903, Boston, MA 02203, (617) 223–4448.

SUPPLEMENTARY INFORMATION:

Changes to the Requirements for PSD and NSR

To implement the provisions of Part C of the Clean Air Act (the Act), EPA promulgated regulations for the requirements of state plans for the prevention of significant deterioration (PSD) on June 19, 1978 under 40 CFR 51.24 (43 FR 26382–26388). Vermont revised its SIP to incorporate those PSD requirements for preconstruction permitting of new major sources and major modifications in attainment areas, and that revision was approved by EPA on January 30, 1980 (45 FR 6781).

The requirements of state plans for reveiwing and permitting new major sources and major modifications in nonattainment areas (NSR), to implement Part D, Sections 172(b)(6) and 173 of the Act, are regulated under 40 CFR 51.18. Vermont revised its SIP to incorporate those NSR requirements, and that revision was approved by EPA on February 19, 1980 (45 FR 10775).

On August 7, 1980 EPA promulgated amendments to 40 CFR 51.24 and 40 CFR 51.18(j) in response to the decision of the U.S. Court of Appeals for the D. C. Circuit in *Alabama Power Company* v. *Costle*, 636 F.2d 323 (D.C. Cir. 1979). Vermont has proposed revisions to its SIP requirements for the permitting of new major sources and modifications in both attainment and nonattainment areas in accordance with the August 7, 1980 amendments to 40 CFR 51.24 and 40 CFR 51.18(j) (45 FR 52729–52735 and 52743–52746, respectively). The proposed revisions to the Vermont SIP

include amendments to Regulations 5–101, "Definitions"; 5–501, "Review of Construction or Modification of New Air Contaminant Sources"; 5–502, "Major Stationary Sources"; and to Section 9 of the narrative, "New Source Review."

EPA has evaluated these proposed amendments to the Vermont plan's requirements for preconstruction permitting of new major sources and major modifications, and found them to be equivalent to or, in some instances, more stringent than the requirements of 40 CFR 51.24 and 40 CFR 51.18(j), as revised. Vermont's requirements for PSD and NSR, and EPA's evaluation are detailed in a memorandum dated August 12, 1981 entitled, "Vermont PSD/NSR Plan." Copies of that memorandum are available, upon request, from the EPA Regional Office specified in the *ADDRESSES* section of this notice.

Other Issues

On August 18, 1981 (46 FR 41783) EPA published a final rulemaking notice in which three counties, which were previously designated nonattainment for ozone, were reclassfied. The counties involved and the new designations are: Addison County—attainment; Chittenden County—unclassified; Windsor County—unclassified. As a result of these reclassifications, the state is no longer subject to the nonattainment provisions of Part D of the Act for the pollutant ozone which, in part, required the state to control all major sources of VOCs within certain categories (the specific categories and the reasons for their inclusion are not restated here, but can be found at 44 FR 50371, August 28, 1979). Since they are no longer federally mandated, Vermont is requesting that Regulations 5–253(1), "Storage of Volatile Organic Compounds" and 5–253(3), "Bulk Gasoline Terminals," approved by EPA on February 19, 1980 (45 FR 10776), be withdrawn from the federally approved SIP.

In the final rulemaking published on March 18, 1981 (46 FR 17192) EPA approved Vermont's plan to attain and maintain the National Ambient Air Quality Standard (NAAQS) for lead. A letter received from the state on November 7, 1980 indicated that it would review new stationary sources, which emit five or more tons of lead, through five existing regulations. Vermont has proposed to simplify its review by amending Regulation 5–101(34) to add to their definition of "Major Stationary Source" wording specifying that for lead, "major" is defined as a source with allowable emissions equal to or greater than five (5) tons per year. This definition is consistent with federal regulations.

Vermont has also proposed to revise its SIP by repealing Regulation 5–231(4), "Potentially Hazardous Particulate Matter," and by adding new Regulation 5–261, "Control of Hazardous Air Contaminants." This revision provides for more comprehensive regulation of stationary sources of hazardous air contaminants in the State of Vermont. It requires emission reductions equivalent to applicable federal air pollution regulations for such sources, including 40 CFR Part 61. Additionally, it provides for more stringent control of such sources than federal requirements when, in the judgment of the Secretary of the AEC, such control is appropriate considering such factors as toxicity of the air contaminant; proximity of the source to residences, population centers, and other sensitive environmental receptors; dispersion characteristics due to physical location and terrain; and maximum cumulative impacts. The Secretary of the AEC shall consult with the Commissioner of the Department of Health, or his designee, in determining whether to require this more stringent level of control on a case by case basis.

Finally, Vermont has proposed to amend Table 3 of their SIP Regulations, entitled, "Levels of Significant Impact for Nonattainment Areas," by adding a level of 0.06 $\mu g/m^3$ (averaged over three consecutive calendar months) for the pollutant lead. This is consistent with federal regulations.

Proposed Action

EPA is proposing to approve the following Vermont SIP revisions:

(1) Amendments to Regulations 5–101, 5–501, 5–502 and Section 9 of the narrative for new major source and major modification permitting purposes as consistent with 40 CFR 51.24 and 51.18(j);

(2) Deletion of Regulations 5–253(1) and 5–253(3) from the federally-approved Vermont SIP;

(3) Amendments to Regulation 5–101(34) defining a major source of lead;

(4) Deletion of Regulation 5–231(4) which provided for the control of sources of hazardous particulate matter;

(5) Addition of Regulation 5–261 for controlling sources of hazardous air contaminants; and

(6) Amendment of Table 3 of the Regulations, "Levels of Significant Impact for Nonattainment Areas, to include such a level for lead.

EPA is proposing to approve these revisions to the Vermont SIP prior to their final adoption at the state level, and thus before final submittal of the revisions to EPA. EPA refers to this procedure as "parallel processing." If the proposed revisions are substantially changed prior to their adoption at the state level, EPA will reevaluate those changes and publish a revised notice of proposed rulemaking. If no substantive changes are made to the proposed revisions, EPA will issue a notice of final rulemaking on the proposed revisions discussed herein. That final rulemaking action by EPA will be published only after the revisions have been adopted in final form by the state. "Parallel processing" is estimated to reduce the time necessary for final approval of SIP revisions by an average of three to four months.

Pursuant to the provisions of 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals under Sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities, 46 FR 8709 (January 27, 1981). The attached rule, if promulgated, constitutes a SIP approval under Sections 110 and 172 within the term of the January 27 certification. This action only approves state actions, and imposes no new requirements.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This regulation is not Major because this action, if promulgated, 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.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of Sections 110(a)(2)(A)–(K) and 110(a)(3) of the Clean Air Act as amended, and EPA regulations in 40 CFR Part 51.

This revision is being proposed pursuant to Sections 110(a) and 301 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7601).

Dated: September 4, 1981.

Leslie Carothers,

Acting Regional Administrator.

[FR Doc. 81-32613 Filed 11-10-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A–10–FRL 1958–6]

State Implementation Plans; Ambient Air Quality Standards for Ozone (O_3); Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: As part of Oregon control strategy for attainment of the National Ambient Air Quality Standards for ozone (O_3), the State has revised its State Implementation Plan (SIP) to require additional control in O_3 nonattainment areas of volatile organic compounds (VOCs) emitted from industrial sources covered by EPA's Group II Control Technique Guidelines (CTG's).

EPA proposes to fully approve portions of the SIP revisions and conditionally approve portions where there are minor deficiencies and the State provides assurances that it will submit corrections by specified deadlines. This notice solicits comments on EPA's proposed actions, the rationale for these actions, and what deadlines should apply for correcting identified deficiencies.

DATE: Comments must be received by December 14, 1981.

ADDRESSES: Copies of the Oregon submission are available for review during normal business hours at the following locations:

Central Docket Section (10A–80–16), West Tower Lobby, Gallery I, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460

Air Programs Branch, Environmental Protection Agency, 1200 Sixth Avenue, M/S 625, Seattle, Washington 98101

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

COMMENTS SHOULD BE ADDRESSED TO: Laurie Kral, Air Programs, Environmental Protection Agency, 1200 Sixth Avenue, M/S 625, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Richard F. White, Air Programs; Environmental Protection Agency, 1200 Sixth Avenue, M/S 625, Seattle, Washington, 98101, (206) 442–1275 or FTS/399–1275.

SUPPLEMENTARY INFORMATION: Provisions of the Clean Air Act enacted in 1977 require States to revise their SIPs for areas that have not attained the NAAQS. For States with O_3 nonattainment areas, EPA has stated that the minimum acceptable level of O_3 control includes RACT requirements for sources of VOC emissions for which EPA has published a CTG by January 1978 and additional reasonably available control technology (RACT) requirements on an annual basis for VOC sources covered by CTGs published by January of the preceding year. [See 44 FR 20372 (April 4, 1979) as supplemented at 44 FR 38583 (July 2, 1979); 44 FR 50371 (August 28, 1979), 44 FR 53761 (September 17, 1979); and 44 FR 67182 (November 23, 1979).] Adoption and submittal of additional RACT regulations for sources covered by CTGs published between January 1978 and January 1979 (Group II CTGs) were due July 1, 1980 (44 FR 50371, August 28, 1979). However, because State regulatory processes took longer than anticipated, but in most cases good faith efforts were being made to adopt the necessary regulations, EPA revised the July 1, 1980 deadline to January 1, 1981 (45 FR 78121, November 25, 1980).

EPA published the CTGs in order to assist the States in determining RACT. The CTGs provide information on available air pollution control techniques and provide recommendations on what EPA calls the "presumptive norm" for RACT. Group II CTGs cover the following source categories:

- Factory Surface Coating of Flatwood Paneling.
- Petroleum Refinery Fugitive Emissions (Leaks).
- Pharmaceutical Manufacture.
- Rubber Tire Manufacture.
- Surface Coating of Miscellaneous Metal Parts and Products.
- Graphic Arts (Printing).
- Dry Cleaning Perchloroethylene.
- Gasoline Tank Trucks, Leak Prevention.
- Petroleum Liquid Storage, Floating Roof Tanks.

On October 16, 1980, Oregon submitted to EPA revisions to the SIP that consist of regulations for all of the above categories except for pharmaceutical and rubber tire manufacturing. The State has certified that there are no such sources in Oregon.

EPA has reviewed the above regulations and believes that they are consistent with the Group II CTG's except where noted below:

A. Section 340–22–120—Bulk Gasoline Plants and Delivery Vessels: Proposed Approval.

B. Section 340–22–153—Petroleum Refinery Leaks: Proposed Conditional Approval.

(1) The regulation should prevent a person from installing *and operating* a valve on an open-ended line unless the line is sealed with a second valve or cap. The State has agreed to add the words "and operating" so that the coverage of the regulation will be complete.

(2) Paragraph (4) of Section 153 exempts all components handling liquids with a true vapor pressure of less than 1.52 pounds per square inch absolute (psia), yet it does not specify the temperature at which the vapor pressure is to be measured. The State has agreed to add the clarification that the temperature is the highest temperature at which the liquid is handled. Also, in relation to the above exemptions, the definition of "true vapor pressure" (340–22–102(43)) should be updated to reference the February 1980 version of the American Petroleum Institute (API) Bulletin number 2517. The State has agreed to make this change.

EPA proposes to conditionally approve the regulation provided that, within nine months of final rulemaking, the State amends the regulation to correct the problems as noted.

C. Section 340–22–160(4)—Secondary Seals on VOC Liquid Storage: Proposed Conditional Approval.

This provision does not specify the temperature at which the vapor pressure is to be measured. The State has agreed to revise the rule to state that the correct temperature is the storage temperature.

EPA proposes to conditionally approve the regulation provided that, within nine months of final rulemaking, the State amends the regulation to correct the problem as noted.

D. Section 340–22–170—As it Applies to Miscellaneous Products and Metal Parts: Proposed Approval.

E. Section 340–22–200—Flat Wood Coating: Proposed Approval.

F. Section 340–22–210—Rotogravure and Flexographic Printing: Proposed Conditional Approval.

(a) The regulation does not apply to specialty printing processes. These operations must be covered under the paper/vinyl coating or graphic art regulations.

The State has agreed to revise the regulation to include specialty printing operations. EPA proposes to conditionally approve this regulation provided that, within nine months of final rulemaking, the State amends the regulation to correct the problems noted.

(b) Section 210(3) of the regulation does not require monitoring of the temperature rise across the catalytic incinerator bed as recommended by the CTG.

This provision was not adopted because there are no catalytic incinerators in Oregon nonattainment areas. However, the rule will be amended as when the VOC rules are next revised to include the missing provision in order to cover catalytic incinerators scheduled for future installation.

G. Section 340–22–220—Perchloroethylene Dry Cleaning: Proposed Approval.

H. Group II VOC Source Test Methods.

As part of the final rulemaking (June 24, 1980 (45 FR 42265)) on Group I VOC Sources, EPA approved the regulations conditioned upon submittal of approvable source test methods by December 24, 1980. On December 19, 1980 DEQ submitted their revised methods. Based on EPA requested changes, DEQ made further revisions in May 1981 and submitted an adopted Source Testing Manual for VOC sources on May 29, 1981.

The DEQ methods are proposed for approval with the following understandings. The DEQ Source Test Manual contains a method (No. 24) for determining volatile matter content, water content, density, volume solids, and weight solids of surface coatings but the DEQ regulations (OAR-340-22-170(5)) do not refer to that method as required for determining compliance. EPA approval will be with the understanding that compliance with the regulation includes the use of Test Method 24 and that reference to that method will be added when the rules are next revised.

Also, in OAR-340-22-170(5) reference is made to application of revised source test methods "with the owners consent". This applies to a source when a test had been scheduled previous to the revision in the method. EPA will apply determinations of compliance based on the methods approved as part of the SIP. However, since this language is somewhat confusing as it applies to various sources, DEQ will delete it from the regulation when the VOC rules are next revised and explain the procedure in the source test manual.

EPA proposes to approve the source test methods with the clarifications described above.

EPA finds that good cause exists for providing only a 30-day comment period for the following reasons: (1) the public has had adequate notice of the guidelines for preparation of State Implementation Plans (SIP) and has had several opportunities to comment on those guidelines, (2) the **Federal Register** notice of receipt and request for public comments was published on January 21, 1981 (46 FR 6021) and (3) the impact of this rulemaking is limited only to the State of Oregon. Therefore, EPA is soliciting public comments for 30 days on its proposed approval of Oregon SIP revisions.

Pursuant to the provisions of 5 U.S.C. Section 605(b) the Administrator has certified that SIP approvals under Section 110 and 172 of the Clean Air Act will not have a significant impact on a substantial number of small entities (46 FR 8709 (January 27, 1981)). This action, if promulgated, constitutes a SIP approval under Section 110 and 172 within the terms of the January 27, 1981 certification.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of regulatory impact analysis. This regulation is not major because it only proposes approval of a State action and it imposes no additional regulatory requirements.

Interested parties are invited to comment on all aspects of this proposed approval of the Oregon SIP. Comments should be submitted, preferably in triplicate, to the address listed in the front of this Notice. Public comments postmarked by December 4, 1981, will be considered in any final action EPA takes on this proposal.

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

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

Dated: September 3, 1981.

John R. Spencer,

Regional Administrator.

[FR Doc. 81-32612 Filed 11-10-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 81

[A-9-FRL 1961-7]

Designation of Areas for Air Quality Planning Purposes; California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: EPA invites comments on certain California attainment status designations. The U.S. Ninth Circuit Court of Appeals ruled that these designations were not made available for public comment when they were originally published in March 1978.

This notice also proposes to approve four out of the six redesignation requests made by the California Air Resources Board (ARB): portions of Mendocino and Ventura Counties are proposed to be redesignated to attainment for particulate matter; Northern Ventura County is proposed to be redesignated to attainment for ozone; and a portion of Riverside County is proposed to be redesignated to unclassifiable for particulate matter. Portions of Los Angeles and San Bernardino Counties are proposed to remain nonattainment for particulate matter. EPA is also inviting public comments on these proposed redesignation actions.

DATES: Comments will be considered if received on or before December 14, 1981.

ADDRESSES: Comments should be sent to: Regional Administrator, Environmental Protection Agency, Region 9, Attn: Air and Hazardous Materials Division, Air Programs Branch, State Implementation Plan Section (A-2-4), 215 Fremont Street, San Francisco, CA 94105.

Information pertinent to this notice is available for public inspection during normal business hours at the EPA Region 9 Office at the address above and at the following locations:

Public Information Reference Unit, Room 2404 (EPA Library), 401 "M" Street, S.W., Washington, D.C. 20460

California Air Resources Board, 1102 "Q" Street, Sacramento, CA 95812

Fresno County Air Pollution Control District, 1246 "L" Street, Fresno, CA 93721

Great Basin Unified Air Pollution Control District, 873 North Main Street, Suite 213, Bishop, CA 93514

San Bernardino County Air Pollution Control District, 1111 East Mill Street, Building 21, San Bernardino, California 92401

Los Angeles County Air Pollution Control District, 500 West Temple Street, Los Angeles, California 90012

Mendocino County Air Pollution Control District, Courthouse Square, Ukiah, CA 95482

Monterey Bay Unified Air Pollution Control District, 1164 Monroe St., Suite 10, Salinas, CA 93906

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123

Santa Barbara Air Pollution Control District, 315 Camino Del Remidio, Santa Barbara, CA 93110

Shasta County Air Pollution Control District, 1855 Placer Street, Redding, CA 96001

South Coast Air Quality Management District, 9150 Flair Drive, El Monte, CA 91731

Ventura County Air Pollution Control District, 800 South Victoria Avenue, Ventura, CA 93009

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, State Implementation Plan Section, Air and Hazardous Materials Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 556-2938. After November 1, 1981 (415) 974-8222; FTS 454-8222.

SUPPLEMENTARY INFORMATION:

Initial California Designations

The Clean Air Act (CAA) was amended in 1977 to include many new provisions including paragraph 107(d), which directed each state to submit a list to EPA describing the attainment status for each criteria pollutant in all areas of the state. For each National Ambient Air Quality Standard (NAAQS), states designated areas as either (1) experiencing violations of the standard(s) (nonattainment areas), (2) not experiencing violations of the standard(s) (attainment areas), or (3) lacking sufficient valid data (unclassifiable areas). The areas designated as attainment or unclassifiable do not need a State Implemantation Plan revision that satisfies the requirements on Part D of the Clear Air Act.

The new Section 107 required that designation lists be submitted to EPA within 120 days after the 1977 Amendments were enacted, and that EPA promulgate lists within 60 days of their submittal. On December 2, 1977, the Executive Officer of the ARB submitted the State's recommended attainment status designations to EPA. EPA promulgated attainment status designations for all areas of the country on March 3, 1978. For California, EPA used the ARB designation recommendations directly with no changes. Although the designations were immediately effective, EPA invited public comments and indicated that the designations would be revised, as appropriate, in response to any comments. On March 19, 1979, EPA Region 9 published a notice of final rulemaking responding to comments and making necessary amendments to the California designations.

The Western Oil and Gas Association (WOGA), the California Independent Producers Association, and seven oil companies challenged EPA's designations for California in the Ninth Circuit Court of Appeals. The suit alleged that EPA had violated the notice and comment requirements of the Administrative Procedure Act by failing to provide an opportunity to comment prior to taking final action on the designations. The Court rules that the present designations would be allowed to stand temporarily but ordered EPA to reconsider its original designations for California, after first providing public notice and opportunity for comments. The Court held that the public did not have adequate assurance that its comments would receive the consideration which would otherwise be afforded had a notice of proposed rulemaking been published (Opinion Number 78-1941 filed on December 1, 1980, Ninth U.S. Circuit Court of Appeals.

Previously Proposed California Redesignations

All of the California designations are included in today's proposal except those redesignations that were proposed after the March 3, 1978 action and that underwent full public inspection and opportunity for comment before final promulgation. The previously proposed designations are listed below.

	Area	Pollutant	New designation	Date of proposed notice	Date of final notice
1.	Central Placer County	O_3	N	3-15-79	9-12-79
2.	Western El Dorado County	O_3	N	3-15-79	9-12-79
3.	Humboldt County	TSP	A	9-11-79	11-15-79
4.	Tulare County	CO	A	8-15-79	11-16-79
5.	Alameda County	TSP	A	9-27-79	12-28-79
6.	Contra Costa County	TSP	A	4-25-80	7-11-80
7.	San Francisco County	TSP	A	4-25-80	7-11-80
8.	Shasta County (Sacto. Valley Air Basin portion)	TSP	U	4-10-80	8-11-80
9.	Shasta County (Sacto. Valley Air Basin portion)	O_3	U	4-10-80	8-11-80
10.	Tehama County	TSP	U	4-10-80	8-11-80
11.	Tehama County	O_3	A	4-10-80	8-11-80
12.	Sutter County	TSP	U	4-10-80	8-11-80
13.	Yuba County	TSP	U	4-10-80	8-11-80
14.	Yolo County	TSP	U	4-10-80	8-11-80
15.	Solano County (Sacto. Valley Air Basin portion)	TSP	U	4-10-80	8-11-80
16.	Glenn County	O_3	U	4-10-80	8-11-80
17.	San Luis Obispo County	O_3	A	4-10-80	8-11-80
18.	Colusa County	O_3	U	4-10-80	8-11-80
19.	Mariposa County	O_3	U	4-10-80	8-11-80
20.	Fresno County (except Clovis metropolitan area)	CO	A	4-10-80	8-11-80
21.	Kern County (except Oildale & Midway Sunset Areas)	SO_x	A	8-19-80	
22.	Lake Tahoe (CA)	O_3	A	10-3-80	3-3-81
23.	San Diego County	NO_2	A	5-6-81	7-23-81
24.	Kern County (except Bakersfield area)	CO	A	9-81	

NOTE.—O_3 = Ozone, TSP = Total Suspended Particulates, CO = Carbon Monoxide, NO_2 = Nitrogen Dioxide, SO_x = Sulfur Oxides, U = Unclassified, A = Attainment, N = Nonattainment.

California Nonattainment Areas

The following is a list of all nonattainment areas in California as of August 1, 1981. Areas that are not included on the list or have blanks in a column are designated attainment or unclassifiable.

County and/or subarea	Pollutants				
	TSP	SO_x	CO	O_3 (HC)	NO_x
Alameda			X	X	
Butte			X	X	
Contra Costa			X	X	
El Dorado:					
Western				X	
Tahoe			X		
Fresno:					
Fresno-Clovis Metro. Area	X		X	X	
Remainder	X			X	
Imperial				X	
Kern—San Joaquin Valley Air Basin	X	X	X	X	
Kings	X			X	
Los Angeles:					
S. Coast Air Basin	X		X	X	X
S.E. Desert Air Basin	X			X	
Madera	X			X	
Marin			X	X	
Mendocino	X				
Merced	X			X	
Monterey				X	
Napa			X	X	
Orange	X		X	X	X
Placer:					
Sacramento AQMA				X	
Tahoe			X		
Remainder				X	
Riverside:					
S. Coast Air Basin	X		X	X	X
S.E. Desert AQMA	X			X	
Sacramento	(1)		X	X	
San Benito				X	
San Bernardino:					
S. Coast Air Basin	X		X	X	X
S.E. Desert AQMA	X		X	X	
San Diego:					
Western	X		X	X	
Remainder				X	
San Francisco			X	X	

County and/or subarea	Pollutants				
	TSP	SO_x	CO	O_3 (HC)	NO_x
San Joaquin	X		X	X	
San Luis Obispo	(1)				
San Mateo			X	X	
Santa Barbara:					
AQMA			X	X	
Western	X			X	
Remainder				X	
Santa Clara	(1)		X	X	
Santa Cruz				X	
Solano:					
Bay Area Air Basin			X	X	
Remainder				X	
Sonoma—Bay Area Air Basin			X	X	
Stanislaus	X		X	X	
Sutter				X	
Tulare	X			X	
Ventura:					
Southern	X			X	
Remainder				X	
Yolo				X	
Yuba				X	

NOTE.—X denotes Nonattainment Areas. (1) denotes areas which are Nonattainment for the secondary standards only.

ARB Redesignation Requests

Under Section 107(d)(5) of the CAA, as amended, a state may revise its designations of attainment status and submit them to EPA for promulgation. The ARB, in letters to EPA dated February 14 and June 23, 1980, and April 30, 1981, requested that areas of the State be redesignated from nonattainment to attainment or unclassifiable for particulate matter and/or ozone.

The redesignations requested by the ARB are:

(1) Revise the designation status of the Southeast Desert Air Quality Maintenance Area (SEDAQMA) portion of Riverside County from nonattainment to unclassifiable for particulate matter.

(2) Revise the designation status of the SEDAQMA portion of San Bernardino County from nonattainment to unclassifiable for particulate matter.

(3) Revise the designation status of the Southeast Desert Air Basin (SEDAB) portion of Los Angeles County from nonattainment to unclassifiable for particulate matter.

(4) Revise the designation status of Mendocino County (except within 5 miles of Fort Bragg) from nonattainment to attainment for particulate matter.

(5) Revise the designation status of Northern Venturo County (north of the northern borden of Las Padres National Forest) from unclassifiable to attainment for particulate matter.

(6) Revise the designation status of Northern Ventura County from nonattainment for oxidant to attainment for ozone.

Designation Criteria

EPA has established criteria for defining attainment status classifications. The general criteria, which are given below, apply to all NAAQS pollutants except ozone. The designation criteria for ozone and a special exemption for particulate matter are discussed later in this notice.

General Criteria for Nonattainment Designations

(1) A single measured violation of the ambient standards over the past two years.

(2) One modeled air quality violation over the past two years.

(3) Areas, where, in the state's judgement, the primary standard for sulfur oxide (SO_x) or total suspended particulate (TSP) may not be maintained in the future.

(4) Areas where sources are employing dispersion techniques in place of enforceable emissions limitations. Dispersion techniques do not reduce total emissions on a continuous basis, rather, emissions are dispersed over a wide area so that ground level concentrations exceeding the ambient standards do not occur.

(5) A nonattainment area should be as small as possible while encompassing all areas of expected violation and all sources of significant impact on those violations.

General Criteria for Attainment Designations

(1) Two years of violation-free data at all monitoring locations, including sites located at points of expected maximum concentration.

(2) One year of violation-free data at all monitoring sites, provided it is shown that recent air quality improvements (over the previous year) are the result of enforceable emission reductions.

General Criteria for Unclassifiable Designations

The unclassifiable deisgnation is reserved for areas with insufficient or questionable data such that it is not possible to determine whether an area is attainment or nonattainment.

Designation Criteria for Ozone

On February 8, 1979 (44 FR 8202), EPA revised the oxidant standard of 0.08 parts per million (ppm) to an ozone standard of 0.12 ppm. In addition, EPA established a statistical method of determining whether the standard has been exceeded. The national standards for ozone are published as a revision to 40 CFR 50.9 and the statistical method as the new Appendix H, 40 CFR Part 50.

The demonstration of attainment/nonattainment for the ozone standard must be based upon the calculated number of expected exceedances of the NAAQS at each monitoring station. Three years of air quality data are needed to accurately determine the number of expected exceedances. The average number of expected exceedances per year at each monitoring station must not exceed 1.0 if the area is to be designated as attainment. Specific provisions are also included in 40 CFR Part 50, Appendix H, for determining whether compliance with the NAAQS can be assumed for days with insufficient data.

Special Exemption for Particulate Matter—Fugitive Dust Policy

The EPA Fugitive Dust Policy of August 1, 1977 allows areas that have a low urbanized population (less than 50,000) and which lack industrial influence to be designated attainment or unclassifiable for particulate matter under certain conditions despite violations of the NAAQS. An area is considered influenced by industry if it has major industrial development or if industrial pariculate emissions significantly impact the air quality.

Evaluation and Proposed Actions

EPA has evaluated the initial California designations and determined that they are generally consistent with the criteria discussed above. Therefore, EPA is today proposing to reaffirm and approve, with certain exceptions, those California designations published on March 3, 1978 and amended on March 19, 1979. The exceptions consist of those areas that were redesignated or proposed for redesignation after March 3, 1978 and have undergone full public inspection and opportunity for comment (listed in Previously Proposed California Designations section).

EPA has also evaluated the six redesignation requests made by the ARB, and found, with two exceptions, that they are consistent with the designation criteria. Thus, EPA is

proposing to approve the redesignation requests, except for the Los Angeles and San Bernardino areas. The requests for these areas were found to be inconsistent with the Fugitive Dust Policy because Los Angeles County contains a large contiguous urbanized area (Lancaster-Palmadale) and because San Bernardino County's air quality is influenced by industrial particulate emissions. For further details on EPA's evaluation, please refer to the Technical Support Document.

If areas are redesignated to attainment or unclassifiable, the requirements of Title I, Part D, of the Clean Air Act, as amended, would no longer apply to those areas for the pollutants for which they were originally designated nonattainment. However, these areas remain subject to the requirements of Part D for the particular pollutant until EPA approves the requested redesignations in a final rulemaking action.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator has certified (46 FR 8709) that the attached rule will not have a significant economic impact on a substantial number of small entities. This action imposes no new requirements.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not "major" because it imposes no new regulatory requirements.

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

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

Dated: September 4, 1981.

Frank M. Covington,

Acting Regional Administrator.

[FR Doc. 81-32618 Filed 11-10-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 180

[OPP-300057; PH-FRL-1983-3]

2-Amino-4, 5-Dihydro-6-Methyl-4-Propyl-S-Triazolo(1,5-Alpha) Pyrimidin-5-One; Proposed Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that 2-amino-4,5-dihydro-6-methyl-4-propyl-*s*-triazolo(1,5-alpha) pyrimidin-5-one be exempted from the requirement of a tolerance when used as an emetic at not more than 0.1 percent in formulations of paraquat dichloride.

DATE: Written comments must be received on or before December 14, 1981.

ADDRESS: Written comments to: Peter Gray, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Peter Gray (703-557-7110).

SUPPLEMENTARY INFORMATION: At the request of Chevron Chemical Company, the Administrator proposes to amend 40 CFR Part 180 by establishing an exemption from the requirement of a tolerance for 2-amino-4,5-dihydro-6-methyl-4-propyl-*s*-triazolo(1.5-alpha) pyrimidin-5-one. The use is limited to not more than 0.1 percent in formulations of paraquat dichloride, and further limited to use as an emetic.

Inert ingredients are all ingredients which are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have pesticidal efficacy of their own): solvents such as water, baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term inert is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemption.

Name of Inert Ingredient: 2-amino-4,5-dihydro-6-methyl-4-propyl-*s*-triazolo (1,5-alpha) pyrimidin-5-one (also called PP-796).

Name and address of requestor: Chevron Chemical Company, 940 Hensley Street, Richmond, CA 94804.

Basis for Approval

1. Food and Drug Administration (FDA) has concurred verbally with this exemption.

2. No labelling suggesting that the formulation contains an emetic is permitted.

3. Safety claims for paraquat formulations containing this emetic are not permitted.

4. This exemption is justified because the severe health hazard associated with oral ingestion of paraquat allows for effort to advance any opportunity to reduce retention of accidentally ingested paraquat formulations. Also, any possible adverse effect of PP-796 (the inert emetic) is minimal in comparison to the irreversible severe consequences of paraquat ingestion.

Based on the above information, and review of its use, it has been found that when used in accordance with good agricultural practices, this ingredient is useful and does not pose a hazard to humans or to the environment. It is concluded, therefore, that the proposed amendment to 40 CFR Part 180 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains this inert ingredient may request, on or before December 14, 1981, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition and document control number "[OPP-300057]". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Process Coordination Branch (TS-767C), Rm. 514D, CM#2, 1921 Jefferson Davis Highway, Arlington, VA from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

As required by Executive Order 12291, EPA has determined that this proposed 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 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** on May 4, 1981 (46 FR 24950).

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

Dated: November 3, 1981.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

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

Therefore, it is proposed that 40 CFR Part 180 be amended by adding § 180.1065 to read as follows:

§ 180.1065 2-Amino-4,5-dihydro-6-methyl-4-propyl-s-triazolo (1,5-alpha) pyrimidin-5-one; exemption from requirement of tolerance.

The inert ingredient, 2-amino-4,5-dihydro-6-methyl-4-propyl-*s*-triazolo (1,5-alpha) pyrimidin-5-one is exempted from the requirement of a tolerance when used as an emetic at not more than 0.1 percent in formulations of paraquat dichloride. Further restrictions on this exemption are that this ingredient may not be advertised as an emetic and the paraquat product may not be promoted in any way because of the inclusion of this inert ingredient.

[FR Doc. 81-32617 Filed 11-10-81; 8:45 am]

BILLING CODE 6560-32-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

Semi-Annual Agenda of Significant Proceedings

AGENCY: Federal Communications Commission.

ACTION: Publication of Semi-annual agenda.

SUMMARY: The Commission publishes a semi-Annual Agenda to provide the public with adequate notice of significant proceedings under development or review, as prescribed in Executive Order 12291 (17 February 1981). This edition of the agenda, in compliance with the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) includes notations on the applicability of the Regulatory Flexibility Act to each item. This fulfills the requirement that all agencies publish Regulatory Flexibility Agenda in April and October of each year.

Henceforth, the FCC's Semi-Annual and Regulatory Flexibility Agenda, in combined form, will be published in the Federal Register each April and October hereafter. This supensedes all previously-announced publication dates for the Semi-Annual Agenda.

EFFECTIVE DATE: October 31, 1981.

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

FOR FURTHER INFORMATION CONTACT: Anne Riffey, Office of the Managing Director, (202) 632-7513.

SUPPLEMENTARY INFORMATION:

Semi-Annual Agenda of Significant Proceedings

The Commission wants to encourage greater public participation in the FCC rule making process. To help keep the public informed of significant rule making proceedings, the Commission has prepared an agenda of important proceedings now in progress. The Commission expects to publish an agenda of significant proceedings in the Federal Register every six months.

The following terms may be helpful in understanding the status of the proceedings included in this report:

A *Docket Number* is assigned to a proceeding if the Commission has issued either a Notice of Proposed Rule Making or a Notice of Inquiry in regard to the matter under consideration. Since January 1, 1978, the Commission has used docket numbers which consist of the last two digits of the calendar year in which the docket was established plus as sequential number which begins at 1 with the first docket initiated during a calendar year (e.g. Docket 78-1 or Docket 79-1). The abbreviation for the responsible Bureau usually precedes the docket number, as in "BC Docket 79-164." When a docket number consists of only five digits (e.g. Docket 29622), this indicates that the docket was established before January 1, 1978.

Notice of Inquiry (NOI)—issued by the Commission when it is seeking information on a broad subject or trying to generate ideas on a given topic. A comment period is specified during which all interested parties may submit comments.

Notice of Proposed Rule Making (NPRM)—issued by the Commission when it is proposing a specific change to the FCC Rules and Regulations. Before any changes are actually made, interested parties may submit written comments on the proposals.

Memorandum Opinion and Order (MO&O)—issued by the Commission to deny a petition for rule making, conclude an inquiry, modify a decision, or deny a petition for reconsideration of a decision.

Report and Order (R&O)—issued by the Commission to state a new or amended rule or state that the FCC Rules will not be changed.

Rule Making (RM) Number—assigned to a proceeding after the appropriate Bureau/Office has reviewed a petition for rule making, but before the Commission has taken action on the petition.

Rulemaking or Docket No.	Title of proceeding, contact person	RFA	Description	Stage of development	Projected Commission action
			BROADCAST		
20418	New VHF Channel Assignments; Roger Holberg, 632-7792	Yes —— No X	Study of possibility of assigning new VHF channels in the Top-100 markets, specifically at this time in Charleston, West Virginia, Johnstown or Altoona, Pennsylvania, Knoxville, Tennessee, and Salt Lake City, Utah.	(1) R&O on Petitions for reconsideration being drafted;. (2) R&O on rule making being drafted..... (See also entry for BC 80-719, below.....	(1) 2nd quarter; (2) 3rd quarter.
21049	Commercial Television Network Practices; Israel Teitelbaum, 632-7792.	Yes X No ——	Inquiry into practices and policies of the 3 major television networks regarding the acquisition and distribution of television programming.	Network Inquiry Special Staff has made final report to Commission. B/cast Bureau is preparing staff summary & recommended actions concerning special staff report.	
21310	FM Quadraphonic Broadcasting; Greg DePriest, 632-9660.	Yes —— No X	Inquiry into whether Commission should authorize a quadraphonic FM broadcasting system.	Notice of Proposed Rule Making (NPRM) adopted July 17, 1980. Reply comments closed on February 1981. R&O being drafted.	1st quarter 1982.
21313	AM stereo; Gregory DePriest, 632-9660	Yes —— No X	The Commission must decide what, if any, standards should be established for the transmission of stereophonic program material by AM broadcast stations.	NPRM adopted September 1978; a Memorandum Opinion and Order and Further NPRM adopted July 30, 1980 and released September 11, 1980. Reply comment period closed on March 23, 1981. R&O is being drafted.	1st quarter 1982.

Rulemaking or Docket No.	Title of proceeding, contact person	RFA	Description	Stage of development	Projected Commission action
21474	Equal employment opportunity in the broadcast industry; Steve Bookshester, 632-7792.	Yes — No X	Revision of FCC Form 395, the annual employment form filed by broadcasters, to make it more useful in monitoring the broadcasters' commitment to equal employment opportunity.	Additional NPRM to explore modifications of EEO rules being drafted.	2nd quarter 1982.
21502	Subscription (pay) TV operations; Freda Thyden, 632-7792.	Yes X No —	Inquiry to determine whether current rules governing pay TV operation are necessary or desirable.	A further NPRM proposing further deregulation of STV service adopted September 30, 1981. Report and Order to be drafted.	3rd quarter.
BC 78-239	Voting Trusts; Steve Bookshester, 632-7792.	Yes — No X	Inquiry to determine what types of ownership interests are cognizable for purposes of the FCC's ownership rules.	NOI/NPRM adopted July, 1978; comment period closed Dec. 1978.	
BC 78-253	Inquiry into the Proper Role of Television Translators and Low-Power TV Broadcasting; Molly Pauker, 632-7792.	Yes X No —	Inquiry into uses of television translators, especially in rural areas, to determine if rules concerning translators should be changed to permit program origination and/or subscription service.	Report and Order being drafted	1st quarter.
BC 79-164	Reduction of AM Bandwidth to 9 kHz; Larry Olson, 254-3394.	Yes — No X	Inquiry into reduction of spacing between AM channels from 10 kHz to 9 kHz.	Final resolution is awaiting results of Region 2 Conference on AM Broadcasting, to be held in November 1981.	2nd quarter.
BC 79-269	New Jersey UHF-TV Assignments; Gordon Godfrey, 632-9660.	Yes — No X	Study to assign 6 UHF-TV frequencies to various New Jersey communities.	NPRM adopted 10/18/79. Record closed 8/80. R&O being developed.	3rd quarter.
BC 79-270	New Jersey UHF-TV Financial Viability; Martin Blumenthal, 632-7792.	Yes — No X	Study of means by which the New Jersey UHF-TV stations created in BC Docket 79-269 (above) might best become financially viable.	NPRM adopted 10/18/79 in conjunction with BC Docket 79-269; record closed 8/80.	Final action projected for same time as BC Docket 79-269, above.
BC 80-90	Use of FM Frequencies; Kathryn Hosford, 632-9660.	Yes — No X	Study of means for increasing the use of FM frequencies.	NPRM issued on Feb. 28, 1980; reply comments closed on Mar. 2, 1981. R&O being drafted.	3rd quarter fiscal year 1982.
BC 80-130	Processing of FM Rule Making Petitions; Mark Lipp, 632-7792.	Yes — No X	Study of possible modifications to the procedures for processing FM petitions.	R&O being drafted in conjunction w/BC 80-90 (see above).	
BC 80-190	Reduction of Financial Reporting Requirements; Brian Fontes, 632-7792.	Yes X No —	Proposal to eliminate or substantially reduce amount of financial data to be reported to the Commission.	Further NPRM adopted Sept. 30, 1981, comments and reply comments due by Dec. 14, 1981.	2nd quarter fiscal year 1982.
BC 80-719	Reassignment of VHF-TV Frequency to New Jersey; Mark Lipp, 632-7792.	Yes — No X	Study of possibility of reassigning the Channel 9 VHF-TV frequency from New York City to a New Jersey community.	NPRM adopted 11/6/80. Matter being held in abeyance pending resolution of RKO appeal by Federal court. Oral argument held Oct. 1981.	
81-741	Teletext Authorization; Alan Stillwell, 632-6302.	Yes X No—	Proposal to set non-interference, non-degradation of main signal quality parameters for teletext transmission by broadcasters.	NPRM adopted October 22, 1981. Comments and reply comments due 90 days after issuance.	3rd quarter fiscal year 1982.
81-496	Elimination of Some Requirements for Public Broadcasters; John Kamp, 632-6302.	Yes X No—	Proposal to eliminate or modify rules pertaining to programming, ascertainment and program logs for public broadcasters.	NPRM adopted July 30, 1981. Comments and reply comments due by Dec. 16, 1981.	3rd quarter fiscal year 1982.
			CABLE TV		
18891 and 20423	Cable TV Systems: Multiple Ownership and Cross-Ownership; William Johnson, 632-6468.	Yes— No X	Inquiry to determine if FCC should limit size of cable systems, multiple ownership and cross-ownership.	Additional R&Os are forthcoming in these dockets. Office of Plans and Policy has a study of these issues in progress. Study includes telephone cross-ownership issues also.	November 1981.
21002	Cable TV Local Franchise Fees; Judith Friedman, 632-6468.	Yes— No X	Proposal to eliminate rule (§ 76.31) that limits the ability of local authorities to collect franchise fees in excess of 3% of a cable system's gross revenues.	Draft of final R&O is in progress. Additional analysis of economic study (NERA study) submitted in comments may be required.	1st quarter 1982.
			COMMON CARRIER		
CC 78-72	MTS-WATS Market Structure Inquiry; Carl Lawson, 632-9342.	Yes— No X	Inquiry to determine whether public interest requires interstate Message Telecommunications Service (long distance telephone service) and/or Wide Area Telecommunications Service (bulk rate long distance service) or their functional equivalents, to be provided on a sole source basis.	Report and third supplemental notice issued August 19, 1980. Staff preparing further orders on Alaska entry policy and access policy.	March 1982.
CC 78-196	Uniform System of Accounts for Telephone Companies; Steve Duffy, 634-1861.	Yes — No X	Rulemaking to develop a system of accounts which can readily provide cost information by both jurisdiction and individual service categories.	2nd supplementary notice of proposed rulemaking and order adopted Oct. 7, 1981.	December 1981.
CC 79-35	INMARSAT Interconnection—Implementation of Sec. 503(G) of INMARSAT Act; Jim Ball, 632-3214.	Yes — No X	Rulemaking regarding operational arrangements for maritime satellite service, interconnection with earth stations, and regulating safeguards against cross-subsidization of costs.	Staff working on two major issues—earth station ownership and COMSAT/INMARSAT losses.	January/ February 1982.
CC 79-105	Deregulation of Inside Wiring; Donald Burrell, 634-1861.	Yes X No —	Inquiry into the complete deregulation of the business of furnishing inside telephone wiring.	Further Notice of Inquiry adopted May 18, 1981. Staff preparing Report and Order.	December 1981.
CC 79-187	AT&T Earnings on Interstate and Foreign Services in 1978; Cladia Pabo, 632-9342.	Yes — No X	Inquiry to determine if AT&T's rate of return during 1978 exceeded the limits specified by the Commission in Docket 20376.	Draft Order in preparation	December 1981.
CC 79-246	AT&T Rate Structure Rule Making; Leonard Kennedy, 632-6917.	Yes — No X	Inquiry into AT&T private line tariff and rate structures and volume discount policies.	Staff preparing a First Report and Order and Further NPRM.	January 1982.

Rulemaking or Docket No.	Title of proceeding, contact person	RFA	Description	Stage of development	Projected Commission action
CC 79-318	Cellular Mobile Communications; Thomas Gutierrez, 632-6450.	Yes —— No X	Inquiry into implementation of cellular mobile communications systems.	Report and Order adopted April 9, 1981. Petitions for reconsideration pending.	Report and order scheduled for December 1981.
CC 80-170	Authorized User; Gene Belardi, 632-7265	Yes —— No X	NPRM on whether to authorize non-carrier entities to obtain service directly from Comsat for provision of international communications.	Report and Order in preparation	December 1981.
CC 80-632	Overseas Communication Service; Stuart Chiron, 632-7265.	Yes —— No X	The Commission has tentatively concluded that voice/record dichotomy in international services no longer best serves the public interest. This NPRM proposes to permit the IRC's to provide international voice services and AT&T to provide international record services.	Notice of Proposed Rule Making adopted October 9, 1980.	December 1981.
CC 80-634	Communications Satellite Corporation Structure; Jim Ball, 632-3214.	Yes X No ——	An inquiry into changes in the corporate structure and operations of Communications Satellite Corporation.	NPRM adopted October 9, 1980. Staff preparing recommended decision.	December 1981.
CC 81-412	AT&T 1981 General Rate Increase; Kent Nakamura, 632-6917.	Yes X No ——	AT&T Tariff filings (TR. NO. 17303-13708) for a general rate increase.	Tariffs suspended and set for investigation. Staff is now reviewing support data.	January 1982.
	OFFICE OF PLANS AND POLICY				
80-603	Direct Broadcast Satellites; Florence Setzer, 653-5940.	Yes X No ——	Proposed policies for regulation of direct broadcast satellites.	NOI issued in October 1980. NPRM issued in June 1981. 14 applications received; 9 accepted for filing.	1st quarter, 1982.
	FCC Policies on Cable Ownership; Kenneth Gordon, 653-5960.	Yes X No ——	NOI and NPRM to be issued, and accompany the staff's report on cable ownership policies. Small TV broadcast stations and cable systems will have their range of entrepreneurial options widened.	Ready to be presented to the Commission	1st quarter, 1982.
	NPRM to Use a System of Random Selection (Lottery) to choose Licensees From Among Certain Mutually Exclusive Applicants; Randy Thomas, 653-5940.	Yes —— No X	This rulemaking seeks to implement the permissive authority contained in new 47 U.S.C. 309(i)(1) of the Communications Act to use a random selection system (lotteries) to select initial telecommunications licensees.	Draft NPRM	
	OFFICE OF SCIENCE AND TECHNOLOGY				
Not yet assigned	Spread Spectrum Communications Technology; Michael Kennedy, 632-7073.	Yes —— No X	Inquiry into possible civil applications of spread spectrum communications technology and possible rulemakings needed to permit its use (it is implicitly forbidden under present rules).	NOI was adopted June 4, 1981	
RM-3524	Air to Ground Telephone Service at 900 MHz; Mel Murray, 653-8168.	Yes X No ——	This proposed system is designed to serve passengers on commercially scheduled airlines in the contiguous United States. Airfone, the petitioner, plans to use single side band modulation, proposes the use of a total of 4 MHz of spectrum to provide 310 two-way voice channels which will be interconnected to the public telephone network.	The feasibility of the technical approach proposed by Airfone is presently being evaluated by Commission staff. Airfone is conducting hardware and operational testing under a Part 5 developmental license. Upon completion of testing and evaluation, a decision will be made as to whether or not to proceed with rulemaking.	
RM-3747	Utilities Telecommunications Council Power Line Carrier Petition; Sam Tropea, 653-8164.	Yes —— No X	The Petitioner seeks improved regulatory recognition and protection for electric utility powerline carrier systems in the 10-490 kHz band.	Reply comments period closed 4 February 1981, and comments are presently being evaluated. An NPRM is planned for completion during 4th Quarter CY 1981.	
20990	Remote Control and Security Devices; George Harenberg, 653-8130.	Yes X No ——	Amendment of Part 15 of the Rules to provide for the operation of low power communications devices used in remote control and security applications.	A First Report & Order was adopted by the Commission on October 22, 1981.	
21371	Description of Test Measurement Facilities; Syd Bradfield, 653-8131.	Yes X No ——	Amendment of Part 2 of the Rules establishing criterion to determine the suitability of a test site for making measurements to determine compliance of equipment subject to the Commission's authorization program.	A First Report and Order has been drafted and is being circulated.	
Gen. Docket 78-369	Radio Frequency Interference to Electronic Equipment; Al Paul, 653-8126.	Yes —— No X	Inquiry to determine extent of radio frequency interference to electronic equipment and need for government regulation to lessen such interference.	Further NOI has been issued. Comments have been extended until November 30, 1981.	
Gen. Docket 79-188	Xerox XTEN Proposal; Bert Withers, 653-8100; Kevin Kelley, 632-6430.	Yes X No ——	Xerox Corporation has proposed the allocation of microwave frequencies in the 10.55-10.68 GHz band for use in providing a new common carrier electronic message service.	First Report and Order adopted 14 January 1981, with release expected April 1981. Further Notice of Proposed Rulemaking was adopted August 4, 1981. Comments are due November 2, 1981. Reply Comments are due December 2, 1981.	
Gen. Docket 80-184	Mobile Services Conference; Lawrence Palmer, 653-8102.	Yes —— No X	Preparations of U.S. proposals to a 1982 ITU World Conference on the Mobile Radio Services.	Fourth NOI expected to be on Commission Agenda in November 1981.	

OFFICE OF SCIENCE AND TECHNOLOGY

Gen. Docket 80-398	Broadcasting-Satellite Planning Conference; Edward Jacobs, 653-8102.	Yes —— No X	Preparation of U.S. proposals to a 1983 ITU Region 2 Conference to plan the use of 12 GHz broadcasting-satellites in the Western Hemisphere.	Memorandum Opinion & Order was issued February, 1981 establishing an Advisory Committee. Comments and reply comments to 2nd NOI have been reviewed. Third NOI expected during first quarter 1982.	
Gen. Docket 80-739	WARC-79 Implementation; Fred Thomas, 653-8171.	Yes —— No X	The requirements of the Final Acts of WARC-79 necessitate an overhaul of § 2.106—Table of Frequency Allocations. The changes proposed make use of a draft table developed within IRAC Ad Hoc 172.	Comments on the 3rd NOI have been received and summarized. Fourth NOI was adopted on October 1, 1981, and released on October 16, 1981.	
Gen. Docket 80-741	Space Services Planning Conference (Space WARC); Thomas S. Tycz, 653-8102.	Yes—— No X	Preparations of U.S. proposals to a 1984/1985 (2nd session) ITU WARC on the Use of the Geostationary-Satellite Orbit and the Planning of the Space Services Utilizing It.	Memorandum Opinion and Order establishing a Public Advisory Committee has been issued. A second NOI will be complete in fourth quarter CY 1981.	

PRIVATE RADIO BUREAU

18921	Multiple License Sharing of Private Land Mobile Radio Facilities on the Frequencies below 800 MHz; John Borkowski, 632-7597.	Yes X No——	The development of rules and policies to better define and govern the multiple licensing and sharing of private land mobile radio facilities operating below 800 MHz.	Tentative Decision and Further Notice of Proposed Rule Making adopted June 4, 1981.	April 1982.
20846	Telephone Interconnection in Land Mobile Radio Services; Lewis Goldman, 632-6497.	Yes—— No X	Proceeding to develop and prescribe specific rules for interconnection of private land mobile radio systems with the public switched telephone network.	A Report and Order is being prepared by the staff.	April 1982.
79-140	Additional Personal Radio Service; Joe Johnson, 632-7597.	Yes—— No X	Inquiry into need for new Personal Radio Service at 900 MHz, and technical and operational characteristics of such a possible service.	Staff will be drafting document proposing the termination of the proceeding.	April 1982.
79-191	Release, Allocation and Criteria for Use of the 250 Remaining Channels in the 800 MHz band; Eugene Thomson/Lewis Goldman, 632-6497.	Yes X No——	Proceeding to develop rules to make the 250 reserve channels that remain in the 806-821/851-866 MHz bands available for use by private land mobile radio.	Further NPRM adopted June 16, 1981. Comments due October 30, 1981; reply comments due November 30, 1981.	July 1981.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 81-32578 Filed 11-10-81; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

Foreign Fishing Fees

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

ACTION: Proposed rule.

SUMMARY: The NOAA proposes a new schedule of fees for fish caught by foreign vessels in the U.S. fishery conservation zone in 1982. The proposed schedule complies with the requirements of the Magnuson Fishery Conservation and Management Act, as amended by the American Fisheries Promotion Act. The purpose of the rule is to have foreign vessels pay for the foreign share of the U.S. costs of administering the Magnuson Act, beginning January 1, 1982.

DATE: Comments must be received on or before December 14, 1981.

ADDRESS: Send comments to: Permits and Regulations Division, F/CM7, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C. 20235.

Copies of the regulatory impact review are available at this address.

FOR FURTHER INFORMATION CONTACT: Alfred J. Bilik, (202) 634-7432.

SUPPLEMENTARY INFORMATION: The NOAA proposes a new schedule of fees for fish caught in 1982 by foreign vessels in the U.S. fishery conservation zone (FCZ). The new fees will result in collections of approximately $35.7 million. This amount is determined by the formula set forth in section 204(b)(10) of the Magnuson Act.

An advance notice of proposed rulemaking (ANPR) was published at 46 FR 37533 (July 21, 1981). A public hearing was held in Washington, D.C. on August 5. The purpose of the ANPR and the hearing was to set forth the NOAA interpretation of the Magnuson Act and to obtain information. Twenty-seven comments were received. The following summarizes relevant comments, suggestions, and actions taken after conclusion of the comment period.

Total Cost of Administering the Act

Many commenters questioned the methodology used to calculate the total cost of administering the Magnuson Act. NOAA has reviewed the methodology and decided that its original interpretation is consistent with the Magnuson Act. Thus, National Marine Fisheries Service (NMFS) grouped all of its expenditures connected to Magnuson Act requirements under one of three categories. A fourth category (D) contained costs unrelated to the Act. Category A is a list of those costs that would not be incurred if the Magnuson Act were repealed, such as costs to support the Regional Fishery Management Councils. Category B includes activities that were performed before the Act under other authorizations, but are now directed towards carrying out the purposes of the Act, such as expanded research, more timely (and costly) assimilation of catch statistics, and development of various computer support programs. Category C is a list of activities which coincidentally provide support to fishery management plan development and implementation. Each NMFS field office reviewed its financial records and made decisions on the portions that belong in each category, including Category D. Thus, NOAA can demonstrate what portion of each line item cost is related to "carrying out the provisions of this

Act." The determination of NMFS's costs in categories A, B and C resulted in a total Magnuson Act cost estimate of $51,767,100 after deducting reimbursed costs for the observer program. This is grouped by region and activity in Table 1. A detailed summary of apportionments of costs by activity is available on request.

TABLE 1—FISCAL YEAR 1981 MAGNUSON ACT COSTS (NMFS AND NOAA)

[Dollars in thousands]

	Fishery conservation and management	Fisheries research	Enforcement	Administration	Total
NMFS:					
Alaska Region	1,067.8		882.0	472.0	2,421.8
Northeast Center	8,227.1	3,098.1		451.0	11,776.2
Northeast Region	1,026.7		1,221.0	185.0	2,432.7
Northwest Center	7,544.3			349.1	7,893.4
Northwest Region	922.5		262.0	32.4	1,216.9
Southeast Center	6,553.4		73.0	385.3	7,011.7
Southeast Region	339.7		545.7	46.4	931.8
Southwest Center	3,377.9			210.0	3,587.9
Southwest Region	813.1		608.3	100.7	1,522.1
Washington Office	13,076.5		1,125.7	585.0	14,787.2
Subtotal	42,949.0	3,098.1	4,717.7	2,816.9	53,581.7
Subtractions (costs recovered through other assessments):					
Observer Program	−1,814.6				−1,814.6
Total	41,134.4	3,098.1	4,717.7	2,816.9	51,767.1
NOAA:					
National Ocean Survey—fleet operations					146
National Ocean Survey—ship operations					2,836
Sea Grant					493
Procurement and Personnel					490
Environmental Data Services					245
Total					4,210

Included in the total Federal costs are the costs of other NOAA elements in support of NMFS fisheries management activities:

1. Funds appropriated under the Magnuson Act for management, operation, and maintenance of fisheries research vessels conducting activities within the FCZ: $2,982,000.

2. Funds appropriated for support of university-conducted programs meeting specific fisheries management needs under the Magnuson Act: $493,000.

3. Funds appropriated under the Magnuson Act to cover costs of increased personnel, procurement, and data archiving activities necessitated by Magnuson Act activities: $735,000.

Several commenters focused on the words "this Act" used in the American Fisheries Promotion Act. The NOAA believes that "this Act" in context means the Magnuson Act. As so interpreted, some commenters believe that only the additional, or marginal, costs incurred since the Magnuson Act was implemented should be used in the section 204(b)(10) formula. However, many of the costs now incurred by NOAA in the FCZ were formerly incurred in the 3–200 mile area. Before the Magnuson Act, these costs were authorized under other activities and international or bilateral agreements. For example, foreign vessels fished in what is now the FCZ and received the benefits of Federal appropriations under the Fish and Wildlife Act without charge. The U.S. Coast Guard enforced fishery provisions of the Bartlett Act (the 12-mile fishing zone), which was superseded by the Magnuson Act. The House report on the American Fisheries Promotion Act indicates that U.S. Coast Guard and the State Department costs are to be included.

Although one commenter objected to including the nationwide Marine Resources Monitoring, Assessment, and Prediction (MARMAP) system in the costs, the Senate Commerce Committee report on reauthorizations for FY 82 pointedly states that "the fishery management effort * * * under authority of the (Magnuson Act) * * * is supported by (MARMAP). The MARMAP program's collection and analysis of * * * information is essential to the Nation's ability to solve many of its fishery problems * * *" Thus, NOAA concludes that appropriations made under the Fish and Wildlife Act for activities such as MARMAP are relevant.

Commenters asked for a breakdown of the U.S. Coast Guard costs. The figures supplied by the U.S. Coast Guard on the cost of the administration of the Magnuson Fishery Conservation and Management Act were based on actual FY 1980 data. Operational input from the Coast Guard's fleet of vessels and aircraft was combined with financial data using an algorithm called the Program Budget to compute the cost of the fishery program. In FY 1980, $52,426,000 in direct Coast Guard costs were assigned to the fishery program. The operational costs of vessels and aircraft dominated this figure with costs totaling $31,560,000 and $12,934,000, respectively. An additional $7,952,000 was also allocated to the fishery program for the direct portion of administrative costs.

The Coast Guard allocates the costs of its vessels and aircraft to the fishery program using the Abstract of Operations (a quarterly recap of the time spent by each operational unit performing various Coast Guard missions). Ratios are computed for the allocation of resource hours among the Coast Guard's thirteen operating programs. These ratios are then applied against each unit's total operating cost to compute individual program figures. For example, the Coast Guard Cutter *Chase* spent 568 hours performing fishery patrols in FY 1980. Dividing 568 hours by the total number of resource hours accounted for during the fiscal year (1,721 hours), the resulting fishery program ratio is 0.3300. This factor is then applied against the total operting cost of $3,242,638.10 to provide a fishery program cost of $1,070,071.

The individual unit program totals are then combined to project Coast Guard totals. The multi-mission character of the Coast Guard precludes a more precise estimate of program costs. There are no accounting mechanisms which identify specific costs for the numerous programs involved in multimissions. The preliminary calculations for actual FY 1981 costs are:

	Fiscal year 1981 preliminary estimate
Vessels	$37,909,000
Aircraft	15,535,000
Administration	9,527,000
Total	62,971,000

Coast Guard attributed ten percent of this amount to fisheries enforcement for non-Magnuson Act items, such as marine mammals, the International Pacific Haibut Commission, and tunas (i.e., Coast Guard's equivalent of NMFS Category D costs). This ten percent is not included below.

Cost incurred by the Department of State, $250,000, complete the computation of FY-1981 Federal costs. (FY 1982 costs are not used because the final budget and appropriations are not

settled.) NOAA finds that the total Federal costs of administering the Magnuson Act are as follows:

	Fiscal year 1981	Subtotals
NMFS:		
Category A:	16,788,800	
Category B:	21,132,800	
Category C:	15,509,500	
(Less observer program)	(1,664,000)	
		$51,767,100
NOAA		4,210,000
State Department		250,000
Coast Guard		56,673,900
Costs (total)		112,901,000

Basis for determining foreign catch ratio

Commenters addressed the derivation of the ratio used to calculate the portion of total Magnuson Act costs to be paid by foreign vessels. Specifically, commenters questioned the meaning of the phrase "territorial waters of the United States". NOAA agrees that the domestic catch of marine fish in internal waters should be included in the calculations. Domestic catches delivered at sea to foreign processing vessels ("joint ventures") are included in the U.S. catch. Fish caught by Canadian vessels in the Georges Bank "disputed zone" are included in the foreign catch. This is because nondomestic fishermen are harvesting fish in waters the United States considers to be the FCZ. Pacific halibut and Fraser River sockeye and pink salmon are included in the calculations since the Magnuson Act does not differentiate between those species and other fish which are harvested in the FCZ or in territorial waters of the United States.

Calculations for the new ratio of 31.6% are shown in Table 2; the ratio is based on 1980 commercial catch data and 1979 recreational catch data, which are the most recent years for which data are available.

TABLE 2.—ESTIMATE OF RATIO OF FOREIGN CATCH TO TOTAL CATCH, 1980

(Including internal waters)

		Metric tons
Total U.S. reported catch[1]		3,056,228
Exclusions:		
International waters (exc. Tunas)	14,778	
Tunas	226,816	
Freshwater (inc. Gt. Lakes Alewives)	66,399	
Total	(307,993)	
Adjusted U.S. commercial catch in territorial waters and fishery conservation zone		2,748,235
Add correction for molluscs[2]		599,252
Add recreational catch in 1979[3]		185,068
Total U.S. catch, territorial waters and fishery conservation zone		3,532,555

TABLE 2.—ESTIMATE OF RATIO OF FOREIGN CATCH TO TOTAL CATCH, 1980—Continued

(Including internal waters)

		Metric tons
Add total foreign catch, fishery conservation zone[4]		1,631,020
Grand total catch, territorial waters and fishery conservation zone		5,163,575

Ratio of foreign to total is 31.6 percent

[1] This figure and all following figures for U.S. commercial catch are from pages 8–11, "Fisheries of the United States, 1980." Calculated in pounds and converted to metric tons; figures may not add exactly.

[2] Addition of mollusc shells. U.S. statistics for internal use include only edible portions of molluscs, but international standard is whole animal. Conversion factor varies for each species; they are available upon request.

[3] From page 14, "Fisheries of the United States, 1980." Includes catch types A and B1, assumes that Pacific catch is 15 percent of total. Only 1979 figures are available.

[4] "Fisheries of the United States, 1980"—page 26.

Midyear adjustment of fees. NOAA has decided that the fees will not be revised during 1982 after they are published in a final rulemaking. The proposed fees are NOAA's best estimate of a schedule that meets the requirements of section 204(b)(10) of the Magnuson Act. NOAA is not required to adjust the schedule if the harvest deviates from the predictions. The predictions are shown in the regulatory impact review.

Criteria for fees

Until 1982, five criteria were used in establishing the fee schedule. They were:

1. Fees will not be used as a management tool to restrict foreign fishing. Foreign fishing effort will be controlled by management plans and associated regulations.

2. The fees will not be so high as to prevent nations from utilizing the allocated surplus solely because of the fee level. The fees must be reasonable.

3. Fees will recover an appropriate part of the management costs related to foreign fishing.

4. The same rate must apply to all foreign nations and the rate will not change within a given calendar year.

5. Fees will be simple to compute and collect. Fees shall be paid as provided in the Magnuson Act.

The ANPR proposed new criteria to measure alternative methods of recovering the costs. A few commenters suggested changes, which are incorporated here. The major difference between the old criteria and the proposed criteria is that fees may be designed to recover the target costs. Other differences include a greater emphasis on administration, which includes verification of fees to be paid, and a clearer emphasis on the economics of foreign fisheries.

The revised criteria, in order of priority, are:

(1) Be consistent with the Magnuson Act, Governing International Fishery Agreements, and other applicable law;

(2) Achieve recovery of Magnuson Act costs;

(3) Be easy to administer;

(4) Be flexible enough to consider the economics of different fisheries;

(5) Minimize disruption of traditional fishing practices, existing markets and consumer demand.

The overall sum to be collected in 1982 is 31.6% x $112,901,000 or $35,676,716. Of this total, NMFS estimates, based on applications received in FY 1981, that the fees collected for permit applications will be $78,500. Thus, foreign fishing vessel owners must pay $35.6 million in 1982 fees in addition to permit application fees. The ANPR suggested three options to collect this fee: (1) Continue the present system of using variable fees by species for actual catch; (2) charge an identical tonnage fee for all species allocated; and (3) base the fee on fishing effort. The first option was preferred by commenters to the ANPR, overwhelmingly. This is the option proposed.

Unlike previous years, the proposed poundage fees are not directly related to U.S. exvessel or other prices in 1982. Instead, the 1981 fees (46 FR 2079), which were discussed thoroughly with interested parties before being implemented, are used as a reference level. The 1982 fees are derived by multiplying each 1981 species fee by a factor of 1.66 in order to attain the aggregate fee collection target. (The factor 1.66 is derived by dividing a total fee based on the anticipated 1982 catch at the 1981 species fees into $35.6 million.) NOAA believes that the proposed fee schedule: (a) Meets criterion #1; (b) satisfies criteria #2 and #5 insofar as it is not expected to disrupt traditional foreign fishing practices; and (c) will meet criterion #3 in larger measure as the result of experience with this system.

Fishing Vessel and Gear Damage Compensation Fund

The Assistant Administrator for Fisheries, NOAA, has determined that $2,500,000 will be needed during 1982 to capitalize the Fishing Vessel and Gear Compensation Fund established by 22 U.S.C. 1980(f). It is proposed, therefore, to reduce the surcharge on poundage fees from 20 percent to 8 percent. While 7 percent of $35.7 million would collect $2,500,000, the rate of 8 percent is proposed in order to allow a buffer of

$356,000 in the event that U.S. claims exceed predictions.

It is proposed to retain a 20 percent surcharge on the 1982 permit fees. The basic fee will be maintained at $50 per vessel in 1982; together with the 20% surcharge, the charge for 1982 permits will be $60. Most nations have already paid this surcharge with the 1982 permit applications. To reduce the surcharge to 8 percent would result in substantial bookkeeping costs to refund or credit the vessel owners or operators. The bookkeeping costs per permit would greatly exceed $6.00, which is the difference between a surcharge of 8 percent and 20 percent on each application. This excess will be included in the buffer.

Classification

NOAA has prepared a regulatory impact review (RIR) that discusses the economic consequences and impacts of the proposed fee schedule and its alternatives. Copies of the RIR are available at the above address. Based on the RIR, the Administrator, NOAA, has determined that the proposed schedule does not constitute a major rule under E.O. 12291. The regulatory impact review demonstrates that the proposed fee schedule complies with the requirements of section 2 of E.O. 12291. NOAA has complied with the requirements of section 3(c)(3) of E.O. 12291 by transmitting to the Director of the Office of Management and Budget a copy of this proposed non-major rule, at least ten days prior to publication.

The RIR also demonstrates that the principal economic impact of the proposed fee schedule upon domestic small entities generally will affect only a small number of U.S. fishermen (about 25 vessels) engaged in joint venture operations with foreign processing vessels. It is not expected to affect U.S. fishermen who deliver fish to Soviet vessels because Soviet vessels do not receive allocations. Therefore, the NOAA Administrator has certified that the proposed fee schedule will not have a significant economic impact upon a substantial number of small entities for purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* This certification has been forwarded to the Chief Counsel for Advocacy of the Small Business Administration. Because the proposed fee schedule will not have a significant economic impact upon a substantial number of small entities, a regulatory flexibility analysis is not required.

NOAA Directive 02-10 published at 45 FR 49312 (July 24, 1980) adopts internal procedures to implement the National Environmental Policy Act (NEPA), as amended, 42 U.S.C. 4321 *et seq.* Under those procedures, programmatic functions with no potential for significant environmental impacts are generally excluded from NEPA requirements.

The proposed fee schedule has no direct impact on the fishery resources in the FCZ. At the most, a fee schedule might affect the harvesting strategy of foreign fishing vessels and result in a different species mix being removed from the environment; for example, under an effort-day fee schedule, temporal changes and pulse fishing could have a significant impact. However, the proposed schedule was selected in part because it meets the criterion that fees should minimize disruption of traditional fishing patterns. Since this fee schedule will not prevent harvesting the total allowable level of foreign fishing (TALFF), and the environmental impact of harvesting the TALFF is described for each fishery management plan, no further environmental assessment is necessary.

This proposed rule has no information collection provisions, for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Dated: November 5, 1981.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

PART 611—FOREIGN FISHING

For the reasons set forth in the preamble, 50 CFR Part 611 is proposed to be amended to read as follows:

1. The authority citation is:

Authority: 16 U.S.C. 1801 *et seq.*

2. It is proposed to amend 50 CFR 611.22, by revising paragraphs (a)(1)(i) and (a)(2)(i), by removing paragraph (a)(2)(iv), and by revising paragraph (b), to read as follows:

§ 611.22 Fee schedule for foreign fishing permits.

(a) * * *

(1) *Permit fees.* (i) Each vessel permit application submitted under § 611.3 must be accompanied by a fee of $60.00 per vessel. At the time the application is submitted to the Department of State, the fees must be sent to: Division Chief, Permits and Regulations Division, F/CM7, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C. 20235. The permit fee payment must be accompanied by a list of the vessels for which payment is made.

* * * * *

(2) *Poundage fees.* (i) If a nation chooses to accept an allocation, poundage fees must be paid at the rate specified in Table I, plus the surcharge required by paragraph (b) of this section.

* * * * *

TABLE 1.-SPECIES AND POUNDAGE FEE

[Dollars per metric ton]

Species	Poundage fee
1. Butterfish	118
2. Hake, red	15
3. Hake, silver	18
4. Herring, river	17
5. Mackerel, Atlantic	40
6. Other finfish (Atlantic)	80
7. Sharks (Atlantic)	59
8. Squid, *Illex*	23
9. Squid, *Loligo*	86
10. Shrimp, royal red	(1)
11. Atka mackerel	13
12. Cod, Pacific	45
13. Flatfish (Alaska)	17
14. Flounders (WOC)	91
15. Jack mackerel	12
16. Pacific ocean perch	73
17. Other groundfish (Alaska)	15
18. Other fish (WOC)	37
19. Pollock, Alaska	23
20. Sablefish (Alaska)	110
21. Sablefish (WOC)	118
22. Rockfish	43
23. Snails	32
24. Squid (Pacific)	17
25. Whiting, Pacific	10
26. Precious coral	(1)
27. Seamount groundfish	23
28. Dolphinfish (mahi mahi) (American Samoa)	86
29. Wahoo (American Samoa)	13
30. Sharks (Pacific) (American Samoa)	7
31. Sharks, Pacific (Hawaii) (Guam, Northern Marianas, U.S. possessions)	13
32. Swordfish (Hawaii)	372
33. Swordfish (American Samoa)	75
34. Swordfish (Guam, Northern Marianas, U.S. possessions)	256
35. Striped marlin (Hawaii)	430
36. Striped marlin (American Samoa)	58
37. Striped marlin (Guam, Northern Marianas, U.S. possessions)	256
38. Other Pacific billfish (Hawaii)	171
39. Other Pacific billfish (American Samoa)	58
40. Other Pacific billfish (Guam, Northern Marianas, U.S. possessions)	232

[1] Reserved.

(b) The owner or operator of each foreign vessel who accepts and pays poundage fees under paragraph (a)(2) of this section must pay a surcharge equal to 8 percent of the poundage fees. The Assistant Administrator may reduce or waive the surcharge if he determines that the Fishing Vessel and Gear Damage Compensation Fund is capitalized sufficiently.

* * * * *

[FR Doc. 81-32597 Filed 11-10-81; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 611

Foreign Fishing Regulations: Reports and Recordkeeping

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

ACTION: Proposed rulemaking.

SUMMARY: The National Marine Fisheries Service proposes: (1) Amendments to its foreign fishing reporting requirements, and (2) new log keeping requirements for vessels fishing in the Gulf of Alaska and Bering Sea. Improved reports and recordkeeping by foreign fishermen are needed. The proposed amendments would improve the accuracy of the catch and effort information required of foreign fishing vessels and would facilitate the audit of vessels' catches and records at sea by U.S. enforcement officers.

DATE: Comments must be received no later than December 28, 1981.

ADDRESS: Send comments to Alfred J. Bilik, Acting Chief, Permits and Regulations Division, F/CM7, National Marine Fisheries Service, 3300 Whitehaven St. NW, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Alfred J. Bilik, 202–632–7432.

SUPPLEMENTARY INFORMATION: Under authority of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) (Magnuson Act), regulations applied to foreign fishermen in the U.S. fishery conservation zone (FCZ) were promulgated on December 19, 1978 (43 FR 59292). Section 611.4, Vessel Reporting, requires all foreign fishing vessels to report certain activities while operating within the FCZ. Section 611.9, Reports and Recordkeeping, requires foreign fishing vessles to maintain a transfer log and a daily cumulative catch log, and to provide weekly catch reports. The weekly catch reports are submitted by each foreign nation on a vessel-by-vessel basis. These reports and recordkeeping requirements were designed to provide essential catch and effort information needed to manage the various fisheries in the FCZ, but experience has shown that the data maintained and reported by the foreign fishing vessels should include catch, the transformation of the catch into various fish products, the storage of products in holds of various sizes, and the transfer of all or part of the products to different vessels.

This proposed amendment would replace the current daily cumulative catch log with a daily cumulative catch/effort/production log for foreign vessels. This new log will be used in the Alaska region on a trial basis before it is extended to the rest of the FCZ. This change in recordkeeping will not create an undue burden on the foreign fleets, since the required information is already being recorded independently in the current daily cumulative catch log, the fishing log and the production log maintained by each vessel.

The proposed amendment also would require foreigners to report cargo transfers. Current regulations require the vessels to log, but not report, the transfer of any fish or fishery product. The proposed changes to the regulations would require that those logs be maintained in English, and that any vessel receiving fish or fishery products report the type of product by species received or discharged in the FCZ within 12 hours after the transfer operation is completed.

The proposed amendment would shift the responsibility for submitting accurate weekly catch reports to individual fishing vessels and away from the agents of vessel's flag nations. This change would not create any additional burden on the fishing vessels because such vessels prepare the original reports. However, this change would allow enforcement actions to be taken against vessels for submitting inaccurate reports.

Finally, the proposed amendment would require foreign vessels operating in the Northwest Atlantic Ocean Fishery to deliver "begin" and "cease" notices to the U.S. Coast Guard 72 hours in advance in order to allow U.S. observers to prepare for boarding.

The Administrator, NOAA, has determined that this rule is not a major rule requiring a regulatory impact analysis under E.O. 12291, since it is merely a reporting requirement. Nor is an environmental assessment or environmental impact statement required under the National Environmental Policy Act. Under the Paperwork Reduction Act, the Office of Management and Budget is reviewing all of the information collection and recordkeeping requirements proposed in this notice. The proposed rule will not be finalized until OMB has approved the information collection, and has assigned a control number.

The Assistant Administrator for Fisheries, NOAA, has determined that this rulemaking is consistent with the provisions of the Magnuson Fishery Conservation and Management Act.

Dated: November 6, 1981.

Everett Craig Felber,

National Marine Fisheries Service.

PART 611—FOREIGN FISHING

Authority: 16 U.S.C. 1801 *et seq.*

For the reasons set out in the preamble, 50 CFR Part 611 is proposed to be amended as follows:

1. Section 611.4 is amended by adding paragraph (a)(6), and revising paragraphs (c) and (d) to read as follows:

§ 611.4 Vessel reporting.

(a) * * *

(6) The time, position, and quantity of fish or fish products in metric tons *offloaded* or *received* by species and processing code (see Section 611.9, Appendix VII) and, in addition, the quantity of fish or products remaining aboard the offloading vessel by species and processing code (action code TRANSFER).

* * * * *

(c) The notices required by paragraphs (a)(1) and (a)(5) of this section must be *delivered* to the appropriate Coast Guard Commander at least 24 hours prior to beginning or ceasing fishing, except as otherwise required in §§ 611.50(f) and 611.1(d). The notice required by paragraph (a)(6) of this section must be *transmitted* within 12 hours of the completion of a transfer and *delivered* within 72 hours of the completion of the transfer. The other notices required by paragraph (a) of this section must be *transmitted* prior to the event requiring notice and *delivered* within 72 hours of the event.

(d) The notices required by this section must contain the following information: The message identifier "VESREP" to indicate it is a vessel report, vessel name, international radio call sign, date (month and day based on G.m.t.), time (hour and minute G.m.t.), latitude and longitude (degrees and minutes), fishing area (use code specified in Appendix II to § 611.9), and the appropriate action code (see paragraphs (a) (1)–(6) of this section).

(1) In notices required by paragraphs (a)(1), (a)(3) and (a)(4) of this section (action codes BEGIN, RETURN and SHIFT) the fishing area, position, date and time to be reported shall be the area and position to which the vessel is proceeding and the date and time it will start fishing.

An illustration of a sample report is as follows: The stern trawler NAVIS, LTUX, will begin fishing on March 11 at 1320 G.m.t. at position 59°30′ N. latitude, 142°30′ W. longitude in the Yakutat fishing area of the Gulf of Alaska. The required message would be transmitted as follows:

FROM: M/V NAVIS, LTUX
TO: 17TH COAST GUARD DISTRICT, JUNEAU, ALASKA, ALASKA REGION, NMFS, JUNEAU, ALASKA
VESREP
NAVIS/LTUX/0311/1320/5930N/14230 W/64/BEGIN//

(2) In notices required by paragraphs (a)(2) and (a)(5) of this section (action

codes DEPART and CEASE) the fishing area, position, date and time to be reported shall be the area and positions from which the vessel is departing and the date and time it will stop fishing. An illustration of a sample report is as follows: The stern trawler NAVIS, LTUX, will cease fishing on July 8 at 1215 G.m.t. at position 57°30'N. latitude, 178°30'W. longitude in the Bering Sea Area I fishing area of the Bering Sea. The required message would be transmitted as follows:

FROM: M/V NAVIS, LTUX
TO: 17TH COAST GUARD DISTRICT, JUNEAU, ALASKA, ALASKA REGION, NMFS, JUNEAU, ALASKA
VESREP
NAVIS/LTUX/0708/1215/5730N/17830W/51/CEASE//

(3) In the notice required by paragraph (a)(6) of this section (action code TRANSFER) the fishing area, position, date and time to be reported shall be the area, position, date and time of the completion of the transfer. An illustration of a sample report is as follows: The stern trawler NAVIS, LTUX, transfers fish and fish products to the support vessel SAVIN, LXYZ, on March 11 in position 59°30'N. latitude, 142°30'W. longitude in the Yakutat fishing area of the Gulf of Alaska. Transfer operations were concluded at 1320 G.m.t. and the following product was transferred: 200 m.t. of dressed, frozen pollock; 100 m.t. of whole, frozen Atka mackerel, and 157.4 m.t. of fish meal. The following products remained aboard the NAVIS: 50 m.t. of dressed, frozen pollock and 8 m.t. of fishmeal. The required message from the vessel SAVIN would be transmitted as follows:

FROM: M/V SAVIN, LXYZ
TO: 17TH COAST GUARD DISTRICT, JUNEAU, ALASKA, ALASKA REGION, NMFS, JUNEAU, ALASKA
VESREP
SAVIN/LXYZ/0311/1320/5930N/14230W/64/TRANSFER FROM NAVIS/LTUX//701/200/DH//207/100/W//157.4/MEAL//.

The required message from the vessel NAVIS would be transmitted as follows:

FROM M/V NAVIS, LTUX
TO: 17TH COAST GUARD DISTRICT, JUNEAU, ALASKA, ALASKA REGION, NMFS, JUNEAU, ALASKA
VESREP
NAVIS/LTUX/0311/1320/5930N/14230W/64/TRANSFER TO/SAVIN/LXYZ//701/200/DH//207/100/W//157.4/MEAL//REMAINING//701/50/DH//8 MEAL//.

* * * * *

2. Section 611.9 is amended by revising paragraphs (a), (b), (c), (d)(1), (d)(2)(vi), (e)(1), (f)(1), (g)(1), and adding paragraph (d)(2)(ix) as follows:

§ 611.9 Recordkeeping and reports.

(a) The operator of each foreign fishing vessel must maintain an accurate log of catch, production, and effort information in accordance with the regulations for the fishery in which the vessel is engaged.

(b) *Transfer log.* Within 12 hours of the completion of each transfer of any fish or fishery product, the operators of both the transferring and receiving vessels must record in their respective transfer logs in English:

(1) The date, time, and location (in geographic coordinates) to the transfer;

(2) The weight by species and product type (as listed in Appendices III and VII) of all fish transferred; and

(3) The name, nationality, and permit number of the other vessel involved in the transfer.

(c) *Communications log.* The operator of each foreign fishing vessel must record in English, in a communications log, the Greenwich mean time and content of each notification made under § 611.4.

(d) *Daily cumulative catch log.* (1) Except as provided in §§ 611.90(e)(2)–(3), 611.61(e)(2) 611.81(e)(1) and 611.81(e)(3), all foreign fishing vessels must maintain a daily cumulative catch log in English. This log must have recorded on a daily and a cumulative basis the round weight of all catches of all allocated species and be maintained during the permit period or until all fish or fish products produced during the permit period are transferred, whichever is longer. Information for each fishing area must be maintained on a separate page of the log.

(2) * * *

(vi) Daily catch by allocated species to nearest tenth of a metric ton (0.1 m.t.), regardless of whether retained or discarded; * * *

(ix) The vessel's registered or certified grain and bale capacities (in cubic meters) of each cargo hold where fish products are stored.

* * * * *

(e) *Weekly catch report.*

(1) Except as provided in § 611.90(e)(3), each permitted vessel must submit a weekly report stating the catch in round weight of the species allocated to that nation, for the weekly period Sunday through Saturday, G.m.t. The report must be submitted through the vessel's designated representative. In the Washington, Oregon, California trawl fishery, the Gulf of Alaska groundfish fishery, and the Bering Sea and Aleutian Islands groundfish fishery, the numbers of salmon and halibut caught must be also be reported. Also, in the Bering Sea and Aleutian Islands groundfish fishery, weight of the prohibited species herring (code 209) to the nearest 1/10 (tenth) of a metric ton must be recorded (see § 611.93(e)(2)(i)).

* * * * *

(f) *Weekly reports of receipts of U.S. harvested fish.*

(1) Each permitted vessel must submit, through the designated representative, a weekly report stating any receipt of U.S. harvested fish for the weekly period Sunday through Saturday, G.m.t. No report is required for vessels which receive no U.S. harvested fish during the reporting period.

* * * * *

(g) *Weekly report of marine mammal incidential catch.*

(1) Except as otherwise provided in § 611.90(e)(3), each permitted vessel must submit, through the designated representative, a weekly report stating any incidental catch of marine mammals for the weekly period Sunday through Saturday, G.m.t. No report is required for vessels which have no incidential catch of marine mammals during the reporting period.

* * * * *

3. Section 611.9 is amended by adding the following Appendix VII:

APPENDIX VII.—PRODUCTION CODES

Code	Product type
W	Frozen whole.
DH	Frozen dressed/head and guts removed.
DT	Frozen dressed/head, guts and tail removed.
H	Frozen/head only removed.
P	Pectoral collars frozen separately from trunk.
FW	Fillets with skin/two fillets per fish.
FWO	Fillets without skin/two fillets per fish.
BFW	One piece fillet (butterfly) with skin.
BFWO	One piece fillet (butterfly) without skin.
S	(Flounders) frozen steaks/diagonal cut from midsection of fish.
ST	(Flounders) stamped or punched piece from midsection of fish.
HDS	Heads frozen separately from remainder of fish.
R	Roe frozen separately from remainder of fish.
I	Intestinal organs frozen separately from remainder of fish.
CN	Canned meat.
Surimi	Frozen minced fish product (Japan).
Tara Shiniku	Frozen minced fish product (Japan).
Otoshimi	Frozen minced fish product (Japan).
O	Other product (specify) (not including meal and oil).

4. Section 611.50 is amended by adding paragraph (f) to read as follows:

§ 611.50 Northwest Atlantic Ocean Fishery.

* * * * *

(f) *Vessel Reporting.* (1) The notices required by § 611.4 (a)(1) and (a)(5) of this Part must be *delivered* to the Coast Guard Atlantic Area at least 72 hours prior to beginning or ceasing fishing.

5. Section 611.90 is amended by revising paragraph (e)(2) and adding paragraph (e)(3) and Appendix I to read as follows:

§ 611.90 North Pacific Ocean and Bering Sea; general provisions.

* * * * *

(e)* * *

(2)(i) *Daily cumulative catch/effort/production log.* All foreign fishing vessels subject to this Subpart must maintain a daily catch/effort/production log instead of the daily cumulative catch log required by 50 CFR 611.9(d). This log will be supplied by the Alaska Region, NMFS, via the designated representative and must be maintained in English and in accordance with the instructions set out in Appendix I of this section. This log must have recorded on a trawl-by-trawl or set-by-set basis and on a daily and a cumulative basis the round weight of all catches of all allocated species during the permit period. The log must have recorded on a daily and cumulative basis the actual weight of all fish products by allocated species during the permit period. The log must also contain on a trawl-by-trawl or set-by-set basis the particulars of each trawl or set as outlined in Appendix I. The log must be maintained aboard the vessel for the duration of the permit period or until all fish or fish products produced during the period are transferred, whichever is longer. Information for each fishing day shall be maintained on a separate page of the log. All entries in this log must be in ink, individual pages of the log must be completed in consecutive order, and the original copy of this log must be presented to an "Authorized Officer" on demand for inspection.

(ii) *Use of NMFS supplied daily cumulative catch/effort/production log.* Each vessel that catches or processes fish in the FCZ seaward of the State of Alaska shall use the daily cumulative catch/effort/production log supplied by NMFS. A separate log shall be maintained for each fishery listed in § 611.90. The original copy of this daily cumulative catch/effort/production log must include any and all pages which have been signed, altered, or otherwise annotated by an "Authorized Officer." No pages shall be removed or omitted except by an "Authorized Officer." Entries in the log must not be erased or altered; if any incorrect entry is made, a line must be drawn through the entire entry and initialed and dated by the person correcting the entry. No entries shall be made or pages omitted to account for days when no fishing occurs. No entries shall be made in this log for fish taken outside the FCZ. entries shall be made in this log for the transfer of fish or fish products produced from fish caught in the FCZ off Alaska, regardless of the location of the transfer.

(iii) *Surrender of the daily cumulative catch/effort/production log.* The original copy of the daily cumulative catch/effort/production log (including all pages annotated by the "Authorized Officers") must be submitted through the designated representative to the Regional Director (address: NMFS, P.O. Box 1668, Juneau, Alaska 99802). The log must be submitted by March 31 following the end of the permit period which the log covers or within 90 days following the transfer of all fish or fish products produced in the preceding permit year.

(3) *Cumulative catch/effort/production log, weekly catch report, and weekly report of marine mammal incidental catch.* (i) The requirements of paragraph (e)(2) of this section that each vessel maintain a cumulative catch/effort/production log, of § 611.9(e) that each vessel submit the weekly catch report, and of § 611.9(g) that each vessel submit the weekly report of marine mammal incidental catch are waived, except as provided herein, for fishing vessels that are not equipped with processing facilities and deliver all catches to a factory ship, provided that a consolidated cumulative catch/effort/production log is maintained by the factory ship which accounts for all such fish received, and provided that the required data for the fishing vessels are consolidated and reported by the factory ship in the manner specified in paragraph (e)(2) of this section and § 611.9(e) and (g). The factory ship shall log the catch of each delivering vessel on a daily basis instead of on a trawl-by-trawl basis, the prohibited species and marine mammal portion of Section Two shall be maintained on a daily basis by the factory ship for the fleet of delivering vessels instead of on an individual vessel basis. The factory ship shall also maintain Section Three of the log (see Appendix I). Each vessel for which reporting requirements are waived under this section shall maintain Section One of the daily cumulative catch/effort/production log aboard the vessel during the permit period.

(ii) Each vessel that receives catches from U.S. vessels must maintain a consolidated daily cumulative catch/effort/production log which accounts for all fish received from U.S. vessels. The receiving vessel shall log the catch of each delivering vessel on a daily basis and the prohibited species and marine mammal portion of Section Two shall be maintained for the fleet of delivering vessels instead of on an individual vessel basis. The receiving vessel should also maintain Section Three of the log (see Appendix I).

* * * * *

APPENDIX I

Daily Cumulative Catch/Effort/Production Log

A. Format

1. The log must contain one page for each day of fishing.

2. Each page must be divided into three sections. The sections must include:

(a) Section One: Vessel particulars, weather, and fishing effort.

(b) Section Two: Catch statistics.

(c) Section Three: Production statistics.

3. Each log must contain a cover page with vessel particulars as outlined in § 611.9(d)(2).

B. Form Entries

1. Cover Page.

(a) Name and call sign: Enter the vessel's name and international radio call sign (IRCS) as shown on the permit.

(b) Permit number: Enter the vessel's assigned permit number for the current year.

(c) Owner or company: Enter name of the individual or company owning the vessel.

(d) Gross tonnage: Enter the vessel's registered gross tonnage.

(e) Net tonnage: Enter the vessel's registered net tonnage.

(f) Length: Enter the vessel's registered length.

(g) Hold capacities: Enter the vessel's registered or certified grain and bale capacities (in cubic meters) of each cargo hold where fish products are stored.

2. Section One:

(a) Date: Enter the date based on Greenwich mean time (G.m.t.) on which the catch was taken.

(b) Vessel name: Enter name.

(c) IRCS: Enter international radio call sign.

(d) U.S. permit number: Enter vessel's permit number.

(e) Noon position: Enter the vessel's geographic coordinates (latitude/longitude) at noon (1200 hours) G.m.t.

(f) Wind direction/force: Enter the wind direction and force (in knots) at noon G.m.t.

(g) Bar: Enter barametric pressure (in millibars) at noon G.m.t.

(h) Sea state: Enter the swell height/direction (in meters) at noon G.m.t.

(i) Air/water temp: Enter air and surface water temperature (degrees centigrade) at noon G.m.t.

(j) Master: Enter master's signature.

(k) Trawl or set number: Enter consecutive numbers for each trawl or set made that day.

(l) Fishing area number: Enter the code number (see Section 611.9 Appendix II) of the statistical area where each trawl or set was made.

(m) Gear type: Enter the type of gear used such as: LL (longline), pots, Mtrl (midwater trawl), GN (gillnet), Btrl (bottom trawl), Ptrl (pair trawl), or DS (danish seine).

(n) Setting time: Enter the time based on G.m.t. at which each set or trawl was begun. For trawlers this should be the time the net

enters the water. For vessels using fixed gear this should be the time the set is started.

(o) Setting position: Enter the geographic coordinates (latitude/longitude) where each trawl or set was begun. For longline and gillnet vessels, this would be the position where the first section of gear is set.

(p) Course of set: Enter the vessel's course (degrees/magnetic or true) when each trawl or set was begun.

(q) Sea depth: Enter the average sea depth in meters.

(r) Depth of set: Enter the average depth in meters at which the gear was set or towed.

(s) Duration of set: Enter the elapse time in minutes of each set or trawl.

(t) Hauling time: Enter the ending time based on G.m.t. when each trawl or set was hauled. For trawlers this should be the time the net is received on deck of the vessel. For vessels using fixed gear, this should be the time that retrieval of fixed gear is complete.

(u) Hauling position: Enter the geographic coordinates (latitude/longitude) at which the set or trawl was hauled. For longline and gillnet vessels this would be the position of the last section or end of the gear.

(v) No. of pots or longline units: For longline or gillnet, enter the number of longline or gillnet units (300 fathoms per unit). For pot vessels, enter the number of pots set.

(w) No. of hooks per longline unit: Enter the number of hooks on 300 fathoms of groundline.

(x) Trawl speed: For trawlers, enter the average speed at which the gear was towed.

(y) Net mesh size: Enter the millimeter mesh size of the cod end (trawlers) or gillnet (inside measure when wet after use).

3. Section Two:

(a) Species: Enter the common name and species code for each species caught for which there is an applicable national allocation. Use appropriate species code from § 611.9 Appendix I.

(b) Set/trawl number: Enter number corresponding with sets or trawls listed in Section One.

(c) Catch: Enter the catch by species and by trawl or set, to the nearest tenth of a metric ton (0.1 m.t.) round weight.

(d) Daily disposition: For each species, specify the daily disposition as follows: Enter "C" for fish consumed on board and for fish which are frozen or otherwise processed other than for fishmeal; and enter "M" for whole fish which are processed for fishmeal; and enter "D" for fish which are discarded. The entries under "C" should be for round weight even though some part of the fish is used for fishmeal.

(e) Daily total: Enter the total daily catch by species, to the nearest tenth of a metric ton (0.1 m.t.) round weight.

(f) Cumulative total: Enter the cumulative total catch by species, to the nearest tenth of a metric ton (0.1 m.t.) round weight.

(g) Total catch:

(i) Daily total: Enter the daily total for all species to the nearest tenth of a metric ton (0.1 m.t.) round weight for each category of disposition (C, M, and D).

(ii) Cumulative total: Enter the cumulative total for all species to the nearest tenth of a metric ton (0.1 m.t.) round weight for each category of disposition (C, M, and D).

(h) Prohibited species: Enter the number of individual salmon (species code 210) and halibut (species code 722) or the round weight to the nearest tenth of a metric ton (0.1 m.t.) of herring (species code 209) discarded from each set or trawl, as required by §§ 611.9(d)(4) and 611.93(e)(2)(i). Enter the daily and cumulative total for each prohibited species that is required to be logged.

(i) Marine mammals: Enter the species code (see § 611.9 Appendix I), number of animals involved, and status code (see § 611.9 Appendix VI) for each incident.

4. Section Three:

(a) Species: Enter the species code for each species caught for which there is an applicable national allocation. Use appropriate species code from § 611.9 Appendix I.

(b) Products: Enter the production code for each frozen or canned product produced from § 611.9 Appendix VII.

(c) PRR %: Enter the product recovery rate to the nearest percentage (example: 27%) for each type of product per species. This is a ratio expressed as a percentage of the weight of processed product divided by the round weight of fish used to produce that amount of product.

(d) Daily total: Enter the daily total of each product produced per species to the nearest thousandth of a metric ton (0.001 m.t.).

(e) Cumulative total: Enter the cumulative total of each product produced per species to the nearest thousandth of a metric ton (0.001 m.t.).

(f) Amount transferred: Enter the cumulative total of each product per species transferred off the vessel either inside or outside of the FCZ (including products delivered to a port by the fishing vessel) to the nearest thousandth of a metric ton (0.001 m.t.).

(g) Balance: Enter the cumulative total of each product per species aboard the vessel to the nearest thousandth of a metric ton (0.001 m.t.).

(h) Total frozen product: Enter the total for all species to the nearest thousandth of a metric ton (0.001 m.t.) of the daily total, cumulative total, amount transferred and quantity remaining onboard.

(i) Meal and Oil:

(1) Meal:

Daily total: Enter the daily total produced to the nearest thousandth of a metric ton (0.001 m.t.).

Cumulative total: Enter the cumulative total produced to the nearest thousandth of a metric ton (0.001 m.t.).

Amount transferred: Enter the cumulative total transferred to the nearest thousandth of a metric ton (0.001 m.t.).

Balance: Enter the cumulative total remaining aboard the vessel to the nearest thousandth of a metric ton (0.001 m.t.).

(2) Oil:

Daily total: Enter the daily total produced to the nearest thousandth of a metric ton (0.001 m.t.).

Cumulative total: Enter the cumulative total produced to the nearest thousandth of a metric ton (0.001 m.t.).

Amount transferred: Enter the cumulative total transferred to the nearest thousandth of a metric ton (0.001 m.t.).

Balance: Enter the cumulative total aboard the vessel to the nearest thousandth of a metric ton (0.001 m.t.).

C. *Log maintenance.* The effort section (all of Section One) of the daily cumulative catch/effort/production log is to be updated within 2 hours of the hauling time. The species code and catch (m.t.) for each trawl or set (Section Two) shall be entered within 4 hours of the hauling time. The production portion (Section Three) of the log shall be updated within 12 hours following the end of the day on which the catch was taken. The date of catch shall be based on the day and time (G.m.t.) the gear is hauled. Entries as to catch weights shall be based on the most accurate method available to the vessel, either scale round weights or factory weights converted to round weights. Entries as to product weights shall be based on the number of production units (pans, boxes, cans, or bags) and the actual weight of the production unit with reasonable allowances for water added. Allowances for water added shall not exceed 5 percent of the unit weight. Product weights shall not be based on the "commercial or arbitrary wholesale weight of the product but on the actual weight of the product."

[FR Doc. 81-32581 Filed 11-10-81; 9:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 46, No. 218
Thursday, November 12, 1981

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Tobacco Inspection; C. R. McCauley, III, W. N. McCauley, and W. L. Hopkins; Public Hearing Regarding Application

Notice is hereby given of a public hearing to be held in the County Commissioner's Hearing Room, Alamance County Courthouse Annex, Graham, North Carolina, beginning at 10:00 a.m., e.s.t. on November 17, 1981, upon the application of Mr. C. R. McCauley, III, Carolina Tobacco Warehouse, Burlington, North Carolina; Mr. W. N. McCauley, Farmers Tobacco Warehouse, Burlington, North Carolina; and Mr. W. L. Hopkins, Piedmont Tobacco Warehouse, Mebane, North Carolina, for tobacco inspection and price support services to a new market which would be a consolidation of the currently designated markets of Burlington and Mebane, North Carolina. Such public hearings will be conducted and evidence received governing the extension of tobacco inspection and price support services to new markets and to additional sales on designated markets (7 CFR Part 29, Subpart A, §§ 29.1–29.3).

Dated: November 10, 1981.

C. W. McMillan,
Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 81-32877 Filed 11-10-81; 12:09 pm]
BILLING CODE 3410-02-M

COMMISSION ON CIVIL RIGHTS

Maryland Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Maryland Advisory Committee to the Commission will convene at 6:00 p.m. and will end at 9:00 p.m., on December 1, 1981, at the Tatem Act Center, Avalon Speech Studio, in the Speech Studio, Hood College Campus, Frederick, Maryland, 21701. The purpose of this meeting is to discuss plans for followup to recent projects and plan for fiscal year 1982 activities.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Dr. Martha E. Church, Presidents' House, Hood College, Frederick, Maryland, 21701, (301) 663–4744 or contact the Mid-Atlantic Regional Office, 2120 L Street, N.W., Room 510, Washington, D.C. 20037, (202) 254–6670.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 6, 1981.

John I. Binkley,
Advisory Committee Management Officer.

[FR Doc. 81-32625 Filed 11-10-81; 8:45 am]
BILLING CODE 6335-01-M

Virginia Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Virginia Advisory Committee to the Commission will convene at 9:30 a.m. and will end at 4:30 p.m., on December 3, 1981, at the Federal Building, 11th and Main Streets, Room 217, Richmond, Virginia 23205. The purpose of this meeting is to discuss program planning for fiscal year 1982 and to discuss the Federal Block Grant Programs.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Rev. Curtis W. Harris, 209 Terminal Street, Hopewell, Virginia 23860, (804) 458–7404 or contact the Mid-Atlantic Regional Office, 2120 L Street, N.W., Room 510, Washington, D.C. 20037 (202).

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commisison.

Dated at Washington, D.C., November 6, 1981.

John I. Binkley,
Advisory Committee Management Officer.

[FR Doc. 81-32626 Filed 11-10-81; 8:45 am]
BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-427-098-001]

Anhydrous Sodium Metasilicate From France; Preliminary Results of Administrative Review of Antidumping Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Antidumping Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping duty order on anhydrous sodium metasilicate ("ASM") from France. The review covers the only known exporter of this merchandise to the United States, Rhone-Poulenc, S.A., and its subsidiary, Rhone-Poulenc, Inc. The review covers the period November 1, 1980 through May 31, 1981. There have been no known shipments to the United States of this merchandise during this period and there are no known unliquidated entries.

As a result of this review, the Department has decided to require a cash deposit equal to the margin calculated during the original fair value investigation. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 12, 1981.

FOR FURTHER INFORMATION CONTACT: E. Valerie Newkirk or John Kugelman, Office of Compliance, International Trade administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–5345/5289).

SUPPLEMENTARY INFORMATION:

Procedural Background

On January 7, 1981, the Department of Commerce ("the Department") published in the Federal Register (46 FR 1667–8) an antidumping duty order with respect to anhydrous sodium

metasilicate from France. The Department Published in the **Federal Register** of March 16, 1981 (46 FR 16921) a notice of intent to conduct administrative reviews of certain antidumping findings and orders. As required by section 751 of the Tariff act of 1930 ("the Tariff Act"), the Department has conducted and administrative review of the antidumping duty order on anhydrous sodium metasilicate from France.

Scope of the Review

Imports covered by this review are shipments of anhydrous sodium metasilicate ("ASM"), a crystalline silicate ($NA_2 SiO_3$) which is alkaline and readily soluble in water. Applications include waste paper de-inking, ore flotation, bleach stabilization, clay processing, medium or heavy duty cleaning, and compounding into other detergent formulations. ASM is currently classifiable under item 421.3400 of the Tariff Schedules of the United States Annotated (TSUSA).

The only known French exporter of this merchandise to the United States is Rhone-Poulenc, S.A. The review covers the period November 1, 1980 through May 31, 1981. There have been no known shipments to the United States during this period and there are no known unliquidated entries.

Clarification

Counsel for the respondent requested a ruling concerning the scope of the antidumping duty order on ASM. Counsel claimed that two new proprietary products, one a mixture of ASM and caustic soda beads ("product I") and the other a mixture of ASM and sodium tripolyphosphate ("product II"), would not be within the scope of this order should they be exported to the United States. Counsel argued that these two products are different from ASM in both a commercial and tariff sense, are not of the same class or kind of merchandise as ASM, and are new articles of commerce, having different names, characteristics, and uses.

Counsel for the petitioner responded that, although the two products are mixtures of chemicals, no chemical reaction would take place to form a new chemical entity. There is no economic advantage to the customers (detergent manufacturers) in the mixing of ASM, to produce product I or II, prior to importation. ASM from France is not changed chemically or commercially by the proposed commingling. The mixtures are intended for sale to detergent manufacturers as the base for detergents. Their uses and customers are exactly the same as ASM.

The Department's decision as to whether a particular imported product is of the class or kind of merchandise covered by an antidumping duty order may be based on several factors, including general physical characteristics, the expectations of the ultimate purchaser, the channels of trade in which the merchandise moves, and the ultimate use of the merchandise in question. In this case, for both ASM and products I and II, the last three factors mentioned are identical. Products I and II possess physical characteristics sufficiently similar to ASM (being mixtures of ASM and other components) as to be of the same general class or kind of merchandise as ASM. Accordingly, based on these considerations, ASM mixed with caustic soda beads or sodium tripolyphosphate is within the scope of this order.

Preliminary Results of the Review

Our records indicate no shipments of ASM from France for the period November 1, 1980 through May 31, 1981, and there are no known unliquidated entries.

Interested parties may submit written comments on these preliminary results on or before December 14, 1981 and may request disclosure and/or a hearing on or before November 27, 1981. The Department will publish the final results of the administrative review including its analysis of any such comments or hearing.

It is our general intention in cases where there are no shipments to determine cash deposit rates on the basis of the margins on the last known shipments. Therefore, as provided by section 353.48(b) of the Commerce Regulations, a cash deposit of 60 percent, based on the margin calculated during the original fair value investigation, shall be required on all shipments of ASM from France entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. This deposit requirement shall remain in effect until publication of the final results of the next administrative review

(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.

November 5, 1981.

[FR Doc. 81-32575 Filed 11-10-81; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

John D. Hall; Receipt of Application for Marine Mammal Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531–1544), the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217–222).

1. Applicant:
   a. Name: Dr. John D. Hall (P75B)
   b. Address: Solace Enterprises, 8410 Owen Circle, Anchorage, Alaska 99502
2. Type of Permit: Scientific Research
3. Name and Number of Animals, and Type of Take: A maximum of 250 Humpback whales *(Megaptera novaeangliae)* may be taken by harassment while conducting observational activities, including photography, from a surface vessel. An unspecified number of other cetaceans, including killer whales *(Orcinus orca)*, minke whales *(Balaenoptera acutorostrata)*, fin whales *(Balaenoptera physalus)*, and Dall's porpoise *(Phocoenoides dalli)* may be encountered and incidentally harassed during the course of the research.
5. Location of Activity: Prince William Sound, Alaska
6. Period of Activity: One year.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, on or before December 14, 1981. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and
Regional Director, National Marine Fisheries Service, Alaska Region, P.O. box 1668, Juneau, Alaska 99802.

Dated: November 4, 1981.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 81-32685 Filed 11-10-81; 8:45 am]

BILLING CODE 3510-22-M

William M. Hamner; Receipt of Application for Marine Mammal Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the Regulations governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531–1544), the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217–222).

1. Applicant:
   a. Name: Dr. William M. Hamner (P293)
   b. Address: Department of Biology, University of California at Los Angeles, Los Angeles, California 90024
2. Type of Permit: Scientific Research and Scientific Purposes
3. Name and Number of Animals:
   Blue Whale *(Balaenoptera musculus)* Unspecified
   Sei whale *(Balaenoptera)* Borealis Unspecified
   Fin whale *(Balaenoptera physalus)* Unspecified
   Minke whale *(Balaenoptera acutorostrata)* Unspecified
   Humpback whale *(Megaptera novaeangliae)* Unspecified
   Killer whale *(Orcinus orca)* Unspecified
   Crabeater seal *(Lobodon carcinophagus)* Unspecified
   Kerguelen Fur seal *(Arctocephalus gazella)* Unspecified
   Leopard seal *(Hydrurga leptonyx)* Unspecified
   Ross seal *(Ommatophoca rossii)* Unspecified
   Weddell seal *(Leptonychotes weddelli)* Unspecified
   Southern Elephant seal *(Mirounga leonina)* Unspecified
4. Type of Take: Potential harrassment while conducting krill research.
5. Location of Activity: Antarctic waters
6. Period of Activity: 2 years

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, on or before December 14, 1981. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: November 4, 1981.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 81-32686 Filed 11-10-81; 8:45 am]

BILLING CODE 3510-22-M

Hubbs-Sea World Research Institute; Modification of Marine Mammal Permit

Notice is hereby given that pursuant to the provisions of § 216.33(d) and (e) of the regulations governing the taking and importing of marine mammals (50 CFR 216), the Scientific Research Permit No. 243, issued to Hubbs-Sea World Research Institute, 1700 South Shores Road, Mission Bay, San Diego, California 92109, is modified as follows:

Section B-7 is deleted and replaced by:

"7. This Permit is valid with respect to the taking and importing authorized herein until December 31, 1983."

This modification is effective on December 1, 1981.

The Permit as modified and documentation pertaining to the modification are available for review in the following offices:

Assistant Adminstrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.
Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731;
Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida; and
Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: November 4, 1981.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 81-32687 Filed 11-10-81; 8:45 am]

BILLING CODE 3510-22-M

Point Defiance Zoo and Aquarium; Issuance of Marine Mammal Permit

On August 21, 1981, Notice was published in the **Federal Register** (46 FR 42499) that an application had been filed with the National Marine Fisheries Service by Point Defiance Zoo and Aquarium, 5402 North Shirley, Tacoma, Washington 98407, for a permit to collect five Pacific bottlenose dolphins (*Tursiops truncatus gilli*) for public display.

Notice is hereby given that on November 5, 1981, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a permit for four Pacific bottlenose dolphins to Point Defiance Zoo and Aquarium, subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;
Regional Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way, N.E., BIN C15700, Seattle, Washington 98115; and
Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Dated: November 5, 1981.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 81-32688 Filed 11-10-81; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1982; Establishment

The Committee for Purchase from the Blind and Other Severely Handicapped was established by Pub. L. 92–28, June 23, 1971 (85 Stat. 77, 41 U.S.C. 46–48c) (hereinafter the Act) for the purpose of directing the procurement of selected commodities and services by the Federal Government to qualified workshops serving blind and other severely handicapped individuals with the objective of increasing the employment opportunities for these individuals. The Committee is required to establish and publish in the **Federal Register** a procurement list of:

(1) Commodities produced by any qualified nonprofit agency for the blind or by any qualified nonprofit agency for other severely handicapped, and

(2) The services provided by any such agency which the Committee determines are suitable for procurement by the Government pursuant to the Act.

The Act further provides that any entity of the Government which intends to procure any commodity or service on the procurement list, shall procure such commodity or service, at the price established by the Committee, from a qualified nonprofit agency for the blind or such agency for the other severely handicapped if the commodity or service is available within the normal period required by that Government entity. However, this requirement shall not apply to the procurement of any commodity which is available from Federal Prison Industries, Inc.

A Government entity is defined as any entity of the legislative branch or judicial branch, any executive agency or military department (as such agency and department are respectively defined by Sections 102 and 105 of Title 5, United States Code), the U.S. Postal Service, and any nonappropriated fund instrumentality under the jurisdiction of the Armed Forces.

Notice is hereby given pursuant to Section 2 of the Act that Procurement List 1982 is established as set forth below. Procurement List 1982 supersedes Procurement List 1981, November 12, 1980 (45 FR 74836) and subsequent changes thereto through November 7, 1981.

Any proposed additions or deletions to Procurement List 1981 pending on this date shall be considered as pending and applicable to Procurement List 1982.

By the Committee.

C. W. Fletcher,

Executive Director.

ASSIGNMENT CODES

Central nonprofit agency	Code–
National Industries for the Blind	IB.
National Industries for the Severely Handicapped.	SH.

Commodities

CLASS 1005

Sling, Adjustable, Small Arms (IB)
1005–00–4336
Sling, Padded, Adjustable (IB)
1005–00–312–7177
Swab, Small Arms Cleaning (IB)
1005–00–912–4248
1005–00–288–3565

CLASS 1095

Scabbard, Bayonet-Knife (IB)
1095–00–508–0339

CLASS 1220

Case, Carrying (IB)
1220–00–765–5870
1220–00–937–8286

CLASS 1430

Circuit Card Assembly (SH)
1430–00–409–7997
1430–00–471–5375
1430–00–403–5787
1430–00–421–4036

CLASS 1440

Circuit Card Assembly (SH)
1440–00–454–8574

CLASS 1560

Wire Bundle Assemblies (SH)
1560–00–881–4215
1560–00–884–0409
1560–00–894–3991
1560–00–934–0924
1560–00–919–3706
1560–00–883–4487
1560–00–222–3876
1560–00–826–7752
1560–00–974–5275
1560–00–974–5276
1560–00–998–8594

CLASS 1660

Harness Assembly (SH)
1660–00–066–2078

CLASS 1670

Message Dropper (SH)
1670–00–797–4495

CLASS 1730

Chock Assembly, Wheel Unpainted (IB)
1730–00–294–3694
1730–00–063–4095
1730–00–294–3696
1730–00–294–3695
1730–00–945–8450
1730–00–163–8317 (4" x 6" x 24")
1730–00–NIB–001A 2" x 4" x 8" (std)
1730–00–NIB–001B 6" x 8" x 18" (std)
1730–00–NIB–001C 6" x 8" x 76" (std)
1730–00–NIB–001D 8" x 12" (U-shaped)
1730–00–NIB–001E 10" x 20" (U-shaped)
Chock Assembly, Wheel Painted (IB)
1730–00–294–3694
1730–00–063–4095
1730–00–294–3696
1730–00–294–3695
1730–00–945–8450
1730–00–163–8317 (4" x 6" x 24")
1730–00–NIB–001A 2" x 4" x 8" (std)
1730–00–NIB–001B 6" x 8" x 18" (std)
1730–00–NIB–001C 6" x 8" x 76" (std)
1730–00–NIB–001D 8" x 12" (U-shaped)
1730–00–NIB–001E 10" x 20" (U-shaped)
Chock Assembly, Wheel, Codit Reflecting (IB)
1730–00–294–3694
1730–00–063–4095
1730–00–294–3696
1730–00–294–3695
1730–00–945–8450
1730–00–163–8317 (4 x 6 x 24")
1730–00–NIB–001A 2" x 4" x 8" (std)
1730–00–NIB–001B 6" x 8" x 18" (std)
1730–00–NIB–001C 6" x 8" x 76" (std)
1730–00–NIB–001D 8" x 12" (U-shaped)
1730–00–NIB–001E 10" x 20" (U-shaped)
Chock Assembly, Wheel Reflective Tape (IB)
1730–00–294–3694
1730–00–063–4095
1730–00–294–3696
1730–00–294–3695
1730–00–945–8450
1730–00–163–8317 (4 x 6 x 24")
1730–00–NIB–001A 2" x 4" x 8" (std)
1730–00–NIB–001B 6" x 8" x 18" (std)
1730–00–NIB–001C 6" x 8" x 76" (std)
1730–00–NIB–001D 8" x 12" (U-shaped)
1730–00–NIB–001E 10" x 20" (U-shaped)

CLASS 2090

Weight, Canvas Bag (IB)
2090–00–845–9150

CLASS 2540

Belt, Automobile, Safety (IB)
2540–00–894–1273
2540–00–894–1275
2540–00–894–1274
2540–00–894–1276
Cushion Assembly, Back Rest (SH)
2540–00–737–3308
Cushion Assembly, Seat Back (SH)
2540–00–678–2965

CLASS 3510

Net, Laundry (IB)
3510–00–273–9738
3510–00–273–9739

CLASS 3920

Truck, Hand (IB)
3920–00–847–1305

CLASS 3990

Pallet, Material Handling (SH)
3990–00–222–1051
3990–00–555–0458—Sharpe Army Depot, Lathrop, CA only
3990–00–599–5326—Mechanicsburg, PA. depot only
3990–00–935–7826—Pine Bluff Arsenal only

3990-00-NSH-0008—(62 x 48")—U.S. Postal Service, Western Area Supply Center only
Pallet, Wood (SH)
3990-00-366-6806
3990-00-X77-1721—New Cumberland Army depot only
3990-00-NSH-0001 (48 x 40 x 26")—SSA, Balto., MD only
3990-00-NSH-0005 (24 x 20")—New Cumberland Army depot only

CLASS 4240

Bag, Waterproofing (IB)
4240-00-377-9401
Harness, Head (SH)
4240-00-690-8765

CLASS 4910

Creeper, Mechanic's (SH)
4910-00-261-6981
4910-00-106-7834
4910-00-NSH-0001

CLASS 5120

Screwdriver, Cross-Tip (SH)
5120-00-820-2995
5120-00-060-2004
5120-00-224-7370
5120-00-529-3101
5120-00-227-7293
5120-00-234-6913
5120-00-542-3438
5120-00-224-7375
5120-00-596-0866
5120-00-237-8174
5120-00-580-2361

Screwdriver Set, Cross-Tip (SH)
5120-00-357-7175
5120-00-580-0334
Screwdriver, Flat-Tip (SH)
5120-00-278-1269
5120-00-289-9662
5120-00-287-2504
5120-00-287-2505
5120-00-278-1267
5120-00-541-3004
5120-00-288-7803
5120-00-236-2127
5120-00-278-1270
5120-00-227-7356
5120-00-260-4837
5120-00-227-7334
5120-00-278-1268
5120-00-293-0314
5120-00-337-2465
5120-00-540-0563
5120-00-180-0708
5120-00-222-8866
5120-00-596-8502
5120-00-278-1273
5120-00-062-0813
5120-00-293-3311
5120-00-222-8852
5120-00-596-9364
5120-00-293-0315
5120-00-293-3309
5120-00-227-7377
5120-00-180-3490
5120-00-236-2140
5120-00-062-8454
5120-00-720-4969

CLASS 5140

Bag, Tool (IB)
5140-00-772-4142
Bag, Tool (SH)
5140-00-473-6256
Tool Box, Portable (SH)
5140-00-289-8911
5140-00-289-8910

CLASS 5350

Mat, Abrasive (IB)
5350-00-967-5089
5350-00-967-5093
5350-00-967-5092

CLASS 5440

Stepladder (IB)
5440-00-%14-4483
5440-00-514-4485
5540-00-514-4487
5440-00-171-9836
5440-00-227-1592
5440-00-227-1593
5440-00-227-1594
5440-00-227-1595
5440-00-227-1596
5440-00-531-2589

CLASS 5510

Lath, Wood (SH)
5510-00-NSH-0002 (⅜ x 1½ x 36")—BLM and U.S. Forest Service in Washington and Oregon only
5510-00-NSH-0003 (⅜ x 1½ x 48")—BLM and U.S. Forest Service in Washington and Oregon only
Stake, Wood (SH)
5510-00-NSH-0001—BLM at 5 Oregon locations only; U.S. Forest Service in Washington and Oregon only
Stakes, Wood, Location (SH)
5510-00-171-7701
5510-00-171-7700
5510-00-171-7734
Stakes, Wood, Hub (SH)
5510-00-171-7733
5510-00-171-7732
Wedge, Wood (SH)
5510-00-640-9237

CLASS 5826

Circuit Card Assembly (SH)
5826-00-237-9949

CLASS 5940

Adapter, Battery Terminal (SH)
5940-00-549-6583
5940-00-549-6581

CLASS 6150

Cable Assembly, Power (SH)
6150-00-935-8799
6150-00-507-8852

CLASS 6230

Flashlight (SH)
6230-00-643-3466
6230-00-163-1856
Lantern, Electric, Head (SH)
6230-00-643-3562
Light, Desk (SH)
6230-00-299-7771
6230-00-682-3423
Light, Marker, Distress (SH)
6230-00-892-5192
Light, Marker, Distress (with pouch) (SH)
6230-00-067-5209
Light, Marker, Distress (without pouch) (SH)
6230-00-938-1778

CLASS 6505

Ammonia Inhalant Solution, Aromatic (SH)
6505-00-106-0675
Iodine Ampoules, NF (SH)
6505-00-664-1408
Thimerosal Tincture, NF (SH)
6505-00-664-6911

CLASS 6510

Bandage, Muslin, Compressed, Camouflaged (SH)
6510-00-201-1755

CLASS 6515

Case, Ear Plug (SH)
6515-00-299-8287
Kit, Suture Removal (IB)
6515-00-690-6911
Tourniquet, Non-Pneumatic (IB)
6515-00-383-0565

CLASS 6520

Toothbrush, Aspiration (SH)
6520-01-085-3438

CLASS 6530

Bag, Urine Collection (SH)
6530-00-761-0932
6530-00-761-0936
Catheter, Male, External (IB)
6530-01-081-5304
6530-01-081-5303
Cover, Litter (IB)
6530-00-784-1035
6530-00-784-1250
Drape, Surgical (IB)
6530-00-299-9608
6530-00-299-9607
6530-00-299-9605
6530-00-299-9604
Kit, Shaving Surgical Preparation (IB)
6530-00-676-7372
Litter, Folding (IB)
6530-00-783-7905
Pad, Examing Table (IB)
6530-00-960-6616
Pad, Hospital Stretcher (IB)
6530-00-269-0004
Pad, Litter (IB)
6530-00-137-3016
Strap, Webbing Patient Securing (IB)
6530-00-784-4205
Surgical Pack, Disposable (IB)
6530-00-103-6659
Urinal, Incontinent (IB)
6530-01-004-8969
6530-00-290-8292
Wrapper, Sterilization (IB)
6530-00-299-9603
6530-00-299-9603
6530-00-197-9223
6530-00-197-9228
6530-00-197-9283
6530-00-926-4902
6530-00-926-4903
6530-00-926-4904
6530-00-926-4905

CLASS 6532

Cap, Operating, Surgical (IB)
6532-00-299-9614
6532-00-299-9613
6532-00-299-9612
Cap, Operating, Surgical (SH)
6532-00-250-5042
6532-00-083-6545
6532-00-250-5041
6532-00-122-0468
Clothing, Operating Room (SH)
6532-00-261-9005
6532-00-290-1887
6532-00-172-3509
6532-00-172-3507
6532-00-172-3506
6532-00-158-9890
6532-00-009-7174
Dress, Operating Surgical (SH)
6532-00-149-0464
6532-00-149-0465
6532-00-149-0466
6532-00-149-0467
6532-00-149-0472
6532-00-149-0473
Gown, Hospital, Patient's Bedshirt (SH)
6532-00-005-8411
6532-00-005-8412
Gown, Hospital, Personnel (SH)
6532-00-045-5380
6532-00-045-5381
Gown, Operating, Surgical (SH)
6532-00-009-2034
6532-00-009-2035
Pajamas, Ladies (SH)
6532-00-NSH-0001
6532-00-NSH-0002
6532-00-NSH-0003
6532-00-NSH-0004
Pillowcase, Disposable (IB)
6532-00-634-9828
Robe, Dressing, Nomex (SH)
6532-00-003-3057
6532-00-006-3482
Robe, Ladies (SH)
6532-00-NSH-0005
Shirt, Operating, Surgical (SH)
6532-00-149-0322
6532-00-149-0323
6532-00-149-0324
6532-00-149-0325
Smock, Man's Dental Operating (SH)
6532-00-159-4881
6532-00-926-9964
6532-00-926-9975
6532-00-926-9976
Suit, Convalescent (SH)
6532-01-076-8684
6532-01-076-8683
6532-01-076-7389
6532-01-076-9769
Trousers, Operating, Surgical (SH)
6532-00-149-0327
6532-00-149-0328
6532-00-149-0329
6532-00-149-0330

CLASS 6540

Case, Spectacles (IB)
6540-00-735-5157
6540-00-042-8752

CLASS 6545

Surgical Dressing Set (IB)
6545-00-105-5826

CLASS 6625

Test Set, Lead (SH)
6625-00-553-1442

CLASS 6630

Micro Bleeder (IB)
6630-01-NIB-0002
Tube, Bleeding (IB)
6630-01-NIB-0001

CLASS 6645

Clock, Wall (IB)
6645-00-514-3523
6645-00-530-3342 Rgn 4,6,7
6645-01-046-8848
6645-01-046-8849

CLASS 6695

Sampling Kit, Spectrometric Oil Analysis (IB)
6695-01-045-9820

CLASS 6840

Disinfectant, Detergent (IB)
6840-00-687-7904
6840-00-584-3129
6840-00-551-8346

CLASS 6920

Circuit Card Assembly (SH)
6920-00-482-8335

CLASS 7105

Frame, Picture (SH)
7105-00-053-0170
7105-00-061-5834
7105-00-052-8697
7105-00-052-8695
7105-00-465-6199
7105-00-149-1277
7105-00-297-3398
7105-00-903-1842
7105-00-903-1843
7105-00-149-1282
7105-00-149-1281
7105-00-641-4385
7105-00-986-7356
7105-00-297-3397
7105-00-052-8696
7105-00-149-1276
Mirror, Glass (SH)
7105-00-260-1390

CLASS 7110

Blackboard (SH)
7110-00-132-6651
Bookcase, Wood, Executive (SH)
7110-00-973-5127
Credenza (SH)
7110-00-762-5513
Table Wood (SH)
7110-00-958-0780
7110-00-823-7675
7110-00-903-3061
7110-00-902-3052
Tables, Steel (SH)
7110-00-113-0448
7110-00-113-0454
7110-00-149-2044
7110-00-149-2045
7110-00-149-2046
7110-00-149-2047

CLASS 7195

Bulletin Board (IB)
7195-00-989-2370
7195-00-844-9036
7195-00-989-2371
7195-00-844-9037
7195-00-989-2372
7195-00-844-9038
7195-00-990-0615
7195-00-843-7938
Costumer, Wood (SH)
7195-00-132-6642

CLASS 7210

Bedspread (IB)
7210-00-728-0186
7210-00-728-0187
7210-00-728-0188
7210-00-728-0189
7210-00-728-0190
7210-00-728-0191
7210-00-728-0173
7210-00-728-0175
7210-00-728-0176
7210-00-728-0177
7210-00-728-0178
7210-00-728-0179
7210-00-408-2800

Bedspring (IB)
7210-00-582-7540
7210-00-582-0984
7210-00-110-8104
7210-00-582-7541
7210-00-110-8105

Cover, Bed (IB)
7210-01-116-7860
7210-00-NIB-0010
7210-01-116-7858
7210-01-116-7859
7210-00-NIB-0004
7210-01-116-7855
7210-01-116-7856
7210-01-116-7857
7210-01-116-7854
7210-01-116-7853
7210-00-NIB-0014
7210-00-NIB-0015
7210-00-NIB-0016
7210-00-NIB-0017
7210-00-NIB-0018
7210-00-NIB-0019
7210-00-NIB-0020
7210-00-NIB-0021
7210-00-NIB-0022
7210-00-NIB-0023
7210-00-NIB-0024
7210-00-NIB-0025
7210-00-NIB-0026
7210-00-NIB-0027
7210-00-NIB-0028
7210-00-NIB-0029
7210-00-NIB-0030
7210-00-NIB-0031
7210-00-NIB-0032
7210-00-NIB-0033
Cover, Mattress (IB)
7210-00-291-8419
7210-00-205-3083
7210-00-205-3082
7210-00-067-7969
7210-00-998-7745
7210-00-883-8492
7210-00-140-4231
7210-00-140-4234
7210-00-543-6001
7210-00-171-1091

7210-00-935-6619
7210-00-230-1041
7210-00-241-9718

Insect Bar, Nylon (SH)
7210-00-266-9736
Mattress, Cotton-Felt (IB)
7210-00-139-6517
7210-00-139-6555
7210-00-139-6538
Mattress, Foam (IB)
7210-00-290-8300
7210-00-275-5873
7210-00-275-5874
7210-00-290-8298
7210-00-290-8297
7210-00-052-7327
7210-00-889-3733
7210-00-290-8299
7210-00-682-6503
7210-00-682-6504
Mattress, Innerspring (IB)
7210-00-205-3585
7210-00-139-6424
7210-00-716-0706
7210-00-139-6411
7210-00-205-3534
7210-00-139-6434
7210-00-139-6428
7210-00-110-8102
7210-00-110-8103
7210-38-75-100 38 x 75"
7210-53-75-100 53 x 75"
Mattress, Innerspring, Plastic-Coated (IB)
7210-00-995-1093
7210-00-682-7146
7210-00-529-3709
7210-00-NIB-0001 36 x 75"—VA requirements only
Pad, Mattress (IB)
7210-00-227-1526
7210-00-753-3042
Pillow, Bed (IB)
7210-00-619-8262
7210-00-205-3205 (Regions 1 thru 7 only)
7210-00-753-6228
7210-00-035-3342
7210-00-894-1144
7210-00-015-5190
7210-00-119-5358
Pillow, Passenger, Headrest (IB)
7210-00-682-6601
Pillowcase (IB)
7210-00-054-7910
7210-00-259-9005
7210-00-259-9006
7210-00-119-7356
7210-00-231-2373
7210-00-259-9004
7210-00-259-8897
7210-00-081-1360
Pillowcase (SH)
7210-00-119-7357
7210-01-030-5311
Pillowcase, Disposable (IB)
7210-00-883-8494
7210-00-852-3417
Protector, Hospital Bed, Mattress (IB)
7210-00-761-1471
7210-00-761-1470
Protector, Hospital Bed, Pillow (IB)
7210-00-958-9118
Sheet, Bed (IB)
7210-00-299-9611
Tablecloth (SH)
7210-00-492-8361
Washcloth (IB)
7210-01-013-2824

CLASS 7220

Mat, Floor (IB)
7220-00-205-3099
7220-00-224-6489
7220-00-205-2807
7220-00-205-2808
7220-00-224-6490
7220-00-224-6487
7220-00-238-8852
7220-00-224-6486
7220-00-205-2805
7220-00-238-8854
7220-00-205-2806
7220-00-165-7020
Mat, Floor (SH)
7220-00-205-3192
7220-00-205-3182
7220-00-457-6057
7220-00-457-6063
7220-00-151-6519
7220-00-151-6518
7220-00-151-6517
7220-00-477-3063
7220-00-194-1609
7220-00-457-6046
7220-00-457-6054

CLASS 7230

Curtain, Shower (IB)
7230-00-205-1762
7230-00-247-1280

CLASS 7290

Cover, Ironing Board (IB)
7290-00-130-3271

CLASS 7330

Pad, Bakery (IB)
7330-00-379-4439 (Rgn W,3,5,6,8)
Tongs, Food Serving (SH)
7330-00-616-0997
7330-00-616-0998
7330-00-616-1000

CLASS 7340

Flatware, Plastic, Heavy Duty (IB)
7340-00-022-1315
7340-00-022-1316
7340-00-022-1317
7340-00-401-8041
Flatware, Plastic, Picnic (IB)
7340-00-170-8374
7340-00-205-3187
7340-00-205-3342

Spoon, Picnic, Plastic (IB)
7340-00-J19-1300

CLASS 7350

Cup, Plastic (SH)
7350-00-721-9003
7350-00-082-5741
7350-00-926-1661
7350-00-145-6126
7350-00-761-7467
7350-00-914-5089
7350-00-914-5088

CLASS 7360

Dining Packet (IB)
7360-00-935-6407
Dining Packet, Inflight (IB)
7360-00-660-0526
Flatware Set, Plastic (IB)
7360-00-634-4800

CLASS 7430

Cover, Typewriter (SH)
7430-00-823-8080
7430-00-823-8081
7430-00-823-8082
7430-00-823-8083
7430-00-823-8084
7430-00-823-8085
7430-00-823-8090
7430-00-823-8086
7430-00-823-8087

CLASS 7510

Binder, Awards Certificate (IB)
7510-00-115-3250
7510-00-482-2994
7510-01-056-1927

Binder, Looseleaf (IB)
7510-00-281-4309
7510-00-281-4314
7510-00-582-4201
7510-00-281-4310
7510-00-281-4311
7510-00-281-4313
7510-00-281-4315
7510-00-286-7792
7510-00-286-7794
7510-00-582-5488
7510-00-286-7791
7510-00-582-3807
7510-00-782-2663
7510-00-782-2664
7510-00-409-8646
7510-00-409-8647
7510-00-984-5787

Binder, Looseleaf, Presentation (IB)
7510-00-582-5398 Rgn W,2,3,4
7510-00-582-5399 Rgn W,2,3,4
7510-00-582-5400 Rgn W,2,3,4
Binder, Note Pad (IB)
7510-00-286-6954
7510-00-145-0296
7510-00-728-8060
7510-01-053-5591
Board, Wall Calendar (IB)
7510-00-789-2455
Calendar Pad (SH)
7510-01-020-7519 (1982)
7510-01-118-5489 (1983)
Cilp, Paper (SH)
7510-00-161-4292
Envelope, Crystal Clear Vinyl (IB)
7510-00-NB-0003
7510-00-NIB-0004
7510-00-NIB-0005
7510-00-NIB-0006
Envelope, Transparent (IB)
7510-00-782-6274
7510-00-782-6275
7510-00-782-6276
File Back (IB)
7510-00-NIB-0002
File Backer, Paper (IB)
7510-00-285-2567
File Front (IB)
7510-00-NIB-0001

Pad, Typewriter (IB)
7510-00-257-2576
7510-00-530-6412
7510-00-849-1137
Paperweight, Shotfilled (IB)
7510-00-286-6985
Pencil (IB)
7510-00-286-5757
7510-00-281-5234
7510-00-281-5235
Pencil, Woodcased, with Imprinting (IB)
7510-050-8LP-6521
Portfolio (IB)
7510-00-558-1572
7510-00-616-7241
7510-00-551-9813
7510-00-558-1573
7510-00-616-7239
7510-00-558-1571
7510-00-995-4856
7510-00-995-4857
7510-00-995-4854
7510-00-995-4852
7510-00-995-4853
7510-00-995-4850
7510-00-584-2489
7510-00-584-2490
7510-00-584-2491
7510-00-584-2492
Refill, Ballpoint Pen (IB)
7510-00-543-6792
7510-00-543-6793
7510-00-754-2687
7510-00-543-6795
7510-00-754-2688
7510-00-754-2689
7510-00-754-2690
7510-00-754-2691
Refill, List Finder, Automatic (SH)
7510-00-285-2800

CLASS 7520

Arch Board File (IB)
7520-00-240-5498
7520-00-191-1075
7520-00-255-7081
Ballpoint Pen (IB)
7520-00-935-7136
7520-00-935-7135
7520-00-543-7149
Ballpoint Pen, Stick-type (IB)
7520-01-058-9978
7520-01-058-9977
7520-01-058-9976
7520-01-059-4125
7520-01-060-5820
7520-01-058-9975
7520-01-060-8513
7520-01-060-5821
Ballpoint Pen, with Imprinting (IB)
7520-050-8LP-6520
Book Ends (IB)
7520-00-264-5479
7520-00-139-6158
Box, Filing (SH)
7520-00-285-3147
7520-00-285-3143
7520-00-285-3144
7520-00-285-3145
7520-00-285-3146
7520-00-285-3148
Case, Maintenance and Operational Manuals (IB)
7520-00-559-9618
Clipboard, File (IB)
7520-00-281-5918
7520-00-254-4610
7520-00-240-5503
Easel, Display & Training (IB)
7520-00-579-7013
Holder, Desk Memorandum (IB)
7520-00-139-3802
7520-00-290-6445
Marker, Tube Type (IB)
7520-00-973-1059
7520-00-973-1060
7520-00-079-0285
7520-00-973-1061
7520-00-079-0286
7520-00-079-0287
7520-00-973-1062
7520-00-079-0288
7520-00-558-1501
7520-00-904-1265
7520-00-904-1268
7520-00-935-0979
7520-00-904-1267
7520-00-935-0981
7520-00-935-0982
7520-00-904-1266
7520-00-935-0980
7520-00-051-5031
7520-00-051-5035
7520-00-116-2888
7520-00-051-5036
7520-00-116-2886
7520-00-116-2889
7520-00-051-5033
7520-00-116-2887
7520-00-904-4476
Pen Set, Desk (IB)
7520-00-106-9840
Pencil, Mechanical (IB)
7520-00-223-6672
7520-00-223-6673
7520-00-268-9913
7520-00-223-6675
7520-00-223-6676
7520-00-285-5826
7520-00-285-5822
7520-00-285-5823
7520-00-161-5664
7520-00-164-8950
7520-00-268-9915
7520-00-285-5818
7520-00-268-9916
7520-00-724-5606
7520-00-590-1878
Perforator, Paper, Desk (SH)
7520-00-139-4101
7520-00-263-3425
Stand, Calendar Pad (IB)
7520-00-162-6153
7520-00-139-4341
Tray, Desk (SH)
7520-00-232-6828
7520-00-286-5801
7520-00-285-5043
Trimmer, Paper (IB)
7520-00-224-7621
7520-00-282-2137

CLASS 7530

Card, Guide, File (IB)
7530-00-989-0184
7530-00-989-2425
7530-00-988-6541
7530-00-988-6542
7530-00-988-6543
7530-00-988-6549
7530-00-988-6550
7530-00-988-6551
7530-00-988-6544
7530-00-988-6545
7530-00-988-6546
7530-00-988-6547
7530-00-988-6548
7530-00-988-6515
7530-00-988-6516
7530-00-988-6520
7530-00-988-6521
7530-00-988-6517
7530-00-988-6518
7530-00-988-6522
Card-Set, Guide, File (IB)
7530-00-989-0698
7530-00-989-0697
7530-00-989-0683
7530-00-082-2635
7530-00-989-0684
7530-00-989-0686
7530-00-989-0692
7530-00-989-0694
7530-00-989-0693
7530-00-989-0695
Folder, File, Military Personnel Records Jacket (IB)
7530—DA Form 201
Folder, File (IB)
7530-00-889-3555
7530-00-559-4512
7530-00-281-5907
7530-00-281-5908
7530-00-926-8978
7530-00-273-9845
7530-00-926-8980
7530-00-286-6924
7530-00-286-8571
7530-00-286-7286
7530-00-926-8982
7530-00-926-8984
7530-00-043-1194
Folder-Set, File (IB)
7530-00-286-6923
7530-00-286-7080
7530-00-286-7244
7530-00-286-7253
7530-00-286-7287
7530-00-286-8570
7530-00-286-6925

Notebook, Stenographer's (IB)
7530-00-223-7939
Pad, Writing Paper (IB)
7530-00-285-3090 Rgn 1,5 & 6
7530-00-239-8479 All Regions
7530-00-285-3088 All Regions
7530-00-285-3083 Rgn W,1,3,4,5,6,7,8
7530-01-056-0889 Rgn W,1,3,4,5,6,7,8
7530-00-286-6173 Rgn W,1,2,3,5,7
Pad, Writing Paper (Easel) (IB)
7530-00-619-8880
Paper Set, Manifold and Carbon (IB)
7530-00-880-9154 Rgn W,6,7
7530-00-401-6910 Rgn W,6,7
7530-01-072-2536 Rgn W,6,7
7530-01-072-2537 Rgn W,6,7
7530-01-072-2538 Rgn W,6,7
7530-01-072-2539 Rgn W,6,7
7530-00-205-0511 Rgn W,6,7
Paper, Looseleaf, Blank (IB)
7530-00-286-5777
7530-00-286-5778
7530-00-286-5782
7530-00-286-5780
7530-00-286-5781
7530-00-286-5779

Paper, Looseleaf, Ruled (IB)
7530-286-6366
7530-286-4332
7530-286-4331
7530-286-4333
7530-286-4334
7530-286-4335
7530-198-6265
7530-286-4336
7530-286-4337
7530-286-4338
7530-286-4339

Paper, Teletypewriter, Roll (IB)
7530-00-223-7966
7530-01-056-2900
7530-00-721-9691
7530-00-223-7969
7530-00-262-9178
7530-00-142-9037
Paper, Writing (IB)
7530-00-285-5836
7530-01-047-3738
Refill, Appointment Book (SH)
7530-01-022-3571 (1982)
7530-01-115-1526 (1983)
Tape, Paper, Computing Machine (IB)
7530-00-286-9052
7530-00-222-3455
7530-00-286-9053
7530-00-286-9054
7530-00-238-8352
7530-00-222-3456
7530-00-286-9055

CLASS 7690

Decalcomania NO SMOKING (SH)
7690-00-857-9662
7690-00-857-9574
7690-00-857-9700
7690-00-857-9613
7690-00-858-3403
7690-00-858-3365
7690-00-310-6627
7690-00-311-7272
7690-00-328-9517
7690-00-329-0205
Decalcomania U.S. ARMY (SH)
7690-00-857-9575
7690-00-857-9663
7690-00-857-9614
7690—Code 600 USPSW
—Code 607 USPSW
7690-00-311-7276
7690-00-329-0206
7690-00-858-3405
7690-00-858-3366
7690-00-310-9208
Decalcomania MAX SPEED (SH)
7690-00-857-9572
7690-00-857-9660
7690—Code 633 USPSW
7690-00-857-9611
7690-00-857-9698
7690-00-328-9507
7690-00-329-0204
Decalcomania NO RIDERS (SH)
7690— Code 635 USPSW
7690-00-857-9573
7690—Code 636 USPSW
7690-00-857-9612
7690-00-857-9699
Decalcomania LIFT HERE (SH)
7690—Code 622- L-USPSW
Decalcomania FOR OFFICIAL USE ONLY (SH)
7690-00-329-0538
Decalcomania TP (SH)
7690—Code 669- L-USPSW
7690—Code 666- L-USPSW
7690—Code 672- L-USPSW
7690—Code 667- L-USPSW
7690—Code 675- L-USPSW
7690—Code 668- L-USPSW
Decalcomania NUMBERS AND LETTERS (SH)
7690-00—1½"
7690—2"
7690-00-311-7128
7690—4"

CLASS 7910

Pad, Floor Polishing Machine (IB)
7910-00-685—6686
7910-00-685-6687
7910-00-685-3908
7910-00-685-6671
7910-00-685-3909
7910-00-685-6672
7910-00-685-3910
7910-00-685-6656
7910-00-685-6657
7910-00-685-3912
7910-00-685-6659
7910-00-685-3915
7910-00-685-6660
7910-00-685-3914
7910-00-685-4239
7910-00-685-4240
7910-00-685-4242
7910-00-685-4243
7910-00-685-4241
7910-00-685-4244
7910-00-685-4245

7910-00-820-7991 Rgn 6,7,8,9,10
7910-00-820-7989 Rgn 6,7,8,9,10
7910-00-820-7990 Rgn 6,7,8,9,10
7910-00-820-9926 Rgn 6,7,8,9,10
7910-00-820-9925 Rgn 6,7,8,9,10
7910-00-820-9924 Rgn 6,7,8,9,10
7910-00-820-9898 Rgn 6,7,8,9,10
7910-00-820-7997 Rgn 6,7,8,9,10
7910-00-820-7996 Rgn 6,7,8,9,10

CLASS 7920

Broom, Push (IB)
7920-00-267-2967
Broom, Upright (IB)
7920-00-292-4371
7920-00-292-4375
7920-00-292-4372
7920-00-291-8305
Broom, Whisk (IB)
7920-00-240-6350
Brush, Chassis and Running Gear (IB)
7920-00-255-7536
Brush, Cleaning, Aircraft (IB)
7920-00-051-4384
Brush, Dusting (IB)
7920-00-178-8315
Brush, Floor Sweeping (IB)
7920-00-243-3407
7920-00-292-2363
7920-00-292-2367
7920-00-264-4638
7920-00-292-2362
7920-00-292-2365
Brush, Sanitary (IB)
7920-00-772-5800
7920-00-234-9317
Brush, Scrub (IB)
7920-00-240-7174
7920-00-951-8795
7920-00-282-2470 Tampico Fibers
7920-00-282-2470 Styrene Fibers
7920-00-297-1511
7920-00-619-9162
7920-00-061-0038
Brush, Shoe and Stove (IB)
7920-00-852-8170
Brush, Wire, Scratch (IB)
7920-00-291-5815
7920-00-282-9246
7920-00-246-8501
7920-00-223-7649
Brush, Wire, Stainless Steel (IB)
7920-00-958-1157
Brush-Set, Shoe and Stove (IB)
7920-00-205-0200
Cloth, Polishing (IB)
7920-00-205-1656
7920-00-205-3170
7920-00-664-0103
Handle, Mop (IB)
7920-00-205-1168
7920-00-267-1218
7920-00-205-1167
7920-00-550-9902
7920-00-550-9911
7920-00-550-9912
7920-00-998-2485
7920-00-998-2486
7920-00-851-0140
7920-00-851-0142
7920-00-246-.930
7920-00-205-1170
Handle, Paint Roller (IB)
7920-00-682-6512
Handle, Wood (IB)
7920-00-177-5106
7920-00-141-5452
7920-00-263-0328
Kit, Aircraft Cleaning (IB)
7920-00-490-6046
Mop, Dusting, Cotton (IB)
7920-00-205-0481
7920-00-205-0483
7920-00-205-0484
7920-00-245-8289
Mop, Wet (IB)
7920-00-224-8726
Mop, Wet, Cellulose, Complete (IB)
7920-00-432-7117
7920-00-728-1167
Mop, Wet, Cellulose, Sponge Refill (IB)
7920-00-471-2876
Mophead, Dusting, Cotton (IB)
7920-00-634-0201
7920-00-267-4921
7920-00-998-2482
7920-00-998-2483
7920-00-998-2484
7920-00-851-0141
7920-00-205-0485
7920-00-205-0487
7920-00-205-0488

Mophead, Wet (IB)
7920-00-205-0425
7920-00-205-0426
7920-00-141-5549
7920-00-171-1148
7920-00-141-5550
7920-00-141-5547
7920-00-141-5548
7920-00-141-5544

7920-00-926-5492
7920-00-926-5493
7920-00-926-5494
7920-00-926-5495
7920-00-926-5496
7920-00-926-5497
7920-00-926-5498
7920-00-926-5499
7920-00-926-5501
7920-00-926-5502
Pad, Scouring (IB)
7920-00-753-5242
7920-00-151-6120
Scraper and Squeegee (IB)
7920-00-045-2556
Sponge, Cellulose (IB)
7920-00-161-6219
7920-00-633-9928
7920-00-240-2559
7920-00-884-1116
7920-00-884-1115
7920-00-633-9905
7920-00-240-2555
7920-00-633-9906
Sponge, Plastic (IB)
7920-00-633-9908
7920-00-633-9911
7920-00-633-9915
7920-00-685-4152
Squeegee (SH)
7920-00-224-8339
Towel, Paper (IB)
7920-00-823-9772 Rgn 4,6,7
7920-00-823-9773

CLASS 7930

Detergent, General Purpose (IB)
7930-00-926-5280
7930-00-357-7386
7930-00-068-1669
7930-01-055-6122
7930-00-177-5243
7930-00-985-6945
7930-00-985-6946
7930-00-530-8067
7930-00-527-1207
7930-00-527-1237
Dishwashing Compound, Hand (IB)
7930-00-880-4454 Rgn W,1,2,3,5,10
7930-01-055-6136 Rgn W,1,2,3,5,10
7930-00-899-9534 Rgn W,1,2,3,5,10
Glass Cleaner (IB)
7930-00-664-6910
Rinse Additive, Dishwashing (IB)
7930-00-619-9573
7930-00-619-9575

CLASS 8105

Bag, Asssembly, Crew Relief (IB)
8105-00-922-9469
Bag, Cloth (IB0
8105-00-282-8183
Bag, Cotton (IB)
8105-00-183-6981
8105-00-281-3924
8105-00-183-6982
8105-00-179-0089
8105-00-271-1511
8105-00-183-6985
8105-00-174-0836
8105-00-183-6989
8105-00-290-3360

Bag, Lunch (SH)
8105-00-664-3715
Bag, Motion Sickness (IB)
8105-00-835-7212
Bag, Plastic (SH)
8105-00-NSH-0001
8105-00-NSH-0002
8105-00-NSH-0003
8105-00-NSH-0004—Rgmts for Naval Weapons Sprt Ctr, Crane, IN

CLASS 8115

Box, Set-Up, Mailing Dental (IB)
8115-00-511-5750
Box, Shipping (IB)
8115-00-787-2142
8115-00-787-2147
8115-00-101-7647
8115-00-101-7638
8115-00-787-2146
8115-00-787-2148
8115-01-019-4085
8115-01-019-4084
8115-01-057-1244
8115-01-057-1243
8115-01-057-1245

Box, Wood (SH)
8115-00-935-6526
8115-00-935-6527
8115-00-935-6532
8115-00-935-6531
Box, Wood, Nailed (SH)
8115-00-NOO-0019—Rgmts for Pine Bluff Arsenal, Pine Bluff, AR only

CLASS 8120

Cap, Compressed Gas Cylinder (IB)
8120-00-178-9814
8120-00-179-0076

CLASS 8135

Block, Currency Packing (IB)
BEP Stock No. L-1391
Buckle, Belt, Trousers (SH)
8315-00-543-3724
Sewing Kit (SH)
8315-01-096-4480
8315-01-090-5823

CLASS 8340

Line, Tent (SH)
8340-00-263-0255
Pin, Tent, Aluminum (SH)
8340-00-261-9749
Pin, Tent, Wood (SH)
8340-00-261-9750
8340-00-261-9751
Pole Section, Tent (SH)
8340-00-223-7849
Shelter Half, Tent (SH)
8340-00-577-4168

CLASS 8345

Case, Flag, Interment (IB)
8345-00-782-3010
Flag, Signal (IB)
8345-00-935-0588
8345-00-935-0589
8345-00-935-0590
8345-00-935-0591
8345-00-935-0592
8345-00-935-0594
8345-00-935-0595
8345-00-935-0597
8345-00-935-0598
8345-00-935-0599
8345-00-935-0602
8345-00-935-0604
8345-00-935-0607
8345-00-935-0608
8345-00-935-0633
8345-00-935-1840
8345-00-935-0634
8345-00-935-0638
8345-00-935-0639
8345-00-935-0640
8345-00-926-9977
8345-00-926-9216
8345-00-926-9978
8345-00-926-6804
8345-00-926-6806
8345-00-926-9979
8345-00-926-6807
8345-00-926-6809
8345-00-926-9980
8345-00-926-9219
8345-00-935-0582
8345-00-926-9984
8345-00-926-6003
8345-00-926-9985
8345-00-935-0619
8345-00-935-1839
8345-00-935-0620
8345-00-935-0623
8345-00-935-0409
8345-00-935-0624
8345-00-935-0445
8345-00-926-6803
8345-00-935-0446
8345-00-926-6805
8345-00-935-0447
8345-00-926-9987
8345-00-935-0448
8345-00-926-6810
8345-00-926-9988
8345-00-935-0450
8345-00-935-0451
8345-00-935-0453
8345-00-926-6002
8345-00-926-6814
8345-00-935-0436
8345-00-935-0437
8345-00-935-0438
8345-00-935-0408
8345-00-935-0441
8345-00-935-0442
8345-00-935-0464
8345-00-935-0465
8345-00-935-0466
8345-00-935-0467
8345-00-935-0468
8345-00-935-0470
8345-00-935-0471
8345-00-935-0473
8345-00-935-0474
8345-00-935-0475
8345-00-935-0478
8345-00-935-0480
8345-00-935-0483
8345-00-935-0484
8345-00-935-0626
8345-00-935-1838
8345-00-935-0627
8345-00-935-0407
8345-00-935-0630
8345-00-935-0631
Flag, Signal, Vehicle, Danger Red (IB)
8345-00-260-2724
Pennant, Signal, and Special Flags (IB)
8345-00-935-0420
8345-00-935-0517
8345-00-935-4755
8345-00-825-1847

8345-00-935-3201
8345-00-935-4756
8345-00-935-0522
8345-00-914-6086
8345-00-935-4753
8345-00-935-4754
8345-00-935-0404
8345-00-935-0514
8345-00-825-1868
8345-00-935-0406
8345-00-935-0509
8345-00-926-5988
8345-00-935-0512
8345-00-921-4497
8345-00-935-3199
8345-00-825-1839
8345-00-935-0526
8345-00-914-6076
8345-00-914-6080
8345-00-914-6083
8345-00-935-0524
8345-00-926-5987
8345-00-926-5989
8345-00-935-0539
8345-00-926-5991
8345-00-825-1840
8345-00-935-0521
8345-00-914-6087
8345-00-926-6026
8345-00-935-0403
8345-00-935-0536
8345-00-926-9210
8345-00-926-9213
8345-00-926-6028
8345-00-935-0508
8345-00-935-0519
8345-00-935-0415
8345-00-914-6085
8345-00-926-9215
8345-00-935-0411
8345-00-926-9212
8345-00-914-7411
8345-00-914-6079
8345-00-914-6082
8345-00-935-0523
8345-00-935-0417
8345-00-926-5990
8345-00-935-0421
8345-00-926-9207
8345-00-935-0542
8345-00-935-0520
8345-00-935-0492
8345-00-935-0493
8345-00-926-9214
8345-00-935-0513
8345-00-935-0490
8345-00-935-0495
8345-00-926-9208
8345-00-935-0518
8345-00-935-0511
8345-00-914-6084
8345-00-935-0405
8345-00-935-0410
8345-00-935-0525
8345-00-914-6075
8345-00-914-6077
8345-00-914-6081
8345-00-935-0419
8345-00-935-0416
8345-00-935-0537
8345-00-935-0538
8345-00-935-0540
8345-00-935-0541
8345-00-926-9211
8345-00-935-0499
8345-00-935-0500
8345-00-935-0501
8345-00-825-1818
8345-00-935-0497
8345-00-935-0504
8345-00-935-1841
8345-00-935-0418
8345-00-825-1819
8345-00-926-1551
8345-00-935-0503
8345-00-935-0534
8345-00-935-1843
8345-00-926-1548
8345-00-926-1549
8345-00-926-1552

CLASS 8405

Cover, Service Cap (IB)
8405-01-046-8544
8405-01-046-8545
Strap, Chin (SH)
8405-00-152-3952

CLASS 8410

Havelock (IB)
8410-00-782-2782
8410-01-013-9109

CLASS 8415

Apron, Construction Worker's (IB)
8415-00-205-3895
8415-00-257-4290
Apron, Food Handling (IB)
8415-00-255-8577
8415-00-634-0205
8415-00-051-1173
8415-01-045-0587
Apron, Impermeable (SH)
8415-00-082-6108
Band, Helmet, Camouflage (IB)
8415-01-110-9981
Cap, Food Handler's (IB)
8415-00-234-7677
8415-00-234-7678
8415-00-234-7679
Cover, Helmet (IB)
8415-00-105-0605
Cover, Helmet, Camouflage Pattern (IB)
8415-01-092-7514
8415-01-092-7515
Gloves, Cloth, Cotton, White (SH)
8415-00-268-8354
8415-00-268-8353
Hood, Anti-Flash (SH)
8415-00-275-3159
Hood, Spray Painter's Protective (SH)
8415-00-NSH-0001—Pearl Harbor Naval Shipyard, Hawaii only
Pad, Helmet, Flight Deck Crewman's (IB)
8415-00-178-6830
8415-00-178-6831
Traffic Safety Clothing (See Class 8465 also) (IB)
8415-00-177-4978
8415-00-177-4974

CLASS 8430

Footwear Cover (IB)
8430-00-890-2079
8430-00-580-1205
8430-00-580-1206
8430-00-591-1359
Slide Fastener Unit, Laced Boot (IB)
8430-00-465-1888
8430-00-465-1889
8430-00-465-1890

CLASS 8440

Neckerchief (IB)
8440-01-076-0779
Necktie (IB)
8440-00-216-6130
8440-00-316-2519
8440-00-555-7194
Scarf, Man's Wool (SH)
8440-01-005-2558
8440-00-160-6843
8440-00-823-7520

CLASS 8445

Belt, Trousers (IB)
8445-01-068-8339
8445-01-068-8340
Scarf, Neckwear (IB) 8445-00-549-5363

CLASS 8455

Scarf, Branch of Service (IB)
8455-00-916-8398
8455-00-405-2294
8455-00-985-7336
8455-01-078-0750
8455-01-078-0751
8455-01-078-0752
8455-01-078-0746
8455-01-078-0753
8455-01-078-0748
8455-01-078-0754
8455-01-078-0755
8455-01-078-0756
8455-01-078-0744
8455-01-078-0757
8455-01-078-0758
8455-01-078-0759
8455-01-078-0760
8455-01-078-0761
8455-01-078-0762
8455-01-078-0749

CLASS 8460

Kit Bag, Flyer's (IB)
8460-00-606-8366

CLASS 8465

Bag, Barrack (IB)
8465-00-530-3692
Bag, Laundry (SH)
8465-00-616-9576
Bag, Laundry, Self-Closing, Ropeless (SH)
8465-00-656-0816
Bag, Sleeping, Firefighter's (IB)
8465-00-081-0798
Bag, Soiled Clothes (SH) (IB)
8465-00-122-3869
Bag, Soiled Clothes, Submarine (IB)
8465-00-762-7671
Belt, Individual, Equipment, Nylon LC-1 (IB)
8465-01-120-0674
8465-01-120-0675
Belt, M.P. (IB)
8465-00-527-8843
Carrier, Intrenching Tool (IB
8465-00-001-6474
Case, Field, First Act (IB)
8460-00-935-6814
Case, Maintenance Equipment, Small Arms (IB)
8465-00-7819584
Clipboard, Pilot's (SH)
8465-01-012-9174
Clothes Stop (IB)
8465-00-377-5701
Cover, Water Canteen (IB)

8465-00-118-4956
Cover, Water Canteen, Nylon (IB)
8465-00-860-0256
Fieldpack, Canvas (SH)
8465-00-205-3493
Hood, Sleeping Bag (IB)
8465-00-518-2769
Lanyard, Pistol (SH)
8465-00-262-5237
8465-00-965-1705
Necklace, Personnel, Identification (SH)
8465-00-261-6629
Pocket, Ammunition Magazine (IB)
8465-00-782-2239
8465-00-261-4983
Protector, Trousers, Pistol Holster (IB)
8465-00-682-6741
Strap, Waist, with Pad LC-2 (IB)
8465-01-075-8164
Strap, Webbing, Cargo, Tie-Down (IB)
8465-00-001-6477
Strap, Webbing, Waist, LC-1 (IB)
8465-00-269-0481
Suspenders, Individual Equipment Belt (IB)
8465-00-001-6471
Traffic Safety Clothing (See Class 8415 also) (IB)
8465-00-177-4977
8465-00-177-4976
8465-00-177-4975
Whistle, Ball, Plastic (IB)
8465-00-254-8803

CLASS 8470

Headband, Ground Troop, Helmet Liner (IB)
8470-00-153-6671—Mechanicsburg, PA and Richmond, VA only
Headband, Ground Troops'/Parachutists' Helmet (IB)
8470-01-092-8493
8470-01-092-8492
Neckband, G.T., Helmet Liner (IB)
8470-00-753-6166
Pad, Parachutists' Helmet (IB)
8470-01-092-8494
Strap, Chin, Ground Troops'/Parachutists' Helmet (IB)
8470-01-092-7534
Strap, Chin, Parachutists' Steel Helmet (IB)
8470-00-032-2737
Strap, Retention, Parachutists' Helmet (IB)
8470-01-092-7524
Strap, Soldiers' Steel Helmet M-1 (IB)
8470-00-030-8003
Suspension Assembly, Liner, Helmet (IB)
8470-00-880-8814
Suspension Assembly, Ground Troops'/ Parachutists' (IB)
8470-01-092-7516
8470-01-092-7517
8470-01-092-7518
8470-01-092-7519

CLASS 8520

Soap, Toilet (IB)
8520-00-228-0598
8520-01-058-7463
8520-01-141-2519

CLASS 8940

Condiment Packet (Dietetic) (IB)
8940-00-177-4958
8940-00-177-4959
8940-00-177-4960
8940-00-177-4961
8940-00-177-4962
8940-00-177-4963
8940-00-935-6416
8940-00-935-6417
8940-00-935-6420
8940-00-935-6421

CLASS 8950

Condiment Packet (IB)
8950-00-935-6408
8950-00-935-6409
8950-00-935-6410
8950-00-935-6411
8950-00-935-6412
8950-00-935-6413

CLASS 8970

Food Packet, Survival, Aircraft, Life Raft, Indiv. (SH)
8970-01-028-9406

CLASS 9905

Plate, Marking, Blank (SH)
9905-00-473-6336
Sign, U.S. Property—No Trespassing (IB)
9905-00-559-2971
Sign-Kit, Vehicle (SH)
9905-00-565-6267
Tag, Key (SH)
9905-00-245-7826
Tag, Marker (SH)
9905-00-537-8954
9905-00-537-8955
9905-00-537-8956
9905-00-537-8957
Tree Shade (SH)
9905-00-NSH-0001 GFM (Fiberboard)—BLM and U.S. Forest Service in Washington and Oregon only

CLASS 9920

Ash Receiver, Tobacco (IB)
9920-00-682-6757
Divider, Separation (SH)
P.S. Item #01037-A
P.S. Item #01037-B
Marker, I.D., Plastic (SH)
P.S. Item #01036
P.S. Item #01036-A
P.S. Item #01036-B
P.S. Item #01036-C
P.S. Item #01036-D
P.S. Item #01036-E
P.S. Item #01036-F
Pallet, Material Handling (SH)
3990-00-NSH-0008 (62" × 48")—Rqmts of the U.S. Postal Service, Western Area Supply Center
Pocket, Leather (SH)
P.S. Item #D-1200-G
Safety Guard (SH)
P.S. Item #01075-B
Seal, Metal Band (SH)
P.S. Item #0816-A
P.S. Item #0816-A
Seat Assembly, Complete (SH)
P.S. Item #054-A
Seat Cover (SH)
P.S. Item #054-B
Strap, Tie, Mail Carrier's, with Buckle (IB)
P.S. Item #D-1216-D
P.S. Item #D-1216-E

P.S. Item #D-1216-F

Military Resale Commodities

Procedures for ordering military resale commodities are contained in Section 51-5.6, Code of Federal Regulations, Title 41.

Stock No. and Item Name

050 Roller ball pen, red (Optional Packaging) (IB)
051 Roller ball pen, blue (Optional Packaging) (IB)
052 Roller ball pen, black (Optional Packaging) (IB)
053 Retractable pen, black (Optional Packaging) (IB)
054 Retractable pen, blue (Optional Packaging) (IB)
055 Ultra fine tip pen, red (Optional Packaging) (IB)
056 Ultra fine tip pen, blue (Optional Packaging) (IB)
057 Ultra fine tip pen, black (Optional Packaging) (IB)
060 Roller ball pen, red (IB)
061 Roller ball pen, blue (IB)
062 Roller ball pen, black (IB)
063 Retractable pen, black (IB)
064 Retractable pen, blue (IB)
065 Ultra fine tip marker, red (IB)
066 Ultra fine tip marker, blue (IB)
067 Ultra fine tip marker, black (IB)
450 Tennis racket, deluxe (IB)
452 Tennis racket, economy (IB)
500 Room Air Freshner (IB)
501 Deodorizer, toilet bowl (IB)
510 Cleaner, all purpose (IB)
544 Scrubber, nylon net over polyurethane pad (IB)
554 Scrubber, nylon rectangular (IB)
555 Scrubber, kitchen, 4⅝x3⅛x1⅜" (IB)
556 Scrubber, bathroom 4⅝x3⅛x1⅜" (IB)
557 Scrubber, general household, 6⅝x3⅛x1" (IB)
563 Scrubber, plastic for teflon (IB)
570 Clothespins, Plastic (IB)
574 Clothesline, plastic, rayon reinforced, 100-ft. (IB)
575 Sponge, cellulose, 5½x3⅝x1¼" (IB)
576 Sponge, cellulose, 7⅝x4x1¾" (IB)
577 Sponge, cellulose, 5½x3⅝x1" (IB)
578 Sponge, cellulose, 5½x3⅝x⅝" (IB)
588 Opener, pour and store (IB)
593 Sponge, bath, circular (IB)
594 Swatter, fly, plastic (IB)
596 Cultery Set, Plastic, heavy duty (8 ea. knives, forks, spoons) (IB)
597 Knives, plastic, heavy duty (IB)
598 Forks, plastic, heavy duty (IB)
599 Spoons, plastic, heavy duty (IB)
600 Trowel, transplanter (IB)
601 Trowel, regular (IB)
602 Cultivator (IB)
603 Weeder (IB)
604 Grass Shears (IB)
605 Pruning shears (IB)
720 Paint roller cover, economy, 7" (IB)
721 Paint roller cover, economy, 9" (IB)
722 Paint roller cover, all purpose, 7" (IB)
723 Paint roller cover, all purpose, 9" (IB)
724 Paint roller cover, for textured surfaces, 7" (IB)
725 Paint roller cover, for textured surfaces, 9" (IB)
726 Paint roller cover, high pile, 7" (IB)
727 Paint roller cover, high pile, 9" (IB)
728 Paint roller cover, for gloss or semi-gloss, 7" (IB)
729 Paint roller cover, for gloss or semi-gloss, 9" (IB)
730 Paint roller cover, for rough surfaces, 9" (IB)
731 Paint roller cover, for rough surfaces, 7" (IB)
732 Paint roller cover, mohair fiber, 7" (IB)
733 Paint roller cover, mohair fiber, 9" (IB)
735 Trimmer, paint roller, with frame, 3" (IB)
736 Refill, trimmer, paint roller, 3" (IB)
741 Paint roller, frame assembly, 7" (IB)
742 Paint roller, frame assembly, 9" (IB)
901 Broom, mixed fiber (IB)
902 Broom, push, indoor/outdoor, 54" handle (IB)
903 Broom, parlor, corn, medium weight (IB)
904 Broom, corn, plastic cap (IB)
905 Broom, plastic filament, flagged ends (IB)
907 Broom, plastic filament, angle cut (IB)
908 Broom, plastic filament, angle tilt (IB)
909 Broom, whisk, corn (IB)
910 Broom, whisk, plastic (IB)
911 Brush, floor, plastic filament, with handle (IB)
912 Brush, lint, plastic filament (IB)
914 Brush, barbecue, with scraper (IB)
915 Brush, counter, plastic (IB)
916 Brush, bowl, sanitary, nylon filament (IB)
918 Brush, scrub, household (IB)
919 Brush, scrub, plastic block, vinyl filament (IB)
920 Handle, mop, spring lever, for wet mopheads (IB)
922 Applicator, wax, foam block (IB)
923 Mop, automatic, block sponge (IB)
924 Mop, block sponge, with scrub strip brush (IB)
925 Mop, dusting, nylon (IB)
926 Mop, stick, orlon/rayon yarn, wet (IB)
927 Mop, stick, rayon yarn, wet (IB)
928 Mop, stick, cotton yarn, wet (IB)
933 Refill, mop, automatic, block sponge, for 923 (IB)
934 Refill, mop, block sponge, for 924 (IB)
936 Mophead, orlon/rayon yarn, wet (IB)
937 Mophead, cotton yarn, wet (IB)
941 Cloth, dish, knitted cotton (IB)
945 Towel, kitchen, cotton (IB)
946 Potholder, quilted, cotton (IB)
949 Mitt, oven, quilted, cotton (IB)
950 Mop, dish and bottle, wood handle (IB)
951 Mop, glass and dish, plastic handle (IB)
952 Brush, percolator (IB)
955 Brush, vegetable/utility, plastic filament (IB)
956 Brush, bottle, nylon filament (IB)
957 Brush, dish and pan, nylon filament (IB)
959 Brush, pastry and basting (IB)
962 Cover, ironing board, silicone and pad, poly foam (IB)
964 Cover, ironing board, silicone, double coated (IB)
970 Bag, washing machine, nylon with zipper (IB)
980 Cloth, all purpose, cotton (IB)
983 Cloth, dusting (IB)
986 Cloth, wash, face (IB)
995 Dustpan, plastic (IB)

These services are identified by industrial group number as provided in the Standard Industrial Classification Manual prepared by

the Technical Committee on Industrial Classification, Statistical Policy Division, Office of Management and Budget.

SIC 0782

Grounds Maintenance

Department of Air Force:
- Edwards Air Force Base, California, for Chapel 2700; Hospital Areas 5500, 5510, and 5550; Recreation Fields 2210, 5201, 5208, and 5213; Buildings 1200, 1220, 1400, 2650, 2660, 2880, 3940, and P–1 (SH)
- Bergstrom Air Force Base, Texas, for the following AFRES buildings: 1601, 4204, 4526, 4527, 4534, 4535, 4547, 4562 and Apron "D" (SH)

Department of Army:
- Fort Ord, California, for Silas B. Hays Army Hospital; Officer's Open Mess; Headquarters Area & Welcome Center; Golf Course (Mowing); Football Field; Multipurpose Field; Durham Field; Soper Field; Bowling Alley; Building #3015; Babe Ruth Field (SH)
- Fort Lawton, Washington, for Cemetery Grounds (includes opening and closing of graves) (SH)

Department of Commerce:
- National Oceanic and Atmospheric Administration, Seattle, Washington, for National Marine Fisheries Service, 2725 Montlake Boulevard East (SH)

Department of Energy:
- Morgantown Energy Technology Center, Morgantown, West Virginia (SH)

Department of Interior:
- National Park Service, Washington, D.C., for LBJ Memorial Grove; Constitution Gardens; RFK Stadium (SH)

Department of Navy:
- Mare Island Naval Shipyard, California, for Coral Sea Village Bldg. 301D–4; Farragut South Bldg. 302D–3; Farragut Central Bldg. 303E–3; Farragut North; Combat Systems Technical School Command (SH)
- Naval Air Station, Miramar, California, for Parcel Areas: A, B, C, E, I, J, K, L, M, N (SH)
- Naval Postgraduate School, Monterey, California (SH)
- Naval Ordnance Station, Indian Head, Maryland, for Nonindustrial Area (SH)
- Naval Weapons Station, Yorktown, Virginia, for Kirkpatrick Park; Administration Bldg. No. 31 and Gate No. 1; Missile Park; Dispensary Area; Skiff Creek Area; Officer's Club Bldg. 58; Bldg. 380A, Bldg. 380B, Credit Union; Industrial Areas; Area 10 (Parkway Gate 18 and surrounding area); Area 11 (Chapel and Child Care area) (SH)
- Naval Air Station, Whidbey Island, Washington (SH)

Department of Transportation:
- Federal Aviation Administration, Ronkonkoma, New York, for Air Route Traffic Control Center (SH)
- Federal Aviation Administration, Westbury, New York, for New York TRACON Facility (SH)
- Federal Aviation Administration, Leesburg, Virginia for Air Route Traffic Control Center (SH)

Department of Treasury:
- U.S. Secret Service, Beltsville, Maryland, for Special Training Building and Complex (SH)

General Services Administration:
- U.S. Custom House, 6 World Trade Center, New York, New York (SH)
- Federal Building, 1002 N.E. Holladay, Portland, Oregon (SH)
- Federal Building, 1220 S.W. Third, Portland, Oregon (SH)
- Pioneer Courthouse, 520 S.W. Morrison, Portland, Oregon (SH)
- U.S. Courthouse, 620 S.W. Main, Portland, Oregon (SH)
- Federal Building, 500 West 12th, Vancouver, Washington (SH)

SIC 0851

Seedling Harvesting

Department of Agriculture: Forest Service, McKinleyville, California, for Humboldt Nursery (SH)

SIC 5812

Catered Noon Meals

Department of the Army: Armed Forces Examining and Entrance Station, Seattle, Washington (SH)

Food Service

Department of Air Force: Sheppard Air Force Base, Texas (SH)

SIC 7218

Laundry

Department of Army: U.S. Army Medical Materiel Agency, Fort Detrick, Maryland (SH)

Department of Navy: Naval Training Center, Great Lakes, Illinois (SH)

SIC 7331

Mailing

Department of Agriculture: Washington, D.C. (D.C. metropolitan area only, excluding Foreign Agriculture Services, Management Services Division) (SH)

Department of Commerce:
- National Oceanic and Atmospheric Administration, Rockville, Maryland, for National Marine Fisheries Service, Fisheries Development Division, F21; Procurement & Grants Management Division, 6010 Executive Boulevard; Public Affairs Administration, Public Affairs; Printing & Distribution Branch, 11400 Rockville Pike; Distribution Section, 12227 Wilkins Avenue (SH)
- National Technical Information Services, 5285 Port Royal Road, Springfield, Virginia (SH)

Department of Defense: Defense Supply Service, National Committee for Employer Support for Guard and Reserve, 117 N. 19th Street, Arlington, Virginia (SH)

Department of Education: Office for Civil Rights Office of Program Review & Assistance, 330 C Street S.W., Washington, D.C. (SH)

Department of Energy: Distribution, 12th and Pennsylvania Avenue, N.W., Washington, D.C. (SH)

Department of Health and Human Services:
- Office of the Secretary, Washington, D.C. (SH)
- National Institutes of Health, Bethesda, Maryland (SH)
- Alcohol, Drug Abuse, and Mental Health Administration, Rockville, Maryland (SH)
- Food and Drug Administration, Rockville, Maryland (SH)
- Health Resources Administration, Rockville, Maryland (SH)
- Health Services Administration, Rockville, Maryland (SH)
- Office of Assistant Secretary for Health, Rockville, Maryland (SH)

Department of Housing and Urban Development: Washington, D.C. (SH)

Department of Interior:
- 18th and C Streets, N.W., Washington, D.C. (SH)
- U.S. Geological Survey, Reston, Virginia, for Publications Division, Branch of Technical Editing, Eastern Region; TOPO Division, 12201 Sunrise Valley Drive (SH)

Department of Labor:
- 200 Constitution Avenue, N.W., Washington, D.C. (SH)
- Manpower Administration, Washington, D.C. (SH)
- President's Committee on Employment of the Handicapped, Washington, D.C. (SH)

Department of Transportation: National Highway Traffic Administration, 400 7th Street, S.W., Washington, D.C. (SH)

Environmental Protection Agency: Specialized Procurement Unit, 401 M Street, S.W., Washington, D.C. (SH)

Federal Trade Commission: Pennsylvania Avenue and 6th Street, N.W., Washington, D.C. (SH)

Library of Congress: Washington, D.C. (SH)

Merit System Protection Board: Office of Special Counsel, 1717 H Street, N.W., Washington, D.C. (SH)

National Credit Union Administration: Printing Service, 1375 K Street, N.W., Washington, D.C. (SH)

Office of Personnel Management: 1900 E Street, N.W., Washington, D.C. (SH)

Smithsonian Institute: Supply Division, Washington, D.C. (SH)

U.S. Consumer Product Safety Commission: Washington, D.C. (SH)

U.S. Metric Board: 1815 N. Lynn Street, Arlington, Virginia (SH)

Tax Form Order Fulfillment

Department of Treasury: Internal Revenue Service, Buffalo, New York (SH)

SIC 7349

Cardboard and Paper Scrap Recovery

Department of Army: New Cumberland Army Depot, Pennsylvania (SH)

Janitorial/Custodial

Department of Agriculture: Forest Service, Sequoia National Forest, Porterville, California, for Supervisor's office, Smith Building (New Wing), 900 W. Grand Avenue; Warehouse Complex, 480 N. Henrahan Avenue (SH)

Department of Air Force:
Bergstrom Air Force Base, Texas, for Buildings 713, 734, 2004, 2108 and 2600 (Chapel) (SH)
Fairchild Air Force Base, Washington, for Alert Facility (Bldg. 2080); Alert Trailers; Post Office (Bldg. 644); Military Family Housing Office (Bldg. 2451B); Audit Agency Office (Bldg. 2245); 47th Air Division Headquarters (Bldg. 2285); Civilian Personnel and NAF (Room 209 of Bldg. 2245); Red Cross Office (Bldg. 2245); Base Library (Bldg. 716); Base Chapel (Bldg. 4200); Base Education Center (Bldg. 2365); Family Visitation Center (Bldg. 2092) OSI Bldg. 5025; Social Actions Bldg. 3509; Base Education Trailers; Air Recovery and Rescue Squadron (Bldg. 2036); SAC/MET Office (Bldg. 2001B) (SH)
Department of Army:
Pentagon Officers Athletic Center, The Pentagon, Washington, D.C. (SH)
U.S. Army Reserve Center, John Williams Street, Attleboro, Massachusetts (SH)
U.S. Army Reserve Center, Belmont and Manley Streets, Brockton, Massachusetts (SH)
U.S. Army Reserve Center, 915 W. Chestnut Street, Brockton, Massachusetts (SH)
U.S. Army Reserve Center, Buildings 85 and 90, Hingham, Massachusetts (SH)
U.S. Army Reserve Center, 675 American Legion Highway, Roslindale, Massachusetts (SH)
U.S. Army Reserve Center, 130 Eldridge Street, Taunton, Massachusetts (SH)
U.S. Army Reserve Center, Fort Drum, New York (SH)
U.S. Army Reserve Center, 111 Finney Boulevard, Malone, New York (SH)
Department of Energy:
Computer Science Center; Technical Support Building; Technical Support Addition, 550 Second Street, Idaho Falls, Idaho (SH)
Morgantown Energy Technology Center, Morgantown, West Virginia (SH)
Department of Interior: Bureau of Land Management, Roseburg, Oregon, for District Building (SH)
Department of Navy:
Naval Air Station Miramar, California (SH)
Naval and Marine Corps Reserve Center, Jackson, Mississippi (SH)
Naval Air Station, Whidbey Island, Washington, for Buildings 12, 18, 22, 100, 103, 108, 110, 113, 116, 119, 124, 126, 180, 220, 243, 365, 369, 371, 374, 375, 376, 377, 380, 381, 385, 386, 960, 961, 975, 994, 2546, 2547, 2551 (SH)
Department of Transportation:
Federal Aviation Administration, Westbury, Long Island, New York, for TRACON Facility (SH)
Federal Aviation Administration Facilities, Spokane, Washington, for Air Traffic Control Tower Building and adjacent TRACON Building including connecting enclosed walkway, Spokane International Airport; Felts Field for Air Traffic Control Tower, Flight Service Station, General Aviation District Office (SH)
General Services Administration:
Federal Building and Courthouse, 1340 West 6th Street, Los Angeles, California (SH)
Food and Drug Administration Building, 1521–33 West Pico Boulevard, Los Angeles, California (SH)
Federal Building, 801 I Street, Sacramento, California (SH)
Federal Building, 275 Peachtree Street, Atlanta, Georgia (SH)
U.S. Courthouse, Forsyth and Walton Streets, Atlanta, Georgia (SH)
OSHA Training Center, 1555 Times Drive, Des Plaines, Illinois (SH)
Federal Building, 400 South Clinton, Iowa City, Iowa (SH)
Federal Building, (U.S. Post Office and Courthouse), 330 Shawnee, Leavenworth, Kansas (SH)
U.S. Federal Building and Post Office, 212 Harlow, Bangor, Maine (SH)
Waltham Federal Center, 424 Trapelo Road, Waltham, Massachusetts (SH)
Federal Building, 100 West Capitol Street, Jackson, Mississippi (SH)
Federal Building and U.S. Courthouse, Lincoln, Nebraska (SH)
Social Security Administration District Office Building, 22 Morris Street, Hackensack, New Jersey (SH)
Social Security Administration District Office Building, 686 Nye Avenue, Irvington, New Jersey (SH)
Social Security Administration District Office Building, 396 Bloomfield Avenue, Montclair, New Jersey (SH)
Federal Building, 3rd and Hill Avenue, Gallup, New Mexico (SH)
Leo W. O'Brien Federal Building, Clinton Avenue and N. Pearl Street, Albany, New York (SH)
Federal Building, 111 West Huron, Buffalo, New York (SH)
U.S. Customs, 160–19 Rockaway Boulevard, Jamaica, New York (SH)
U.S. Courthouse Annex, 1 St. Andrews Plaza, New York, New York (SH)
U.S. Courthouse, 40 Foley Square, New York, New York (SH)
Federal Building, 45 Bay Street, Staten Island, New York (SH)
U.S. Courthouse and Federal Building, Broad and Catherine Streets, Utica, New York (SH)
Federal Building, Muskogee, Oklahoma (SH)
Federal Building, U.S. Courthouse, Eugene, Oregon (SH)
Federal Building, 511 N.W. Broadway, Portland, Oregon (SH)
Lloyd Group Buildings, Portland, Oregon, at following locations: 630 N.E. Holladay Street; 830 N.E. Holladay Street; 729 N.E. Oregon Street; 811 N.E. Oregon Street; 827 N.E. Oregon Street (SH)
Federal Office Building, Cass & Stephens Streets, Roseburg, Oregon (SH)
U.S. Courthouse and Federal Building, Rapid City, South Dakota (SH)
Border Stations, Bridge of the Americas, Paso Del Norte, Good Neighbor Bridge and Cotton Classing Building, El Paso, Texas (SH)
Administration Building, Salt Lake City, Utah (SH)
The Charles Building, Salt Lake City, Utah (SH)
Executive Terminal Building, Salt Lake City, Utah (SH)
GSA Motor Pool Building, Salt Lake City, Utah (SH)
The Maurice Building, Salt Lake City, Utah (SH)
U.S. Post Office, Salt Lake City, Utah (SH)
Federal Center, 25th & Dover Streets, Moses Lake, Washington (SH)
Federal Building, Immigration and Naturalization Services, 815 Airport Way, Seattle, Washington (SH)
Federal Center, Corps of Engineers, Walla Walla, Washington (SH)

Janitorial/Elevator Operator

General Services Administration:
Veterans Administration Clinic Building, 17 Court Street, Boston, Massachusetts (SH)
U.S. Federal Building & Courthouse, 436 Dwight Street, Springfield, Massachusetts (SH)
Federal Building, 35 Ryerson Street, Brooklyn, New York (SH)
Federal Building, 201 Varick Street, New York, New York (SH)
Veterans Administration Building, 252 Seventh Avenue, New York, New York (SH)

SIC 7369

Food Service Attendant

Department of Army: Seneca Army Depot, Romulus, New York (SH)

Commissary Shelf Stocking and Custodial Service

Department of Air Force:
Little Rock Air Force Base, Arkansas (SH)
Mountain Home Air Force Base, Idaho (SH)
McConnell Air Force Base, Kansas (SH)
Hanscom Air Force Base, Massachusetts (SH)
Lackland Air Force Base, Texas (SH)
Sheppard Air Force Base, Texas (SH)

SIC 7374

Keypunch and Verification

General Services Administration: GSA Region 2, Automated Telecommunication Service, Data Services Division (SH)

SIC 7399

Affix Labels—U.S. Patent Documents

Department of Commerce: Patent and Trademark Office, Crystal City, Arlington, Virginia (SH)

Assembly

Department of Defense:
Belt, Trousers (IB)
Food Packet, In-flight, Individual (8970–01–060–2899) (SH)
Food Packet, Isolated Site (8 Menus) (IB)
Food Packet, Long Range Patrol (8970–00–926–9222) (SH)
Food Packet, Survival, Abandon Ship (8970–00–299–1395) (IB)
Food Packet, Survival, General-Purpose, Individual (8970–00–082–5665) (IB)
General Services Administration: General Mechanic's Tool Kit (5180–00–177–7033), GSA Depot, Kansas City, Missouri (SH)

Bursting and Packaging of Commemorative Stamps

U.S. Postal Service: Washington, D.C. (SH)

Currency Packaging

Department of Treasury: Bureau of Engraving and Printing, Washington, D.C. (SH)

Microfilming Contract Files

Department of Navy: OICC Trident, Bremerton, Washington (SH)

Microfilm Reproduction

Department of Navy: Naval Submarine Base Bangor, Silverdale, Washington (SH)

Packaging

General Services Administration: Canteen, Water, Disposable (8465–01–062–5854), GSA Region 8, Denver, Colorado (SH)

Repair of Air Cargo Pallet Top and Side Nets

Department of Air Force: McChord Air Force Base, Washington (SH)

Sewing

Department of Army: Redstone Arsenal, Alabama (Provides specified end items produced through use of customized, heavy-duty sewing service) (SH)

Shrink Wrapping Gift Packages

U.S. Postal Service: Washington, D.C. (SH)

SIC 7358

Rebuilding Automotive Components

General Services Administration:
- GSA Interagency Motor Pool, Newark, New Jersey (SH)
- GSA Interagency Motor Pool, New York, New York (SH)

SIC 7542

Carwash

Department of the Interior: Bureau of Land Management, Medford District Office, 3040 Biddle Road, Medford, Oregon (SH)

SIC 7641

Furniture Rehabilitation

General Services Administration:
- Monterey, California, plus 10-mile radius, including Fort Ord (SH)
- San Francisco, California, and the counties of Alameda, Contra Costa, San Mateo, and Santa Clara (SH)
- Altus Air Force Base, Oklahoma (SH)
- Lawton, Oklahoma including Fort Sill (SH)
- San Antonio, Texas, plus 40-mile radius (SH)
- Spokane, Washington, plus 30-mile radius (SH)

Metal Furniture Rehabilitation

General Services Administration: Cleveland, Ohio, plus 25-mile radius (SH)

SIC 7699

Mattress and Box Spring Rehabilitation (IB)

General Services Administration: Orders for renovated mattresses may be arranged through GSA regional offices. IB will provide requirements for mattress and box spring renovation for GSA Regions W, 2, 3, 4, 5, 6, 7, and 8 only.

Pallet Repair

Department of Navy:
- Naval Supply Center, Norfolk, Virginia (SH)
- Naval Supply Center, Puget Sound, Bremerton, Washington (SH)

Rebuilding of Typewriters

General Services Administration: GSA Self-Service Stores, Chicago, Illinois (SH)

Repair and Maintenance of Electric Typewriters Only

General Services Administration:
- Health and Human Services, 300 S. Wacker Drive, Chicago, Illinois (SH)
- Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois (SH)
- Social Security Administration, 600 W. Madison, Chicago, Illinois (SH)
- Syracuse, New York (including Onondaga County) (SH)

Repair and Maintenance of Manual Typewriters Only

General Services Administration: Federal Court House Building, Syracuse, New York (SH)

Repair and Maintenance of Electric and Manual Typewriters Only

General Services Administration:
- Rochester, New York (including Monroe County) (SH)
- U.S. Customs, Milwaukee, Wisconsin (SH)
- U.S. Federal Office Building, Milwaukee, Wisconsin (SH)
- Veterans Administration Center and Hospital, Wood, Wisconsin (SH)
- Veterans Administration Regional Office, Milwaukee, Wisconsin (SH)

Repair, Maintenance, and Overhaul of Building Maintenance, Grounds Maintenance, and Related Types of Equipment

General Services Administration: New York City (5 Boroughs), Nassau County, Suffolk County, New York; Newark, New Jersey, plus 5-mile radius (SH)

Repair of Rubberized Items

Department of Army:
- Mattress Pneumatic (Insulated 8465–00–254–8887), Fort Bliss, Texas (SH)
- Mattress Pneumatic (Noninsulated 8465–00–518–2781), Fort Bliss, Texas (SH)
- Ponchos (8405–00–935–3257), Fort Bliss, Texas (SH)
- Bag Clothing, Waterproof (8465–00–261–6909), Fort Bliss, Texas (SH)

Sponge Rubber Mattresses Rehabilitation

General Services Administration: Requirements for GSA Region 3 (IB)

SIC 9199

Administrative Services

Environmental Protection Agency:
- Marfair Building, Washington, D.C. (SH)
- Waterside Mall Complex, Washington, D.C. (SH)
- General Services Branch, 230 South Dearborn Street, Chicago, Illinois (SH)
- Beltsville Research Laboratory, Beltsville, Maryland (SH)
- 6100 Executive Boulevard, Rockville, Maryland (SH)
- 9100 Brookville Road, Silver Spring, Maryland (SH)
- 26 Federal Plaza, New York, New York (SH)
- Crystal Mall Complex, Arlington, Virginia (SH)

[FR Doc. 81-32581 Filed 11-10-81; 8:45 am]
BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Organization of the Joint Chiefs of Staff; National Defense University Panel of the Board of Visitors for National Defense University and Defense Intelligence School; Meeting

The President of the National Defense University has scheduled a meeting of the National Defense University Panel of the Board of Visitors for National Defense University and Defense Intelligence School on Tuesday, December 1, 1981, from 0830–1145 and 1330–1600. The meeting will be held in the Hill Conference Center, Theodore Roosevelt Hall, Building 61, Fort Lesley J. McNair, Washington, D.C. The discussions will include progress and plans for the National Defense University and the curricula, faculty, and students of the Industrial College of the Armed Forces and the National War College. The meeting is open to the public, but the limited space available for observers will be allocated on a first-come, first-served basis. To reserve space, interested persons should write or phone (693–1075), the Assistant to the President, National Defense University, Fort Lesley J. McNair, Washington, D.C. 20319.

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

November 6, 1981.

[FR Doc. 81-32540 Filed 11-10-81; 8:45 am]
BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

National Advisory Committee on Black Higher Education and Black Colleges and Universities; Meeting

AGENCY: National Advisory Committee on Black Higher Education and Black Colleges and Universities.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of the quarterly meeting of the National Advisory Committee on Black Higher Education and Black Colleges and Universities. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix 1). This document is intended to notify the general public of their opportunity to attend.

DATE: November 30–December 1, 1981, 9 a.m. to 5 p.m.

ADDRESS: Education Conference Center, Room 3000, FOB–6, 400 Maryland Avenue, SW., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Ms. Carol J. Smith, Program Delegate, 1100 17th Street, NW., Suite 702–6, Washington, D.C. 20036, AC 202 653–7558.

SUPPLEMENTARY INFORMATION: The National Advisory Committee on Black Higher Education and Black Colleges and Universities is governed by the provisions of Part D of the General Education Provisions Act (Pub. L. 90247 as amended; 20 U.S.C. 1233 *et seq.*) and the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. Appendix 1) which set forth standards for the formation and use of advisory committees.

This Committee was established to examine all approaches to the higher education of Black Americans as well as enhancement of the historically Black colleges and universities and then to make recommendations to the Secretary of Education in the identification of several courses of action to raise substantially the participation of Black Americans in all sectors and at all levels of higher education.

The agenda will include a discussion of current and planned Federal activities which may impact on Blacks in higher education and the historically Black colleges and universities and a status report on ongoing staff research activities.

Records are kept of all Committee proceedings and are available for public inspection at the office of the National Advisory Committee on Black Higher Education and Black Colleges and Universities, 1100 17th Street, NW., Suite 702–6, Washington, D.C. 20036, from the hours of 8:30 a.m. to 5:00 p.m.

Dated: November 5, 1981.

Thomas P. Melady,

Assistant Secretary for Postsecondary Education.

[FR Doc. 81–32606 Filed 11–10–81; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 81–CERT–024]

Air Products and Chemicals, Inc.; Recertification of Eligible Use of Natural Gas To Displace Fuel Oil

On October 19, 1981, Air Products and Chemicals, Inc. (Air Products), filed an application with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 for recertification of an eligible use of up to 7,500 Mcf of natural gas per day to displace approximately 56,500 gallons (1,345 barrels) of No. 2 fuel oil (0.3 percent sulfur) per day at its New Orleans, Louisiana, complex of chemical plants. The eligible seller of the natural gas is Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001. The gas will be transported by Tennessee Gas Pipeline Company (same address); Transcontinental Gas Pipe Line Corporation, P.O. Box 1396, Houston, Texas 77001; Columbia Gas Transmission Corporation, P.O. Box 1273, Charleston, West Virginia 25325; United Gas Pipe Line Company, P.O. Box 1478, Houston, Texas 77001; and Creole Gas Pipeline Company, Suite 202, Pere Marquette Building, New Orleans, Louisiana 70001.

On November 6, 1980, Air Products received a one-year recertification (ERA Docket No. 80–CERT–034) of an eligible use of natural gas purchased from Tenneco for use in its New Orleans complex. The recertification expires November 5, 1981. Air Products has requested that this recertification be issued expeditiously in order that Air Products may be in a position to purchase all of the natural gas and to maximize displacement of fuel oil. The ERA has carefully reviewed Air Product's application for recertification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that Air Product's application satisfies the criteria enumerated in 10 CFR Part 595. We are, therefore, granting the recertification and transmitting it to the Federal Energy Regulatory Commission. More detailed information including a copy of the application, transmittal letter, and the actual recertifiction are available for public inspection at the Division of Natural Gas Docket Room, Room 7108, 2000 M Street NW., Washington, D.C. 20461, from 8:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

The requested recertification is being issued prior to the 10-day public comment period and being made effective on November 6, 1981, to provide continuity with the current certificate's November 5, 1981, expiration date (ERA Docket No. 80–CERT–034). The recertification involves the current displacement of fuel oil, and it is not in the public interest to disrupt unnecessarily the displacement of this fuel oil while public comments are being solicited, especially since this same purchase and use of gas at this complex has qualified as an "eligible use" for the past two years. Public comments will still be accepted by ERA on or before November 22, 1981 in view of the ability of the Administrator to terminate a certification for good cause (10 CFR 595.08). Any person wishing to comment concerning this application should submit comments in writing to the Economic Regulatory Administration, Division of Natural Gas, Room 7108, RG–13, 2000 M Street NW., Washington, D.C. 20461, Attention: Paula A. Daigneault, on or before November 22, 1981.

An opportunity to make an oral presentation of data, views and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to Air Products and any persons filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C. on November 5, 1981.

T. Wendell Butler,

Assistant Administrator for Regulatory Programs, Economic Regulatory Programs.

[FR Doc. 81–32572 Filed 11–10–81; 8:45 am]

BILLING CODE 6450–01–M

C. K. Smith Company, Inc.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken on consent order.

SUMMARY: The Office of Enforcement, Economic Regulatory Administration of the Department of Energy announces notice of filing a Petition for the Implementation of Special Refund Procedures for refunds received pursuant to a Consent Order.

DATE: Petition submitted to the Office of Hearings and Appeals: November 3, 1981.

FOR FURTHER INFORMATION CONTACT: Adna Day, Program Manager for Product Resellers, Office of Enforcement, 2000 M Street, N.W., Room 5204, Washington, D.C. 20461.

SUPPLEMENTARY INFORMATION: On July 5, 1979, the OE published notification in the **Federal Register** that it executed a Consent Order with C.K. Smith & Company, Inc., (Smith) of Worcester, Massachusetts on May 30, 1979, 44 FR 39242 (1979). Interested persons were invited to submit comments concerning the terms, conditions, or procedural aspects of the Consent Order. In addition, persons who believed they had a claim to all or a portion of the refund amount paid by Smith pursuant to the Consent Order were requested to submit notice of their claims to the OE. The Consent Order was made effective upon its execution.

Comments were received from one person, Braintree Electric Light Department (Braintree). Braintree objected to the Consent Order asserting that the amount of the remedial payments in inadequate, the schedule of payments is unreasonably extended, that the Consent Order does not sufficiently explain OE's reasons for entering into the settlement, and that the Consent Order was entered into without participation by Smith's customers. Further, Braintree alleged that it is entitled to receive a copy of a Notice of Probable Violation (NOPV) issued to Smith without confidential information deleted, as well as correspondence between DOE and Smith pertaining to the NOPV and the Consent Order.

DOE has extremely broad discretion to settle its enforcement allegations on terms which it deems appropriate. *Consumer Energy Council* v. *Duncan*, 4 Energy Mgmt. (CHH) ¶26,314 (D.D.C. April 1, 1981); *U.S. Oil Company* v. *DOE*, 4 Energy Mgmt. (CCH) ¶26,312 (E.D. Wis. Mar. 27, 1981). Here, the Office of Enforcement entered into a compromise settlement without resort to expensive and time consuming litigation and on terms which OE believes to be in the public interest. As part of that settlement, the scheduling of remedial payments in installments was agreed to in order to permit Smith to make substantial refunds, while taking into account its financial situation. OE's agreement to the Consent Order's provisions is within its discretion. Moreover, OE is not required to articulate the various judgmental factors involved in its decision to settle with Smith or to set forth details regarding its enforcement allegations. *Minnesota* v. *Standard Oil*, 4 Energy Mgmt. (CCH) (D. Minn. June 18, 1981); *U.S. Oil Company* v. *DOE, supra*. Nor are third parties entitled to notice of participation in OE's pre-Consent Order negotiations. See *Action on Safety and Health* v. *FTC*, 498 F.2d 757 (D.C. Cir. 1974).

Finally, the issue of Braintree's entitlement to examine documents pertaining to the NOPV issued to Smith has already been resolved in *Braintree Electric Light Department* v. *DOE*, C.A. No. 79-2913 (D.D.C. 1980).

After considering the above-described comments, the Office of Enforcement has determined that its settlement with Smith should not be disturbed.

The following person submitted a notice of claim to the ERA:

Braintree Electric Light Department

Pursuant to the Consent Order, Smith is refunding the sum of $139,300 by certified checks made payable to the United States Department of Energy in six semi-annual installments. All such funds received by DOE have been placed into a suitable account pending determination of their proper distribution.

Action Taken

The OE is unable, readily, to identify the persons entitled to receive the $139,300.00, or to ascertain the amounts of refunds that such persons are entitled to receive. Therefore, the OE has petitioned the Office of Hearings and Appeals on November 3, 1981 to implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, 10 CFR 205.280 *et seq.* to determine the identity of persons entitled to the refunds and the amounts owing to each of them. Persons who believe they are entitled to all or a portion of the refunds should comply with the procedures of 10 CFR Part 205, Subpart V.

Issued in Washington, D.C. on the 4th day of November, 1981.

James J. Fenton,

Acting Director, Program Operations Division.

[FR Doc. 81-32570 Filed 11-10-81; 8:45 am]

BILLING CODE 6450-01-M

Pawnee Petroleum Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken on a Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces notice of a final Consent Order.

EFFECTIVE DATE: November 12, 1981.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, District Manager for Enforcement, P.O. Box 35228, Dallas, Texas 75235 (phone) 214/767-7745.

SUPPLEMENTARY INFORMATION: On September 28, Vol. 46, Page 47486, 1981, the Office of Enforcement of the ERA published notification in the **Federal Register** that it had executed a proposed Consent Order with Pawnee Petroleum Company on August 25, 1981 which would not become effective sooner than thirty days after publication. Pursuant to 10 CFR 205.199J(c), interested persons were invited to submit comments concerning the terms and conditions of the Proposed Consent Order.

Two (2) comments were received, but no modifications were suggested. The proposed Consent Order, therefore, was finalized and made effective on October 29, 1981.

Issued in Dallas, Texas on the 30th day of October, 1981.

Wayne I. Tucker,

Southwest District Manager, Economic Regulatory Administration.

[FR Doc. 81-32568 Filed 11-10-81; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 81-CERT-023]

Phelps Dodge Corp.; Recertification of Eligible Use of Natural Gas To Displace Fuel Oil

On October 16, 1981, Phelps Dodge Corporation (Phelps Dodge), filed an application with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 for recertification of an eligible use of up to 3.107 billion cubic feet of natural gas per year to displace approximately 322,941 barrels of No. 2 fuel oil (0.36 percent sulfur) per year at its Tyrone Branch, Tyrone, New Mexico; 121,533 barrels of No. 2 fuel oil (0.4 percent sulfur) per year at its New Cornelia Branch, Ajo, Arizona; 27,531 barrels of No. 2 fuel oil (0.2 percent sulfur) per year at its Copper Queen Branch, Bisbee, Arizona; 33,133 barrels of No. 6 fuel oil (1.5 percent sulfur) per year at its Morenci Branch, Morenci, Arizona; and 51,560

barrels of No. 6 fuel oil (1.2 percent sulfur) at its Douglas Reduction Works, Douglas, Arizona. The eligible seller of the natural gas is Lovelady, Inc., P.O. Drawer 2666, Midland, Texas 79702. The gas will be transported by El Paso Natural Gas Company, P.O. Box 1492, El Paso, Texas 79978; Seagull Pipeline Corporation, 1100 Louisiana Street, Houston, Texas 77002; and Valero Transmission Company, P.O. Box 500, San Antonio, Texas 78292.

On November 6, 1980, Phelps Dodge received a one-year recertification (ERA Docket No. 80–CERT–035) of an eligible use of natural gas purchased from Lovelady for use at these same facilities. The recertification expires on November 5, 1981. Phelps Dodge has requested that this recertification be issued expeditiously in order that Phelps Dodge may be in a position to purchase all of the natural gas and to maximize displacement of fuel oil.

The ERA has carefully reviewed Phelps Dodge's application for recertification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas To Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that Phelps Dodge's application satisfies the criteria enumerated in 10 CFR Part 595. We are, therefore, granting the recertification and transmitting it to the Federal Energy Regulatory Commission. More detailed information including a copy of the application, transmittal letter, and the actual recertification are available for public inspection at the Division of Natural Gas, Docket Room, Room 7108, 2000 M Street, N.W., Washington, D.C. 20461, from 8:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

The requested recertification is being issued prior to the 10-day public comment period and being made effective on November 6, 1981 to provide continuity with the current certificate's November 5, 1981 expiration date (ERA Docket No. 80–CERT–035). The recertification involves the current displacement of fuel oil, and it is not in the public interest to disrupt unnecessarily the displacement of this fuel oil while public comments are being solicited, especially since this same purchase and use of gas at these facilities has qualified as an "eligible use" for the past two years. Any person wishing to comment concerning this application should submit comments in writing to the Economic Regulatory Administration, Division of Natural Gas, Room 7108, RG–13, 2000 M Street, N.W., Washington, D.C. 20461, Attention: Paula A. Daigneault, on or before November 22, 1981.

An opportunity to make an oral presentation of data, views and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to Phelps Dodge and any persons filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C. on November 5, 1981.

T. Wendell Butler,

Assistant Administrator for Regulatory Programs, Economic Regulatory Administration.

[FR Doc. 81-32571 Filed 11-10-81; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 81-CERT-021]

Yale University; Recertification of Eligible Use of Natural Gas To Displace Fuel Oil

On October 2, 1981, Yale University (Yale), Central P.O. Box 1501–A, New Haven, Connecticut 06520, filed with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 an application for recertification of an eligible use of up to 750,000 Mcf of natural gas per year to displace approximately 121,000 barrels of No. 6 fuel oil (0.5 percent sulfur) at its New Haven, Connecticut campus. The eligible seller of the natural gas is National Fuel Gas Distribution Corporation, 10 Lafayette Square, Buffalo, New York 14203. The gas will be transported by National Fuel Gas Supply Corporation (same address); Tennessee Gas Pipeline Company, P.O. Box 2511, Houston, Texas 77001; and Southern Connecticut Gas Company, 55 Church Street, New Haven, Connecticut 06510. Notice of that application was published in the **Federal Register** (46 FR 53744, October 30, 1981) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. Yale requested that, if necessary, it be issued the recertification prior to the close of the 10-day public comment period to prevent possible delay of this gas being supplied, transported, and used to displace fuel oil.

On November 7, 1980, Yale received a one-year recertification (ERA Docket No. 80–CERT–036) of an eligible use of natural gas purchased from National Fuel Gas Distribution Corporation for a period of one year expiring on November 6, 1981, for use at its New Haven, Connecticut campus.

The ERA has carefully reviewed Yale's application in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas To Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that Yale's application satisfies the criteria enumerated in 10 CFR Part 595, and therefore, has granted the recertification and transmitted that recertification to the Federal Energy Regulatory Commission. More detailed information, including a copy of the application, transmittal letter, and the actual recertification are available for public inspection at the ERA, Division of Natural Gas Docket Room, Room 7108, 2000 M Street, N.W., Washington, D.C. 20461, from 8:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

This recertification is being issued prior to the expiration of the 10-day public comment period and being made effective on November 7, 1981, to provide continuity with the current certificate's November 6, 1981, expiration date. The recertification involves the displacement of imported fuel oil and it is in the public interest to maximize the displacement of imported fuel. Yale indicates that the gas volumes are presently flowing and disruption of the gas would cause a loss of oil displacement. It is therefore not in the public interest to delay or disrupt unnecessarily the displacement of this imported fuel oil, especially since this same purchase and use of gas at this facility has qualified as an "eligible use" for the past year. Public comments will still be accepted by ERA for the remainder of the ten (10) day public comment period in view of the ability of the Administrator to terminate a recertification for good cause (10 CFR 595.08).

Issued in Washington, D.C. on November 5, 1981.

T. Wendell Butler,

Assistant Administrator for Regulatory Programs, Economic Regulatory Administration.

[FR Doc. 81-32574 Filed 11-10-81; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL ENERGY REGULATORY COMMISSION

[Project No. 5216-000]

Alyeska Hydro Co.; Application for Preliminary Permit

November 5, 1981.

Take notice that Alyeska Hydro Company (Applicant) filed on August 10, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for Project No. 5216 to be known as the Alyeska Creek Project located on Alyeska Creek in Girdwood, Alaska. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. John MacGregor, P.O. Box 1776, Lummi Island, Washington 98262.

Project Description—The project would consist of: (1) an 8-foot high, 60-foot long diversion weir located at elevation 2,500 feet; (2) a 16-inch diameter, 6,000-foot long penstock; and (3) a powerhouse at elevation 300 feet containing two generating units with a total rated capacity of 1.5 MW. The Applicant estimates that the average annual energy production will be 7.8 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested a 36-month permit to prepare a definitive project report, including preliminary designs, results of geological, environmental and economic feasibility studies. The cost of the above activities, along with the preparation of an environmental impact report, obtaining agreements with Federal, State, and local agencies, conducting final field surveys and preparing designs is estimated by the Applicant to be $75,000. No new roads will be constructed for the purpose of conducting studies.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 11, 1982, 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 January 11, 1982.

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. 81-32658 Filed 11-10-81; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4803-000]

American Falls Reservoir District No. 2 and Big Wood Canal Co.; Application for Preliminary Permit

November 4, 1981.

Take notice that American Falls Reservoir District No. 2 and Big Wood Canal Company (Applicant) filed on June 5, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for Project No. 4803 to be known as the Dietrich Drop Project located on the Snake River via Milner-Gooding Canal, in Lincoln County, Idaho. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: American Falls Reservoir District No. 2, 112 South Apple Street, Box C, Shoshone, Idaho 83352.

Project Description—The proposed project would consist of: (1) a concrete intake structure; (2) a 2,200-foot long steel penstock parallel to the existing canal; (3) a concrete powerhouse, automatically operated, containing one generating unit rated at 4.0 MW; and (4) a 1.5-mile long transmission line.

The average annual energy generation would be 13.75 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 $47,800.

Competing Applications—This application was filed as a competing application to the Dietrich Drop Project No. 3858 filed on December 12, 1980, by Idaho Renewable Resources, Inc. and City of Ashton under 18 CFR 4.33 (1980). Public notice of the filing of the initial application has already been given and the due date for filing competing applications or notices of intent has passed. Therefore, no further competing applications or notices of intent to file competing applications will be accepted for filing.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all

protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before November 27, 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, 825 North Capitol Street, NE., 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. 81-32659 Filed 11-10-81; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5264-000]

L. M. Baker; Application for Preliminary Permit

November 4, 1981.

Take notice that L. M. Baker (Applicant) filed on August 24, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5264 to be known as the Oak Grove Fork Project located on the Oak Grove Fork of the Clackamas River in Clackamas County, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. L. M. Baker, Suite 1211, Oregon Bank Bldg., Portland, Oregon 97204.

Project Description—The proposed project would consist of: (1) a diversion structure approximately 3.5 miles downstream of the existing Timothy Lake Dam; (2) an 8.5-mile long canal; (3) a 400 acre-foot forebay; (4) a penstock; (5) a powerhouse on the north shore of Lake Harriet containing a single 23.8-MW generating unit; and (6) a 7-mile long, 115-kV transmission line from the proposed powerhouse to the existing Three Lynx Powerhouse. Applicant estimates that the project would generate an average of 120,000 MWh annually.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. During the term of the permit Applicant would conduct a detailed study to determine the economic, financial, engineering, and environmental feasibility of the project. Applicant estimates that its feasibility studies would cost $150,000.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 4, 1982, 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 January 4, 1982.

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. 81-32660 Filed 11-10-81; 8:45 am]

BILLING CODE 6717-01-M

Docket No. ER82-53-000]

Cliffs Electric Service Co.; Filing

November 5, 1981.

The filing Company submits the following:

Take notice that on October 28, 1981, Cliffs Electric Service Company (CESCO) filed a letter agreement providing for thesale of short term power to Upper Peninsula Power Company for the week of October 11, 1981. The rate was 0.77/kw and 110% of out-of-pocket costs.

CESCO requests waiver of the Commission's notice requirements to allow for an effective date of October 11, 1981.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 23, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-32661 Filed 11-10-81; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-18-000]

Colorado Interstate Gas Co.; Application

November 5, 1981.

Take notice that on October 13, 1981, Colorado Interstate Gas Company (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP82-18-000 an application pursuant to Section 7(c) of the Natural Gas Act and § 157.7(c) of the Regulations thereunder (18 CFR 157.7(c))

for a certificate of public convenience and necessity authorizing the construction during the calendar year 1982 and operation of facilities to make miscellaneous rearrangements on its system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in making miscellaneous rearrangements which would not result in any material change in transportation and sales service presently rendered by Applicant.

Applicant states that the total cost would not exceed $300,000. Such costs, it is asserted, would be financed from funds on hand, funds from operations, short-term borrowings, or long-term financing.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 30, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-32661 Filed 11-10-81; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP81-83-002 and TA81-2-21-005]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

November 5, 1981.

Take notice that Columbia Gas Transmission Corporation (Columbia) on October 21, 1981, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1, to be effective as follows:

September 1, 1981
Substitute Nineteenth Revised Sheet No. 64
November 1, 1981
Substitute Twentieth Revised Sheet No. 64

Columbia states that Substitute Nineteenth Revised Sheet No. 64 is being filed for the sole purpose of correcting a typographical error in the Base Average Commodity Purchased Gas rate.

Columbia further states that Substitute Twentieth Revised Sheet No. 64 is being submitted for filing to replace Twentieth Revised Sheet No. 64 issued September 25, 1981, in order that it may refect the supersession of Substitute Nineteenth Revised Sheet No. 64 being tendered herewith.

Copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before November 19, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-32642 Filed 11-10-81; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA81-2-44-006 (PGA81-16)]

Commercial Pipeline Co., Inc.; Proposed Change in FERC Gas Tariff

November 5, 1981.

Take notice that on October 22, 1981, Commercial Pipeline Company, Inc., (Commercial tendered for filing Revised Third Substitute Thirty-Fifth Revised Sheet No. 3A Superseding Second Substitute Thirty-Fifth Revised Sheet No. 3A to its FERC Gas Tariff First Revised Volume No. 1.

Commercial states that the substitute tariff sheet was filed to comply with the Commission's letter order dated July 30, 1981, which directed Commercial to calculate a new surcharge adjustment reflecting:

(1) The overcollections of supplier costs that occurred during the months of May 1980 through October 1980;

(2) The correct pipeline supplier rate during the month of April 1980; and

(3) The recalculation of carrying charges on the revised monthly balances.

Copies of this filing were served upon each of Commercial's jurisdictional customers and upon the Kansas Corporation Commission and the Missouri Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 19, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-32643 Filed 11-10-81; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5213-000]

Crater Lake Hydro Co.; Application for Preliminary Permit

November 5, 1981.

Take notice that Crater Lake Hydro Company (Applicant) filed on August 10, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project

No. 5213 to be known as the Crater Lake Project located on an unnamed creek from Crater Lake in Cordova, Alaska. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. John MacGregor, P.O. Box 1776, Lummi Island, Washington 98262.

Project Description—The project would consist of: (1) a reinforced concrete dam at the outlet to Crater Lake at approximately 1,550 feet elevation; (2) an 18-inch diameter, 4,500-foot long penstock; (3) a powerhouse containing one generating unit with a rated capacity of 600 kW; and (4) a 12,000-foot long transmission line. The Applicant estimates that the average annual energy output will be 4.3 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested a 36-month permit to prepare a definitive project report including preliminary designs, results of geological, environmental and economic feasibility studies. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with Federal, State, and local agencies, preparing a license application, conducting final field surveys and preparing designs is estimated by the Applicant to be $100,000. No new roads will need to be constructed for the purpose of conducting studies.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 25, 1982, 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 January 25, 1982.

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. 81-32662 Filed 11-10-81; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-51-000]

El Paso Electric Co.; Filing

November 5, 1981.

The filing Company submits the following:

Take notice that on October 27, 1981 El Paso Electric Company (El Paso) submitted for filing, as an initial rate filing, an "Interchange Agreement Between El Paso and Arizona Electric Power Cooperative, Inc." dated October 6, 1981 (Agreement). El Paso states that this Agreement provides a basis for the exchange and sale of energy between the parties on a returnable basis, and on an economy basis. El Paso requests that this Agreement be accepted for filing and made effective on October 27, 1981, and that waiver of the notice provisions and other requirements of the Commission's Regulations be granted as appropriate.

El Paso states that copies of this filing have been served upon the Public Utility Commission of Texas, the New Mexico Public Service Commission, and Arizona Electric Power Cooperative, Inc.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with § 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 23, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-32645 Filed 11-10-81; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5545-000]

Stephen J. Gaber; Application for Preliminary Permit

November 4, 1981.

Take notice that Stephen J. Gaber (Applicant) filed on October 20, 1981, an application for preliminary permit [purusant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5545 to be known as the White Salmon Creek Hydroelectric Project located on White Salmon Creek and an unnamed tributary to the North Fork of the Nooksack River near the Town of Glacier, Whatcom County, Washington. The project would be located within the Mt. Baker National Forest. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Stephen J. Gaber, 2551 Mt. Baker Hiway, Bellingham, Washington 98225.

Project Description—The project would consist of: (1) a 10-foot high, 35-foot long diversion dam on White Salmon Creek at elevation 2900 feet; (2) a 36-inch diameter, 11,000-foot long penstock with an 18-inch diameter, 12,000-foot long branch pipeline which would feed from the unnamed tributary of the North Fork of the Nooksack River; (3) a powerhouse containing a single generating unit with a rated capacity of 2.0 MW; and (4) a 10-mile long transmission line. The Applicant estimates that the average annual evergy production would be 8 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested a 36-month permit to prepare a definitive project report including preliminary designs,

results of geological, environmental, and economic feasibility studies. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with the U.S. 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 $281,000.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 6, 1982, 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 January 6, 1982.

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. 81-32864 Filed 11-10-81; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5489-000]

Homestake Consulting & Investments Inc.; Application for Preliminary Permit

November 4, 1981.

Take notice that Homestake Consulting & Investments Incorporated (Applicant) filed on October 13, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a) 825(r)] for Project No. 5489 to be known as the Cyclone Creek Waterpower Project located on Cyclone Creek in Lincoln County, Montana. The application is on file with the commission and is available for public inspection. Correspondence with the Applicant should be directed to: Homestake Consulting and Investments Incorporated, Route 3, Box 174 H, Sandpoint, Idaho 83864.

Project Description—The proposed project would consist of: (1) a 4000-foot long, 12-inch diameter penstock; (2) a powerhouse with a total installed capacity of 150 kW; and (3) a 200-foot long, 5-kV transmission line from the powerhouse to an existing Northern Lights Incorporated transmission line. The Applicant estimates that the average annual energy production would be .56 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks the issuance of a preliminary permit for a period of 36 months during which it would conduct the 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 $3620.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 8, 1982, 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 January 8, 1982.

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. 81-32865 Filed 11-10-81; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5487-000]

Homestake Consulting & Investments Inc.; Application for Preliminary Permit

November 4, 1981.

Take notice that Homestake Consulting & Investments Incorporated (Applicant) filed on October 13, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5487 to be known as the Independence Creek Waterpower Project located on Independence Creek in Lincoln County, Montana. The application is on file with

the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Homestake Consulting and Investments Incorporated, Route 3, Box 174 H, Sandpoint, Idaho 83864.

Project Description—The proposed project would consist of: (1) a 2700-foot long, 12-inch diameter penstock; (2) a powerhouse with a total installed capacity of 100 kW; and (3) a 2400-foot long, 5-kV transmission line from the powerhouse to an existing Northern Lights Incorporated transmission line. The Applicant estimates that the average annual energy production would be .438 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks the issuance of a preliminary permit for a period of 36 months, during which it would conduct the 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 $3,932.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 8, 1982, 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 January 8, 1982.

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. 81-32847 Filed 11-10-81; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5214-000]

Hyder Hydro Co.; Application for Preliminary Permit

November 5, 1981.

Take notice that Hyder Hydro Company (Applicant) filed on August 10, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5214 to be known as the West Mt. Hinckley Project located on an unnamed creek on the west side of Mt. Hinckley in Hyder, Alaska. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Jonathan M. Hanson, President, Richard T. Haard, Ph.D., Vice President, 1343 G Strteet, Suite 4, Anchorage, Alaska 99501.

Project Description—The project would consist of: (1) a 40-foot long, 4-foot high diversion weir located at elevation 1,400 feet; (2) a 60-inch in diameter, 2,700-foot long flume; (3) a 24-inch diameter, 1,400-foot long penstock; (4) a powerhouse containing three generating units with a total rated capacity of 2.5 MW; and (5) a 1.9-mile long transmission line. The Applicant estimates that the average annual energy output will be 13 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested a 36-month permit to prepare a definitive project report including preliminary designs, results of geological, environmental and economic feasibility studies. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with Federal, State, and local agencies, preparing a license application, conducting final field surveys and preparing designs is estimated by the Applicant to be $250,000. No new roads will be constructed for the purpose of conducting studies.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 11, 1982, 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 January 11, 1982.

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 regulation to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commisison, 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. 81-32665 Filed 11-10-81; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5215-000]

Hyder Hydro Co.; Application for Preliminary Permit

November 5, 1981.

Take notice that Hyder Hydro Company (Applicant) filed on August 10, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5215 to be known as the Fish Creek Project located on Fish Creek in Hyder, Alaska. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. John MacGregor, P.O. Box 1776, Lummi Island, Washington 98262.

Project Description—The project would consist of: (1) a 5-foot high, 50-foot long diversion structure located at elevation 500 feet; (2) a 24-inch diameter, 1,560-foot long low-pressure penstock; (3) a surge tank; (4) a 1,200-foot long high-pressure penstock; (5) a powerhouse containing three generating units with a total rated capacity of 1.3 MW; and (6) a 4.5-mile long transmission line. The Applicant estimates that the average annual energy production will be 8.0 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested a 36-month permit to prepare a definitive project report, including preliminary designs, results of geological, environmental and economic feasibility studies. No roads will need to be constructed for the purpose of conducting studies. The cost of the above activities, along with the preparation of an environmental impact report, obtaining agreements with Federal, State, and local agencies, preparing a license application, conducting final field surveys and preparing designs is estimated by the Applicant to be $125,000.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 11, 1982, either the competing application itself [See 18 CFR 4.33 (b) and (c) (1980)] or a notice of intent [See 18 CFR 4.33 (a) and (d) (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 January 11, 1982.

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. 81-32666 Filed 11-10-81; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5212-000]

Hyder Hydro Co.; Application for Preliminary Permit

November 5, 1981.

Take notice that Hyder Hydro Company (Applicant) filed on August 10, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5212 to be known as the Thumb Creek Project located on Thumb Creek in Hyder, Alaska. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. John MacGregor, P.O. Box 1776, Lummi Island, Washington 98262.

Project Description—The project would consist of: (1) a 60-foot long, 10-foot high diversion structure located at elevation 1,000 feet; (2) a 48-inch diameter, 5,000-foot long low-pressure conduit; (3) a 24-inch diameter, 1,400-foot long penstock; (4) a powerhouse containing three generating units with a total rated capacity of 10 MW; and (5) a 6.5-mile long transmission line. The Applicant estimates that the average annual energy production will be 57 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested a 36-month permit to prepare a definitive project report including preliminary designs, results of geological, environmental and economic feasibility studies. The cost of the above activities, along with the preparation of an environmental impact report, obtaining agreements with Federal, State, and local agencies, preparing a license application, conducting final field surveys, and preparing designs is estimated by the Applicant to be $1,000,000. No new roads will need to be constructed for the purpose of conducting studies.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 11, 1982, 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 January 11, 1982.

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. 81-32667 Filed 11-10-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket No. ES82-11-000]

Idaho Power Co.; Application

November 3, 1981.

Take notice that on October 28, 1981, Idaho Power Company filed an Application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, seeking an order granting the issuance of not more than $12 million of Pollution Control Revenue Bonds.

Any person desiring to be heard or to make any protest with reference to said Application should, on or before November 12, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The Application is on file and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-32648 Filed 11-10-81; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-2-000]

John Deere Component Works; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

November 6, 1981.

On October 1, 1981, John Deere Component Works, of Waterloo, Iowa filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The facility is a topping-cycle cogeneration facility which uses coal as its primary energy source. It is located at 400 Westfield Avenue, Waterloo, Iowa 50704. The power production capacity of the facility is 14.5 megawatts. The last major addition to the facility was in 1967. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure. All such petitions or protests must be filed on or before December 14, 1981 and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestant parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-32664 Filed 11-10-81; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-17-000]

Kentucky West Virginia Gas Co.; Application

November 5, 1981.

Take notice that on October 8, 1981, Kentucky West Virginia Gas Company (Applicant), P.O. Box 1388, Ashland, Kentucky 41101, filed in Docket No. CP82-17-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of minor facilities and the delivery of natural gas to Applicant's corporate parent, Equitable Gas Company (Equitable), for resale in the Commonwealth of Kentucky to 200 domestic and/or small commercial customers for high priority domestic uses, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes herein to construct and operate minor tap facilities and to make sales of natural gas to Equitable for resale to 200 domestic and/or small commercial customers in Kentucky because it currently has and would have for at least ten years a surplus of gas supplies. Applicant estimates that the domestic usage by each customer would be approximately 250 Mcf per year on the average and that the cost per customer of the proposed facilities would be $254.75 which would be financed by cash on hand.

Applicant further requests that the Commission accept for filing an amendment dated October 5, 1981, to Applicant's service agreement with Equitable dated June 14, 1976. Applicant also requests the Commission accept for filing "Third Revised Sheet No. 13, Superseding Second Substitute Second Revised Sheet No. 13" of Applicant's FERC Gas Tariff, First Revised Volume No. 1 which revised tariff sheet would reflect the changes of daily and annual maximum contract quantities accomplished by the amendment to the service agreement dated June 14, 1976.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 30, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-32660 Filed 11-10-81; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF81-71-000]

Memphis Hardwood Flooring Co., West, Grenada, Mississippi; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

November 6, 1981.

On September 28, 1981, Memphis Hardwood Flooring Company, whose corporate headquarters are located at 1551 Thomas Street, Memphis, Tennessee, filed with the Federal Energy Regulatory Commission (Commission) an application requesting that its plant operating under the same name located at Highway 7, West, Grenada, Mississippi, be certified as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The facility consists of a manufacturing plant that produces hardwood lumber and hardwood flooring. Wood waste from the manufacturing process will be the primary energy source in a boiler to produce steam that will be used in the manufacturing process and to generate electricity. This facility will annually produce 4,620,000 KWH of electricity.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure. All such petitions or protests must be filed on or before December 14, 1981 and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-32649 Filed 11-10-81; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF81-70-000]

Memphis Hardwood Flooring Co., Memphis, Ten.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

November 6, 1981.

On September 28, 1981, Memphis Hardwood Flooring Company, whose corporate headquarters are located at 1551 Thomas Street, Memphis Tennessee, filed with the Federal Energy Regulatory Commission (Commission) an application requesting that its plant operating under the same name located at 1551 Thomas Street, Memphis, Tennessee be certified as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

This facility consists of a manufacturing plant that produces hardwood flooring. Wood waste from the manufacturing process will be the primary energy source in a boiler to produce steam that will be used in the manufacturing process and to generate electricity. This facility will annually produce 11,107,000 KWH of electricity.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure. All such petitions or protests must be filed on or before December 14, 1981 and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-32650 Filed 11-10-81; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP73-244-003]

Midwestern Gas Transmission Co.; Revised Tariff Filing

November 5, 1981.

Take notice that on October 26, 1981, Midwestern Gas Transmission Company (Midwestern) tendered for filing revisions to its FERC Gas Tariff, Sixth Revised Volume No. 2, to be effective June 1, 1981, consisting of the following:

First Revised Sheet Nos. 62, 62A, 62L, 62M, 62P, and 62R Second Revised Sheet No. 62K

Midwestern states that the purpose of this filing is to reflect necessary revisions in the rate provisions of Midwestern's Rate Schedule T-1 due to changes in its sales rate structure as reflected in its April 30, 1981 filing in Docket No. RP81-57.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 19, 1981. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-32651 Filed 11-10-81; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5261-000]

Newbury Hydro; Application For Preliminary Permit

November 5, 1981.

Take notice that Newbury Hydro (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. 5261 to be known as the Newbury Hydro Project located on the Wells River in Orange County, Vermont. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. William McDonough, 135 5th Avenue, New York, New York 10010; and L. Macrae Rood, Box 142, Warren, Vermont 05674.

Project Description—The project would consist of the following existing works: (1) an existing 60-foot-long, 20-foot-high concrete dam. The dam is owned by Mr. William Bushey of Ashuelot, New Hampshire, and Mr. Maury Wallace of Corning New York; (2) a reservoir having a total storage capacity of 697,000 cubic feet; (3) a proposed powerhouse with a total installed capacity of 312 kW; and (4) appurtenant works. The Applicant estimates that the average annual energy output would be 1,300,000 kWh per year. Project energy would be sold to a local public utility.

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 18 months, during which time it would perform hydraulic, construction, economic, environmental, historic, and recreational studies, and if the proposed project is determined feasible, prepare an application for an FERC license. Applicant estimates cost of studies under permit would be approximately $52,600.

Competing Applications—This application was filed as a competing application to the Corning Fiber Products Mill Project No. 5209 filed on April 6, 1981, by Vermont Power Corporation under 18 CFR 4.33 (1980). Public notice of the filing of the initial application has already been given as the due date for filing competing applications or notices of intent. Anyone desiring to file a competing application must submit to the Commission, on or before, November 16, 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 procedures, 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 10, 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 Capital 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. 81-32669 Filed 11-10-81; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP82-12-000]

New England States Pipeline Co.; Application

November 5, 1981.

Take notice that on October 9, 1981, New England States Pipeline Company (Applicant), 1248 Soldiers Field Road, Boston, Massachusetts 02135, filed in Docket No. CP82-12-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline and appurtenant facilities and the transportation of natural gas for certain shippers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is submitted that Applicant is a general partnership fromed by AGT Gateway Corporation, affiliate of Algonquin Gas Transmission Company (Algonquin Gas), Texas Eastern New England, Inc. an affiliate of Texas Eastern Transmission Corporation (Texas Eastern), and Transco-New England Pipeline Company, an affiliate of Tanscontinental Gas Pipe Line Corporation (Transco).

Applicant asserts that at the present time it has no natural gas transmission operations and is not now subject to the jurisdiction of the Commission but that upon the construction and operation of the proposed facilities and the commencement of the transportation service proposed herein Applicant would become a "natural-gas company" within the meaning of section 2(6) of the Natural Gas Act subject to the jurisdiction of the Commission.

Applicant specifically proposes to construct and operate approximately 360 miles of 36-inch pipeline, two regulating stations and a metering station (the NESP Line) which would extend from a point on the international border in the vicinity of St. Stephen, New Brunswick, and Calais, Maine, to Burrillville, Rhode Island, where it would connect with existing pipeline facilities of Algonquin Gas. Such facilities, it is stated, would be able to transport 305,882 Mcf of natural gas per day and would be used to transport for Algonquin Gas, Texas Eastern and Transco (shippers) quantities of Canadian natural gas which such shippers would purchase and import into the United States.

Applicant estimates the cost of such facility to be approximately $560,778,000 which would be financed through a combination of bank loans of approximately $423,500,000 and contributions of equity by the partners totalling approximately $141,500,000.

Applicant further proposes to render firm transportation service of up to approximately 102,000 Mcf of natural gas per day to each of the aforementioned shippers. Such service, it is asserted, would be rendered in accordance with Applicant's tariff and future separate service agreements between Applicant and the shippers.

It is submitted that Applicant's proposed tariff for such service under its proposed Rate Schedule T has been designated on a cost of service basis and accordingly that Applicant would estimate its cost of service for six-month periods beginning on January 1 and July

1 except for the initial computation period which may be longer or shorter than six months but no longer than twelve months. Applicant states that it would charge shippers a monthly charge based upon one-sixth of the estimated cost of service for the six-month period. Adjustments for over-or-under-collections of Applicant's actual cost of service would be deferred and recovered in subsequent six-month periods, it is explained.

It is asserted that the initial quantities of gas to be transported through the NESP line are to be purchased from Pan Alberta Gas Ltd. with delivery of up to 305,882 Mcf of natural gas per day at the Canadian border to be divided equally among the shippers. The point of delivery would be at the proposed interconnection with Algonquin Gas' facilities at Burrillville, Rhode Island.

Applicant states that inasmuch as investors would place substantial reliance upon the Commission's authorization of the proposed project for recovery of debt and equity investment it is a condition of the project that the certificate include an express finding that the provisions of Applicant's cost of service tariff are just and reasonable under the Natural Gas Act. Further, it is stated that the shippers have advised Applicant that an essential and integral feature of the overall project is the receipt of Commission authorization for each shipper to track on a curent basis the monthly transportation charges paid by it to Applicant pursuant to Applicant's proposed Rate Schedule T and the monthly charges paid by it for Canadian gas.

It is indicated that the subject proposal is an integral part of a major joint undertaking by Algonquin Gas, Texas Eastern and Transco to provide a new long-term gas supply source for their systems. It is asserted that the importation of significant new gas supplies from Canada through the proposed NESP line would assist the shippers in meeting the need of their customers and that the urgent need to augment domestic natural gas reserves as well as to diversify supply sources coupled with the potential expansibility of the NESP line to accommodate future Canadian storage deliveries or new imports particularly from the new areas of natural gas exploration and development off the east coast of Canada are the essential factors supporting the timely construction and operation of the proposed NESP line.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 30, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-32670 Filed 11-10-81; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-49-000]

Niagara Mohawk Power Corp.; Filing

November 5, 1981.

The filing Company submits the following:

Take notice that Niagara Mohawk Power Corporation (Niagara), on October 26, 1981, tendered for filing as a rate schedule, agreements between Niagara and Consolidated Edison Company of New York, Inc. (Consolidated Edison) dated July 28, 1981, and August 28, 1980.

Niagara presently has on file an agreement with Consolidated Edison dated February 14, 1975. This agreement is designated as Niagara Mohawk Power Corporation Rate Schedule FERC No. 90. The new agreements are being transmitted as supplements to the existing agreement.

The supplements revise the transmission rates for transmitting FitzPatrick power and energy from the Power Authority to Consolidated Edison for the period commencing September 1, 1981, and for the period commencing September 1, 1980, as provided for in terms of the original agreement. Niagara requests waiver of the Commission's prior notice requirements in order to allow said agreements to become effective as of September 1, 1981, and September 1, 1980, respectively.

Copies of the filing were served upon Consolidated Edison Company of New York, Inc. and the Public Service Commission of New York.

Any person desiring to be heard or to protest said application should file a petition to intervene or to protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 23, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-32652 Filed 11-10-81; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF81-69-000]

Occidental Chemical Co.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

November 6, 1981.

On September 24, 1981, Occidental Chemical Company of White Springs, Florida filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The facility is a topping-cycle cogeneration facility located at P.O. Box 300, White Springs, Florida, which uses waste heat from chemical process reactions as its primary energy source. No. 6 fuel oil is used as a supplementry fuel, contributing about 3.1% of steam generated. The power production capacity of the facility is 15 megawatts. The waste heat is made available as

steam which is passed through a turbo generator to produce electric power. Most of the steam (60%–70%) is exhausted at 100 psig and used for low pressure evaporation of phosphoric acid; the balance can be condensed for maximum energy extraction. Installation of the facility began in July 1981. Less than 50 percent of the facility is owned by an electric utility, electric utility holding company or any combination thereof.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed on or before December 14, 1981 and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-32653 Filed 11-10-81; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP82-3-000]

"Clinton" Sandstone, Cyclops Corp.; Petition To Reopen Final Well Category Determination and To Withdraw Application

Issued: November 5, 1981.

In the matter of Ohio Department of Natural Resources Section 107 NGPA Determination "Clinton" Sandstone, Cyclops Corporation #1 Davis, JA No. 031–3256–3, 7, JD No. 81–36332.

Take notice that on October 9, 1981, the Ohio Department of Natural Resources, Division of Oil and Gas, Fountain Square, Columbus, Ohio 43224, riled with the Federal Energy Regulatory Commission (Commission) a petition to reopen a final well category determination in order to withdraw its notice of determination only under section 107 of the Natural Gas Policy Act of 1978 (NGPA) for the above referenced well. The determination for the subject well became final by operation of § 275.202 of the Commission's regulations before the date on which the petition for reopening and withdrawal was made.

The Ohio Department of Natural Resources (Ohio) states that the Davis #1 well is located in Jefferson Township, Conshocton County which is a nondesignated tight formation area. On June 8, 1981, the Commission received Ohio's notice of determinattion that the above referenced well qualified as a well producing from the "Clinton" tight formation under section 107 and a new onshore production well under section 103. The Commission's 45 day review period for final determination ended on July 23, 1981. Because the Davis #1 well is located in a nondesignated tight formation area, Ohio requests that the Commission withdraw Ohio's notice of determination only under section 107 of the NGPA for the Davis #1 well.

Any person desiring to be heard or to protest this proceeding should, within 30 days after publication of this notice in the **Federal Register**, filed with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, a petition to intervene or a protest in accordance with § 1.8 or § 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered but will not make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-32654 Filed 11-10-81; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5265–000]

Placer County Water Authority; Application for Preliminary Permit

November 4, 1981.

Take notice that Placer County Water Authority (Applicant) filed on August 24, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5265 to be known as the Auburn Ravine Power Project located on South Canal in Placer County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Elmer G. Pretzer, Power Systems Manager, Placer County Water Agency, P.O. Box 667, Foresthill, California 95631.

Project Description—the proposed project would consist of: (1) a diversion structure; (2) a 6-foot diameter penstock; (3) a powerhouse with a total installed capacity of 4500kW; and (4) a 800-foot long transmission line from the powerhouse to an existing 60-kV Pacific Gas and Electric Company transmission line. The Applicant estimates that the average annual energy production would be 37 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorized 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 a 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 $100,000.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 4, 1982, 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 January 4, 1982.

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. 81-32671 Filed 11-10-81; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-16-000]

Southern Natural Gas Co.; Application

November 5, 1981.

Take notice that on October 9, 1981, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP82-16-000 an application pursuant to section 7 of the Natural Gas Act and paragraphs (c), (e) and (g) of § 157.7 of the regulations thereunder (18 CFR 157.7 (c), 157.7(e) and 157.7(g)) (1) for a certificate of public convenience and necessity authorizing the construction, during calendar year 1982 and operation of facilities to make miscellaneous rearrangements on its system; (2) for permission and approval to abandon, during calendar year 1982 direct sales service and facilities no longer required for deliveries of natural gas to Applicant's customers; and (3) for a certificate of public convenience and necessity authorizing the construction and for permission and approval to abandon during the calendar year 1982 and operation of various field compression and related metering and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application pursuant to § 157.7(c) of the regulations is to augment Applicant's ability to act with reasonable dispatch in making miscellaneous rearrangements which would not result in any material change in the transportation and sales service presently rendered by Applicant. Applicant requests waiver of the total cost limitation of $300,000. It proposes to increase the total project limitation to $571,800 because of increased costs of construction and inflation. Such costs, it is asserted, would be financed initially by short-term financing and/or cash from current operations, and ultimately from permanent financing.

The stated purpose of this budget-type application pursuant to § 157.7(e) of the Regulations is to augment Applicant's ability to act with reasonable dispatch in abandoning service and removing direct sales measuring, regulating, and related facilities. Applicant states that it would abandon service and facilities only when deliveries to any one direct sales customer would not have exceeded 100,000 Mcf of natural gas during the last year of service.

The application further states that Applicant would not abandon any service unless it would have received a written request or written permission from the customer to terminate service. In the event such request or permission could not be obtained, a statement certifying that the customer has no further need for service would be filed with the Commission.

The stated purpose of this budget-type application pursuant to § 157.7(g) of the Regulations is to enable Applicant to act with reasonable dispatch in constructing and abandoning facilities which would not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application. Applicant requests waiver of the total cost limitation of $3,000,000 and the single project limitation of $500,000. It proposes to increase the total cost limitation to $6,663,000 with no single project to exceed $1,110,500. Such increase, it is asserted, would reflect the increased costs of construction of field compression facilities. Such costs, it is asserted, would be financed initially by short-term financing and/or cash from current operations and ultimately from permanent financing.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 30, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-32672 Filed 11-10-81; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP73-245-001]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Tariff Filing

November 5, 1981.

Take notice that on October 26, 1981, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), tendered for filing proposed tariff sheets to its FERC Gas Tariff, Sixth Revised Volume No. 2, consisting of the following:

First Revised Sheet Nos. 267, 267A, 267L, 267M, 267P and 267R
Second Revised Sheet No. 267K

Tennessee states that the purpose of these tariff sheets is to reflect revisions in the rate provisions of Rate Schedule T-46 and to change the name of NI-GAS Supply, Inc. to NICOR Supply, Inc.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 19, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to

become a party must file a petition to intervene, provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-32655 Filed 11-10-81; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-7-000]

Travenol Laboratories, Inc.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

November 6, 1981.

On October 14, 1981, Travenol Laboratories, Inc. of Cleveland, Mississippi filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The facility will be a topping-cycle cogeneration facility located on Highway 61 North, Cleveland, Mississippi. The primary energy source will be natural gas with fuel oil #2 as a standby fuel. Capacity of the facility is 400 kilowatts and 125 psig steam will be extracted from the turbine for process use. Installation is scheduled to begin in 1982. No electric utility, electric utility holding company or any person owned by either has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-32656 Filed 11-10-81; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER 82-50-000]

Tucson Electric Power Co.; Filing

November 5, 1981.

The filing Company submits the following:

Take notice that Tucson Electric Power Company (Tucson) on October 26, 1981, tendered for filing a Letter Agreement dated October 2, 1981, between Tucson and the United States of America, Department of Energy, Western Area Power Administration. The primary purpose of this agreement is to provide for the terms and conditions relative to the exchange of excess capacity between the Parties during the period from October 1981 through September 30, 1982.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 23, 1981. Protests will be considered by the Commission in determining the appropraite action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-32657 Filed 11-10-81; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-1-57-000]

Western Transmission Corp.; Proposed Changes

November 5, 1981.

Take notice that Western Transmission Corporation (Western), on October 27, 1981, tendered for filing as part of its FPC Gas Tariff, Original Volume No. 1, the following sheet:

Sixteenth Revised Sheet No. 3-A, superseding
Fifteenth Revised Sheet No. 3-A

The proposed changes would increase the monthly charges for purchased gas to Colorado Interstate Gas Company, Western's sole jurisdictional customer, pursuant to the provisions of Section 18 of Western's FPC Gas Tariff, Original Volume No. 1.

The proposed effective date of the above tariff sheet is December 1, 1981.

Copies of this filing have been served upon Colorado Interstate Gas Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 19, 1981. Protests will be considered by the Commission determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-32673 Filed 11-10-81; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3602-001]

Woods Creek, Inc.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

November 4, 1981.

Take notice that on October 8, 1981, Woods Creek, Inc. (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, Project No. 3602, would be located on Woods Creek near the Town of Monroe, in Snohomish County, Washington. Correspondence with the Applicant should be directed to: Mr. Neil H. Macdonald, Project Manager, Woods Creek, Inc., 14 South Idaho St., Seattle, Washington 98134.

Project Description—The proposed project would consist of: (1) a 4-foot high existing diversion structure across Woods Creek (to be rehabilitated); (2) an intake structure within the east bank of Woods Creek; (3) a 200-foot long existing channel; (4) a 48-inch diameter, 250-foot long penstock; (5) a powerhouse containing a single generating unit with a rated capacity of 600 kW discharging into Wods Creek; and (6) appurtenant facilities.

Agency Comments—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the Washington Departments of Fisheries and Game 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 identified 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 that 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 January 6, 1982, 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 requirements 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 coments 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 January 6, 1982.

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. 81-32663 Filed 11-10-81; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of Implementation of Special Refund Procedures and Solitation of Comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding $570,362.98 in consent order funds to members of the public. This money is being held in escrow following the settlement of enforcement proceedings brought by the DOE's Office of Enforcement. The firms involved are Panhandle Eastern Pipe Line Company ($280,127.98), PVM Oil Associates, Inc. ($215,000), Loveladdy Oil Company ($25,000), Armstrong & Associates ($35,700), and Ethyl Corporation ($14,535).

DATE AND ADDRESS: Comments must be filed on or before December 14, 1981 and should be addressed to the Office of Hearings and Appeals, Department of Energy, 2000 M Street NW., Washington, D.C. 20461. All comments should conspicuously display a reference to case number BEF-0041.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Acting Deputy Director, Office of Hearings and Appeals, Department of Energy, 2000 M Street NW., Washington, D.C. 20461 (202) 653-3137.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision and Order relates to five consent orders entered into by Panhandle Eastern Pipe Line Company, 44 FR 30153 (1979); PVM Oil Associates, Inc.; Loveladdy Oil Company, 44 FR 45663 (1979); Armstrong & Associates, 44 FR 45661 (1979); and Ethyl Corporation, 44 FR 47394 (1979).

The Proposed Decision and Order sets forth the procedures and standards that the DOE has tentatively formulated to distribute the contents of escrow accounts funded by Panhandle, PVM, Loveladdy, Armstrong, and Ethyl. The DOE has tentatively decided that Applications for Refund should be accepted from firms and individuals who purchased motor gasoline or fuel oil from these firms during the relevant audit periods. The Proposed Decision and Order provides that in order to be entitled to receive a portion of the settlement funds, a purchaser must furnish the DOE with evidence which demonstrates that it was injured by the alleged unlawful prices for motor gasoline or fuel oil charged by Panhandle, PVM, Loveladdy, Armstrong or Ethyl including specific documentation concerning the date, place, price, and volume of product purchased, whether the increased costs were absorbed by the claimant or passed through to other purchasers, and the extent of any injury alleged to have been suffered.

The refund process suggested in the Proposed Decision and Order would take place in two separate stages. In the first stage, all meritorious claims for refunds by persons such as the initial purchasers would be paid. For the second stage, which would take place after the claims procedure is completed, the Proposed Decision and Order suggests that the remainder of the consent order funds be distributed through the initial purchasers to persons who are likely to have been injured by the alleged overcharges. The DOE therefore solicits proposals from those firms concerning the most appropriate mechanisms which could be used for returning these moneys to downstream customers and ultimate consumers of the motor gasoline and fuel oil involved. As an alternative, the DOE proposes to deposit all remaining funds directly into the United States Treasury. The Proposed Decision emphasizes that no procedure for the second stage will be adopted until the claims process is completed.

It should be pointed out that until final procedures are adopted for the first stage, no claims for refunds can be accepted. Applications for Refund therefore should not be filed at this time. Appropriate public notice, including notice published in the **Federal Register**, will be given when the submission of claims is authorized. No less than 90 days from publication of such notice in the **Federal Register**, will be provided for the filing of claims.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted on or before December 14, 1981, and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1:00 to 5:00 p.m., Monday through Friday, except Federal holidays, in the Public Docket Room of the Office of Hearings and Appeals, located in Room B-120, 2000 M Street, N.W., Washington, D.C.

Issued in Washington, D.C. November 4, 1981.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Special Refund Procedures

November 4, 1981.

Name of Petitioner: Office of Enforcement, Economic Regulatory Administration: In the Matters of Panhandle Eastern Pipe Line Company, PVM Oil Associates, Inc., Loveladdy Oil Company, Armstrong & Associates, and Ethyl Corporation

Dates of Filing: April 9, 1981, April 9, 1981, June 26, 1981, July 21, 1981, July 21, 1981

Case Numbers: BEF-0041, BEF-0042, BEF-0067, BEF-0069, BEF-0070

Under the procedural regulations of the Department of Energy, the Economic Regulatory Administration's Office of Enforcement (OE) may request the Office of Hearings and Appeals to formulate and implement special procedures to make refunds in order to remedy the effects of alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V.

In accordance with these regulatory provisions, the OE recently filed Petitions for the Implementation of Special Refund Proceedings in connection with consent orders entered into with Panhandle Eastern Pipe Line Company (Panhandle), PVM Oil Associates, Inc. (PVM), Loveladdy Oil Company (Loveladdy), Armstrong & Associates (Armstrong), and Ethyl Corporation (Ethyl). Under the terms of these consent orders, the firms agreed to make refunds for their alleged violations of the DOE price regulations in the following amounts: $280,127.98 (Panhandle), $215,000 (PVM), $25,000 (Loveladdy), $35,700 (Armstrong), and $14,535 (Ethyl). The funds have been paid to the DOE and are now being held in an escrow account under the jurisdiction of the DOE pending receipt of instructions from the Office of Hearings and Appeals regarding their final distribution.

I. Background

PVM, Loveladdy, and Ethyl are "resellers" of petroleum products as that term was defined in 10 CFR 212.31. Armstrong is a "reseller-retailer" of petroleum products as that term was defined in 10 CFR 212.31. Panhandle is both a "refiner" and "reseller" of natural gas liquids and refined petroleum products as those terms were defined in 10 CFR 212.31. However, since this proceeding involves alleged overcharges on the part of Panhandle's wholly owned subsidiary Century Refining, which is a reseller of motor gasoline, Panhandle will be treated as a reseller under the DOE pricing regulations for purposes of this proceeding.[1] *See* 10 CFR 212.91. During the relevant time periods, each of the firms involved was subject to the Mandatory Petroleum Price Regulations set forth in 10 CFR Part 212, Subpart F. That Subpart governed the maximum prices that could lawfully be charged by resellers in the sale of fuel oil, motor gasoline, and other covered products. As a part of its enforcement activities, the OE audited the five firms specified above. The funds involved in this proceeding were obtained as a result of consent orders agreed to in settlement of enforcement actions alleging overcharges in the sale of fuel oil and motor gasoline by Panhandle, PVM, Loveladdy, Armstrong, and Ethyl.

An audit of Century Refining revealed possible pricing violations with respect to Century's sales of motor gasoline in the states of Missouri and Iowa during the period November 1, 1973 through December 31, 1975. Included among Century's first purchasers during that period were Missouri Self Service Company, Oskey Gas & Oil Company, Mutz Oil Company, Midwest Oil Company, I. V. Cole Petroleum Company, E. L. Bride and Kerr McGee Corporation. In order to settle all claims and disputes between Panhandle and the DOE regarding Century's prices of motor gasoline, Panhandle and the DOE entered into a consent order on May 15, 1979, in which Panhandle agreed to remit $280,127.98 to the DOE. Notice of the consent order was published in the Federal Register on May 24, 1979. *See* 44 FR 30153 (1979). Interested parties were invited to submit written notice to the DOE of potential claims against the settlement fund. Notices of claims were received from Western Petroleum Company, I. V. Cole Petroleum Company, and Mutz Oil Company.

On June 29, 1979, the United States Attorney for the Eastern District of New York filed a civil action under Section 209 of the Economic Stabilization Act of 1970, as amended, 12 U.S.C. 1904 note, against PVM Oil Associates, Inc., Pasquale V. Mazzarulli, and Joseph V. DiMauro. *United States v. PVM Oil Associates, Inc.*, Civil Action No. 79C 1697 (E.D. N.Y., filed June 29, 1979). The complaint alleged that during the period January 1, 1974, through July 31, 1975, the defendants were involved in a scheme to violate the Mandatory Petroleum Price Regulations by charging prices exceeding maximum lawful levels in sales of No. 2 fuel oil in Westchester County, New York. In order to resolve the issues raised in the lawsuit, the parties entered into a Consent Decree on June 29, 1979, in which the defendants agreed to remit $215,000 to the DOE in settlement of all claims raised in the lawsuit. The OE has been unable to identify any persons or firms that purchased product from PVM during the audit period.

In its audit of Loveladdy the OE found possible regulatory violations with respect to the firm's sales of No. 2 fuel oil and motor gasoline in the state of Texas during the period November 1, 1973, through April 30, 1974. The OE has identified thirty-eight firms and individuals who were first purchasers of fuel oil and gasoline from Loveladdy during the period concerned. The DOE and Loveladdy entered into a consent order under which Loveladdy agreed to remit $25,000 to the DOE in settlement of all claims and disputes between the parties arising from the audit. The terms of the final consent order were published in the **Federal Register** on August 3, 1979. *See* 44 FR 45663 (1979). Interested parties were given an opportunity to comment on the terms of the consent order and to submit written notice of potential claims against the refund amount. The DOE received no claims in response to that notice.

[1] Century Refining was the operator of a crude oil refinery until the refinery was sold in 1970. Century Refining entered into the motor gasoline resale business in March 1973.

The OE's audit of Armstrong also revealed possible pricing violations with respect to Armstrong's sales of No. 2 fuel oil in the state of Texas during the periods June 13, 1973, through August 19, 1973, and November 1, 1973, through May 31, 1975. Fifty-one first purchasers of No. 2 fuel oil from Armstrong during these periods have been identified. In order to settle all claims and disputes between the parties regarding the sale of No. 2 fuel oil, Armstrong and the DOE entered into a consent order on July 13, 1979, in which Armstrong agreed to pay $35,700 to the DOE. Notice of the consent order was published in the **Federal Register** on August 3, 1979. *See* 44 FR 45661 (1979). Interested parties were invited to comment on the terms of the consent order and to submit notice of claims against the settlement fund. No claim was received in response to that notice.

An audit of Ethyl revealed possible pricing violations with respect to the firm's sale of No. 2 fuel oil in the state of Texas during the period January 17 through May 13, 1974. Stinnes Oil & Chemical Company purchased all of the Nol. 2 fuel oil whose sales were the subject of the audit. Stinnes in turn sold this product to Gulf States Utilities. In order to settle all claims and disputes between Ethyl and the DOE regarding Ethyl's sales of No. 2 fuel oil, Ethyl and the DOE entered into a consent order on July 30, 1979, in which Ethyl agreed to remit $14,535 to the DOE. Notice of the consent order was published in the **Federal Register** on August 13, 1979. *See* 44 FR 47394 (1979). Interested parties were invited to submit written notice to the DOE of potential claims against the settlement amount. No claim was received by the DOE in response to that notice.

II. Jurisdiction

The OE filed Petitions for the Implementation of Special Refund Procedures in connection with the consent orders involving Panhandle, PVM, Loveladdy, Armstrong, and Ethyl on December 14 and November 30, 1979, and June 26, July 21, and July 21, 1981, respectively. On April 9, 1980, the Office of Hearings and Appeals issued a Decision and Order in which it determined that the jurisdictional prerequisites had been satisfied in the cases of Panhandle and PVM and that Subpart V proceedings would be an effective and cost efficient means of making restitution to overcharged persons in these cases. *Office of Enforcement*, 8 DOE ¶82,515 (1981).

The Subpart V process is to be used in situations where the Department of Energy is unable to readily identify persons who are entitled to refunds or to readily ascertain the amounts that such persons are entitled to receive as a result of enforcement proceedings. 10 CFR 205.280. After reviewing the records developed in the Loveladdy, Armstrong, and Ethyl cases, we have concluded that the implementation of Subpart V proceedings is also appropriate in those cases. In each of these cases there is a significant degree of difficulty inherent in identifying the persons who were injured by the alleged overcharges and ascertaining the level of refunds that such persons should receive. Until recently, crude oil and refined petroleum products were subject to a comprehensive price regulation scheme which could be utilized to facilitate the channeling of refunds to adversely affected purchasers through price rollbacks. However, on January 28, 1981, the President exempted crude oil and all refined petroleum products from the DOE regulatory program. Exec. Order No. 12287, 46 FR 9909 (1981). As a result of decontrol, price rollbacks can no longer be used to refund moneys to purchasers who were overcharged in the past. Therefore, to refund money to the parties affected by the alleged overcharges, a determination must be made regarding the extent to which the first purchasers of the products involved absorbed the overcharges or passed the higher costs through to their customers by raising their own sales prices. In these cases, therefore, the persons entitled to refunds are not readily identifiable, and the amount of the refunds that any particular person should receive is not readily ascertainable. Under these circumstances, we believe that Subpart V provides the most useful mechanism to effect restitution to persons who were likely to have been injured by alleged pricing violations. The Office of Hearings and Appeals therefore has decided to exercise jurisdiction over the funds received by the DOE in settlement of the enforcement proceedings underlying the Petitions for Implementation of Special Refund Procedures in the cases of Loveladdy, Armstrong, and Ethyl.

III. Authority To Fashion Refund Procedures

In several recent decisions we have considered Petitions for the Implementation of Special Refund Procedures under Subpart V. *See, e.g., Office of Enforcement*, No. BEF-0049 (August 18, 1981) (proposed decision) (hereinafter referred to as *Worldwide*); *Office of Enforcement* 8 DOE ¶82,597 (1981), (hereinafter referred to as *Vickers*); *Office of Enforcement*, No. BEF-0021 (March 13, 1981) (proposed decision), (hereinafter referred to as *Alcoa*); *Office of Enforcement*, No. BEF-0030 (May 1, 1981) (hereinafter referred to as *Fogadau*). The July 17, 1981 *Vickers* Decision was the most recent determination issued by the Office of Hearings and Appeals pursuant to Subpart V which established final procedures for the filing of applications for refunds of moneys received by the DOE under a consent order.

Subpart V authorizes the Office of Hearings and Appeals, upon request by the appropriate enforcement official, to fashion special procedures to distribute moneys obtained as part of settlement agreements. 10 CFR 205.281, 205.282. The special refund procedures are part of an overall regulatory program which is intended to implement several different statutes. Congress provided for the mandatory allocation and pricing of crude oil, residual fuel oil, and refined petroleum products in the Emergency Petroleum Allocation Act of 1973 (EPAA), 15 U.S.C. 751 *et seq.* (1976). The authority to enforce regulations issued under the EPAA was granted by Section 5 of the EPAA, which incorporated enforcement authorities established in the Economic Stabilization Act (ESA), 12 U.S.C. 1904 note (1970). EPAA, § 5(a), 15 U.S.C. 754(a). The statutory authority to enforce the regulations governing the allocation and pricing of petroleum products was delegated to the Administrator of the Federal Energy Administration, and subsequently to the Secretary of Energy. Federal Energy Administration Act (FEAA), § 5, 15 U.S.C. 765 (1974); Department of Energy Organization Act (DOE Act), § 201(a), 42 U.S.C. 7151(a) (1979). To carry out these statutory mandates, the regulations of the Cost of Living Council, the Federal Energy Office, the Federal Energy Administration, and the DOE have provided throughout the existence of the price control program for the issuance of remedial orders "requiring a person to cease a violation or to eliminate or compensate for the effects of a violation, or both." 6 CFR 155.81(b) (1973); 10 CFR 205.2 (1974) (defining "remedial order").

As we have noted in previous Subpart V decisions, restitution is designed to accomplish two purposes: disgorgement of the fruits of a regulatory violation from the wrongdoer, and refunds to persons injured by the regulatory violation. *See generally Vickers; Sauder v. DOE*, 648 F.2d 1341 (Temp. Emer. Ct. App. 1981). The latter objective—refunds to overcharged persons—furthers the specific EPAA goal of providing for the "equitable distribution of * * * refined petroleum products at

equitable prices * * * among all users." 15 U.S.C. 753(b)(1)(F).

IV. Proposed Refund Procedures

In view of the objectives expressed in the statutes and regulations discussed above, and the consent orders themselves, the procedures to be implemented in these five cases should, to the maximum extent practicable, provide for the distribution of the refund amounts to parties who were adversely affected by the alleged violations.

As we have stated before, refunding moneys obtained through DOE enforcement proceedings is the primary focus of Subpart V. 10 CFR 205.280; *see Alcoa; Vickers.* Subpart V offers a means of compensating many individuals who, because they either lack the resources or do not have a sufficient financial stake in the outcome to institute private lawsuits under section 210 of the ESA, have suffered injuries which would otherwise go unredressed. The Subpart V process is also an efficient administrative mechanism for returning alleged overcharges to injured parties because it eliminates the need for long and costly court actions.

Based upon our experience with Subpart V cases, we believe that the distribution of funds to overcharged persons should generally take place in two stages. In the first stage of the process, payment should be made to persons and firms who file applications for refund and demonstrate that they are entitled to a portion of the funds received by the DOE. After meritorious claims are paid in the first stage, a second stage may be necessary. In the second stage, there are a number of alternative procedures which could be adopted. Under one alternative, payments for the benefit of injured persons could be made to entities which are in a position to effectuate the restitutionary purposes discussed above. As a second alternative, or in the event that implementation of the methods discussed above would not accomplish its intended objectives or fails to exhaust all of the settlement fund, section 205.287(c) provides that "any remaining funds * * * shall be deposited in the United States Treasury or distributed in any manner specified in the Decision and Order referred to in § 205.282(c)." 10 CFR 205.287(c).

A. Refunds to Identifiable Purchasers

During the first stage in the refund process, the consent order funds should be distributed to claimants who satisfactorily demonstrate that they have been adversely affected by the alleged overcharges in sales of covered products by Panhandle, PVM, Loveladdy, Armstrong, and Ethyl. We note that the first purchasers of the relevant products from these five firms are likely to be claimants in this proceeding. These purchasers can be categorized as follows: (1) Resellers of petroleum products, (2) firms or individuals who used the product in question for the production or distribution of goods and services which were purchased by the public, and (3) entities which were the ultimate consumers of the product they purchased from Panhandle, PVM, Loveladdy, Armstrong, or Ethyl. To the extent that first purchasers who are resellers or who are involved in the production or distribution of goods and services can establish that they absorbed the overcharges rather than passed them on to their customers, they will be entitled to a *pro rata* share of the consent order funds. In order to qualify for a refund, these first purchasers will be required to demonstrate that during the period covered by the relevant consent order they would have kept their prices for petroleum products or goods and services at the same level had the alleged overcharges not occurred. While there are a variety of means by which a claimant could make this showing, a reseller or firm engaged in the production or distribution of goods and services generally should demonstrate that at the time it purchased covered products from its supplier, market conditions would not permit it to increase its prices to pass through the additional costs associated with the alleged overcharges. In addition, a reseller of petroleum products must have maintained a "bank" of unrecovered costs in order to demonstrate that it did not subsequently recover these costs by increasing its prices.

With respect to first purchasers who are ultimate consumers, we believe that the above showing should not be necessary in order for a firm to qualify for a refund. The types of organizations and indivdiuals that would be included in this group include home owners, schools, religious institutions, Federal, State, and local government entities, research foundations, and any other individual or organization which is not engaged in the direct sale of goods or services. It is unlikely that these types of first purchasers would have passed the alleged overcharges through to other consumers because they are not non-profit entities which are not involved in the direct sale of goods or services to other consumers. For example, one of Armstrong's first purchasers includes the Bureau of Indian Affairs, which is an agency of the Federal Government. The Office of Enforcement states that the No. 2 fuel oil purchased by this agency was used to operate publicly owned buildings, vehicles, and machinery. Therefore, this agency would have absorbed the alleged overcharges that were associated with its purchase of No. 2 fuel oil from Armstrong during the relevant time period. In order to establish a claim, this type of first purchaser need demonstrate only that it purchased a specific quantity of product which was sold by Panhandle, PVM, Loveladdy, Armstrong, or Ethyl during the relevant time period.

If the first purchasers are able to make the showings described above, it is likely that the entire amount of the funds at issue in this proceeding will be disbursed to them. In the event that they are unable to make a satisfactory showing, firms and individuals who purchased products from the first purchasers will be eligible to receive a portion of these funds.

In order to establish an entitlement to a refund, a person claiming to be an injured party must satisfactorily demonstrate that it purchased, during the relevant time period, a specific quantity of products which were sold by Panhandle, PVM, Loveladdy, Armstrong, or Ethyl. Privity with either the reseller or one of its first purchasers need not be established; evidence need only be presented that the products purchased by the claimant flowed through a chain of distribution leading back to one of five firms involved in this proceeding. In addition, unless the purchaser is an ultimate consumer, it should generally be able to demonstrate that it did not pass through the cost increases resulting from the alleged overcharges to its own customers. For example, a purchaser who resold the identified product should be in a position to show that market conditions did not permit it to raise prices charged to downstream customers, and that consequently it was forced to absorb the cost increases that are represented by the alleged overcharges. In the absence of that showing, we could conclude that the claimant was not injured in a monetary sense by the alleged overcharge. However, in the *Vickers* decision, we noted that the nature of the showing required could be too complicated for those individuals and firms who might otherwise be entitled to apply for refunds and who purchased relatively small amounts of products. We also observed that many of those purchasers might lack the type of records required to support such a showing. We therefore established in that case a threshold

level of purchases under which applicants, primarily smaller firms and individuals, were not required to make a detailed showing of actual injury. For those applicants who were claiming less than that level of purchases, we required only proof of the amount of product purchased by the applicant during the consent order period. However, the Vickers decision did not require applicants whose purchases exceeded the threshold level to provide detailed information which would establish that they did not pass through the price increases to their customers. This Proposed Decision is being published in the **Federal Register** so that interested parties will have an opportunity to submit comments on the tentative distribution scheme. We will consider using the same type of treatment for smaller claimants in this proceeding, and we specifically request comments from the public on this issue. *See Vickers; Office of Special Counsel for Compliance*, 4 DOE ¶82,511, at 85,043–44.

Refunds to persons who establish an entitlement to a refund will be made on a volumetric basis—*i.e.* based on the proportion of the product purchased by the applicant to the total amount of those products (whether motor gasoline, diesel fuel, or No. 2 fuel oil) sold by its supplier during the relevant period.

Any purchaser claiming a portion of the refund amount should file an Application for Refund pursuant to 10 CFR 205.283. Applications should provide all relevant information necessary to establish a claim, including specific documentation concerning the date, place, price, and volume of product purchased, the retention of increased costs, and the extent of any injury alleged. Detailed procedures for filing applications will be provided in a final Decision and Order. *See Vickers*. Before disposing of any of the funds received as a result of the consent orders involved in this proceeding, we intend to widely publicize the distribution process and to provide an opportunity for any affected party to file a claim. In addition to publishing notice in the **Federal Register**, notice will be provided in publications in the areas in which the first purchasers identified in the Appendix marketed their products during the period covered by the consent orders.[2] As a final matter, we note that refund applications filed on behalf of groups of claimants identifying themselves as adversely affected purchasers also will be considered. Such applications will be evaluated on a case-by-case basis.

B. Distribution of the Remainder of the Refund Amount

After all meritorious claimant have received the share of the settlement fund to which they are entitled, the settlement fund provided by each firm pursuant to its consent order, while diminished, may not be exhausted. The remainder of the funds should be distributed during the second stage of the refund process in furtherance of the goals set forth in the DOE's enabling legislation and implementing regulations. In this decision, we are proposing several alternatives for the second-stage refund procedure. However, we wish to emphasize that any consideration of the second stage procedure at this point in time involves a number of uncertainties. As we noted in *Vickers:*

> [such] a step would be difficult to justify before the analysis and processing of Applications for Refund filed in the first stage of the distribution of the Consent Order funds to claimants, since the amount remaining after all meritorious claims have been paid directly affects the appropriateness of the second-stage distribution scheme.

Vickers at 85,397. As in that case, we intend to set forth a number of second-stage alternatives in this proposed decision, consider the comments received after publication in the **Federal Register**, and then issue a final Decision and Order establishing procedures for the first stage. In that decision, we will summarize and address briefly the comments received concerning the proposed second-stage procedure, and will solicit another round of comments on the distribution of the funds remaining after payment of claims in the first stage. In this way, we will have several opportunities to consider the outstanding issues before reaching a final decision on the second stage.

Since restitution is the primary concern of Subpart V proceedings, we believe that the remaining funds should, if administratively and economically feasible, be distributed to groups of ultimate consumers who were likely to have borne a portion of the higher prices charged by Panhandle, PVM, Loveladdy, Armstrong, and Ethyl. In view of the relatively small sums of money likely to be involved in claims by many ultimate consumers, and the improbability that members of this class will possess records sufficient to establish their claims, we anticipate that only a limited number of ultimate consumers who were actually injured by the alleged overcharges will be able to prove during the first stage of the refund process that they are entitled to refunds. *See Vickers*. The fact that claims to specific refunds may not have been proved, however, does not mean that injuries to ultimate consumers have not occurred. Rather, the absence of claims for the full amount of the settlements would tend to reflect the difficulty such parties encounter in establishing a valid claim for a portion of the consent order funds.

In *Alcoa* and *Fagadau* we observed that the first purchasers of the products covered by the consent orders are in the best position to assist the DOE in identifying and distributing refunds to those persons who are likely to have been injured by the alleged overcharges. *Alcoa*, slip op. at 9; *Fagadau*, slip op. at 9. In this case as well, we believe that the first purchasers from the five firms can most effectively assist the DOE in channeling the remaining consent order funds to persons who are most likely to have been injured by the alleged overcharges. Consequently, one alternative we propose is that after payments ar made to successful claimants, any remaining funds be distributed through the first purchasers listed in the Appendix. We invite those firms to develop and submit to us plans for returning these funds to the parties who likely paid increased prices as a result of the alleged overcharges. The plans should identify the end-users, or groups of end-users, who were most likely to have been adversely affected by the alleged overcharges made by the resellers in this proceeding. Each firm should take into account its distribution and marketing system and its method of calculating prices during the relevant period. To the extent that purchases of product from particular firms can be isolated in the appropriate distribution system, the plans should limit the proposed refunds to customers who were downstream purchasers of the products covered by the consent orders. The plans should also be designed to exclude from participation in this stage of the refund process any purchaser who recovered a portion of the consent order funds during the first-stage distribution to successful claimants. In addition, consideration should also be given to the cost efficiency and administrative ease of any proposed refund plan.

Although the primary aim of the Subpart V process is to distribute the consent order funds to the parties who were injured as a result of alleged overcharges, we recognize that in some cases a firm would not be inclined to spend the time or resources necessary to develop and implement an effective

[2] Panhandle sold motor gasoline to first purchasers located in Des Moines, Iowa and Kansas City, Missouri; Loveladdy sold motor gasoline and diesel fuel to first purchasers located in Center, Texas; and Ethyl sold motor gasoline to a first purchaser in Houston, Texas.

restitutionary plan and thus, in several instances injuries may go unredressed. For example, the funds to be distributed by a particular firm may be so small in relation to the number of parties entitled to share in the proceeds that the costs to the firm would outweigh the benefits of the plan. In this regard, we note that in *Office of Enforcement*, No. BEF-0014 (May 22, 1981) (proposed decision), preliminary data supplied by the Office of Enforcement indicated that four of one firm's first purchasers would have available for distribution the following amounts: $56.25, $43.75, $518.75, and $537.50. *Id.*, slip op. at 10. Under such circumstances, it appears that the costs associated with administering a refund plan would be out of proportion to the fund available for distribution. Therefore, it is likely that a first purchaser dealing with such a small amount would not be inclined to develop and implement a restitutionary plan.

As an alternative to the method of distribution outlined above, refunds might be made in the form of lowered energy or energy related costs in areas where the products associated with the alleged overcharges by Panhandle, PVM, Loveladdy, Armstrong and Ethyl were marketed. For example, in *Office of Special Counsel for Compliance*, No. DFF-0003 (March 13, 1981) (proposed decision), we proposed that the second-stage refund to consumers who were likely to have been overcharged, be effected by using rate-regulated utilities to pass through the remaining funds to consumers through fuel adjustment clauses or other appropriate mechanisms. We observed that it is likely that the persons who purchased motor gasoline or heating oil in a particular area would reside there as well and would be ultimate consumers of electricity. They would therefore benefit from the proposed rate reduction. We further suggested that state governments in the affected areas also may be designated as refund recipients for the purpose of reducing energy-related expenses subject to their direct control. Although we cannot yet determine what actions we will take in the second stage, we will consider this type of restitutionary scheme as one possible alternative.

In the event that the distribution schemes discussed above prove to be inappropriate because of administrative costs or the lack of accurate information, we propose that the portion of the settlement fund which would go undistributed be deposited in the United States Treasury. We also propose as an alternative to the distribution scheme outlined above that any funds remaining after the first stage claims procedure be deposited directly into the United States Treasury. Subpart V regulations specifically sanction this course of action, *see* 10 CFR 205.287(c), and direct payments to the Treasury may well be appropriate in those cases where other remedies would be ineffectual or administratively burdensome. *See Citronelle-Mobile Gathering, Inc. v. O'Leary*, 499 F. Supp. 871 (S.D. Ala. 1980); *Golden Eagle Oil Co.*, 6 DOE ¶83,005 at 86,065 (1980); *cf. Chana's Auto Service Center*, 8 DOE ¶83,002 (1981). However, as noted above, we will not be in a position to decide what should be done with any remaining funds until after the first-stage refund procedure is completed. Only then will be know the amount of money available for the second stage of the refund process. This factor, as noted above, will strongly influence the ultimate disposition of those funds.

Although we believe that the first purchasers of Panhandle, PVM, Loveladdy, Armstrong and Ethyl are uniquely situated to develop and implement an effective plan for distributing the settlement funds to the parties who absorbed the overcharges, nothing contained herein should be interpreted to suggest that we are discouraging the submission by other parties of proposals containing alternative distribution schemes. We will fully consider any plan submitted, and we encourage any party interested in submitting such a plan to do so.

It Is therefore Ordered That:

The $280,127.98 refund amount supplied by Panhandle, the $215,000 PVM settlement, the $25,000 Loveladdy settlement fund, the $35,700 Armstrong refund amount and the $14,535 refund amount provided by Ethyl will be distributed in accordance with the foregoing Decision.

Appendix

Note.—As indicated in the text of this Decision, none of the first purchasers from PVM has been indentified. Consequently, no table for that firm is included in this Appendix.

Table I.—First Purchasers From Loveladdy Oil Co.

Dick Price Truck Stop
Watergate Yachting Center
Hooks Truck Stop
Val Capital Inc.
McMahon Oil Company
R. B. Baldwin
Winfield Truck Stop
Spindeltop Truck Stop
Johnson's Mobil
Brown's Grocery
Loop Truck Stop
Top Golden Triangle
McRea Grocery
Petroleum Wholesale
Mid-South Oil Company
Bolts Grocery
Bush & Baily Oil Company
Walls Grocery
Richmond Grocery
Richardson Oil Company
Gardner's Conoco Oil Company
Troy Yarborough
Haynes Manna
Harris Oil Company
G & L Grocery
Good Oil Company
Gordon Woods Texaco
Paris Truck Stop
Stan-Ann Oil
Huffman's Exxon
Hardin Grocery
Louts Grocery
Mona-Ray Quick Stop
Clements Oil Company
Conwell Corporation
Leaseway Southwest
Affiliated Leaseway
Leaseway of Texas

Table II.—Panhandle Eastern Pipe Line Co. [1]

I. V. Petroleum Company
Kerr-McGee
Midwest Oil Company
Missouri Self Service Company
Mutz Oil Company
Oskey Oil Company

Table III.—First Purchasers From Armstrong & Associates, Armstrong Enterprises, Inc. and Pioneer Refining, Inc. [1]

Southwest Oil Company
Brown Oil Company
Capri Enterprises
Val Verde Petroleum Company
Dixie Petroleum Company
R. C. McBryde Oil Company
Southland Petroleum Company
O'Brien Construction Company
Negley Trucking Company
Action Utility Company
Morales Construction Company
Central Texas Asphalt
East Central I.S.A.
Alamo White Truck Service
Edgar Achterberg
E. C. Hall

[1] E. L. Bride also purchased motor gasoline from Century during the period covered by the Consent Order. However, its purchases from Century during this period totalled less than .005 percent of Century's sales.

[1] Pioneer Refining, Alamo Iron Works, Wagner Construction, and Motor Truck Sales also purchased No. 2 Fuel Oil from Armstrong during the period coverd by the Consent Order. However, their purchases from Armstrong during this period totalled less than .002 percent of Armstrong's sales.

Big Tex Grain Company
Hertz Corporation
Texas Crushed Stone & Rock
Walton & Son Barge Terminal
Texas Construction Service Company
San Antonio I.S.D.
Camp Stanley Storage Activity
Southwestern Bell Telephone
KDM Company
City Water Board
Guido's
Walco
Texas National Guard
Red River Army Depot
Bureau of Indian Affairs
H. R. Moye Trucking Company
San Antonio Trucking
Camp Bullis
Fort Sam Houston
Southwest Research Institute
Fort Bliss
ACME Rentals
REA Express
Campbell's Delivery Service
Red Arrow Freight Lines
Lackland AFB
Judson Candy Company
Hill Country Water
Martin Linen Service
City of San Antonio
Terramar Corporation

Table IV.—First Purchaser From Ethyl Corp.

Stinnes Oil & Chemical Company

[FR Doc. 81-32567 Filed 11-10-81; 8:45 am]
BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of October 26 through October 30, 1981

During the week of October 26 through October 30, 1981, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearing and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Rutha L. Bradley, 10/28/81; BFA-0745

Rutha L. Bradley filed an Appeal from a partial denial by the Acting Inspector General (IG) of a Request for Information which she had filed under the Freedom of Information Act (FOIA). In considering the Appeal, the DOE found that the index and justification for withholding responsive documents provided to Ms. Bradley by the IG was inadequate. Moreover, it was determined that the IG's search for responsive documents was also inadequate. Accordingly, the DOE remanded the matter to the IG with instructions that a new search for responsive documents be conducted and that Ms. Bradley be provided with a new determination which adequately describes all responsive documents and justifies their non-disclosure.

Commonwealth Propane Company, 10/29/81; BFA-0751

Commonwealth Propane Company filed an Appeal from a partial denial by the Central Enforcement District of a Request for Information which the firm had submitted under the Freedom of Information Act (FOIA). In considering the Appeal, the DOE found that a small portion of one of the documents which was initially withheld under Exemption 5 was segregable, factual material and should be released to the public. The DOE found that the remainder of the material had been properly withheld under Exemptions 5 or 7(A).

Phibro Corporation, 10/30/81; BFA-0750

Phibro Corporation filed an Appeal from a supplemental denial by the Chief Enforcement Counsel to the Northeast Enforcement District of a Request for Information which the firm had sumbitted under the Freedom of Information Act (FOIA). In considering the Appeal, the DOE rejected Phibro's claim that the Chief Enforcement Counsel had conducted an inadequate and unnecessarily limited search of the files of the Office of General Counsel and the Office of Regional Counsel for Regions II and III, as directed by the DOE on April 17, 1981 in *Englehard Minerals & Chemicals Corp.*, 8 DOE ¶80,112 (1981). The DOE also found that the documents and portions of documents withheld by the Chief Enforcement Counsel are properly exempt from disclosure pursuant to Exemption 5 of the FOIA, and furthermore, that public interest considerations do not warrant their release. In the Decision, the DOE also determined that all portions of draft Notices of Probate Violations constitute pre-decisional, deliberative material which is exempt from mandatory disclosure under Exemption 5 and thus is not segregable, nonexempt material that must be released pursuant to 10 CFR 1004.10(c). Accordingly, the DOE determined that the Phibro Appeal should be denied.

Remedial Orders

Homestead Gas Company, Inc., 10/28/81; DRO-0052

Homestead Gas Company, Inc. objected to a Proposed Remedial Order which the Region IV Office of Enforcement issued to the firm on March 14, 1978. In the Proposed Remedial Order, Region IV found that Homestead had violated the retailer/reseller price rule. The DOE concluded that the Proposed Remedial Order should be rescinded in view of a stipulation between Homestead and the Office of Enforcement, which reduced the amount of overcharges, and retroactive exception relief granted to the firm in another proceeding (Case No. DEE-5116) with respect to the remaining overcharges.

William J. O'Connor, 10/26/81; DRO-0191

William J. O'Connor objected to a Proposed Remedial Order which the Region VI Office of Enforcement issued to the firm on March 28, 1979. In the Proposed Remedial Order, Region VI found that O'Connor had misclassified a well on its Lauderback #1 Bluebell property as a multiple completion well and had consequently sold specified volumes of crude oil produced from that property at prices which exceeded the applicable ceiling price levels. Region VI also found that O'Connor had erroneously certified gas well condensate from its Newman #1A property as stripper well crude oil and had charged more than the maximum allowable selling price for that condensate. In considering the firm's objections, the DOE found that the Lauderback well contained only one tubing string run inside the casing and therefore could not be classified as a multiple completion well. The DOE also found that Region VI had met its burden of proving that the liquid hydrocarbon production from the Newman property was gas well condensate and, as such, was not entitled to the stripper well exemption. The DOE therefore concluded that the Proposed Remedial Order should be issued as a final Order.

In the following cases involving Proposed Remedial Orders and/or Interim Remedial Orders for Immediate Compliance, no Statements of Objections were filed. The DOE therefore issued the orders in final form.

Company Name and Case No.

Frank's Marina, 34 South End Place, Freeport, N.Y. 11520; BRW-0084
Goodhope Sunoco, 1337, Good Hope Road SE., Washington, D.C. 20020; BRW-0086
Jamison's Sunoco, 1253 9th Steet NW., Washington, D.C. 20001; BRW-0083
Matty's Service Station, 538 South Broadway, Yonkers, N.Y. 10705; BRW-0079
Mt. Olivet Sunoco, 2101 Mt. Olivet Road NE., Washington, D.C. 20002; BRW-0081
New York Avenue Sunoco, 101 New York Avenue NE., Washington, D.C. 20002; BRW-0082
Riggs Road Sunoco, 115 Riggs Road NE., Washington, D.C. 20011; BRW-0087
Twin Parks Service Station, 2103 Webster Avenue, Bronx, N.Y. 10457; BRW-0078

Requests for Modification and/or Recission

Kern County Refining, Inc., 10/27/81; HYR-0009

On October 8, 1981, the DOE began further consideration of a Motion for Reconsideration filed by Kern County Refining, Inc. with respect to which the DOE had issued a Decision and Order on July 15, 1981. The Motion concerned an April 20, 1981 Decision and Order in which the DOE granted the firm exception relief from its entitlement purchase obligations for the period April 1979 through September 1979. In the Motion, Kern requested retroactive relief from its entitlement purchase obligations for the period October 1979 through March 1980. After the firm petitioned the Federal Energy Regulatory Commission to review the July 15, 1981 Decision and Order, both the DOE and the firm requested that the FERC stay its consideration of the Petition. The FERC granted the stay on the basis of its finding that the DOE did not have an opportunity prior to its July 15, 1981 Decision and Order to review certain supplemental data that Kern submitted in an amendment to its Motion for Reconsideration. After analyzing

the data, the DOE found that in the absence of retroactive relief for the period of October 1979 through March 1980, Kern had sustained an operating loss and a working capital deficit for its 1980 fiscal year. The DOE therefore concluded that Kern satisfied the irreparable injury standard for retroactive relief. Accordingly, retroactive exception relief was granted.

Office of Enforcement/Ben Sosbee's Chevron; HRR–0001
Office of Enforcement/Nelson's Service Center; HRR–0002
Office of Enforcement/Howard De Rouen Shell; HRR–0003
Office of Enforcement/Jerry Bullard Chevron; HRR–0004
Office of Enforcement/Harv's Sacramento Car Wash; HRR–0005
Office of Enforcement/Gerald Bushman Chevron; HRR–0006
Office of Enforcement/Don Skilling Chevron Service; 10/27/81; HRR–0007

The Office of Enforcement filed motions requesting modification of Remedial Orders issued to seven motor gasoline retail outlets. Those firms were found to have overcharged their customers and therefore ordered to refund the overcharges plus interest, which was to be assessed at the following rates: 9% per year for the period August 1 through September 30, 1979; 11.7% per year for the period October 1 through December 31, 1979; 14.28% per year for the period January 1 through January 31, 1980; 1% per month simple interest for all overcharges outstanding beginning February 1, 1980. In its Motions, the Office of Enforcement requested that the Remedial Orders be modified to reflect current DOE policy with respect to overcharges received by motor gasoline retailers. That policy is to impose interest on unpaid overcharges at a rate of 1% per month simple interest as of August 1, 1979. In the decision, the Office of Hearings and Appeals pointed out that to increase at this stage of the proceeding the interest rates during the period August 1 through December 31, 1979, would be unfair to the firms involved. Accordingly, the Office of Enforcement's motions were denied.

Request for Exception

Farmers Union Central Exchange, Inc., 10/28/81; BEE–1340

Farmers Union Central Exchange, Inc. (CENEX) filed an Application for Exception from the provisions of 10 C.F.R. § 211.67 (the Entitlements Program). If granted, the CENEX request would permit the firm to sell additional entitlements sufficient to reduce CENEX's average crude oil acquisition costs during calendar year 1980 to the level of the average crude oil acquisition cost of other domestic refiners. In considering the CENEX exception request, the DOE found that the operating difficulties experienced by the firm were a function of its feedstock quality preferences, the location of the CENEX refinery and industry-wide market conditions rather than the application of DOE regulations to the firm's operations. The DOE also found that, contrary to the firm's assertions, CENTEX received its fair share of domestic, price-controlled crude oil during calendar year 1980. Finally, the DOE found that CENEX failed to demonstrate that it had been adversely affected by the combined operation of the DOE Crude Oil Buy-Sell, Entitlements, Oil Imports, and Canadian Crude Oil Allocation Programs. Accordingly, exception relief was denied.

Petition for Special Redress

Taylor Oil Company, 10/26/81; BRZ–0111, BEG–0058, BRD–0134

Taylor Oil Company, the recipient of a Proposed Remedial Order, filed a Motion to Strike submissions made by the Administrative Litigation Division of the Office of General Counsel on behalf of the Office of Enforcement (OE). Thereafter, Taylor filed a Petition for Special Redress requesting identical relief and a Motion for Discovery. Administrative Litigation then moved to dismiss Taylor's Motions and its Petition.

In considering the Motion to Strike, Motion for Discovery, the Petition, and Administrative Litigation's cross-motions to dismiss, the DOE found that Administrative Litigation had inherent authority to act as Attorney for OE (and other DOE offices) in proceedings before the Office of Hearings and Appeals (OHA). The DOE also found that Administrative Litigation was acting as Attorney for OE and was not a participant in the remedial order proceeding and that it had authority to represent OE without a specific sub-delegation of authority from the Office of General Counsel. Finally, the DOE found that the discovery sought by Taylor was irrelevent and untimely. Accordingly, Taylor's motions were denied and its Petition for Special Redress was dismissed. The importnt issue discussed in the Decision and Order is the authority of Administrative Litigation to represent DOE in proceedings before OHA.

Requests for Stay

Laketon Asphalt Refining, Inc., 10/30/81; BES–0173

On August 24, 1981, Laketon Asphalt Refining, Inc. filed an Application for stay of two Decisions and Orders that the DOE issued on April 20, 1981. In those two Decisions, the DOE reviewed the levels of entitlements exception relief that Laketon received for its 1977 and 1978 fiscal years, and ordered the firm to correct the excess in relief by purchasing entitlements. In its Application for Stay, Laketon stated that it has filed Petitions for Review of those decisions with the Federal Energy Regulatory Commission, and that the firm might incur an irreparable injury, if the review decisions were implemented before FERC issued a final determination in favor of Laketon's Petitions. In considering the Application, the DOE found that Laketon's unfounded apprehension of monetary loss does not constitute an irreparable injury. The DOE also found that Laketon failed to demonstrate any likelihood of success on the merits of its Petitions. Thus, the DOE concluded that the firm had not satisfied the stay criteria set forth in 10 CFR 205.125(b). Laketon's stay request was therefore denied.

True Oil Company, 10/26/81; HRS–0003

True Oil Company filed an Application for Stay from the requirement that it file its Statement of Objections, Motion for Evidentiary Hearing, and Motion for Discovery (10 C.F.R. Part 205, Subpart O). In considering the Application, the DOE determined that the firm had not satisfied any of the criteria set forth in 10 CFR 205.125(b) for determining whether a stay should be granted. True Oil Company's stay request was therefore denied.

Protective Orders

The following firms filed Applications for Protective Orders. The applications, if granted, would result in the issuance by the DOE of the proposed Protective Order submitted by the firm. The DOE granted the following applications and issued the requested Protective Order as an Order of the Department of Energy:

Company Name and *Case No.*

Warrior Asphalt Company of Alabama, Inc.; Cities Service Company; BEJ–0211

Dimissals

The following submission was dimissed without prejudice: *Company Name* and *Case No.*

Washington Service Bureau, Inc.; HFA–0007

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120 M Street, N.W., Washington, D.C. 20461, Monday throught Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

November 4, 1981.

[FR Doc. 81–32560 Filed 11–10–81; 8:45 am]
BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS–51347; TSH–FRL—1983–4]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and

November 7, 1980 (45 FR 74378). This notice announces receipt of four PMNs and provides a summary of each.

DATES: Written comments by: PMN 81–566, 81–567, 81–568, and 81–569—January 2, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS–51347]" 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, DC 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, DC 20460, (202–426–2601).

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on the PMNs received by EPA:

PMN 81–566

Close of Review Period. February 1, 1982.

Importer's Identity. Claimed confidential business information. Organization information provided:

Annual sales—Between $1,000,000 and $9,999,999.

Manufacturing site—East North Central region.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: N, N disubstituted hetero monocyclic derivative.

Use. Claimed confidential business information.

IMPORT ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	20,000	50,000
2d year	50,000	100,000
3d year	100,000	150,000

Physical/Chemical Properties. Claimed confidential business information.

Toxicity Data. No data were submitted.

Exposure. The importer states that during manufacture 4 workers may experience dermal and inhalation exposure 8 hrs/day, 300 days/yr during packaging.

Environmental Release/Disposal. The importer states that 10–100 kg/yr will be released to water 1 hr/day, 300 days/yr. Disposal is to a publicly owned treatment works (POTW).

PMN 81–567

Close of Review Period. February 1, 1982.

Manufacturer's Identity. East Shore Chemical Company, Inc., P.O. Box 448, 1221 E. Barney Avenue, Muskegon, MI 49443.

Specific Chemical Identity. Benzene diazonium, 4-(phenylamino)-hexafluorophosphate.

Use. The manufacturer states that the PMN substance will be used in reprographics/lithographics.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	50	400
2d year	50	1,000
3d year	50	4,000

Physical/Chemical Properties. No data were submitted.

Toxicity Data. No data were submitted.

Exposure. No data were submitted.

Environmental Release/Disposal. No data were submitted.

PMN 81–568

Close of Review Period. February 1, 1982.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:

Manufacturing site—Middle Atlantic region.

Standard Industrial Classification Code—285; e.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Modified polyester from substituted alkanediols, carbomonocyclic acids and carbomonocyclic anhydrides.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used in an open use.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	14,000	20,000
2d year	20,000	25,000
3d year	25,000	33,000

Physical/Chemical Properties

Flash point—101° F.
Viscosity (range)—23–26 stokes.
Density—1.06 gm/cc.
Color—3.
Percent solids—73.5.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture and processing 63 workers may experience dermal and ocular exposure up to 6 hrs/day, up to 50 days/yr during sample extraction, filling and cleaning operations.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr will be released to air and water and 10–1,000 kg/yr to land. Disposal is by incineration.

PMN 81–569

Close of Review Period. February 1, 1982.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:

Manufacturing site—Middle Atlantic region.

Standard Industrial Classification Code—285; e.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Polymer of substituted alkanediol, alkanedioic acid, carbomonocyclic acids and carbomonocyclic anhydride.

Use. Claimed confidential business information. Generic use information provided. The manufacturer states that the PMN substance will be used in an open use.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	5,000	20,000
2d year	10,000	40,000
3d year	20,000	60,000

Physical/Chemical Properties

Flash point—160° F.
Viscosity—10.0.
Acid value—8.0 Mg KOH/GM.
Color—1.
Percent total non volatiles—76.2.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture and processing 73 workers may experience dermal and occular exposure up to 6 hrs/day, up to 28 days/yr during sample extraction, filling, testing and cleaning operations.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr will be released to air and water and 10–1,000 kg/yr to land.

Dated: November 3, 1981.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 81–32615 Filed 11–10–81; 8:45 am]

BILLING CODE 6560–31–M

[AD-FR-1871-3]

Collection of SO_2 Emissions Data From Certain Coal-fired Electric Utility Steam Generating Units; Withdrawal From Consideration

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The purpose of this notice is to announce that the Administrator of the U.S. Environmental Protection Agency (EPA) has decided not to proceed with a mandatory one year program to collect SO_2 emissions data from certain coal-fired electric utility steam generating units as had been announced earlier.

Rather than obtaining data from an estimated 225 such generating units the Administrator feels that adequate information can be obtained more easily from a few selected units with the voluntary assistance of a trade association of the utility industry. For this reason the Agency will not proceed with the program as previously announced.

FOR FURTHER INFORMATION CONTACT: Joseph Sableski or Bruce Hogarth, Plans Guidelines Section (MD–15), U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone (919) 541–5697, or (FTS) 629–5697.

SUPPLEMENTARY INFORMATION: On January 8, 1981 (46 FR 2186) EPA published a notice that announced a one-year program being considered to acquire short-term SO_2 emissions data from certain coal-fired electric utility steam generating units. This included units having a potential electrical output capacity of 300 megawatts (3,000 million Btu/hr heat input) or more. The Administrator originally felt there was a need to augment the Agency's data base for short-term SO_2 emissions.

A review of comments received on the notice revealed that many plants which would be affected by the program were not equipped to provide the necessary information. Comments from a number of utilities, including members of The Utility Air Regulatory Group (UARG), indicated that some needed data can be obtained more easily from a few properly equipped units. UARG agreed to participate in a voluntary sampling program that could assist the Agency in relating coal sampling and analysis data to short-term SO_2 emissions when measured by various means. Establishing such a relationship would allow the Agency to approve coal sampling as a possible means by which compliance with short-term limits could be established.

The Administrator has therefore decided not to proceed with the previously announced data collection program but to accept the offer by UARG and develop the needed information through a voluntary sampling program.

Dated: November 1, 1981.

Anne M. Gorsuch,

Administrator.

[FR Doc. 81-32616 Filed 11-10-81; 8:45 am]

BILLING CODE 6560-26-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Work Group To Revise Isolation Manual for Hospital Infection Control Committees; Open Meeting

On December 4 and 5, 1981, the Centers for Disease Control will convene an open meeting of a work group to revise the isolation manual to provide the most reasonable and practical guidance to infection control committees in hospitals. The meeting is open to the public, limited only by space available.

The meeting is scheduled to begin at 8:30 a.m., in Classroom 3, Building 1, Centers for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia.

For further information, please contact: Bryan P. Simmons, M.D., Hospital Infections Branch, Center for Infectious Disease, Centers for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia, Telephones: FTS: 236–3408, Commerical: 404/329–3408.

Dated: November 4, 1981.

William H. Foege, M.D.,

Director, Centers for Disease Control.

[FR Doc. 81-32624 Filed 11-10-81; 8:45 am]

BILLING CODE 4110-86-M

Office of Human Development Services

[Program Announcement 13612–822]

Administration for Native Americans; Native American Programs

AGENCY: Office of Human Development Services, HHS.

SUBJECT: Announcement of Availability of Fiscal Years 1982 and 1983 Financial Assistance for Native American projects.

SUMMARY: The Administration for Native Americans announces that applications are being accepted for financial assistance under section 803 of the Native American Programs Act of 1974, Pub. L. 93–644 as amended. Eligible applicants are Indian tribes, Native American groups and organizations as described in the Eligible Applicant Section. Regulations covering this program are published in the Code of Federal Regulations in 45 CFR Part 1336.

DATE: Closing dates for receipt of all applications under this program announcement are January 11, 1982 and June 30, 1982.

Program Purpose

The purpose of the Administration for Native Americans (ANA) is to promote social and economic self-sufficiency of American Indians, Alaskan Natives and Native Hawaiians through financial assistance, training and technical assistance, and research, demonstration, and evaluation activities as authorized by the Native American Programs Act. Based on the authorization in the Native American Programs Act (Title VIII of Pub. L. 93–644, as amended), ANA carries out its mission by undertaking and supporting activities that strengthen the ability of Indian tribes and Native American groups and organizations to determine and implement developmental strategies supportive of comprehensive social and economic progress.

For the purpose of the program administered by ANA, self-sufficiency is defined as the level of development and degree of ability in which a Native American community can provide for the needs of community members and pursue its own social and economic goals. ANA further considers that:

- Responsibility for achieving self-sufficiency rests with the governing bodies of Indian tribes and in the leadership of Native American groups.
- Development of self-sufficiency entails economic progress, together with establishment or improvement of social systems which protect and enhance the health and welfare of individuals, families and communities.
- Achievement of self-sufficiency is based on the community's ability to obtain and direct resources to meet community needs and goals.

ANA Program Goals

Consistent with ANA's mission of promoting self-sufficiency, the goal of the ANA program is to create and implement effective local social and economic development strategies. Financial assistance grants are provided to Indian tribes, and Indian, Alaskan Native and Native Hawaiian organizations to support projects which

promote self-sufficiency. The implementation of these strategies is expected to result in sustained improvements in the social and economic conditions of Native Americans within the community, as well as in increased effectiveness and efficiency of the Indian tribe or Native American organization in defining and achieving its own economic and social goals.

The Administration for Native Americans bases its program and policy initiatives on the following three program goals:

- To develop or strengthen tribal or community institutions and Native American leadership to assure local control and decision-making over all resources.
- To foster the development of stable, diversified local economies and/or economic activities which provide jobs, promote economic well-being and reduce dependence on social services.
- To support local access to and coordination of projects and services which safeguard the health and well-being of people, and which are essential to a thriving and self-sufficient community.

With respect to the first goal, we believe the local community knows the appropriate activities required to create its own social and economic balance. It is, therefore, ANA's policy to strengthen tribes and Native American organizations in providing direction to social and economic development and in coordinating all resources, Federal and non-Federal, toward locally determined priorities.

Related to this goal, it is also ANA's policy to support the development of local leadership and initiatives, on and off the reservation, in planning and implementing local programs which meet community needs. This approach is a long-term developmental process—a community-based strategy for resolving the underlying problems in the community. ANA's funding approach moves the focus from increasing services, which fosters dependence, to increasing productivity, which fosters self-sufficiency.

Finally, we also believe that economic and social development are interrelated and that both must be balanced if Native Americans are to achieve self-sufficiency. It is the policy of ANA to encourage tribes and Native American organizations to achieve a balanced approach to social and economic development through locally determined and implemented strategies. This policy allows grantees to focus on social and economic barriers and move from dependence on social services to increasing opportunities for self-sufficiency.

Program Objectives

Federally-Recognized Tribes and Federally-Recognized Alaskan Villages

Federally-recognized tribes, Alaskan villages and tribal consortia applying for a grant award under this announcement must indicate that the proposed project(s) addresses one or more of the following objectives:

- To strengthen the ability of tribal governmental institutions and Indian leadership to plan, develop and implement community-determined programs supportive of balanced social and economic growth.
- To strengthen the ability of tribes to function as units of government.
- To develop and/or access, in a comprehensive manner, resources, services, and benefits necessary for meeting the economic needs of the tribe.
- To develop diversified and stable tribal economies which provide jobs, encourage business development, promote economic well-being and reduce dependency on services.
- To plan and carry out programs to gain private sector investment, technical assistance, markets and job opportunities for tribal economies.
- To strengthen the ability of tribal governments to plan and implement comprehensive social services.
- To improve tribal and individual access to resources, services and benefits necessary to meet social needs.
- To resolve problems of jurisdictional conflict and ill-defined areas of program responsibility which result in gaps in services for the tribes.
- To assist Indian tribes to ensure that Indian people exercise their rights and obtain the benefits to which they are entitled by virtue of the Federal trust relationship, legislative authority, or as citizens of the United States.
- To promote tribal coordination and control of local, State and Federal program efforts and initiatives in employment, energy, child welfare, environmental and occupational health, aging, rehabilitation and other areas that enhance social and economic self-sufficiency.

Other Than Federally-Recognized Tribes and Alaskan Villages

Off-reservation Indian organizations and non-tribal consortia, urban Indian centers, Alaska Native Corporations and Native Hawaiian organizations applying for a grant award under this announcement must indicate that the proposed project(s) address one or more of the following objectives:

- To plan, develop and manage the implementation of community-determined programs supportive of balanced community social and economic growth.
- To develop and/or access, in a comprehensive manner, resources, services, and benefits necessary for meeting the economic needs of the local Native American community and its members.
- To develop programs which provide jobs, encourage business development and community co-operatives and otherwise promote the economic well-being of Native Americans and reduce dependency on services.
- To plan and carry out programs to gain private sector investments, technical assistance, markets and job opportunities for Native Americans.
- To develop and/or improve, in a comprehensive manner, the accessibility of resources, services and benefits necessary for meeting the social needs of the Native American community.
- To make private and public agencies more aware of and responsive to the rights of Native Americans to the services and benefits for which all citizens are eligible.
- To assist Native Americans to become aware of and obtain the services to which they are entitled by legislative authority and as citizens of the United States.
- To enhance coordination of local, State and Federal programs which are necessary to sustained social and economic improvements for the community and its members.

Contact Person

Applicants who wish further clarification of the program aspects of this announcement should call Ms. Pecita Lonewolf, ANA, or Ms. Lucille Dawson, ANA, (202) 245–7714.

Training and Technical Assistance

Program funds may be utilized to obtain the technical assistance and training required to support objectives and activities. The training and technical assistance proposed should be sufficiently defined and detailed to assure applicability toward achieving objectives. Budgets should reflect the estimated cost for the technical assistance and training required and the technical assistance plan should describe tasks required and time schedules.

Project Consideration

ANA is interested in funding projects which will result in benefits to the community which extend beyond the

project period. The projects developed by the applicant must relate to clearly identified community needs and must be a priority of the applicant tribe/organization. The application is expected to reflect significant community involvement and support in the development of project goals, and ensure continuing community input in project implementation. The projects to be funded are expected to be self-sustaining or completed at the end of the project period.

The applicant should also identify by source, purpose and amount, other Federal and non-Federal resources and show how these resources will be coordinated with the proposed project.

The description of the activities in the application to accomplish each objective will be a major consideration by which ANA will review the reasonableness of estimated costs. Applicants must have an adequate system for evaluating their progress toward meeting goals and objectives.

Eligible Applicants

• The following applicant groups which are *not* FY '81 grantees of ANA are elgible to apply for a grant award under this announcement: Federally recognized Indian tribes, Alaskan Native Villages, tribal consortia, non-Federally recognized tribes, multi-purpose community-based Indian organizations, Alaskan Native non-profit regional corporations and Native Hawaiian organizations. All applicants must be able to document a community population of 350 or more. Those communities who have a population of less than 350 may band together to form a consortium.

• Additionally, FY '81 grantees of ANA who have submitted an application to ANA for FY '82 funding (under the announcement published May 26, 1981 in the **Federal Register**) and have received notice of disapproval are eligible to apply under this announcement.

• Organizations representing a community already being served by an ANA grantee are *not* eligible to apply, except for individual members of a consortia.

• Individual consortia members may apply for direct funding from ANA, even though its consortium organization is an ANA grantee, providing:

(1) The individual applicant can meet the population criteria of 350; and

(2) The application indicates that the consortium organization has been notified of the individual member's intent to apply for a grant award from ANA. The consortium must recognize that if one of its members receives direct funding from ANA, the grant award to the consortium may be renegotiated.

Please note.—That in this FY '82 and FY '83 program announcement, ANA is declaring a departure from its previous policy toward consortia organizations.

Available Funds

ANA expected to award approximately $1,800,000 in each of Fiscal Years 1982 and 1983 for new projects under this program. It is anticipated that 15–20 grant awards will be made each fiscal year.

The budget period for each grant award will be twelve (12) months. The project period for each grant may be up to three (3) years. Refunding after the first year will depend upon the grantee's satisfactory progress the availability of funds, the grantee's compliance with the Native American Programs Regulations, and the submission of a quality application in response to ANA's FY '83 Funding Guidance.

Grantee Share of Project

Grantees must provide up to 20% of the total approved cost of the project. Grantee contributions may be in cash or in kind, fairly evaluated, including, but not limited to, plant, equipment, and services. The contributions must be allowable under the Department's applicable regulations in 45 CFR Part 74, Subparts G and Q and must be project related.

Under certain circumstances, some or all of the non-Federal share of the project may be waived by ANA. Further explanation is contained in § 1336.52 of ANA's regulations which will be provided in the application kit.

The Application Process

Availability of application forms. In order to be considered for a grant under this program announcement, an application must be submitted on the forms supplied and the manner prescribed by ANA. Clarification and/or explanation on the grant application process as well as the application kit containing the necessary forms may be obtained from: Department of Health and Human Services, Administration for Native Americans, Room 5300, North Building, 330 Independence Avenue, SW., Washington, D.C. 20201, Ms. Janice B. Phalen, (202) 245–7730, Attention: No. 13612–822.

Application submission. One signed original and the appropriate number of copies of the grant application, including all attachments, must be submitted to the address specified in the application kit.

The application shall be signed by an individual authorized to act for the applicant agency and to assume for the agency the obligations imposed by the terms and conditions of the grant award, including Native American Programs Rules and Regulations.

ANA will accept only one application from an applicant under this announcement. If two applications are submitted from the same applicant, ANA will consider only that application which was received first by the OHDS Grants Receiving Office.

A–95 notification process. In compliance with the Department of Health and Human Service's implementation of the Office of Management and Budget Circular No. A–95 Revised (procedures at 41 FR 2052, January 13, 1976), applicants, with the exception of Federally recognized tribes, who request grant support must, prior to submission of an application, notify both the State and Areawide Clearinghouses of the intent to apply for Federal financial assistance. Some State and Areawide Clearinghouses provide their own forms for the notification and others use the facesheet (SF–424) of the application form. Applicants should contact the appropriate Clearinghouses (listed at 42 FR 2210, January 10, 1977) for information on how they can meet the A–95 requirements.

Application consideration. The Commissioner determines the final action to be taken with respect to each grant application for this program. Applications which do not conform to this announcement or are not complete will not be accepted for review and applicants will be notified in writing accordingly. Applications which are complete and conform to the requirements of this program announcement are subjected to a competitive review and evaluation by qualified persons. The results of the review assist the Commissioner in the consideration of competing applications. The Commissioner's consideration also takes into account the comments of the A–95 Clearinghouse, ANA staff, and other interested parties. The Commissioner makes grant awards consistent with the purpose of the Act, the regulations, and program announcement within the limits of funds available.

After the Commissioner has reached a decision either to disapprove or to fund a competing grant application, unsuccessful applicants are notified of the decision in writing. Successful applicants are notified through the issuance of a Notice of Financial Assistance Awarded which sets forth in writing to the recipient the amount of funds awarded, the purpose of the grant,

the terms and conditions of the grant award, the effective date of the award, the budget period for which support is given and the amount of recipient participation. It also specifies the total project period for which support is contemplated.

Criteria for Review and Evaluation

Competing grant applications will be reviewed and evaluated against the following criteria: (100 points)

1. The overall application is consistent with the ANA program objectives as described in this program announcement and reflect efforts directed towards achieving self-sufficiency for the constituent community. (20 points)

2. Applicant's objectives are quantifiable, measurable, and are supported by and interrelated to the activities, budget, and personnel components of the application. If training and technical assistance is required to support the objectives/activities, the T/TA plan details tasks specifying resources available and/or required, person-days allocated, time and cost. (20 points)

3. That the proposed activities are defined, detailed, in support of the objectives and, if well executed, will achieve the intended results. (14 points)

4. Applicant's objectives reflect community priorities as evidenced by references to the applicant's short- and long-range plans and by the involvement of the community in the development of the project objectives. (10 points)

5. Applicant's budget is presented in detail, with complete explanations and justifications of line items and is of reasonable cost to the government. (9 points)

6. Project personnel are or will be well qualified to achieve project objectives as demonstrated by resumes and/or position descriptions. (6 points)

7. Applicant's plan for monitoring and evaluation clearly describes how progress toward meeting the project objectives will be measured. (7 points)

8. Applicant demonstrates the necessary management and administrative capabilities in such areas as financial, personnel, property, travel, etc. to justify receipt of Federal funds and to ensure accountability of funds, and that the applicant has adequate facilities. (4 points)

9. Applicant describes their plan for a coordinated use of current non-ANA and future non-ANA resources for the project which will support continued social and economic development for the constituent community. (10 points)

Closing Date for Receipt of Application

The closing dates for receipt of all applications under this program announcement are January 11, 1982 and June 30, 1982.

Applications may be mailed or hand delivered. An application will be considered received on time if:

- The application was sent by registered or certified mail not later than the closing date as evidenced by the U.S. Postal Service postmark or the original receipt from the U.S. Postal Service.
- The application is received on or before close of business of the closing date in the OHDS Receiving Office in Washington, D.C. or
- The application is hand-delivered to the address on the application kit by close of business of the closing date. Hand-delivered applications will be accepted daily from 9 a.m. to 5:30 p.m. except Saturdays, Sundays, and Federal holidays. The official time and date of receipt is that registered by the Department of Health and Human Services.

Applications received after January 11, 1982 because they were postmarked or hand-delivered too late or addressed incorrectly will be held until the next closing date. Applications received after June 30, 1982 because they were postmarked or hand-delivered too late or addressed incorrectly will not be accepted and will be returned to the applicant without consideration.

(Catalog of Federal Domestic Assistance Program Number 13.612 Native American Programs)

Dated: October 23, 1981.

A. David Lester,

Commissioner, Administration for Native Americans.

Approved: November 5, 1981.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

[FR Doc. 81-32594 Filed 11-10-81; 8:45 am]

BILLING CODE 4130-01-M

DEPARTMENT OF THE INTERIOR

Geological Survey

Earthquake Studies Advisory Panel; Public Meeting

Pursuant to Pub. L. 92-463, effective January 5, 1973, notice is hereby given that an open meeting of the earthquake Studies Advisory Panel will be held beginning at 8:30 a.m. (local time) on Friday, December 4, 1981, and continuing through Saturday, December 5, 1981. The Advisory Panel will meet in Building 3, Conference Room B, 345 Middlefield Road, Menlo Park, California 94025.

(1) *Purpose.* The Advisory Panel was appointed to advise the Geological Survey on earthquake plans and programs which are conducted in cooperation with universities, industry, and other Federal and State government agencies in a coordinated national program for earthquake research.

(2) *Membership.* The Advisory Panel is composed of persons drawn from the fields of geology, geophysics, engineering, rock mechanics, and socioeconomics, primarily from the academic community.

(3) *Agenda.* Review of the program activities for Fiscal Year 1982 and plans for Fiscal Year 1983.

For more detailed information about the meeting, please call Dr. John R. Filson, Chief, Office of Earthquake Studies, Reston, Virginia 22092 on (703) 860-6471.

Doyle G. Frederick,

Acting Director, U.S. Geological Survey.

[FR Doc. 81-32582 Filed 11-10-81; 8:45 am]

BILLING CODE 4310-31-M

Bureau of Land Management

[NM 44130 OK]

New Mexico; Coal Lease Offering by Sealed Bid

November 3, 1981.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that the New Mexico State Office of the Bureau of Land Management will offer the coal resources in the land described below for competitive lease by sealed bid to the qualified bidder of the highest cash amount per acre.

No bid will be considered which is less than $25 per acre, or fraction thereof, and no bid will be accepted for less than fair market value as determined by the authorized officer. This offering is being made as a result of an application filed by Lone Star Steel Company 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).

DATE: The sale will be held on December 3, 1981 at 2:00 p.m. Sealed bids must be submitted on or before 2:00 p.m., December 3, 1981, to the Cashier, Bureau of Land Management, New

Mexico State Office, at the address shown below.

ADDRESS: The sale will be held in Room 2004, State Director's Conference Room, Bureau of Land Management, on the second floor of the Joseph M. Montoya Federal Building and U.S. Post Office, located on South Federal Place, Santa Fe, New Mexico.

Sealed bids must be submitted to the Cashier, Room 3031, Bureau of Land Management, Joseph M. Montoya Federal Building and U.S. Post Office, South Federal Place (P.O. Box 1449), Santa Fe, New Mexico, to be received on or before 2:00 p.m., December 3, 1981.

FOR FURTHER INFORMATION CONTACT: For information on the lease sale contact Tessie R. Anchondo, Chief, Mining Section, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501, telephone (505) 988–6306, (FTS) 476–6306.

SUPPLEMENTARY INFORMATION: Sealed bids must be submitted on or before 2:00 p.m., December 3, 1981, to the Cashier, Bureau of Land Management, New Mexico State Office, at the address shown above. Bids received after 2:00 p.m. on the day of the sale will not be considered. Sealed bids may not be modified or withdrawn unless such modification or withdrawal is received by the Cashier before 2:00 p.m., December 3, 1981.

The successful bidder is obligated to pay for the newspaper publication of this Notice.

The land is located just south of the town of Milton in LeFlore County, Oklahoma:

T. 8 N., R. 23 E., Indian Meridian, Oklahoma
Sec. 21: SE¼NE¼, N½NE¼SE¼;
Sec. 22: S½NE¼NE¼, N½NW¼NE¼, N½SW¼NE¼, S½NW¼.

Excluding therefrom:

1. A right-of-way for ARKL's 40-foot wide natural gas pipeline covering approximately 0.23 acre in the SE¼NE¼ Sec. 21 and S½NW¼ Sec. 22, T. 8N., R. 23 E., I.M.

2. A 25-foot wide private access road owned by Arnold L. Bowden and Betty J. Bowden covering approximately 0.21 acre in the N½NW¼NE¼ Sec. 22, T. 8 N., R. 23 E., I.M.

The area to be leased contains approximately 199.56 acres.

The coal resources offered are limiteld to the recoverable strippable reserves of the Upper Hartshorne and the Lower Hartshorne seams. The U.S. Geological Survey has reported the estimated total recoverable strippable reserves are 54,000 tons for both seams. The coal is low to medium volatile bituminous and averages (as-received) for both seams 13,083 Btu/lb., 2.15 percent sulfur and 7.17 percent ash. The combined Upper Hartshorne and Lower Hartshorne coal beds average 5.3 feet thick over 17.28 acres of the described lands.

The surface of that portion of the N½NW¼NE¼, north and west of the county road, Sec. 22, T. 8N., R. 23 E., Indian Meridian, to be offered in this coal lease sale is owned by qualified surface owners as defined in section 714 of the Surface Mining Control and Reclamation Act (SMCRA) of 1977 and 43 CFR 3400.0–5(pp). The surface owners have consented to surface mining of this land through a transferable coal mining lease contract. The lease contract is held, as lessee, by the company operating the existing mine owned by the applicant for this competitive coal lease sale. The lease contract satisfies the surface owner consent requirements of SMCRA and 43 CFR 3427. As one of the terms and conditions, the lessee in the contract has agreed to pay these surface owners $600 per acre as surface damages for all of their land permitted and bonded for the mining operation. All of the other terms and conditions of the lease contract are attached to the Detailed Statement of the lease sale.

A lease issued as a result of this offering will provide for payment of an annual rental of $3.00 per acre or fraction thereof and a royalty payable to the United States at the rate of 12.5 percent of the value of coal mined by surface mining methods. The value of coal shall be determined in accordance with 30 CFR 211.63.

Bidding instructions are included in the Detailed Statement of the Lease Sale. A copy of the Statement and of the proposed coal lease are available at the Bureau of Land Management, Room 3031, on the third floor of the Joseph Montoya Federal Building and U.S. Post Office at the address given above. 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 also available for public inspection in the aforementioned Room 3031.

Charles W. Luscher,

State Director.

[FR Doc. 81-32577 Filed 11-10-81; 8:45 am]

BILLING CODE 4310-84-M

Utah; Special Recreation Management Areas

AGENCY: Bureau of Land Management, Interior.

ACTION: Corrections.

SUMMARY: In FR Doc. 81–28766, published at pages 48777 and 48778, on Friday, October 2, 1981 make the following corrections: (1) on page 48777, in the third column, in the second paragraph, line 10, "a fee of" should be corrected to read "a fee or". (2) On page 48778, first column, under "Unauthorized Use", second paragraph, line 5, "make th person" should be corrected to read "make the person".

Dated: November 2, 1981.

Roland G. Robison,

State Director.

[FR Doc. 81-32576 Filed 11-10-81; 8:45 am]

BILLING CODE 4310-84-M

Wyoming; Oil and Gas Leasing; General Noncompetitive Leases; New Automated Simultaneous Oil and Gas Lease Application

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of the requirement to use the new automated simultaneous oil and gas lease application.

SUMMARY: Beginning on January 1, 1982, the present Simultaneous Oil and Gas Lease Application form (Bureau of Land Management Form 3112–1) will no longer be accepted by the Wyoming State Office of the Bureau of Land Management. The form will continue to be accepted by all other Bureau of Land Management State Offices. The Wyoming State Office will accept only the Automated Simultaneous Oil and Gas Lease Application form (Bureau of Land Management Form 3112–6 and 3112–6(a)).

DATE: Effective January 1, 1982. The requirement to use the new form will be effective for all applications filed with the Bureau of Land Management's Wyoming State Office.

ADDRESS: Any suggestions or comments should be sent to: Director (530), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

Copies of the new form may be obtained from any Bureau of Land Management State Office or from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402.

FOR FURTHER INFORMATION CONTACT: Wink Hastings, (202) 343–7753.

SUPPLEMENTARY INFORMATION: Existing regulations under § 3112.2–1(a) of Title 43 of the Code of Federal Regulations require the filing of simultaneous oil and gas lease applications on a form approved by the Director, Bureau of Land Management. Beginning on January 1, 1982, the only form approved by the Director for use in the Wyoming

State Office of the Bureau of Land Management is the Automated Simultaneous Oil and Gas Lease Application (Bureau of Land Management Form 3112–6 and 3112–6(a), OMB No. 1004–0065). The Bureau will continue to use the Simultaneous Oil and Gas Lease Application (Bureau of Land Management Form 3112–1) in all other State Offices of the Bureau of Land Management. This form has been in use for manual processing since June 1980. The automated form is designed to accommodate the automated processing of simultaneous oil and gas lease applications. The development of the automated process is a result of the Bureau's efforts to expedite the issuance of leases, and lessen the paperwork burden on the public.

The form, which is machine readable, will allow an applicant to file for up to 600 tracts on a single application. Copies of the form will be available from any of the Bureau of Land Management State Offices in mid-November. Additional copies of the application form can be purchased from the Superintendent of Documents.

Any applications filed in the Bureau's Wyoming State Office on the manual form, or applications filed on the automated form received in a condition that the authorized officer determines would prevent automated processing, will not be accepted. The authorized officer will be guided in the decision of whether an application form is acceptable or unacceptable by criteria furnished in the manuals of the Bureau of Land Management and in instruction memoranda. Applications determined to be unacceptable will be returned to the applicant along with the filing fee. All applications shall be filed in accordance with Group 3100, subchapter C, Chapter II of Title 43 of the Code of Federal Regulations.

Arnold E. Petty,

Acting Associate Director, Bureau of Land Management.

November 6, 1981.

[FR Doc. 81-32636 Filed 11-10-81; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

Valley Forge National Historical Park; Draft General Management Plan; Schedule of Open Houses

AGENCY: National Park Service, Interior.

ACTION: Announcement of Availability of the Draft General Management Plan for Valley Forge National Historical Park and a schedule of open houses.

SUMMARY: The National Park Service has prepared a draft General Management Plan for Valley Forge National Historical Park and has scheduled open houses.

The open houses will provide interested parties an opportunity to obtain information on the General Management Plan (GMP) for Valley Forge National Historical Park. The GMP is a long-term planning document which identifies the park's purpose and states it management objectives; establishes management zoning for park lands and waters; and contains interrelated proposals for resource management, interpretation/visitor use, and general development.

Pub. L. 94–337 directed the Department of Interior to prepare a master plan for the development of the park that is consistent with the objectives of the enabling legislation.

An environmental assessment of alternatives was prepared and made available to the public beginning July 8, 1980 (45 FR 73518, dated June 20, 1980).

Following this phase of the planning process an alternative was selected and is the basis for the draft General Management Plan.

DATES: Copies of the draft GMP will be available for review at the office of the Superintendent, Valley Forge National Historical Park, Valley Forge, Pennsylvania 19481 and at the National Park Service, Mid-Atlantic Regional Office, 143 So. Third Street, Philadelphia, Pennsylvania 19106. Written comments will be received for thirty days beginning November 30, 1981.

The draft General Management Plan open houses will be held in the west wing, Visitor Center, Valley Forge National Historical Park, Valley Forge, Pennsylvania, at the following dates and times: December 1, 1981, 10 a.m. to 2 p.m.; December 3, 1981, 4 p.m. to 8 p.m.; December 5, 1981, 3 p.m. to 7 p.m.

ADDRESS: Comments or requests for further information concerning the General Management Plan and the open houses should be directed to Superintendent, Valley Forge National Historical Park, Valley Forge, Pennsylvania 19481, (215/783–7700).

Dated: November 4, 1981.

James W. Coleman, Jr.,

Regional Director, Mid-Atlantic Region.

[FR Doc. 81-32631 Filed 11-10-81; 8:45 am]

BILLING CODE 4310-70-M

Cuyahoga Valley National Recreation Area Advisory Commission; Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act, 86 Stat. 770, 5 U.C.S. App. 1, as amended by the Act of September 13, 1976, 90 Stat. 1247, that a meeting of the Cuyahoga Valley National Recreation Area Advisory Commission will be held beginning 8:30 a.m. (EST), on Thursday, December 3, 1981, at the Canal Visitor Center located at 6399 Canal Road, Valley View, Ohio.

The Commission was established by the Act of December 27, 1974, 88 Stat. 1788, 16 U.S.C. 460ff–4, to meet and consult with the Secretary of the Interior on matters relating to the administration and development of the Cuyahoga Valley National Recreation Area.

The members of the Commission are as follows:

Mrs. Tommie Patty (Chairperson)
Mr. John Craig
Mr. Norman A. Godwin
Mrs. William Hutchison
Mr. James S. Jackson
Mrs. George Klein
Mr. Stanely Mottershead
Mr. C. W. Eliot Paine
Mr. Melvin J. Rebholz
Mr. F. Eugene Smith
Ms. Robbie Stillman
Mr. Barry K. Sugden
Dr. Robert W. Teater

Matters to be discussed at this meeting include:

1. Oil and gas drilling within Cuyahoga Valley National Recreation Area.

2. Draft Building Utilization Plan.

3. Update on Park operations.

The meeting will be open to the public. It is expected that about 50 persons, in addition to members of the Commission, will be able to attend this meeting. Interested persons may submit written statements. Such statements should be submitted to the official listed below prior to the meeting.

Further information concerning this meeting may be obtained from Lewis S. Albert, Superintendent, Cuyahoga Valley National Recreation Area, P.O. Box 158, Peninsula, Ohio 44264, telephone (216) 650–4414. Minutes of the meeting will be available for public inspection 3 weeks after the meeting, at the office of Cuyahoga Valley National Recreation Area, located at 501 West Streetsboro Road (State Route 303), 2 miles east of Peninsula, Ohio.

Dated: October 30, 1981.

Randall R. Pope,

Acting Regional Director, Midwest Region.

[FR Doc. 81-32628 Filed 11-10-81; 8:45 am]

BILLING CODE 4310-70-M

Indiana Dunes National Lakeshore Advisory Commission; Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act, 86 Stat. 770, 5 U.S.C. App. 1, as amended by the Act of September 13, 1976, 90 Stat. 1247, that a meeting of the Indiana Dunes National Lakeshore Advisory Commission will be held at 10:00 a.m., CST, on Friday, December 4, 1981, at the Indiana Dunes National Lakeshore Visitor Center at U.S. Highway 12 and Kemil Road, Chesterton, Indiana.

The Commission was established by the Act of November 5, 1966, 80 Stat. 1309, 16 U.S.C. 460u–7, as amended by the Act of October 18, 1976, 90 Stat. 2530, 2533, to meet and consult with the Secretary of the Interior on matters related to the administration and development of the Indiana Dunes National Lakeshore.

The members of the Commission are as follows:

Mr. John R. Schnurlein (Chairperson)
Mr. Ronald Benz
Mr. Lynton Caldwell
Ms. Anna R. Carlson
Mr. R. M. Gacki
Ms. Lynne Kaser
Mr. James H. Lahey
Mr. William L. Lieber
Ms. Celia Nealon
Ms. Gail H. Pugh
Mr. John Tucker
Mr. Norman E. Tufford

Matters to be discussed at this meeting include:

1. Status of land acquisition.
2. Status of planning and development for Indiana Dunes National Lakeshore.
3. Overview of 1981 operations at the Lakeshore.
4. Forecast for proposed 1982 operations at the Lakeshore.
5. Discussion of Advisory Commission role.

The meeting will be open to the public. Any member of the public may file with the Commission prior to the meeting a written statement concerning the matters to be discussed. Persons wishing further information concerning the meeting, or who wish to submit written statements, may contact James R. Whitehouse, Superintendent, Indiana Dunes National Lakeshore, 1100 North Mineral Springs Road, Porter, Indiana 46304, telephone 219–926–7561.

Minutes of the meeting will be available for public inspection 4 weeks after the meeting, at the office of the Indiana Dunes National Lakeshore located at 1100 North Mineral Springs Road, Porter, Indiana.

Dated: October 30, 1981.

Randall R. Pope,

Acting Regional Director, Midwest Region.

[FR Doc. 81-32630 Filed 11-10-81; 8:45 am]

BILLING CODE 4310-70-M

Pictured Rocks National Lakeshore Advisory Commission; Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act, 86 Stat. 770, 5 U.S.C. App. 1, as amended by the Act of September 13, 1976, 90 Stat. 1247, that a meeting of the Pictured Rocks National Lakeshore Advisory Commission will be held on Friday, December 18, 1981, at 2:00 p.m. (EST), at the Munising Community Building, Munising, Michigan.

The Commission was established by the Act of October 15, 1966, 80 Stat. 922, 16 U.S.C. 460s–3, to meet and consult with the Secretary of the Interior on matters relating to the administration and development of the Pictured Rocks National Lakeshore.

The members of the Commission are as follows:

Mr. Glenn C. Gregg (Chairman)
Mr. James Mueller
Mr. James Becker
Mr. Lawrence L. Lemanski.

Matters to be discussed at this meeting include:

1. Review of Lakeshore operation by the Superintendent.
2. Discussion of the General Management Plan.
3. Discussion of Lakeshore Buffer Zone.

The meeting will be open to the public. Any member of the public may file with the Commission prior to the meeting a written statement concerning the matters to be discussed. Persons wishing further information concerning the meeting, or who wish to submit written statements, may contact Grant A. Petersen, Superintendent, Pictured Rocks National Lakeshore, P.O. Box 40, Munising, Michigan 49862, telephone 906–387–2607.

Minutes of the meeting will be available for public inspection 4 weeks after the meeting at the Pictured Rocks National Lakeshore Headquarters at Sand Point, 4 miles east of Munising, Michigan.

Dated: October 30, 1981.

Randall R. Pope,

Acting Regional Director, Midwest Region.

[FR Doc. 81-32629 Filed 11-10-81; 8:45 am]

BILLING CODE 4310-70-M

Santa Monica Mountains National Recreation Area Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Santa Monica Mountains National Recreation Area Advisory Commission will be held on Tuesday, December 15, 1981 at 7:30 p.m. in the Main House, Diamond X Ranch, 26412 Mulholland Highway, Calabasas, CA 91302.

The Advisory Commission was established by Pub. L. 95–625 to provide for free exchange of ideas between the National Park Service and the public to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service in Los Angeles and Ventura Counties.

Members of the Commission are as follows:

Dr. Norman P. Miller, Chairperson
Honorable Marvin Braude
Ms. Sarah Dixon
Ms. Margot Feuer
Dr. Henry David Gray
Dr. Edward Heidig
Mr. Frank Hendler
Ms. Mary C. Hernandez
Mr. Bob Hollman
Ms. Susan Barr Nelson
Mr. Carey Peck
Mr. Donald Wallace

The major agenda item include the following:

Committee report on management of packlands by local jurisdictions.

The meeting is open to the public. Any member of the public may file with the Commission a written statement concerning issues to be discussed.

Persons wishing to receive further information on this meeting or who wish to submit written statements may contact the Superintendent, Santa Monica Mountains National Recreation Area, 22900 Ventura Boulevard, Suite 140, Woodland Hills, California 91364.

Minutes of the meeting will be available for public inspection by January 29, 1982, at the above address.

Dated: November 3, 1981.

William Webb,

Acting Superintendent, Santa Monica Mountains National Recreation Area.

[FR Doc. 81-32634 Filed 11-10-81; 8:45 am]

BILLING CODE 4310-70-M

Office of the Secretary

Request for Comments on the Reciprocity Status of Canada

AGENCY: Office of the Secretary, Interior.

ACTION: Request for comments on Canadian Reciprocity under the Mineral Lands Leasing Act.

SUMMARY: The Mineral Lands Leasing Act (MLLA), 30 U.S.C. 181, provides in pertinent part that "[c]itizens of another country, the laws, customs or regulations of which deny similar or like privileges to citizens or corporations of this country, shall not be stock ownership, stock holding, or stock control, own any interest in any lease acquired under the provisions of this chapter." In light of the Secretary's responsibilities under the MLLA, the Department of the Interior will accept written comments to gather additional information which may be used in determining whether Canada is a reciprocal nation under the MLLA. Following the public comment period, the Secretary of Interior will be in a better position to determine whether Canada is a reciprocal nation.

Written comments will be accepted by the Department of the Interior up to 5 p.m., December 31, 1981. Comments should be submitted to Jack Campbell, Special Assistant to the Assistant Secretary for Policy, Budget and Administration, Department of the Interior, 18th and C Streets, N.W., Room 5124, Washington, D.C. 20240, (202) 343-6167.

SUPPLEMENTARY INFORMATION: The Department of the Interior invites all persons interested in the Canadian reciprocity question to submit written comments. Interested persons may include national and local government officials from the United States and Canada, representatives of interested corporations and interested Canadian and U.S. citizens. Although the Department encourages all relevant information be submitted, the Department is particularly interested in receiving the following information:

1. Facts indicating whether Canadian laws, customs, or regulations discriminate against United States investment in Canadian mineral leases;

2. Statements as to the effect of Canadian laws, customs and regulations on the investment behavior of U.S. citizens and corporations; and

3. Statements indicating whether the effects of Canadian laws, customs and regulations on investment by U.S. citizens and corporations in Canadian mineral leases are "similar or like" the effects of U.S. law on Canadian investment in U.S. mineral leases.

The written material received by the Department to date concerning the above subjects may be reviewed by the public during normal office hours in Room 5124, Department of the Interior, 18th and C Streets, N.W., Washington, D.C.

Dated: November 6, 1981.

J. Robinson West,

Assistant Secretary, Policy, Budget and Administration.

[FR Doc. 81-32983 Filed 11-10-81; 8:45 am]

BILLING CODE 4310-10-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs; Decision

Decided: November 5, 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.

The surcharge levels authorized in this decision are ordered to be frozen effective Sunday 12:01 a.m. November 8, 1981, in accordance with our decision in Ex Parte No. 311 (Sub-No. 4), *Modification of the Motor Carrier Fuel Surcharge Program*, decision served October 8, 1981, 46 FR 50070, October 9, 1981.

During the ensuing 60-day period, carriers may fold-in existing surcharges into their base rates in accordance with the terms of the decisions in Ex Parte No. 311 (Sub-No. 4).

During the period of the freeze, and/or until such time as the fold-in occurs each carrier shall continue to pay its owner-operators the prevailing fuel surcharge. Thereafter the Commission's new mileage compensation method for owner-operators will begin. Initially, this payment will be 14 cents per mile, in accordance with our decisions in Ex Parte No. 311 (Sub-No. 4). Changes in the mileage compensation will be announced when the fuel index warrants a .5 cent per mile change up or down.

Notice shall be given to the general public by mailing a copy of this decision to the Governor 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 Sunday, 12:01 a.m., November 8, 1981.

By the Commission, Chairman Taylor, Vice Chairman Clapp, Commissioners Gresham and Gilliam. Commissioner Gresham did not participate.

Agatha L. Mergenovich,

Secretary.

November 2, 1981.

APPENDIX.—*Fuel Surcharge*

Base date and price per gallon (including tax)

January 1, 1979 ..... 63.5¢

Date of current price measurement and price per gallon (including tax)

November 2, 1981 ..... 130.1¢

	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. 81-32399 Filed 11-10-81; 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 become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate of foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where services is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OPY-2-214

Decided: November 3, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier

MC 157802, filed October 21, 1981. Applicant: CONTRACT TRANSPORT, INC., P.O. Box 4120, Dalton, GA 30721. Representative: Frank D. Hall, Suite 202, 1750 Old Springhouse Lane, Atlanta, GA 30338 (404) 451-0401. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Croghan, Horris and Ashwood, SC, Landrum, Storey, Monticello, Drifton, Lansing and Lake Stafford, FL, Hobgood, Oak City, Massell, and Scotland Neck, NC, and Weston and Parrott, GA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—The purpose of this application is to substitute motor carrier for abandoned rail carrier service.

MC 158833, filed October 16, 1981. Applicant: WILLIAM FAULK, 3732 Stanley Drive, Montgomery, AL 36111. Representative: Terry P. Wilson, 428 South Lawrence St., Montgomery, AL 36104, 205-262-2756. 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 158852, filed October 19, 1981. Applicant: PENSON FLORIDA COMPANY, 7875 N.W. 29th St., Miami, FL 33122. Representative: Jack A. Penson (same address as applicant), 305-591-8700. As a *broker of general commodities*, (except household goods), between points in the U.S.

MC 158993, filed October 26, 1981. Applicant: RALPH H. CLARK, 2340 E. University #37, Temple, AZ 85281. Representative: Ralph H. Clark (same address as applicant), (602) 829-1429. 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.

Volume No. OPY-4-431

Decided: November 4, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 158916, filed October 22, 1981. Applicant: JOHN D. COLLIER, d.b.a. COLLIER SERVICES CORPORATION, P.O. Box 16873, 10803 Gulfdale, Suite 222, San Antonio, TX 78216. Representative: John D. Collier (same address as applicant), (512) 349-4100. As a *broker of general commodities* (except household goods, classes A and B explosives, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 159036, filed October 29, 1981. Applicant: COLONIAL VAN & STORAGE OR MERCED, INC., P.O. Box 2586, Merced, CA 95344. Representative: William D. Taylor, 100 Pine St. #2550, San Francisco, CA 94111, (415) 986-1414. Transporting *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-32596 Filed 11-10-81; 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 $10.000.

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. OP1-299

Decided: November 5, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 75281 (Sub-23), filed October 23, 1981. Applicant: BOOTHEEL TRANSPORTATION COMPANY, P.O. Box 511, Sikeston, MO 63801. Representative: Frank D. Hall, Suite 202, 1750 Old Springhouse Lane, Atlanta, GA 30338. Transporting *paper and paper products*, between points in Scott County, MO, on the one hand, and, on the other, points in TX, LA, AR, AL, MS, FL, GA, TN, KY, IL, IN, OH, WI, KS, CO, OK, SC, NC, VA, and MD.

MC 78080 (Sub-2), filed October 26, 1981. Applicant: BICKLEY'S AUTO EXPRESS, INC., 1609 N. Delaware Ave., Philadelphia, PA. 19125. Representative: Martin S. Ettin, 499 Cooper Landing Road, Cherry Hill, NJ 08002, (609) 667-6000. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods as defined by the Commission), between Philadelphia, PA, on the one hand, and, on the other, New York, NY, and points in DE and Cape May, Ocean, Cumberland, Salem, Gloucester, Camden, Atlantic, Burlington, Mercer, Middlesex, Somerset, Morris, Union, Essex, Bergen, and Passaic Counties, NJ.

MC 87451 (Sub-14), filed October 26, 1981. Applicant: CARGO TRANSPORT, INC., P.O. Box 31, Sterling Road, N. Billerica, MA 01862-0031. Representative: Samuel A. Bithoney, Jr. (same address as applicant), (617) 663-4300. Transporting *rubber and plastic articles*, between points in CT, MA, ME, NH, NJ, PA, RI, and VT, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 114301 (Sub-115), filed July 28, 1981, previously noticed in **Federal Register** issue of August 11, 1981. Applicant: DELAWARE EXPRESS CO., a Corporation, P.O. Box 97, Elkton, MD 21921. Representative: Maxwell A. Howell, 1100 Investment Bldg., 1511 K Street, N.W., Washington, D.C. 20005, (202) 783-7900. Transporting *such commodities* as are dealt in or used by manufacturers of chemicals and plastic products, between the facilities used by Hooker Chemicals & Plastics Corp., PVC Division at those points in the U.S., in and east of MN, IA, MO, AR, and TX, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR, and TX.

Note.—This republication clarifies the territorial description. Issuance of a certificate in this proceeding is subject to the coincidental cancellation, at applicant's written request, of Certificate No. MC-114301 Sub 115, issued October 13, 1981.

MC 128520 (Sub-8), filed October 19, 1981. Applicant: THE ROBINSON FREIGHT LINES, INC., Box 10234, Knoxville, TN 37919. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Popular Avenue, Memphis, TN 38137, (901) 767-5600. Transporting *Hazardous materials* and *sensitive materials*, between points in the U.S. Condition: Any Certificate issued in this proceeding shall expire five years from date of issuance.

MC 129631 (Sub-84), filed October 22, 1981. Applicant: PACK TRANSPORT, INC., 3975 So. 300 W., Salt Lake City, UT 84107. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 343-3071. Transporting *those commodities which because of their size or weight, require the use of special handling or equipment, construction materials, machinery, metal products, rubber and plastic products, clay, concrete, glass or stone products, chemicals and related products*, and *lumber and wood products*, between those points in the U.S. in and west of MN, IA, NE, KS, OK, and TX.

MC 148380 (Sub-19), filed October 22, 1981. Applicant: CRESCO LINES, INC., 13900 South Keeler Avenue, Crestwood, IL 60445. Representative: Edward G. Bazelon, 29 South La Salle Street, Chicago, IL 60603 (312) 236-9375. Transporting *building materials*, between points in the U.S., under continuing contract(s) with Iko Manufacturing, Inc., of Edgemore, DE.

MC 154631, filed October 26, 1981. Applicant: TRANSPORT SPECIALISTS, INC., 545 Front Street, Woonsocket, RI 02895. Representative: Richard J. Wood, Jr., 357 Arnold Street, Woonsocket, RI 02895 (401) 765-3800. Transporting (1) *plastics and plastic articles, (2) sand, and (3) swimming pool equipment*, between points in the U.S., under continuing contract(s) with (a) Abbott Industries, Inc., of Leominster, MA and Van Brode Industries, Inc., of Clinton, MA in (1) above, (b) Holliston Sand Company, of Holliston, MA in (2) above, and Whitten Corporation, of Mendon, MA in (3) above.

MC 155740, filed October 26, 1981. Applicant: CROCUS, LTD., 2091 Highway W, Grafton, WI 53024. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, P.O. Box 5086, Madison, WI 53705-0086 (608) 238-3119. Transporting *metal products*, between points in WI, on the one hand, and, on the other, points in the U.S. (except points in CA, CT, ME, MA, NH, OR, RI, VT and WA).

MC 158841, filed October 16, 1981. Applicant: WILLIAM J. ROUNDS, JOHN N. ROUNDS, d.b.a. ROUNDS GARAGE, 911 East State Street, Olean, NY 14760. Representative: Michael A. Wargula, 2550 Main Place Tower, Buffalo, NY 14202 (716) 845-6066. Transporting *wrecked, disabled, repossessed, stolen, and abandoned motor vehicles, and trailers*, and *replacement vehicles* therefor, in truckaway and driveaway service, between those points in NY, west of St. Lawrence, Herkimer, Otsego, and Delaware Counties, on the one hand, and, on the other, points in PA, NY, and OH.

MC 158981, filed October 26, 1981. Applicant: G & S MARINE CHAPTER,

INC., 2305 El Monto Drive, Rancho Cordova, CA 95670. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609 (213) 945–2745. Transporting *such commodities* as are dealt in or used by boat manufacturers or dealers, between points in the U.S.

MC 158990, filed October 26, 1981. Applicant: D. R. & R. LEASING, P.O. Box 172, Savage, MN 53378. Representative: Timothy H. Butler, 4200 IDS Center, 80 South 8th Street, Minneapolis, MN 55402 (612) 371–3211. Transporting *metal products and machinery*, between points in the U.S., under continuing contract(s) with Arrow Engineering Sales Company, Inc., of Chaska, MN, R.R. Crossing, Inc., of St. Paul, MN, and Timesavers, Inc., of Crystal, MN.

Volume No. OPY–2–217

Decided: November 3, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 58973 (Sub-10), filed October 16, 1981. Applicant: ABLER TRANSFER, INC., 1006 South 8th St, Norfolk, NE 68701. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501, 402–475–6761. Transporting over regular routes *general commodities*, (except commodities in bulk, household goods, and classes A and B explosives), (1) Between Yankton and Aberdeen, SD: from Yankton over SD Hwy 50 to junction SD Hwy 50 and U.S. Hwy 281, then over U.S. Hwy 281 to Aberdeen and return over the same route, (2) Between Aberdeen, SD, and Sioux City, IA: from Aberdeen over U.S. Hwy 12 to junction Interestate Hwy 29, then over Interstate Hwy 29 to Sioux City, and return over the same route, serving all intermediate points in (1) and (2) and the off-route points in South Dakota on and east of U.S. Hwy 281 and on and south of U.S. Hwy 12.

Note.—Applicant intends to tack this authority with its existing authority.

MC 106223 (Sub-77), filed October 21, 1981. Applicant: GREENLEAF MOTOR EXPRESS, INC., 4606 State Rd., P.O. Box 667, Ashtabula, OH 44004. Representative: James R. Stiverson, 1396 W. Fifth Ave., P.O. Box 12241, Columbus, OH 43212 (614) 481–8821. Transporting *Chemicals and commodities in bulk*, between points in the U.S., in and east of ND, SD, NE, CO, OK and TX.

MC 107012 (Sub-749), filed October 16, 1981. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same address as applicant), 219–429–2224. Transporting *alcoholic beverages*, between points in CA and Duval County, FL, on the one hand, and, on the other, points in IN.

MC 107012 (Sub-750), filed October 19, 1981. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same address as applicant), 219–429–2234. Transporting *general commodities*, (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Magnuson Computer Systems, Inc., of San Jose, CA.

MC 107012 (Sub-752), filed October 20, 1981. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same address as applicant), 219–429–2224. Transporting *telecommunications equipment*, between points in Coweta County, GA, Cook County, IL, Washington County, MS, Berkeley County, SC, Shelby County, TN, Tarrant County, TX, and Milwaukee County, WI, on the one hand and, on the other, points in the U.S.

MC 118922 (Sub-21), filed October 20, 1981. Applicant: CARTER TRUCKING CO., INC., P.O. Box 225, Locust Grove, GA 30248. Representative: Charles H. White, Jr., Suite 800, 1019 19th St. NW., Washington, D.C. 20036, (202) 785–3420. Transporting *furniture and fixtures, chemicals and related products, rubber and plastic products, machinery, lawnmowers, coilers, children's miniature cars, and such commodities*, as are dealt in on used by agricultural equipment, industrial equipment, lawn and leisure product dealers and automotive parts distributors, and materials and supplies dealt in or used by battery manufacturers, between points in the U.S.

MC 134453 (Sub-27), filed October 23, 1981. Applicant: STERNLITE TRANSPORTATION COMPANY, Winsted, MN 55395. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118, 612–457–6889. Transporting *metal products*, between points in Carter County, TN, and Monroe County, NY, on the one hand, and, on the other, points in the U.S.

MC 142672 (Sub-185), filed October 29, 1981. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72702, 501–521–8121. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Campbell Soup Company, of Camden, NJ, and its subsidiaries.

MC 145533 (Sub-1), filed October 19, 1981. Applicant: KERWIN F. JENSEN, P.O. Box 308, Cleveland, UT 84518. Representative: Kerwin F. Jensen (same address as applicant), 801–653–2233. Transporting *coal*, between points in Utah, Wasatch, Sevier, and Sanpete Counties, UT.

MC 146452 (Sub-6), filed October 23, 1981. Applicant: ALBERTSON'S, INC., P.O. Box 20, 250 Parkcenter Blvd., Boise, ID 83726. Representative: David W. Wiley, 1100 Norton Bldg., Seattle, WA 98104, 206–622–4067. Transporting *such commodities* as are dealt in by chain grocery stores, between points in the U.S., under continuing contract(s) with Super Foods Services, Inc., of Orlando, FL.

MC 148183 (Sub-44), filed October 21, 1981. Applicant: ARROW TRUCK LINES, INC., P.O. Box 432, Gainesville, GA 30503. Representative: Pauline E. Myers, Suite 348, Pennsylvania Bldg., 425–13th St., NW., Washington, DC 20004–1879, (202) 737–2188. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Swift Independent Packing Company of Chicago, IL.

MC 148852 (Sub-4), filed October 16, 1981. Applicant: LINDSEY M. ROBISON, d.b.a.,MIDWEST CARPET CARRIERS, 1219A East Division, Springfield, MO 65803. Representative: Lindsey M. Robison (same address as applicant), 417–831–2008. Transporting *floor and wall covering*, between points in AL, AR, GA, KS, MO, MS, OK, SC, and TN.

MC 152982 (Sub-2), filed October 16, 1981. Applicant: CLEVELAND TRANSPORTATION CORPORATION, Hwy. 60 South, Box 305, Sheldon, IA 51201. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104, 712–255–3127. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract (s) with American Salt Company, of Kansas City, MO and L.B. Foster Co., of Houston, TX.

MC 153513 (Sub-1), filed October 22, 1981. Applicant: ROY YOUNG, INC., P.O. Box 670, Abbeville, LA 70510. Representative: Janet Boles Chambers, 8211 Goodwood Blvd., Suite C1, Baton Rouge, LA 70806, 504–924–2686. Transporting (1) *contractor's machinery and equipment*, (2) *building materials*, (3) *metal products*, (4) *commodities, the transportation of which, because of size or weight requires the use of special equipment* and (5) *Mercer commodities*, between points in the U.S.

MC 154312, filed October 22, 1981. Applicant: AGRI CARRIERS, INC.,

Route #2, Box 110, Covington, IN 47932. Representative: Edward D. McNamara, Jr., 907 South Fourth St., Springfield, IL 62703, 217–528–8476. Transporting *fertilizer, anhydrous ammonia and agricultural limestone,* between points in IL, KY, OH, and IN, on the one hand, and, on the other, points in Warren, Vermillion and Fountain Counties, IN, and Vermilion County, IL, *fertilizer,* between Danville, IL, on the one hand, and, on the other, points in IN, *salt,* between points in IL, and MI, on the one hand, and, on the other, points in Fountain, Warren, Vermillion and Park Counties, IN, *sand and gravel,* between points in Warren County, IN, on the one hand, and, on the other, points in Vermilion, Champaign, Piatt, Iroquois and Macon, Counties, IL, *steel and steel products,* between Covington, IN, on the one hand, and, on the other points in IL and MO, *agricultural equipment and machinery,* between points in IA, WI, MI and ports of entry on the international boundary line between the United States and Canada, on the one hand, and, on the other, points in Vermillion County, IN, *farm equipment and machinery and parts and garden tractors and parts,* between points in IA, IL, KS, WI and ports of entry on the international boundary between the United States and Canada on the one hand, and, on the other, points in Fountain County, IN, and *farm equipment and machinery and parts and garden tractors and parts,* between points in ND, MI and IA, on the one hand, and, on the other, points in Warren County, IN.

MC 155293 (Sub-1), filed October 20, 1981. Applicant: CITY SERVICE, INC., 1645 Hwy. 93 South, P.O. Box 1, Kalispell, MT 59901. Representative: David R. Waatti, (same address as applicant), 406–755–4321. Transporting *chemicals and related products, rubber and plastic products, and petroleum, natural gas and their products,* between points in WA, OR, ID, MT, CA, NV, TX, LA, OK, KS, NE, WY, CO, UT, MN, IL, ND, and OH, on the one hand, and, on the other, points in MT, ID, WA, WY, CO, and UT.

MC 156753 (Sub-1), filed October 19, 1981. Applicant: TURNER BROS. ENTERPRISES, INC., Tebbetts, MO 65080. Representative: Bruce C. Harrington, KS Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612, 913–233–9629. Transporting *salt,* between Salt Lake City and Ogden, UT, and Hutchinson and Kanopolis, KS, on the one hand, and, on the other, points in MO and IL.

MC 156932 (Sub-1), filed October 23, 1981. Applicant: PALLET PRODUCTS, INC., P.O. Box 70, Des Plaines, IL 60016. Representative: Elaine M. Conway, 10 South LaSalle St., Suite 1600, Chicago, IL 60603, (312) 263–1600. Transporting *metal products,* between points in the U.S., under continuing contract(s) with Rheem Manufacturing Company, of Chicago, IL.

MC 157453 (Sub-1), filed October 23, 1981. Applicant: EMERGENCY MOTOR FREIGHT, INC., Route 5, Box 452, Simpsonville, SC 29681. Representative: Mitchell King, Jr., P.O. Box 5711, Greenville, SC 29606, (803) 288–6000. Transporting *metal products* between points in Greenville County, SC, on the one hand, and, on the other, points in the U.S.

MC 158322, filed October 22, 1981. Applicant: CAMPBELL TRUCK LEASING COMPANY, INC., Alabama Hwy. 42, Fackler, AL 35746. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, 703–525–4050. Transporting *such commodities* as are dealt in or used by distributors of floor or wall coverings, between points in the U.S., under continuing contract(s) with R. C. Price Company, of Denver CO.

MC 158673, filed October 22, 1981. Applicant: AREA DELIVERY SERVICE, INC., 1518 NE. 7th St., Amarillo, TX 79107. Representative: Lawrence A. Winkle, P.O. Box 45538, Dallas, TX 75245, (214) 358–3341. Transporting *general commodities* (except classes A and B explosives) between points in the U.S., under continuing contract(s) with Amway Corporation, of Arlington, TX.

MC 158872, filed October 20, 1981. Applicant: CHEM-TRUCK, INC., 960 U.S. Highway 1, North, Edison, NJ 08817. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048–0640, 212–466–0220. Transporting *such commodities,* as are dealt in or used by manufacturers and distributors of chemicals, between points in the U.S., under continuing contract(s) with G. J. Chemical Co., of Carteret, NJ, Vitusa Corp., of Englewood Cliffs, NJ, Trimont Charlotte Corp., of Charlotte, NC, Laurel Commodities, of Willingboro, NJ, K-Chemical, of Stamford, CT, Robinson Chemical Co., of Cambridge, MD, and Pioneer Salt & Chemical, of Philadelphia, PA.

MC 158902, filed October 19, 1981. Applicant: VALLEY NH3 TRANSPORT COMPANY, P.O. Box 698 Brawley, CA 92227. Representative: W. R. Van Liere (same address as applicant), 213–977–7192. Transporting *fertilizer solutions and anhydrous ammonia,* between points in CA and AZ.

MC 158903, filed October 21, 1981. Applicant: ROBERT and GLORIA ROBERTS, d.b.a. SIERRA CORRUGATED, 157 Clover Lane, Medford, OR 97501. Representative: Joe Harrison (same address as applicant), 503–779–9300. Transporting *pulp, paper and related products,* between points in CA, OR, WA, NV, UT, AZ, and CO.

MC 158912, filed October 20, 1981. Applicant: PALMETTO STAGES AND LEASING COMPANY, INC., P.O. Box 341, Easley, SC 29640. Representative: David D. Cantrell, Jr., 117 West Benson St., Anderson, SC 29624, (803) 225–1411. Transporting *passengers and their baggage, in the same vehicle as passengers,* between points in Pickens, Greenville, Oconee, Newberry and Laurens Counties, SC, on the one hand, and, on the other, points in the U.S.

MC 158932, filed October 22, 1981. Applicant: W. T. SMITH, d.b.a. SMITH TOURS, P.O. Box 1460, Henderson, KY 42420. Representative: Maxwell A. Howell, 1100 Investment Bldg., 1511 K St., NW., Washington, DC 20005, (202) 783–7900. As a *broker,* at Henderson, KY, in arranging for the transportation, by motor vehicle, of *passengers and their baggage, in the same vehicle with passengers,* in charter and special operations, between points in the U.S.

MC 158933, filed October 22, 1981. Applicant: J. THOMAS, INC., 416 Gra-Roy Dr., Goshen, IN 46526. Representative: Paul D. Borghesani, 300 Communicana Bldg., 421 S. Second St., Elkhart, IN 46516, 219–293–3597. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Mastercraft Vans, Inc., of New Paris, IN, New Paris Enterprises, Inc., of New Paris, IN and Tech-Trans, Inc., of Bristol, IN.

MC 158943, filed October 23, 1981. Applicant: T-BIRD EXPRESS, INC., 494 East Main Street, Galesbury, IL 61401. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001, (202) 628–9243. Transporting *metal products,* between Chicago, IL, on the one hand, and, on the other, points in ND, SD, NE, KS, OK, MN, IA, MO, WI, IL, MI, IN, KY, TN, GA, WV and PA.

MC 159022, filed October 27, 1981. Applicant: ELLEFSON BROKERS, INC., 1615 Nixon Rd., P.O. Box 5444, Augusta, GA 30906. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036, 202–785–0024. As a *broker,* at Augusta, GA, in arranging for the transportation by motor vehicle of *household goods,* between points in the U.S.

Volume No. OPY–3–206

Decided: November 3, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 9655 (Sub-5), filed October 26, 1981. Applicant: J. R. BUTLER, INC., P.O. Box 155, 1031 Reeves St., Dunmore, PA 18512. Representative: Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666, (201) 836–1144. Transporting *such commodities* as are dealt in or used by food, grocery and chain business houses, between points in the U.S., under continuing contract(s) with Jewel T Discount Grocery, of Barrington, IL, and Mass Feeding Corporation, of Elk Grove Village, IL.

MC 15975 (Sub-54), filed October 26, 1981. Applicant: BUSKE LINES, INC., 123 W. Tyler Ave., Litchfield, IL 62056. Representative: Howard H. Buske (same address as applicant), (217) 324–2141. Transporting *such commodities* as are dealt in or used by brewers and distributors of malt beverages, between Chicago, IL, on the one hand, and, on the other, points in the U.S.

MC 99234 (Sub-22), filed October 26, 1981. Applicant: WESTWAY MOTOR FREIGHT, INC., 5601 Holly St., Commerce City, CO 80022. Representative: Leslie R. Kehl, 1660 Lincoln St., Suite 1600, Denver, CO 80264, (303) 861–4028. Transporting *photographic apparatus*, between the facilities of Eastman Kodak Company, in CA, CO, and TX, on the one hand, and, on the other, points in CA, CO, NM, TX and UT.

MC 114015 (Sub-36), filed October 26, 1981. Applicant: HUSS, INCORPORATED, Highway 47 West, P.O. Box 666, Chase City, VA 23924. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048, (212) 466–0220. Transporting *metal products*, between points in the U.S., under continuing contracts with Globe Iron Construction Co., of Norfolk, VA, and Intercoastal Steel Corp., of Chesapeake, VA.

MC 114274 (Sub-79), filed October 26, 1981. Applicant: VITALIS TRUCK LINES, INC., 137 N.E. 48th St. Place, Des Moines, IA 50306. Representative: William H. Towle, 180 N. LaSalle St., Chicago, IL 60601, (312) 332–5106. Transporting *pulp, paper and related products, printed matter*, and *chemicals, and related products*, between Cincinnati, OH, Des Moines, IA, and points in Evangeline Parish, LA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 114274 (Sub-80), filed October 26, 1981. Applicant: VITALIS TRUCK LINES, INC., 137 N.E. 48th St. Place, Des Moines, IA 50306. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601, (312) 332–5106. Transporting (1) *meats, 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 M.C.C. 209 and 766, (1) between points in IA and NE, (b) between points in IA and NE, on the one hand, and, on the other, points in CO, CT, IL, MD, MA, MI, NJ, NY and TX; and (2) *foodstuffs*, between points in IL, IN, MI, OH and WI, on the one hand, and, on the other, points in IA and NE.

MC 119654 (Sub-98), filed October 26, 1981. Applicant: HI-WAY DISPATCH, INC., 1401 West 26th St., Marion, IN 46952. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638–1301. Transporting *general commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special handling and equipment), between points in AL, AR, DE, FL, GA, IL, IA, IN, KY, LA, MD, MI, MN, MO, MS, NC, NJ, OH, PA, SC, TN, VA, WV, WI, and DC.

MC 144694 (Sub-4), filed October 26, 1981. Applicant: RIVERSIDE TRUCKING, INC., P.O. Box 351, Pell City, AL 35125. Representative: T. A. Flemming, Sr. (same address as applicant), (205) 884–2471. Transporting *general commodities*, between points in the U.S. (except AK and HI), under continuing contract(s) with Union Camp Corporation, of Wayne, NJ.

MC 151534 (Sub-5), filed October 26, 1981. Applicant: R & D TRANSPORTATION CORPORATION, P.O. Box 1908, Des Moines, IA 50306. Representative: Donald B. Strater, 1350 Financial Center, Des Moines, IA 50309, (515) 283–2411. Transporting (1)*irrigation parts, systems, and equipment*, and (2) *materials, equipment and supplies* used in the manufacture, distribution and installation of the commodities in (1) above, between points in NE, on the one hand, and, on the other, points in the U.S.

MC 155115 (Sub-3), filed October 27, 1981. Applicant: ANDERSON ARMORED CAR SERVICE, INC., P.O. Box 244, Anderson, SC 29622. Representative: Richard C. Otter, P.O. Box 273, Anderson, SC 29622, (803) 225–2571. Transporting *precious metals* and *machinery*, between points in the U.S., under continuing contract(s) with Reichhold Chemicals, Inc., of White Plains, NY.

MC 157324, filed August 24, 1981. Applicant: SUNFLOWER FOOD EXPRESS, INC., P.O. Box 143, Sedgwick, KS 67135. Representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, KS 67202, (316) 265–2634. Transporting *food and related products*, between points in the U.S.

MC 158004, filed October 26, 1981. Applicant: ADVANCED DELIVERY SYSTEMS, INC., 16 Cross Highway, Westport, CT 06880. Representative: Gerald A. Joseloff, 410 Asylum St., Hartford, CT 06103, (203) 728–0700. Transporting *such commodities* as are dealt in or used by retail home and office furnishing and appliance stores, between points in the U.S., under continuing contracts with Wayside Furniture Shops, Inc., of Milford, CT, and Town & Country Fine Furniture Co., of Concordvillel, PA.

MC 158354, filed October 26, 1981. Applicant: C. B. AUTOMOTIVE TRUCK LINES, Highway 30, Cedar Hill, MO 63016. Representative: Charles H. Buckley, (same address as applicant) (314) 677–8911. Transporting *automobile parts and accessories*, between St. Louis, MO, and points in Jefferson and St. Louis Counties, MO, on the one hand, and, on the other, Chicago, IL.

MC 158834, filed October 16, 1981. Applicant: BOB L. TACKETT, 1163 Manfeld, Dr., Columbus, OH 43227. Representative: Herbert C. Hunt, Jr., 50 W. Broad St., Suite 1314, Columbus, OH 43215, (614) 461–0984. As a *broker* in arranging for the transportation of *household goods*, between points in the U.S.

MC 158915, filed October 21, 1981. Applicant: CURT REID, Rt. #1, Mukwonago, WI 53149. Representative: Curt Reid (same address as applicant) (414) 363–3184. Transporting *cryogenic gases and welding supplies*, between points in the U.S., under continuing contract(s) with AmeriGas of Waukesha, WI.

MC 158965, filed October 26, 1981. Applicant: THOMAS SCALZO CO., 3211 Airport Way South, Seattle, WA 98134. Representative: Victor J. Scalzo, 3811–92nd N.E., Bellevue, WA 98004, (206) 454–7445. Transporting (1) *heavy machinery*, and *building materials*, and (2) *articles* which because of size or weight require the use of special equipment (except heavy machinery), between points in WA, OR, ID, and MT.

MC 158984, filed October 27, 1981. Applicant: JOHN W. BELL AND ROBERT L. BELL, d.b.a. BELL TRANSPORTATION COMPANY, 1303 South Second St., Laramie, WY 82070. Representative: Jeffrey A. Knoll, 5650

DTC Parkway, Englewood, CO 80111, (303) 770–5610. Transporting *food and related products,* between points in Shelby County, TN, Milwaukee County, WI, Harrison County, TX, and Orange County, CA, on the one hand, and, on the other, points in WY.

MC 50185 (Sub-1), filed October 9, 1981, previously noticed in the **Federal Register** on October 23, 1981. Applicant: CROZIER BROS. VAN LINES, INC., 460 Tarrytown Rd., White Plains, NY 10607. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, DC 20036, (202) 785–0024. Transporting *household goods,* as defined by the Commission, (1) between points in NY, VT, NH, MA, RI, CT, PA, NJ, DE, MD, VA, NC, SC, GA, FL, and DC, and (2) between points in NY, VT, NH, MA, RI, CT, PA, NJ, DE, MD, VA, NC, SC, GA, FL, and DC, on the one hand, and, on the other, points in OH, WV, MI, IN, KY, WI, IL, MO, KS, OK, AR, TN, MS, AL, LA, and TX.

Note.—This republication corrects the territorial description.

Volume No. OPY–4–430

Decided: November 4, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 118586 (Sub-1), filed October 28, 1981. Applicant: STUART E. KEENY, R. D. #1—Box 100, New Freedon, PA 17349. Representative: Norman T. Petow, 43 N. Duke St., York, PA 17401, (717) 843–8004. Transporting (1) *limestone,* between points in York County, PA, on the one hand, and, on the other, points in MD and VA, and (2) *fertilizer and fertilizer material,* between points in MD and VA, on the one hand, and, on the other, points in York County, PA.

MC 119936 (Sub-4), filed October 22, 1981. Applicant: FAIRFIELD MOTOR TRANSPORTATION COMPANY, 4350 W. 123rd St., Alsip, IL 60658. Representative: Stephen H. Loeb, Suite 2027, 33 N. LaSalle St., Chicago, IL 60602, (312) 726–9722. Transporting (1) *solar equipment, furnaces, air-conditioning machinery, heaters, and containers,* between Chicago, IL, Indianapolis, IN and Fort Smith, AR, on the one hand, and, on the other, points in AR, IA, IL, IN, KY, MI, MN, OH, and WI, and (2) *metals and related products,* between Chicago, IL, Toledo, OH, and points in Butler, Montgomery, and Warren Counties, OH, on the one hand, and, on the other, points in AR, IA, IL, IN, KY, MI, MN, MO, OH, TN, and WI.

MC 121766 (Sub-2), filed May 4, 1981, previously noticed in the **Federal Register** issue of May 19, 1981, and republished this issue. Applicant: S. ROSS TRUCKING COMPANY, INC., 2680 Dunn Rd., Hayward, CA 94545. Representative: Ann M. Pougiales, 100 Bush–21st Floor, San Francisco, CA 94104, (415) 986–5778. Transporting (I) *general commodities* (except classes A and B explosives), between points in CA, OR, and WA, (II) *general commodities* (except classes A and B explosives, commodities in bulk and those requiring special equipment), Between Santa Rosa and Los Angeles, CA, serving all intermediate and off-route points in the Counties of Sanoma, Marin, San Francisco, San Mateo, Santa Clara, Monterey, San Luis Obispo, Santa Barbara, Ventura and Los Angeles: From Santa Rosa over U.S. Hwy 101 to Los Angeles and return over the same route. Between San Francisco and Roseville, CA serving all intermediate points and off-route points in the Counties of San Francisco, Alameda, Contra Costa, Solano, Yolo and Sacramento: From San Francisco over Interstate Hwy 80 to Roseville, and return over the same route. Between junction CA Hwy 4 and Interstate Hwy 80 (near Pinole) and Stockton, serving all intermediate points and off-route points in the Counties of Contra Costa and San Joaquin: From junction CA Hwy 4 and Interstate Hwy 80 (near Pinole) over CA Hwy 4 to Stockton, and return over the same route. Between Sacramento, CA and the CA-Mexico border, serving all intermediate points and off-route points in the Counties of Sacramento, San Joaquin, Stanislaus, Merced, Fresno, Kings, Kern, Ventura, Los Angeles, Orange and San Diego: From Sacramento over Interstate Hwy 5 to the CA-Mexico border, and return over the same route. Between San Francisco and San Luis Obispo, CA, serving all intermediate points and off-route points in the Counties of San Francisco, San Mateo, Santa Cruz, Monterey and San Luis Obispo: From San Francisco over CA Hwy 1 to San Luis Obispo, and return over the same route. Between Sacramento and Wheeler Ridge, CA, serving all intermediate points and off-route points in the Counties of Sacramento, San Joaquin, Stanislaus, Merced, Madera, Fresno, Tulare and Kern: From Sacramento over CA Hwy 99 to Wheeler Ridge, and return over the same route. Between Los Angeles and Indio, CA, serving all intermediate points and off-route points in the Counties of Los Angeles, San Bernadino and Riverside: From Los Angeles over Interstate Hwy 10 to Indio, and return over the same route. Between junction Interstate Hwys 15E and 10 (near Colton, CA) and San Diego, CA, serving all intermediate points and off-route points in the Counties of San Bernardino, Los Angeles, Riverside and San Diego: From junction Interstate Hwys 15E and 10 (near Colton, CA) over Interstate Hwy 15E and Temporary Interstate Hwy 15E to San Diego, and return over the same route. Between junction Interstate Hwys 580 and 80 and junction Interstate Hwys 580 and 5, serving all intermediate points and off-route points in the Counties of Alameda, Contra Costa, and San Joaquin: From junction Interstate Hwys 580 and 80 over Interstate Hwys 580 to junction Interstate Hwys 580 and 5, and return over the same route.

Note.—This application converts applicant's Certificate of Registration (the authority in II above) to a Certificate of Public Convenience and Necessity because the authority in I, above, makes applicant a multi-state operator. Issuance of a Certificate is conditioned upon applicant's request in writing for the cancellation of the Certificate of Public Convenience and Necessity issued September 16, 1981.

MC 156046 (Sub-1), filed: October 28, 1981. Applicant: HABIT MOTOR LINES, INC., 9959 Nathan Lane, Maple Grove, MN 55369. Representative: John B. Van de North, Jr., 2200 First National Bank Bldg., St. Paul, MN 55369. Transporting *canned and frozen seafood,* between points in the U.S., under continuing contract(s) with Stinson Canning Company, of Prospect Harbor, ME. Condition: The person or persons who appear to be engaged in common control of applicant and 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 twam 4, Room 2410.

MC 156766, filed October 26, 1981. Applicant: G.A.L. & S. TRUCKING, INC., 24218 463rd Ave. SE. Enumclaw, WA 98022. Representative: Jim Pitzer, 15 S. Grady Wy, Ste 321, Renton, WA 98055, (206) 235–1111. Transporting *aircraft and aircraft parts,* between points in the U.S., under continuing contract(s) with Transamerica Airlines, of Oakland, CA.

MC 159026, filed October 29, 1981. Applicant: NCH CORPORATION, 2730 Carl Rd., Irving, TX 75062. Representative: B. W. Huie, (same address as applicant), (214) 438–0550. Transporting *such commodities* as are dealt in, or used by manufacturers and distributors of paper business forms, between points in the U.S., under

continuing contract(s) with Willamette Industries, Inc., of Irving, TX.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-32595 Filed 11-10-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-165

The following applications were filed in region I: Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 146119 (Sub-1-5TA), filed October 28, 1981. Applicant: WINSTON COACH CORP., 1650 Sycamore Avenue, Bohemia, NY 11716. Representative: Sidney J. Leshin, Esq., 575 Madison Avenue, New York, NY 10022. *Passengers and their baggage,* beginning and ending at points in the City of New York, NY and extending to Atlantic City, NJ., restricted to traffic originating at or destined to the facilities of the Sands Hotel & Casino, at Atlantic City, NJ, and, *Passengers and their baggage* beginning and ending at points in the Counties of Nassau and Suffolk, NY and extending to Atlantic City, NJ, restricted to traffic originating at or destined to the facilities of the Claridge Hotel and HiHo Casino, Atlantic City, NJ. Supporting shipper(s): Claridge, Ltd., Box 448, Atlantic City, NJ; Sands Hotel & Casino, Indiana Ave. and Bright Park, Atlantic City, NJ.

MC 159064 (Sub-1-1TA), filed November 2, 1981. Applicant: R & R COURIERS LTD., R.R. No. 4, P.O. Box 1083, Brantford, Ontario, CD N3T 5S7. Representative: Robert McGregor (same as applicant). *Contract carrier:* irregular routes: *Materials used in the manufacture of agricultural machinery and equipment* between ports of entry on the International Boundary Line between United States and Canada in MI and NY and points in NY, MA, CT, PA, NJ, OH, IL, IN, MI, DE, and WI under continuing contract(s) with Massey Ferguson Industries, Limited of Brantford, Ontario, CD. Supporting shipper: Massey Ferguson Industries Limited, Park Road North, Brantford, Ontario, CD N3T 5V4.

MC 159071 (Sub-1-1TA), filed November 2, 1981. Applicant: LAKELAND TRANSPORTATION, INC., White Pond Road, Stormville, NY 12582. Representative: Sidney J. Leshin, Esq., 575 Madison Avenue, New York, NY 10022. *Contract carrier:* irregular routes: *Passengers and their baggage,* beginning and ending in Dutchess County and Putnam County, NY and extending to White Plains, Harrison and Rye, NY under continuing contract(s) with Dutchess Commuters Association, White Plains, NY. Supporting shipper: Dutchess Commuters Association, 250 North Street, White Plains, NY 10625.

MC 156384 (Sub-1-2TA), filed October 28, 1981. Applicant: TRANSPO INCORPORATED, 9 Mill Plain Road, Danbury, CT 06810. Representative: Sidney J. Leshin, Esq., 575 Madison Avenue, New York, NY 10022. *Contract carrier:* irregular routes: *Passengers and their baggage,* beginning and ending in Litchfield, Fairfield, or New Haven, CT and extending to VT, NH, ME, MA, RI, NY, NJ, PA, MD, DE, DC and VA, under continuing contract(s) with Gad About Tour & Travel, Inc., Middlebury, CT. Supporting shipper: Gad About Tour & Travel, Inc., 59 Dorothy Drive, Middlebury, CT 06762.

MC 134073 (Sub-1-2TA), filed October 29, 1981. Applicant: GENOVA TRANSPORT, INC., 484 Clayton Road, Williamstown, NJ 08094. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier:* irregular routes: *(1) Frozen foodstuffs, and (2) Materials, equipment, and supplies used in the manufacture and sale of the commodities named in (1) above* between points in the U.S. under continuing contract(s) with Mrs. Smith's Frozen Foods Co., of Pottstown, PA. Supporting shipper: Mrs. Smith's Frozen Foods Co., South & Charlotte Sts., P.O. Box 298, Pottstown, PA 19464.

MC 133841 (Sub-1-15TA), filed October 28, 1981. Applicant: DAN BARCLAY, INC., 362 Main Street, P.O. Box 426, Lincoln Park, NJ 07035. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *(1) Propellers, and (2) Materials, equipment, and supplies used in the manufacture, sale, installation, and distribution of the commodities named in (1) above,* between Pascagoula, MS, on the one hand, and, on the other, Avondale, LA. Supporting shipper: Avondale Shipyards, Inc., Div. Ogden, Inc., P.O. Box 50280, New Orleans, LA 70150.

MC 134806 (Sub-1-20TA), filed October 30, 1981. Applicant: B-D-R TRANSPORT, INC., P.O. Box 1277, Brattleboro, VT 05301. Representative: Edward T. Love, 4401 East West Highway, Suite 404, Bethesda, MD 20814. *Contract carrier:* irregular routes: *Groceries and foodstuffs,* from points in CA to Brattleboro, VT under continuing contract(s) with Stow Mills, Brattleboro, VT. Supporting shipper: Stow Mills, Quinn Road, P.O. Box 816, Brattleboro, VT 05301.

MC 150451 (Sub-1-6TA), filed October 30, 1981. Applicant: G & L TRANSPORT, Route 9, Troy, ME 04987. Representative: Barry Weintraub, Suite 510, 8133 Leesburg Pike, Vienna, VA 22180. *Contract carrier:* irregular routes: *Amorphous polyproplene* from Baytown, TX to Brunswick, ME, under continuing contract(s) with Keena Corporation of Brunswick, ME. Supporting shipper: Keena Corporation, 78 Water St., Brunswick, ME 04011.

MC 156876 (Sub-1-1TA), filed October 30, 1981. Applicant: VLM TRUCKING, INC., 35 Scudder St., Garfield, NJ 07026. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Clay, concrete, glass, or stone products,* between points in Bergen County, NJ, on the one hand, and on the other, points in McKean County, PA. Supporting

shipper: Sediver, Inc., 320 13th St., Carlstadt, NJ 07072.

MC 147621 (Sub-1-3TA), filed November 2, 1981. Applicant: BEE-JAY TRANSPORTATION, INC., 1576 Hart Street, P.O. Box 21A, Rahway, NJ 07065. Representative: Henry J. Capro, 1585 Morris Avenue, Union, NJ 07083. *Contract carrier:* irregular routes: *Floor covering (title, stone, wood, carpet), wall coverings, materials and supplies necessary for the manufacturing of or installation of the above referenced products, advertising displays and materials* between Vailsgate, NY; Fullerton, PA (Whitehall, PA, Lehigh County), and Long Beach, CA, on the one hand, and, on the other, points in AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, under continuing contract(s) with Tarkett, Inc., of Parsippany, NJ. Supporting shipper: Tarkett, Inc., 800 Lanidex Plaza, Parsippany, NJ 07054.

MC 138574 (Sub-1-2TA), filed November 2, 1981. Applicant: NORTHERN EXPRESS, INC., 31 Virginia Avenue, Carteret, NJ 07008. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Pharmaceutical products, toilet preparations and confectionery, except in bulk,* between Avon, CT and Lititz, PA, on the one hand, and, on the other, New York, NY, and points in Dutchess, Nassau, Orange, Rockland, Ulster and Westchester Counties, NY, and Bergen, Essex, Hudson, Mercer, Middlesex, Morris, Monmouth, Ocean, Passaic, Somerset, Sussex and Union Counties, NJ. Supporting shipper: Warner-Lambert Company, 201 Tabor Road, Morris Plains, NJ 07950.

MC 111849 (Sub-1-1TA), filed October 29, 1981. Applicant: WILSON MOVING AND STORAGE, INC., 129 Strongs Avenue, P.O. Box 566, Rutland, VT 05701. Representative: Reginald C. Wilson (same address as applicant). *Printed matter, paper and plastic products, (STCC Code 27, 26 and 30)* between Rutland, VT and points in ME, NH, MA, CT, RI, NY, NJ and PA. Supporting shipper: Green Mountain Workshop, 56 Howe St., Rutland, VT 05701.

MC 124328 (Sub-1-10TA), filed October 28, 1981. Applicant: BRINK'S, INCORPORATED, Thorndal Circle, Darien, CT 06820. Representative: Richard H. Streeter, Wheeler & Wheeler, 1729 H Street, NW., Washington, DC 20006. *Contract carrier:* irregular routes: *Coin, currency, securities and bank related documents* between points in MI and IN under continuing contract(s) with The Bank of Three Oaks, Three Oaks, MI. Supporting shipper: The Bank of Three Oaks, 21 N. Elm Street, Three Oaks, MI 49128.

MC 150394 (Sub-1-2TA), filed November 2, 1981. Applicant: P & L ENTERPRISES, 1776 Main Street, Springfield, MA 01103. Representative: Robert J. Brooks, Vorys, Sater, Seymour & Pease, 1828 L Street, N.W., Suite 1111, Washington, DC 20036. *Contract carrier:* irregular routes: *Passengers and their baggage in charter and special operations,* between Atlantic City, NJ, on the one hand, and, on the other, points in CT, NY, PA, DE, MD, VA, and DC under continuing contract(s) with Peter Pan World Travel, Inc. of Springfield, MA, and Blue Bird World Travel, Inc. of Olean, NY. Supporting shipper(s): Peter Pan World Travel, Inc., 1778 Main Street, Springfield, MA 01103; Blue Bird World Travel, Inc., 502-04 N. Barry St., Olean, NY 14760.

MC 142603 (Sub-1-30TA), filed November 3, 1981. Applicant: CONTRACT CARRIERS OF AMERICA, INC., 1071 Dwight Street, P.O. Box 179, Springfield, MA 01101. Representative: Tami L. Quinlan (same as applicant). *Contract carrier:* irregular routes: *Paper and non-woven products* from Pittsfield, MA to Bedford Heights, OH, Ashland, OH, West Palm Beach, FL, and Garden Grove, CA, under continuing contract(s) with Boyd Converting Company, Inc. of Pittsfield, MA. Supporting shipper: Boyd Converting Co., Inc. Central Berkshire Blvd., Richmond, MA 01254.

MC 148034 (Sub-1-2TA), filed November 3, 1981. Applicant: EDWARD C. LOTT, INC., 2338 Slaterville Road, Ithaca, NY 14850. Representative: Raymond A. Richards, 35 Curtice Park, Webster, NY 14580. *Contract carrier:* irregular routes: *Foods and related products, also metal and metal products, including related products* between points in the U.S. under continuing contract(s) with Candor Specialty Packaging Inc. of Spencer, NY; Cerro Wire & Cable Corp., Maspeth, NY; Draper Egg Products, Inc., Dryden, NY; Federal Bakers Supply Corp. of Buffalo, NY; McCadam Cheese Co., Inc., Subsidiary of Dean Foods Co. of Heuvelton, NY; and A. Oliveri & Son, Inc. of Jersey City, NJ. Supporting shippers(s): There are six statements in support of this application which may be examined at the Regional Office of the I.C.C. in Boston, MA.

The following applications were filed in Region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St. Rm. 620, Philadelphia, PA 19106.

MC 159062 (Sub-II-1TA), filed November 2, 1981. Applicant: CENTRAL TRUCKING, INC., 137 Burgess Lane, Charlottesville, VA 22901. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229. *Coal,* between points in Dinwiddie County, VA and points in Nicholas County, WV for 270 days. Any underlying ETA seeks 120 days authority. Supporting shipper: Commonwealth of Virginia, Southside Mental Health and Mental Retardation, Support Unit, P.O. Box 4030, Pettersburg, VA 23803.

MC 143522 (Sub-II-6-TA), filed November 2, 1981. Applicant: CONSOLIDATED CARRIERS, INC., P.O. Box D, Irwin, PA 15642. Representative: John T. Wirth, 717 17th St., Ste. 2600, Denver, CO 80202. *Clay, concrete, glass or stone products,* between points in Cumberland County, NJ; Westmoreland and Allegheny Counties, PA; Jay County, IN; Fairfield County, OH; and Lewis County, WV on the one hand, and on the other, points in CA, for 270 days. Supporting shipper: John Cambra & Associates, Inc., 711 Toland St., San Francisco, CA 94124.

MC 158793 (Sub-II-3TA), filed November 2, 1981. Applicant: DR. CULLY'S CARTAGE, CO., INC., 332 Clubhouse Lane, Hunt Valley, MD 21031. Representative: Glenn M. Heagerty (same address as applicant). *Contract; irregular: Such merchandise as is dealt in by a manufacturer of foodstuffs,* between pts. in MD, OH, and TX, on the one hand, and, on the other, pts. in CT, GA, IL, IN, ME, MD, MA, MI, NJ, NY, NC, MS, OH, OK, PA, RI, SC, TN, TX, VA, and DC for 270 days, under continuing contract(s) with McCormick & Co., Inc., Hunt Valley, MD. An underlying ETA seeks 120 days authority. Supporting shipper(s): McCormick & Co., Inc., Executive Plaza I, 11350 McCormick Rd., Hunt Valley, MD 21031.

MC 145282 (Sub-II-6-TA), filed November 2, 1981. Applicant: FALCON TRANSPORT, INC., P.O. Box K, Bird-in-Hand, PA 17505. Representative: James E. Brown, 36 Brunswick Rd, Depew, NY 14043. Transporting: *Ores and minerals, clay, concrete, glass or stone products, building materials, chemicals, transportation equipment, metal products, machinery and machine parts and materials, supplies and equipment used in the manufacture or distribution of such commodities* between points in AL, AR, CT, DE, DC, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, WV, WI for 270 days.

Supporting shippers: Nicolet, Inc., Ambler, PA 19002. Parish Division of Dana Corp., Robesin and Weiser Sts., Reading, PA 19603. Combustion Engineering, Inc., P.O. Box 828, Valley Forge, PA 19482. Baldt, Inc., P.O. Box 350, Chester, PA 19016.

MC 73533 (Sub-II-10TA), filed November 2, 1981. Applicant: KEY WAY TRANSPORT, INC., 820 S. Oldham St., Baltimore, MD 21224. Representative: William F. Lamperelli, 820 S. Oldham St., Baltimore, MD 21224. *Contract; irregular: Alcoholic beverages (except commodities in bulk)* from Plainfield, IL to pts. in CT, DE, MD, NJ, NY, PA, VA, WV and DC for 270 days, under continuing contract(s) with Renfield Importers, Ltd., New York, NY. An underlying ETA seeks 120 days authority. Supporting shipper: Renfield Importers, Ltd., 919 Third Ave., New York, NY 10022.

MC 158891 (Sub-II-1TA), filed October 27, 1981. Applicant: OHIO SECURITY SYSTEMS INC., 2590 Elm Rd., NE., Warren, OH 44483. Representative: Thomas L. Old, 115 W. Market St., Warren, OH 44481. Contract, irregular: *inter-office correspondence and small packages* between the facilities of Wean-United, Inc. located in Warren, Youngstown, Canton and Cuyahoga Falls, OH and Pittsburgh and Vandergrift, PA, under continuing contract(s) with Wean-United, Inc., for 270 days. Supporting shipper(s): Wean-United, Inc., 3805 Henricks Rd., Youngstown, OH.

MC 155234 (Sub-II-1TA), filed October 29, 1981. Applicant: STOW TRANSPORT, INC., 3275 Kent Rd., Stow, OH 44224. Representative: Gary Boecker (same address as applicant). *General commodities, (except Classes A & B explosives, commodities in bulk, and hazardous materials)* between points in the U.S. (except AK and HI), restricted to traffic between the facilities of United Ohio Corporation and its associated members. An underlying ETA seeks 120 days authority. Supporting shipper(s): United Ohio Corp., 35300 Lakeland Blvd., Eastlake, OH 44094.

MC 159068 (Sub-II-1TA), filed November 2, 1981. Applicant: T & B TRUCKING, INC., 1236 Alexander Ave., Catonsville, MD 21228. Representative: Edward N. Button, 635 Oak Hill Ave., Hagerstown, MD 21740. *Foodstuffs, materials, equipment, and supplies used in they manufacture thereof* between the facilities of J. H. Filbert, Inc. at or near Baltimore, MD and Altlanta, GA on the one hand, and, on the other, points in and East of MI, IL, KY, TN, MS, for 270 days. Supporting shipper: J. H. Filbert, Inc., 3701 Southwestern Blvd., Baltimore, MD 21229.

The following applications were filed in Region 3. Send protests to ICC, Regional Authority Center, P.O. Box 7600, Atlanta, GA 30357.

MC 146377 (Sub-3-1TA), filed October 5, 1981. Republication—originally published in **Federal Register** of 10/19/81, page 51318, volume 46, No 201. Applicant: EDWARD MCGILL, INC., 3 General Avenue, Rome, GA 30161. Representative: Gary Hamilton, 237 North Fifth Avenue, P.O. Box 476, Rome, GA 30161. *Contract* carrier; irregular; *perishable bakery products*, from Rome, GA, to points in KY, VA, and WV, under a continuing contract with ITT Continental Baking Company, Inc., of Rome, GA. Supporting shipper: ITT Continental Baking Company, Inc., 800 Eden Valley road, Rome, GA 30161. Applicant intends to tack this authority with authority held in MC-146377, Sub 2F.

MC 144715 (Sub-3-14TA), filed October 28, 1981. Applicant: ANDERSON & WEBB TRUCKING CO., INC., P.O. Box 1523, 770 W. Lebanon, Mt. Airy, NC 27030-1523. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Avenue, NW., Washington, DC 20005, (202) 347-9332. *General commodities (except classes A & B explosives)*, between the facilities of Radiator Specialty Company at points in Union and Mecklenburg Counties, NC, on the one hand, and, on the other, points in the U.S. Supporting shipper(s): Radiator Specialty Company, 1400 W. Independence Boulevard, Charlotte, NC 28208.

MC 112617 (Sub-3-20TA), filed October 28, 1981. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 36247, Louisville, KY 40233. Representative: Larry W. Thompson (same address as applicant). *Corn starch, in bulk, in hopper type vehicles*, from the facilities utilized by Amalgamaize, Co., (American Maize Products Co.) at Guntersville, AL to points in AL, AR, FL, GA, KY, LA, MS, NC, SC, TN, and TX. Supporting shipper: American Maize Products Co., 113th & Indianapolis Blvd., Hammond, IN 46326.

MC 157384 (Sub-3-2TA), filed October 28, 1981. Applicant: BENNY WHITEHEAD, Rt. 1, Box 359A, Eufaula, AL 36027. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. *Contract*, irregular; *Veneer, including materials, equipment and supplies* between Eufaula, AL, including its commercial zone, on the one hand, and, on the other, points in TX, SC, NC, MI, TN, KY, AL, IL, MS, AR, LA, VA, NY, IA and OH. Supporting shipper: Chattahoochee Veneer, Inc., P.O. Box 145, Eufaula, AL 36027.

MC 148513 (Sub-3-2TA), filed October 28, 1981. Applicant: GARY W. WILCOX d.b.a. WILCOX TRUCKING CO., Route 2, Box 18, Nicholls, GA 31554. Representative: Elbert Brown, Jr., Post Office Box 1378, Altamonte Springs, FL 32701-1378. *Lumber and Lumber Products*, between points in GA, FL, AL, TN, KY, NC, and SC. Supporting shipper: Brunswick Pulp & Paper Company, P.O. Box 1733, Brunswick, GA 31520.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-32508 Filed 11-10-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions Volume No. 184, Restriction Removals; Decision-Notice

Correction

In FR Doc. 81-30450, appearing at page 51658, in the issue of Wednesday, October 21, 1981, make the following change:

On page 51659, in the third column, the third complete paragraph, the first line, change "MC 44065" to read "MC 144065".

BILLING CODE 1505-01-M

Motor Carrier Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed by Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 ICC 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the

protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment not does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: November 2, 1981.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

Agatha L. Mergenovich,

Secretary.

MC–F–14715, filed October 15, 1981. Double "S" Truck Line, Inc., (Double "S") (731 Livestock Exchange Bldg., Omaha, NE 68107)—Purchase (portion)—SULLIVAN TRANSFER & STORAGE COMPANY (Sullivan), (301 North 8th Street, Lincoln, NE 68508). Representatives: (Transferee): James F. Crosby, 7263 Pacific Street, Suite 2108, Omaha, NE 68114. (Transferor): Michael J. Ogborn, P.O. Box 82028, 500 The Atrium, 1200 N Street, Lincoln, NE 68501. Authority sought by Double "S" to purchase a portion of the interstate operating rights of Sullivan and control of same by Denny L. Schueman, sole stockholder of Transferee. Transferee is purchasing that portion of Certificate No. MC–11022 (Sub-No. 2X) authorizing the transportation of *general commodities* (except classes A & B explosives), between Omaha, NE and North Platte, NE, from Omaha over U.S. Hwy. 6 to Lincoln, NE and then over U.S. Hwy. 34 to Grand Island, NE, and then over U.S. Hwy. 30 to North Platte, NE and return over the same route, serving all intermediate points and the off-route point of Council Bluffs, IA. Application for temporary authority has been concurrently filed.

MC–F–14717, filed October 16, 1981. NELSON BROS., INC., P.O. Box 613, Nebraska City, NE 68410—Purchase (portion)—T.F.S., INC., Route 2, Box 126, Grand Island, NE 68801. Representative for Transferee: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501, Representative for Transferor: A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101. Transferee seeks authority to purchase a portion of the operating rights of Transferor in Certificate Nos. MC–145743 Sub 7F which authorizes the transportation of *animal feed and animal feed ingredients* (except commodities in bulk), from the facilities of Kal Kan Foods, Inc., at or near Los Angeles, CA, to points in FL, GA, MD, MA, NJ, and TN, and Sub 27 which authorizes the transportation of *canned and preserved foodstuffs* (except frozen foodstuffs), from the facilities of Green Giant Company at LeSueur, Blue Earth, Glencoe and Montgomery, MN, to points in IA and NE, restricted to traffic originating at the above named plant and warehouse sites and destined to points in IA and NE. Transferee holds authority from the ICC under Docket Nos. MC–1145966 (common) and MC–113382 (contract). Terry Wareen and Richard Schmidt, who control transferee through stock ownership, seek to obtain control of said operating rights through the purchase.

[FR Doc. 81–32800 Filed 11–10–81; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 29770]

Rail Carriers; Carus Corp.; Exemption

November 5, 1981.

On October 21, 1981, the Carus Corporation (Carus) and its subsidiary Lasalle Transport Company (LTC) jointly filed a notice of exemption for the transfer of control of two rail carrier subsidiaries of Carus to LTC.

Carus, a noncarrier, presently controls the La Salle and Bureau County Railroad (LSBC) and the Iowa Northern Railroad Company (INRC) through ownership of all outstanding common stock. LSBC and INRC are class III rail common carriers operating in Illinois and Iowa respectively. Control of the two carriers was acquired pursuant to a Notice of Exemption published August 25, 1981, 46 FR 42923 (1981). Carus formed LTC, a new noncarrier subsidiary, to acquire the stock of its transportation subsidiaries.

Prior approval of this transaction under 49 U.S.C. 11343 is not required because the transaction is exempt under 49 CFR 1111.5(c)(3). It is a transaction within a corporate family that will not result in adverse changes in service levels or significant operational changes. Nor will it change the competitive balance with carriers outside the corporate family.

As a condition to use of the exemption, any LSBC and INRC employees affected by the transaction shall be protected pursuant to *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 ICC 60 (1979). This will satisfy the statutory requirements of 49 U.S.C. 10505(g)(2).

By the Commission, Carl Bausch, Acting Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81–32801 Filed 11–10–81; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–221]

Tooele Valley Railway Company—Entire Abandonment—Between Warner and International in Tooele County, UT; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission, Review Board Number 3, has issued a certificate authorizing the Tooele Valley Railway Company to abandon its line of

railroad known as the Tooele Valley Railway extenting from railroad milepost 0 near Warner Station to the end of the line near International Station, a distance of seven miles, in Tooele County, UT. Since no investigation was instituted, the requirement of § 1121.38(b) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must ber filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. The offer, as filed, shall contain information required pursuant to § 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 15 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-32794 Filed 11-10-81; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-104]

Certain Card Data Imprinters and Components Thereof; Grant of Application for Interlocutory Review of Orders Nos. 11 and 17 and of Reversal in Part of Order No. 11 and Reversal of Order No. 17

AGENCY: International Trade Commission.

ACTION: Grant of application for review of Orders Nos. 11 and 17 and reversal in part of Order No. 11 and reversal of Order No. 17.

SUMMARY: Notice is hereby given that the Commission has granted an application by the Commission investigative attorney for interlocutory review of the presiding officer's denial of two motions by the Commission investigative attorney to quash or dismiss requests for admissions and has reversed the presiding officer's denial of those motions.

(Sec. 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in § 210.60(b) of the Commission's Rules of Practice and Procedure (19 CFR 210.60(b)))

SUPPLEMENTARY INFORMATION: Upon receipt of a complaint filed by AM International, Inc., and Bartizan Corporation the Commission instituted investigation No. 337-TA-104 on May 7, 1981, to determine whether there is a violation of section 337 of the Tariff Act of 1930 by reason of unfair methods of competition and unfair acts in the importation and sale of card data imprinters, alleged to infringe claim 7 of U.S. Letters Patent 3,272,120 and claim 12 of U.S. Letters Patent 3,340,800. Notice of the Commission's investigation was published at 46 FR 31094 (June 12, 1981).

On July 1, 1981, the Commission investigative attorney filed a motion (Motion No. 104-7) to quash or dismiss requests for admissions directed to the Commission investigative attorney by respondents National Business Systems, Inc. (Canada), and National Business Systems, Inc. (U.S.). The respondents filed a response in which they requested an order compelling the Commission investigative attorney to answer the requests for admissions. The presiding officer denied the request to compel answers on July 6, 1981, finding that the requests were not properly directed to the Commission investigative attorney (order No. B). Upon reconsideration of order No. 8, however, the presiding officer decided that the Commission investigative attorney is subject to all discovery requests and directed him to submit answers to the requests for admissions (Order No. 11).

On July 13, 1981, the Commission investigative attorney moved to quash respondents' second set of requests for admissions by the Commission investigative attorney (Motion 104-19). This motion was denied by the presiding officer on July 27, 1981, and the Commission investigative attorney was ordered to respond to the second request for admissions. Thereafter, on August 7, 1981, the Commission investigative attorney filed a motion under § 210.60(b) of the Commission's Rules of Practice and Procedure, 19 CFR 210.60(b), for leave to appeal Orders Nos. 11 and 17 and for stay of the discovery ordered therein (Motion 104-38). This motion was granted by the presiding officer on August 24, 1981 (Order No. 32).

FOR FURTHER INFORMATION CONTACT: Michael Mabile, Esq., Office of the General Counsel, U.S. International Trade Commission; telephone 202-523-1626.

Issued: November 3, 1981.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 81-32692 Filed 11-10-81; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-110]

Certain Methods for Extruding Plastic Tubing; Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337 and 19 U.S.C. 1337a.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S International Trade Commission on September 25, 1981, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and 19 U.S.C. 1337a on behalf of Minigrip, Inc., Route 303, Orangeburg, New York 10962. The complaint alleges unfair methods of competition and unfair acts in the importation of certain plastic tubing and reclosable plastic bags into the United States, or in their sale, by reason of the alleged infringement by said tubing and reclosable plastic bags of claims 8, 9, 19 and 20 of U.S. Patent Re 26,991 ("'991 patent"), and claims 1-5 of U.S. Patent Re 29,208 ("'208 patent") and by reason of the alleged contributory and induced infringement of the claims of those patents. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests that the Commission, after a full investigation, issue both an exclusion order, prohibiting importation of the above-mentioned articles into the United States for the life of the patent in issue, and a cease and desist order.

(Sec. 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12))

SUPPLEMENTARY INFORMATION:

Scope of the Investigation

Having considered the complaint, the U.S. International Trade Commission, on October 29, 1981, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of section 337 by reason of unauthorized

importation of tubing and reclosable plastic bags which if produced in the United States, would be made, produced or processed by means of a process covered by claims 8, 9, 19 or 20 of U.S. Patent Re 26,991, claims 3 or 4 of U.S. Patent Re 28,959, or claims 1, 2, 3, 4, or 5 of U.S. Patent Re 29,208, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of this investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

Minigrip, Inc., Route 303, Orangeburg, N.Y. 10962

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Ideal Plastic Industrial Co., Ltd., 81, Lane 59, Ha Mi Street, Taipei, Taiwan
Hong Ter Product Co., Ltd., No. 12 Lane 122 Street Chiang Nan, Village New HWU, Taipei, Taiwan
Shin Shing Plastic Industrial Co., Ltd., 55 Lane 13 Jin, HSIN, St. Tucheng, Hsing Taipei Hsien, Taiwan
Lien Bin Plastics Co., Ltd., No. 1 Lane 49, Kuo Ching Road, Pan Chiao City, Taipei, Taiwan
Keron Industrial Co., Ltd., No. 13, Sec. 1, Jen Ai Road Taipei, Taiwan
Fong Tsu/Ming HSU Industries, Inc., P.O. Box 396, Kaohsiung, Taiwan
Ta Sen Plastic Industrial Co., Ltd., 315–2 Chang Chun Road, Taipei, Taiwan
Gideons Plastic Industrial Co., Ltd., No. 22, Lane 59, Ti Eng North Street, Tou Liu, Taiwan
Fortune Well Plastics Co., Ltd., Rm. 501, 5th Floor, No. 8, Kai-Feng Street Sec. 2, Taipei, Taiwan
Morrison Enterprises Corp., 123 Kung Kuan Road, Taichung, Taiwan, 400
Sue Trading Co., 2 Kansas Street, #M–69, San Francisco, CA. 94103
ABC Jewelry Imports, 2 Kansas Street, #M–72, San Francisco, CA. 94103
Pacific Orient Imports, 2 Kansas Street, #M–88, San Francisco, CA. 94103
PHC Enterprises, 3348 Candlewood Road, Torrance, CA. 90505
LOGO Paris, Inc., 2980 Kerner Boulevard, San Rafael, CA. 94901
Clearoll Poly Film, Inc., 1051 Irving Avenue, Brooklyn, N.Y. 11385

(c) Harold Brandt, Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to § § 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good and sufficient cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both a recommended determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official working hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Harold Brandt, Unfair Import Investigations Division, U.S. International Trade Commission, telephone 202–523–8498.

Issued: November 4, 1981.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 81-32890 Filed 11-10-81; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-109]

Certain Multi-Sequential Coded Radio Pagers; Order

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Janet D. Saxon as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: November 5, 1981.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 81-32893 Filed 11-10-81; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-108]

Certain Vacuum Bottles and Components Thereof; Order No. 1

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Donald K. Duvall as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: November 2, 1981.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 81-32891 Filed 11-10-81; 8:45 am]

BILLING CODE 7020-02-M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Music Panel (Music Professional Training); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Panel (Music Professional Training) to the National Council on the Arts will be held November 16, 1981, from 9 a.m.–5:30 p.m. in room 1426 of the Columbia Plaza Office Complex at 2401 E Street, NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National

Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark

Director, Office of Council and Panel Operations, National Endowment for the Arts.

November 2, 1981.

[FR Doc. 81–32985 Filed 11–10–81; 8:45 am]

BILLING CODE 7539–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee on Special Research Equipment; Biology Subcommittee; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee on Special Research Equipment (2-year and 4-year colleges)(Biology Subcommittee)

Date/time: December 3 and 4, 1981—9:30 a.m. to 5:00 p.m.

Place: Room 421, National Science Foundation, 1800 G Street, N.W., Washington, D.C.

Type of meeting: Closed

Contact person: Dr. Howard H. Hines, Program Director, Room 416, National Science Foundation, Washington, D.C. 20550, Telephone (202) 357–7456

Purpose of committee: To evaluate research equipment proposals.

Agenda: To review and evaluate research equipment proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b (c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

November 6, 1981.

[FR Doc. 81–32580 Filed 11–10–81; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Mathematical and Computer Sciences; Computer Science Subcommittee; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee for Computer Science of the Advisory Committee for Mathematical and Computer Sciences

Date and time: December 2, 3 and 4, 1981—9:00 a.m. each day

Place: Room 338, National Science Foundation, 1800 G. Street, N.W., Washington, D.C. 20550.

Type of meeting: Part Open—12/02 Closed—9:00 a.m. to 5:00 p.m., 12/03 Open 9:00 a.m. to 3:00 p.m., 12/03 Closed—3:00 p.m. to 5:00 p.m., 12/04 Open—9:00 a.m. to 3:00 p.m.

Contact person: Mr. Kent K. Curtis, Head, Computer Science Section, Room 339, National Science Foundation, Washington, D.C. 20550. Telephone: (202) 357–9747. Anyone planning to attend this meeting should notify Mr. Curtis no later than 11/27/81.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in Computer Science.

Agenda: Wednesday, December 2, 1981—9:00 a.m. to 5:00 p.m.—Closed

Review and comparison of declined proposals (and supporting documentation) with successful awards under the Computer Sciences Research Programs.

Preparation of a report based upon the above review.

Thursday, December 3, 1981—9:00 a.m. to 3:00 p.m.—Open.

9:00 a.m.—Introductory Remarks, Mr. Kent K. Curtis

9:15 a.m.—CER Progress Report, Dr. W. Richards Adrion

9:45 a.m.—CSNET Progress Report, Dr. C. William Kern

10:45 a.m.—Update on Support Policy for Cryptology Research, Dr. John C. Cherniavsky

11:15 a.m.—Remarks by Division Director, MCS, Dr. E. F. Infante

12:00 Noon—Lunch

1:00 p.m.—Remarks by Assistant Director, MPS, Dr. Ronald E. Kagarise

1:30 p.m.—discussion of Long range Priorities, Dr. Jack Minker

Thursday, December 3, 1981—3:00 p.m. to 5:00 p.m.—Closed.

3:00 p.m.—Oversight Review Reports

Friday, December 4, 1981—9:00 a.m. to 3:00 p.m.—Open.

9:00 a.m.—Committee Business, Dr. Jack Minker

10:00 a.m.—Discussion of Long Range Priorities

12:00 Noon—Lunch

1:00 p.m.—The View from DOD, Dr. Robert E. Kahn

3:00 p.m.—Adjourn

Reason for closing: The Subcommittee will be reviewing grants and declination jackets which contain the names of applicant institutions and principal investigators and privileged information contained in declined proposals. this session will also include a review of the peer review documentation pertaining to applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

authority to close meeting: This determination was made by the Committee Management Officer pursuant to providions of section 10(d) of Pub. L. 92–463. The committee Management Officer delegated the authority to make such determinations by the Acting Director, NSF on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

November 6, 1981.

[FR Doc. 81–32566 Filed 11–10–81; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for the Ocean Sciences; Ocean Sciences Research Subcommittee; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee for Ocean Sciences Research

Date and time: December 2, 3, and 4, 1981, 9:00 am to 6:00 pm each day

Place: Rooms 628, 642, 643, and 1224, National Science Foundation, 1800 G Street, N.W., Washington, D.C.

Type of meeting: Closed

Contact person: Dr. Robert E. Wall, Head, Ocean Sciences Research Section, Room 611, National Science Foundation, Washington, D.C. 20550, Telephone (202) 357–7924

Purpose of meeting: To provide advice and recommendations concerning support for research in Oceanography

Agenda: To review and evaluate research proposals as part of the selection process for awards

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determination by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

November 6, 1981.

[FR Doc. 81–32579 Filed 11–10–81; 8:45 am]

BILLING CODE 7555–01–M

Announcement of a Mathematics Colloquy

The Office of Postsecondary Education and the Office of Elementary and Secondary Education of the U.S. Department of Education are sponsoring

a "Colloquy on the Condition and Needs of Mathematics Education in the United States." The Colloquy will convene at 9:00 a.m. on November 16, 1981 in the Board Room of the National Science Foundation (NSF) at 1800 G St., N.W., Washington, D.C., and adjourn at 5:30 p.m.

The purpose of the meeting is to identify major issues concerning the teaching of mathematics in the United States and to determine appropriate strategies to address the problems. Two 12-person panels will react to papers presented by persons knowledgeable in the areas of mathematics and mathematics education. Invited panelists represent colleges, universities, pre-college institutions, professional societies and the Federal Government.

The meeting is open to the public. Since space is limited, please contact Mary M. Kohlerman, NSF, should you plan to attend. The telephone number is (202) 282-7150.

Mary M. Kohlerman,

Program Manager, Student Science Training.

November 6, 1981.

[FR Doc. 81-32633 Filed 11-10-81; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Reports, Recommendations, Responses; Availability

• **Aircraft Accident Report:** *McDonnell Douglas Corporation, DC-9-80, N1002G, Yuma, Ariz., June 19, 1980 (NTSB-AAR-81-16).*—Related Recommendations A-81-104 through 112, 122, and 123 to Federal Aviation Administration, Oct. 8, re DC-9 series 80 and 10 through 50 aircraft: abnormal hydraulics-out and normal landings; training manuals and programs; landing-approved simulators; brake hydraulic accumulators and antiskid systems; directional control during rollout; certification requirements regarding hydraulic system failures; Advisory Circular 121-14C; rollout directional control characteristics demonstration during air carrier training/proficiency checks.

• **Special Study:** *Major Marine Collisions and Effects of Preventive Recommendations (NTSB-MSS-81-1).*

• **Safety Recommendations to—**

Research and Special Programs Adminstration, Sept. 30, I-81-4 through 6: tank cars for ethylene oxide service, coupler vertical restraint system; retrofit of DOT specification tank cars; puncture and thermal protection levels.

Association of American Railroads, Sept. 30, I-81-7: hump yard procedures for tank cars loaded with hazardous materials.

• **Recommendation Responses from—**

Federal Aviation Adminstration: Oct. 28, A-76-97 through 100: safe one-engine inoperative speed; GAMA Specifications for Pilot's Operating Handbooks; Advisory Circulars 61-4C, 61-9B, and 61-21. *Oct. 27, A-81-74:* radio navigation instrument design criteria. *Oct. 27, A-81-75 and 76:* cockpit noise levels, direct voice communication between flight crewmembers; crew interphone system. *Oct. 27, A-81-92:* Supplemental Type Certificate SA 1596 CE in Lockheed JetStar Model 1329 aircraft. *Oct. 28, A-81-96:* Piper Aircraft Corporation Service Bulletin No. 720 for all PA-32R series. *Oct. 27, A-81-101 and 102:* retirement of Robinson R-22 main rotor blades.

U.S. Coast Guard, Oct. 21, M-80-99: uninspected vessel boarding program in New Orleans.

Department of the Army, Oct. 21, R-75-10: Safe Transport of Munitions Study.

Association of American Railroads, Oct. 19, R-81-86 and 87: overheated journals, identification by hot box detectors.

Note.—Single copies of reports, recommendation letters and responses are free on written request, identified by recommendation or report number, to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. (Multiple copies of reports are obtainable from National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22161.)

Margaret L. Fisher,

Federal Register Liaison Officer.

November 6, 1981.

[FR Doc. 81-32592 Filed 11-10-81; 8:45 am]

BILLING CODE 4910-58-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

November 4, 1981.

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.

As 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 issue 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 resonable 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 of 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 you 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
Washington Apricots—Marketing Order No. 922
On occasion
Businesses or other institutions
Washington apricot handlers under marketing order 921
SIC: 017
Small business or organizations
Agricultural research and services: 80 responses; 3 hours; $500 Federal costs; 2 forms; $25 public cost; not applicable under 3504(h)
Charles A. Ellett; 202–395–7340

The Washington Apricot marketing committee forms are used by the committee to ascertain if a handler's apricot shipments should be exempted from inspection requirements, and if such shipments meet the other requirements specified under the order.

• Agricultural Marketing Service
California Olives—Marketing Order No. 932
On occasion, monthly
Businesses or other institutions
California olive handlers under marketing order 932
SIC: 515
Small businesses or organizations
Agricultural research and services: 5,387 responses; 1,262 hours; $625 Federal costs; 16 forms; $5,163 public cost; not applicable under 3504(h)
Charles A. Ellett; 202–395–7340

The Olive Administrative Committee forms are used to obtain information from handlers relating to the olives received, packed, processed, canned, stored, sold and shipped by them, and are needed to determine the composition and utilization of the supply, and to verify that all dispositions are in accordance with requirements under the order.

• Agricultural Marketing Service
Washington Peaches—Marketing Order No. 921
On occasion
Businesses or other institutions
Washington peach handlers under marketing order 921
SIC: 515
Small businesses or organizations
Agricultural research and services: 288 responses; 10 hours; $500 Federal cost; 2 forms; $73 public cost; not applicable under 3504(h)
Charles A. Ellett; 202–395–7340

The Washington fresh peach marketing committee forms are used by the committee to ascertain if a handler's peach shipments should be exempted from inspection requirements, and if such shipments meet other requirements specified under the marketing order.

Extensions (Burden change)

• Animal and Plant Health Inspection Service
Record of Disposition of Dogs or Cats
VS 18–6, 18–6A
On occasion
Businesses or other institutions
Animal dealers and research facilities
SIC: 599, 892
Small businesses or organizations
Agricultural research and services: 91,200 responses; 15,504 hours; $190,192 Federal costs; 2 forms; $100,776 public cost; not applicable under 3504(h)
Neil Minow, 202–395–7340

Record prescribed by secs. 10 and 24 of the Animal Welfare Act of 1970 indicating the identity and disposition of dogs and cats shipped interstate for research, exhibitions, or per purposes. Data used to determine compliance with legislation, regulations, and standards for humane treatment.

• Foreign Agricultural Service
Declaration of Sale
CCC–359
On occasion
Businesses or other institutions
Exporters of U.S. agricultural commodities
SIC: 515
Agricultural research and services: 494 responses; 123 hours; $1,104 Federal costs; 1 form; $1,230 public cost; not applicable under 3504(h)
Neil Minow, 202–395–7340

Form CCC–359, "Declaration of Sale," is the written record, signed by the commodity supplier, of the terms of sale as reported by telephone and telex, USDA price approval (17.7(b) and 17.13(c)(6) of the regulations) is based on this information. When signed for the general sales manager, its provides the evidence of USDA price approval required for CCC financing of the sale.

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—202–377–3627

New

• Bureau of the Census
Nonferrous Castings (Shipments and Unfilled Orders)
MA–33E
Nonrecurring
Businesses or other institutions
Manufacturers of nonferrous castings
SIC: 336
Small businesses or organizations
Other advancement and regulation of commerce: 2,000 responses; 2,000 hours; $63,380 Federal cost; 1 form; not applicable under 3504(h)
Statistical Policy Branch, 202–395–7313

This survey will provide the sampling frame for selection of a new sample for monthly CIR M33E, nonferrous castings. We cannot use data from the quinquennial census as a base to determine the size of the universe because of "captive" producers for which census data are not available.

Revisions

• Bureau of the Census
Footwear
MA–31A
Annually
Businesses or other institutions
Footwear
SIC: 314, 302
Small businesses or organizations
Other advancement and regulation of commerce: 750 responses; 750 hours; $32,537 Federal costs; 1 form; not applicable under 3504(h)
Statistical Policy Branch, 202–395–7313

Imports of footwear have grown significantly over the past few years. These data are used extensively by both the International Trade Commission and the International Trade Administration, Department of Commerce, to monitor the effect imports are having on domestic production.

• Bureau of the Census
Footwear Production
M31A
Monthly
Businesses or other institutions
Footwear manufacturers
SIC: 314, 302
Small businesses or organizations
Other advancement and regulation of commerce: 3,000 responses; 3,000

hours; $60,454 Federal cost; 1 form; not applicable under 3504(h)
Statistical Policy Branch, 202–395–7313

The footwear industry has been severely hurt by imports. These monthly production data are used by industry and Government analysts to monitor the effect imports are having on the domestic footwear industry. The data are also used by the Federal Reserve for its index of industrial production.

Extensions (Burden Change)

• Bureau of the Census
Nonferrous Castings (Shipments and Unfilled Orders)
M 33 E
Monthly
Businesses or other institutions
Manufacturers of nonferrous castings
SIC: 336
Small businesses or organizations
Other advancement and regulation of commerce: 3,800 responses; 1,900 hours; $69,289 Federal cost; 1 form; not applicable under 3504(h)
Statistical Policy Branch, 202–395–7313

This survey was begun in 1942 to provide data on the five major nonferrous castings industries: aluminum, copper, magnesium, zinc, and lead. The Federal Reserve Board uses the data to calculate an index on nonferrous castings as well as in its index of industrial production.

Extensions (No Change)

• Economic and Statistical Analysis
International transactions in royalties, licensing fees, film rentals, management fees, etc. with unaffiliated foreign residents
BE–93
Annually
Businesses or other institutions
Manufacturers, publishers, etc.
SIC: All
Other advancement and regulation of commerce: 750 responses; 1,125 hours; $9,800 Federal cost; 1 form; not applicable under 3504(h)
Statistical Policy Branch, 202–395–7313

Secures data on the receipts and payments of royalties, licensing fees, film rentals, and management fees to or from unaffiliated foreign residents. Authorized by the Bretton Woods Agreements Act and E.O. 10033. Required for the preparation of the International Services Accounts of the U.S. balance of payments accounts.

• Economic and Statistical Analysis
Foreign Personal Remittances (Bank Report)
BE 579
Monthly, quarterly
Businesses or other institutions
Banks
SIC: 999
Other advancement and regulation of commerce: 128 responses; 880 hours; $7,300 Federal cost; 1 form; not applicable under 3504(h)
Statistical Policy Branch, 202–395–7313

Secures data consisting of personal remittances made to foreign individuals by the U.S. authorized by the Bretton Woods Agreements Act and E.O. 10033. Required for the preparation of the private remittances account of the U.S. balance of payments accounts.

• Economic and Statistical Analysis
Institutional Remittances to Foreign Countries
BE–40
Quarterly, annually
Businesses or other institutions
Charitable and religious institutions
SIC:866
Other advancement and regulation of commerce: 690 responses; 345 hours; $22,200 Federal cost; 1 form; not applicable under 3504(h)
Statistical Policy Branch, 202–395–7313

Secures data on the U.S. institutional remittances to foreign countries. Authorized by the Bretton Woods Agreements Act and E.O. 10033. Required for the preparation of the private remittances accounts of the U.S. balance of payments accounts.

• Economic and Statistical Analysis
Reinsurance Transactions with Insurance Companies Resident Abroad
BE–48
Annually
Businesses or other institutions
Insurance companies
SIC: 630
Other advancement and regulation of commerce: 240 responses; 360 hours; $9,000 Federal cost; 1 form; not applicable under 3504(h)
Statistical Policy Branch, 202–395–7313

Secures data on the reinsurance transactions of U.S. insurance companies with foreign insurers. Authorized by the Bretton Woods Agreements Act and E.O. 10033. Required for the preparation of the international services accounts of the U.S. balance of payments accounts.

• Economic and Statistical Analysis
Foreign Carriers, Ocean Freight Revenues and Expenses in the United States
BE–29
Annually
Businesses or other institutions
Foreign oper. and agents of shipping cos. engaged in U.S. ft
SIC: 999
Other advancement and regulation of commerce: 130 responses; 260 hours; $15,000 Federal cost; 1 form; not applicable under 3504(h)
Statistical Policy Branch, 202–395–7313

Secures data on ocean freight revenues of carriers-operators in the U.S. authorized by the Bretton Woods Agreements Act and E.O. 10033. Required for the preparation of the international transportation accounts of the U.S. balance of payments accounts.

• Economic and Statistical Analysis
Foreign Airline Operators' Revenues and Expenses in the United States
BE–36
Annually
Businesses or other institutions
Foreign airline companies serving U.S. ports
SIC: 999
Other advancement and regulation of commerce: 45 responses; 90 hours; $8,300 Federal cost; 1 form; not applicable under 3504(h)
Statistical Policy Branch, 202–395–7313

Secures data on the revenues and expenditures of foreign airline operators carrying passengers or freight to or from the United States. Authorized by the Bretton Woods Agreements Act and E.O. 10033. Required for the preparation of the international transportation account of the U.S. balance of payments accounts.

DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wenderoth—703–697–1195

Extensions (Burden Change)

• Department of the Army
Application for the U.S. Army Health Professions Scholarship Program
DA 4628
On occasion
Individuals or households
Potentially eligible individuals
Department of Defense-military: 2,000 responses; 2,000 hours; $60,000 Federal cost; 1 form; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

Applicants for the U.S. Army Health Professions Scholarship Program must submit information requested so that in the selection process all pertinent information can be reviewed and selection for scholarship support made on a competitive basis.

DEPARTMENT OF ENERGY

Agency Clearance Officer—John Gross—202–633–9770

New

• Federal Energy Regulatory Commission
Contract Summary
FERC–558
On occasion
Businesses or other institutions
Natural gas companies
SIC: 131
Energy information, policy, and regulation: 504 responses; 504 hours; $8,520 Federal cost; 1 form; not applicable under 3504(h)
Jefferson B. Hill, 202–395–7340

The purpose of FERC–558 is to continue the collection of information needed to evaluate and process independent producer applications for the sale of natural gas in interstate commerce, and to evaluate and process independent producer rate schedules.

• Economic Regulatory Administration
Certification of Coverage Under FUA/OBRA
ERA–760
Nonrecurring
Businesses or other institutions
Electric power plants
SIC: 491
Energy information, policy, and regulation: 80 responses; 80 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Jefferson B. Hill 202–395–7340

Rules promulgated by the Department of Energy pursuant to the Omnibus Budget Act (OBRA) require owners and operators of electric powerplants which have received prohibition orders to elect whether they will continue to be covered under provisions of the powerplant and Industrial Fuel Use Act in lieu of coverage under OBRA. Data required for this clearance request documents the selection made by covered powerplants.

• Energy Information Administration
Monthly Residential, Commercial and Industrial Electric Bill Data for the U.S. Bureau of Labor Statistics—Price Indexes
EIA–101
Monthly
Businesses or other institutions
Electric utilities in selected SMSAS
SIC: 491
Small businesses or organizations
Energy information, policy, and regulation: 2,100 responses; 700 hours; $51,200 Federal cost; 1 form; not applicable under 3504(h)
Jefferson B. Hill, 202–395–7340

The information is collected by the Department of Energy and provided to the Bureau of Labor Statistics for use in computing their consumer and producer price indices. The information is also published by DOE. The monthly collection will be collected under DOE's clearance as soon as clearance is received.

Revisions

• Energy Information Administration
Annual Survey of Domestic Oil and Gas Reserves
EIA–23
Annually
Businesses or other institutions
Oil and gas well operators
SIC: 131
Small businesses or organizations
Energy information, policy, and regulation: 2,553 responses; 243,812 hours; $2,500,000 Federal cost; 1 form; not applicable under 3504(h)
Jefferson B. Hill, 202–395–7340

Data are used to develop a consolidated program to obtain verifiable estimates of crude oil, natural gas and natural gas liquids reserves and production as mandated by Congress pursuant to the Department of Energy Organization Act which requires "an estimate of the domestic and foreign energy supplies on which the United States will be expected to rely to meet projected energy needs . . ."

Reinstatements

• Federal Energy Regulatory Commission
Producer Statement
FERC–559
On occasion
Businesses or other institutions
Natural gas companies
SIC: 131
Energy information, policy, and regulation: 3,500 responses; 1,750 hours; $34,600 Federal cost; 1 form; not applicable under 3504(h)
Jefferson B. Hill, 202–395–7340

The purpose of FERC–559 is to continue the collection of information needed to evaluate and process independent producer applications for the sale of natural gas in interstate commerce and to evaluate and process independent producer rate schedules.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph Strnad—202–245–7488

New

• Health Care Financing Administration
Ancillary Services Utilization Study
HCFA–299, 299A, 299B
Nonrecurring
Businesses or other institutions
Hospital administrators and hospital department heads
SIC: 806
Small businesses or organizations
Health: 140 responses; 1,120 hours; $78,520 Federal cost; 1 form; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

These forms are needed to develop technical assistance and guideline for PSRO's to conduct utilization review of ancillary services. The forms will be used to collect data on ancillary services use and on hospital characteristics.

Revisions

• Alcohol, Drug Abuse, and Mental Health Administration
Secondary Prevention With Adult Patients in Primary Care Settings
DIS–ADM T–49
Nonrecurring
Individuals or households/businesses or other institutions
Patients in a primary care clinic
SIC: 801
Health: 4,600 responses; 1,070 hours; $240,000 Federal cost; 6 forms; $10,700 Public cost; not applicable under 3504(h)
Gwendolyn Pla, 202–395–6880

This study investigates whether providing screening information to primary care physicians will improve their detection and management of patients with emotional problems, which is important for prevention of mental disorders.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—Robert G. Masarsky—202–755–5184

New

• Housing Programs
Statement of Taxes
HUD–434
On occasion
Businesses or other institutions
FHA approved mortgagees
SIC: 616
Mortgage credit and thrift insurance: 300 responses; 150 hours; $1,110 Federal cost; 1 form; not applicable under 3504(h)
Richard Sheppard, 202–395–6880

To provide necessary information pertaining to taxes so that HUD can establish its tax records, obtain tax bills and immediately continue the payment of taxes.

• Housing Programs

Mortgagee's Application for Insurance Benefits (Multifamily Mortgage)
FHA 1750
On Occasion
Businesses or other institutions
FHA approved mortgagees
SIC: 616
Mortgage credit and thrift insurance: 300 responses; 25 hours; $1,110 Federal Cost; 1 form; not appliable under 3504(h)
Richard Sheppard, 202-395-6880

To establish the date for cancellation of the insurance contract and payment of the mortgage insurance premium.

DEPARTMENT OF LABOR

Agency Clearance Officer—Paul E. Larson—202-523-6331

New

• Employment and Training Administration
Interstate Benefit Claim forms
ETA IB- 1, 2, 10, 11, 11S, 12, 13, 14, 15
101
On occasion
Individuals or households/State or local governments
Individuals filing claim for Unemployment insurance benefits
SIC: 944
Training and employment: 14,861,000 responses; 5,291,300 hours, $18,400 Federal cost; 10 forms; not applicable under 3504(h)
Laverne V. Collins, 202-395-6880

The interstate benefit claim forms are not federally required forms. These forms are prescribed by the Interstate Conference of Employment Security Agencies for use by State agency to handle claim for unemployment compensation under the Interstate Benefit Payment Plan. State agencies agreed to use uniform design to simplify the interstate claimstaking process.

• Employment and Training Administration
Statement of Expenditures and Financial Condition of Federal Funds for Unemployment Compensation for Federal Employees Ex-Servicemen and Veterans
ES-191
Monthly
State or local governments
State employment security agencies
SIC: 944
Training and employment: 636 responses; 954 hours; $12,402 Federal cost; 1 form; not applicable under 3504(h)
Laverne V. Collins, 202-395-6880

Used to report actual unemployment compensation benefits paid to Federal employees, and ex-service member (UCFE/UCX).

• Employment and Training Administration
Transmittal of Unemployment Insurance Material
MA-8-7
Other—see SF83
State or local governments
State employment security agencies
SIC: 944
Training and employment: 3,127 responses; 52 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Laverne V. Collins, 202-395-6880

Used to transmit State material such as appeals decision, certified materials, and State statutes, rules, and regulations. It saves national office time in assuring materials are routed to appropriate staff for timely action.

• Employment and Training Administration
Experience Rating Report
ES-204
Annually
State or local governments
State employment security agencies
SIC: 944
Training and employment: 53 responses; 27 hours; $100 Federal cost; 1 form; not applicable under 3504(h)
Laverne V. Collins, 202-395-6880

Measures experience rating system, permits analysis of factors influencing rates, equity and soundness of the systems.

• Employment and Training Administration
WIN Payment Questionnaire
ETA 2147
On occasion
Individuals or households/State or local governments
Governments, local WIN projects, indiv., WIN registrants
SIC: 944
Training and employment: 131,500 responses: 9,208 hours; $295 Federal cost: 1 form; $92,080 public cost; not applicable under 3504(h)
Laverne V. Collins, 202-395-6880

This form provides a format for recording types and amounts of recurring payments. It is used to notify the registrant of referral to training and entitlement to payments, the training facility of registrant's referral and the payment unit of such referral. The form is also used by registrants to request, and by WIN staff to approve amounts of advance payments.

• Employment and Training Administration
Win Pay Order Card
ETA 2148
On occasion
Individuals or households/State or local Governments Gov't, local win projects, individuals, and win registrants
SIC: 944
Training and employment: 131,500 responses; 9,208 hours; $305 Federal cost; 1 form; $92,080 Public cost; not applicable under 3504(h)
Laverne V. Collins, 202-395-6880

This form provides a format for recording registrant's attendance record, incentive, daily expense, etc. It provides space for computation of payment, signatures of registrant and win authorization officer certifying information is correct. It is used by registrant to request win payment, authorization officer to approve payment, and payment unit to initiate payment process.

• Employment and Training Administration
Request for Win Relocation Payment
ETA 2228
On occasion
Individuals or households/State or local Governments Gov't, local win projects, individuals, and win registrants
SIC: 944
Training and employment: 160 responses; 16 hours; $295 Federal cost; 1 form; $160 Public cost; not applicable under 3504(h)
Laverne V. Collins, 202-395-6880

This form provides a format for recording type and amount of relocation expense and certification. It is used to request and approve relocation payments. It serves as a basis in the payment unit for establishing a payment account. for setting up necessary controls, and for issuing payments authorized.

• Employment and Training Administration
Request for Nonrecurring Win Payment
ETA 2149
On occasion
Individuals or households/State or local Governments Gov't, local win projects, individuals, and win registrants
SIC: 944
Training and employment: 38,500 responses; 3,196 hours; $355 Federal cost; 1 form; $36,090 Public cost; not applicable under 3504(h)
Laverne V. Collins, 202-395-6880

This form provides a format for recording type of request for nonrecurring win payment, registrant identifying information, and certifications by registrant and win official. It is used to request and approve nonrecurring payments, for establishing payment account for the

registrant, for setting up necessary controls, and for issuing payments authorized.

• Employment Standards Administration
20 CFR 702.111 Maintenance of Records of Injury/Occupational Disease
ESA-100LS
On occasion
Businesses or other Institutions Stevedoring Firms, Shipbuilders, Private Contractors
SIC: All
Small businesses or organizations
Income security: 254,000 responses; 5,080 hours; $0 Federal cost; 1 form; $53,600 Public cost; not applicable under 3504(h)
Laverne V. Collins, 202-395-6880

Section 29 of the Longshoremen's Act requires that every employer shall keep a record in respect of any injury to an employee and that such record shall be available for inspection by the secretary of labor. Inspection may be required to verify compliance with act.

• Employment and Standards Administration
20 CFR 702.148 maintenance of records of compensation
Payments
ESA-101LS
Annually
Businesses or other institutions
Insurance Companies/Self-insured employers
SIC: All
Income security: 800 responses; 16 hours; $0 Federal cost; 1 form; $168 Public cost; not applicable under 3504(h)
Laverne V. Collins, 202-395-6880

Section 44(d) (2) of the Longshoremen's Act requires all insurance carrier's and self-insured employers to maintain records pertaining to the amounts paid for compensation and medical during each calendar year. Inspection may be required to verify compliance with act.

• Employment Standards Administration
Bona Fide Thrift or Savings Plan (29 CFR 547)
ESA-WH-547
On occasion
Businesses or other institutions
Enterprises having workers engaged in interstate commerce
SIC: All
Small Businesses or organizations
Other Labor Services: 1 response; 1 hour; $0 Federal cost; 1 form; not applicable under 3504(h)
Laverne V. Collins, 202-395-6880

Wage-Hour division recordkeeping requirement to maintain documentation to back up "bona fide" Claim. Deemed to be maintained by prudent manager.

• Employment Standards Administration
Waiver of Child Labor provisions for Agricultural Employment
ESA-WH-575
Annually
Farms
Farmer, State farm bureaus
SIC: 013, 016, 017
Other Labor services: 12 responses; 36 hours; $112 Federal cost; 1 form; not applicable under 3504 (h)
Laverne V. Collins, 202-395-6880

Agricultural employers must apply for a waiver of child labor provisions to employ 10 and 11 Year old minors in hand harvesting of short season crops. Records deemed to be maintained by any prudent managers. Requirements do not exceed burden under 29 CFR 516.33

• Employment Standards Administration
Work Experience and Career Exploration Program
ESA-WH-570
On occasion
State or local governments
State and local education agencies
SIC: 821
Other Labor Services: 20 responses; 20 hours; $236 Federal cost; 1 form, not applicable under 3504 (h)
Federal Education Data Acquisition Council, 202-426-5030

Wage and hour requirement that State educational agencies file an application prior to implementation of programs. Recordkeeping requirement to retain signed training agreement for each enrollee in each school. Records deemed to be maintained by any prudent manager.

• Employment and Training Administration
Request for Additional UI Contingency staffyears for the quarter
ETA 2103
Quarterly
State or local governments
State employment security agencies
SIC: 944
Training and employment: 212 responses; 212 hours; $2,756 Federal cost; 1 form; not applicable under 3504 (h)
Laverne V. Collins, 202-395-6880

Used to request additional funds for processing UI contingency workloads above the base.

• Employment and Training Administration
Interstate Arrangement for Combining Employment and Wages—Interstate Forms
ETA IB-4 IB-5 IB-6
On Occasion
State or local governments
State agencies responsible for unemployment comp. program
SIC: 944
Training and emplyment: 598,320 responses; 209,412 hours; $6,600 Federal cost; 3 forms; not applicable under 3504 (h)
Laverne V. Collins, 202-395-6880

These forms are used for administrative purposes to transmit information between the paying State and Transferring State with respect to individual claims for unemployment compensation filed under the interstate arrangement for combining employment and wages.

• Employment Standards Administration
Bona Fide Profit-Sharing Plan or Trust (29 CFR 549)
ESA-WH-549
On Occasion
Businesses or other institutions
Enterprises having workers engaged in intesst. commerce
SIC: All
Small Businesses or organizations
Other Labor Services: 1 response; 1 hour; $0 Federal cost; 1 form; not applicable under 3504 (h)
Laverne V. Collins, 202-395-6880

Wage-hour division recordkeeping requirement to maintain documentation showing "bona fide" nature of plan. Deemed to be maintained by prudent manager.

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—John Windsor—202-426-1887

New

• Coast Guard
Qualified Members of the Engineering Department (QMED) Examination
CG 4814
On occasion
Individuals or households
Applicants for qual. member of the eng. dept. endorsement
Water transportation: 3,718 responses; 7,436 hours; $37,972 Federal cost; 1 form; not applicable under 3504 (h)
Wayne Leiss, 202-395-7340

These examinations are used by the Coast Guard to assure the qualified members of the engineering department possess a minimum level of qualifications when applying for the endorsement.

• Coast Guard

Cargo Container and Road Vehicle Certification for Transport Under Customs Seal
On occasion, quarterly
Businesses or other institutions
Intermodal container owners/operators/manufacturers
SIC: 441 442 373
Small businesses or organizations
Water transportation: 1,672 responses; 3,309 hours; $1,079 Federal cost; 1 form; not applicable under 3504(h)
Wayne Leiss, 202-395-7340

Reporting and recordkeeping requirements are addressed by this submission. This information is used in a voluntary program to obtain customs approvals for intermodal containers and road vehicles. Customs approval is used to facilitate international trade by reducing intermediate border customs inspections.

• Coast Guard
Oil Transfer Procedures
On occasion
Businesses or other Institutions
Operators of vessels
SIC: 441 442
Small businesses or organizations
Water transportation: 200 responses; 100 hours; $0 Federal cost; 1 form; $1,500 Public cost; not applicable under 3504(h)
Wayne Leiss, 202-395-7340

Any vessel that has a capacity of 250 barrels of oil or greater must have written procedures for oil transfers to and from the vessel and from tank to tank within the vessel. These procedures help to prevent oil pollution. They must be made available to the COTP or OCMI upon request.

• Coast Guard
Manufacturers Test Reports—Subchapter Q
On occasion
Businesses or other institutions
Manufacturers of life saving, fire fighting and other devices
SIC: 306
Small businesses or organizations
Water transportation: 250 responses; 500 hours; $36,000 Federal cost; 1 form; $15,000 Public cost; not applicable under 3504(h)
Wayne Leiss, 202-395-7340

Requirements for submission of drawings and test reports for safety equipment and materials are necessary to determine whether their items meet minimum levels of safety and performance and serve to identify the approved items.

• Coast Guard
Independent Laboratory Acceptance
On occasion
Businesses or other institutions
Independent testing laboratories
SIC: 478
Water transportation: 10 responses; 40 hours; $450 Federal cost; 1 form; $1,500 Public cost; not applicable under 3504(h)
Wayne Leiss, 202-395-7340

Organizations seeking U.S. Coast Guard recognization as an independent testing lab must submit an application. The application for acceptance contains the identification of the laboratory, ownership, technical qualifications of its personnel, and description of equipment and facilities for the type of activities the laboratory seeks Coast Guard approval.

• Coast Guard
Deck Officer Exams—Original
CG-5164
On occasion
Individuals or households
Applicants for original issue deck officer license
Water transportation: 2,006 responses; 49,147 hours; $113,804 Federal cost; 1 form; not applicable under 3504(h)
Wayne Leiss, 202-395-7340

46 USC 224, 224A, 226, 228—These examinations are used by the Coast Guard to assure that deck officers possess a minimum level of qualifications when applying for an original license.

• Coast Guard
Letter Documenting Qualifications of Tankerman Applicants
On occasion
Individuals or household/businesses or other institutions
Applicants for tankerman endorsement, and vessel owners/oper.
SIC: 441, 442, 443, 444, 445
Small businesses or organizations
Water transportation: 2,412 responses; 2,412 hours; $7,214 Federal cost; 1 form; not applicable under 3504(h)
Wayne Leiss, 202-395-7340

This letter is used by the Coast Guard, in conjunction with the tankerman examination, to assure that applicants for tankerman endorsement possess a minimum level of qualifications.

• Coast Guard
Uninspected Towing Vessel Operator Examinations
CG 4814
On occasion
Individuals or households
Orig. issue operator uninspected towing vessel lic. appl.
Water transportation: 3,588 responses; 28,704 hours; $83,514 Federal cost; 1 form; not applicable under 3504(h)
Wayne Leiss, 202-395-7340

These examinations are used by the Coast Guard to assure that operators of uninspected towing vessels posses a minimum level of qualifications when applying for an original license.

• Coast Guard
Radar Observer Exam—Original
CG 4814
On occasion
Individuals or households
Applicants for radar observer endorsement
Water transportation: 1,100 responses; 2,200 hours; $9,840 Federal cost; 1 form; not applicable under 3504(h)
Wayne Leiss, 202-395-7340

46 USC 224, 226, 228—these examinations are used by the Coast Guard to assure that applicants for original deck officer license and radar observer endorsement possess a minimum level of qualifications when applying for the endorsement.

• Coast Guard
Able Seaman Examination
CG 4814
On occasion
Individuals or households
Applicants for able seaman endorsement
Water transportation: 3,520 responses; 7,040 hours; $36,565 Federal cost; 1 form; not applicable under 3504(h)
Wayne Leiss, 202-395-7340

These examinations are used by the Coast Guard to assue that able seamen possess a minimum level cf qualifications when applying for the lifeboatman endorsement.

• Coast Guard
Pilot Exam
CG 4814
On occasion
Individuals or households
Applicants for original pilot's license
Water transportation: 1,017 responses; 8,136 hours; $95,579 Federal cost; 1 form; not applicable under 3504(h)
Wayne Leiss, 202-395-7340

46 USC 214, 224—this exam is used by the Coast Guard to assure that applicants possess a minimum level of qualifications when applying for a Pilot's license.

• Coast Guard
Security Zones
On occasion
Individuals or households/businesses or other institutions
Waterway users
SIC: 441, 442, 443, 444, 445
Small businesses or organizations
Water transportation: 12 responses; 6 hours; $214 Federal cost; 1 form; $180

public cost; not applicable under 3504(h)
Wayne Leiss, 202–395–7340

50 USC 191—security zones are established to protect vessels, harbors, ports and waterfront facilities from destruction, loss or injury due to sabotage or subversive acts. Any waterway user may request the establishment of a security zone.

• Coast Guard
Plan approval and records for cargo and miscellaneous vessels
On occasion
Businesses or other institutions
Ship builders, designers, owners and operators
SIC: 373, 441, 442
Small businesses or organizations
Water transportation: 9,520 responses; 2,380 hours; $691,200 Federal cost; 1 form; not applicable under 3504(h)
Wayne Leiss, 202–395–7340

This plan submission requirement will be used to show compliance with the regulations for cargo and miscellaneous vessels. It will enable the Coast Guard to determine compliance prior to construction.

• Coast Guard
Plan Approval and Records for Tank Vessels—Subchapter D (46 CFR)
On occasion
Businesses or other institutions
Ship builders, designers, owners and operators
SIC: 373, 441, 442, 444, 445
Small businesses or organizations
Water transportation: 6,771 responses; 1,693 hours; $493,000 Federal cost; 1 form; $339,150 public cost; not applicable under 3504(h)
Wayne Leiss, 202–395–7340

The plan submission will be used to show compliance with the regulation for tank barges and tank ships. It will enable the Coast Guard to determine compliance prior to construction.

Revisions

• Coast Guard
Plan Approval and Records for Load Lines
Annually
Business or other institutions
Owners of merchant vessels
SIC: 441, 442
Small businesses or organizations
Water transportation: 815 responses; 35,400 hours; $43,866 Federal cost; 6 forms; not applicable under 3504(h)
Wayne Leiss, 202–395–7340

Owners of merchant vessels over 150 gross tons or 79 feet long engaged in commerce on international or coastwise voyages by sea are required by law to obtain a load line certificate. This procedure ensures that no such vessel is loaded deeper than the line of safety.

Extensions (Burden Change)

• Maritime Administration
Affidavit of United States Citizenship
Annually
Business or other institutions
Corporations, banks and lending institutions
SIC: 602, 446, 639
Water transportation: 500 responses; 2,500 hours; $55,000 Federal cost; 1 form; not applicable under 3504(h)
Wayne Leiss, 202–395–7340

Applicants for and those receiving Federal loan guarantees to build U.S. flag ships, and construction and operating subsidies must, by statute, be and remain U.S. citizens (within the meaning of 46 U.S.C. 802) during the contract period. Failure to do so is a default under the contract and could subject the vessel to forfeiture.

DEPARTMENT OF THE TREASURY

Agency Clearance Officer—Ms. Joy Tucker—202–634–5394

New

• Bureau of Government Financial Operations
Voucher Application for Polish Payment
TFS 6102
Annually
Individuals or households/businesses or other institutions
Individuals and institutions who are awardholders
SIC: multiple
Central fiscal operations: 200 responses; 50 hours; $1,400 Federal cost; 1 form; $250 public cost; not applicable under 3504(h)
Irene Montie, 202–395–6880

This form is used to make payments on awards under the Polish claims program. Program has ended, but there are numerous payments that remain to be made. Awardholders sign forms certifying thay are entitled to payment, and forms are used as basis for payments.

• Bureau of Government Financial Operations
Claims Against the U.S. for Amounts Due in the Case of a Deceased Creditor
SF 1055
Other—see SF83
Individuals or households/business or other institutions
Heirs or legal representatives of deceased awardholders
SIC: multiple
Central fiscal operations: 200 responses; 200 hours; $1,305 Federal cost; 1 form; $1,000 public cost; not applicable under 3504(h)
Irene Montie, 202–395–6880

This form is required to determine who is entitled to the funds of a deceased postal savings depositor or deceased awardholder. The form properly completed with supporting documents, enables this office to decide who is legally entitled to the payment.

• Internal Revenue Service
Information Request (LIFO 9 and LIFO 10)
AF 35
Nonrecurring
Businesses or other institutions
Primarily corporations
SIC: All
Small businesses or organizations
Central fiscal operations: 100 responses; 500 hours; $182 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

The information is needed to ascertain whether the taxpayer should be permitted to change to a link-chain * method for computing the value of its dollar-value LIFO inventory pool(s). The data is evaluated to determine whether the new method clearly reflects income and is in accordance with the rules of section 1.472–8 of the income tax regulations.

• Internal Revenue Service
Affidavit—Estate Tax Liability on Estate Tax
NAR 3–215
Nonrecurring
Individuals or households/businesses or other institutions
Executors, law firms, trust corporations
SIC: multiple
Central fiscal operations: 5,000 responses; 416 hours; $2,790 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

The form is needed in the examination of estate tax returns to document the payment of State death taxes. The data is used to verify that the credit or deduction of State death taxes is accurately reflected on the estate tax return.

• Internal Revenue Service
Questionnarie Closely Held Corporation
NAR 3–180
Nonrecurring
Individuals or households/businesses or other institutions
Executors, law firms, trust corporations
SIC: multiple
Small businesses or organizations

Central fiscal operations: 420 responses; 420 hours; $701 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

NAR form 3–180 is needed in the examination of estate and gift tax returns and used to verify the value of deceased's interest and to pick up any unreported stock transfers.

Revisions

• Internal Revenue Service
U.S. Mutual Insurance Company Income Tax Return
1120M
Annually
Businesses or other institutions
Mutual insur. cos., other than life insur. cos., etc
SIC: 632, 633, 635, 637, 639
Small businesses or organizations
Central fiscal operations: 1,200 responses; 13,043 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.

• Internal Revenue Service
Credit for Alcohol Used as Fuel
6478
Annually
Individuals or households/businesses or other institutions
Bus. that sell or use alco. mixed with other fuels, etc.
SIC: 291
Small businesses or organizations
Central fiscal operations: 10,000 responses; 11,666 hours; $7,304 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

This form is used to compute the credit allowed under IRC section 44E for alcohol used as fuel. The information is needed to determine that the amount of credit claimed is correct.

• Internal Revenue Service
Computation of Overpaid Windfall Profit Tax
6249
Annually
Individuals or households/businesses or other institutions
Any producer of domestic crude oil (indiv., corp.), etc.
SIC: 131, 621, 651, 679, 492, 461
Small businesses or organizations
Central fiscal operations: 200,000 responses; 497,760 hours; $149,411 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

Form 6249 is used by producers of domestically produced crude oil who have overpaid their windfall profit tax. The information is used to determine if overpayment has been correctly computed.

Extensions (Burden Change)

• Internal Revenue Service
Information for use in determining whether a worker is an employee for purposes of Federal employment taxes and income tax withholding
SS–8
On occasion
Individuals or households farms/businesses or other institutions Empl./works determining employer-employee relationship
SIC: all
Small businesses or organizations
Central fiscal operations: 10,000 responses; 36,000 hours; $146,462 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

This form is used by employers and workers to furnish information to IRS in order to obtain a determination as to whether a worker is an employee for purposes of Federal employment taxes and income tax withholding. IRS uses the information on form SS–8 to make the determination.

• Internal Revenue Service
Registration for Tax-Free Transactions Under Chapter 32 of the IRC
637,637A
Nonrecurring
Businesses or other institutions
Manufacturers, producers, importers, and purchasers
SIC: 291, 299, 301, 371, 372, 411, 413, 415, 501, 821
Small businesses or organizations
Central fiscal operations: 100,000 responses: 39,780 hours; $175,149 Federal cost; 2 forms; not applicable under 3504(h)
Irene Montie, 202–395–6880

Certain manufacturers, producers, inporters, and purchasers are exempt from the manufacturers excise tax on taxable articles, gasoline, and lubricating oil if they use this form to register with IRS for tax-free transactions. The data is used to determine if the applicant qualifies for the exemption.

• Bureau of Alcohol, Tobacco and Firearms
Ingredient Labeling Information
ATF F 1649 (suppl.) (5100.14A)
On occasion
Businesses or other institutions
Alcoholic beverage industry members
SIC: 208, 518
Small businesses or organizations
Federal law enforcement activities: 20,000 responses; 10,000 hours; $60,700 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

Form will amend a particular label approval (in many cases several label approvals) of distilled spirits, wine, or malt beverage products for the ingredients uses to make product. Form will require several cross reference items (permittee's name, address, permit No., kind of product, product code, serial No. of label approval) to the F 1649. Will also list the ingredients used represented by the label approval and at the option of permittee.

• Bureau of Alcohol, Tobacco and Firearms
Application for Permit Under 26 U.S.C. Chapter 52 Manufacture of Tobacco Products or Proprietor
ATF F 2093 (5200.3)
On occasion
Businesses or other institutions
Manufacturers of tobacco products
SIC: 211, 212
Small businesses or organizations
Federal law enforcement activities: 148 responses; 296 hours; $822 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

Businesses which manufacture tobacco products are subject to the tobacco taxes and must obtain a permit to engage in such a business. This form facilitates the application for engaging in such a business.

• Bureau of Alcohol, Tobacco and Firearms
Registration of Distilled Spirits Plants
ATF F 5110.41
On occasion
Businesses or other institutions
Distilled spirits plants
SIC: 208, 518, 286
Small businesses or organizations
Federal law enforcement activities: 400 responses; 2,000 hours; $1,248 Federal cost; 1 form; not applicable under 3504 (h)
Irene Montie, 202–395–6880

Form is necessary for all distilled spirits plants to register their activities and premises. Describes person owning the distilled spirits plant, person's business structure, activities to be conducted on the premises, boundaries and physical location and layout of buildings and premises, major equipment and other information

necessary to describe operations and ownership.

• Bureau of Alcohol, Tobacco and Firearms
DSP Production—Records of Receipts and Use of Juniper
Berries and Other Aromatics in Gin Production
ATF REC 5110/26
On occasion
Businesses or other institutions
Distilled spirits plants
SIC: 208
Small business or organizations
Federal law enforcement activities: 544 responses; 54 hours; $77 Federal cost; 1 form; not applicable under 3504 (h)
Irene Montie, 202–395–6880

Provides a record to ascertain the receipt and use of materials which gives gin its destinctive aroma and taste, ensures product integrity. Accounting tool, audit trail and protection of the revenue.

• Bureau of Alcohol, Tobacco and Firearms
DSP Production—Gauge of Spirits in Tanks Before and After Production
ATF REC 5110/24
On occasion other—see SF83
Businesses or other institutions
Distilled spirits plants
SIC: 208
Small businesses or organizations
Federal law enforcement activities: 53,040 responses; 5,304 hours; $0 Federal cost; 1 form; not applicable under 3504 (h)
Irene Montie, 202–395–6880

Provided a record of total production after gauges are completed, used as a running inventory of spirit production. Accounting tool, audit trail, and protection of the revenue.

• Bureau of Alcohol, Tobacco and Firearms
DSP Production—Record of Spirits Removed, Purpose, and Details of Packages Filled
ATF REC 5110/25
On occasion
Businesses or other institutions
Distilled spirits plants
SIC: 208
Small businesses or organizations
Federal law enforcement activities: 35,360 responses; 7,072 hours; $374 Federal cost; 1 form; not applicable under 3504 (h)
Irene Montie, 202–395–6880

Provides a record of total dispositions of spirits in bulk, if removed, tax is determined, entered into storage or returned to production, other records show the entry, these records correlate to show disposition or entry into another phase of operations. Accounting tool, audit trail, protection of the revenue. Related forms 5110.45, 5110.26.

• Bureau of Alcohol, Tobacco and Firearms
Formula and Process for Nonbeverage Products
ATF F 1678 (5530.5)
On occasion
Businesses or other institutions
Persons who use taxpaid alcohol in the mfgr. of nonbev. etc.
SIC: 283
Small businesses or ogranizations
Federal law enforcement activities: 3,000 responses; 1,500 hours; $888 Federal cost; 1 form; not applicable under 3504 (h)
Irene Montie, 202–395–6880

Business which use taxpaid alcohol to manufacture nonbeverage products are eligible for drawback of taxes under certain conditions. One condition is that the product be nonbeverage in character. To determine this we require that their formulation for the product be listed on this form. After submission, we approve or disapprove the product for drawback purposes.

• Bureau of Alcohol, Tobacco and Firearms
Power of Attorney
ATF F 1534 (5000.8)
On occasion
Individuals or households/businesses or other institutions
Person conducting oper. which fall under ATF regulations
SIC: 208, 211, 212, 518
Small businesses or organizations
Federal law enforcement activities: 10,000 responses; 2,500 hours; $1,935 Federal cost; 1 form; not applicable under 3504 (h)
Irene Montie, 202–395–6880

When applications for benefits are filed with ATF, such as claims or applications, it is legally necessary for the person signing the application of claim to have authority to act on behalf of the principal. By execution of this form, such authority is given to that person to act on behalf of such principal.

• Bureau of Alcohol, Tobacco and Firearms
Package Gauge Report
ATF F 5110.45
On occasion
Businesses or other institutions
Distilled spirits plants
SIC: 208, 286
Small businesses or organizations
Federal law enforcement activities: 20,000 responses; 10,000 hours; $5,925 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

Form is necessary to describe the contents of a package of spirits for tax purposes. Describes the distilled spirits plant that packages spirits, type and quantity of spirits in the package and package identification numbers. May be used to determine taxes due on spirits lost or withdrawn for any purpose from a distilled spirits plant.

• Bureau of Alcohol, Tobacco and Firearms
Certificate of Age and Origin of Distilled Spirits
ATF F 2177 (5110.58)
On occasion
Businesses or other institutions
Distilled spirits plants
SIC: 208
Small businesses or organizations
Federal law enforcement activities: 2,500 responses; 1,250 hours; $430 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

This form is necessary for persons exporting distilled spirits into a foreign country to identify the class and type of spirits into a foreign country to identify the class and type of spirits for the laws of the foreign country. The form describes the distilled spirits as to class and type, container or case workings, producer and place of export, and other information that identifies the spirits being exported.

• Bureau of Alcohol, Tobacco and Firearms
Bourbon Whisky Certificate of Authenticity
ATF F 4547 (5110.42)
On occasion
Businesses or other institutions
Distilled spirits plants
SIC: 208
Small businesses or organizations
Federal law enforcement activities: 4,000 responses; 1,000 hours; $1,254 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

Form is used by foreign countries importing bourbon whisky from the U.S. to determine its qualifications to be called "bourbon whisky" as a distinctive product of the U.S. This form describes the shipment of whisky and a certification by a U.S. Government official as to its status as bourbon whisky.

• Bureau of Alcohol, Tobacco and Firearms
DSP Denaturation—packages of denatured spirits
Filled, losses, & dispositions
ATF Rec 5110/38
Other—See SF83

Businesses or other institutions
Distilled spirits plants
SIC: 208
Small businesses or organizations
Federal law enforcement activities: 7,384 responses; 3,692 hours; $139 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

Provides for total amount in denatured, what amount filled, lost or disposed should equal amount, amount entered into denaturation. Accounting tool, audit trail, and protection of the revenue.

• Bureau of Alcohol, Tobacco and Firearms
DSP denaturation—record of spirit used, denatured spirits produced, received, removed or otherwise disposed of
ATF Rec 5110/37
Other—see SF83
Businesses or other institutions
Distilled spirits plants
SIC: 208
Small businesses or organizations
Federal law enforcement activities: 11,076 responses; 5,538 hours; $286 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

Total spirits used, denatured produced establishes amounts to correlate with total production figures, ensures no spirits are diverted. Accounting tool, audit trail and protection of the revenue.

• Bureau of Alcohol, Tobacco and Firearms
DSP denaturation—receipt, use in spirits, or other dispositions of denaturants
ATF Rec 5110/36
Other—see SF83
Businesses or other institutions
Distilled spirits plants
SIC: 208
Small businesses or organizations
Federal law enforcement activities: 3,692 responses; 1,846 hours; $357 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

Use of denaturants by formula ensures spirits are nonportable, amounts used on record should verify this. Accounting tool, audit trail and protection of the revenue.

• Bureau of Alcohol, Tobacco and Firearms
Report of Violations
ATF F 5030.5
On occasion
Businesses or other institutions
Licensees and permittees regulated by ATF
SIC: 208, 518, 348, 289, 599, 504, 516, 594, 284, 283
Small businesses or organizations
Federal law enforcement activities: 10,000 responses; 10,000 hours; $825 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

Form is used to determine whether a licensee or permittee has corrected violations found by ATF on inspection which could not be corrected at the time of inspection. Licensee or permittee states whether he has corrected violations by a certain time agreed upon by the ATF inspector and the licensee or permittee.

• Bureau of Alcohol, Tobacco and Firearms
Process for Concentration or Reconstitution of Beer
ATF F 3019 (5130.13)
On occasion
Businesses or other institutions
Breweries
SIC: 208
Small businesses or organizations
Federal law enforcement activities: 400 responses; 200 hours; $105 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

Form is necessary for any brewer who desires to concentrate or reconstitute beer in the U.S. describes the brewer, process of concentration or reconstitution where the beer will be sent to or received from and the dates of such activity. Necessary to determine the taxable status of the beer and its identification for labeling (consumer) purposes.

• Bureau of Alcohol, Tobacco and Firearms
DSP Bottling—Records of Spirits, Wine, Alcoholic and Nonalcoholic Flavors and Other Ingredients Used in manufacturing a Product
ATF Rec 5110/30
On occasion
Businesses or other institutions
Distilled spirits plants
SIC: 208
Small businesses or organizations
Federal law enforcement activities: 124,800 responses; 12,480 hours; $646 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

Provides a record of all ingredients used in the production of an alcoholic beverage, used to ensure all ingredients are FAA approved or on the GRAS list. Accounting tool, audit trail, protection of the revenue and product integrity.

• Bureau of Alcohol, Tobacco and Firearms
Alcohol Fuel Plant Report
ATF F 5110.75
Quarterly, Semiannually, Annually
Businesses or other institutions
Distillers of alcohol for fuel use
SIC: 011, 013, 286
Small businesses or organizations
Federal law enforcement activities: 10,000 responses; 10,000 hours; $25,400 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

Form describes the operations for an alcohol fuel plant. Describes the alcohol fuel plant, location, and transactions regarding spirits and alcohol fuel during the reporting period. Will be used by ATF to monitor and audit activities at alcohol fuel producers and general statistical purposes.

Extensions (no change)

• Bureau of Alcohol, Tobacco and Firearms
Importers, Dealers, Collectors of Firearms Records and Supporting Data of Acquisition/Disposition
ATF Rec 7570/2
On occasion
Businesses or other institutions
Importers, dealers, and collectors of firearms
SIC: 594
Small businesses or organizations
Federal law enforcement activities: 10,000,000 responses; 2,500,000 hours; $30 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

Tracing and audit trail provides records of total inventory and weapons disposed of, show to whom firearm was sold. Ascertain compliance with law.

• Bureau of Alcohol, Tobacco and Firearms
Reprocessors, Rebatters and Bottlers of Bay Rum and Similar Products—Applications, Letterheads and Notices, etc.
ATF Rec 5150/9
On occasion
Businesses or other institutions
Persons rebottling reprocessing of bay rum and sim. products
SIC: 208
Small businesses or organizations
Federal law enforcement activities: 4,000 responses; 2,000 hours; $40 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

Provides an audit trail, ensures use of alcohol is as stated in formula and no tax liability is incurred.

• Bureau of Alcohol, Tobacco and Firearms

Application on for Permit under 18 U.S.C. chapter 40, Explosives
ATF F 4707
On occasion
Businesses or other institutions
User of explosives
SIC: 152 154 162
Small businesses or organizations
Federal law enforcement activities: 2,000 responses; 6,000 hours; $1,595 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

Form is used to determine whether a person is qualified to engage in certain businesses with explosives. Describes the person, business, location, intended operations with explosives, criminal record of person(s) applying, and explosives storage facilities.

• Bureau of Alcohol, Tobacco and Firearms
Application for Importer's and/or Wholesaler's Basic Permit under FAA Act
ATF F 5170.4
On occasion
Businesses or other institutions
Importers and wholesalers of beer, wine distilled spirits
SIC: 518
Small businesses or organizations
Federal law enforcement activities: 1,300 responses; 3,900 hours; $28,636 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

Form is necessary for persons who wish to engage in business of importing and/or wholesaling alcoholic beverages in the U.S. describes applicant, location of applicant business, business structure, source of funds for business, alcoholic beverage business to be conducted, responsible persons in business and other information necessary to determine applicant's qualifications under the law.

• Bureau of Alcohol, Tobacco and Firearms
Application for Amended Basic Permit Under the Federal Alcohol Administration Act
ATF F 1643 (5100.18)
On Occasion
Businesses or other institutions
Distilleries
SIC: 208 518
Small businesses or organizations
Federal law enforcement activities: 4,000 responses; 4,000 hours; $13,034 Federal cost; 1 form not applicable under 3504 (h)
Irene Montie, 202–395–6880

Permits are issued to engage the business of importing, distrilling, bottling distilled spirits, wine, etc. At such time as there is a change in the business structure or some other change which requires amendment of the permit, this form is filed.

• Bureau of Alcohol, Tobacco and Firearms
Tax-Free Spirits or Specially Denatured Spirits for Use of U.S.
ATF F 14444/(5150.33)
On occasion
State or local governments
Federal government agencies
SIC: 922, 931, 941
Federal law enforcement activities: 300 responses; 300 hours; $380 Federal cost; 1 form not applicable under 3504 (h)
Irene Montie, 202–395–6880

The law allows U.S. Government agencies to obtain alcohol free of tax for official business uses. Approval of this completed form serves as authorization for these agencies to procure alcohol free of tax.

• Bureau of Alcohol, Tobacco and Firearms
Transferees of NFA Weapons Retain Approval Application Requesting Transfer and Transfer Tax Stamp (NFA–National Firearms Act
ATF REC 5300/2
On occasion, annually
Businesses or other institutions
Persons transferring NFA weapons
SIC: 594
Small businesses or organizations
Federal law enforcement activities: 1,200 responses; 1,200 hours; $221 Federal cost; 1 form not applicable under 3504 (h)
Irene Montie, 202–395–6880

Audit Trail Transfers of NFA Weapons incur tax liability upon transfer and yearly tax, approved application entitles the person to possess the weapon. Protection of the revenue, compliance with law.

• Bureau of Alcohol, Tobacco and Firearms
Dealers in Specially Denatured Alcohol—Records of Receipt, Losses, Destructions, and Dispositions Necessary to Compile 1478
ATF REC 5150/5
On Occasion
Businesses or other institutions
Dealers in specially denatured alcohol
SIC: 286
Small Businesses or organizations
Federal law enforcement activities: 9,600 responses; 960 hours; $20 Federal cost; 1 form not applicable under 3504 (h)
Irene Montie, 202–395–6880

These records are used to verify entries made on 1478. Accounting tool, audit trail, protection of the revenue.

• Bureau of Alcohol, Tobacco and Firearms
Records and Receipts and Disposition of Proprietary Solvents and Special Industrial Solvents by Dealers and Users
ATF REC 5150/14
On Occasion
Businesses or other institutions
Dealers and user of Proprietary solvents
SIC: 286
Small businesses or organizations
Federal law enforcement activities: 37,500 responses; 3,750 hours; $20 Federal cost; 1 form not applicable under 3504 (h)
Irene Montie, 202–395–6880

Provides a Running Inventory of Spirits on Hand.

• Bureau of Alcohol, Tobacco and Firearms
Notice of Intention to Remove Distilling Apparatus
ATF F 110 (5000.13)
On occasion
Businesses or other institutions
Distilled spirits plants, vinegar plants
SIC: 208, 209
Small businesses or organizations
Federal law enforcement activities: 23 responses; 23 hours; $57 Federal cost; 1 form not applicable under 3504 (h)
Irene Montie, 202–395–6880

Filing of this form notifies ATF of a DSP proprietor's intention to remove distilling apparatus. Stills are registered by law.

• Bureau of Alcohol, Tobacco and Firearms
Users of Specially Denatured Spirits—Articles Repackaged and Disposition of Articles Manufactured or received
ATF REC 5150/6
On Occasion
Businesses or other institutions
Users of specially denatured spirits
SIC: 286
Small businesses or organizations
Federal law enforcement activities: 15,000 responses; 1,500 hours; $40 Federal cost; 1 form; not applicable under 3504 (h)
Irene Montie, 202–395–6880

Provides a record of activities involving alcohol and to whom sold or shipped. Accounting tool, audit trail, protection of the revenue.

• Bureau of Alcohol, Tobacco and Firearms
Users of Specially Denatured Spirits—Copies of Invoices of Purchases of Essential Oils, Chemicals, and Other Materials Used in Manufacturing Articles
ATF Rec 5150/7

On occasion
Businesses or other institutions
Users of specially denatured spirits
SIC: 286
Small businesses or organizations
Federal law enforcement activities: 10,000 responses; 1,000 hours; $50 Federal cost; 1 form not applicable under 3504 (h)
Irene Montie, 202-395-6880

Records are used as part of overall records in specially denatured spirits to ensure the spirits are nonpotable and therefore tax-exempt or eligible for drawback after tax is paid.

• Bureau of Alcohol, Tobacco and Firearms
Manufacturers and Vendors of Distilling Apparatus-Manufacture Receipt, Removal, Other Disposition, Purpose to be Used.
ATF REC 5150/8
On occasion
Businesses or other institutions
Manufacturers and vendors of distilling apparatus
SIC: 359
Small businesses or organizations
Federal law enforcement activities: 180 responses; 45 hours; $50 Federal cost; 1 form not applicable under 3504 (h)
Irene Montie, 202-395-6880

Established tax liability on alcohol production, who will use the stills and for what purposes, stills are also taxed under the IRC. Protection of revenue.

• Bureau of Alcohol, Tobacco and Firearms
Licensed Explosives Importers Dealers and Permittees
Records and supporting data of importation, receipt, storage and disposition
ATF Rec 5400/3
On occasion
Businesses or other institutions
Importers, dealers, and permittees dealing w/explosives
SIC: 516
Small businesses or organizations
Federal law enforcement activities: 1,074,000 responses; 107,400 hours; $159 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202-395-6880

Accounting tool, audit trail. Provides a record of all explosives, to whom transferred, and amount in storage. Ascertain compliance with law.

• Bureau of Alcohol, Tobacco and Firearms
Authorization To Furnish Financial Information (Rights to Financial Privacy Act of 1978)
ATF F 5030.6
On occasion
Individuals or households/businesses or other institutions
Persons applying for an alcohol or tobacco permit
SIC: 208, 211, 212, 518
Small businesses or organizations
Federal law enforcement activities: 2,000 responses; 500 hours; $1,681 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202-395-6880

Form allows ATF to examine a bank account for investigation purpose and documents ATF compliance with the law for a report to Congress. Describes the bank account to be examined, authorization by the business or individual, and the purpose for which disclosure is to be made.

• Bureau of Alcohol, Tobacco and Firearms
DSP Bottling—Spirits Removed to Production for Redistillation
ATF Rec 5110/32
Other—see SF83
Businesses or other institutions
Distilled spirits plants
SIC: 208
Small businesses or organizations
Federal law enforcement activities: 6,500 responses; 325 hours; $132 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202-395-6880

Spirits returned to production, separate record so total production from basic materials will not be inflated. Accounting tool, audit trail, and protection of the revenue.

• Bureau of Alcohol, Tobacco and Firearms
Proprietors of Tax Paid Wine Bottling Houses (Applications, Letterheads, Notices Relating to Operations)
ATF Rec 5120/1
On occasion
Businesses or other institutions
Taxpaid wine bottling houses
SIC: 208
Small businesses or organizations
Federal law enforcement activities: 140 responses; 140 hours; $47 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202-395-6880

Ascertain that revenue is not placed in jeopardy and protection thereof.

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—Christine Scoby—202-382-2742

NEW

• Annual Report on Conditional Registrations
Nonrecurring
Businesses or other institutions
Chemical industry
SIC: 286
Agricultural research and services: 50 responses; 100 hours; $12,000 Federal cost; 1 form; not applicable under 3504(h)
Edward H. Clarke, 202-395-7340

FIFRA requires that an annual report on conditional registrations (registrations for which the submissions of some supporting data has been deferred to a future date) be supplied to Members of Congress to monitor the conditional registration program.

• Registration Standards/ Data Call-In Notices Issued for Data To Be Submitted for Pesticide Chemicals
Nonrecurring
Businesses or other institutions
Chemical Firms That Produce Manufacturing & Formulated Pest.
SIC: 287
Small Businesses or organizations
Pollution control and abatement: 2,550 responses; 1,530,199 hours; $561,296 Federal cost; 2 forms; not applicable under 3504(h)
Edward H. Clarke, 202-395-7340

These data determine whether these pesticide chemicals cause unreasonable adverse effects on humans and the environment. For each chemical reviewed, there are distinct starting and ending dates for information and data generation submissions. These dates apply identically to all registrants for a particular chemical.

Reinstatements

• Premanufacture Notification Interim Policy—Domestic Manufacturers and Importers
On occasion
Businesses or other institutions
Chemical manufacturers
SIC: 147, 281, 282, 284, 285, 286, 289, 291, 386
Small businesses or organizations
Pollution control and abatement: 6,900 responses; 112,000 hours; $0 Federal cost; 1 form; not applicable under 3504 (h)
Edward H. Clarke, 202-395-7340

Under section 5 of TSCA, any person who intends to manufacture a new chemical substance for a commercial purpose must submit a notice to EPA at least ninety days before commencing manufacture. Section 5(D)(1) defines the content of a premanufacture notice. EPA is required under TSCA to review the information submitted to determine whether action under sections 5(E) or 5(F) is warranted.

FEDERAL COMMUNICATIONS COMMISSION

Agency Clearance Officer—Richard D. Goodfriend—202–632–7513

Revisions

• Application for Construction Permit for Commercial Broadcast Station
301
On occasion
Businesses or other institutions
Bus. or indiv. inter. in starting a new broadcast, etc.
SIC: 483
Small businesses or organizations
Other advancement and regulation of commerce: 1,036 responses; 159,680 hours; $1,171,732 Federal cost; 1 form; not applicable under 3504(h)
William T. Adams, 202–395–4814

Filing is required when applying for authority to construct a new AM, FM, or TV commercial broadcast station or make changes in an existing station. The information supplied on application is used by lawyers, engineers, accountants and various para-professional personnel to determine whether applicant meets basic statutory and treaty requirements and whether the proposal will serve the public interest.

• Application for Land Radio Station License in the Maritime Mobile Service or an Alaska Public Fixed Service
503
On occasion
Individuals or households/State or local Governments/businesses or other institutions
Applicants for a land rado station license
SIC: 481, 482, 489
Small businesses or organizations
Other advancement and regulation of commerce: 4,000 responses; 4,000 hours; $23,000 Federal cost; 1 form; not applicable under 3504(h)
William T. Adams, 202–395–4814

Filing is required when applying for new or modified land radio stations in the Maritime Mobile Service or an Alaska Public Fixed Station. The data will be used by FCC staff to determine eligibility and station location, to provide information for enforcement and rulemaking proceedings, and to maintain a current inventory of licensees.

FEDERAL RESERVE SYSTEM

Agency Clearance Officer—Carolyn B. Doying—202–452–2983

New

• Ongoing Intermittent Surveys of Households
FR 3016
On occasion
Individuals or households
Occasional samples of 700 household nationwide
General government: 4,200 responses; 467 hours; $102,220 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

This information is needed by Federal Reserve Board and Federal Open Market Committee to enhance interpretation of monetary aggregates and effects of monetary policy. The Board also requires this information to fulfill its statutory responsibilities to administer consumer credit regulations.

Extensions (Burden Change)

• Report of Claims on Selected Foreign Countries by U.S. Branches and Agencies of Foreign Banks
FR 2029B
Semiannually
Businesses or other institutions
U.S. agencies/branches of foreign banks
SIC: 605
General government: 180 responses; 540 hours; $10,000 Federal cost; $8,100 public cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

Information used for monitoring external debts of developing and other NON–G–10 countries when combined with data collected by other central banks. Data are also used for supervisory screening of foreign banks in the United States.

• Statement Regarding Security Devices That Do Not Meet the Minimum Requirements of Regulation P
On occasion
Businesses or other institutions
State member banks
SIC: 602
Small busineses or organizations
General government: 175 responses; 175 hours; $0 Federal cost; $2,625 public cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

A statement by a State member bank on its security program and devices that do not meet the minimum requirements established by Regulation P. The statement must be retained by the bank and is made when cost or location in a law crime area do not justify the security device.

Extensions (No Change)

• Draft **Federal Register** Notice for Proposed De Novo Non-Banking Activities
FR Y–4A
On occasion
Businesses or other institutions
Bank holding companies
SIC: 671
Small businesses or organizations
General government: 500 responses; 1,000 hours; $75,000 Federal cost; $20,000 public cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

Disclosure requirement in the form of a draft **Federal Register** Notice (attached as page 13 of form F.R. Y–4—application to the Federal Reserve Board to acquire or reform nonbanking activities) in which applicant bank holding company describes the de novo nonbanking activity(ies) in which it proposes to engage or continue to engage.

• Notice Claiming Status as Exempt Transfer
On occasion
Businesses or other institutions
State member banks
SIC: 602, 604
General government: 20 responses; 60 hours; $500 Federal cost; $1,200 public cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

The notice is a means by which registered transfer agents who qualify may claim and gain exemption from certain of the performance and recordkeeping rules of the securities and exchange commission (12 CFR 240. 17AD–1 through 7). Exemption is obtained by the filing of a proper notice, as described in rule 17AD–4(B), with transfer agent's statutory "appropriate regulatory authority."

• Annual Report of Foreign Banking Organizations
FRY–7
Annually
Businesses or other institutions
Foreign banks
SIC: 602, 671
General government: 160 responses; 3,200 hours; $85,000 Federal cost; $96,000 public cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

Report filed annually by foreign banking organizations that have a U.S. branch or agency or control a U.S. bank or comm. lending company. The report requests financial and structural information to assess the ability of the foreign organization to serve as a source of strength to its U.S. operations and to determine compliance with the BHC Act and the IBA.

• Annual Statement of Compliance With the Bank Protection Act of 1968
Annually
Businesses or other institutions
State member banks
SIC: 602

Small businesses or organizations
General government: 1,013 responses; 253 hours; $3,795 Federal cost; $1,897 public cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

Prescribed statement of compliance filed on an annual basis by all State member banks concerning the bank's security devices and program and their conformance with the minimum standards established by Regulation P.

INTERNATIONAL DEVELOPMENT ASSISTANCE

Agency Clearance Officer—Ms. Melita Yearwood—202–632–0084

Extensions (No Change)

• Certificate of Eligibility for Exchange Visitor (J–1) Status
IAP–66A
Other—See SF83
Individuals or households
Eligibility for exchange visitor
Foreign economic and financial assistance: 7,000 responses; 1,190 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Phillip T. Balazs, 202–395–4814

Students applying for visas and visa extensions.

NATIONAL CREDIT UNION ADMINISTRATION

Agency Clearance Officer—Mr. Troy Robinson—202–357–1202

New

• Compliance Questionnaire
Other—see SF83
Businesses or other institutions
Federal credit unions
SIC: 614
Small businesses or organizations
Mortgage credit and thrift insurance: 3,000 responses; 9,000 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Phillip T. Balazs, 202–395–4814

The purpose of this collection is to assist in determining and enforcing consumer law compliance in Federal Credit Unions. This collection is necessary due to the reduced staffing allocation for enforcement. Beginning date estimated January 1, 1982.

• Compliance Questionnaire
Other—see SF83
Businesses or other institutions
Federal credit unions
SIC: 614
Small businesses or organizations
Mortgage credit and thrift insurance: 3,000 responses; 9,000 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Phillip T. Balazs, 202–395–4814

The purpose of this collection is to assist in determining and enforcing consumer law compliance in Federal Credit Unions. This collection is necessary due to the reduced staffing allocation for enforcement. Beginning date estimated January 1, 1982.

• Compliance Questionnaire
3000, 9000
Other—see SF83
Businesses or other institutions
Federal credit unions
SIC: 614
Small businesses or organizations
Mortgage credit and thrift insurance: 3,000 responses; 9,000 hours; $0 Federal cost; 3,000 forms; not applicable under 3504(h)
Phillip T. Balazs, 202–395–4814

The purpose of this collection is to assist in determining and enforcing consumer law compliance in Federal Credit Unions. This collection is necessary due to the reduced staffing allocation for enforcement. Beginning date estimated January 1, 1982.

Extensions (burden change)

• Article IX Section 3
Bylaw IX3
On occasion, weekly, monthly
Businesses or other institutions
Federal credit union
SIC: 614
Small businesses or organizations
Mortgage credit and thrift insurance: 301,872 responses; 100,624 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Phillip T. Balazs, 202–395–4814

The Secretary of the Credit Committee must prepare and maintain complete records of all actions taken by it with 3 days of such action.

• Article VII Section 1
Bylaw VII1
On occasion
Businesses or other institutions
Federal credit unions
SIC: 614
Small businesses or organizations
Mortgage credit and thrift insurance: 12,600 responses; 1,500 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Phillip T. Balazs, 202–395–4814

Number of members of the Board of Directors must be on file at the credit union.

• 12 CFR 706 Conversion From Federal to State Credit Union
12 U.S.C. 1771
12 CFR 706
Nonrecurring
Businesses or other institutions
Credit unions
SIC: 614
Small businesses or organizations
Mortgage credit and thrift insurance: 29 responses; 40 hours; $0 Federal cost; 1 form; $400 Public cost; not applicable under 3504(h)
Phillip T. Balazs, 202–395–4814

This regulation requires FCU's desiring to convert to State-chartered status but with Federal insurance to submit an application to the regional office including financial reports, delinquent loan schedule, board of directors resolution, notice to members of special meeting on conversion, and evidence of agreement by State authority. Also required is the submission of the conversion proposal to the membership, and notification, accompanied by the Federal Charter.

• Article III Section 5(C)
Bylaw III5C
On occasion
Businesses or other institutions
Federal credit unions
SIC: 614
Small businesses or organizations
Mortgage credit and thrift insurance: 12,578 responses; 5,240 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Phillip T. Balazs, 202–395–4814

This bylaw requires that if a member requests to withdraw shares pledge as required security, the written approval of the credit committee or loan officer is required.

• Letter of Understanding and Agreement for Special Assistance
NCUA No. 4820
On occasion
Businesses or other institutions
Federally insured credit unions
SIC: 614
Small businesses or organizations
Mortgage credit and thrift insurance: 400 responses; 1,000 hours; $0 Federal cost; 1 form; $12,500 public cost; not applicable under 3504(h)
Phillip T. Balazs, 202–395–4814

Financial information to determine progress of federally insured credit unions receiving special assistance.

• Application for Insurance of Accounts of State-Chartered Credit Unions
NCUA 9600
Nonrecurring
Businesses or other institutions
State-chartered credit unions
SIC: 614
Small businesses or organizations
Mortgage credit and thrift insurance: 300 responses; 400 hours; $0 Federal cost; 1 form; $4,000 public cost; not applicable under 3504(h)
Phillip T. Balazs, 202–395–4814

Federal insurance of member accounts is optional for State-chartered credit unions. However, the FCU Act requires those opting for coverage to apply and meet standards. This is the application form.

Extensions (No Change)

- Certification (State Supervision Authority)

NCUA 9602
Nonrecurring
State or local governments
State-chartered credit unions
SIC: 614
Mortgage credit and thrift insurance: 50 responses; 17 hours; $0 Federal cost; 1 form; $170 public cost; not applicable under 3504(h)
Phillip T. Balazs, 202–395–4814

State chartered credit unions applying for Federal insurance of accounts route their applicants through their State supervisory agency. This form is simply a statement by the State supervisor that in his/her opinion the credit union qualifies for Federal insurance coverage.

- 702.2 Regular Reserve

12 CFR 701.38
On occasion
Businesses or other institutions
Federal credit unions
SIC: 614
Small businesses or organizations
Mortgage credit and thrift insurance: 20 responses; 40 hours; $0 Federal cost 1 form; $1,000 public cost; not applicable under 3504(h)
Phillip T. Balazs, 202–395–4814

The regulation requires an FCU to submit an application, in writing, to a regional office, including board authorization, statement of need, a copy of the FCU's current financial statement and a current delinquent loan list, when an FCU desires to decrease regular reserves or charge to regular reserve loss other than loan losses.

- 12 U.S.C. 1788 Special Assistance to Federally Insured Credit Unions

12 U.S.C. 1788
On occasion
Businesses or other institutions
Credit unions
SIC: 614
Small businesses or organizations
Mortgage credit and thrift insurance: 250 responses 125 hours; $0 Federal cost 1 form; $2,500 public cost; not applicable under 3504(h)
Phillip T. Balazs, 202–395–4814

One portion of this statutory provision directs that contracts between the NCUA Board and a credit union involving assets purchased by the Board must have been approved by the credit union's board of directors and reflected in its minutes. After execution of the agreement, it is an official credit union record.

- 708 Mergers of Credit Unions

On occasion
Businesses or other institutions
Credit unions
SIC: 614
Small businesses or organizations
Mortgage credit and thrift insurance: 300 responses; 300 hours; $0 Federal cost; 7 forms; not applicable under 3504(h)
Phillip T. Balazs, 202–395–4814

This regulation requires that credit unions desiring to merge prepare a merger plan which must be submitted to the NCUA regional director. The plan shall include (1) the Board resolution, (2) the proposed merger agreement, (3) notice of special meeting of members, (4) copy of proposed ballot for members; (5) any State authority required, and (6) application for insurance, where appropriate.

- 707 Conversion From State to Federal Credit Union

12 CFR 707, 4221, 4506, 4505
Nonrecurring
Businesses or other institutions
Credit unions
SIC: 614
Small businesses or organizations
Mortgage credit and thrift insurance: 20 responses; 20 hours; $0 Federal cost; 3 forms; $200 public cost; not applicable under 3504(h)
Phillip T. Balazs, 202–395–4814

This regulation requires State chartered credit unions desiring a Federal charter to submit to the appropriate NCUA regional director (1) evidence of notification and response of State authorities, (2) application for conversion, (3) application for Federal insurance, if needed, and (4) authorization for NCUA Board to examine. If the NCUA Board approves, the FCU must notify the NCUA regional office in writing that State requirements have been met.

- Instructions for Applying for Insurance of Accounts of Newly Chartered State Credit Unions

NCUA 9600–1
Nonrecurring
Businesses or other institutions
State credit unions
SIC: 614
Small businesses or organizations
Mortgage credit and thrift insurance: 75 responses; 38 hours; $0 Federal cost; 1 form; $3,800 public cost; not applicable under 3504(h)
Phillip T. Balazs, 202–395–4814

Application for Federal insurance of member accounts by newly chartered State credit unions. (Same as for NCUA 9600 except this form –1 is for newly chartered credit unions only.)

NUCLEAR REGULATORY COMMISSION

Agency Clearance Officer—Stephen Scott—301–492–8585

Extensions (Burden Change)

- Financial Protection Requirements and Indemnity Agreements

10 CFR 140
On occasion
Businesses or other institutions
NRC licensees
SIC: 493
Energy information, policy, and regulation: 91 responses; 820 hours; $12,800 Federal costs; 1 form; not applicable under 3504 (h)
Jefferson B. Hill, 202–395–7340

Provides the detailed specific information and recordkeeping responsibilities for financial protection and indeminity of licenses facilities.

SECURITIES AND EXCHANGE COMMISSION

Agency Clearance Officer—George G. Kundahl—202–272–2142

New

- Rules 10B–7 and 17A–2 and Schedule X–17A–1—Reports of Stabilizing Activities (17 CFR 240.10B–7, 240.17A–2 and 249.717)

1010
On occasion
Businesses or other institutions
Securities brokers and dealers
SIC: 621
Small businesses or organizations
Other advancement and regulation of commerce: 5,000 responses; 153,750 hours; $9,235 Federal cost; 1 form; $3,075,000 public cost; not applicable under 3504 (h)
Robert Veeder, 202–395–4814

Stabilizing activities are regulated pursuant to a mandate from Congress to ensure that they do not result in pegging or fixing the market price of a security. Rule 10B–7, adopted on July 5, 1955 and rule 17A–2 and form X–17A–1,, adopted on March 15, 1939, permit the Commission to regulate and monitor these potentially manipulative transactions.

- Rule 15C2–11 Initiation or Resumption of Quotations Without Specified Information (17 CFR 240.15C2–11)

On occasion
Businesses or other institutions
Securities brokers and dealers
SIC: 621
Small Businesses or organizations
Other advancement and regulation of commerce: 500 responses; 2,000 hours;

$0 Federal cost; 1 form; $40,000 public cost; not applicable under 3504 (h)
Robert Veeder, 202–395–4814

Rule 15C2–11, adopted on September 13, 1971, is intended to prevent broker-dealers from quoting securities traded in the over-the-counter market at artifically high prices. By requiring the retention of information concerning the issuer and its securities, the broker-dealer can more easily determine an appropriate price quotation.

• Tender offers by issuers Rule 13E–4 and Schedule 13E–4 (17 CFR 240.13E–4 and 13E–101)
1894
Other—see SF 83
Businesses or other institutions
Issuers that have a class of equity securities reg., etc.
SIC: multiple
Small businesses or organizations
Other advancement and regulation of commerce: 114 responses; 27,360 hours; $41,000 Federal cost; 1 form; $969,000 Public cost; not applicable under 3504(h)
Robert Veeder, 202–395–4814

Rule 13E–4 ensures that an issuer's shareholders receive the information necessary to make an informed investment decision when the issuer seeks to buy their stock by means of a tender offer. It requires that the issuer file information with the Commission on schedule 13E–4 and disseminate a fair and adequate summary thereof to its shareholders. The rule was adopted on August 16, 1979.

• Applications for review of final disciplinary santions, dentials of membership, participation or limitations of access to services imposed by self-regulatory organizations
On occasion
Businesses or other institutions
Certain mbrs of self-reg. organ. for which the Comm., etc.
SIC: 621
Other advancement and regulation of commerce: 13 responses; 234 hours; $57,200 Federal cost; 1 form; $9,360 Public cost; not applicable under 3504(h)
Robert Veeder, 202–395–4814

Rule 19D–3, adopted on July 8, 1977, prescribers the form and content of applications to the Commission for review of final disciplinary sanctions, denials of membership, participation or association with member or prohibitions or limitations of access to services imposed by self-regulatory organizations.

• Applications for stays of disciplinary sanctions or summary suspensions by a self-regulatory organization (17 CFR 240.19E–2)
On occasion
Businesses or other institutions
Certain securities brokers and dealers which are mbrs., etc.
SIC: 621
Other advancement and regulation of commerce: 9 responses; 27 hours; $410 Federal cost; 1 form; $810 Public cost; not applicable under 3504(h)
Robert Veeder, 202–395–4814

Rule 19D–2, adopted on July 8, 1977, prescribes the form and content of applications to the Commission for stays of final disciplinary santions and summary actions of self-regulatory organizations.

• Notices by self-regulatory organizations ("SRO's") of Final Disciplinary Actions, Denials, Bars or Limitation Respecting Membership, Association, Participation, or Access
On occasion
Businesses or other institutions
Self-regulatory organ. for which the Comm. is the appro., etc.
SIC: 623
Other advancement and regulation of commerce: 407 responses; 1,221 hours; $25,300 Federal cost; 1 form; $26,860 Public cost; not applicable under 3504(h)
Robert Veeder, 202–395–4814

Rule 19D–1 (b) through (i), orginally adopted on July 8, 1977, prescribes the form and content of notices to be filed by SRO's concerning all final disciplinary actions, denials, bars, or limitations respecting membership, association, participation, or access to services, and summary suspensions.

• Monitoring effect of Competitive Commission Rates (17 CFR 240.17A–20)
Quarterly
Businesses or other institutions
Certain securities brokers and dealers
SIC: 621
Other advancement and regulation of commerce: 28,000 responses; 14,000 hours; $9,300 Federal cost; 1 form; $280,000 Public cost; not applicable under 3504(h)
Robert Veeder, 202–395–4814

Rule 17A–20, originally adopted on December 17, 1975, and most recently amended on April 22, 1977, requires that broker-dealers report revenues and expenses and related financial and other information for each calender quarter on form X–17A–5.

Recordkeeping rule for National Securities Exchanges and National Securities Associations (17 CFR 240.17A–1)
On occasion
Businesses or other institutions
All Nat'l Sec. Exch. & Nat'l Securities Associations
SIC: 623
Other advancement and regulation of commerce: 30 responses; 1,500 hours; $0 Federal cost; $45, 000 public cost; 1 form; not applicable under 3504(h)
Robert Veeder, 202–395–4814

Rule 17A–1, adopted on May 17, 1974, requires that every National Securities Exchange and National Securities Association keep on file for a period of five years, two years in an accessible place, all documents which it makes or receives respecting its self-regulatory activities and that all such documents be made available for examination by the Commission.

• Rule 30A–3, Annual Report for Totally Held Registered Investment Company Subsidiary of Registered Investment Company
Annually
Businesses or other institutions
Total-held subsid. of mgmt. investmt. cos., etc.
SIC: 999
Small businesses or organizations
Other advancement and regulation of commerce: 78 responses; 39 hours; $192 Federal cost; $567 public cost; 1 form; not applicable under 3504(h)
Robert Veeder, 202–395–4814

To permit respondents which are totally-held subsidiaries of registered management investment companies that must file an annual report on form N–1R to file a statement in the form prescribed by paragraph (b) of this rule in lieu of an annual report on form N–1R as would otherwise be required by 17 CFR 270.30A–1.

• Form N–5R, Annual Report Form of Small Business Investment Companies
SEC 1465
Annually
Businesses or other institutions
Small business investment companies
SIC: 999
Small businesses or organizations
Other advancement and regulation of commerce: 28 responses; 448 hours; $247 Federal cost; $22,400 public cost; 1 form; not applicable under 3504(h)
Robert Veeder, 202–395–4814

Registered investment companies must report annually to the Commission pursuant to the Investment Company Act of 1940. If the company has securities registered under the Securities Act of 1933 or the Securities Exchange Act of 1934 ("34 Act"), it must report annually pursuant to the 34 Act. The information is necessary to the

Commission in carrying out its regulatory function.

- 18F–1 Exemption from Certain Requirements of 18(F)(1) of the Investment Company Act of 1940 form N–18F–1 notification of election

1847
Nonrecurring
Businesses or other institutions
Open-end management investment companies
SIC: 999
Small businesses or organizations
Other advancement and regulation of commerce: 18 responses; 18 hours; $40 Federal cost; $540 public cost; 1 form; not applicable under 3504(h)
Robert Veeder, 202–395–4814

Rule 18F–1 provides a means by which open-end management investment companies that may redeem their securities in kind can elect to commit to make limited cash redemptions without violating Investment Company Act section 18(F)(1). The rule allows compliance with State and foreign laws requiring redemptions in cash.

- Rule 12B–1 Under the Investment Company Act of 1940, Distribution of shares by registered open-end management investment company

Quarterly, annually
Businesses or other institutions
Open-end management investment companies
SIC: 999
Small businesses or organizations
Other advancement and regulation of commerce: 16 responses; 1,392 hours; $128 Federal cost; $97,440 public cost; 1 form; not applicable under 3504(h)
Robert Veeder, 202–395–4814

Rule 12B–1 requires most registered open-end management investment companies which intend to distribute their own securities without the assistance of an underwriter to adopt a distribution plan and to provide the directors with quarterly reports of expenditures pursuant to that plan.

- Rule 270.17G–1(G)—Bonding of Officers and Employees of Registered Management Investment Companies

On occasion
Businesses or other institutions
Mgmt invest., cos. regis. under the Invest. Co. Act of 1940
SIC: 999
Other advancement and regulation of commerce: 950 responses; 950 hours; $1.00 Federal cost; $1,900,000 public cost; 1 form; not applicable under 3504(h)
Robert Veeder, 202–395–4814

Section 17(G) of the Investment Company Act of 1940 authorizes the Commission to require that certain officers and employees of registered management investment companies be bonded by insurance companies against larceny and embezzlement. Rule 17G–1(G) sets certain filing and reporting requirements in connection with maintaining such insurance coverage.

- Rule 17A–7 Under the Investment Company Act of 1940–Exemption of certain purchase or sale transactions between an investment company and certain affiliated persons thereof

On occasion
Businesses or other institutions
Registered investment companies
SIC: 999
Small businesses or organizations
Other advancement and regulation of commerce: 500 responses; 250 hours; $10,000 Federal cost; $12,000 public cost; 1 form; not applicable under 3504(h)
Robert Veeder, 202–395–4814

Rule 17A–7 requires various records to be kept in connection with certain purchase and sale transactions between registered investment companies and certain of their affiliates. The recordkeeping requirement of rule 17A–7 facilitates the Commission's monitoring of transactions executed pursuant to the rule.

- Form 2–MD, Annual Report for Investment Trusts Having Securities Registered on Forms N–1, N–2, or S–6

1841
Annually
Businesses or other institutions
Unincorp. invest. trusts of the fixed or restrict., etc.
SIC: 999
Small businesses or organizations
Other advancement and regulation of commerce: 3 responses; 60 hours; $60 Federal cost; $18,750 public cost; 1 form; not applicable under 3504(h)
Robert Veeder, 202–395–4814

Annual reports to the Commission are necessary so that the Commission, investors, and current shareholders can monitor the activities of registered investment companies.

- Rule 19A–1—Written Statement to Accompany Dividend Payments by Management Companies

Annually
Businesses or other institutions
Registered investment companies
SIC: 999
Small businesses or organizations
Other advancement and regulation of commerce: 400 responses; 100 hours; $0 Federal cost; $5,000 public cost; 1 form; not applicable under 3504(h)
Robert Veeder, 202–395–4814

The written statement required by rule 19A–1 is necessary to afford security holders adequate disclosure of the sources from which dividend payments are made.

- Rule 17E–1, Brokerage Transactions on a Securities Exchange

Quarterly
Businesses or other institutions
Invest. cos. regis. under the Invest. Co. Act of 1940, etc.
SIC: 999
Other advancement and regulation of commerce: 2,000 responses; 5,000 hours; $0 Federal cost; 1 form; $250,000 public cost; not applicable under 3504 (h)
Robert Veeder, 202–395–4814

Rule 17E–1 is designed to ensure that affiliated brokers receive no greater compensation than would be received in an arm's length transaction. Its recordkeeping requirements afford the commissioin a means by which to ascertain whether registrants and their affiliated brokers are complying with the rule.

- Rule 30B1–2, Quarterly Report for Totally Held Registered Investment Company Subsidiary of Registered Investment Company

Quarterly
Businesses or other institutions
Totally-held subsidiaries of management invest. cos., etc.
SIC: 999
Small businesses or organizations
Other advancement and regulation of commerce: 292 responses; 146 hours; $719 Federal cost; 1 form; $1,576 public cost; not applicable under 3504 (h)
Robert Veeder, 202–395–4814

Rule 30B1–2 Permits respondents which are totally-held subsidiaries of registered management investment companies that must file quarterly reports on form N–1Q to file a statement in the form prescribed by paragraph (B) of the rule in lieu of quarterly reports on form N–1Q.

- Rule 30A–1, Annual Reports

Annually
Businesses or other institutions
Registered investment companies
SIC: 999
Small businesses or organizations
Other advancement and regulation of commerce: 1 response; 0 hours; $0 Federal cost; 1 form; not applicable under 3504 (h)
Robert Veeder, 202–395–4814

The filing of investment company annual reports with the commission is necessary in order for the commission,

prospective investors and shareholders to effectively monitor the activities of registered companies.

- Rule 30B2-1, Filing of Copies of Reports to Stockholders

Annually
Businesses or other institutions
Registered investment companies
SIC: 999
Small businesses or organizations
Other advancement and regulation of commerce: 1 response; 1 hour; $0 Federal cost; 1 form; $1 public cost; not applicable under 3504 (h)
Robert Veeder, 202-395-4814

Rule 30B2-1 requires the filing with the commission of four copies of every periodic or interim report transmitted by or on behalf of any registered investment company to its shareholders and essential to the commission's ability to effectively monitor the activities of such companies without undue time and expense.

Arnold Strasser,

Chief, Reports Management Branch (Acting).

[FR Doc. 81-32549 Filed 11-10-81; 8:45 am]

BILLING CODE 3110-01-M

POSTAL RATE COMMISSION

Postal Services Bulk Mail Center (BMC), Richmond, Calif.; Visit

November 6, 1981.

Notice is hereby given that Commissioner Simeon M. Bright will be visiting the Postal Service's Bulk Mail Center (BMC) located in Richmond, CA, on Friday, November 20, for the purpose of acquiring general knowledge of BMC operations.

A report of the vivit will be on file in the Commission's docket room.

David F. Harris,

Secretary.

[FR Doc. 81-32694 Filed 11-10-81; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

Applications; Pacific Stock Exchange, Inc., For Unlisted Trading Privileges in Certain Securities; Hearing

November 5, 1981

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f-1 thereunder, for unlisted trading privileges in the common stock of:

Sun Company, Inc., Common Stock, $1 Par Value (File No. 7-6072)

This security is listed and registered on one or more other national securities exchange and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 30, 1981 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-32604 Filed 11-10-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-18239; File No. SR-BSE-81-10]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Relating to an Assessment Against Members

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on November 2, 1981, the Boston Stock Exchange, Inc., filed with the Securities and Exchange Commission the proposed change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Effective November 2, 1981, to place an assessment on all members in the amount of $7,000 per member. However, for members whose firm's average net capital for the preceding six months was less than $50,000, the assessment will be $4,000. For members associated with firms with two or more memberships as corporate assets, the assessments will be fixed at $7,000 for the first seat, $3,000 for the second seat, and at $1,000 each for the third and any additional membership. An individual member who holds more than one seat in his name will only be assessed for one seat.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places set forth in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and basis for, the Proposed Rule Change

(a) On October 22, 1981, the Board of Governors of the Exchange voted to implement immediately settlement and depository interfaces with National Securities Clearing Corp. (NSCC) and the Depository Trust Company (DTC) in New York and with any other entity selected by participants. In order to prepare for the future growth, to provide some cushion for past and anticipated losses, and to adopt more sophisticated technology in the trading and settlement of securities, the Board of Governors determined that an infusion of additional funds was necessary. The Board also felt that when working capital was built to a sufficient level to warrant it, consideration would be given to returning to members some or all of this assessment proportional to the amount paid.

(b) The basis under the Act for the proposed rule change is section 6(b)(4) requiring the rules of an exchange to provide for the equitable allocation of reasonable dues, fees, and other charges among its members.

(B) Self-Regulatory Organization's Statement on Burden on Competition

No burden on competition is perceived by adoption of the proposed Rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Securities Exchange Act of 1934.

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol St., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed change that are filed with the Commission, and all written communications relating to the proposed change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

All submissions should refer to the file number in the caption above and should be submitted on or before December 3, 1981.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 4, 1981.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-32607 Filed 11-10-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-18238; File No. SR-CBOE-81-23]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Relating to GNMA Transaction Fees

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on November 3, 1981, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of the Proposed Rule Change

Pursuant to Exchange Rule 2.22, the Exchange sets the following transaction fees for GNMA options.

	Per side
Nonmember	$0.75
Firm proprietary accounts	.25
Other members	.03
Trade match	.03
Floor brokerage	.03

II. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The purpose of this rule change is to establish fees for GNMA option transactions in order to offset Exchange costs. The basis under the Securities Exchange Act of 1934 (the Act) for the rule change is section 6(b)(4), which requires that reasonable fees be allocated equitably.

III. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will not have an impact on competition.

IV. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

V. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

VI. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concernig the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, NW, Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before December 3, 1981.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

November 4, 1981.

[FR Doc. 81-32606 Filed 11-10-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-18237; File No. SR-NYSE-81-25]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Rate Increases Affecting Floor Charges and Transaction Charge

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on November 3, 1981, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items, I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change.

The Exchange is instituting rate increases affecting certain Floor charges and Transaction charges.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has

prepared summaries, set forth in sections (A), (B), and (C), of the most significant aspects of such statements.

(A) The purpose of this change is to offset in part the increased costs of supplying services provided by the Exchange.

These costs include manpower, systems, and utitlities. Projected usage of these services before the price increase is insufficient to cover these related costs. The Basis under the Act for the proposed rule change is section 6(b)(4) permitting the rules of an Exchange to provide for equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its services.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The fee changes are not expected to create a burden on competition.

(C) Self-Regulatory Organization's Statement of Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exhange has not received any comments on this proposed change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the securities Exchange Act of 1934 and subparagraph (c) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such action if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purpose of the Securities Exchange Act of 1934.

IV. Solictation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before December 3, 1981.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 4, 1981.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81–32803 Filed 11–10–81; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–18240; File No. SR–NYSE–81–22]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Guidelines for Floor Conduct and Safety

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 30, 1981, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposal consists of revisions to the Exchange's Guidelines for Floor Conduct and Safety to increase the penalties that may be imposed for "Floor decorum" violations on the trading Floor.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purposes of, and Statutory Basis for, the Proposed Rule Change

The purpose of the Exchange's Guidelines for Floor Conduct and Safety, which were adopted in 1977, is to ensure that the behavior of individuals on the Floor of the Exchange contributes to the efficient and undisrupted conduct of business, and does not jeopardize the safety or welfare of others. To emphazise its concern that proper behavior be maintained on the trading Floor, the Exchange has determined to increase the on-the-spot penalties that may be imposed for violations of the Guidelines for Floor Conduct and Safety.

Cash penalties (in the case of members) for the first offense for smoking, unauthorized use of member facilities, general conduct violations, unauthorized solicitations or sales of goods or services, or running have been increased from $100 to $250, and the suspension period (i.e., suspension of an employee's ticket that allows entry to the Floor) has been increased from 1 day to 3 days. Penalties for the second offense in these categories of behavior have been increased from $250 to $500, and the suspension period has been increased from 3 days to 5 days.

Penalties for the first offense for possession of an alcoholic beverage or for damage to or abuse of trading Floor facilities have been increased from $250 to $500, and the suspension period has been increased from 3 days to 5 days. Penalties for the second offense in these categories of behavior have been increased from $500 to $1,000, and the suspension period has been increased from 7 days to 10 days.

The revisions also delete from the Guidelines the prohibition against allowing liquids at the trading posts or booths.

The revisions to the Guidelines for Floor Conduct and Safety do not affect the rights of members and Floor clerical employees of members and member organizations to appeal, pursuant to existing Exchange rules and procedures, any penalties that are imposed.

The revisions to the Guidelines for Floor Conduct and Safety are intended to promote the efficient, undisrupted conduct of business on the trading Floor. This, in turn, will facilitate transactions in securities, perfect the mechanism of a free and open market, and protect investors and the public interest, as called for by Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

Since the revisions to the Guidelines for Floor Conduct and Safety are concerned solely with regulating behavior on the trading Floor, they will not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has neither solicited nor received written comments on its revisions to the Guidelines for Floor Conduct and Safety.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 522, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the abovementioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before December 3, 1981.

For the Commission by the Division of Market Regulation pursuant to delegated authority.

Dated: November 4, 1981.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-32905 Filed 11-10-81; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. IP80–8; Notice 2]

Spring Valley Dodge, Inc.; Grant of Petition for Inconsequential Noncompliance

Spring Valley Dodge, Inc. of Spring Valley, New York has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.217, Motor Vehicle Safety Standard No. 217, *Bus Window Retention and Release*, on the basis that it is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on June 5, 1980, and an opportunity afforded for comment (45 FR 37939).

Paragraph S5.3.3 of Standard No. 217 requires that when the emergency door release mechanism is not in the closed position and the vehicle ignition is in the "on" position, "a continuous warning sound shall be audible at the driver's seating position and in the vicinity of the emergency door having the unclosed mechanism." As the agency stated in the preamble to the final rule (41 FR 3871) this means that there must be an audible alarm not only at the driver's position but at each emergency door. In its compliance testing of a 1977 model 17 passenger school bus (CIR 1984) completed by Spring Valley Dodge upon a Dodge van chassis, NHTSA discovered that the bus was equipped with only one alarm, positioned at the driver's seat. In response to inquiry, Spring Valley acknowledged the noncompliance and stated that it existed on approximately 600 buses manufactured between April 1, 1977, and August 1, 1979. The company petitioned for an inconsequentiality determination on the basis that the single warning signal is sufficient for a small bus such as it manufactures.

One notice was received in response to the petition, from the California Highway Patrol which recommended that it be granted "providing [the audible device] can be heard by both the driver and by persons using the doorway."

Although the Spring Valley conversions are clearly noncompliant with Standard No. 217 there is some merit in its contention that multiple alarms may be redundant in relatively small buses, i.e., those with a gross vehicle weight rating of 10,000 pounds or less. Wayne Corporation has submitted a petition for rulemaking that would reduce requirements to one audible device in buses of this size and its petition has been granted, indicating tentative agency support of its petition. In view of this agency action, petitioner has met its burden of persuasion, and it is hereby found that the noncompliance by Spring Valley Dodge herein described is inconsequential as it relates to motor vehicle safety. Accordingly, its petition is granted.

The enginer and lawyer primarily responsible for this notice are Bob Williams and Taylor Vinson respectively.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: November 5, 1981.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 81-32500 Filed 11-10-81; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. IP80–5; Notice 2]

Wayne Corp.; Decision on Petition for Determination of Inconsequentiality

This notice grants the petition by Wayne Corp. of Richmond, Indiana, to be exempted from the notification and remedy requirments of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.217, Motor Vehicle Safety Standard No. 217, *Bus Window Retention and Release*. The basis of the petition was that the noncompliance was inconsequential as it related to motor vehicle safety.

Notice of the petition was published in the **Federal Register** on April 10, 1980 (45 FR 24753) and an opportunity afforded for comment.

Paragraph S 5.3.3. of Standard No. 217 requires that when the emergency door release mechanism is not in the closed position and the vehicle ignition is in the "on" position, "a continuous warning sound shall be audible at the driver's seating position and in the vicinity of the emergency door having the unclosed mechanism." As the agency stated in the preamble to the final rule (41 FR 3871) this means that there must be an audible alarm not only at the driver's position but at each emergency door. In its

compliance testing of a 1978 model Wayne 17 passenger school bus (CIR 2133). NHTSA discovered that the bus was equipped with only one alarm, positioned at the driver's seat. In response to inquiry, Wayne acknowledged the noncompliance and stated that it existed on almost 8,000 buses manufactured between April 1, 1977 and February 15, 1979, specifically, on over 5,700 Lifeguard school bus bodies, and on over 2,100 Busette and Transette school bus bodies. The company has petitioned for an inconsequentiality determination on the basis that "the single warning signal is audible at both locations."

Two comments were received on the petition, one from the California Highway Patrol opposing "granting isolated deviations from the standard", and the other, recommending approval, which combined the comments of the Truck Body and Equipment Association (TBEA) and the School Bus Manufacturers Institute (SBMI). It commented that although the preamble indicated the necessity of multiple alarms, the standard itself was ambiguous and had been interpreted by six manufacturers as an audibility requirment.

The NHTSA does not believe that the requirement of audibility "at the driver's seating position and in the vicinity of the emergency door having the unclosed mechanism is ambiguous, in view of the clear statement in the preamble that audible warnings are required "not only at the driver's position but at each emergency door". Even if there were an ambiguity, a prudent manufacturer would, it is believed, reach the conclusion that alarms were required at each exit, basing "audibility" on the assumption that high noise levels exist in fully loaded buses. Nevertheless, the agency conducted rought comparison tests of three conforming Wayne buses, and those of other manufacturers, and concluded that the warning signals provided by Wayne, when tested separately, were audible at each requisite location, a conclusion not reached in all tests of systems of other manufacturers. Wayne's conclusion is therefore deemed to have merit, and has persuaded the agency to determine that the noncompliance with Standard No. 217 herein described is inconsequential as it relates to motor vehicle safety. The petition by Wayne Corp., is hereby granted.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: November 5, 1981.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 81-32559 Filed 11-10-81; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Customs Service

[067430]

Receipt of American Manufacturer's Petition To Classify Household Glassware

AGENCY: Customs Service, Treasury.

ACTION: Notice of receipt of American manufacturer's petition.

SUMMARY: The Customs Service has received a petition from an American manufacturer of household glassware. The petitioner contends that certain imported glassware used in the household should be classified as "other" household glassware, rather than as "specially tempered" glassware.

DATES: Interested parties may comment on this petition, and comments (preferably in triplicate) must be received on or before December 14, 1981.

ADDRESS: Comments may be addressed to the Commissioner of Customs, Attention: Regulations Control and Disclosure Law Division, Room 2426, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Thomas J. Lindmeier, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5727).

SUPPLEMENTARY INFORMATION:

Background

A petition has been filed under section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), by an American manufacturer of glassware used in the household. The petitioner contends that certain imported glassware which has been classified under the provision for household glassware which is "specially tempered," in item 546.38, Tariff Schedules of the United States (TSUS), is not "specially tempered," and thus is properly classifiable under the provisions for other household glassware, according to value, in items 546.52 through 546.68, TSUS.

Customs Internal Advice 76/136 dated February 23, 1977, describes the test used by the Customs Service to determine if glassware is "specially tempered," as follows:

> If the item is set on a solid surface and then broken by striking the inside center bottom or heel with a sharp center punch, the degree and uniformity of stress can frequently be determined. Strike the punch with a hammer, using blows of gradually increasing severity until breakage occurs.
>
> An annealed (item) should * * * normally break into a small number of large pieces, say ten or less (frequently as low as three to five).
>
> A tempered disk will break into a larger number of pieces, the number of which depends upon stress magnitude and distribution. If highly stressed, the glass will "dice," i.e., break into a large number of small, rather uniformly shaped pieces.

Accordingly, the petitioner's principal contention is that "*all* specially tempered glass 'disintegrates into small rounded-edge pieces,' when broken." (italics supplied) As the imported household glassware in question allegedly "does not consistently break into a large number of small uniformly shaped pieces with rounded edges," petitioner contends that the subject glassware "obviqusly has not received the additional, protective processing necessary to qualify it as 'specially tempered' " and thus is not classifiable under item 546.38, TSUS.

Comments

Pursuant to § 175.21(a), Customs Regulations (19 CFR 175.21(a)), the Customs Service invites written comments on this petition from interested parties.

The American manufacturer's petition, as well as all comments received in response to this notice, will be available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), between the hours of 9:00 a.m. and 4:30 p.m. on normal business days, at the Regulations Control and Disclosure Law Division, Headquarters, U.S. Customs Service, Room 2426, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Authority

This notice is published in accordance with § 175.21(a), Customs Regulations (19 CFR 175.21(a)).

Marilyn G. Morrison,

Acting Director, Office of Regulations and Rulings.

[FR Doc. 81-32622 Filed 11-10-81; 8:45 am]

BILLING CODE 4820-02-M

Office of the Secretary

[Supplement to Dept. Circular—Public Debt Series—No. 35-81]

Bonds of 2006-2011; Interest Rate

November 6, 1981.

The Secretary announced on November 5, 1981, that the interest rate on the bonds designated Bonds of 2006-2011, described in Department Circular—Public Debt Series—No. 35-81, dated October 29, 1981, will be 14 percent. Interest on the bonds will be payable at the rate of 14 percent per annum.

Paul H. Taylor,

Fiscal Assistant Secretary.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the departmental procedures applicable to such regulations.

[FR Doc. 81-32504 Filed 11-10-81; 8:45]

BILLING CODE 4810-40-M

[Supplement to Dept. Circular Public Debt Series—No. 34-81]

Treasury Notes of Series C-1991; Interest Rate

November 5, 1981.

The Secretary announced on November 4, 1981, that the interest rate on the notes designated Series C-1991, described in Department Circular—Public Debt Series—No. 34-81 dated October 29, 1981, will be 14¼ percent. Interest on the notes will be payable at the rate of 14¼ percent per annum.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the departmental procedures applicable to such regulations.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 81-32503 Filed 11-10-81; 8:45 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 218
Thursday, November 12, 1981

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL COMMUNICATIONS COMMISSION

FCC To Hold a Closed Commission Meeting, Thursday, November 12, 1981

The Federal Communications Commission will hold a Closed Meeting on the subjects listed below on Thursday, November 12, 1981, following the Open Meeting which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

Hearing—1—Appeal from an ALJ's interlocutory ruling in the Aurora, Illinois comparative television proceeding. (BC Docket Nos. 80-432, 80-433).

Hearing—2—Petition for Extraordinary Relief in the Santa Fe, New Mexico new VHF-TV proceeding (BC Docket Nos. 80-436, 80-437).

Hearing—3—Exceptions and related pleadings with respect to the Initial Decision of ALJ John C. Conlin, denying the applications of Friendly Broadcasting Company for renewal of its licenses for AM broadcast station WJMO and FM station WLYT, Cleveland Heights, Ohio (Docket No. 19412).

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen P. Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: November 5, 1981.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-1603-81 Filed 11-9-81; 10:38 am]

BILLING CODE 6712-01-M

2

FEDERAL COMMUNICATIONS COMMISSION

FCC to Hold Open Commission Meeting, Thursday, November 12, 1981

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, November 12, 1981, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

General—1—*Title:* Amendment of Subpart G of Part 15 of the Commission's Rules and Regulations regarding Auditory Training Devices. *Summary:* The Commission is considering the issuance of a Notice of Proposed Rule Making to expand the scope of operation of Auditory Training Devices. Presently the Commission's Rules restrict the operation of these devices to institutional education programs for auricular instruction of persons with speech or hearing impairments.

General—2—*Title:* Amendment to Parts 0 and 1 of the Commission's Rules to revise delegation of authority to the Review Board. *Summary:* The Commission will decide whether to revise the Review Board's authority and rules to expedite the adjudicatory processes.

Private Radio—1—*Title:* Report and Order concerning proposed amendment of the Commission's Rules and Regulations to permit "talk-around" in the private land mobile radio services on shared channels above 806 MHz. *Summary:* The FCC will consider whether to adopt proposed revisions to its rules which would permit "talk-around" in the private land mobile radio services on shared conventional and trunked channels above 806 MHz.

Private Radio—2—*Title:* Notice of Proposed Rule Making concerning amendment of Part 90 of the Commission's Rules and Regulations to substitute 20 miles in place of 40 dBu as the measure of service area specified in Sections 90.367(c) and 90.371(b). *Summary:* The FCC will consider whether to propose an amendment of Sections 90.367(c) and 90.371(b) of its rules governing private land mobile radio systems in the 806-821 MHz and 851-866 MHz bands concerning conventional and trunked Specialized Mobile Radio Systems which would substitute 20 miles in place of the 40 dBu field intensity contour as the measure of service area specified in Sections 90.367(c) and 90.371(b).

Private Radio—3—*Title:* Rewrite of Part 97, Amateur Radio Service Rules. *Summary:* The Commission will consider whether or not to terminate the proceeding and close out PR Docket 80-729.

Common Carrier—1—*Title:* World Press Freedom Committee's petition for notice of inquiry. *Summary:* The Commission examines the need for a notice of inquiry to determine whether the rates charged by the international record carriers to press entities curtail the free flow of news.

Cable Television—1—"Petition for Special Relief" (CSR-1963) filed June 19, 1981, by KDUB-TV, Inc., licensee of Station KDUB-TV (ABC, Channel 40), Dubuque, Iowa. KDUB-TV, Inc., licensee of Station KDUB-TV (ABC, Channel 40), Dubuque, Iowa, requests a waiver of Section 76.92(g) of the Commission's Rules via-a-vis the network programming of Station KCRG-TV (ABC, Channel 9), Cedar Rapids, Iowa, carried on area cable systems. This relief has been denied previously by the Commission. *KDUB-TV, Inc.* (Dubuque, Iowa), FCC 80-624, 83 FCC 2d 153 (1980), *recon. denied*, FCC 81-62, 85 FCC 2d 572 (1981).

Renewal—1—*Title:* Petitions to Deny the Renewal Applications of Storz Broadcasting Co. for Station KXOK, and WIL Music, Inc., for Stations WIL and WIL-FM, all of St. Louis, Missouri, filed by the St. Louis Broadcast Coalition. *Summary:* The Commission considers the St. Louis Broadcast Coalition's petitions to deny the license renewal applications of three St. Louis stations, WIL, WIL-FM and KXOK, based upon alleged employment discrimination.

Aural—1—*Title:* Application of Noalmark Broadcasting Corporation (KZOR) for FM Construction Permit. *Summary:* Noalmark Broadcasting Corporation is applying for a change in station location from Humble City, New Mexico to Hobbs, New Mexico.

Television—1—*Title:* Application (BPTTV-6096) of Washoe County School District for authority to construct a new television translator station to serve Reno, Nevada and petition to deny filed by Teleprompter Corporation. *Summary:* The Commission will consider the merits of the petition to deny and will determine whether a grant of applicant's proposals to provide Reno with its first noncommercial educational television service by rebroadcasting the signal of Station KVIE-TV Sacramento, California, is in the public interest.

Television—2—*Title:* Application of Capital Communications, Inc. for authority to construct new television translator at Orangeburg (BPTTV-800311IC) and at Newberry (BPTTV-800312IB), South Carolina and petition to deny. *Summary:* The Commission will consider the merits of the petitions to deny and determine whether grant of applicant's proposals will serve the public interest.

Broadcast—1—*Title:* Notice of Proposed Rule Making to amend Subparts D, E, F and H of Part 74 of the Rules to reflect actual policy and procedure. *Summary:* The Commission proposes a number of editorial or substantive changes to Part 74. The substantive changes would eliminate a

number of notification requirements, provide for the use of intracity relay stations under Subpart F and preclude the use of Subpart E facilities for the transmission of TV sound. Other changes are proposed which are substantive only to the extent that they formalize existing policy.

Broadcast—2—*Title:* Amendment of § 73.658(k) of the Commission's Rules, the Prime Time Access Rule. RM–3951. *Summary:* The Commission will consider a proposal submitted by Chronicle Broadcasting Corporation to allow unlimited use of "off-network" programming during prime time.

Broadcasting—3—*Title:* Amendment of Part 74, Subpart F, Television Auxiliary Broadcast Stations. *Summary:* The Commission will consider a petition for ruling making (RM–3893) seeking to permit the shared use of broadcast auxiliary facilities with other broadcast and nonbroadcast entities. The Commission will also consider a proposal to establish new licensing policies for television auxiliary broadcast stations.

Broadcast—4—*Title:* Elimination of the pre-Notice of Proposed Rule Making procedure in FM and television assignment proceedings. *Summary:* The Commission will consider whether to eliminate the pre-Notice of Proposed Rule Making stage which includes the issuance of a Public Notice of the petition and a comment and reply comment period.

Complaints and Compliance—1—*Title:* Application for Review of the Broadcast Bureau's ruling denying the complaint of Jan B. Tucker against television station KNXT, Los Angeles, California. *Summary:* The Commission has before it for review a Broadcast Bureau ruling that a 30-minute news interview program did not lose its Section 315 exemption from equal opportunities requests because two candidates argued among themselves for only two minutes without directly responding to the interviewers.

Complaints and Compliance—2—*Title:* Application for Review, filed July 6, 1981, of the Broadcast Bureau's June 10, 1981 ruling denying the complaint of Leo J. Coveney against television station WBZ–TV, Boston, Massachusetts. *Subject:* Although Mr. Coveney concedes in his Application that he has not established a violation of either the personal attack rule or the Commission's policy against news distortion, he claims that the Commission's "precedents or policies" have a chilling effect on the public's right to receive truthful information from broadcast licensees. The Commission will consider Mr. Coveney's arguments and whether to grant or deny his Application for Review.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: November 5, 1981.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S–1694–81 Filed 11–9–81; 10:38 am]

BILLING CODE 6712–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, November 16, 1981, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Applications for consent to merge and establish branches:

Merchants and Planters Bank, Hazlehurst, Mississippi, for consent to merge, under its charter and title, with Bank of Wesson, Wesson, Mississippi, and to establish the sole office of Bank of Wesson as a branch of the resultant bank.

Albany Savings Bank, Albany, New York, for consent to merge, under its charter and title, with Newburgh Savings Bank, Newburgh, New York, and for consent to establish the four existing offices of Newburgh Savings Bank as branches of the resultant mutual savings bank.

Recommendation regarding First Pennsylvania Bank N.A., Bala-Cynwyd, Pennsylvania, and First Pennsylvania Corporation, Philadelphia, Pennsylvania.

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,937–SR—American Bank & Trust Company, New York, New York

Memorandum re: Recommendation Regarding Corporation Purchase Liquidation.

Memorandum and Resolution re: Delegation of authority to the Director of the Division of Liquidation to make initial appointments of liquidators.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Director, Division of Accounting and Corporate Services, regarding the Corporation's securities portfolio inventory as of September 30, 1981.

Reports of the Director, Division of Liquidation:

Memorandum re: Reports Required Under Delegated Authority: Sale of Real or Personal Property

Memorandum re: Reports Required Under Delegated Authority: Sale of Lots

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FCIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, 15 (202) 389–4425.

Dated: November 9, 1981.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1696–81 Filed 11–9–81; 12:10 pm]

BILLING CODE 6714–01–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, November 16, 1981, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b (c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Requests for relief from adjustment for violations of Regulation Z:

Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8) and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the dicussion agenda without further public notice if it

becomes likely that substantive discussion of those matters will occur at the meeting.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Application for Federal deposit insurance:
Summit Bank, a proposed new bank, to be located at 2969 Broadway, Oakland, California.

Application for consent to establish a branch:
Hudson City Savings Bank, Jersey City, New Jersey, for consent to establish a branch within Chester Mall, Routes 24 and 206, Borough of Chester, New Jersey.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removal, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: November 9, 1981.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1687-81 Filed 11-9-81; 12:10 pm]

BILLING CODE 6714-01-M

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FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 46 FR 55475, November 9, 1981.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., November 12, 1981.

CHANGE IN THE MEETING: The meeting time has been changed to 9 a.m.

Kenneth F. Plumb,

Secretary.

[S-1685-81 Filed 11-9-81; 11:40 am]

BILLING CODE 6717-01-M

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FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: 10 a.m., Monday, November 16, 1980.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: November 6, 1981.

James McAfee,

Assistant Secretary of the Board.

[S-1692-81 Filed 11-6-81; 4:33 pm]

BILLING CODE 6210-01-M

federal register

Thursday
November 12, 1981

Part II

Department of Energy

Office of Conservation and Renewable Energy

Residential Conservation Service Program

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 456

[Docket No. CAS-RM-81-130]

Residential Conservation Service program

AGENCY: Office of Conservation and Renewable Energy, Energy.

ACTION: Proposed amendments to existing rules and public hearing, withdrawal of certain proposed rules, and proposed withdrawal of another proposed rule.

SUMMARY: The Department of Energy (DOE or Department) is proposing amendments to the Residential Conservation Service (RCS) Program regulations (10 CFR Part 456). The RCS Program is mandated by Federal legislation and requires large natural gas and electric utilities to perform energy audits of their customers' homes upon request and to provide certain other services to their residential customers.

The Department believes that largely as a result of rising energy prices and tax incentives, private firms, utilities, and other nongovernmental institutions now have sufficient incentive to provide the services required by customers to conserve energy and increase the utilization of renewable energy. For this reason, the Department does not believe there is any longer a need for the Federal Government to mandate the provision of the services required by the RCS program.

Until the RCS Program is discontinued or further amended by Federal law, however, the Department is obligated to continue to implement and enforce the program in accordance with provisions of the current legislation. In doing so, the Department is proposing to administer the program under regulations modified to be as simple and flexible as is consistent with the existing program legislation and sound management practices.

Today's notice also withdraws two proposed rules in their entirety and part of a third proposed rule, all of which are related to the RCS Program, and proposes the withdrawal of a proposed rulemaking relating to the use of urea-formaldehyde foam insulation under the program

DATES: Written comments on this proposed rule (Docket No. CAS-RM 81-130) must be received by January 11, 1982, 4:30 p.m., e.s.t. in order to insure their consideration.

Public hearings will be held in three cities, beginning at 9:00 a.m. local time on the dates and at the locations specified below: December 7 and 8, 1981 in Chicago, Illinois; December 10 and 11, 1981 in San Francisco, California; and December 14 and 15, 1981 in Washington, D.C. Requests to speak must be received no later than 5:00 p.m. on: November 30, 1981 for the Chicago hearing; November 30, 1981 for the San Francisco hearing; and November 30, 1981 for the Washington, D.C. hearing.

ADDRESSES: Public hearings will be held at the following locations: Chicago: Room 1220, Dirksen Federal Office Building, 219 South Dearborn. San Francisco: 19th Floor, Ceremonial Courtroom, U.S. Court House, 450 Golden Gate Avenue. Washington, D.C.: Auditorium, Room GE-086, Forrestal Building, 1000 Independence Avenue, S.W.

All written comments and requests to speak should be addressed to Office of Conservation and Renewable Energy, Office of Hearings and Dockets, Mail Station 6B-025, Department of Energy, 1000 Independence Avenue, S.W. Washington, D.C. 20585 (202) 252-9319. A public briefing will also be held on November 20, 1981 at 9:00 a.m. at the Auditorium of the Forrestal Building, Room GE-086, 1000 Independence Ave., S.W. Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Mark Friedrichs or Dan Quigley, Building Services Division, Office of Conservation and Renewable Energy, Department of Energy, 1000 Independence Avenue, S.W., Room 8F-955, Mail Stop CE-115, Washington, D.C. 20585, (202) 252-1650

Catherine Edgerton or Daniel Ruge, Office of General Counsel, Department of Energy, 1000 Independence Avenue, S.W., Room 6B-144, Washington, D.C. 20585, (202) 252-9519

SUPPLEMENTARY INFORMATION:

I. Introduction.
II. Amendments to the Residential Conservation ServProgram (section-by-section analysis).
III. Regulatory Impact Analysis and Urban Community Impact Analysis.
IV. Regulatory Flexibility Act.
V. Environmental Impact Statement.
VI. Comment and Hearing Procedures.

I. Introduction

Today's proposal is part of the Administration's efforts to reduce Federal regulations which are unduly burdensome for individuals, business, industries, or others in the private sector. By Executive Order 12291 of February 17, 1981 (46 FR 13493, February 19, 1981), the President ordered that existing regulations be reviewed in accordance with the Executive Order as one aspect of the Administration's overall effort to improve Federal regulation. Section 3(i) of the Executive Order provides that, subject to the direction of the Presidential Task Force on Regulatory Relief, the Director of the Office of Management and Budget (OMB) may designate currently effective regulations for review under the Executive Order and establish schedules for review and analysis under the Executive Order. In accordance with 83(i), OMB has identified the RCS program for review. The Department has undertaken the review, which today's proposal reflects.

The Residential Conservation Service (RCS) Program was established by Part I of Title II of the National Energy Conservation Policy Act (NECPA), Pub. L. No. 95-619, November 9, 1978, as amended by Subtitle B of Title V of the energy Security Act (ESA), Pub. L. No. 96-294, June 30, 1980, 42 U.S.C. 8211 *et seq.* Implementation of the program was begun November 7, 1979, with the issuance of a final rule (the Nov. 7th rule).[1] The RCS Program, as mandated by statute, requires large electric and natural gas utilities to inform their residential customers of the benefits of certain energy conservation and renewable resource measures, to offer their customers energy audits of their homes, and to offer to arrange for the installation and financing of such measures. The legislation provides for substantial and detailed State involvement, under State Plans approved by the Department. The legislation furthermore requires implementation of a Federal Standby Program where States are unwilling or

[1] On November 7, 1979, the Department published a final rule (44 FR 64602) to implement the RCS Program, pursuant to Part I of Title II of the National Energy Conservation Policy Act (NECPA), Pub. L. No. 95-619, November 9, 1978. Since that time the Department has made final rules establishing additional standards (45 FR 83432, September 24, 1980 and 45 FR 63788, September 25, 1980) and incorporating technical corrections to the November 7, 1979 final rule (46 FR 1616, January 6, 1981) and has issued an interpretative rule on the changes made by the Energy Security Act (ESA) (Pub. L. No. 96-294, June 30, 1980) to the RCS program (45 FR 53434, August 11, 1980). Additionally, the Department has proposed amendments to implement the Federal Standby Program (46 FR 2522, January 9, 1981), to incorporate the changes made by the Energy Security ACt (45 FR 66960, October 8, 1980 and 46 FR 4482, January 16, 1961), and to make changes to the interim final standards for urea-formaldehyde foam insulation or, in the alternative, ban the use of this insulation within the RCS program (46 FR 8996, January 27, 1981).

unable to carry out their role under the law.

As a result of its efforts to eliminate burdensome and nonessential Federal regulatory programs, the Administration believes that the RCS Program is no longer needed. Motivated by rising energy prices and tax incentives, homeowners are accelerating their conservation efforts. Because of this increased consumer demand and the economic benefits resulting from cost-effective energy investments, private firms, utilities and other institutions have substantial incentive to provide the information and services required by consumers to conserve and to utilize renewable energy resources. Accordingly, the Department has proposed that the Congress appropriate no funds for the further implementation or enforcement of the RCS Program beginning in fiscal year 1982 (October 1, 1981). Until the program is legally discontinued or amended, however, the Department is obligated to execute the existing law. To carry out this responsibility, the Department believes the existing program regulations should be revised to make them as simple and flexible as possible, consistent with existing law.

Today's proposed amendments fall into three categories: 1) proposed amendments that eliminate regulatory requirements contained in the current RCS rules, thereby reducing the regulatory burden on affected parties; 2) where statutory constraints preclude the elimination of specific regulatory requirements altogether, proposed amendments to reduce and relax those requirements to minimize the burden on affected parties; and 3) proposed amendments that reflect the minimum additional regulatory requirements mandated by the ESA.

As an example of the first category, post-installation inspection requirements, as well as inspector training requirements, have been eliminated. Many of the most burdensome requirements in the RCS Program, however, are specifically mandated by statute, such as the requirement to offer each eligible customer an energy audit at a cost not to exceed $15. These requirements, because they are specified in the statute, cannot be eliminated by DOE. In other areas, the statute imposes a requirement but gives the Secretary discretion for interpretation and implementation. An example is the specifying of which program measures must be included in each utility's RCS Program. With respect to program measures, the Department is proposing the establishment of a new method of determining the list of program measures that must be addressed in home energy audits. The proposed method would not require the audit to address any measure that had a simple payback of more than 7 years. This approach is designed to limit the list of required measures to those which are most cost effective and, as a result, most likely to be seriously considered by consumers. Adoption of this approach is also expected to reduce the cost of program audits significantly.

Consistent with our goal to reduce burdens and increase flexibility, we wish to assure States and utilities that nothing in these proposed rules, if made final, would *require* changes to any approved RCS plan or utility program. That is, if an RCS plan has already been approved, the elimination of requirements and increased flexibility provided in this proposed rule need not affect that plan. If, however, a State or nonregulated utility wishes to amend its plan in light of this new rule, when made final, it may do so. We are not, by changing the RCS Program rules, generally requiring States or utilities to change their plans or programs, but we are providing the opportunity to do so. Furthermore, a State or utility that wishes to change its program prior to issuance of a final rule is given additional time to do so by an extension of the period for submission of a Temporary Program. See discussion under II.B. 3., Temporary Programs.

In conclusion, DOE believes that the amendments to the RCS Program rules proposed today will reduce the regulatory burden imposed upon States, utilities, industry participants and residential customers without significantly affecting the achievement of the program's statutory objectives. Requirements in the existing program that were not specifically mandated by the statute have been eliminated. Where the statutory constraints of NECPA, as amended by ESA, preclude the elimination of certain requirements, DOE has tried to provide the maximum flexibility possible to satisfy the statutory requirements. DOE seeks specific comments on how to further attain these goals.

In reviewing the existing RCS rulemaking, DOE has determined that the proposed Federal Standby Plan (46 FR 2522, January 9, 1981) should be withdrawn at this time. The Federal Standby Plan as currently proposed is inconsistent with the policies articulated in E.O. 12291 and these proposed amendments to the RCS Program. DOE will develop a revised Federal Standby Plan consistent with the rules made final in this proceeding. Furthermore, because this issuance proposes changes in the RCS Program required by the ESA, DOE is withdrawing the proposed ESA amendments published in the **Federal Register** on October 8, 1980 (45 FR 66960). For the same reason, DOE is also withdrawing the proposal issued with the Commercial and Apartment Conservation Service (CACS) Program proposed rules which pertain to the expansion of the RCS Program to include residential buildings with five or more units which are neither centrally heated nor cooled (46 FR 4482, January 16, 1981). Finally, in today's issuance, DOE is proposing the withdrawal of the proposal making changes to the interim final standards for urea-formaldehyde foam insulation or, in the alternative, banning the use of this insulation within the RCS Program (46 FR 8996, January 27, 1981).

The following is a section-by-section analysis of the amendments DOE proposes to make to the RCS program rules. DOE seeks specific comments on its effort to develop proposed rules which are as simple and unburdensome as the enabling law will permit. Following the preamble discussion, the Department is publishing the text to the program regulations as they are proposed to be amended. Many provisions are proposed to remain unchanged. Reviewers are invited to comment on these provisions, as well as the provisions which have been changed in this notice.

II. Amendments to the Residential Conservation Service Program (section-by-section analysis)

A. Subpart A—General Provisions and Definitions

1. *Petitions Concerning Conflicts of Law—§ 456.102.* DOE proposes to change the provisions regarding petitions concerning conflicts of law by deleting the requirements that such petitions be required by a State Plan, a Nonregulated Utility Plan or a Federal Standby Plan. *See also* § 456.303(b) of the November 7, 1979, final rule and Section II. C. 1. (Procedures for Enforcing Compliance with the State Plan) of today's preamble discussing proposed amendments to § 456.303.

In accordance with the proposed changes to § 456.303, a utility prohibited by a State or local law or regulation from taking an action required by NECPA or that is required or permitted by a State or local law or regulation to take any action prohibited by NECPA may now, on a voluntary basis, petition the Assistant Secretary for Conservation

and Renewable Energy (Assistant Secretary) for a determination regarding the conflict.

2. *Appeals and Other Relief—§ 456.103.* DOE proposes to amend § 456.103 by adding a statement to clarify the availability of relief from the application of these rules through the DOE procedures in Subpart R of 10 CFR Part 205. Subpart R provides relief to those seeking special redress or other relief from the DOE regulations contained in 10 CFR Chapter II.

3. *Definitions—§ 456.105. Class B Audit*—DOE proposes to delete references to Class B audits (audits in which the estimates of costs and savings associated with the installation of energy conservation and renewable resource measures based on information collected by eligible customers about their residential buildings and sent to the utility for analysis) since NECPA does not directly mention Class B audits. See preamble discussion under II. C. 4. (Program Announcement).

Eligible Customer—An eligible customer means a person who *both* owns or occupies a residential building *and* receives a fuel bill from a covered utility or participating home heating supplier for fuel used in the residential building. The word "both" has been inserted in the definition to clarify an earlier potential misconception that an eligible customer might mean a person who owns or occupies a residential building *or* receives a fuel bill.

Energy Conserving Practices—DOE proposes to delete the list and definitions for the term "energy conserving practices" from this rule as their specific identification is not required by section 215(a)(4) of NECPA. Therefore, DOE is proposing to give States and nonregulated utilities the flexibility to develop their own lists of energy conservation techniques for inclusion in the program announcement.[2]

Governor—In order to simplify the language of this proposed rule, the term "Governor" now includes a State agency specifically designated by State law to carry out any function under the RCS program. NECPA provides that either the Governor, his deisgnee, or such State agency may submit an RCS plan.

Measure Warranties—DOE proposes that the definition of "measure warranties" reflect those changes required by ESA. Section 542 of the ESA amended section 210(11) of NECPA by removing the requirement that measures supplied or installed under the RCS program be warranted by manufacturers to meet a specified level of performance over a period of not less than three years. In its place, ESA requires that manufacturers, suppliers, and installation contractors supply one-year warranties for measures manufactured, supplied or installed under the program. ESA also requires that suppliers and installers agree to provide these warranties in order to be included on supplier and installer lists distributed by utilities and participating home heating suppliers.

Program Measures—DOE proposes to revise the definition of the term "program measures" to include those energy conservation or renewable resource measures having a simple payback of 7 years or less, as identified in Appendix I. In the alternative, a State may, in its State Plan, exclude any program measure which, based on State-specific data, it determines has a payback of more than 7 years using State data in the formula in proposed § 456.315(b). If a State chooses to exclude any measure using this approach, the State must also include in its State plan substantiating data for such exclusion. See also preamble discussion under II.C.5.b., Requirements for Program Audit.

Residential Building—As required by section 541 of the ESA, the definition of the term "residential building" includes not only those buildings that contain at least one but not more than four dwelling units, but also, after January 1, 1982, any building that contains five or more dwelling units that are neither centrally heated nor cooled. Originally, this proposed expanded definition was included in the January 16, 1981, proposed rule dealing primarily with the Commercial and Apartment Conservation Service (CACS). The CACS Program would provide energy audit services to smalll commercial buildings and centrally heated or cooled multifamily buildings of five or more units (44 FR 4482, January 16, 1981). In today's issuance, DOE withdraws only that part of the January 16, 1981 proposal which relates to this expanded definition of residential building.

In today's reproposal of the expanded RCS, the Department considered comments received during the comment period on the January 16, 1981, proposed rule. Most commenters expressed concern over DOE's approach which would have allowed eligible customers in buildings of five or more units to choose between an RCS Program audit or a CACS audit. A CACS audit, as previously proposed by DOE, differs from an RCS audit in the measures being audited for and the specificity of the cost and savings that result from the audit. In addition, the CACS audit (as proposed) would emphasize the thermal performance of the whole buidling, while merely sampling the efficiency of individual units.

Commenters believed this would complicate the program, be more burdensome to utilities, and violate Congressional intent to separate centrally-space conditioned units from individually-space conditioned units. In light of the comments received, in this proposal the choice has been removed. Many commenters complained about the cost of providing individual audits for each unit of a large multifamily residential building, believing that the

[2] The list of energy conserving practices from the Nov. 7th rule are included here for States, utilities, and other commenters to consider and use, if desired. They are:

(1) *Furnace Efficiency Maintenance and Adjustments*, which means cleaning and combustion efficiency adjustments of gas or oil furnaces, periodic cleaning or replacement of air filters on forced-air heating or cooling systems, lowering the bonnet or plenum thermostats to 80°F on a gas or oil forced-air furnace, and turning off the pilot light on a gas furnace during the summer;

(2) *Nighttime Temperature Setback*, which means manually lowering the thermostat control setting for the furnace during the heating season to a maximum of 55°F during sleeping hours;

(3) *Reducing Thermostat Settings in Winter*, means limiting the maximum thermostat control setting for the furnace to no higher than 68°F during the heating season;

(4) *Raising Thermostat Settings in Summer*, which means setting the thermostat control for an air conditioner to no lower than 78°F or higher during the cooling season;

(5) *Water Flow Reduction in Showers and Faucets*, which means placing a device in a shower head or faucet to limit the maximum flow to three gallons per minute, or replacing existing shower heads or faucets with those having built-in provisions for limiting the maximum flow to three gallons per minute;

(6) *Reducing Hot Water Temperatures*, which means manually setting back the water heater thermostat setting to 120°F, and reducing the use of heated water for clothes washing;

(7) *Reducing Energy Use When a Home is Unoccupied*, which means reducing the thermostat setting to 55°F when a home is empty for four hours or longer in the heating season, turning an air conditioner off in the cooling season when no one is home, and turning a water heater off when a home is vacant for two days or longer;

(8) *Plugging Leaks in Attics, Basements, and Fireplaces*, which means (i) installing scrap insulation or other pliable materials in gaps around pipers, ducts, fans, or other items which enter the attic or basement from a heated space, (ii) installing fireproof materials to plug any holes around any damper in a fireplace and (iii) adding insulation to an attic or basement door;

(9) *Sealing Leaks in Pipes and Ducts*, which means installing caulking in any leak in a heating or cooling duct, tightening or plugging any leaking joints in hot water or steam pipes, and replacement of washers in leaking water valves;

(10) *Efficient Use of Shading*, which means using shades or drapes (i) to block sunlight from entering a building in the cooling season, (ii) to allow sunlight to enter during the heating season, and (iii) to cover windows tightly at night during the heating season.

costs would far exceed the benefits of auditing because of the limitations on how much an individual resident could do to reduce his or her energy use. One example provided in comments indicated that if each resident in a 200 unit building requested an audit, the auditing cost would be $10,000 (at $50 per audit), where an audit of the whole building (including a sampling of units) would cost less than $1,000. The requirement to offer audits and other RCS services to individual eligible customers is taken directly from the ESA amendments to the NECPA. Consequently, the proposed rule reflects this requirement. However, DOE does not believe that Congress intended utilities to be limited to making dwelling unit by dwelling unit inspections in residential buildings containing five or move units. States are therefore free to propose alternative audit requirements in their RCS plans for this class or residential buildings. States could permit utilities to conduct one whole building audit which would include a sampling of individual units. When an audit is requested by an individual unit customer, the utility could provide the results of the whole building audit or of that portion of a sample unit audit applicable to the individual's unit. This approach would appear to avoid the necessity of unit-by-unit audits in every case, yet provide useful information specific to the building to each eligible customer in the building requesting an audit. In order to perform whole building audits, a State may need to develop auditing procedures and add appropriate measures to these audits, such as outdoor lighting. DOE feels that the benefit of reduced auditing costs resulting from the State's use of whole-building audits, makes this voluntary effort on the State's part worthwhile.

State Measure—DOE proposes to delete this term. See the preamble discussion at II.C.16., State Measures.

Useful Life—Because this term is no longer used in the term "measure warranties" as a means of measuring effectiveness, DOE proposes to delete it.

4. *Utility and Home Heating Supplier Liability.* DOE proposes to delete § 456.106 of the November 7th rule, which reflected NECPA Conference Report language suggesting that a covered utility or home heating supplier should not be held liable, by virtue of its role in performing arranging services, in any cause of action between a customer and a lender or contractor. This provision is not specifically mandated by NECPA, nor has it contributed to State Plan implementation or flexibility. DOE seeks comments on the proposed deletion of this section.

B. Subpart B—Preparation, Submission and Approval of State Plans and Temporary Programs

1. *Procedures for Submission and Approval of State Plans—§§ 456.202, 456.203, and 456.204.* DOE proposes to simplify the procedures for preparation and submission of State Plans. DOE proposes to delete the initial submission requirements contained in § 456.202 of the November 7th rule, since such requirements are not specifically required by NECPA. A Governor may submit a proposed plan to DOE following the statutorily required notice, opportunity for public comment and public hearing. DOE proposes to delete its criteria, as set forth in § 456.204 of the November 7th rule, for establishing notice. States will have the flexibility to determine for themselves what procedures are necessary to meet the notice and public hearing requirement of section 213 of NECPA. In addition, DOE proposes deleting all requirements for coordination among the States or between the Governor and the State regulatory agency contained in § 456.203 of the November 7th rule. Such coordination, while potentially helpful for development and implementation of the State plan, is not specifically required by NECPA. The proposed rule, in § 456.204, requires submission of only three copies of the Plan instead of the ten copies required in § 456.205 of the November 7th rule.

Also deleted is the requirement that the Governor certify to DOE utility compliance with the State Plan upon its approval, and the requirement that the State inform the utilities of the contents and the requirements of the State Plan.

Finally, DOE proposes to eliminate the requirements in § 456.205 of the November 7th rule that resubmission of, and amendment to, the State Plan follow the same procedures as the original plan.

2. *Tennessee Valley Authority (TVA)—§ 456.206.* Consistent with the simplified procedures in § 456.104 of today's proposed rule, DOE proposes to eliminate the TVA preliminary submission and coordination requirements in § 456.207 of the November 7th rule.

3. *Temporary Programs—§ 456.207.* The public should note the significance of section 549(c) of the ESA which extends the period for submission of a Temporary Program. A State or utility may now, or anytime prior to 180 days from the effective date of this rule, elect to submit a Temporary Program which is designed to meet the criteria for approval of such plans contained in § 456.208 of the November 7th rule. Such a program may be used to exempt a utility temporarily from one or more of the following statutory provisions: the program announcement requirements; the auditing, arranging, and list distribution requirements; the accounting and payment of costs requirements; the requirements regarding new customers; the provisions regarding termination of utility service; the requirement regarding repayment of loans; and the prohibition on supply and installation of residential energy conservation measures. A temporary exemption may not be granted for activities which are the State's responsibility (e.g., listing and post-installation inspections). Anyone interested in a Temporary Program should read § 456.208 of the November 7th rule for details on the procedures for submission and the requirements which must be satisfied for approval of a Temporary Program. Although DOE is required to make a case-by-case determination on each proposed program, we believe that a proposal based on this proposed rule would be apt to satisfy the statutory requirements that a Temporary Program would be likely to result in the installation of program measures in at least as many residential buildings as would have been installed had such utility not been granted a Temporary Program exemption.

Because the remainder of the requirements in proposed § 456.207 are required by NECPA, DOE is proposing only to eliminate the specific periodic review and reporting requirements for Temporary Programs. The latter requirement is covered by proposed § 456.316, the general reporting and recordkeeping requirement for the RCS Program.

C. Subpart C—Content of State Plans

1. *Procedures for Enforcing Compliance with the State Plan—§ 456.303.* Under this proposed rule, as in the Nov. 7th rule, a State would be responsible for enforcing compliance with the State RCS plan, including consumer protection provisions. The plan would have to describe the enforcement procedures to be followed, but the scope of the description of the procedures would be left to State discretion. DOE believes that this proposal will provide a State with the flexibility to select the most appropriate enforcement mechanism. DOE has also deleted the requirement that State Plans contain procedures concerning conflicts of laws because it is not required by

NECPA (see discussion under II.A.1., Petitions Concerning Conflicts of Law). DOE solicits comments on this approach.

2. *State Monitoring of Utility Supply, Installation and Financing—§ 456.304.* This section is proposed to reflect the ESA changes to NECPA requiring that a State Plan contain provisions to assure that utility supply, installation and financing programs comply with certain statutory requirements, set forth in § 456.304.

DOE proposes to delete the requirement that utilities conducting such activities be listed in the same manner as other suppliers, installers, and lenders, and to delete the requirement that State Plans describe the content and treatment of State or locally authorized utility supply, installation or financing in relation to the RCS Program, since neither is statutorily required. However the statutory requirement to conduct such activities in a nondiscriminatory and competitive manner remains.

3. *Scope of Benefits.* DOE proposes to delete § 456.305 of the Nov. 7th rule, which requires that State specify in their plans what actions by eligible customers will entitle them to receive program benefits and that these benefits become available at least when the utility arranges services for a customer. The proposed rule would allow a State to determine when such benefits become available and how best to inform the customers of what their benefits are.

4. *Program Announcement—§ 456.305.* To reduce the regulatory requirements of the RCS Program, DOE would require that the program announcement contain only the minimum informational provisions required under section 215 of NECPA.

DOE is proposing to delete the specific list of energy conserving practices developed by DOE for the Nov. 7th rule (see discussion under II.A.3., Definitions). However, utilities are still required by NECPA to include suggestions of energy conservation techniques as part of the program announcement. A State also could include in the program announcement information regarding measures added independently by the State.

DOE proposes to delete any specific requirements that estimates of energy savings be consistent from utility to utility. However, DOE anticipates that States, utilities and home heating suppliers will ensure that these estimates are expressed in a way that is understandable to customers and that offers consistent information. DOE requests comments on anticipated results if cost savings information is no longer specifically required by our rule to be consistent.

DOE proposes to delete the broad prohibition against including any advertising as part of the program announcement, which prohibition was contained in § 456.306(a)(10) of the Nov. 7th rule. Instead, DOE proposed a requirement that any such advertising not adversely affect competition. DOE seeks comment on whether this general guidance will be adequate to avoid abuse.

DOE has deleted the prohibition against discussion Class B audits in the program announcement. However, section 215(b)(1)(A) of NECPA requires a utility to offer to inspect the residential building (either directly or through one or more contractors). Therefore, Class B audits may not be offered in lieu of onsite audits as part of the RCS Program.

5. *Requirements for Program Audits—§ 456.306.* a. *Content of Program Audits.* To reduce the regulatory burden placed on State and utilities by RCS and to reduce the cost of the program audit, DOE proposes to require only those provisions specifically mandated by NECPA. DOE proposes that State Plans describe the energy audit services to be offered by covered utilities and participating home heating suppliers. At a minimum, a customer must be offered an audit which addresses all applicable program measures. Procedures must also be included in the State Plan to assure the validity of the program audit.

DOE proposes to delete the requirement that an audit be provided to an eligible customer within a reasonable time after the customer's request. DOE believes that, based upon good business practices, utilities and home heating suppliers will offer prompt response to all audit requests.

Since NECPA does not specifically require that the auditor determine which of the energy conserving practices would save energy in the residence, that the auditor explain such energy conserving practices to the eligible customers, that auditors emphasize the importance of these practices, or that they recommend these paractices be performed before installation of any program measure, these requirements are proposed for deletion. DOE requests comments as to whether deleting these requirements would significantly affect the costs or benefits of the audits.

b. *For Which Measures Must an Audit be Conducted.* DOE estimates that the audit is the single most expensive RCS Program element. By reducing the requirements for an audit, DOE proposes to significantly reduce program costs. The largest savings would result from a change in the criteria for determining which measures must be audited so that only those measures which have the greatest potential to maximize the savings to the eligible customer would be included.

As a result, DOE is proposing that a State need only require audits for those measures defined in § 456.105(d) and (w) as energy conservation and renewable resource measures which have a payback period of 7 years or less based on an economic formula prescribed by DOE for use in a prototypical house, as discussed below and in Appendix II, in that State. Appendix I to this rule sets forth charts identifying, by State, such program measures.

The prototypical house upon which the RCS measures table is based is a model of the ranch style home developed in the National Bureau of Standards document NBSIR 77–1309. This house is based upon a National Association of Home Builders (NAHB) survey of 84,000 homes built by 1600 builders selected randomly from the builder members of NAHB. The home is typical of ranch styles built in 1974. However, some characteristics of the prototypical house have been slightly modified to provide a means for calculating all RCS measures. For example, DOE has reduced the assumed insulation levels from the NAHB survey 1974) level of R–19 ceiling and R–11 walls to R–7 insulation in the ceiling and no insulation in the walls as a basis for the measures table. The assumed furnace and hot water heater space has been enlarged to accommodate oil furnaces and storage for solar domestic hot water systems. The prototypical house and the assumptions are being chosen as representative of typical homes in the nation which could benefit from RCS measures. DOE believes that the prototypical home should reflect features which are commonly found in a substantial portion of all existing homes. In this way, DOE hopes to ensure that the Program include those measures which could have widespread benefits without requiring the inclusion of those measures which would have only very limited cost-effective applications. Public comment is solicited on the assumptions regarding the prototypical home which were used in determining the program measures identified in Appendix I. The DOE assumptions about the home are listed in Appendix II to this rule.

The program measures identified in Appendix I may have payback periods which differ from State to State due to variations in climatic conditions, utility rates, and State tax credits. DOE

believes, however, that the basic approach taken in determining which measures are program measures should be the same in each State. Therefore, DOE has developed an economic formula to be used in making such determinations.

While DOE recognizes that no economic formula could satisfy everyone's concerns, we have proposed a formula which we believe combines simplicity with the significant economic factors. Specifically, DOE is proposing that any residential energy conservation and renewable resource measure is a program measure which, if installed in the prototypical house, as described above and in Appendix II, has a maximum 7-year simple payback in that State.

The payback is calculated in the following manner:

$$P = \frac{F - T}{S}, \text{ where}$$

P=Simple payback
S=First year energy savings (in dollars)
F=Installed first cost
T=Federal and State tax credits

The proposed economic formula estimates simple payback by taking into account regional energy prices (provided by DOE's Energy Information Administration), national material and installation costs, Federal and State income tax credits, heating degree days, cooling degree days and winter and summer wind factors. For purposes of calculation, air conditioning energy was used if there were any cooling degree days or summer wind factors present in a particular region. The first year energy savings (S) were determined by applying the DOE Model Audit calculation procedures. The formula also does not take into consideration the interaction between measures.

The installed first cost (F) for each measure was based on the cost of resident purchase and installation (identified in Appendix I with an "R"), the cost of contractor installation (identified in Appendix I with a "C"), or both (identified in Appendix I with the notation "RC"). DOE applies only resident—installed costs to those measures which are not likely to be installed by a contractor: caulking, weatherstripping, and clock thermostats. Contractor-installed costs only were used in determining cost-effectiveness for those items which are not likely to be installed by the resident or where building codes or regulations and safety consideration were likely to preclude homeowner installation. These measures are: wall insulation, storm or thermal windows and doors, replacement heating systems and oil burners, vent dampers, IID's replacement central air conditioners, active solar space heating, combined active solar space heating and hot water heating systems, solar domestic water heating systems, replacement solar pool heaters and wind energy devices. DOE applied both resident-installed costs and contractor-installed costs to those measures which are commonly installed by either a homeowner or a contractor: ceiling and floor insulation, water heater insulation, duct and pipe insulation, and reflective or absorptive films. In some instances, a measure qualified as a program measure only if installed by a resident because of the generally higher cost of contractor installation. For example, duct insulation in zone 2 in Arizona only fell within the 7-year payback period when installed by a resident, but not if installed by a contractor. In other instances, the measure did not qualify as a program measure using either contractor-or resident-installed cost (e.g., wind energy devices). DOE solicits comments on whether its assumptions regarding resident and contractor installation of measures accurately reflects common practice in the marketplace. Certain measures did not fall within the 7-year payback period in any climate zone or for any fuel type and are therefore no longer considered program measures (active solar space heating systems, combined active solar space heating and hot water systems, and IID's).

DOE proposes to reserve decision on all passive solar measures. In the Nov. 7th rule, DOE specified that passive solar space heating and cooling systems were measures for all building categories in all climate zones. Passive solar measures were defined by DOE to include direct gain glazing systems, indirect gain systems, solaria/sunspace systems and window heat gain or loss retardants. The necessary research to determine the payback periods for these measures has not been completed at this time. Consequently, DOE does not believe there is an adequate basis at the present time to include passive solar measures in the RCS Program. Public comment is solicited on the cost-effectiveness and applicability of each of the passive solar measures when applied to existing homes, as these factors vary by climate and category of fuel use. The submission of actual installed retrofit cost and savings data in support of such comments would be helpful. DOE will continue its efforts to develop accurate cost and savings estimates for these measures, and will propose their inclusion where appropriate as program measures under the RCS Program at a future date. If a final rule is adopted in this proceeding with passive solar measures reserved, the reserving of such measures would not have the effect of requiring their inclusion as program measures. Until such time as passive solar measures are included by a final rulemaking, such measures will not be considered program measures. It should be noted, however, that States have the flexibility to determine whether passive solar measures are applicable within a State and to include them as part of the audit where they deem appropriate.

The methodology proposed herein differs from the approach used in the Nov. 7th rule in a number of respects. The determinations of conservation program measures in the Nov. 7th rule were based primarily on HUD miminum property standards (MPS), except for certain measures which were determined to be appropriate based on public comments on the original proposed RCS regulations (e.g., caulking, weatherstripping).

The renewable resource measures were identified by a 20-year life cycle cost analysis, as opposed to the seven year simple payback period proposed herein. Additionally, the renewables were analyzed on the Nov. 7th rule for a single family ranch home of 1500 square feet, a two-story attached townhouse of 1500 square feet, and a mobile home. In this proposed rule, program measures were analyzed for one prototypical house. The data used for determining cost-effectiveness of renewable resource program measures also differs somewhat from that used in the Nov. 7th rule. Whereas the Nov. 7th rule utilized 1980 projected fuel prices, this proposed rule is based on estimated current fuel prices, which are considerably higher than those that were projected. In 1979, the Wind Energy Resource Atlas prepared by Pacific Northwest Laboratory contained wind data only for the northwestern United States, whereas that data is not available for the entire country. Finally, the Nov. 7th rule only took into account Federal tax credits (not State credits), and the Federal tax credits for renewables were significantly smaller at that time than the tax credits available now.

In addition to the deletion of many program measures, DOE is proposing several other changes to the Table of Program Measures in Appendix I. The table has been revised to clearly designate whether a conservation measure is a program measure if installed on a do-it-yourself basis (R), by a contractor (C), or both (RC). Thus, an audit with respect to an "R" measure

would only have to address the cost of purchasing the material; with respect to a "C" measure, only the cost of a contractor-installed measure. Only with respect to an "RC" measure would the audit have to address both the cost of purchase and the cost of contractor installation. This proposal would, in some cases, therefore, reduce the burden on utilities of auditing both for cost of purchasing a program measure and for the cost of installing that same measure as currently required by the Nov. 7th rule. DOE is also proposing to delete the use of building types (i.e. single-family detached, attached buildings, and mobile homes) in favor of one prototypical house.

In the Nov. 7th rule, DOE identified a specific R-value for each climatic zone and principal type of space heating fuel for ceiling and floor insulation. In this proposed rule, however, DOE identifies the program measures of ceiling insulation and floor insulation at a single R-value, as discussed below.

The proposed measures table represents the addition of R–11 ceiling insulation to the existing R–7 ceiling insulation assumed for the prototypical house. The assumption of an existing R–7 ceiling insulation level was based on insulation manufacturer's data which indicated that the majority of existing attics which have not been re-insulated having an existing R-rule falling between R–5 and R–9. Therefore, DOE selected R–7 insulation as the assumed R-level of ceiling insulation for the prototypical house. DOE chose the addition of R–11 insulation because R–11 is a standard batt size which, when added to the existing R–7 insulation assumed for the prototypical house, would result in a 7-year payback in most instances. In today's rule DOE is proposing to establish an insulation level of R–18 or more as the program measure for ceiling insulation. The effect of this is to require an audit for this program measure if an eligible customer's residence has less than R–18 ceiling insulation.

The proposed measure table represents R–11 floor insulation added to an uninsulated floor assumed for the prototypical house. DOE selected R–11 floor insulation as the program measure because it is the smallest standard batt size commonly availabile. While DOE recognizes that this would result in program measures with low suggested R-values in many States, this proposal is intended to give States the flexibility to determine for themselves the appropriate levels of recommended insulation. DOE solicits comments on this proposal, as well as on whether to retain the approach used in the Nov. 7th rule, which was to require specific R-values that varied by climate zone and categories of fuel type.

In the Nov. 7th rule, DOE did not specify the type of wind energy device that was determined to be a program measure. However, in an effort to identify in this proposal only those program measures which would be most cost-effective, DOE applied the proposed economic formula to the two most widely employed types of wind energy devices. The first type is a 2 kilowatt non-utility interconnected direct current (DC) wind machine (identified in Appendix I with an "X"). The second type is a 2 kilowatt interconnected alternating current (AC) wind machine (identified in Appendix I with a "y"). Neither of these types utilized electrical storage. The result of applying the proposed economic formulas to such wind energy devices is the deletion of wind energy devices as a program measure for many geographic areas. In most of the remaining geographic areas where wind energy devices would remain as a program measures, the DC wind machine was found to be the only cost-effective wind energy device. However in a few geographic areas both the AC and DC systems would be cost-effective. Because it is not DOE's intention to create additional burdens by this rule, the latter finding causes some concern. Therefore, although DOE is proposing to include, where appropriate, both types of wind systems as a program measure, it does not intend to make this change final if comments received demonstrate that the benefits of auditing for both types of systems are outweighed by any additional burdens associated with this requirement. DOE solicits comments on the impact that this change would have on existing programs.

Several measures would, under the previously discussed proposed methodology, become program measures for particular climate zones in States, although they are not program measures in those areas under the Nov. 7th rule. These include floor insulation in many areas, storm and thermal windows and doors in several areas and wind energy devices in only a few areas. DOE attributes these additions resulting from use of the proposed methodology to several factors. First, the proposed methodology uses recent energy prices, which in most cases reflect a significant escalation over the figures used for the Nov. 7th rule. Secondly, the effect of State tax credits is accounted for in the economic formula for the first time and the Federal tax credits now available are greater than those used in the Nov. 7th rule. Lastly, changes have been made to the characteristics of the prototypical house which would make the use of certain measures more cost-effective.

In light of DOE';s intention to reduce rather than increase the burden of the RCS Program on States and utilities, DOE is *not* proposing to include these additional measures in the RCS Program. DOE believes that the cost to States and utilities of amending RCS Plans, retraining auditors, and reprinting program announcements may outweigh the benefit of providing audits for such measures. DOE solicits comments on this approach. DOE has bracketed in Appendix I those new program measures that the proposed methodology would add.

Some States may not wish to use the regional energy prices or national material and installation costs used by DOE in determining the payback periods of measures. Again, in order to provide maximum flexibility to States in tailoring programs most appropriate to its particular circumstances, a State may substitute its own data to reflect local energy, material and installation costs, as well as the characteristics of prototypical homes in the State. This procedure would allow a State to exclude any program measure listed in Appendix I which, based on State-specific data, has a payback period which exceeds seven years. The State would be required to submit the data substantiating such exclusion in its State Plan.

Even in the absence of such exclusion, a State may determine that auditing for a particular measure is inappropriate under certain circumstances. DOE would encourage such a State to develop, in accordance with proposed § 456.306(a)(2), applicability cirteria, that is, criteria which an auditor would consider in determining whether a particular measure should be audited for in a given residence. The applicability criteria then may be used to change the scope of the audit to those measures applicable to a particular residence. While the Nov. 7th rule sets forth specific applicability criteria, DOE proposes in this rule to delete such criteria and to allow States to develop their own criteria in the State Plan, subject to the statutory prohibition against unfair discrimation among measures (section 213(b)(2)(A) of NECPA).

An alternative of the 7-year payback criterion, which DOE considered but did not propose, is the degree of difficulty in auditing for a particular measure.

Difficulty in auditing for measures has several possible impacts on cost, including the length of auditing time required, the amount of training required, and the qualifications required for the auditor. Under this alternative, DOE would base the selection of program measures, in whole or part, on the costs of including particular measures in the program audit compared to the likely savings or other benefits that would result. DOE believes that most measures which are difficult to audit for will be eliminated from the RCS Program as a direct result of the proposed adoption of the 7-year payback period. However, the Department would like the public to examine this alternative, to present other alternatives, and to provide comment and supporting information and data on the costs associated with these alternatives. DOE also seeks comment on the appropriateness of the economic formula used to determine the program measures identified in Appendix I. Copies of the methodology used to determine the proposed RCS measures table, including copies of the DOE Model Audit, may be obtained by writing: Mr. Mark Friedrichs, Building Services Division, Conservation and Renewable Energy, 1000 Independence Avenue, S.W., Mailstop CE-115, Washington, D.C. 20585.

c. *Results of Program Audit.* DOE proposes that audit results be provided in writing to each eligible customer whose residence or building has been audited. The results must include estimates of the total cost of installation by a contractor of each applicable program measure addressed in the program audit. The results also must include estimates of the total cost (expressed in dollars or a range of dollars) of each applicable program measure which the customer might install himself or herself. These measures do not include replacement central air conditioners, replacement heating systems, active solar heating, solar domestic hot water systems, furnace efficiency modifications, devices associated with load management techniques, wall insulation, storm windows and doors and wind energy devices. DOE would require the inclusion of only contractor-installed costs for these measures because the improper installation of such measures could create a substantial risk of serious injury or are not easily installed by homeowners. Therefore, the installation of these measures should not be attempted by an untrained person. Estimates of the savings in energy costs of each applicable program measure must also be provided.

DOE would delete the requirement that the auditor provide audit result in-person and on-site. DOE believes that the flexibility to determine the method of delivery of audit results should be left to the States or utilities.

Since they are not specifically required by NECPA, the supplementary information provisions (such as information on tax credits and financial assistance programs) previously required to be included as part of the audit results are proposed for deletion. A State could decide, or course, to retain these requirements in the State Plan.

d. *Program Audit Prohibitions.* In accordance with NECPA requirements, DOE proposes to retain the provisions which provide protection against anticompetitive and discriminatory practices. These provisions include: prohibiting any auditor from recommending any supplier, contractor or lender listed in accordance with proposed § 456.311(b) if such recommendation would unfairly discriminate among suppliers, contractors or lenders; and prohibiting any unfair discrimination among program measures or customers.

The prohibition against an auditor estimating (as part of the audit) the costs or energy savings of any product which is neither an energy conserving practice nor a program measure has been proposed for deletion since it is not specifically required by NECPA. For the same reason, the requirement that the auditor provide the eligible customer with a written statement of any substantial interest which the auditor or the auditor's employer has directly or indirectly in the sale or installation of any program measure has been proposed for deletion. Although these specific requirements have been eliminated, the prohibition against anticompetitive and discriminatory practices remains. Pursuant to section 213(b) of NECPA States must establish adequate measures to ensure that the prohibition is enforced.

e. *Qualifications for Program Auditors.* DOE proposes the elimination of auditor qualification procedures listed under § 456.314 of the Nov. 7th rule. See preamble discussion at II.C11. DOE proposes that the State Plan require only that each person who performs a program audit be qualified to conduct the necessary measurements to determine the estimated costs and savings of the installation of program measures. DOE anticipates that the States and utilities will have sufficient incentives to provide for good quality audits.

f. *Class B Energy Audits.* DOE has deleted all reference to Class B audits as discussed in preamble section II.C.4. (Program Announcement).

6. *Arranging Services—§§ 456.307 and 456.308.* DOE proposes to allow a State to require the arranging of installation and financing services most appropriate to its needs. A State Plan must describe the arranging services to be offered by the covered utilities and participating home heating supplies and must assure that such services do not contain any anticompetitive or discriminatory provisions. As evidenced by the differentiation in NECPA between the listing services and the arranging services, the arranging services must consist of more than a mere distribution of the lists of supplies, contractors, and lenders.

7. *Accounting and Payment of Cost—§ 456.309.* As required by NECPA, DOE proposes that income and expenses, including penalties, attributable to the RCS Program, must be accounted for separately from other utility expenses. This rule proposes to give utilities greater flexibility by deleting § 456.30(a)(2) of the Nov. 7th rule, which described specific accounting procedures. As in the Nov. 7th rule, the proposed rule states that expenses incurred in providing information on RCS are to be treated as a current expense of providing utility service and charged to all ratepayers, in the same manner as current operating expenses of providing such utility service.

Pursuant to section 544 of the ESA, the cost of program management (which includes the cost of conducting audits, providing lists, and arranging) charged to the participating eligible customer is not to exceed $15. However, each covered utility need provide only one audit to a residence unless a new owner of that residence requests a subsequent inspection. Moreover, DOE proposes to allow States and utilities to include in the RCS Plans procedures which would ensure that an eligible customer may receive only one RCS audit, thereby avoiding duplication of audits where an eligible customer receives utility service from more than one covered utility.

8. *Customer Billing, Repayment of Loans and Termination of Service—§ 456.310.* This section makes it clear that ratepayers of a covered utility need not receive bills which itemize separately the costs of the utility RCS Program which are charged to all ratepayers. However, any direct charge to a customer for an RCS service (such

as loan repayment) must be stated separately on the customer's bill.

Section 456.310(b) of the Nov. 7th rule is revised to reflect an ESA change that requires repayment of all loans arranged for under the RCS Program to be a part of the customer's utility or fuel service billing upon request of the lender.

9. *Lists of Suppliers, Contractors and Lenders—§ 456.311.* The proposed rule eliminates most of the criteria previously required in the Nov. 7th rule for listing and delisting, giving States the opportunity to develop any additional needed criteria.

Section 212 (b)(2)(E) of NECPA requires DOE to include in the RCS rules:

> Standards which (i) require the lists referred to in Section 213(a)(2) (concerning lists of suppliers and contractors) and 213(a)(3) (concerning lists of lending institutions) to be prepared in a fair, open, and nondiscriminatory manner and (ii) provide for the removal, in appropriate cases, of suppliers, contractors, or lending institutions from such lists.

DOE is proposing minimum due process standards for compilation of the lists and for removal of listed contractors, suppliers, and installers. DOE is also proposing that State Plans contain procedures for preparing a Master Record and procedures for ensuring that the list is compiled in a fair, open and nondiscriminatory manner. Plans must also contain procedures to ensure that persons who fail to comply with plan requirements are removed from the list. The manner in which these procedures are developed is left to each State.

DOE believes that States have an interest in establishing criteria that will provide some measure of quality control over the list and they should, therefore, be able to determine for themselves which criteria are most suitable for their use. In the same way, States also have an interest in determining how a person on the Master List may be removed if he or she does not meet the expectations of the State.

The proposed listing requirements require that products purchased or installed under the RCS Program be covered by the measure warranties as defined in proposed § 456.105(i).

The proposed rule eliminates the requirement to update lists every 30 days, and requires, instead, that the State update the lists "periodically."

The proposed rule eliminates the criteria contained in the Nov. 7th rule regarding the responsibility to notify all potential listees, and requires instead that a State make a "reasonable attempt" to notify all eligible supplies, contractors, and lenders and that the State ensure that the lists are prepared in a fair, open, and nondiscriminatory manner.

The requirement in the Nov. 7th rule that the listing agency not be a regulated utility was taken from the conference report on NECPA, but does not appear in the statute. Consequently, DOE proposes to eliminate this restriction. Due to concerns about the competitive effects of permitting regulated utilities who supply, install or finance measures to develop such lists, DOE prohibited persons who sell, install, or finance program measures or State measures from compiling Master Lists. Again, DOE proposes to eliminate these prohibitions concerning list compilation since they are not required by statute, and because the responsibility still exists for assuring that the lists are prepared in a fair, open, and non-discriminatory manner.

DOE also proposes to delete the provision that requires that a contractor provide a written contract containing specified information to its customers. Although DOE believes there is potential value in this requirement, we are of the opinion that it should be a State decision.

DOE also proposes to delete those installer listing requirements from the November 7th rule that:

- Require that only qualified installers of furnace retrofit devices and wind energy systems may be listed.
- Require a contractor to correct violations of installation standards without cost to the customer.
- Require contractors to meet bonding or liability insurance qualification.

Finally, DOE proposes to eliminate from the Nov. 7th rule the lender listing requirements which:

- Prohibit lenders from taking security in property unless the homeowner acknowledges in writing that he/she is aware of the consequences of default on the loan.
- Require a rebate of unearned finance charges if an eligible customer prepays a loan (either voluntarily or as a result of default).

The approach taken by DOE in this proposed rule is to set general requirements for States in the preparation and maintenance of the RCS lists and in delisting actions, such as requiring the development of lists in a fair, open and nondiscriminatory manner which does not adversely affect competition. This approach should provide States with the flexibility needed to consider and adopt procedures other than those contained in the existing RCS rules, but which retain the necessary protections for suppliers, contractors and lenders. DOE seeks comment on this approach.

10. *Post-Installation Inspections.* DOE is proposing to eliminate the post-installation inspection requirement in § 456.313 of the Nov. 7th rule, since it is not required by NECPA. Each State, however, is responsible for establishing adequate procedures to ensure that all RCS participants comply with the State Plan. (See § 456.303 of this proposed rule.) DOE believes that the State should have the opportunity to implement whatever enforcement mechanism it deems most effective.

11. *Qualification Procedures for Auditors, Installers and Inspectors.* The proposed rule contains a basic requirement for auditor qualification (§ 456.306(e)), but does not address qualification procedures for installers of measures or inspectors of installed measures. DOE is proposing that States develop procedures to ensure the auditors conducting RCS audits are qualified to conduct the necessary measurements to determine and inform residential customers of the estimated cost and savings which result from installing measures. How a State elects to do this will be determined by each State in its State Plan. DOE is of the opinion that both States and utilities will take the steps necessary to ensure the use of capable and effective auditors.

To reduce regulatory requirements, DOE is proposing to eliminate specific requirements for qualifying installers and inspectors. DOE believes that States will recognize their responsibility to ensure that installations and any inspections under the RCS program are carried out in a responsible manner, and that in some cases, States may wish to include additional procedures to ensure this.[3]

12. *Complaints Processing Procedures—§ 456.312.* DOE proposes, based on the requirements of NECPA, that the State Plan contain both procedures for resolving complaints

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[3] Auditor Training Materials including the *RCS Auditor Training Manual* are available through the: Energy Training and Education Center, P.O. Box 58, North Hampton, MA 01061, (413) 586-8540; Association of Energy Engineers, 4025 Pleasantdale Road, Suite 340, Atlanta, GA 30340, (404) 447-5083.

The *RCS Inspector's Guide* for conservation and renewable resource measures and the *RCS Installer's Guide* for conservation measures are both available through the: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, Stock No. 061-000-00 521-8 and Stock No. 061-000-00 520-0.

An *RCS Installer's Guide for Renewable Resource Measures* and a *Guide to the Inspection and Installation of Vent Dampers and IID's* have been developed by DOE and will be available by late fall through the Superintendent of Documents.

against persons who install or sell measures under the program and redress procedures for any individual alleging injury under the program. DOE proposes to delete the provisions defining minimum procedural content to give the States flexibility in determining their procedures.

13. *Coordination—§ 456.313.* DOE proposes to retain the requirement mandated by NECPA that the State Plan include procedures to ensure effective coordination between the RCS Program and all local, State and Federal energy conservation programs within the State. DOE proposes to delete the requirement that a State provide, as a part of its plan, the procedures for coordination of RCS Programs among energy suppliers, and the requirement that, if the lead agency is not the State regulatory authority, the lead agency coordinate State Plan implementation with the State regulatory authority.

14. *Home Heating Suppliers—§ 456.314.* In accordance with sections 214(b) and 217 of NECPA, DOE proposes to allow a Governor to permit the participation of home heating suppliers in the RCS Program. Section 217(b) of NECPA also allows the Governor to waive requirements for home heating suppliers if their resources do not enable them to comply with particular requirements. DOE has eliminated in the proposed rule most of the restrictions on the Governor's authority to grant waivers which were contained in the Nov. 7th rule. However, in accordance with section 212(b)(2)(D) of NECPA, DOE proposes to retain the specific requirements of home heating suppliers (which the Governor may not waive) to ensure that anticompetitive activities and unfair discrimination do not occur.

15. *Program Measures—§ 456.315.* In proposed § 456.315, DOE sets forth the alternative methods for identifying program measures. See preamble discussion at section II.C.5.b.

16. *State Measures.* The proposed rule deletes § 456.319 of the Nov. 7th rule which permits States to suggest State measures (those measures which are not residential energy conservation or renewable resource measures, as defined in § 456.105 (d) and (w), but about which the State would like to offer information in conjunction with the RCS Program) as part of its State Plan submitted to DOE for approval. A State, of course, still may offer information on State measures, but it would not need to seek DOE approval.

17. *Reporting and Recordkeeping—§ 456.316.* DOE proposes to reduce reporting and recordkeeping requirements to the minimum necessary to assist in some basic monitoring of the program and to support DOE's statutory responsibility to report annually to Congress on utility supply, installation and financing of residential energy conservation measures. Any DOE requests for additional information pursuant to proposed § 456.316(d)(1) will comply with the requirements of the Paperwork Reduction Act of 1980, Pub. L. 96-511. DOE seeks comments on whether the reporting and recordkeeping requirements proposed here will place an undue burden on States and covered utilities.

Specifically, public comment is requested on whether the contents of the annual report, as described in § 456.316(b)(1) can be easily derived from the records maintained by States and utilities. In addition, comments are requested on the potential value that each of the specific types of information identified, as well as other types of information that could be easily derived, might have in assisting DOE in evaluating the effectiveness of the program.

D. Subpart D—Nonregulated Utility Plans

Consistent with proposed changes to Subparts B and C of today's issuance, DOE proposes substanital simplification of the procedures for submission of RCS plans by covered nonregulated utilities not subject to a State Plan to reflect only those requirements mandated by NECPA and sound management practices. See preamble discussion under Subparts B and C.

.E Subpart E—Supply, Installation and Financing by Utilities

DOE proposes to incorporate the changes made by the ESA to the NECPA prohibition against utility supply, installation and financing of residential energy conservation measures. The ESA removed completely the prohibition against utility financing, and provided an additional exemption from the prohibitation against utility supply and installation of measures (Section 216(c) of NECPA).

The new section 216(c) exemption allows a utility to supply and install measures through subcontracts with independent suppliers and contractors who are listed on the RCS Master Record, as provided under proposed § 456.311, and who are not otherwise subject to the control of the public utility, or affiliates or subsidiaries of the utility. Section 216(c)(2) contains restrictions intended to prevent anticompetitive activity by utilities in exercising unreasonable control over the marketplace through selection of contractors. Therefore, in accordance with ESA amendments to sections 213 and 216 of NECPA, a State Plan which allows or requires utilities to supply or install measures through subcontractors must include provisions to assure that those activities are undertaken in a manner consistent with the section 216(c) requirements.

DOE proposes to adopt language which closely tracks the statutory language of NECPA, as amended by the ESA. Therefore all mention of "exclusive contracts" has been deleted from §§ 456.501(a)(2) and (4) of the Nov. 7th rule, when defining "installs" and "finances" for purposes of Subpart E. Section 456.502(a) of the Nov. 7th rule would be amended to remove the prohibition against utility financing; § 456.502(b) would reflect amended section numbers. Section 456.502(b)(2) would be changed from a broad prohibition to a prohibition against any utility supply and installation through subcontractors that is being carried out in a manner that does not comply with the requirements of amended NECPA section 216(c) (proposed herein as § 456.504). Sections 456.503 through 456.506 of the Nov. 7th rule would also be modified to remove all references to financing and loans.

DOE considered the option of providing more detailed guidance in these rules on the ESA amendments to the section 216 prohibition, particularly with regard to utility subcontracting programs. However, DOE does not believe it is feasible to prescribe a rule that adequately resolves every situation that could arise pursuant to the prohibition and has therefore not attempted to be definitive in this rule on such issues as fair competition. One of the potentially most effective methods for appraising utility supply, installation and financing programs is to make the proposal subject to public review. Accordingly, States might wish to hold periodic hearings of a general nature as appropriate to consider the problems and benefits potentially associated with utility supply, installation or financing programs.

F. Subpart F—Federal Standby Authority and Enforcement Provisions

Subpart F concerns the Federal Standby Authority and Enforcement provisions. No changes have been proposed to this subpart because it closely follows the requirements of section 219 of NECPA. It remains in effect as published in the November 7 rule.

As discussed in the Introduction, DOE is withdrawing the proposed Federal Standby Plan, which was proposed as

Subpart J of Part 456 (46 FR 2522, January 9, 1981). DOE intends to develop a revised Federal Standby Plan reflecting the final rules proposed in this proceeding.

Subparts G, H, and I—Material and Installation Standards for Energy Conservation and Renewable Resource Measures

Section 212 of NECPA provides that the Department may promulgate material and installation standards for the general safety and effectiveness of residential energy conservation measures. The Nov. 7th rule contains material and installation standards for most energy conservation and renewable resources measures, directed at a minimum level of safety and effectiveness. However, for the reasons discussed below, DOE is proposing to delete all of the existing material and installation standards dealing with both effectiveness and general safety.

A. Effectiveness Standards

DOE feels that it is no longer necessary to promoulgate standards which deal with the effectiveness of measures. For one reason, the marketplace and various non-Federal mechanism and institutions should be able to address this issue adequately. In some instances materials are already being evaluated and standardized by such recognized organizations as the Underwriters Laboratory and the American Gas Association Laboratory. Increasingly, building codes are dealing with matters of the thernal effectiveness of building materials, and States are operating certification programs regarding the competency of those installing measures within their jurisdictions. In many other instances, ineffective or defective products or improper installation will be apparent to homeowners, enabling them to seek prompt redress through a variety of modes. The Department believes, for example, that there are many mechanisms which could provide adequate relief, *e.g.*, small claims courts and other courts, consumer protection bureaus, and various arbritrating organizations.

For another reason, DOE believes there are sufficient efficiency safeguards retained in this proposal—the listing/delisting procedures, the complaints and redress procedures and the warranty requirements.

DOE solicits comments on its proposal to delete the standards relating to the effectiveness of measures and on its perception that there is no need for such standards because of marketplace and other forces.

B. General Safety Standards

Under Section 212(b)(2) of NECPA the Secretary is responsible for establishing general safety standards as he determines necessary. Serious consideration has been given by DOE to the advisability of proposing the deletion of health and safety related material and installation standards under the RCS program. With regard to urea-formaldehyde foam insulation and cellulose thermal insulation, DOE does not feel it is necessary to establish standards for these products in light of the Consumer Product Safety Commission's (CPSC) exercise of jurisdiction over these products.[4]

DOE is proposing the elimination of the remainder of the standards included in the Nov. 7th rule. In determining the need for the establishment of minimum standards under the existing RCS regulation, DOE generally did not attempt to quantify the actual health and safety risks currently associated with any of the products which were reviewed. Instead, the determination that standards were necessary was based largely on the results of physical tests and engineering analyses of the products. These tests and analyses indicated that, under certain circumstances, the products may pose a substantial hazard to the occupants of a dwelling. There was also limited data indicating that the circumstances leading to a potential hazard existed in the marketplace and that property damage or occupant injury was associated with use of the covered products. DOE no longer believes that the need for RCS safety standards should be based solely on a determination that a health or safety risk may exist. Rather, the establishment of safety standards should be based on a determination that a significant health and safety risk actually exists in the marketplace or is very likely to exist. In determining the necessity to establish a safety standard DOE should take into account the cost of implementing and enforcing the Federal standard as compared to the degree of actual risk that would exist without such a standard. In other words, DOE believes that the mere fact that improper manufacturing or installation of a measure could pose a hazard is not sufficient to justify establishment of a standard. Only if it is determined that such improper manufacturing or installation actually occurs (or is very likely to occur without a Federal standard) in a significant number of cases would the establishment of a standard be justified. In applying this test to the RCS measures, DOE has been unable to determine that a significant health and safety risk actually exists in the marketplace or is very likely to exist. For example, improper manufacture of some insulation materials can significantly increase the combustibility of such products. However, through the observance of voluntary consensus standards and careful attention to quality control, the industry may have largely eliminated the fire risk associated with manufacturing of insulation products. Similarly, the improper design or installation of residential wind machines can result in significant safety hazards. However, DOE has been unable to determine that actual hazards exist based on the current practices of wind machine manufacturers and installers.

Although the proposed rule contains no safety standards for any measure, DOE is still considering seriously the need to maintain some of the safety standards contained in the existing RCS program regulations. For this reason, DOE is soliciting public review and comment on the existing standards, as well as on the criteria which DOE should use in determining whether to maintain any of these standards in the revised final rule. Specifically, DOE would like to focus comment on the proposed deletion of general safety standards on the following issues and questions:

- To what extent is data available on the actual health and safety risks associated with the use of products now covered by the RCS program regulations? To what extent can this data be used to make valid conclusions on the need to maintain any national RCS safety standards?
- In the absence of specific data on the number of fatalities, injuries, fires, or other hazards that can be directly associated with the use of a program measure, should DOE establish or maintain any safety standards? If so, on what criteria should DOE base its determination?

[4] The CPSC currently addresses cellulose fire safety in 16 CFR Part 1209. 16 CFR Part 1209 requires all cellulose insulation produced or distributed within the nation today to be tested by a critical radiant flux and smoldering combustion test to insure that the material poses no unnecessary fire risk. On January 28, 1981, the CPSC proposed a ban on urea-formaldehyde foam insulation (46 FR 11188, February 5, 1981). Since the Department is proposing to defer to the judgment of the CPSC on these two measures, it is proposing to delete its existing final and interim final standards for these measures and is proposing withdrawing its proposal to make certain specific changes to the interim final standards for urea-formaldehyde foam insultation, or, in the alternative, to ban the use of this insulation in the RCS program (46 FR 8996, January 27, 1981).

• In making its determination on the need for safety standards, should DOE distinguish between products which, if improperly manufactured or installed, would pose a direct and immediate hazard, as opposed to those products which, if improperly manufactured or installed, would contribute indirectly, and over a longer-period, to hazardous situations? For example, the improper installation of a vent damper or wind machine can result in an immediate risk of injury to the occupants of a dwelling. Improper installation of insulation over a heat source, on the other hand, can result in an increased risk of fire over a period of years.

• What is the estimated cost to manufacturers or installers of complying with the existing RCS safety related standard?

• What level of hazard or risk should DOE consider sufficient to justify the establishment of safety related standards? (For example, if improper installation of insulation were to contribute to at least 10 (100, 1,000, or 10,000) home fires per year, would the existing safety related installation standards be justified?).

• If DOE makes a final determination that most of all of the existing RCS standards should be eliminated, would it be desirable for DOE to establish advisory standards for States and utilities to use, as necessary, in implementing the program?

• To what extent do existing industry standards, consensus standards and State and local standards provide the necessary consumer protection without the need for any Federal standards?

III. Regulatory Impact Analysis and Urban and Community Impact Analysis

Section 3(c)(2) of Executive Order 12291 generally requires that for "major rules" an agency shall prepare a preliminary Regulatory Impact Analysis to accompany the notice of proposed rulemaking. Section 8, of the Executive Order, however, provides that this analysis may be waived in appropriate circumstances. In an effort to expedite the reduction of the existing regulatory burdens of the RCS Program, especially for those States that are just beginning to implement their programs, DOE has requested, and OMB has agreed to waive the Executive Order requirements for this proposal. DOE feels that such a request is also justified on the grounds that the sole purpose of this rulemaking is to reduce existing regulatory burdens in conformance with the intent of the Executive Order.

OMB Circular A–116 directs that an Urban and Community Impact Analysis be prepared when a proposed rule is a major policy and program initiative. For the reasons stated above, OMB has also waived this requirement for this proposal.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act (Pub. L. No. 96–354) requires, in part, that agencies prepare an initial regulatory flexibility analysis for any proposed rule unless it determines that the rule will not have a "significant economic impact on a substantial number of small entities." In the event that such an analysis is not required for a particular rule, the agency must publish a certification and explanation of that determination in the **Federal Register.**

The majority of the revisions proposed in this rule would impact mainly upon the States and utilities. DOE expects there would be only minimal impact upon the small entities which elect to participate in the program. Specifically, although DOE is proposing the elimination of many of the prescriptive requirements originally intended to prevent anticompetitive acts or practices, the requirement that RCS plans contain adequate measures to prevent such acts or practices remains. Furthermore, where appropriate, DOE has specifically requested comments of small entities. For these reasons, pursuant to section 605(b) of the Regulatory Flexibility Act, DOE certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities.

V. Environmental Impact Statement

In accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) DOE prepared an Environmental Impact Statement for the entire Residential Conservation Service Program. (DOE/EIS–0050). The notice of availability was published in the **Federal Register** on November 7, 1979. The subject matter of this proposed rulemaking is within the scope of this programmatic Environmental Impact Statement and the impacts of the proposed rulemaking were adequately addressed in the EIS. Copies may be obtained by writing: Mr. Mark D. Friedrichs, Building Services Division, Conservation and Renewable Energy, 1000 Independence Avenue, S.W., CE–115, Room GH–068, Washington, D.C. 20585.

The programmatic EIS, discussed above, addressed the potential environmental impacts which might result from decreased indoor air quality caused by measures which reduced air infiltration of exfiltration. DOE encourages States and utilities to provide information on ventilation to customers receiving RCS audits. States and utilities should consider requiring auditors to provide information on potential indoor air quality problems and possible mitigation measures. In the alternative, DOE solicits comment on whether the Program Announcement or the Energy Audit should be required to include information on indoor air quality. Technical assistance is available from DOE to States and utilities to facilitate the provision of such information to customers.

VI. Comment and Hearing Procedures

A. Written Comments

Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments, with respect to the proposed procedures, requirements and criteria. Comments should be submitted to the address indicated in the addresses section of this preamble and should be identified on the envelope and on the documents submitted to DOE with the designation "Residential Conservation Service Program, Docket No. CAS–RM–81–130." Fifteen copies should be submitted. All written comments must be postmarked by January 11, 1982 to ensure consideration.

All written comments received on the Proposed Rule will be available for public inspection in the DOE Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m., and 4:00 p.m., Monday through Friday. Any information or data considered by the person furnishing it to be confidential must be so identified and one copy submitted in writing. DOE reserves the right to determine the confidential status of the information or data and treat it according to its determination.

B. Briefing and Hearing Procedures

The time and place of the public briefing is indicated in the date and addresses section of this preamble. The purpose of the public briefing is to give all interested parties an opportunity to hear a description of the proposed RCS program and to ask questions. No participant preregistration is required.

The times and places of the public hearings are also indicated in the date and addresses section of this preamble. DOE invites any person who has an interest in the proposed rulemaking issued today, or who is representative of a group or class of persons that has an interest in the proposed rulemaking, to make a written request for an opportunity to make an oral

presentation. Such a request should be directed to the address indicated in the addresses section of this preamble, and must be received before 5:00 p.m., on: November 30, 1981 for the Chicago hearing; November 30, 1981 for the San Francisco hearing; and November 30, 1981 for the Washington, D.C. hearing.

Such a request may be hand delivered to Room 1F-085, 1000 Independence Avenue, S.W., Washington, D.C. 20585, between the hours 8:30 a.m., and 5:00 p.m., Monday through Friday. A request should be labeled both on the document and on the envelope "Residential Conservation Service Program, Docket No. CAS-Rm-81-130."

The person making the request should briefly describe the interest concerned; if appropriate, state why he or she is a proper representative of a group or class of persons that has such an interest; and give a concise summary of the proposed oral presentation and a telephone number where she or he may be contacted during the day.

Each person who, in DOE's judgment, proposes to present relevant material and information shall be selected to be heard and shall be notified by DOE of his or her participation before 4:30 p.m., on December 2, for the Chicago hearing; December 7, for the San Francisco hearing; and December 7 for the Washington, D.C. hearing.

Persons selected to appear at the hearing should bring 15 copies of his or her statement to the hearing site.

The hearing will begin at 9:00 a.m., local time.

C. Conduct of Hearing

DOE reserves the right to arrange the schedule of presentations to be heard and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard. A DOE official will be designated as presiding officer to chair the hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements.

Any participant who wishes to ask a question at the hearing may submit the question, in writing, at the registration desk. The presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made, and the entire record of the hearing, including the transcripts, will be retained by DOE and made available for inspection at the DOE Freedom of Information Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

(Part 1 of Title II of the National Energy Conservation Policy Act, Pub. L. 95-619, 92 Stat 3206 *et seq.* (42 U.S.C. 8211 *et seq.*), as amended by Title V, Subtitle B of the Energy Security Act, Pub. L. 96-294, 94 Stat. 611 *et seq.*; Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 *et seq.* (42 U.S.C. 7101 *et seq.*))

In consideration of the foregoing, the Department of Energy withdraws the proposed Federal Standby Plan (46 FR 2522, January 9, 1981), withdraws the proposed rule implementing the ESA changes (45 FR 66960, October 8, 1980), withdraws the proposal expanding the RCS Program to include residential buildings of five or more units which are neither centrally heated nor cooled included in the proposed rules establishing the CACS program (46 FR 4482, January 16, 1981); proposes to withdraw the proposed rulemaking changing the interim final standards for urea-formaldehyde foam insulation, or in the alternative, banning the use of this insulation in the RCS Program (46 FR 8996, January 27, 1981); and proposes to amend Part 456 of Chapter II, Title 10 of the Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., November 4, 1981.

Joseph J. Tribble,

Assistant Secretary Conservation and Renewable Energy.

PART 456—RESIDENTIAL ENERGY CONSERVATION PROGRAM

10 CFR Part 456 is amended by revising Subparts A through E and Appendices I and II and removing Subparts G through I. Subpart F, published at 44 FR 64661, Nov. 7, 1979, remains in effect. For the convenience of the reader, the table of contents for Subpart F is set forth below. Part 456 is amended to read as follows:

Subpart A—General Provisions and Definitions

Sec.

456.101 Purpose and scope.
456.102 Petitions concerning conflicts of laws.
456.103 Appeals and other relief.
456.104 List of covered utilities.
456.105 Definitions.

Subpart B—Preparation, Submission, and Approval of State Plans and Temporary Programs

Sec.

456.201 Scope.
456.202 Initial submission.
456.203 Notice, comment, and public hearing.
456.204 Procedures for submission and approval of State plans.
456.205 Home heating suppliers.
456.206 Tennessee Valley Authority (TVA).
456.207 Temporary Programs.

Subpart C—Content of State Plans

456.301 Scope.
456.302 Coverage of State Plan.
456.303 Procedures for enforcing compliance with the State Plan.
456.304 State monitoring of utility supply, installation, and financing.
456.305 Program announcement.
456.306 Requirements for program audits.
456.307 Arranging installation.
456.308 Arranging financing.
456.309 Accounting and payment of costs.
456.310 Customer billing, repayment of loans, and termination of service.
456.311 List of suppliers, contractors, and lenders.
456.312 Complaints processing procedures.
456.313 Coordination.
456.314 Home heating suppliers.
456.315 Program measures.
456.316 Reporting and recordkeeping.

Subpart D—Nonregulated Utility Plans

456.401 Scope.
456.402 Coverage.
456.403 Notice, comment, and public hearing.
456.404 Procedures for submission and approval of Nonregulated Utility Plans.
456.405 Temporary Programs.
456.406 Content of plans.

Subpart E—Supply, Installation, and Financing by Utilities

456.501 Scope and definitions.
456.502 Prohibition.
456.503 Exemption for certain measures.
456.504 Exemption for utility subcontractor supply and installation.
456.505 Exemption for existing supply and installation.
456.506 Exemption for supply and installation authorized by State or local law.
456.507 Waivers.
456.508 Notification.
456.509 Procedure for obtaining determinations and waivers.
456.510 Appeals.
456.511 Certain exempt activities and compliance with accounting, costing, billing, and repayment provisions.

Subpart F—Federal Standby Authority and Enforcement Provisions

456.601 Scope.
456.602 Conditions under which standby authority shall be invoked.
456.603 Standby authority in lieu of State Plans.
456.604 Standby authority for nonregulated utilities.

Sec.
456.605 Failure to comply with orders.
456.606 Enforcement provisions.

Appendix I to Part 456—Program Measures

Appendix II to Part 456—Prototypical House Assumptions

Authority.—Part 1 of Title II of the National Energy Conservation Policy Act, Pub. L. 95-619, 92 Stat. 3206 *et seq.* (42 U.S.C. 8211 *et seq.*), as amended by Subtitle B of Title V of the Energy Security Act, Pub. L. 96-294, 92 Stat. 611 *et seq.*; Department of Energy Organization Act, Pub. L. 95-91, 92 Stat. 565 *et seq.* (42 U.S.C. 7101 *et seq.*).

Subpart A—General Provisions and Definitions

§ 456.101 Purpose and scope.

This part contains the regulations of the Residential Conservation Service (RCS) Program. This program is mandated by Part 1 of Title II of the National Energy Conservation Policy Act, Pub. L. 95-619, as amended by Subtitle B of Title V of the Energy Security Act (ESA), Pub. L. 96-294.

§ 456.102 Petitions concerning conflicts of laws.

(a) A utility making a petition to determine whether the utility—

(1) Is prohibited by a State or local law or regulation from taking any action required to be taken under NECPA, or

(2) Is required or permitted by a State or local law or regulation to take any action prohibited by NECPA, shall file the petition with the Assistant Secretary for Conservation and Renewable Energy, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585. Any such petition shall contain a copy of the applicable State or local laws or regulations and a description of the action the utility believes it is prohibited from taking or is permitted or required to take under such laws or regulations.

(b) The Assistant Secretary shall give notice of the petition to the Governor, State Energy Office, and State Regulatory Authority of the applicable State, and such other persons as the Assistant Secretary deems appropriate. Any such person or entity may file comments with the Assistant Secretary with respect to such petition within 30 days of receipt of the notice.

(c) If the Assistant Secretary determines pursuant to such petition that a State or local law or regulation prohibits a utility from taking any action required to be taken under NECPA or permits or requires a utility to take any action prohibited by NECPA, the Assistant Secretary shall issue an order superseding such State or local laws or regulations to the extent inconsistent with NECPA. Such an order shall be effective with respect to all utilities otherwise subject to such State or local laws or regulations and shall moot any outstanding petitions under this section by such utilities.

§ 456.103 Appeals and other relief.

(a) Pursuant to section 504(a) of the Department of Energy Organization Act (42 U.S.C. 7194), any person seeking relief from the application of this rule may submit a request for relief in accordance with Subpart R of 10 CFR Part 205.

(b) Any person aggrieved by any order, finding, or determination made under §§ 456.102, 456.502-456.505, or § 456.507 may appeal that order, finding, or determination in accordance with Subpart H of 10 CFR Part 205. Any person so aggrieved has not exhausted his administrative remedies until an appeal has been filed under Subpart H of 10 CFR Part 205 and an order granting or denying the appeal has been issued.

§ 456.104 List of covered utilities.

(a) Before the beginning of each calendar year, the Department of Energy shall publish in the **Federal Register** a list of all covered utilities for that calendar year.

(b) Not later than 60 days after publication of the list, each State Regulatory Authority shall forward to the Assistant Secretary a copy of such list with designations as to which covered utilities on the list are under the jurisdiction of that Regulatory Authority.

(c) The publication of the list is for informational purposes, and the failure to include a covered utility on the list or the failure of a State Regulatory Authority to designate a covered utility subject to its jurisdictional in no way affects the duties of or requirements upon such covered utility under these rules or any plan promulgated pursuant to these rules.

§ 456.105 Definitions.

For purposes of this part—

(a) *Assistant Secretary.* The term "Assistant Secretary" means the Assistant Secretary for Conservation and Renewable Energy of the U.S. Department of Energy.

(b) *Covered Utility.* The term "covered utility" means in any calendar year a public utility which during the second proceding calendar year had either—

(1) Sales of natural gas for purposes other than resale which exceeded 10 billion cubic feet, or

(2) Sales of electric energy for purposes other than resale which exceed 750 million kilowatt-hours.

(c) *Eligible Customer.* The term "eligible customer" means a person who both—

(1) Owns or occupies a residential building; and

(2) Receives a fuel bill from a covered utility or participating home heating supplier for fuel used in such residential building.

(d) *Energy Conservation Measures.* The term "energy conservation measures" means the following measures in a residential building—

(1) *Caulking.* The term "caulking" means pliable materials used to reduce the passage of air and moisture by filling small gaps which may include (i) at fixed joints on a building, (ii) under baseboards inside a building, (iii) in exterior walls at electric outlets, (iv) around pipes and wires entering a building, and (v) around dryer vents and exhaust fans in exterior walls. Caulking includes, but is not limited to, materials commonly known as "sealants," "putty," and "glazing compounds."

(2) *Weatherstripping.* The term "weatherstripping" means narrow strips of materials placed over or in movable joints of windows and doors to reduce the passage of air and moisture.

(3) *Furnance Efficiency Modifications.* The term "furnace efficiency modifications" means—

(i) *Replacement Furnace or Boilers.* The term "replacement furnaces or boilers" means a furnace or boiler, including a heat pump, which replaces an existing furnace or boiler of the same fuel type and which reduces the amount of fuel consumed due to an increase in combustion efficiency, improved heat generating, or reduced heat looses.

(ii) *Furnace Replacement Burner (Oil).* The term "furnace replacement burner (oil)" means a device which atomizes the fuel oil, mixes it with air, and ignites the fuel-air mixture, and is an integral part of an oil-fired furnace or boiler including the combustion chamber, and which, because of its design, achieves a reduction in the oil used from that used by the device which it replaces.

(iii) *Flue Opening Modification (Vent Damper).* The term "flue opening modification (vent damper)" means an automatically operated damper installed in a gas-fired furnace which—

(A) Is installed downstream from the drafthood; and

(B) Conserves energy by substantially reducing the flow of heated air through the chimney when the furnace is not in operation.

(iv) *Intermittent Pilot Ignition Device (IID).* The term "intermittent pilot ignition device (IID)" means a device which, when installed in a gas-fired

furnace or boiler, automatically ignites the gas burner and replaces a gas pilot light.

(4) *Replacement Central Air Conditioner.* The term "replacement central air conditioner" means a central air conditioner which replaces an existing central air conditioner of the same fuel type and which reduces the amount of fuel consumed due to an increase in efficiency.

(5) *Ceiling Insulation.* The term "ceiling insulation" means a material primarily designed to resist heat flow which is installed between the conditioned area of a building and an unconditioned attic. Where the conditioned area of a building extends to the roof, the term "ceiling insulation" also applies to such material used between the underside and upperside of the roof. The term "ceiling insulation" also includes such materials installed on the exterior of the roof.

(6) *Wall Insulation.* The term "wall insulation" means a material, primarily designed to resist heat flow, which is installed within or on the walls between conditioned areas of a building and unconditioned areas of a building or the outside.

(7) *Floor Insulation.* The term "floor insulation" means a material, primarily designed to resist heat flow, which is installed between the first level conditioned area of a building and an unconditioned basement, a crawl space, or the outside beneath it. Where the first level conditioned area of a building is on a ground level concrete slab, the term "floor insulation" also means such material installed around the perimeter of or on the slab. In the case of the mobile homes, the term "floor insulation" also means skirting to enclose the space between the building and the ground.

(8) *Duct Insulation.* The term "duct insulation" means a material primarily designed to resist heat flow which is installed on a heating or cooling duct in an unconditioned area of a building.

(9) *Pipe Insulation.* The term "pipe insulation" means a material primarily designed to resist heat flow which is installed on a heating or cooling pipe in an unconditioned area of a building.

(10) *Water Heater Insulation.* The term "water heater insulation" means a material primarily designed to resist heat flow which is suitable for wrapping around the exterior surface of the water heater casing.

(11) *Storm Window.* The term "storm window" means a window or glazing material placed outside or inside an ordinary or prime window, creating an air space, to provide greater resistance to heat flow than the prime windows alone.

(12) *Thermal Window.* The term "thermal window" means a window unit with improved thermal performance through the use of two or more sheets of glazing material affixed to a window frame to create one or more insulated air spaces. It may also have an insulating frame and sash.

(13) *Storm or Thermal Door.* The term "storm or thermal door" means—

(i) A second door, installed outside or inside a prime door, creating an insulating air space;

(ii) A door with enhanced resistance to heat flow through the glass area by affixing two or more sheets of glazing material; or

(iii) A prime exterior door with an R-value of at least 2.

(14) *Heat Reflective and Heat Absorbing Window or Door Material.* The term "heat reflective and heat absorbing window or door material" means a window or door glazing material with exceptional heat absorbing or heat reflecting properties; or reflective or absorptive films and coatings applied to an existing window or door which thereby result in exceptional heat absorbing or heat reflecting properties.

(15) *Devices Associated with Electric Load Management Techniques.* The term "devices associated with electric load management techniques" means customer-owned or- leased devices that reduce the maximum kilowatt demand on an electric utility and which are either—

(i) Part of a radio, ripple or other utility controlled load switching system on the customer's premises;

(ii) Clock-controlled load switching devices;

(iii) Interlocks, and other load-actuated, load-limiting devices; or

(iv) Energy storage devices with control systems.

(16) *Clock Thermostat.* The term "clock thermostat" means a device which is designed to reduce energy consumption by regulating the demand on the heating or cooling system in which it is installed and which uses—

(i) A temperature control device for interior spaces incorporating more than one temperature control level, and

(ii) A clock or other automatic mechanism for switching from one control level to another.

(e) *Energy Conserving Practices.* The term "energy conserving practices" means low or no cost practices designated by the Governor in a State Plan which (i) save energy, (ii) do not require the installation of energy conservation or renewable resource measures; and (iii) do not adversely impact the RCS Program.

(f) *ESA.* The term "ESA" means Subtitle B of Title V of the Energy Security Act, Pub. L. 96-294, which amended Part 1 of Title II of the National Energy Conservation Policy Act (NECPA).

(g) *Governor.* The term "Governor" means the Governor or chief executive officer of a State or his designee; or, if a State agency is specifically designated by State law to carry out any function under the RCS Program, then the term "Governor" means that State agency.

(h) *Home Heating Supplier.* The term "home heating supplier" means a person who sells or supplies home heating fuel (including No. 2 heating oil, kerosene, butane, and propane) to an eligible customer for consumption in a residential building.

(i) *Measure Warranties.* (1) The term "manufacturer's measure warranty" means, at a minimum, a written warranty by the manufacturer of an energy conservation or renewable resource measure that the eligible customer for whom the measure is installed, the installation contractor who installs the measure, and the supplier of the measure shall be entitled to obtain, within a reasonable period of time and at no charge, appropriate replacement parts or materials for those measures found within one year from the date of installation to be defective due to materials, manufacture, or design;

(2) The term "supplier's measure warranty" means, at a minimum, a written warranty equivalent to that referred to in paragraph (i)(1) of this section provided by the supplier of an energy conservation or renewable resource measure to persons who purchase the measure from the supplier.

(3) The term "contractor's measure warranty" means, at a minimum, a written warranty by a contractor installing an energy conservation or renewable resource measure that any defect in materials, manufacture, design, or installation found within one year from the date of installation shall be remedied without charge and within a reasonable period of time.

(j) *NECPA.* The term "NECPA" means Part 1 of the Title II of the National Energy Conservation Policy Act, Pub. L. 95-619, as amended by Subtitle B of Title V of the Energy Security Act (ESA).

(k) *Nonregulated Utility.* The term "nonregulated utility" means a public utility which is not a regulated utility.

(l) *Nonregulated Utility Plan.* The term "nonregulated utility plan" means a plan developed pursuant to Subpart D of this part.

(m) *Participating Home Heating Supplier.* The term "participating home heating supplier" means a home heating supplier that has elected to participate in a State Plan which includes home heating supplies.

(n) *Program Announcement.* The term "program announcement" means the RCS program information and offer of services required to be provided by a covered utility or participating home heating supplier to each eligible customer by § 456.305.

(o) *Program Audit.* The term "program audit" means an audit in which the estimates of costs and energy savings are based on an adequate assessment, including actual measurements or inspections, as appropriate, performed on-site by the auditor, of the building shell and of the space heating, space cooling, and water heating equipment of the residence of an eligible customer.

(p) *Program Information.* The term "program information" means the program announcement and any information dissemination activities related to an RCS Program.

(q) *Program Measures.* The term "program measures" means those energy conservation or renewable resource measures which the Assistant Secretary has by rule determined to be appropriate by climatic region and building category and which are found in Appendix I to this part, or which are determined to be program measures by a Governor in accordance with § 456.315(b).

(r) *Public Utility.* The term "public utility" means any person, State agency, or Federal agency which is engaged in the business of selling natural gas or electric energy, or both, to residential customers for use in a residential building.

(s) *Rate.* The term "rate" means any price, rate, charge, or classification made, demanded, observed, or received with respect to sales of electric energy or natural gas, any rule, regulation, or practice respecting any such rate, charge, or classification, and any contract pertaining to the sales of electric energy or natural gas.

(t) *Ratemaking Authority.* The term "ratemaking authority" means authority to fix, modify, approve, or disapprove rates.

(u) *RCS Program.* The term "RCS Program" means the Residential Conservation Service program as defined under § 456.105(y).

(v) *Regulated Utility.* The term "regulated utility" means a public utility with respect to whose rates a State regulatory authority has ratemaking authority.

(w) *Renewable Resource Measure.* The term "renewable resource measure" means the following measures in or with respect to a residential building—

(1) *Solar Domestic Hot Water Systems.* The term "solar domestic hot water systems" means equipment designed to absorb the sun's energy and to use this energy to heat water for use in a residential building other than for space heating, including thermosiphon hot water heaters.

(2) *Active Solar Space Heating Systems.* The term "active solar space heating systems" means equipment designed to absorb the sun's energy and to use this energy to heat living space by use of mechanically forced energy transfer, such as fans or pumps.

(3) *Combined Active Solar Space Heating and Solar Domestic Hot Water System.* The term "combined active solar space heating and solar domestic hot water system" means equipment designed to perform both of the functions described in paragraphs (w)(1) and (2) of this section.

(4) *Wind Energy Devices.* The term "wind energy devices" means equipment that use wind energy to produce energy in any form for personal residential purposes.

(5) *Replacement Solar Swimming Pool Heaters.* The term "replacement solar swimming pool heaters" means devices which are used solely for the purpose of using the sun's energy to heat swimming pool water and which replace a swimming pool heater using electricity, gas or other fossil fuel.

(x) *Residential Building.* The term "residential building" means any building used for residential occupancy which—

(1) Is not a new building to which final standards under Sections 304(a) and 305 of the Energy Conservation and Production Act apply;

(2) Has a system for heating or cooling or both; and

(3) Contains at least one, but not more than four, dwelling units. After January 1, 1982, the term "residential building" also includes any building which contains more than four dwelling units unless such building contains a heating or cooling system, or both, which is a central system.

(y) *Residential Conservation Service Program.* The term "Residential Conservation Service Program" means the program required to be implemented by covered utilities pursuant to an approved State Plan, an approved Nonregulated Utility Plan, or a Federal Standby Plan.

(z) *Secretary.* The term "Secretary" means the Secretary of Energy.

(aa) *State.* The term "State" means a State, the District of Columbia and Puerto Rico.

(bb) *State Agency.* The term "State Agency" means a State, a political subdivision thereof, or any agency or instrumentality of either.

(cc) *State Regulatory Authority.* The term "State regulatory authority" means any State agency which has ratemaking authority with respect to the sales of electric energy or natural gas by any public utility (other than by such State agency), except that in the case of a public utility with respect to which the Tennessee Valley Authority has ratemaking authority, such term means the Tennessee Valley Authority.

(dd) *State Plan.* The term "State Plan" means a plan developed pursuant to Subparts B and C of this part.

(ee) *TVA.* The term "TVA" means the Tennessee Valley Authority.

Subpart B—Preparation, Submission, and Approval of State Plans and Temporary Programs

§ 456.201 Scope.

This subpart identifies the responsibilities of the States and the Tennessee Valley Authority (TVA) in the preparation and submission of State Plans; the procedures for approval of the State Plan by the Assistant Secretary; and the procedures for submission and criteria for approval of Temporary Programs.

§ 456.202 Initial submission.

If a State intends to submit a State Plan, the Governor shall submit by January 6, 1980, a list of nonregulated covered utilities, if any, operating in the State which will be subject to the State Plan.

§ 456.203 Notice, comment, and public hearing.

Prior to submission of the State Plan to the Assistant Secretary for approval, the Governor shall provide for meaningful public notice, an opportunity for public comment, and public hearing.

§ 456.204 Procedures for submission and approval of State Plans.

(a) *Who Shall Submit.* Three (3) copies of the proposed State Plan shall be submitted to the Assistant Secretary by either:

(1) The Governor of the State; or

(2) The TVA with respect to all covered utilities over which the TVA has ratemaking authority and, in the discretion of TVA, with respect to any covered utility over which the TVA and another State Regulatory Authority have ratemaking authority.

(b) *Time for Submission.* The proposed State Plan shall be submitted by June 4, 1980, unless the time for submission has been extended by the Assistant Secretary, upon request of the Governor, for good cause shown.

(c) *Approval.* If a proposed State Plan meets the criteria of Subparts B and C of this part, the Assistant Secretary shall approve it within 90 days of the date the proposed State Plan was submitted.

(d) *Disapproval.*

(1) If a proposed State Plan does not meet the criteria of Subparts B and C of this part, the Assistant Secretary shall, within 90 days of the date the proposed State Plan was submitted, disapprove the proposed State Plan in writing and shall specify in writing the grounds for disapproval.

(2) Within 60 days of the date of disapproval of a proposed State Plan, or such longer period as the Assistant Secretary may determine, for good cause shown, the Governor may submit another proposed State Plan.

(e) *Amendments.* The Governor may submit proposed amendments to an approved State Plan at any time.

§ 456.205 Home heating suppliers.

If the Governor submits a plan applicable to home heating suppliers in the State, it shall be a part of the State Plan and shall be submitted in accordance with the procedures of this subpart applicable to the submission of the State Plan.

§ 456.206 Tennessee Valley Authority.

In this part, except as otherwise specified, references to the Lead Agency shall be deemed to refer also to the TVA and references to the State Plan shall be deemed to refer also to the TVA Plan. References in this part to a State as a geographic area shall, with respect to the TVA Plan, be references to the service areas of the covered utilities subject to the TVA Plan. Reference in this part to a State as a governmental entity (other than references to State laws or regulations) or to any State Agency or officer shall be deemed to refer also to the TVA.

§ 456.207 Temporary Programs.

(a) *Definition of Temporary Programs.* A Temporary Program is a plan or a part of a State Plan which exempts in whole or in part for a specified period, to be determined by the Assistant Secretary, but not to exceed three years from the date of approval of such Temporary Program, one or more utilities from one or more of the following provisions—

(1) The requirements for preparing and distributing the Program Announcement described in § 456.305;

(2) The requirements for offering and performing audits described in § 456.306;

(3) The requirements for offering to arrange and arranging installation of program measures described in § 456.307;

(4) The requirements for offering to arrange and arranging financing for the purchase or installation of program measures described in § 456.308;

(5) The requirements concerning accounting and payment of costs described in § 456.309;

(6) The requirements regarding billing of costs, repayment of loans, and termination of service described in § 456.310;

(7) The requirements for distributing the lists described in § 456.311(c); and

(8) The prohibition against supplying and installing by covered utilities described in § 456.502(a).

(b) *Who May Submit.* A proposed Temporary Program may be submitted to the Assistant Secretary by either—

(1) The Governor of a State;

(2) A covered utility which is included in a State Plan, with the support of the Governor; or

(3) A nonregulated utility not included in a State Plan.

(c) *Time for Submission.* A proposed Temporary Program shall be submitted to the Assistant Secretary anytime prior to 180 days after the effective date of these rules.

(d) *Approval.*

(1) The Assistant Secretary shall approve or disapprove a proposed Temporary Program within 90 days of receipt of the Temporary Program, or later if he so notifies the person who submitted the proposed Temporary Program.

(2) The Assistant Secretary may approve a Temporary Program for a period not to exceed three years from the date of approval.

(e) *Criteria for Approval.* The Assistant Secretary shall approve a proposed Temporary Program only if the person submitting the proposed Temporary Program demonstrates to the Assistant Secretary's satisfaction that the Temporary Program—

(1) Contains adequate procedures to assure that each covered utility under such program will charge fair and reasonable prices and rates of interest to its eligible customers in connection with the purchase and installation of residential energy conservation and renewable resource measures;

(2) Contains adequate procedures for preventing unfair, deceptive, or anticompetitive acts or practices affecting commerce which relate to the implementation of such program; and

(3) Is likely to result in the installation of program measures in at least as many residential buildings as would have been installed had such utility not been exempt from the requirements for which exemption is sought.

(f) *Federal Standby Authority.* The Federal Standby Authority described in Subpart F shall not be exercised with respect to a covered utility which either—

(1) Is subject to an approved Temporary Program;

(2) Is proposed for inclusion under a proposed Temporary Program which has been submitted in accordance with paragraph (c) of this section, but has not yet been approved or disapproved by the Assistant Secretary; or

(3) Was subject to an approved Temporary Program which has terminated and such covered utility will be subject, within a reasonable time to be determined by the Assistant Secretary, to an adequately implemented approved State Plan or Nonregulated Utility Plan.

Subpart C—Content of State Plans

§ 456.301 Scope.

This subpart prescribes the minimum requirements for the content of State Plans. The State may include additional information and provide additional requirements in the State Plan for the RCS Program if such information and requirements are not specifically prohibited by these rules or by any applicable law or regulation. All references in this subpart to covered utilities apply to regulated and nonregulated covered utilities subject to the State plan.

§ 456.302 Coverage of State Plan.

(a) *Regulated Utilities.* All regulated utilities providing utility service in a State which meet the definition of "covered utility" in § 456.105(b) shall be subject to the State Plan and shall be identified in the State Plan.

(b) *Nonregulated Utilities.* The State Plan shall identify which nonregulated covered utilities, if any, are covered under the State Plan.

(c) *Home Heating Suppliers.* The State Plan shall state whether it includes an RCS Program for home heating suppliers.

(d) *Temporary Programs.* The State Plan shall identify any covered utilities for which a request for a Temporary Program provision has been submitted, and describe or attach such provision for each such utility.

§ 456.303 Procedures for enforcing compliance with the State Plan.

(a) The State Plan shall require each RCS participant to comply with the State Plan.

(b) The State Plan shall contain adequate procedures for enforcing compliance with the State Plan by each RCS participant.

§ 456.304 State monitoring of utility supply, installation, and financing.

The State Plan stall—

(a) Contain procedures to ensure that covered utilities which supply, install or finance the sale or installation of energy conservation or renewable resource measures shall—

(1) Charge fair and reasonable prices and interest rates, which shall be determined by periodic review of comparative prices and interest rates by a State designated agency;

(2) Conduct such activities in a manner which does not have a substantial adverse effect upon competition or involve the use of unfair, deceptive, or anticompetitive acts or practices;

(3) When undertaking to finance a lending program for such measures through financial institutions, seek funds for such financing from financial institutions located throughout the area covered by the lending program (to the extent each such utility determines feasible, consistent with good business practice, and not disadvantageous to its customers); and

(4) Meet the requirements of § 456.504 if they undertake supply or installation activities under § 456.504.

(b) Require any utility undertaking a program involving the supply or installation of any energy conservation or renewable resource measures as permitted by § 456.504, or providing financing for the purchase or installation of any such measure, to notify the Assistant Secretary when such program becomes effective.

§ 456.305 Program announcement.

(a) *Distribution and Content.* The State Plan shall require each covered utility and each participating home heating supplier to provide each eligible customer, not later than six months after approval of the State Plan and every two years thereafter until January 1, 1985, with the following—

(1) A list of the program measures for the category of residential buildings owned or occupied by such eligible customer;

(2) A reasonable estimate (or range of estimates) of the savings in energy costs for a specified period of time which are likely to result from installation of each of the program measures in a typical building or buildings in such category;

(3) A list of energy conserving practices;

(4) A reasonable estimate (or range of estimates) of the savings in energy costs for a specified period of time which are likely to result from the adoption of the practices, individually or as a group;

(5) An offer to perform each of the services required to be offered under §§ 456.306 (Program Audits), 456.307 (Arranging Installation), 456.308 (Arranging Financing), and 456.311(c) (List Distribution to Eligible Customers), and a description of the services.

(b) The State Plan shall prohibit utilities from including with the program information any advertising for the sale, installation or financing by any supplier, contractor, or lender (including the covered utility) of any energy conservation measure, renewable resource measure, State measure, or energy conserving practice if such advertising unfairly discriminates against any person.

(c) *Category of Residential Buildings.* As used in this section, the term "category of residential buildings" means one of the categories defined in Appendix I of this part.

(d) *Calculation Procedures.* The State Plan shall, with respect to the estimates of the savings required under § 456.305(a)(2), describe the procedures by which such estimates shall be made.

(e) *New Customers.* (1) A new customer is a person who becomes an eligible customer after initial distribution of the Program Announcement but before January 1, 1985.

(2) The State Plan shall require that each covered utility and participating home heating supplier provide each new customer within 60 days of such customer becoming a new customer with the information required in § 456.305(a).

(3) The State Plan shall require that a covered utility or participating home heating supplier retain in its files for not less than five years a copy of each report of each program audit performed pursuant to the State Plan, and inform each subsequent owner of a residential building covered under the RCS Program that, upon request, a copy of that report shall be made available to such subsequent owner.

(f) The State Plan shall prohibit unfair discrimination among measures, eligible customers, suppliers, contractors, and lenders in the content of, and in the providing of, information required under this section.

§ 456.306 Requirements for program audits.

(a) *Content of program audit.* (1) The State Plan shall describe the program audit services to be offered by covered utilities and participating home heating suppliers and shall require at a minimum that covered utilities and participating home heating suppliers provide, upon request, to each eligible customer a program audit which addresses the program measures.

(2) The State Plan may allow the auditor in each program audit to determine the applicability of each program measure in that residence based on applicability criteria set forth in the State Plan subject to DOE approval. If a program measure is not applicable, then the requirements of this section to provide estimates of the cost and savings of installation of such measure in such residence do not apply.

(3) The State Plan shall contain procedures to assure the validity of the program audit with respect to all program measures.

(b) *Results of Program Audit.* The State Plan shall require that the auditor provide the following information in writing to each eligible customer who receives a program audit—

(1) An estimate of the total cost, expressed in dollars or a range of dollars, of installation by a contractor of each applicable program measure as designated in the Table of Program Measures (Appendix I).

(2) An estimate of the total cost, expressed in dollars or a range of dollars, of purchase by the customer of each applicable program measure as designated in the Table of Program Measures (Appendix I).

(3) An estimate of the savings in energy costs of each applicable program measure addressed by the program audit.

(c) *Prohibitions.* (1) The State Plan shall prohibit covered utilities and participating home heating suppliers from discriminating unfairly among eligible customers in providing program audits.

(2) The State Plan shall prohibit any auditor from recommending any supplier, contractor, or lender who supplies, installs, or finances the sale or installation of any program measure, if such recommendation would unfairly discriminate among such suppliers, contractors, or lenders.

(3) The State Plan shall prohibit any unfair discrimination among program measures.

(3) *Program Audits of Furnaces.* The State Plan shall require that, in order for an auditor of a covered utility or

participating home heating supplier to provide cost and savings estimates for furnace efficiency modifications with respect to a furnace which uses as its primary source of energy any fuel or source of energy other than the fuel or source of energy sold by that covered utility or participating home heating supplier, the eligible customer must request such audit in writing.

(e) *Qualifications for Program Auditors.* The State Plan shall require that each person who performs a program audit pursuant to the State Plan shall be qualified to perform the necessary measurements and inspections to determine the estimated cost of purchasing and installing the recommended program measures and the savings in energy costs that are likely to result from the installation of such measures.

§ 456.307 Arranging installation.

The State Plan shall—

(a) Require each covered utility and participating home heating supplier to arrange installation of any program measure upon request by an eligible customer;

(b) Describe these arranging services;

(c) Prohibit each covered utility and participating home heating supplier, when arranging installation of program measures, from recommending, selecting, or providing information regarding any supplier or contractor if such recommendation, selection, or information would unfairly discriminate among suppliers and contractors of program measures; and

(d) Prohibit each covered utility and participating home heating supplier, when arranging installation of program measures, from discriminating unfairly among eligible customers, among suppliers, among contractors, or among program measures.

§ 456.308 Arranging financing.

The State Plan shall—

(a) Require each covered utility and participating home heating supplier to arrange financing for the supply and installation of any program measure upon request by any eligible customer;

(b) Describe these arranging services;

(c) Prohibit each covered utility and participating home heating supplier, when arranging financing for the purchase or installation of program measures, from recommending, selecting, or providing information regarding any lender if such recommendation, selection, or information would unfairly discriminate among lenders that finance the purchase or installation of program measures; and

(d) Prohibit each covered utility and participating home heating supplier, when arranging financing of program measures, from discriminating unfairly among eligible customers, among suppliers, among contractors, among lenders, or among program measures.

§ 456.309 Accounting and payment of costs.

(a) *Accounting.* The State Plan shall require, and may permit with respect to costs or revenues directly associated with State measures, that all amounts expended or received by a covered utility which are attributable to the RCS Program, including any penalties paid under Subpart F (Federal Standby Authority), shall be accounted for on the books and records separately from amounts attributable to all other activities of the covered utility.

(b) *Payment of Costs.* The State Plan shall require that covered utilities treat costs as described below and shall describe how the costs described in paragraph (b)(2) of this section will be treated—

(1) All amounts expended by a covered utility in providing the information required under § 456.305(a) and in conducting all public education and program promotion directly related to providing information about a utility's RCS Program shall be treated as a current expense of providing utility service and be charged to all ratepayers of the covered utility in the same manner as other current operating expenses of providing such utility service;

(2) The cost of the following program elements shall be recovered in the manner specified by the State regulatory authority (in the case of a regulated utility) or the nonregulated utility, except that the amount that may be recovered directly from a residential customer for whom the activities described in § 456.309(b)(2)(ii) are performed shall not exceed a total of $15 per dwelling unit or the actual cost of such activities, whichever is less—

(i) Administrative and general expenses, including those associated with program audits, customer billing services, and arranging; and

(ii) Project management requirements, including—

(A) The providing of program audits;

(B) The arranging for a lender to make a loan to an eligible customer to finance the purchase and installation costs of energy conservation and renewable resource measures;

(C) The arranging to have the program measures installed; and

(D) List distribution: and

(3) In determining the amount to be recovered directly from customers as provided in paragraph (b) (2) of this section, the State regulatory authority (in the case of a regulated utility) or the nonregulated utility shall take into consideration, to the extent practicable, the eligible customers' ability to pay and the likely levels of participation in the utility program which will result from such revovery.

(c) *Duplication of Audits.* (1) In areas where a residential customer is an eligible customer of more than one covered utility, the Governor, the State regulatory authority or the covered nonregulated utility, as appropriate, may include in a State Plan or a Nonregulated Utility Plan procedures to ensure that each eligible customer may receive only one audit under the RCS Program.

(2) No utility shall be required to make more than one inspection of a residence unless a new owner requests a subsequent inspection.

§ 456.310 Customer billing, repayment of loans, and termination of service.

The State Plan shall require that—

(a) *Customer Billing.* Every charge by a covered utility or a participating home heating supplier to a customer for any portion of the costs of carrying out any activity pursuant to the State Plan that is charged to the residential customer for whom such activity is performed (including repayment of a loan) and that is included on a billing for utility service submitted by the utility or home heating supplier to such residential customer shall be stated separately on such billing from the cost of providing utility or fuel service;

(b) *Repayment of Loans.* (1) In the case of any loan arranged by a covered utility pursuant to § 456.308, the utility, at the request of the lender, shall permit repayment of the loan as part of the periodic utility bill. The utility may recover from the lender the cost incurred by the utility in carrying out such manner of repayment.

(2) In the case of any loan for the purchase or installation of program measures made by a participating home heating supplier under the RCS Program—

(i) The participating home heating supplier shall permit the eligible customer to include repayment of the loan in such customer's payment of his periodic fuel bill over a period of not less than three years, unless the eligible customer chooses a shorter repayment period;

(ii) A lump-sum payment of outstanding principal and interest may

be required by the lender upon default in payment (as determined under applicable law) from the eligible customer; and

(iii) No penalty shall be imposed by a home heating supplier, or any other lender with which a loan is arranged by the home heating supplier, for payment of all or any portion of the outstanding loan amount prior to the date such payment would otherwise be due; and

(c) *Termination of Service.* No covered utility or participating home heating supplier shall terminate utility or fuel service to any customer for any default by such customer for payments due for any services under the RCS Program.

§ 456.311 List of suppliers, contractors, and lenders.

(a) *Master Record.* The State Plan shall contain procedures for the preparation, in a fair, open and nondiscriminatory manner, of a Master Record of all suppliers, contractors, and lenders who sell, install, or finance program measures in the State and who wish to be included in the lists distributed pursuant to paragraph (c) of this section. These procedures shall, at a minimum—

(1) Identify the entity(ies), hereinafter referred to as the "Listing Agency," which shall be responsible for the preparation and maintenance of the Master Record;

(2) Ensure that a reasonable attempt is made to inform all suppliers, contractors, and lenders who sell, install or finance program measures in the State of the pending compilation of the Master Record and the intended use of the Master Record, and provide such suppliers, contractors, and lenders an opportunity through effective notice to apply for inclusion in the Master Record;

(3) Ensure that all persons who agree to comply with the rquirements of paragraph (b) of this section (unless on the basis of past experience, the Governor determines that such person's agreement is not adequate assurance of compliance with the requirements of paragraph (b)), and only such persons, are included in the Master Record;

(4) Enusre that all persons in the Master Record who fail to comply with the requirements of paragraph (b) of this section are removed from the Master Record. The State Plan shall establish the criteria by which such failure shall be grounds for removal from the Master Record. Removal procedures shall ensure that—

(i) Each person proposed for such removal shall have—

(A) Written notice of the proposed removal and the grounds for such removal at least 30 days before the actual removal; and

(B) An opportunity to respond to writing to the allegations contained in the notice described in paragraph (a)(4)(i)(A) of this section, with at least 30 days' notice; and

(ii) Each person removed from the Master Record shall have an opportunity to file a complaint through and participate in the redress proceedings described in § 456.312 for the purpose of contesting such removal;

(5) Ensure that all persons deleted from the Master Record have an opportunity to be included anew in the Master Record under criteria established by the Governor; and

(6) Ensure that the name and address of any supplier, installer or lender who has been added to or deleted from the Master Record is forwarded to the appropriate covered utilities or home heating suppliers.

(b) *Requirements for Inclusion in the Master Record.* (1) The State Plan shall require that, when installing program measures under the RCS Program, all installation contractors included in the Master Record shall—

(i) Install only measures covered by the warranties defined in—

(A) § 456.105(e) (1) or (2); and

(B) § 456.105(i)(3);

(ii) Participate in good faith in the redress proceedings described in the State Plan when there is a complaint by an eligible customer against such person; and

(iii) Comply with all applicable Federal, State, and local laws and regulations.

(2) The State Plan shall require that, when supplying program measures under the RCS Program, all suppliers included in the Master Record shall—

(i) With respect to the program measures the supplier is listed as carrying, supply program measures that carry the measure warranties defined in § 456.105(i) (1) or (2);

(ii) Have a method for informing customers of those products supplied by the supplier that are program measures, and that have a measures warranty;

(iii) Participate in good faith in the redress proceedings described in the State Plan when there is a complaint by an eligible customer against such person; and

(iv) Comply with all applicable Federal, State, and local laws and regulations.

(3) The State Plan shall require that, when financing the sale or installation of program measures under the RCS Program, all lenders included in the Master Record shall—

(i) Agree to participate in good faith in the redress proceedings described in the State Plan when there is a complaint by an eligible customer against such person; and

(ii) Comply with all applicable Federal, State, and local laws and regulations.

(4) The State Plan may include additional requirements if the Assistant Secretary determines that such requirements are fair, nondiscriminatory, and do not adversely affect competition or the RCS Program.

(c) *List Distribution to Eligible Customers.* The State Plan shall require that every covered utility and participating home heating supplier provide, upon request, to every eligible customer, lists of all suppliers, contractors, and lenders included in the Master Record who sell, install or finance program measures in its service area or such other reasonable area required by the State Plan.

(1) The State Plan shall require that these lists present the appropriate information in a fair, open, and nondiscriminatory manner.

(2) The State Plan shall require that these lists be distributed in a fair, open, and nondiscriminatory manner.

(3) The State Plan may require or permit additional information to be included on the lists if the Assistant Secretary determines that it is fair, nondiscriminatory and does not adversely affect competition or the RCS Program.

(4) The State Plan shall contain procedures to ensure that these lists are periodically updated for distribution to eligible customers.

§ 456.312 Complaints processing procedures.

The State Plan shall contain procedures—

(a) For resolving compliants against persons who sell or install energy conservation or renewable resource measures under the RCS Program; and

(b) To assure that any person who alleges any injury resulting from a violation of any State Plan provision shal be entitled to redress.

§ 456.313 Coordination.

The State Plan shall provide procedures to ensure effective coordination between the RCS Program and all local, State, and Federal energy conservation programs within the affecting the State.

§ 456.314 Home heating suppliers.

(a) *Consideration of Limited Resources.* If a State Plan covers home

heating suppliers, it shall, within the terms of the requirements of this subpart, take into account the limited resources of small home heating suppliers.

(b) *Participation and Withdrawal.* The State Plan, if it includes home heating suppliers, shall include a procedure by which the Governor shall allow a home heating supplier to participate in the RCS Program. The State Plan shall also allow participating home heating suppliers to withdraw voluntarily from the RCS program.

(c) *Waiver of Requirements.* The State Plan shall contain a procedure by which the Governor may waive for any participating home heating supplier any requirement of the State Plan, except those listed below, upon a demonstration to the Governor's satisfaction that the resources of such supplier do not enable it to comply with the particular requirement. The requirements which the Governor shall not waive are the following sections which prohibit anticompetitive activities or unfair discrimination by covered utilities or participating home heating suppliers—

(1) Section 456.306(c) (Prohibitions concerning program audits);

(2) Section 456.306(d) (Furnace audits);

(3) Sections 456.307 (c) and (d) (Prohibitions against discrimination in arranging installation);

(4) Sections 456.308 (c) and (d) (Prohibitions against discrimination in arranging financing); and

(5) Sections 456.311(c) (1)–(2) (Prohibitions against discrimination in listing).

§ 456.315 Program measures.

The State Plan shall contain a list of the program measures, which list shall be either—

(a) Those energy conservation and renewable resource measures identified in Appendix I to this rule as program measures for that State; or

(b) If a State wishes to substitute its own data and develop its own list of energy conservation and renewable resource measures, the State Plan must contain a list of those energy conservation and renewable resources measures (as defined in § 456.105 (d) and (w)) which, based on State data derived by the State, have a payback period (P) of seven years of less, as determined by dividing the installed first cost (F) less any Federal and State tax credits (T), by the fitst year energy savings in dollars (S):

$$P=\frac{F-T;}{S}$$

P<7 years.

(c) If, based on the formula described in paragraph (b) of this section, the State chooses to exclude from its RCS Program any program measure identified in Appendix I as a program measure for that State, the State Plan must also include data substantiating such exclusion.

§ 456.316 Reporting and recordkeeping.

(a) The State Plan shall contain provisions to assure that a report is submitted to the Assistant Secretary no later than July 1, 1982, and annually thereafter through July 1, 1986, covering the twelve-month period ending the preceding April 1.

(b)(1) The report shall be a narrative evaluation of the effectiveness of the program and shall not be required to contain any information which is not easily derived form available State and utility records such as records kept by utilities under section 215(c)(1)(A) of NECPA. To the extent that the following information is easily derived from available records, the report shall include information on—

(i) The number and nature of program services (energy audits, arranged installation, and arranged financing) requested, and/or provided;

(ii) The nature and status of any direct financing activities or exempted or waived supply or installation activities engaged in by the utilities;

(iii) Estimated State costs and utility costs of implementing the program; and

(iv) The general nature and approximate number of complaints received about the program and the operation of the complaints processing procedures of § 456.312 in the State.

(2) The report shall also contain a copy of any program announcement not already provided.

(c) The State Plan shall contain procedures to assure that a copy of the data collected during each audit and a copy of the costs and savings presented to the customer receiving the audit are retained on file for five years from the date of the audit.

(d) Any other provisions of this section notwithstanding, the Assistant Secretary may, as he deems essential to Departmental implementation of program responsibilities—

(1) require additional information; and

(2) waive any reporting and recordkeeping requirements, except the recordkeeping requirement in paragraph (c) of this section.

Subpart D—Nonregulated Utility Plans

§ 456.401 Scope.

This subpart identifies the responsibilities of covered nonregulated utilities not subject to a State Plan for the preparation and submission of Nonregulated Utility Plans, the procedures for approval of Nonregulated Utility Plans by the Assistant Secretary, and the minimum requirements for the content of Nonregulated Utility Plans.

§ 456.402 Coverage.

This subpart shall apply to all nonregulated covered utilities which are not covered by a State Plan.

§ 456.403 Notice, comment, and public hearing.

Prior to submission of the Nonregulated Utility Plan to the Assistant Secretary for approval, the nonregulated utility shall—

(a) *Notice and Comment.* Provide meaningful public notice of the requirement for the nonregulated utility to submit a Nonregulated Utility Plan;

(b) *Hearing.* Hold at least one public hearing in the nonregulated utility's service area for the purpose of hearing testimony and receiving comments on the content of the proposed Nonregulated Utility Plan.

§ 456.404 Procedures for submission and approval of Nonregulated Utility Plans.

(a) *Submission.* Each utility subject to this subpart shall submit to the Assistant Secretary a proposed Nonregulated Utility Plan by June 4, 1980, unless the time for submission has been extended by the Assistant Secretary for good cause shown upon request of the nonregulated utility.

(b) *Approval.* If a proposed Nonregulated Utility Plan meets the criteria of this subpart, the Assistant Secretary shall approve it within 90 days of the date the proposed Nonregulated Utility Plan was submitted.

(c) *Disapproval.* (1) If a Nonregulated Utility Plan does not meet the criteria of this subpart, the Assistant Secretary shall, within 90 days of the date the proposed Nonregulated Utility Plan is submitted, disapprove the proposed Nonregulated Utility Plan and specify in writing the grounds for disapproval.

(2) Within 60 days of the date of disapproval of a proposed Nonregulated Utility Plan, or such longer period as the Assistant Secretary may determine pursuant to the criteria of paragraph (a) of this section, the nonregulated utility shall submit another proposed Nonregulated Utility Plan.

(d) *Amendments.* The nonregulated utility may submit proposed amendments to an approved Nonregulated Utility Plan at any time.

§ 456.405 Temporary programs.

A nonregulated utility may submit a Temporary Program as defined in § 456.207(a) in accordance with the procedures and criteria of § 456.207. This submission may be a part of the proposed Nonregulated Utility Plan or a separate submission.

§ 456.406 Content of plans.

(a) *General Requirements.* (1) Except as provided in this section, each Nonregulated Utility Plan shall meet all the requirements for State Plans in Subpart C.

(2) Except as otherwise provided in this section, all references in Subpart C to—

(i) Covered utilities shall be deemd to refer to utilities subject to this subpart;

(ii) A State Plan shall be deemd to refer to a Nonregulated Utility Plan;

(iii) Participating home heating suppliers shall not apply;

(iv) A State [as a governmental entity, other than references to State laws or regulations] or any State Agency or officer shall be deemed to refer to the nonregulated utility submitting the Plan; and

(v) A State [as a geographic area] shall be deemed to refer to the nonregulated utility's service area.

(b) *Reporting.* Each Nonregulated Utility Plan shall contain procedures whereby such utility will submit a written report to the Assistant Secretary not later than one year after approval of such plan, and biennially thereafter, regarding implementation of the utility program.

(c) *Utilizing State services.*

(1) In a State submitting a State Plan, a nonregulated utility may, by written understanding with the appropriate State agency, utilize services which have been provided for in the State Plan.

(2) If a Nonregulated Utility Plan utilizes services as permitted by this paragraph all references in the State Plan to those services with regard to utilities subject to the State Plan shall be deemed to refer to the nonregulated utility.

(3) If a Nonregulated Utility Plan uses a Master Record produced under a State Plan, the nonregulated utility may not add or delete contractors, suppliers, or lenders from the Master Record, and shall add or delete contractors, suppliers, or lenders from any list distributed only in accordance with the State Plan.

(4) If a Nonregulated Utility Plan proposes to utilize any of the services pursuant to this paragraph, the Plan shall so state and copies of the written agreements with the appropriate State agencies shall be included with the Nonregulated Utility Plan in the submission to the Assistant Secretary.

Subpart E—Supply, Installation, and Financing by Utilities

§ 456.501 Scope and definitions.

(a) This subpart contains the prohibition against a utility's supply and installation of energy conservation and renewable resource measures. It specifies the exemptions to this prohibition and the procedures, where applicable, for obtaining these exemptions. It also sets forth certain requirements concerning utility financing programs.

(b) For purposes of this subpart—

(1) A "covered utility" means a covered utility, any company which is owned or controlled by such a utility, or any company which owns or controls such a utility;

(2) A covered utility "installs" a measure whenever the contract for installation obligates the covered utility to install the measure;

(3) A utility "supplies" a measure when it sells a measure at retail or leases a measure to an eligible customer; and

(4) A utility "finances" the supply or installation of a measure when the loan contract names the utility as the lender.

§ 456.502 Prohibition.

(a) Except as provided in this subpart, no covered utility may supply or install any energy conservation or renewable resource measure.

(b) Notwithstanding §§ 456.503–456.507, no covered utility may supply, install, or finance the supply or installation of any energy conservation or renewable resource measure if the Assistant Secretary has determined, after notice and opportunity for public hearing, and after consultation with the Federal Trade Commission, that—

(1) Such supply, installation, or financing is being carried out by such utility at unreasonable rates or on unreasonable terms or conditions;

(2) Such supply, installation, or financing being carried out by such utility has a substantial adverse effect upon competition or involves the use of unfair, deceptive, or anticompetitive acts or practices; or

(3) Such supply or installation conducted pursuant to § 456.504 is being carried out in a manner which does not comply with the requirements of § 456.504.

(c) Violations of this section are subject to a civil penalty of not more than $25,000 for each day of violation assessed by order of the Assistant Secretary pursuant to Sections 216(h) and 219 of NECPA and § 456.606 of these rules.

§ 456.503 Exemption for certain measures.

The prohibition in § 456.502(a) shall not apply to the supply or installation of (1) furnace efficiency modifications, (2) clock thermostats, and (3) devices associated with load management techniques.

§ 456.504 Exemption for utility subcontractor supply and installation.

(a) The prohibition contained in § 456.502(a) shall not apply to any energy conservation measure or renewable resource measure supplied or installed by a public utility through contracts between such utility and independent suppliers or contractors where the customer requests such supply and installation and each supplier or contractor—

(1) Is on the list of suppliers and contractors referred to in § 456.311;

(2) Is not subject to the control of the public utility, except as to the performance of such contract, and is not an affiliate or a subsidiary to such utility; and

(3) If selected by the utility, is selected in a manner consistent with § 456.504(b).

(b) Activities of a public utility conducted pursuant to paragraph (a)(3) of this section—

(1) May not involve unfair methods of competition;

(2) May not have a substantial adverse effect on competition in the area in which such activities are undertaken nor result in providing to any supplier or contractor an unreasonably large share of contracts for the supply or installation of energy conservation or renewable resource measures;

(3) Shall be undertaken in a manner that provides, subject to reasonable conditions the utility may establish to ensure the quality of supply and installation of energy conservation or renewable resource measures, that any financing by the utility of such measures shall be available to finance the supply or installation by any contractor on the list referred to in § 456.311 or to finance the purchase of such measures to be installed by the customer;

(4) Shall be undertaken, to the extent practicable and consistent with paragraph (b)(1)–(3) of this section, in a manner that minimizes the cost of energy conservation and renewable resource measures to such customers; and

(5) Shall include making available upon request a current estimate of the average price of supply and installation

of energy conservation and renewable resource measures subject to the contracts entered into by the public utility under paragraph (a) of this section.

§ 456.505 Exemption for existing supply and installation.

(a) The prohibition in § 456.502(a) shall not apply to any supply or installation of any energy conservation or renewable resource measure in which the covered utility was engaged on November 9, 1978—

(1) During such time as applications for determinations with respect to such activities, filed in accordance with § 456.509, are pending; and

(2) Upon a final determination that, on or by November 9, 1978, such energy conservation or renewable resource measure was being supplied or installed by the utility seeking such determination.

(b) The prohibition in § 456.502(a) shall not apply to any supply or installation of any energy conservation or renewable resource measure which the covered utility had by November 9, 1978, broadly advertised that it would supply or install, or with respect to which the utility had by November 9, 1978, completed substantial preparations for supplying or installing—

(1) During such time as applications for determinations with respect to such activity filed in accordance with § 456.509 are pending; and

(2) Upon a final determination that, on or by November 9, 1978, such energy conservation or renewable resource measure had been broadly advertised or for which substantial preparations had been completed by the utility seeking such determination.

§ 456.506 Exemption for supply and installation authorized by State or local law.

(a) The prohibition in § 456.502(a) shall not apply to any such supply or installation of any energy conservation or renewable resource measure—

(1) In which a State or local law or regulation in effect on November 9, 1978, required or explicitly permitted a covered utility to engage; or

(2) Which the Attorney General of the appropriate State certifies to the Assistant Secretary was intended by a State law or regulation in effect on November 9, 1978, to be required or permitted.

(b) A covered utility is exempt from any Federal requirement to include in its RCS program any supply or installation of any energy conservation or renewable resources measure in which it is engaged by reason of a State law or regulation in effect prior to November 9, 1978, permitting or requiring such activities. However, a covered utility that includes supply and installation in its RCS program pursuant to the exemption in paragraph (a) of this section shall be subject to all the requirements of the State Plan with respect to those activities in the same manner as any contractor, supplier, or lender, except that it shall be exempt from the requirements of § 456.310 (Customer Billing, Repayment of Loans, and Termination of Service) with respect to such activities.

§ 456.507 Waivers.

(a) The Assistant Secretary may waive any prohibition of § 456.502(a) upon petition by a covered utility pursuant to § 456.509 and a finding that—

(1) The petition, in the case of a covered utility subject to a State Plan, is supported by the Governor; and

(2) If such waiver were granted—

(i) Fair and reasonable prices and rates of interest would be charged; and

(ii) The otherwise prohibited activities would not involve or result in unfair methods of competition or unfair or deceptive acts or practices.

(b) Before the Assistant Secretary makes the finding described in paragraph (a)(2)(i) of this section, he or she shall consult with the Federal Trade Commission.

§ 456.508 Notification.

Each utility undertaking a program involving the supply or installation of any energy conservation or renewable resource measure as permitted under § 456.504, or providing financing for the purchase or installation of any such measure, must notify the Assistant Secretary when such program becomes effective.

§ 456.509 Procedure for obtaining determinations and waivers.

(a) A utility making an application for a determination under § 456.505 or a petition for a waiver under § 456.507 shall file such application or petition clearly labeled as such with the Assistant Secretary for Conservation and Renewable Energy, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585. All such petitions shall contain all information necessary for the determination under § 456.505 or the findings required by § 456.507.

(b) In addition to any other requirement that may be applicable, any utility making an application or petition under this section shall give direct notice to the Governor, State Energy Office, and State Regulatory Authority of any State in which such exemption or waiver would be applicable, informing them that they may within ten days submit comments on the application or petition to the Assistant Secretary. The application or petition filed with the Assistant Secretary shall include a certification that the applicant or petitioner has complied with the requirements of this paragraph. In the discretion of the Assistant Secretary, opportunity to comment may be provided to other interested persons.

§ 456.510 Appeals.

Any person adversely affected by any decision made pursuant to this subpart by the Assistant Secretary may appeal that decision in accordance with Subpart H of 10 CFR Part 205. All such appeals shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

§ 456.511 Certain exempt activities and compliance with accounting, costing, billing and repayment provisions.

Any covered utility conducting activities pursuant to the exemptions provided for in § 456.503, § 456.504 or § 456.505(b) or the waiver provisions of § 456.507 shall comply with the requirements of §§ 456.309 (a), (b)(2), and (b)(3), and § 456.310 with respect to those activities. Any covered utility carrying out activities pursuant to the exemptions provided for in § 456.505(a) shall, within such reasonable time as the Secretary prescribes, comply with the requirements of §§ 456.309 (a), (b)(2), and (b)(3), and § 456.310 with respect to such activities.

Subpart F—Federal Standby Authority and Enforcement Provisions

(Subpart F, published at 44 FR 64661, Nov. 7, 1979, remains in effect)

Appendix I to Part 456—Program Measures

(a) *General.* (1) The measures table was developed by evaluating program measures with respect to a prototypical house (see Appendix II) for all HUD/MPS climate regions and building types. A measure was determined to be a program measure for a climate region and building type if the ratio of installed first cost, less any Federal and State income tax credits, divided by first year energy savings in dollars was less than or equal to 7 years. The RCS model audit procedures were used to determine energy savings. (2) DOE applied only resident-installed costs to those measures which are not likely to be installed by a contractor: caulking,

weatherstripping and clock thermostats. Resident-installed and contractor costs were used to determine installed first cost for those measures which DOE believed could be easily installed by homeowners without encountering safety hazards or without conflicting with most building code requirments. These measures include ceiling insulation, floor insulation, water heater insulation, and pipe and duct insulation. Contractor installed costs alone were used for those measures where local codes or regulations and safety considerations were likely to preclude homeowner installations or where a measure is not easily installed by a homeowner. These measures include: wall insulation, storm and thermal windows and doors, replacement heating systems, oil burner replacement, vent dampers, IID's, replacement central air conditioners, active solar space heating, combined active solar space heating and hot water heating systems, solar domestic water heating systems, replacement solar pool heaters and wind energy devices.

(d) *Climate Zones of Program Measures.* In the Table of program measures, the climate zones for heating degree-days are as follow:

Climate	Heating degree-days
1	0 to 1000.
2	1001to 2500.
3	2501 to 3500.
4	3501 to 4500.
5	4501 to 5000.
6	5001 to 6000.
7	6001 to 7000.
8	7001 and above.

The cooling degree days utilized in the evaluation of program measures for each climate zone within each State are the cooling degree days for the weather station which is specified for that climate zone in the DOE model audit.

(c) *Category of Residential Fuel Use:* The program measures are designated in the following tables by categories of residential fuel use. These categories are:

(1) For energy conservation measures (except water heater insulation):

(i) "Electricity", which includes all residential buildings in which the principal source of space heating in an electric resistance heating system;

(ii) "Gas", which includes all residential buildings in which either natural gas, propane, or butane is the principal space heating fuel;

(iii) "Oil", which includes all residential buildings in which either #2 heating oil or kerosene is the principal space heating fuel, and includes all other residential buildings not included in the categories "Electricity", "Gas", or "Heat Pump";

(iv) "Heat Pump", which includes all residential buildings in which the principal source of space heating is an electric heat pump.

(d) (1) *Caulking, Weatherstripping, and Clock Thermostats.* Caulking, weatherstripping and clock thermostats fell within the 7-year payback in all climate zones for all building categories and are considered program measures in all States (for the sake of simplicity, these measures do not appear in the tables).

(2) *Devices associated with electric load management techniques.* Devices associated with electric load management techniques are program measures for all categories of residential buildings if the local electric utility offers a residential rate which reflects any differences in the utility's cost-of-service (either energy or demand costs) between peak and off-peak periods, or if a residential electric rate comprised of an integrated peak measured demand and an energy use component is applied.

(3) *Ceiling Insulation.* Where indicated as a program measure in Table I, the R-value for ceiling insulation is R–18 or more.

(4) *Floor Insulation.* Where indicated as a program measure in Table I, the R-value for floor insulation is R–11.

(5) *Vent dampers.* Vent dampers are program measures for the category "gas" as indicated in Table 1.

(6) *Replacement Solar Swimming Pool Heaters.* These are evaluated as a program measure as indicated in Table 1 assuming a pool blanket or cover is also used.

(7) *Wind Energy Systems.* Wind energy devices are program measures for the categories "electric" and "heat pump" as indicated in Table 1.

(8) *Heat Reflective and Heat Absorbing Window and Door Material.* Heat reflective and heat absorbing window and door materials are program measures for the categories "electric" and "heat pump" as indicated in Table 1 because they are intended to reduce cooling loads.

(9) *Solar Domestic Hot Water Systems.* Solar domestic hot water systems are program measures for the categories "electric", "gas" and "oil" as indicated in Table 1.

(10) *Water Heater Insulation.* Water heater insulation, is a program measure for the categories "electric", "gas" and "oil" as indicated in Table 1.

(11) *Passive Solar.* Evaluation of passive solar as a program measure is reserved.

(e) *Table of Program Measures by State.* All other program measures are displayed in Table 1 organized by State where:

R = Resident-installed costs
C = Contractor-installed costs
X = 2 KW non-utility interconnected DC wind machine without battery storage
Y = 2 KW interconnected AC wind machine without battery storage

HUD/MPS region	Fuel	Insulation						Storm or thermal windows	Storm or thermal doors	Heat reflective and heat absorbing window materials	Replacement heating system	Replacement oil burner	Vent damper	Replacement air-conditioner	Solar domestic water heater	Replacement solar pool heater	Wind energy
		Ceiling and attic	Wall	Floor	Water heater	Duct	Pipe										
Alabama																	
2	Electric	RC	C	[RC]	RC	R	RC			RC							
	Gas	RC		[R]	RC	R	R										
	Oil	RC	C	[RC]	RC	R	RC					C					
	H.P.	RC		[R]		R	R			RC							
3	Electric	RC	C	RC	RC	R	RC	C		RC							
	Gas	RC	C	[RC]	RC	R	RC						C				
	Oil	RC	C	[RC]	RC	R	RC	[C]				C					
	H.P.	RC	C	[RC]		R	RC			RC							
Alaska																	
8	Electric	RC	C	RC		RC	RC	C									
	Gas	RC		RC		R	RC				C		C				
	Oil	RC	C	RC		RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C									
Arizona																	
1	Electric	RC	C	[R]	RC	R	R	[C]		RC				C	C		
	Gas	RC	C		RC		R	[C]									
	Oil	RC	C	[R]	RC	R	R	[C]							C		
	H.P.	RC	C				R	[C]		RC							
2	Electric	RC	C	[RC]	RC	R	RC	C		RC	C			C	C		
	Gas	RC	C	[RC]	RC	R	RC	[C]					C				
	Oil	RC	C	[RC]	RC	R	RC	[C]				C			C		
	H.P.	RC	C	[RC]		R	RC	[C]		RC							
3	Electric	RC	C	RC	RC	RC	RC	C	[C]	RC	C			C	C		
	Gas	RC	C	[RC]	RC	R	RC	[C]			C		C				
	Oil	RC	C	[RC]	RC	R	RC	[C]				C			C		
	H.P.	RC	C	[RC]		R	RC	[C]		RC							
4	Electric	RC	C	RC	RC	RC	RC	C	[C]	RC	C			C	C		
	Gas	RC	C	RC	RC	R	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C			C		
	H.P.	RC	C	RC		R	RC	C		RC							
5	Electric	RC	C	RC	RC	RC	RC	C		RC	C				C		
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C			C		
	H.P.	RC	C	RC		RC	RC	C		RC							
6	Electric	RC	C	RC	RC	RC	RC	C	C	RC	C				RC		
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C			C		
	H.P.	RC	C	RC		RC	RC	C		RC							
7	Electric	RC	C	RC	RC	RC	RC	C	C		C				C	C	
	Gas	RC	C	RC	RC	RC	RC	C			C		C			C	
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		RC	RC	C								C	
Arkansas																	
3	Electric	RC	C	RC	RC	RC	RC	C		RC	C						
	Gas	RC		[R]	R	R	R	[C]									
	Oil	RC	C	[RC]	RC	R	RC	[C]				C					
	H.P.	RC	C	[RC]		R	RC	[C]		RC							
4	Electric	RC	C	RC	RC	RC	RC	C		RC	C						
	Gas	RC		R	RC	R	R										
	Oil	RC	C	RC	RC	RC	RC	C				C					
	H.P.	RC	C	RC		R	RC	C		RC							
California																	
2	Electric	RC	C	[RC]	RC	R	RC	C		RC	C			C			
	Gas	RC	C	[RC]	RC	R	R	[C]									
	Oil	RC	C	[RC]	RC	R	RC	[C]				C					
	H.P.	RC	C	[RC]		R	R	[C]		RC							
3	Electric	RC	C	RC	RC	RC	RC	C		RC	C						
	Gas	RC	C	[RC]	RC	R	RC						C				

HUD/MPS region	Fuel	Insulation						Storm or thermal windows	Storm or thermal doors	Heat reflective and heat absorbing window materials	Replacement heating system	Replacement oil burner	Vent damper	Replacement air-conditioner	Solar domestic water heater	Replacement solar pool heater	Wind energy
		Ceiling and attic	Wall	Floor	Water heater	Duct	Pipe										
	Oil	RC	C	[RC]	RC	R	RC	[C]				C					
	H.P.	RC	C	[RC]		R	RC			RC							
4	Electric	RC	C	RC	RC	RC	RC	C		RC	C						
	Gas	RC	C	RC	RC	R	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C					
	H.P.	RC	C	RC		R	RC	C		RC							
5	Electric	RC	C	RC	RC	RC	RC	C		RC	C						
	Gas	RC	C	RC	RC	R	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C					
	H.P.	RC	C	RC		R	RC	C		RC							
6	Electric	RC	C	RC	RC	RC	RC	C		RC	C						
	Gas	RC	C	RC	RC	R	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C					
	H.P.	RC	C	RC		RC	RC	C		RC							
7	Electric	RC	C	RC	RC	RC	RC	C		RC	C				RC		
	Gas	RC	C	RC	RC	R	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C			RC		
	H.P.	RC	C	RC		RC	RC	C		RC							
8	Electric	RC	C	RC	RC	RC	RC	C		RC					C	C	
	Gas	RC	C	RC	RC	R	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C			C	C	
	H.P.	RC	C	RC		RC	RC	C		RC						C	
								Colorado									
6	Electric	RC	C	RC	RC	RC	RC	C	C	RC	C					C	X
	Gas	RC	C	RC	RC	R	RC	C			C		C			C	
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		RC	RC	C		RC						C	X
7	Electric	RC	C	RC	RC	RC	RC	C		RC	C				C	C	X
	Gas	RC	C	RC	RC	R	RC	C			C		C			C	
	Oil	RC	C	RC	RC	RC	RC	C			C	C			C	C	
	H.P.	RC	C	RC		RC	RC	C		RC						C	X
8	Electric	RC	C	RC	RC	RC	RC	C							C	C	[XY]
	Gas	RC	C	RC	R	R	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C			C	C	
	H.P.	RC	C	RC		RC	RC	C								C	[XY]
								Connecticut									
6	Electric	RC	C	RC	RC	RC	RC	C	C	RC	C					C	
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		RC	RC	C		RC						C	
								Delaware									
4	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	R	R	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C				C	
	H.P.	RC	C	RC		R	RC	C		RC						C	
								District of Columbia									
4	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	RC	R	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C				C	
	H.P.	RC	C	RC		R	RC	C		RC						C	
								Florida									
1	Electric	RC		[R]	RC	R	R	[C]		RC				C			
	Gas	RC			RC		R	[C]									
	Oil	RC		[R]	RC	R	R	[C]									
	H.P.	RC					R	[C]		RC							
2	Electric	RC	C	[RC]	RC	R	RC	C		RC							
	Gas	RC		[R]	RC	R	R										
	Oil	RC	C	[RC]	RC	R	RC	[C]				C					

HUD/MPS region	Fuel	Insulation						Storm or thermal windows	Storm or thermal doors	Heat reflective and heat absorbing window materials	Replacement heating system	Replacement oil burner	Vent damper	Replacement air-conditioner	Solar domestic water heater	Replacement solar pool heater	Wind energy
		Ceiling and attic	Wall	Floor	Water heater	Duct	Pipe										
	H.P.	RC		[R]		R	R			RC							
Georgia																	
2	Electric	RC	C	[RC]	RC	R	RC	C		RC	C						
	Gas	RC		[R]	RC	R	R										
	Oil	RC	C	[RC]	RC	R	RC	[C]				C					
	H.P.	RC		[R]		R	R			RC							
3	Electric	RC	C	RC	RC	R	RC	C		RC	C					C	
	Gas	RC		[RC]	RC	R	R									C	
	Oil	RC	C	[RC]	RC	R	RC	[C]				C				C	
	H.P.	RC	C	[RC]		R	RC			RC						C	
4	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC		RC	RC	R	RC						C				
	Oil	RC	C	RC	RC	RC	RC	C				C				C	
	H.P.	RC	C	RC		R	RC			RC						C	
Hawaii																	
1	Electric	RC	C	[RC]	RC	R	RC	[C]	[C]	RC				C	C		XY
	Gas	RC	C	[R]	AC	R	RC	[C]	[C]								
	Oil	RC	C	[R]	RC	R	R	[C]	[C]								
	H.P.	RC	C				R	[C]	[C]	RC							XY
Idaho																	
7	Electric	RC	C	RC	RC	R	RC			R							
	Gas	RC	C	RC	RC	RC	RC	C			C		C			C	
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC		RC		R	RC			R							
8	Electric	RC	C	RC	RC	R	RC	C		R						C	
	Gas	RC	C	RC	RC	RC	RC	C			C		C			C	
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		R	RC			R							
Illinois																	
4	Electric	RC	C	RC	RC	RC	RC	C		RC	C				C	C	
	Gas	RC	C	RC	RC	R	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C			C	C	
	H.P.	RC	C	RC		R	RC	C		RC						C	
5	Electric	RC	C	RC	RC	RC	RC	C		RC	C				C	C	
	Gas	RC	C	RC	RC	R	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C			C	C	
	H.P.	RC	C	RC		R	RC	C		RC						C	
6	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	RC	R	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C				C	
	H.P.	RC	C	RC		RC	RC	C		RC						C	
7	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	RC	R	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		RC	RC	C		RC						C	
Indiana																	
4	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC		RC	RC	R	RC						C				
	Oil	RC	C	RC	RC	RC	RC	C				C				C	
	H.P.	RC	C	RC		R	RC	C		RC						C	
5	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC		RC	RC	R	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C				C	
	H.P.	RC	C	RC		R	RC	C		RC							
6	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC		RC	RC	R	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		R	RC	C		RC							

HUD/MPS region	Fuel	Insulation						Storm or thermal windows	Storm or thermal doors	Heat reflective and heat absorbing window materials	Replacement heating system	Replacement oil burner	Vent damper	Replacement air-conditioner	Solar domestic water heater	Replacement solar pool heater	Wind energy
		Ceiling and attic	Wall	Floor	Water heater	Duct	Pipe										
Iowa																	
7	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	R	R	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		RC	RC	C		RC							
6	Electric	RC	C	RC	RC	RC	RC	C		RC	C				C		
	Gas	RC	C	RC	RC	R	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		RC	RC	C		RC						C	
7	Electric	RC	C	RC	RC	RC	RC	C		RC	C				C		
	Gas	RC	C	RC	RC	R	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		RC	RC	C	C	RC						C	
8	Electric	RC	C	RC	RC	RC	RC	C		RC					C		
	Gas	RC	C	RC	RC	R	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		RC	RC	C		RC						C	
Kansas																	
4	Electric	RC	C	RC	RC	RC	RC	C		RC	C						
	Gas	RC		RC	RC	R	RC						C				
	Oil	RC	C	RC	RC	RC	RC	C				C					
	H.P.	RC	C	RC		R	RC	C		RC							
5	Electric	RC	C	RC	RC	RC	RC	C		RC	C						
	Gas	RC		RC	R	R	RC	C					C				
	Oil	RC	C	RC	RC	RC	RC	C				C					
	H.P.	RC	C	RC		RC	RC			RC							
6	Electric	RC	C	RC	RC	RC	RC	C		RC	C				C		X
	Gas	RC		RC	R	R	RC	C					C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C			C		
	H.P.	RC	C	RC		RC	RC	C		RC							X
7	Electric	RC	C	RC	RC	RC	RC	C		RC	C				C		X
	Gas	RC	C	RC	R	R	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C			C		
	H.P.	RC	C	RC		RC	RC	C		RC							X
Kentucky																	
4	Electric	RC	C	RC	RC	R	RC	C		R	C					C	
	Gas	RC		RC	RC	R	RC						C				
	Oil	RC	C	RC	RC	RC	RC	C				C				C	
	H.P.	RC		RC		R	RC			R						C	
5	Electric	RC	C	RC	RC	RC	RC	C		R	C					C	
	Gas	RC		RC	R	R	RC						C				
	Oil	RC	C	RC	RC	RC	RC	C				C				C	
	H.P.	RC	C	RC		R	RC			R							
6	Electric	RC	C	RC	RC	RC	RC	C		R	C					C	
	Gas	RC		RC	R	R	RC						C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		R	RC			R							
Louisiana																	
2	Electric	RC	C	[RC]	RC	R	RC	C		RC							
	Gas	RC		[R]	RC	R	R										
	Oil	RC	C	[RC]	RC	R	RC	[C]				C					
	H.P.	RC	C	C		R	R	[C]		RC							
3	Electric	RC	C	RC	RC	RC	RC	C		RC	C						
	Gas	RC	C	[RC]	RC	R	RC	[C]					C				
	Oil	RC	C	[RC]	RC	R	RC	[C]				C					
	H.P.	RC	C	[RC]		R	RC	[C]		RC							
Maine																	
8	Electric	RC	C	RC	RC	RC	RC	C		RC						C	

HUD/MPS region	Fuel	Insulation						Storm or thermal windows	Storm or thermal doors	Heat reflective and heat absorbing window materials	Replacement heating system	Replacement oil burner	Vent damper	Replacement air-conditioner	Solar domestic water heater	Replacement solar pool heater	Wind energy
		Ceiling and attic	Wall	Floor	Water heater	Duct	Pipe										
	Gas	RC	C	RC	R	RC	RC	C			C		C				
	Oil	RC	C	RC	R	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C		RC							
Maryland																	
4	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	RC	R	RC	C			C		C			C	
	Oil	RC	C	RC	RC	RC	RC	C				C				C	
	H.P.	RC	C	RC		R	RC	C		RC						C	
5	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	R	R	RC	C			C		C			C	
	Oil	RC	C	RC	RC	RC	RC	C				C					
	H.P.	RC	C	RC		RC	RC	C		RC						C	
6	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	RC	R	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C				C	
	H.P.	RC	C	RC		RC	RC	C		RC						C	
Massachusetts																	
6	Electric	RC	C	RC	RC	RC	RC	C	C	RC	C					C	
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		RC	RC	C	C	RC						C	
7	Electric	RC	C	RC	RC	RC	RC	C	C	RC	C					C	
	Gas	RC	C	RC	R	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		RC	RC	C		RC						C	
Michigan																	
7	Electric	RC	C	RC	RC	RC	RC	C		R	C					C	
	Gas	RC	C	RC	R	R	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		RC	RC	C		R						C	
8	Electric	RC	C	RC	RC	RC	RC	C		R						C	
	Gas	RC	C	RC	R	R	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		RC	RC	C		R						C	
Minnesota																	
8	Electric	RC	C	RC	RC	RC	RC	C		R						C	
	Gas	RC	C	RC	R	R	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		RC	RC	C		R							
Mississippi																	
2	Electric	RC	C	[RC]	RC	R	RC			R							
	Gas	RC		[R]	RC	R	R										
	Oil	RC	C	[RC]	RC	R	RC					C					
	H.P.	RC		[R]		R	R			R							
3	Electric	RC	C	RC	RC	R	RC	C		R							
	Gas	RC		[RC]	RC	R	R										
	Oil	RC	C	[RC]	RC	R	RC	[C]				C					
	H.P.	RC	C	[RC]		R	RC			R							
Missouri																	
4	Electric	RC	C	RC	RC	RC	RC	C		RC	C						
	Gas	RC	C	RC	RC	R	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C					
	H.P.	RC	C	RC		R	RC	C		RC							
5	Electric	RC	C	RC	RC	RC	RC	C		RC	C						
	Gas	RC	C	RC	RC	R	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C					

HUD/MPS region	Fuel	Insulation						Storm or thermal windows	Storm or thermal doors	Heat reflective and heat absorbing window materials	Replacement heating system	Replacement oil burner	Vent damper	Replacement air-conditioner	Solar domestic water heater	Replacement solar pool heater	Wind energy
		Ceiling and attic	Wall	Floor	Water heater	Duct	Pipe										
	H.P.	RC	C	RC		RC	RC	C		RC							
6	Electric	RC	C	RC	RC	RC	RC	C		RC	C						
	Gas	RC	C	RC	RC	R	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C		RC							
Montana																	
8	Electric	RC	C	RC	RC	RC	RC	C		R							
	Gas	RC		RC	R	R	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		RC	RC	C		R							
Nebraska																	
6	Electric	RC	C	RC	RC	RC	RC	C		RC	C						
	Gas	RC	C	RC	RC	R	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C					
	H.P.	RC	C	RC		RC	RC	C		RC							
7	Electric	RC	C	RC	RC	RC	RC	C		R	C					C	
	Gas	RC		RC	R	R	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		RC	RC	C		R							
8	Electric	RC	C	RC	RC	RC	RC	C		RC						C	
	Gas	RC		RC	R	R	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		RC	RC	C		RC						C	
Nevada																	
2	Electric	RC		RC	RC	R	RC			RC							
	Gas	RC		[RC]	RC	R	RC						C				
	Oil	RC		[RC]	RC	R	RC					C					
	H.P.	R		[R]		R	RC			RC							
3	Electric	RC	C	RC	RC	RC	RC	C		RC	C						
	Gas	RC		[RC]	RC	R	RC				C		C				
	Oil	RC	C	[RC]	RC	R	RC	[C]				C					
	H.P.	RC		[RC]		R	RC			RC							
4	Electric	RC	C	RC	RC	RC	RC	C		RC	C						
	Gas	RC	C	RC	RC	R	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C					
	H.P.	RC	C	RC		R	RC			RC							
5	Electric	RC	C	RC	RC	RC	RC	C		RC	C						
	Gas	RC	C	RC	RC	R	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C					
	H.P.	RC	C	RC		R	RC	C		RC							
6	Electric	RC	C	RC	RC	RC	RC	C		RC	C						
	Gas	RC	C	RC	RC	R	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C					
	H.P.	RC	C	RC		RC	RC	C		RC							
7	Electric	RC	C	RC	RC	RC	RC	C		R	C					C	
	Gas	RC	C	RC	RC	R	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C				C	
	H.P.	RC	C	RC		RC	RC	C		R							
8	Electric	RC	C	RC	RC	RC	RC	C		R						C	
	Gas	RC	C	RC	RC	RC	RC	C			C		C			C	
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		RC	RC	C		R						C	
New Hampshire																	
7	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	R	R	RC	C			C		G				
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		R	RC	C		RC						C	
8	Electric	RC	C	RC	RC	RC	RC	C	C	RC						C	X
	Gas	RC	C	RC	R	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	

HUD/MPS region	Fuel	Insulation						Storm or thermal windows	Storm or thermal doors	Heat reflective and heat absorbing window materials	Replacement heating system	Replacement oil burner	Vent damper	Replacement air-conditioner	Solar domestic water heater	Replacement solar pool heater	Wind energy
		Ceiling and attic	Wall	Floor	Water heater	Duct	Pipe										
	H.P.	RC	C	RC		RC	RC	C		RC	C					C	[X]
New Jersey																	
5	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	R	R	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C				C	
	H.P.	RC	C	RC		RC	RC	C		RC						C	
6	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	R	R	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		RC	RC	C		RC						C	
New Mexico																	
3.	Electric	RC	C	RC	RC	RC	RC	C		RC	C						X
	Gas	RC	C	[RC]	RC	R	RC	C					C				
	Oil	RC	C	[RC]	RC	R	RC	C				C					
	H.P.	RC	C	[RC]		R	RC	C		RC							X
4.	Electric	RC	C	RC	RC	RC	RC	C		RC	C						X
	Gas	RC	C	RC	RC	R	RC	C					C				
	Oil	RC	C	RC	RC	RC	RC	C				C					
	H.P.	RC	C	RC		RC	RC	C		RC							X
5.	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	X
	Gas	RC	C	RC	RC	R	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C			C		
	H.P.	RC	C	RC		RC	RC	C		RC							X
6.	Electric	RC	C	RC	RC	RC	RC	C		RC	C				C		XY
	Gas	RC	C	RC	RC	R	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C			C		
	H.P.	RC	C	RC		RC	RC	C		RC							XY
7.	Electric	RC	C	RC	RC	RC	RC	C	C	RC	C				C		
	Gas	RC	C	RC	RC	R	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C			C		
	H.P.	RC	C	RC		RC	RC	C		RC							
8.	Electric	RC	C	RC	RC	RC	RC	C							C	C	X
	Gas	RC	C	RC	R	R	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C			C	C	
	H.P.	RC	C	RC		RC	RC	C								C	X
New York																	
6.	Electric	RC	C	RC	RC	RC	RC	C	C	RC	C					C	
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		RC	RC	C		RC						C	
7.	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		RC	RC	C		RC						C	
8.	Electric	RC	C	RC	RC	RC	RC	C	C	RC						C	
	Gas	RC	C	RC	R	RC	RC	C			C		C				
	Oil	RC	C	RC	R	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		RC	RC	C	C	RC	C					C	
North Carolina																	
2.	Electric	RC	C	[RC]	RC	R	RC	[C]		RC							
	Gas	RC			RC	R	R										
	Oil	RC	C	[RC]	RC	R	RC	[C]				C					
	H.P.	RC				R	R			RC							
3.	Electric	RC	C	RC	RC	R	RC	C		RC	C					C	
	Gas	RC		[RC]	RC	R	RC						C			C	
	Oil	RC	C	[RC]	RC	R	RC	[C]			C					C	
	H.P.	RC	C	[RC]		R	RC	[C]		RC						C	
4.	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC		RC	RC	R	RC						C				
	Oil	RC	C	RC	RC	RC	RC	C				C				C	
	H.P.	RC	C	RC		R	RC			RC							C
5.	Electric	RC	C	RC	RC	RC	RC	C		R	C					C	
	Gas	RC		RC	RC	R	RC				C		C				

HUD/MPS region	Fuel	Insulation						Storm or thermal windows	Storm or thermal doors	Heat reflective and heat absorbing window materials	Replacement heating system	Replacement oil burner	Vent damper	Replacement air-conditioner	Solar domestic water heater	Replacement solar pool heater	Wind energy
		Ceiling and attic	Wall	Floor	Water heater	Duct	Pipe										
	Oil	RC	C	RC	RC	RC	RC	C				C				C	
	H.P.	RC	C	RC		R	RC			R						C	
Ohio																	
5.	Electric	RC	C	RC	RC	RC	RC	C			C						
	Gas	RC		RC	RC	R	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C					
	H.P.	RC	C	RC		R	RC	C									
6.	Electric	RC	C	RC	RC	RC	RC	C	R		C						C
	Gas	RC	RC	RC	RC	R	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					C
	H.P.	RC	C	RC		RC	RC	C		R							C
7.	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	RC	R	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		RC	RC	C		RC							
North Dakota																	
8.	Electric	RC	C	RC	RC	RC	RC	C		RC						C	
	Gas	RC	C	RC	R	R	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		RC	RC	C		RC							
Oklahoma																	
3	Electric	RC	C	RC	RC	RC	RC	(C)		RC	C						X
	Gas	RC	C	(RC)	RC	R	RC	(C)					C				
	Oil	RC	C	(RC)	RC	RC	RC	(C)				C					
	H.P.	RC	C	(RC)		R	RC	(C)		RC							X
4	Electric	RC	C	RC	RC	RC	RC	(C)		RC	C				C		X
	Gas	RC	C	RC	RC	R	RC	(C)					C				
	Oil	RC	C	RC	RC	RC	RC	(C)				C			C		
	H.P.	RC	C	RC		R	RC	(C)		RC							X
5	Electric	RC	C	RC	RC	RC	RC	C		RC	C				C		XX
	Gas	RC		RC	RC	R	RC	(C)					C				
	Oil	RC	C	RC	RC	RC	RC	(C)			C	C			C		
	H.P.	RC	C	RC		RC	RC	(C)		RC							XX
6	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	RC	R	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		RC	RC	C		RC						C	
Oregon																	
4	Electric	RC	C	RC	RC	R	RC			R							
	Gas	RC	C	RC	RC	RC	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C				C	
	H.P.	RC		RC		R	RC			R							
5	Electric	RC	C	RC	RC	RC	RC			R							
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C				C	
	H.P.	RC		RC		R	RC			R							
6	Electric	RC	C	RC	RC	RC	RC			R							
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C				C	
	H.P.	RC		RC		R	RC			R							
7	Electric	RC	C	RC	RC	RC	RC			R							
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		R	RC			R							
8	Electric	RC	C	RC	RC	RC	RC	C		R							
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		RC	RC			R							

HUD/MPS region	Fuel	Insulation						Storm or thermal windows	Storm or thermal doors	Heat reflective and heat absorbing window materials	Replacement heating system	Replacement oil burner	Vent damper	Replacement air-conditioner	Solar domestic water heater	Replacement solar pool heater	Wind energy
		Ceiling and attic	Wall	Floor	Water heater	Duct	Pipe										
Pennsylvania																	
5	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	R	R	RC				C		C				
	Oil	RC	C	RC	R	RC	RC	C				C				C	
	H.P.	RC	C	RC		RC	RC	C		RC						C	
6	Electric	RC	C	RC	RC	RC		C		RC	C					C	
	Gas	RC		RC	R	R	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		RC	RC	C		RC						C	
7	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	R	R	RC				C		C				
	Oil	RC	C	RC	R	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		RC	RC	C		RC							
8	Electric	RC	C	RC	RC	RC	RC	C		RC						C	
	Gas	RC	C	RC	R	R	RC				C		C				
	Oil	RC	C	RC	R	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		RC	RC	C		RC							
Rhode Island																	
6	Electric	RC	C	RC	RC	RC	RC	C	C	RC	C					C	
	Gas	RC	C	RC	R	R	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		RC	RC	C		RC						C	
South Carolina																	
2	Electric	RC	C	[RC]	RC	R	RC	C		RC						C	
	Gas	RC		[R]	RC	R	R										
	Oil	RC	C	[RC]	RC	R	RC	[C]				C				C	
	H.P.	RC		[R]		R	R			RC						C	
3	Electric	RC	C	RC	RC	R	RC	C		RC	C					C	
	Gas	RC		[RC]	RC	R	RC						C				
	Oil	RC	C	[RC]	RC	R	RC	[C]				C				C	
	H.P.	RC	C	[RC]		R	RC			RC						C	
4	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC		RC	RC	R	RC						C				
	Oil	RC	C	RC	RC	RC	RC	C				C				C	
	H.P.	RC	C	RC		R	RC			RC						C	
South Dakota																	
7	Electric	RC	C	RC	RC	RC	RC	C		R	C					C	
	Gas	RC	C	RC	RC	R	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		RC	RC	C		R						C	
8	Electric	RC	C	RC	RC	RC	RC	C		R						C	
	Gas	RC	C	RC	RC	R	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		RC	RC	C		R						C	
Tennessee																	
3	Electric	RC	C	RC	RC	R	RC	C		R							
	Gas	RC		R	RC	R	RC										
	Oil	RC	C	RC	RC	RC	RC	C				C					
	H.P.	RC		RC		R	RC			R							
4	Electric	RC	C	RC	RC	R	RC	C		R							
	Gas	RC		RC	RC	R	RC						C				
	Oil	RC	C	RC	RC	RC	RC	C				C					
	H.P.	RC		RC		R	RC			R							
5	Electric	RC	C	RC	RC	R	RC	C		R							
	Gas	RC		RC	RC	R	RC						C				
	Oil	RC	C	RC	RC	RC	RC	C				C				C	
	H.P.	RC		RC		R	RC			R							

HUD/MPS region	Fuel	Insulation						Storm or thermal windows	Storm or thermal doors	Heat reflective and heat absorbing window materials	Replacement heating system	Replacement oil burner	Vent damper	Replacement air-conditioner	Solar domestic water heater	Replacement solar pool heater	Wind energy
		Ceiling and attic	Wall	Floor	Water heater	Duct	Pipe										
Texas																	
1	Electric	RC	C	[R]	RC	R	R	[C]		RC							
	Gas	RC	C		RC		R	[C]						C			
	Oil	RC	C	[R]	RC	R	R	[C]									
	H.P.	RC	C				R	[C]		RC							
2	Electric	RC	C	[RC]	RC	R	RC	C		RC	C			C			
	Gas	RC	C	[R]	RC	R	R	[C]									
	Oil	RC	C	[RC]	RC	R	RC	[C]				C					
	H.P.	RC	C	[RC]		R	RC	[C]		RC							
3	Electric	RC	C	RC	RC	RC	RC	C		RC	C			C			
	Gas	RC	C	[RC]	RC	R	RC	[C]					C				
	Oil	RC	C	[RC]	RC	RC	RC	[C]				C					
	H.P.	RC	C	[RC]		R	RC	[C]		RC							
4	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	RC	R	RC	C			C		C			C	
	Oil	RC	C	RC	RC	RC	RC	C				C				C	
	H.P.	RC	C	RC		RC	RC	C		RC						C	
5	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	RC	R	RC	C			C		C			C	
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		RC	RC	C		RC						C	
Utah																	
5	Electric	RC	C	RC	RC	RC	RC	C		RC	C						
	Gas	RC	C	RC	RC	R	RC						C				
	Oil	RC	C	RC	RC	RC	RC	C				C					
	H.P.	RC	C	RC		RC	RC	C		RC							
6	Electric	RC	C	RC	RC	RC	RC	C		RC	C				C	C	
	Gas	RC		RC	R	R	RC						C				
	Oil	RC	C	RC	RC	RC	RC	C				C				C	
	H.P.	RC	C	RC		RC	RC	C		RC						C	
7	Electric	RC	C	RC	RC	RC	RC	C		RC	C				C		
	Gas	RC	C	RC	R	R	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C		RC							
8	Electric	RC	C	RC	RC	RC	RC	C		RC					C		
	Gas	RC	C	RC	R	R	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C		B							
Vermont																	
7	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	X
	Gas	RC	C	RC	R	R	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		RC	RC	C		RC						C	X
8	Electric	RC	C	RC	RC	RC	RC	C		R						C	[X]
	Gas	RC	C	RC	R	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		RC	RC	C		B						C	[X]
Virginia																	
3	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC		[RC]	RC	R	RC	[C]					C			C	
	Oil	RC	C	[RC]	RC	RC	RC	[C]				C				C	
	H.P.	RC	C	[RC]		R	RC	[C]		RC						C	
4	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	RC	R	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C				C	
	H.P.	RC	C	RC		R	RC	C		RC						C	
5	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	RC	R	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C				C	
	H.P.	RC	C	RC		R	RC	C		RC						C	
6	Electric	RC	C	RC	RC	RC	RC		RC	C						C	
	Gas	RC	C	RC	RC	R	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C				C	

HUD/MPS region	Fuel	Insulation						Storm or thermal windows	Storm or thermal doors	Heat reflective and heat absorbing window materials	Replacement heating system	Replacement oil burner	Vent damper	Replacement air-conditioner	Solar domestic water heater	Replacement solar pool heater	Wind energy
		Ceiling and attic	Wall	Floor	Water heater	Duct	Pipe										
	H.P.	RC	C	RC		RC	RC	C		RC						C	
Washington																	
6	Electric	RC		RC		R	RC				C		C				
	Gas	RC	C	RC	R	RC	RC	C				C				C	
	Oil	RC	C	RC	R	RC	RC	C									
	H.P.	R		RC		R	RC										
7	Electric	RC		RC	R	R	RC			R							
	Gas	RC	C	RC	RC	RC	RC	C			C		C			C	
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	R		RC		R	RC			R							
8	Electric	RC		RC		R	RC			R							
	Gas	RC	C	RC	RC	RC	RC	C			C		C			C	
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC		RC		R	RC			R							
West Virginia																	
5	Electric	RC	C	RC	RC	RC	RC	C		R	C					C	
	Gas	RC		RC	RC	R	RC						C				
	Oil	RC	C	RC	RC	RC	RC	C				C				C	
	H.P.	RC	C	RC		R	RC			R						C	
6	Electric	RC	C	RC	RC	RC	RC	C		R	C					C	
	Gas	RC		RC	RC	R	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C				C	
	H.P.	RC	C	RC		R	RC	C		R						C	
Wisconsin																	
7	Electric	RC	C	RC	RC	RC	RC	C		R	C					C	
	Gas	RC	C	RC	RC	R	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		RC	RC	C		R						C	
8	Electric	RC	C	RC	RC	RC	RC	C		R							
	Gas	RC	C	RC	RC	R	RC	C			C		C			C	
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		RC	RC	C		R							
Wyoming																	
7	Electric	RC	C	RC	RC	RC	RC	C		R	C					C	
	Gas	RC	C	RC	RC	R	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C		R							
8	Electric	RC	C	RC	RC	RC	RC	C		R						C	
	Gas	RC	C	RC		R	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		RC	RC	C		R						C	
Puerto Rico																	
1	Electric	RC	C	[RC]	RC	R	R	[C]	[C]	RC				C			
	Gas	RC	C		RC		R	[C]	[C]								
	Oil	RC	C	[R]	RC	R	R	[C]	[C]								
	H.P.	RC	C			R	R	[C]	[C]	RC							

Appendix II to Part 456—Prototypical House Assumptions

(a) *Reference House.*

The prototypical house upon which the RCS measures table is based is the ranch style home developed in the National Bureau of Standards document NBSIR 77–1309. This house is based upon a National Association of Home Builders (NAHB) survey of 84,000 homes built by 1,600 builders selected randomly from the builder members of NAHB. The house is typical of ranch style houses built in 1974.

The house has been slightly modified to allow for the calculation of all RCS measures. DOE has elected to reduce the insulation levels from the NAHB survey (1974) level of R–19 ceiling and R–11 walls to R–7 insulation in the ceiling and no insulation in the walls as a basis for the measures table. This reduction was made to make the prototypical house more representative of existing housing stock and to enable evaluation of ceiling and wall insulation as RCS measures. Insulation manufacturer's data on residential retrofit applications for ceiling insulation indicates that the majority of existing attics that have not been reinsulated have an existing R–Value of between R–5 and R–9. The furnace/hot water space has been enlarged to accommodate oil furnaces and storage for solar DHW. The prototypical house, in order to provide the basis for audits, is assumed to have the features necessary for the application of renewable energy measures. For example, it was assumed to have a south-facing roof suitable for solar collectors, no obstruction to wind energy systems and a swimming pool that could use a solar pool heater. It is recognized that many residences do not have these features.

The prototypical house and assumptions were chosen as representative of typical homes in the nation which could benefit trom RCS measures. States are encouraged to review the prototypical house relative to construction practices on the local level. DOE will consider modifications to the prototypical house for each region if documentation can support the request.

(b) *Characteristics of the Prototypical House.*

(1) *Infiltration.* The prototypical house is assumed to have deteriorated caulking on window and door frames, no weatherstripping, and no gaskets on electrical outlets. Some minor cracks are assumed to exist in ceiling and floor joints. Some wiring and pipe penetration is assumed through the attic floor. Existing conditions also include undampered vents, no fireplace, and at least thirteen entrances and exits through the home per average day. The infiltration category of the prototypical house is essentially the "poor" category listed in the RCS Model Audit.

(2) *Insulation.* As indicated above, the prototypical house is assumed to have no wall insulation, R–7 ceiling insulation in a vented attic and no floor or crawl space insulation. The walls with 2 × 4 studs on 16-inch centers have a thermal conductance of 0.21 Btu per hour per square foot per degree fahrenheit (Btu/h/ft²/°F). The thermal conductance of the ceiling with joists or truss cords on 24-inch centers is .12 Btu/h/ft²/°F. The thermal conductance of the floor with 2 × 10 floor joists on 24-inch centers and carpeting and vented crawl space is 0.19 Btu/h/ft²/°F.

(3) *Windows.* All glazing is assumed to be single pane with a thermal conductance of 1.13 Btu/h/ft²/°F.

(4) *Water Heater.* The water heater is assumed to be more than 3 years old and is in conditioned space with adequate clearance for an insulation jacket.

(5) *Space Heating and Cooling.* Primary space conditioning equipment for the prototypical home includes one of the following: electric resistance furnace, electric resistance baseboard, electric resistance radiant ceiling or wall panels, electric heat pump, electric boiler, natural gas-fired boiler, gas forced air, or oil-fired furnace. An electric drive central air conditioner is assumed. Industry accepted seasonal efficiencies for existing systems more than 5 years old and for new commercially-available systems are used in the calculations. In the prototypical house, combustion air is taken from conditioned space, if required. Oil burners are not retention or wet base types. Natural gas pilot lights are assumed to be on for the heating season. All existing systems in the reference house are more than five years old.

(6) *Distribution Systems.* Distribution ducting and hydronic pipe are assumed to be in unconditioned areas and are uninsulated.

(7) *Heating and Cooling System Controls.* The prototypical house is assumed to not have a clock thermostat. It is also assumed that there is no manual nighttime temperature setback.

(8) *Heat Reflecting and Heat Absorbing Window and Door Material.* The prototypical house has 127 sq. ft of unshaded windows which face east and west. For purposes of calculation the house was oriented so that the ends of the house which contained no glazing face north and south.

(9) *Solar Domestic Hot Water Systems.* It is assumed that 80 gallons of hot water are used per day by a family of four (ASHRAE Systems Handbooks, 1980). The hip roof is not shaded and has an adequate south facing area for collectors.

(1) *Replacement Solar Pool Heaters.* The 450 square foot swimming pool is assumed to have a cover that is put in place in non-use hours.

(11) *Wind Energy Systems.* There is no major obstruction to wind. The size of the wind generator is 2 kw, and all energy generated is used. The analysis is only performed for residences that are electrically heated or cooled or both.

(c) *Additional Information.*

(1) *Thermal envelope.*

—Glazing

Single panel U-value = 1.13
West Area + S.G. Door = 72 ft²
East Area

55 ft²

127 ft²

(no glass on north or south)

—Walls

No insulation
U wall = 0.24—excludes the stud cross section and represents 75% of the exposed area.
U studs 0.13—which is 25% of the exposed area.
U overall = 0.21—which is the weighted value of the U of the wall and the U of the stud cross section
South wall area = 224 ft²
North wall area = 224 ft²
East wall area = 240 ft²
West wall area = 264 ft²

—Ceiling

R–7
U ceiling = .115—excludes the truss cord and represents 90% of the exposed area.
U truss = 0.17—which is 10% of the exposed area.
U overall = .12

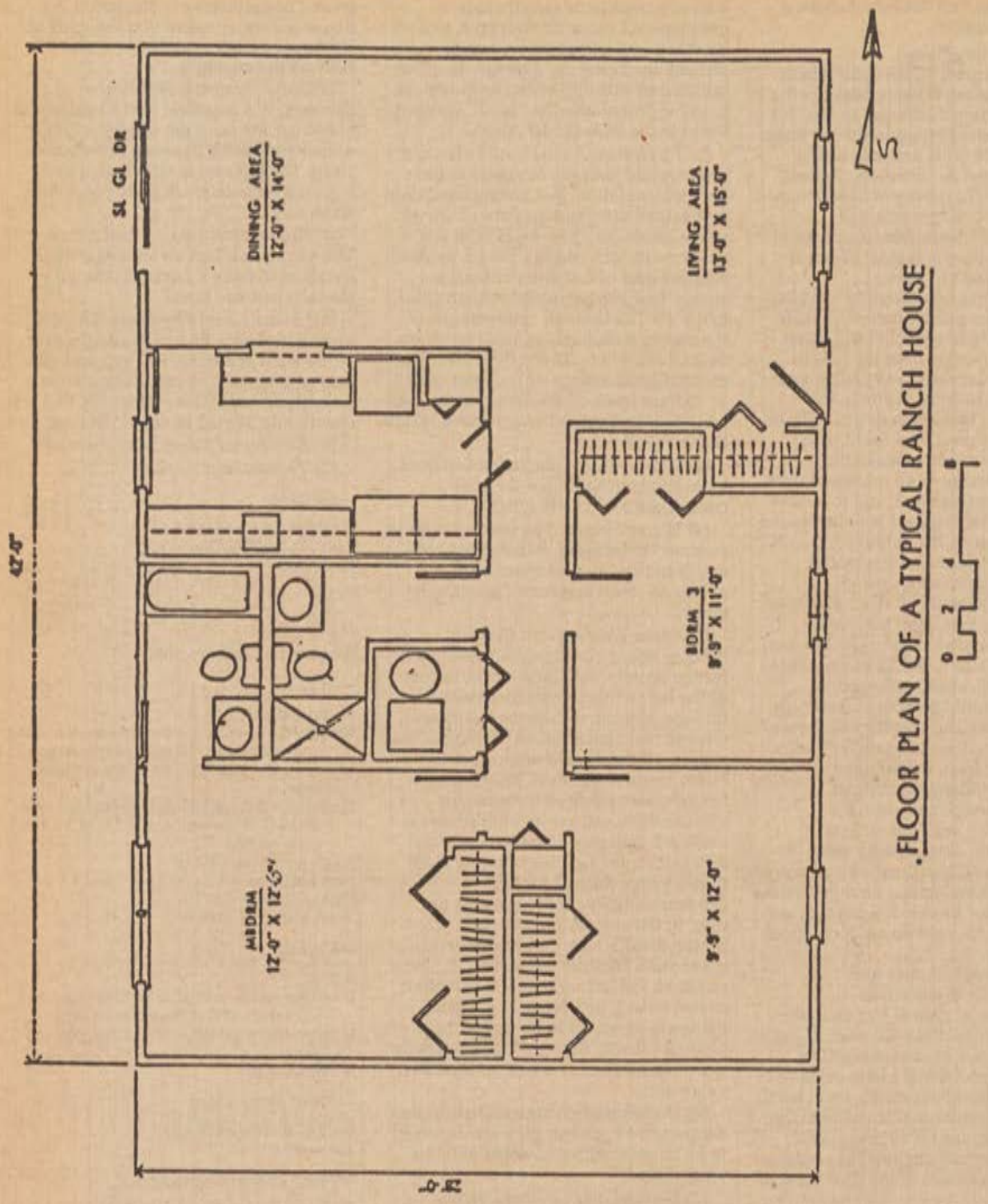
—Front Entry Door

U = 0.47 (hardwood door)
Area = 21 ft²

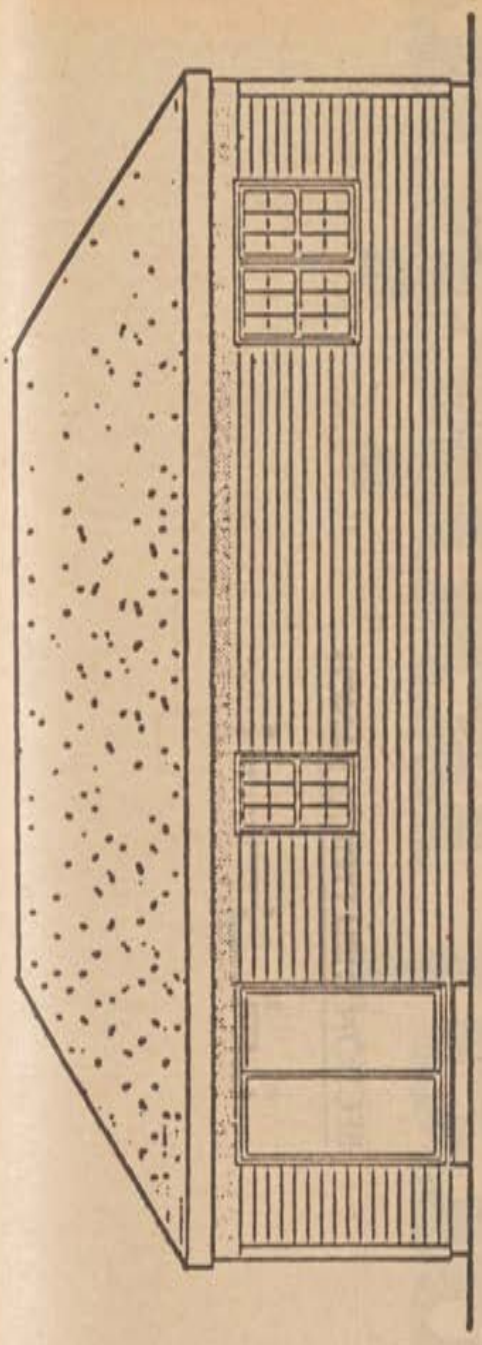
—Floor Above Crawl Space

No insulation
U floor = 0.2—excludes the joist and represents 90% of the exposed area.
U joist = 0.09—which is 10% of the exposed area.
U overall = .19

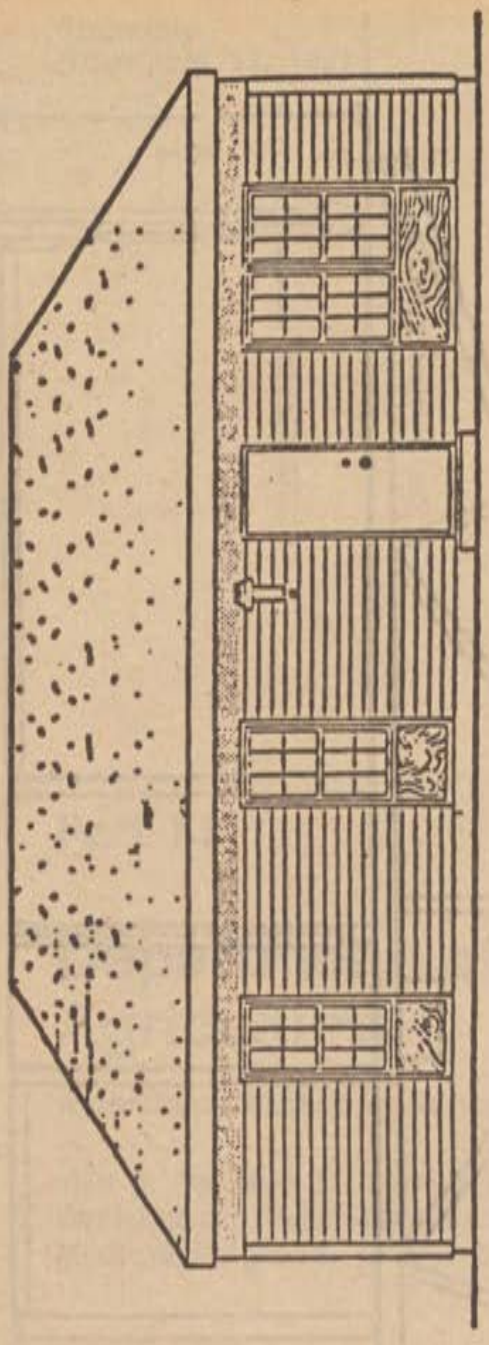
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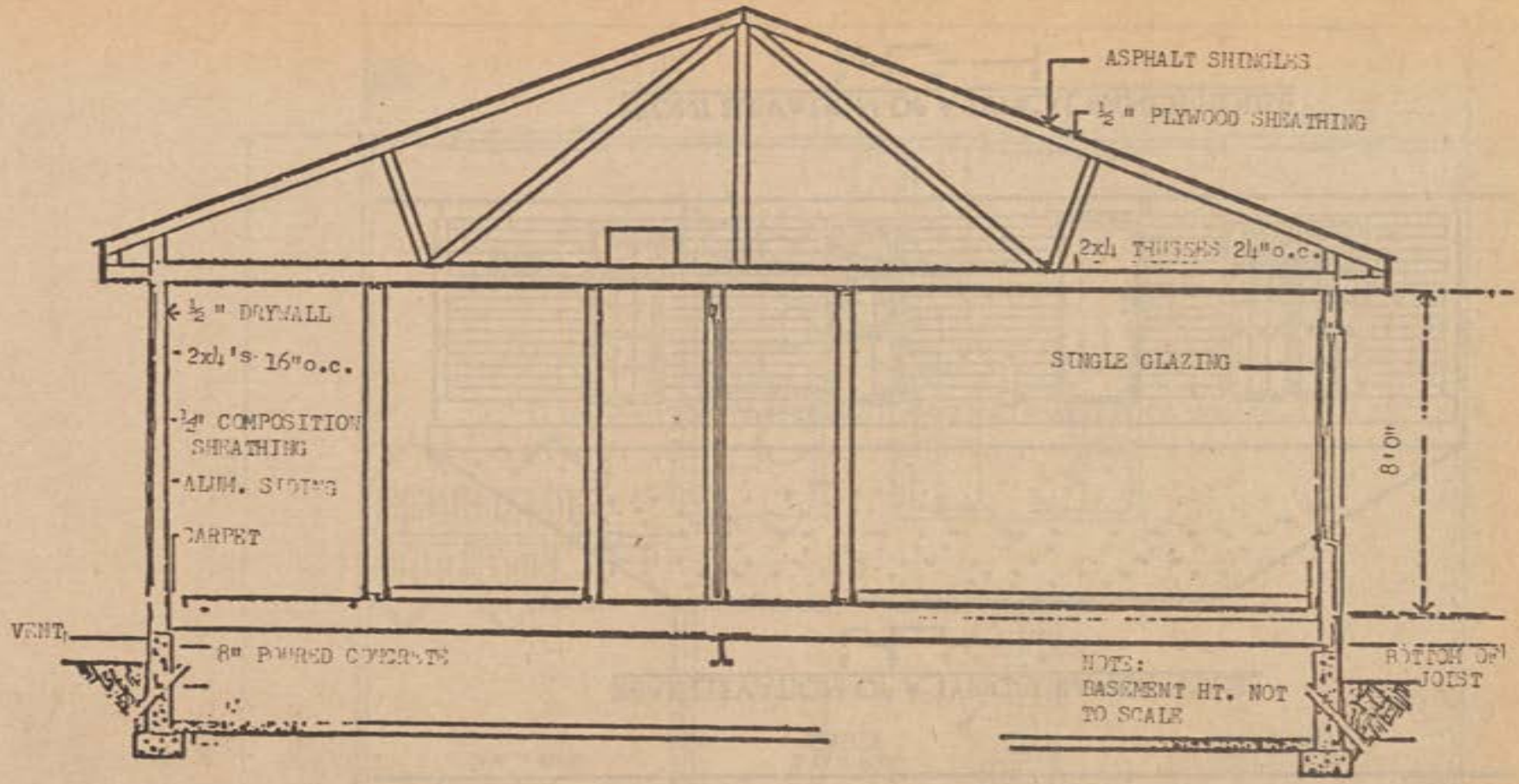
FLOOR PLAN OF A TYPICAL RANCH HOUSE



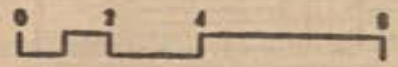
REAR ELEVATION OF A TYPICAL RANCH HOUSE



FRONT ELEVATION OF A TYPICAL RANCH HOUSE



SECTION THRU TYPICAL RANCH



[FR Doc. 81-32458 Filed 11-10-81; 8:45 am]
BILLING CODE 6450-01-C

federal register

Thursday
November 12, 1981

Part III

Department of Agriculture

Agricultural Marketing Service

Milk in the New England Marketing Area; Decision on Proposed Amendments to Marketing Agreement and Order

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1001

[Docket No. AO-14-A58]

Milk in the New England Marketing Area; Decision on Proposed Amendments to Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This final decision provides changes in the New England milk order based on industry proposals considered at a public hearing in September 1980. The principal change increases the total amount of transportation allowance on milk moved from country locations to city plants in order to reflect more nearly the actual costs of transportation. Related changes lower the zone 21, or base zone, Class I price and restructure some of the pricing zones in southern New England. Other changes permit the use of storage tanks at a non-pricing reload point, allow Class I classification of ending inventories of fluid milk products, and increase the level of allowable diversions of producer milk to nonpool plants. Changes also are made in the procedure for applying location adjustments to shipments from supply plants. The changes are necessary to reflect current marketing conditions and to assure orderly marketing in the New England area.

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250 (202/447-6273).

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291. Prior documents in this proceeding: Notice of Hearing: Issued August 11, 1980; published August 14, 1980 (45 FR 54066). Recommended Decision: Issued August 28, 1981; published September 2, 1981 (46 FR 43980).

Preliminary Statement

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the New England marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice (7 CFR Part 900) at Framingham, Massachusetts, on September 9-11, 1980. Notice of such hearing was issued on August 11, 1980 (45 FR 54066).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Acting Administrator on August 28, 1981, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

Index of Changes

1. Under the heading "Plant location adjustment"—a sentence in paragraph 3 is revised, two new paragraphs are inserted after paragraph 19, and one new paragraph is inserted after paragraph 22.

2. Under the heading "Revision of the base zone Class I price level"—two new paragraphs are inserted after paragraph 5 and two new paragraphs are added at the end.

3. Under the heading "Diversion of producers milk"—four new paragraphs are added at the end.

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

1. Plant location adjustments.
   (a) Revision of the base zone Class I price level.
   (b) Automatic change in location adjustments.
2. Transportation credit on milk moved between pool plants.
   (a) Set-aside allowance.
   (b) Classification of inventories.
3. Plant definition.
4. Diversion of producer milk.
5. Butterfat accounting.
6. Proposals not supported.

Findings and Conclusions

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

1. *Plant location adjustment.*

The total transportation allowance for milk moved from country plant locations to city plants should be increased to reflect the full costs of reloading and hauling milk. The allowance for variable costs of hauling should be increased from the present 1.8 cents to 2.5 cents per hundredweight for every 10-mile zone that milk is moved between zone 21 and zone 1. Between zones 14 and 15, the fixed hauling cost allowance should be changed from 8 cents to 12 cents per hundredweight, and the provision for reload costs increased from 6 cents to 10 cents per hundredweight. The combined effect of these changes will be to increase the Class I and blended price adjustment at zone 1 from the present 50 cents to 72 cents per hundredweight over the zone 21 prices. At locations beyond zone 21, Class I and blended prices should be adjusted downward by 2.5 cents per hundredweight per 10 miles rather than at the present rate of 1.5 cents.

Under the present terms of the order, milk from producers is priced at the location of the plant at which it is first received. The same plant location adjustment rates apply to Class I and producer blended prices. Prices are adjusted from 201-210 mile base zone (zone 21), which is measured from Boston. The Class I milk price is increased 1.8 cents for each 10-mile zone less distant than the twenty-first zone and reduced 1.5 cents for each 10-mile zone more distant than zone 21. In addition to the transportation adjustments associates with distance, a 14-cent differential (8 cents per hundredweight for fixed costs of hauling and 6 cents per hundredweight for the cost of reloading milk from supply plants) between zones 14 and 15 is applicable to milk received at plants in zones 1-14.

A federation of cooperative and a milk dealers' association submitted nearly identical proposals to change the location adjustment schedule in the New England order. A variable hauling rate allowance of 2.3 cent per hundredweight per 10-mile zone, and allowances of 12 cents per hundredweight for fixed hauling costs and 10 cents per hundredweight for costs of reloading milk, were requested. However, both groups proposed maintaining the present 1.8-cent per hundredweight per zone price differences within the first 8 zones where most of the distributing plants are located. A price difference of 5.8 cents, rather than 1.8 cents, would then occur between zones 8 and 9 to absorb the amount of hauling costs at the 2.3-cent rate per zone for the first 8 zones that would not be reflected in the 1.8-cent rate for those zones. Originally, cooperatives proposed that prices for zones beyond zone 25 be at the zone 25 level and not be adjusted downward any farther, while the milk dealers proposed that price adjustments beyond zone 25 be at the same rate as within the first 25 zones. During the hearing, however, both groups reversed their

positions on this issue, each adopting the other's proposal.

These proposals to increase price differentials between zones are designed to include within the order transportation allowances that adequately provide for the cost of hauling bulk milk. Proponent witnesses testified to the necessity of reflecting the full cost of hauling in the location adjustment schedule in order to achieve equity between handlers who buy milk from different sources and between producers who sell milk priced at different locations.

Handlers who buy milk directly from producers and cooperatives pay for it at the price applicable at their plant locations, with the producers or cooperatives paying any hauling costs incurred in delivering the milk to that location. Transportation costs on milk purchased from supply plants and assigned to Class I, however, are presently credited to the selling handler by charging him the Class I price effective at his location while he collects the higher Class I price effective at the location of the buying handler in payment for his milk. When the price difference between the two locations is not great enough to defray the expenses of hauling milk from one to the other, either the buyer or seller must make up the difference. A buying handler who pays for the transportation of his milk supply will experience a cost disadvantage in competition with a distributing plant operator who purchases milk directly from producers. If a cooperative-operated supply plant subsidizes transportation costs not covered under the order, reduced proceeds from the sale of milk must be reblended in lower prices to member producers, creating inequity between them and non-member producers and encouraging them to leave the cooperative.

Inadequate adjustment of prices by location results in producer inequity when producers deliver milk to handlers at different locations. A producer delivering milk to a city distributing plant receives a price which is too low to recover the cost of hauling milk there, while a producer whose milk is received at a country manufacturing plant is paid a price which is too high in relation to the plant's distance from the city market. Dairy farmers whose milk is direct-delivered to the city are then at a competitive disadvantage to those whose milk is received at nearby country plants.

If the order is to fulfill its purpose of providing stable and orderly marketing conditions for producers and for the handlers through whom they market their milk, it is necessary that transportation allowances contained in the order do not fall too far short of the full costs of hauling bulk milk. A regression analysis of transportation costs for July 1980 which clearly demonstrates the inadequacy of present transportation allowances was introduced by a witness for the proponent cooperatives. The hauling rates negotiated with milk haulers by cooperatives on 47 different routes, each covering 50–250 miles between supply plants or reload points and city plants, were analyzed. This cost analysis shows that the fixed cost of hauling bulk milk in July 1980 was 12.12 cents per hundredweight, with a variable cost of 2.55 cents per hundredweight per 10-mile zone. A cooperative representative further testified that in a survey of cooperative association managers an average cost of reloading milk at supply plants of 10 cents per hundredweight was determined.

In a February 1978 hearing concerning location pricing, a similar regression analysis for August 1977 was introduced showing a variable hauling rate of 1.99 cents per hundredweight per 10-mile zone. At that time, the rate proposed for inclusion in the transportation allowance was 1.8 cents, which rate was adopted in the final decision issued in September 1978. Witnesses in the current proceeding testified that the 1.8-cent rate was obsolete before it was adopted, and as hauling costs have increased steadily since that time the transportation allowance has become increasingly insufficient.

It is apparent from the evidence presented that the transportation allowance in the New England order should be updated. However, adoption of the proposed rate of 2.3 cents per hundredweight per 10-mile zone would seem to invite the same problems encountered after the most recent proceeding dealing with this issue. Incorporation of a variable hauling allowance of 2.3 cents per hundredweight per 10-mile zone when the actual cost just prior to the hearing was 2.55 cents would ensure that the amended order would be out of date before it could be adopted. Accordingly, the 2.55 cents variable cost rounded to 2.5 cents per hundredweight per 10-mile zone should become part of the order's amended location adjustment provision.

As requested by proponents and supported by testimony, allowances of 12 cents per hundredweight for fixed hauling costs and 10 cents per hundredweight for costs of reloading milk should be incorporated in the location adjustment schedule. The fixed hauling cost allowance is supported by the regression analysis, and the reload cost by the only testimony offered on that subject. No evidence or testimony was presented to dispute either rate. As in the present location adjustment schedule, allowances for fixed hauling and reload costs should be inserted between zones 14 and 15. There are no pool distributing plants outside zone 14, and most supply plants and reload points are located in zone 15 and beyond. Insertion of these allowances between zones 14 and 15 will avoid disrupting competitive relationships between distributing plants. The addition of these allowances, totalling 22 cents per hundredweight, will cover the cost of moving milk from the production area to the primary consumption centers and line up the cost of nearby direct-shipped milk with that of more distant reloaded and supply plant milk.

In the proponents' proposed location adjustment schedule the present 1.8-cent per hundredweight price relationship between zones is retained through zone 8, with a 5.8-cent differential between zones 8 and 9. Proponent witnesses justified retaining the 1.8-cent price difference within the interior zones on the basis that nearly all of the distributing plants are located in these zones and that increased price differences there would disrupt competition. The change from the previous nearby plant zone, within which most of the plants in the present zones 1–8 were subject to the same price, had been in effect for only two years, they maintained, and handlers need more time to adjust to the present price differences before changes are made.

Several proprietary handlers objected to aspects of the proposed location adjustment schedule that they felt would disadvantage their operations relative to those of other handlers. A distributing plant operator located in zone 7, in competition with a zone 12 handler, asserted that the proposed schedule, with a price break between zones 8 and 9, would increase the present 9-cent price difference between zones 7 and 12 to 14.5 cents. This price difference, he claimed, would reflect more than the actual variable cost of hauling milk a distance of 5 zones, and would advantage his competitor unfairly. A zone 1 handler repeated the zone 7 handler's concern over the state of competition with a zone 12 handler if price relationships in zones 1–8 were to be frozen with more rapidly declining prices outside zone 8.

Establishing different price adjustments between zones 1–8 than

between zones outside zone 8, with the proposed price break between zones 8 and 9, would disrupt competitive equity between plant operators located in zones 1–8 and those located beyond zone 8. Location adjustments exist for the purpose of getting milk from where it is produced to where it is needed for processing and packaging. Hauling costs have not been shown to be any less in zones 1–8 than in other zones. Accordingly, the 2.5-cent per hundredweight rate should be used to adjust prices between zones 1 through 8. There is, however, a basis for restructuring the zoning within the old nearby plant zone.

At the time of the last hearing on this subject, a shift in the primary production area from Vermont to New York was observable. More milk was moving from west to east, while north to south movements were declining as a proportion of market production. It was determined, therefore, that the zoning of the secondary consumption areas west of Boston and Providence should be computed on the basis of the distances of Hartford and Springfield from the nearer of Boston or Providence. Since it is 70 miles from Providence to Hartford, and 77 miles from Providence to Springfield, the Hartford area was designated zone 7, and the Springfield area zone 8. Since the last hearing, however, the trend of production for the New England market has been northward. The percentage of production from Vermont farms in December 1979 was 39.3%, compared to 37.8% in December 1977. New York production pooled in Order 1 over the same period changed from 27.9% to 27.0% of total pool milk. At the same time, an examination of New York milk production pooled in New England, by county, shows a shift from southeast and east central counties to counties in northeast New York.

In New England, milk movements from northwest to southeast and north to south rather than from west to east result in diminishing the difference in distances between the major production area and the primary and secondary consumption areas. Hartford, Springfield and Worcester remain significantly closer to any primary production area than Boston or Providence, and should be in lower-priced zones to encourage milk to move on into the primary consumption area. However, price zone differences should be reduced between the Hartford, Springfield, and Worcester areas and zone 1 to make these secondary consumption centers more competitive in the procurement of milk from the north and northwest portions of the production area for the market. This would require an average decrease of approximately 20 miles, or 2 zones, in the relative distances from the principal production areas to Hartford/Springfield/Worcester and from those production areas to Boston/Providence.

The area presently designated as zone 1 should be unchanged. All plants located in the State of Rhode Island, the Massachusetts counties of Barnstable, Bristol, Dukes, Norfolk, Plymouth, or Suffolk, or the area between Boston and Massachusetts highway number 128 are in zone 1. This zone includes the major cities of Boston and Providence and is generally described as southeastern New England. The Class I price at the 21st (base) zone.

Plants located in that portion of Middlesex County, Massachusetts, south of Massachusetts highway 2 and not in zone 1 and the Worcester County townships of Berlin, Blackstone, Bolton, Douglas, Hopedale, Mendon, Milford, Millville, Northborough, Northbridge, Southborough, Sutton, Upton, Uxbridge, Westborough, and that portion of Harvard township south of Massachusetts highway number 2 should be in zone 2. The Class I price in this zone would be 2.5 cents less than that in zone 1, and 69.5 cents more than the zone 21 Class I price.

All plants located in the eastern Connecticut counties of Middlesex (except the townships of Cromwell, Durham, Haddam, Middlefield, Middletown, and Portland), New London, Tolland (except the townships of Ellington and Somers), and Windham; or in the Worcester County, Massachusetts, townships of Auburn, Boylston, Charlton, Clinton, Dudley, Grafton, Holden, Lancaster, Leicester, Millbury, Oxford, Paxton, Shrewsbury, Southbridge, Sterling, Webster, West Boylston, and Worcester City should be in zone 3. The Class I price there would be 5 cents less than the zone 1 price and 67 cents more than the Class I price at the 21st zone.

The designation of the present zone 7 (western Connecticut) should be changed to zone 5. This area consists of the Connecticut counties of Fairfield, Hartford, Litchfield, New Haven; the townships of Cromwell, Durham, Haddam, Middlefield, Middletown and Portland in Middlesex County; and the townships of Ellington and Somers in Tolland County. In addition, the Massachusetts townships of Brimfield, Holland, Monson, Palmer and Wales in Hampden County; the township of Ware in Hampshire County; and the townships of Brookfield, East Brookfield, Hardwick, New Braintree, North Brookfield, Oakham, Spencer, Sturbridge and West Brookfield in Worcester County should be included in zone 5. In this zone, which includes the city of Hartford, the Class I price would be 10 cents less than in zone 1, and 62 cents greater than the Class I price in zone 21.

In exceptions to the recommended decision, a proprietary handler located at Danbury, Connecticut, objected to the inclusion of its location in the same zone as Hartford. Rather than "lumping the entire State of Connecticut into one zone" as the handler claims, however, the recommended decision merely changed the designation of an already specified portion of western Connecticut from zone 7 to zone 5. Plants within that zone are subject to equal Class I prices, as they have been since 1978. A further concern of the Danbury handler is his competitive relationship with plants in the Springfield, Massachusetts, area. The price relationship between the two locations was changed by the recommended decision only by the amount of increase in the variable hauling allowance over one zone (0.7 cents per hundredweight).

The handler's assertion that his plant location is nearer than Hartford to the milk supply in western Connecticut and southeastern New York is valid. However, his conclusion that Danbury should therefore be subject to a lower price adjustment for location than Hartford is unsound. The price structure of the market must be based on the relative proximity of major consumption areas to the areas of heaviest milk production. Danbury is no closer than Hartford to the important New England production areas of Vermont and northeastern New York.

The area presently designated zone 8, which includes the city of Springfield, should be changed to zone 6. This zone consists of the Massachusetts counties of Hampden (except the townships of Brimfield, Holland, Monson, Palmer, and Wales) and Hampshire (except the township of Ware). At plants located in this area, the Class I price would be 12.5 cents less than at plants in zone 1, and 59.5 cents greater than for locations in zone 21.

The zone location of any plant located outside the specific zones previously listed should be determined on the basis of its highway mileage from Boston. In general, this area encompasses the territory north and west of the zones specified. Since plants located outside the specified zones are generally on a direct line between the major production and consumption areas, they should be zoned on a straight mileage basis.

Restructuring the present designated zones in Connecticut and Massachusetts was not the specific method proposed by proponents. However, this rezoning would result in very little change in price relationships among pool distributing plants, as requested by the proponents. The Class I price difference between zone 1 and the Springfield area would change from 12.6 cents to 12.5 cents. From zone 1 to the Worcester area, Class I prices would be reduced by 5 cents rather than by 5.4 cents. The Class I differential at Hartford would be 10 cents less than at zone 1, as compared to the present 10.8-cent difference. The rezoning adopted in this decision will also incorporate the actual variable hauling rate throughout all zones, avoiding the sharp price difference between zones 8 and 9 which several handlers testified would hurt them competitively. At the same time, the revised zone structure more accurately reflects the relative distances of the primary and secondary consumption areas from the primary sources of production.

In its exceptions to the recommended decision the Danbury handler objected to rezoning plant locations as being beyond both the scope of the notice of hearing and evidence presented at the hearing. The handler claims that as a result, parties who would be affected adversely by such rezoning were not in attendance and were unable to present evidence on this issue. The objective of changing price adjustments by location was, however, clearly expressed in the notice of hearing, and was emphasized in testimony received during the hearing. The continuance of existing price relationships within the area where most of the distributing plants are located was also included in the hearing notice, and the importance of not disrupting those relationships was stressed in evidence presented. Because price relationships between plants in the marketing area were preserved in the decision essentially as they existed prior to the hearing, the effect of rezoning on intramarket competition between handlers should not be adverse for any handler. The effect of rezoning on the price relationship between handlers in Connecticut is no different than if the proposals to amend transportation differentials contained in the hearing notice had been adopted as proposed.

A handler located in Franklin, Massachusetts, objected to the present designation of that location as zone 1, claiming that it is closer to the production areas of Vermont than Boston is, and that zone 4 (with a 5.4-cent lower Class I price) is less than 10 miles away from the plant location. He requested that a zone 3 designation for this location be considered, which would lower his present Class I price by 3.6 cents.

There is no justification for placing this handler in a lower-priced zone. Franklin, Massachusetts, is approximately the same distance from points in Vermont as Boston is, and is midway between Boston and Providence, the two population centers of zone 1. Furthermore, it is located more than 20 highway miles from any of the nearest zone 4 competitors in the Worcester area.

Another zone 1 handler located north of Boston expressed a desire to see location differentials updated to reflect the full cost of moving raw milk from the farm to the city, but also requested that the old nearby plant zone be reinstated so that all handlers in southern New England might compete on the basis of the same Class I price. This witness maintained that it is difficult for handlers located in zone 1 to compete in further-out zones with handlers who are subject to lower Class I prices. Furthermore, he claimed, by adjusting prices within the nearby plant zone government contributes to urban decay by encouraging industry to move out of the central city area where costs are higher.

This witness overlooks the principle behind location adjustments, which is to ensure that milk will be moved to where it is needed. Zone differentials cannot reflect the cost of moving milk to the city if no differentiation is to be made between cities which are varying distances from production areas. If the location adjustments reflect the cost of moving milk only to the periphery of the consumption area, the allowance would not be adequate for hauling milk into Boston. At the same time, if the cost of moving milk to Boston were incorporated into a Class I price that applies throughout the entire nearby plant zone, the expense of hauling milk to Springfield or Hartford would be overcompensated, attracting unneeded supplies of milk to those cities. As transportation costs and allowances increase, the inequity of either of these situations would become more pronounced.

It is not likely, as the handler contends, that the present pricing concept would encourage handlers to move their distributing plant operations to outlying areas. Handlers who move out of the central city in order to obtain lower raw product prices would incur higher costs in moving packaged milk to the city that would more than offset the lower costs for raw milk.

A handler whose plant is located in Rhode Island expressed a need for increased hauling allowances to cover the extra cost of moving milk from northern Vermont, past Boston, to Rhode Island without having to pay a Class I price greater than that in Boston. In a post-hearing brief filed by this handler, it was suggsted that the extra cost be covered by a 7-cent pool credit allowed on Class I supply plant milk shipped to Rhode Island and southeastern Massachusetts. The transportation credit allowed handlers regulated under the New York-New Jersey milk order (Order 2) was used as a justification for the proposed 7-cent credit.

The transportation credit in the New York-New Jersey order exists because of farm point pricing. It covers part of the handler's cost of getting milk from the farm to the plant of first receipt. The handler credit is not applied to the entire pool but only to the proceeds due producers whose milk is moved in bulk form.

In New England, where milk is priced at the plant of first receipt, producers pay the hauling costs associated with moving their milk to a plant. If southeastern New England is significantly farther from the production area than Boston is, the price of milk to the handler should be enough to cover the additional cost of hauling. However, there was no testimony supporting a higher price in southeastern New England than in Boston. In testimony received at the hearing, the Rhode Island handler stated that the cost of hauling milk to his plant from zone 25 in northern Vermont was 21 cents more than the present transportation allowance in the order. This decision adopts an increase in the transportation allowance from zone 25 to zone 1 of 26 cents, from 56 cents to 82 cents. This increase would more than cover the handler's current shortfall in transportation allowance.

As advocated by producer groups, reduction of Class I and producer prices by zone should continue beyond zone 21 at a rate reflecting the full cost of hauling (2.5 cents/cwt/zone). Witnesses opposed maintaining the present "kink" in the rate of adjustment beyond zone 21. They maintained that no reduction in hauling costs outside zone 21 was indicated in the analysis of hauling costs. Furthermore, milk is customarily hauled from as far as zone 25 to zone 1, and the transportation allowance on that milk should cover the full cost of hauling over that distance. Several

witnesses testified that zoning, and adjustment of prices, should cease for locations farther out than zone 24 or zone 25. They expressed the opinion that the cessation of zoning for farther-out locations would discourage the "leap-frogging" of distant producers over closer-in producers since the hauling costs from the distant areas would not be fully covered. The record, however, does not reveal that this is happening to any significant extent. Moreover, in the absence of zoning, handlers would be able to pool farther-out producers at manufacturing plants beyond zone 25 at the zone price, thereby diluting the pool and the blend price for all closer-in producers. Accordingly, adjustment of Class I and blend prices by zone should continue downward beyond zone 21 at the same variable rate as prices for the inner zones.

(a) *Revision of the base zone Class I price level.* The 22-cent increase in location adjustments between zone 21 and zone 1 should not be applied as a full 22-cent increase in Class I prices at zone 1. Instead, the Class I price at zone 21 should be reduced 14 cents, resulting in an 8-cent increase at zone 1. At the present time, the Class I price differential at zone 21, which is added to the basic formula price for the second preceding month, is $2.42. With transportation allowances, the Class I differential at zone 1 is $2.92.

The milk dealers' association proposed that with an 18-cent increase in location differentials, the Class I differential at zone 21 should be reduced 12 cents to avoid the full 18-cent increase in the zone 1 Class I price. Under this proposal, the zone 1 Class I price differential would be increased 6 cents, or to $2.98. The dealers testified that any greater price increase would seriously disrupt intermarket competition with handlers regulated under Order 2, and would increase the total returns to producers. They expressed the belief that although producer prices need to be realigned, a significant net increase in producer prices under current supply-demand conditions would encourage even greater milk production in a market with declining Class I sales.

Producer groups opposed reducing the Class I price differential at any zone. One representative of a cooperative association asserted that increased costs of hauling should be passed through marketing channels to consumers, not absorbed by producers. Another witness pointed out that the handlers' proposed price reduction at zone 21 would have a net price reduction outside zone 14 where one-third of the producer milk and 10 percent of Class I milk in New England is priced. In view of the increases in cost of production indices of 20 to 25 percent since 1978, to which he testified, this witness expressed the opinion that no producer prices should be reduced. Also, two cooperative representatives testified that the historical price difference between Order 1 and Order 2 at the 21st zone has been 17–18 cents. Justification of that difference based on the relative differences in distance of the two markets from Eau Claire, Wisconsin, was cited from a 1968 decision. On that basis, one witness claimed, the Order 1 price should not only be maintained at 17 cents over the Order 2 price, but the difference should be increased to 24 cents.

The addition of the full 22-cent transportation increase at zone 1, with the rezoning adopted herein for southern New England, would result in a weighted average Class I price increase for the market of 20 cents and an increase in the blend price to producers of about 11 cents. In the face of increased production and declining Class I use, there is no economic basis for enhancing producer returns. Under the price support program, higher production costs (not including hauling costs) result in increased prices paid by the Commodity Credit Corporation for manufactured dairy products. Changes in support prices are then reflected in order prices for both Class II and Class I milk through the Minnesota-Wisconsin price series for manufacturing grade milk. There is, therefore, no reason to reflect in the location pricing structure of the order those increased production costs represented by the indices introduced in testimony.

The cooperatives' proposal to add to the Class I prices in the first 8 zones all of the increase in the cost of hauling milk from zone 21 to zone 1 implies that all of the milk needed for Class I use at all locations in the old nearby plant zone must be moved from distant areas. This is not the case. Much of the milk received by distributing plants in southern New England comes from farms relatively close to these plants. An analysis of the market administrator's statistics describing where milk is produced, by county, shows that production from within the States of Connecticut, Massachusetts, and Rhode Island, the southernmost counties of Vermont and New Hampshire, and the southern counties of New York is of great enough volume to satisfy about two-thirds of the Class I needs of the New England marketing area. Under the current supply arrangements in this market, increasing the zone 1 Class I price by 8 cents and reducing the Class I price at other zones at the rate of 2.5 cents per zone would result in approximately the same total return to producers as a group. The 14-cent reduction in the zone 21 Class I differential that would result would reflect the relative decline due to increased hauling costs in the value of milk produced and delivered in the country compared to that of milk produced and delivered closer to city locations.

A federation of cooperatives objected to the 14-cent reduction in the Class I price at zone 21 on the basis that consumers should bear part of the burden of increased transportation costs. The new location adjustment structure results in Class I prices outside zone 12 being reduced from the previous level while prices inside zone 12 will be increased for any given location by approximately 8 cents. Since nearly all of the producer milk assigned to Class I is priced in the first 12 zones, as is two-thirds of the total producer milk pooled, part of the increased transportation allowance will be reflected in prices to handlers and accure to producers to help offset increased hauling costs.

In a comment filed with the hearing clerk, a producer from Vermont expressed the opinion that the price level of milk should be maintained at least at the current level of 80 percent of parity. The implication of his remarks is that the recommended Class I price reduction at zone 21 would result in an inadequate return for the hard work of farmers who supply the nation with food. The present supply-demand situation, however, does not justify any significant enhancement in returns to milk producers through a higher Class I differential.

Although the zone 21 Class I price difference between Order 1 and Order 2 has historically been 17–18 cents, the intermarket price relationship at that zone has become less important over time with the growth of direct delivery of producer milk to city locations. Much more milk is priced at city locations now than in 1968. Since 1968, location pricing in both orders has evolved with the object to encouraging milk to move where it is needed for fluid use. Location adjustments were revised most recently for New England in 1978, and for New York-New Jersey in 1977. Since those revisions, the Class I price difference between New York City and Boston has been 16 cents (New York City: $2.25 Class I differential at 201–210 mile zone plus 36-cent location adjustment plus 15-

cent direct delivery differential equals $2.76; Boston: $2.42 Class I differential at 201–210 mile zone plus 50-cent location adjustment equals $2.92). Under a recent decision on proposed pricing changes for Order 2 that were considered at a June 1980 hearing, the Class I price differential effective at New York City would be $2.84, compared to a differential price of $3.00 at Boston under the changes adopted herein.[1] The difference in prices effective at the two cities, therefore, would remain at 16 cents.

An increase in the present Class I price in the lower-numbered zones by the amount of the added transportation allowance would result in a misalignment of prices with Order 2, increasing the incentive for Order 2 handlers to distribute milk in Order 1. Both dealer and cooperative association witnesses, even those protesting the proposed reduction of zone 21 Class I prices, stressed the importance of price alignment between Order 1 and Order 2. Several witnesses also commented on the need to consider the results of the June 1980 Order 2 hearing. The problem of interorder alignment occurs because the procurement and sales areas of both orders overlap. The importance of interorder alignment has recently become greater as some trade barriers established by health department regulations have been removed. According to one witness, three New York handlers are now licensed to sell milk in Massachusetts.

Several areas were mentioned in testimony as being of primary concern in an examination of interorder price alignment. None of the testimony received, however, indicated that price relationships presently existing between Order 1 and 2 in these areas present any alignment problems. Interorder price alignment probably would remain fairly satisfactory, therefore, if price relationships in these areas remain relatively unaltered.

An Order 1 handler in Danbury, Connecticut, with sales in the Order 2 areas competes with handlers in the New York metropolitian area. If this handler were to adjust his sales volume between the two markets to become pooled under Order 2, he would still maintain sales in the Order 1 area in competition with Order 1 handlers. In these circumstances, orderly marketing would be maintained in this handler's sales area if the Class I price level at Danbury were the same, or nearly so, under both orders. Danbury is presently in Zone 7 of Order 1 and in the 41–50 mile zone of Order 2. The Order 1 price at Danbury is presently 12.4 cents higher than the Order 2 price. Under the revised Order 1 zone structure, Danbury would be in zone 5, while remaining in the 41–50 mile zone in Order 2. Under the changes adopted in this decision and the very recent Order 2 decision regarding the location adjustment schedules for both orders, the Order 1 price at Danbury would be 14.8 cents higher than the Order 2 price. If full hauling cost were incorporated into the Order 1 location adjustment schedule without adjusting the zone 21 Class I differential downward, however, the price difference between the two orders at Danbury would increase to 28.8 cents. A price discrepancy of that size might encourage the Danbury handler to adjust sales so as to be pooled in Order 2 at a lower price, while still competing with Order 1 handlers in New England.

Handlers located in southwestern New England should not be subject to Class I prices that make them unable to compete with Albany, New York, area handlers selling milk in the Hartford, Connecticut, or Springfield, Massachusetts, areas. The importance of alignment between these points has increased with the licensing of several New York handlers to sell milk in Massachusetts. The Class I price differences between Albany and Hartford and Albany and Springfield effective during the period preceding the most recent amendment proceedings for the two markets have been 43.6 and 41.8 cents, respectively. Albany is in the 131–140 mile zone in Order 2. The recent decision for Order 2 establishes a Class I price differential of $2.404 at that location. As a result of the changes adopted herein, the Class I price differential at Hartford would be $2.90, and at Springfield, $2.875, thus wideing the price differences between these locations and Albany to 49.6 and 47.1 cents, respectively.

Order 1 Class I prices in southwestern New England should not be so high as to exceed significantly the Order 2 Class I price at Albany plus the cost of hauling packaged milk from there to Hartford or Springfield. Misalignment problems could result if Albany handlers were able to transport packaged milk to Hartford and Springfield at a Class I price differential cost that is below the Order 1 Class I price differential cost to handlers in those areas. In the earlier Order 1 decision on this subject, the cost of hauling packaged milk from Albany to Hartford, 102 miles away, was determined to be 42.6 cents per hundredweight. On the basis of the same formula, using a Purdue University study of 1976 packaged milk transportation costs, the cost of hauling packaged milk 82 miles to Springfield from Albany was 36.2 cents. Because 1976 transportation costs are obsolete, that formula should be updated. Using the rate of change experienced in bulk milk hauling costs since 1977, as determined from the regression analysis of those costs submitted by proponents, fixed hauling costs have risen 29% and variable costs 28%. A rate of increase of thirty percent can, therefore, be employed to estimate the change in packaged milk transportation costs since 1976. As a result, hauling costs of about 55 cents from Albany to Hartford and about 47 cents from Albany to Springfield may be calculated.

The Class I differential cost to an Albany handler for packaged milk moved to the Hartford area would then become $2.404 + .55, or $2.954, compared to the Hartford area handler's Order 1 Class I price differential of $2.90. An Albany handler would experience no advantage in transporting fluid packaged milk to Springfield, either, at a differential cost of $2.404 + .47, or $2.874, which would be the same as a Springfield handler's Order 1 differential cost for Class I milk. If the cooperatives' proposal were adopted, however, and no downward adjustment at zone 21 were made to partially offset the increase in transportation allowances, Class I price differentials at Hartford and Springfield would become $3.04 and $3.015, respectively, giving Albany area handlers a potential competitive advantage of more than 8 cents at Hartford and 14 cents at Springfield.

The Danbury, Connecticut, handler also took exception to the consideration of proposed changes in Order 2 in discussing intermarket alignment between Order 1 plants and Order 2 plants competing in southeastern New York and southwestern New England. He claimed that amendments to Order 2 were not known at the September 1980 Order 1 hearing which was held several months after the Order 2 hearing, and that handlers therefore had no opportunity to testify with respect to the effect of those changes on their competitive situation. However, the amendments to Order 2 which became effective September 1, 1981, were included as proposals in the hearing notice for the June 1980 Order 2 hearing. Order 1 handlers had adequate opportunity to be advised of those proposals and of the effect they would have on proposed pricing relationships between Order 1 and Order 2.

[1] Official notice is taken of the Assistant Secretary's decision on proposed amendments to the New York-New Jersey order that was issued on June 22, 1981 (46 FR 33008).

The same handler objected to the effect of the recommended decision on his competitive relationships with plants in Fultonville and Albany, New York. Although those New York plants are subject to lower Class I prices than those to be effective at Danbury, they are located farther from Danbury than from Hartford and therefore would be less competitive at Danbury than they would be at Hartford, as discussed above. These plants are also significantly farther than Danbury from the areas in southeastern New York in which the Danbury handler competes with them, and would incur greater costs in hauling packaged milk there. As mentioned earlier in this decision, the purpose of location pricing is to encourage bulk milk to move where it is needed for bottling, and not to enhance the competitive position of handlers who would then distribute packaged milk back into the lower-priced areas.

(b) *Automatic change in location adjustments.* Proposals to revise location adjustment rates automatically through the use of a formula, so that transportation allowances will follow transportation costs as represented by fuel prices, should not be adopted. Identical proposals were submitted by a federation of cooperatives and by an association of milk dealers to adjust zone price differentials for every 5-cent change in the price of a gallon of "Diesel to commercial customers, New England" as reported monthly by the Bureau of Labor Statistics of the U.S. Department of Labor. The proposed adjustment of .05 cents per hundredweight per zone was derived mathematically from the effect a 5-cent change in fuel prices has on the cost of hauling 100 pounds of milk 10 miles. Price differences between the first 8 zones, however, would be kept constant by using the 1-cent adjustment that would be computed for Zone 1 (.05x20 zones =1 cent) for each of the first 8 zones. Prices in Zones 9–20 would be adjusted upward by .05 cents per zone for each 5-cent increase in diesel fuel prices. The Zone 21 price would remain unchanged, whatever the fluctuations in fuel prices, with prices in Zones 22 and beyond being adjusted downward for each 5-cent increase in the price of diesel fuel.

A provision for automatically updating location adjustments by formula has become necessary, proponents testified, primarily because of increasing fuel costs, which had more than doubled between December 1978 and the time of the hearing. Increases in costs of other items affecting hauling were summarized over a period of three years preceding the hearing. Rates of increase for these costs, including equipment, labor, and tires, ranged from 32.5 percent to 45.6 percent. In the face of rapidly rising transportation costs, both cooperative association and dealer witnesses expressed a desire to see the order incorporate a means of updating transportation allowances automatically without going through the time-consuming hearing procedure.

The formula proposed is designed to adjust transportation allowances only according to changes in fuel prices, and only for the proportionate impact of fuel prices on total hauling costs. It was emphasized by more than one witness that the proposed automatic adjustment is not "indexing" in the sense that total hauling costs would be recovered through location adjustments with no incentive for handlers or haulers to minimize those costs. Instead, the fuel prices used in the formula would be prices reported as determined by market forces. Competition in a milk hauling industry described as presently "highly competitive" by a consultant with the University of Vermont studying milk hauling in Vermont would serve to keep costs, and rates, at a minimum. By basing the adjustment formula solely on fuel price changes, witnesses testified, less than one-third of the total hauling costs would be included in the formula. The formula, therefore, should result in transportation allowance adjustments that are conservative in relation to actual cost increases.

Witnesses testified that a large cooperative in New England and one in the Order 2 market rely on fuel formulas to adjust automatically rates paid to contract haulers, thereby avoiding contract re-negotiations as hauling rates increase. The importance of adjusting rates for every 5-cent increase in fuel prices, rather than waiting for 10-cent increments, was stressed in order that transportation allowances stay current with price increases. Adjustments at 5-cent increments under the proposed formula would result in ½-mill rate adjustments, which some handlers claimed would be difficult to incorporate into already existing data processing systems. Other witnesses maintained that such changes would not be burdensome when compared to the problems resulting from inadequate location adjustments.

An exhibit was introduced which tracked the operation of the proposed formula as if it had been in effect since December 1978. The base location adjustment rate per zone with which this exhibit began was the 1.8-cent rate adopted in December 1978 which, according to testimony, was obsolete when adopted. Application of the proposed formula yielded an adjusted 2.25-cent rate for August 1980, which is comparable with the proposed 2.3-cent transportation allowance rate requested by proponents.

Using the actual variable 1.99-cent rate determined by regression analysis for August 1977 as a base rate for December 1978 and applying the proposed formula, an adjusted rate of 2.45 cents per zone would result for August 1980. This rate is more nearly comparable with the 2.55-cent variable cost rate determined for July 1980 by regression analysis than is the 2.25-cent rate computed from a base of 1.8 cents. If a base rate reflecting actual variable hauling costs is selected, therefore, adjustments computed by use of the proposed formula would appear to follow closely actual variations in hauling costs over the period August 1977 through July 1980.

The concept of adjusting transportation allowances automatically appears to have merit. Use of the hearing process to adjust relative prices according to location is time-consuming. In a period when the cost of hauling is increasing rapidly, transportation costs effective at the time a hearing is held are often out of date by the time a decision is issued and a revised adjustment rate is adopted. The formula proposed for use in keeping transportation allowances current would, on the basis of the exhibit simulating its operation, result in adjustments to those allowances which would differ little from actual changes in hauling costs as determined by regression analysis. However, the proposed application of the formula adjustor would result in automatically increasing Class I and producer prices with no opportunity for review of such increases. Price misalignment, both within the market and with other markets, would be likely to ensue.

The proposed application of adjustments determined by formula would increase prices at zone 1 through zone 8 locations by the amount of adjustment computed for transportation over a full 200 miles, even though two-thirds of the milk received at city locations for fluid use moves a much shorter distance. With automatic revisions of location adjustments, no control could be exercised over the effect of those revisions on Class I differentials in the interior zones. The greatest impact of the proposed rate adjustments would be in the first 8 zones where over ninety percent of Class I and two-thirds of producer milk is priced. Such an application would

have a potentially great price-increasing effect with no opportunity for reviewing the desirability of increased prices. Automatically increasing prices which would be effective to Order 1 handlers competing with handlers regulated under Order 2 would very likely have a deleterious effect on interorder price alignment. With a 50-cent diesel fuel price increase, prices to handlers competitive with those in Order 2 would increase 10 cents, putting them at a serious competitive disadvantage.

As proposed in the fuel formula adjustor, the 1-cent increase computed for zone 1 for each 5-cent increase in the price of diesel fuel would also be applied to the location adjustments for zone 2–8 in order to maintain the present price relationships between those zones. A proponent witness asserted that the inclusion of the formula adjustor in the order would be important to maintain realigned prices within the market. If zoning within the old "nearby plant zone", however, is to reflect the relative distances of the principal consumption areas from the primary production areas, the rate adjustments for location between those zones should also change, or at least be reviewed, whenever transportation allowances are adjusted to reflect changes in hauling costs. Other witnesses expressed a valid concern that the proposed application of the formula would widen the present and proposed price differences between zones 8 and 9, giving handlers located outside zone 8 a growing competitive advantage over handlers in the lower-numbered zones. A steadily growing price difference at that location would have no economic justification.

The idea of revising location adjustment rates automatically on the basis of a formula using some measure of hauling costs is not intrinsically unacceptable, but several problems with the proposed application of such a formula would have to be overcome. First, Class I price increases for all zones less distant than the 201–210 mile zone would enhance producer returns by more than the additional amount needed to cover increased hauling costs, since on the average milk need not be moved as much as 200 miles to meet Class I needs of the market. The record gives only limited information about which zone would be representative of that distance, but shows clearly that the 201–210 mile zone is not. Second, in the absence of any evidence that variable hauling costs for moving milk to some zones differ from the costs of moving milk to other zones, revisions of location adjustment rates should be applied uniformly to all zones in order to maintain intraorder price alignment. This, maintenance of interorder price alignment should be considered in the application of any formula to adjust location pricing. Fourth, a formula that purports to respond to less than one-third of the costs association with the transportation of bulk milk would not be likely to keep pace with changes in those costs over any extended period of time. Finally, although the prospect of further cost savings resulting from advanced technology or procedures was dismissed by one witness as improbable, factors of that nature are difficult to predict. Any provision for adjusting transportation allowance rates automatically by formula could not be formulated in a satisfactory manner on the basis of the evidence adduced at the hearing.

2. *Transportation credit on milk moved between pool plants.* Proposals to modify the classification of inventories, and to increase the level of "set-asides" in assigning a handler's receipts to his utilization, are designed to effect more uniform costs to handlers between milk received at distributing plants from country supply plants and milk received directly from producers and cooperative associations, and to reduce the reclassification of supply plant milk, both at pool time and on subsequent audits. The basic problems toward which these proposals are directed can be solved more directly by changing the provisions for classifying and assigning receipts of supply plant milk so as to account for it as Class I, unless Class II use is requested by both handlers; and by using a different "set-aside" provision to determine the amount of supply plant milk on which transportation credit will be allowed. To make supply plant milk more competitive with direct-deliver milk, and to allow for unavoidable Class II use, a set-aside provision that permits transportation credit on transfers of plant milk of up to 110 percent of skim milk in Class I and 150 percent of butterfat in Class I after subtraction of direct receipts should be included in the computation of location adjustment credits. A proposal to expand the definition of Class I inventory should be modified to allow handlers to claim Class I classification of inventory held for fluid use in months with abnormally large inventories.

(a) *Set-aside allowance.* Under the present provisions of the order, milk received at a pool plant from other pool plants is assigned to the receiving plant's Class I utilization only after direct receipts of producer milk and cooperative association bulk tank milk have been assigned. An amount of direct receipts equal to 6 percent of skim milk and 25 percent of butterfat in the plant's Class I route disposition is assigned, or set aside, to Class II before the remainder of direct receipts and receipts from pool plants are assigned. The intent of the Class II set-aside is to allow for unavoidable Class II use at pool distributing plants and increase the Class I assignment of receipts from other pool plants so that transportation allowances would be realized. The unavoidable uses on which the present set-aside percentages are based are cream from standardization, shrinkage and route returns.

A cooperative federation proposed increasing the set-aside allowance to 10 percent of skim milk in Class I while leaving butterfat at 25 percent. A dealers' association proposed increasing the skim milk set-aside to 15 percent and the butterfat allowance to 50 percent. Representatives of both producer and dealer groups testified that the present level of set-aside is not adequate to cover "unavoidable" Class II use at pool distributing plants. Unavoidable uses were described by both groups as Class II products which are necessarily associated with a Class I handler, in addition to those uses which are presently included in the set-aside.

Cream, sour cream, milk shake mix and yogurt were mentioned as Class II products which should be processed by a handler who wishes to maintain a full line of dairy products for consumers. It was stated by one witness that because the production and packaging of these items often use the same tanks, pasteurizers, and fillers that are needed for processing fluid milk products, such products may be produced more efficiently at the city plant than in a country location where capital is needlessly duplicated. In addition, because items such as cream and yogurt are not condensed in processing and are more costly to haul as packaged finished products than as bulk milk they may, when transportation is considered, be processed more economically in a city plant.

The result of these proposals would be to increase the amount of supply plant milk to which transportation allowances are applied by increasing the amount of such milk which is assigned to Class I at a distributing plant. Supply plant operators currently ship milk to the city assuming that it will be used in Class I and that it will be covered by the transportation allowance. If supply plant milk is not assigned to Class I, it is reclassified to

Class II and thus no transportation allowance is reflected under the order. Frequently, upon receipt of handler reports and on subsequent audits of the purchasing handlers, supply plant milk is reclassified by the market administrator in applying the assignment provisions of the order.

The reclassification part of this problem can be remedied by classifying and assigning all transfers between pool plants as Class I unless both handlers request that they be Class II. The selling handler should be obligated to the pool for the Class I price at the location to which the milk is delivered. The buying handler would purchase it at that price and then be credited with a transportation allowance on the amount of supply plant milk needed for Class I use and unavoidable Class II use as determined according to a revised set-aside provision. Under this arrangement, the transportation allowance would be at the rate determined by the difference between the Class I prices applicable at the selling and buying handlers' plant locations. In this way, a distributing plant operator has an incentive to purchase from a supply plant no more milk than is needed for Class I use plus unavoidable Class II use unless he is willing to pay transportation costs on supply plant milk not included in the transportation credit.

Transportation allowances are to be applied only to milk transferred from more distant plants to distributing plants which is needed to meet Class I and unavoidable Class II uses. Milk used in manufactured products is processed and reduced in volume more economically in the country before being transported to the city than it is when moved in bulk form to be processed at a city plant. The "pool" covers the cost of moving supply plant milk to the city at the expense of all pooled producers, since the application of location adjustments to supply plant milk reduces the handler's pool obligation, the total value of the pool, and the blended price to producers. Alternatively, milk moved directly to city plants from producers' farms moves at the expense of those producers. Dairy farmers whose milk is moved long distances at substantial expense to themselves have an incentive to find an outlet for their milk located closer to their farms. When hauling costs on supply plant milk are covered under the order, however, neither buying nor selling handlers have an incentive to assure that the milk is not moved unnecessarily. Only when country plant milk is actually required to meet the market's fluid needs, therefore, whould the "pool" bear the expense of moving it to the city.

The Class II uses advocated by proponents as unavoidable should not be included in the set-aside allowance. Milk shake and frozen dessert mixes require the use of a significant amount of condensed or powdered ingredients while the cream requirements for those products and for cream products can be met by utilizing the surplus butterfat derived from standardization, which is included in the set-aside allowance. Arguments that transportation of yogurt as a packaged product and duplication of capital equipment are more costly than processing it in the city are persuasive although no testimony about rate or cost differences was introduced. Yogurt, however, is processed at relatively few distributing plants, and an allowance large enough to cover yogurt production at those plants would permit the application of transportation credit on excessive amounts of Class II use at distributing plants not processing yogurt. A further consideration is that if a handler achieves transportation and operational savings from processing Class II products in the city in great enough amounts to justify moving milk there from country plants, perhaps the handler rather than the market's producers should bear those hauling costs.

While it is important to ensure that country plant milk not be moved unnecessarily to city plants at the expense of the pool, it is appropriate for reasons of equity between handlers that use supply plant milk and those that use direct-delivered milk that all truly unavoidable Class II use at distributing plants be included in the set-aside allowance. City handlers should be indifferent as to where their milk is obtained, and raw product costs to competing handlers should be comparable. A handler reimbursing a supply plant operator for hauling milk needed for Class I but assigned to Class II pays more for his milk than a handler whose receipts are delivered directly from producers who are bearing the entire cost of transportation. A further inequity results when cooperatives operating supply plants subsidize the hauling of their members' milk to the city to avoid losing their outlets to competition from direct-delivered milk. The hauling subsidy must then be reblended in a lower payout to producers, disadvantaging cooperative members with respect to nonmember producers. An adequate allowance for unavoidable Class II utilization of not only direct-delivered receipts, but of supply plant receipts as well, in determining the applicability of location adjustments to supply plant milk is therefore important for achieving both handler and producer equity. The present set-aside allowance provides for unavoidable Class II use only at plants that have direct-delivered receipts. The allowance for unavoidable Class II use should be made applicable as well at a plant that receives milk from supply plants only.

When only genuinely unavoidable Class II uses are considered, the present set-aside allowances can be shown to be inadequate. Variations in inventory from one month to the next and an increase in the removal of butterfat from producer milk for standardization should be included in the set-aside allowance as unavoidable Class II use and considered in the determination of the application of transportation allowances to receipts from supply plants. Allowances for Class II use in shrinkage and route returns as presently provided for in the set-aside are adequate. Two percent of both skim milk and butterfat is generally considered a sufficient allowance for shrinkage, or receipts that are not accounted for in use, and the experience of the New England market as shown in the market administrator's statistical reports indicates that total shrinkage represents less than two percent of Class I utilization. Route returns represent intended Class I use that is returned to the handler by distributors. Such use is not identified specifically in statistical reports, but is usually included in livestock feed. Over the period represented by the statistical reports, use in livestock feed averaged 0.1 percent of Class I use, while the set-aside allowance for route returns is one percent.

Standardization, or the removal of butterfat from producer milk to achieve a lesser butterfat content for fluid use, is presently provided for in the set-aside allowance. The standardization allowance for butterfat, however, is not sufficient. According to the market statistics, the amount of butterfat that must be removed from producer milk for standardization is forty-one percent of the amount of butterfat in Class I dispositions. Skim milk that is removed with butterfat in standardization represents nearly two percent of the skim milk in class I.

Variation in ending inventory is not presently included in the set-aside allowance, but should be considered as an unavoidable Class II use. The volume of ending inventory may vary considerably, depending on whether the last day of the month occurs on a day of

the week on which the handler packages fluid milk products. Milk in inventory at the end of a month is not included in a distributing plant's Class I use on which location credits for the supply plant are determined. Not until the following month are fluid milk products in ending inventory during the prior month distributed on routes and included in Class I sales on which location adjustment credits apply. During the period of August 1979 through July 1980, for which pool statistics were submitted, the change in ending inventory from one month to the next for the market as a whole ranged from 0.04 percent to 5.7 percent of Class I use. An allowance of four percent of skim milk and butterfat in Class I use for inventory variation would cover the extent of that variation for eleven out of twelve months.

On the basis of data presented by the market administrator, a distributing plant primarily engaged in the processing of fluid milk products reasonably could have unavoidable Class II use in an amount up to ten percent of the skim milk and fifty percent of the butterfat contained in its Class I disposition.

No provision should be made for allowing an unused portion of a set-aside allowance at one plant to be used at another plant of the same handler. The witness for the dealers' association testified that inasmuch as some multi-plant handlers specialize in some Class II uses at certain plants, they should be entitled to share the set-aside allowances between all plants of a handler. Because the Class II products requested to be covered by the set-aside provision are not to be included, the potential benefits to the handler of this part of the dealers' proposal would be lost. Moreover, if the allowance adopted for unavoidable Class II use is more than is actually needed, it would detract from the intent of the limit on the allowance to accommodate pool transportation credit for supply plant milk intended for Class II product operations at another plant.

(b) *Classification of inventories.*

The provision for classifying fluid milk products in inventory at the end of each month should be changed to allow handlers more latitude in requesting that ending inventory be considered Class I. A handler who operates a pool distributing plant should be entitled to claim Class I classification on any or all inventories of fluid milk products at the end of each month, pending the final disposition of such fluid milk products. Also, the order should continue to provide that in the case of a handler who claims no Class II classification for any fluid milk product received, ending inventories of those fluid milk products should be classified as Class I, pending their final disposition.

At the present time, the inventory classification provision specifies that inventories of fluid milk products may be classified as Class I only if the handler who requests such classification receives no milk directly from producers or cooperatives, or if a handler claims no Class II classification of any fluid milk product received. Under this provision, supply plant milk received for fluid use but held in inventory at a distributing plant which also receives direct-shipped milk must be classified as Class II, and thus is not eligible for any transportation allowance. The cooperative federation and the dealers' association made identical proposals that the inventory classification provision be amended to allow a handler who receives milk directly from producers or from cooperative to request that fluid milk products in inventory at the end of the month be classified as Class I.

Witnesses testified that the present classification of inventory in Class II is responsible for large and frequent Class II classification of supply plant milk shipped to distributing plants. An ending inventory large enough to increase total Class II use over the amounts to be assigned under the set aside allowance may cause milk moved to a distributing plant for fluid use to be assigned to Class II. Proponents asserted that as the number of days in the week on which handlers bottle milk decreases, the occurrence of large fluid inventories becomes more frequent.

The classification of inventories also affects the amount of milk received from supply plants on which transportation credit is allowed. Milk transferred for fluid use but held in inventory and classified as Class II is not subject to transportation credit. Presently, large ending inventories expand the amount of Class II utilization to which receipts are assigned, increasing the likelihood that a handler will have greater Class II utilization than that provided for in the "set-aside" allowance. The receipts assigned to this excess Class II use caused by large ending inventories are supply plant receipts which are thereby denied the application of transportation allowances. The representative for the dealers' association testified that the ability of handlers to classify some ending inventory as Class I would enable them to level off assignments of milk to Class II from month to month. The proposal was described as a means for relieving the effects of large inventory variations on transportation credits for supply plant milk.

To a great extent, the problems addressed by this proposal have been remedied elsewhere in this decision. The Class II classification of supply plant milk will be curtailed by the transfer of milk between pool plants on an agreed class basis. Milk moved for fluid use will be reported as Class I and assigned to Class I before receipts of producer milk are assigned. However, under the revised "set-aside" provision, assignment of supply plant milk to Class I will not ensure transportation allowances on that milk. While the increased "set-aside" percentages include an allowance for inventory variation established on the basis of market-wide averages, it cannot be expected that each handler will operate within the "set-aside" allowance for inventory variation every month, or that all handlers will experience similar inventory variations. A handler with an unusual inventory variation should be allowed to place some or all of his ending inventory in Class I in order to even out the effect extreme variations in inventory may have on the applicability of transportation credits to his receipts.

In the first month in which inventory is classified as Class I, it may be expected to have a significant impact on the amount of skim milk and butterfat available for location adjustment. In subsequent months, however, continued classification of inventory in Class I would be offset by Class I beginning inventory assigned to Class I use and deducted before the amount available for location adjustment is determined. It is not expected that use of this provision will result in any detrimental effects on the pool. The ultimate classification of producer milk is determined by its final use. Classification in inventory is always subject to adjustment in the following month, depending on the handler's actual utilization in that month. The effective use of Class I classification of inventory, then, would be to correct for inventory variations greater than those allowed for in the "set-aside" provision. The primary impact of allowing inventory to be reported as Class I on a handler's use value is that the handler pays the Class I price for milk in the month previous to its use in that class. At present interest rates, the cost of unnecessarily classifying inventory in Class I would be as much as 5 cents per hundredweight.

At the time a handler reports receipts and utilization of milk products to the market administrator for a particular month, the use of milk in inventory at the end of the month would be known to the handler. The handler should therefore be able to designate the

classification of milk held in inventory on the last day of the month for use on the first day of the following month. Supply plant milk received for fluid use is more likely to be classified according to the use for which it was intended, and transportation credits are more likely to be allowed on such milk, if handlers are allowed more discretion in classifying inventory as Class I.

3. *Plant definition.* The order should be changed to provide that a facility at which milk is reloaded through stationary storage enroute from producers' farms to processing plants, but at which no processing or packaging takes place, may be designated by the handler as a non-pricing point upon written notice to the market administrator before the first day of the period in which such designation is to be effective. Designation as a non-pricing point may be changed to give the facility status as a pricing location under the same notification requirements. A proposal to allow stationary storage facilities to be non-pricing points on the premises of a manufacturing or processing plant should not be adopted.

The order presently describes a plant as premises on which milk or milk products are received, processed, or packaged. Milk received at a plant is priced at the location of that plant. Bulk reload points, where milk is reloaded from one tank truck to another en route from dairy farmers' farms to a plant, are specifically excluded from the plant definition unless stationary storage tanks are maintained and used on the premises. Milk reloaded at bulk reload points is priced at the location of the plant where it is later received. If stationary storage tanks are in use at the reload point, however, the reloaded milk is considered a receipt there and priced at that location.

Cooperative and dealer groups both proposed that the definition of a reload point be expanded to include stationary storage facilities. The dealers' association proposed that no prohibition on the use of a pipeline connecting a stationary storage tank with a manufacturing or processing plant be included. Both groups requested that a handler have the option of designating a reload point with stationary storage as a pricing point. Proponents contended that the inclusion of stationary storage at a reload point, or non-pricing point, would help alleviate the competitive equity problem of supply plant milk relative to direct-delivered milk by allowing milk that is presently considered a supply plant receipt to be accounted for as a direct delivery to a distributing plant.

The representative of the proponent federation of cooperatives testified that reloaded milk will continue to be an important part of the milk supply in New England, and that stationary storage is an important factor in handling that milk supply efficiently and economically and in maintaining its quality. He stated that is areas relatively close to the interstate highway system and city consumption centers, the structure of dairy farming is not conducive to the use of large tractor trailers. The topography in these areas in southern Vermont and New Hampshire is often hilly, with narrow winding roads and small bridges making the use of tractor trailers hazardous. He indicated that many farms are not set up to have their milk picked up by large over-the-road tankers, and the density of the farms is often not great enough to make the use of such vehicles economical. For these reasons, he noted, it is unlikely that the trend toward farm pickup by over-the-road tankers will advance much further. In some areas, milk will continue to be picked up at the farm in smaller assembly vehicles and reloaded into tractor trailers to be hauled to plants.

According to witnesses for cooperatives, the presence of stationary storage facilities at reload points would contribute to the maintenance of milk quality by enabling handlers to unload, wash and sanitize assembly vehicles immediately upon completion of their routes rather than waiting for the arrival of a delivery vehicle. Furthermore, they stated, milk temperature would be better maintained and poor quality milk segregated more easily through the use of stationary storage tanks.

Proponents of both cooperative and dealer proposals, as well as other cooperative representatives, testified that the use of stationary storage at reload points would promote hauling efficiency and economy. Storage tanks would provide a margin for short-time fluctuations between volumes of milk receipts and shipments at country plants, giving handlers more flexibility in directing deliveries of milk as needed on a daily basis and accommodating the prevailing trend toward reduced numbers of bottling days at distributing plants. It was asserted that if stationary storage facilities were available at reload points, gaps between assembly and delivery schedules would not require that trucks and drivers wait upon the completion of other routes. As a consequence, fewer assembly and delivery trucks may be required, resulting in savings in the costs of milk handling. Witnesses testified that unnecessary costs of 4 cents per hundredweight are presently incurred at ten to twelve locations where parked trailers are in use as "mobile" storage facilities. At some reload points the presence of stationary storage tanks which cannot be used without causing the location to become a pricing point represent a cost to handlers of unused capacity. No difficulties were foreseen in properly accounting for the disposition of producer milk reloaded through stationary storage facilities.

The proponent cooperative federation, although not originally proposing that a handler be allowed the option of designating a non-pricing reload point with stationary storage as a pricing point, modified their proposal during testimony to make such a choice available to a handler during any month of the year. The dealers' association had proposed that handlers be able to include such a facility as a "plant" in a group of plants during July through December in order to meet supply plant performance standards. The dealers' witness advocated the adoption of this option to enable a handler to meet qualifying shipments for his group of supply plants flexibly and efficiently. Cooperative witnesses pointed out that in the absence of their proposed option, a handler with no other plant may be unable otherwise to qualify his producers or his milk supply for pooling. Further, under an expanded reload point definition and without such an option, a plant at which processing has been taking place would lose its pricing status if its processing activities cease, potentially disrupting the pricing of producer milk received there. Witnesses from both groups testified that the market administrator should be notified in advance of a handler's intention to change the designation of his "reload point" to a "plant" or vice versa, so that milk handled there might be pooled, classified and priced properly. A cooperative witness suggested that it might be necessary for administrative reasons to limit a handler's use of the proposed option to certain months, or for the status of a reload facility with stationary storage to remain unchanged throughout the qualifying period.

The dealers' association proposal would allow a storage tank at a milk processing plant to be a non-pricing point, even if connected to the processing operation by a pipeline. The cooperative proposal would prohibit the connection by pipeline of non-pricing storage facilities with processing or packaging operations. The witness representing the milk dealers speculated that potential difficulties encountered by the market administrator in identifying a "pipeline" would make such a prohibition troublesome to administer. He stated that the use of a

manufacturing plant as a non-pricing point would increase a handler's flexibility in the assembly and transportation of milk. Furthermore, he contended, when the list of activities presently allowed at a reload point is considered, it is apparent that such a facility may already be considered a complex milk plant at which processing, as well as statonary storage, would be a logical extension of permissible activities. Cooperative witnesses argued that a facility receiving milk should be either a pricing point or a non-pricing point, and should not perform in both capacities on the same premises at the same time. It was pointed out that administrative difficulties in determining whether a producer's milk had been received at a pricing or a non-pricing point would no doubt result from a provision of this nature. Determining whether milk delivered to city distributing plants is received from supply plants or through reload points would also become more difficult. The proponent witness conceded the difficulty of accounting for milk received at and reloaded from stationary storage tanks at a processing plant.

The record indicates that allowing the use of stationary storage tanks at non-pricing reload points will contribute to the marketing of milk in a more efficient and economic manner. It is apparent that handlers are incurring expenses of maintaining extra tank truck trailers for storage purposes which are operationally inefficient in order to circumvent the provision of the order that requires milk to be priced at a reload point if the milk is held in a stationary storage tank. The problem of whether the cost of hauling plant milk which is assigned to Class II will be paid by the buyer or the seller is currently avoided by reloading milk from mobile storage tanks and causing it to be priced as direct-delivered milk instead of plant milk. Convincing arguments were presented that significant efficiencies other than saving the expense of operating mobile storage facilities may be made in the operations of handlers assembling and delivering milk if stationary storage is permitted at reload points. If assembly and delivery trucks no longer need wait on each other and are free to complete more routes, both capital and labor savings may be accomplished through the need for reduced numbers of trucks and drivers. Idle storage facilities may be put into use without making a location a pricing point, freeing the trailers now being used as mobile storage for the transportation of milk. A facility that receives milk should remain within the definition of a plant. However, if no processing or packaging occurs on the premises of the plant during the same month in which milk is received and held there in stationary storage tanks to be reloaded and moved to other plants, the facility may be designated a non-pricing reload point by the handler.

Milk delivered to a facility and held in stationary storage on premises where processing or packaging is performed should be priced at that location. Allowing a handler to designate one portion of a manufacturing plant as a non-pricing point would result in insurmountable problems in determining whether producer milk received into stationary storage had been commingled with plant milk, and whether milk "reloaded" from there was producer milk or plant milk. The problem of defining a "pipeline" will be avoided by prohibiting the processing and packaging of milk on the same premises as a non-pricing point. The addition of stationary storage to those activities presently permitted on the premises of a reload point will not afford any increased ability to alter the characteristics of producer milk. If processing or packaging activities are present, however, maintaining the identity of producer milk would become a problem.

Some handlers may find it necessary to retain plant status for a reload facility with stationary storage during some months of the year in order to qualify individual producers, or their entire milk supply, for pooling. When plant status is not required for pooling, however, those handlers should be allowed to exercise the same option available to other handlers of designating their facilities as non-pricing points. There is no need to require a handler to maintain either pricing or non-pricing status for such a facility throughout an entire year, and that requirement would be unnecessarily restrictive. Furthermore, a plant at which no processing or packaging occurs need not maintain the same pricing status for the entire August through December period during which supply plants must make minimum shipments if they want to be automatically pooled in later months. Supply plant performance is determined each month for both individual plants and groups of plants. There is no basis for requiring any plant to be eligible to meet those standards for the entire period, or for prohibiting the plant from performing as a pool supply plant only for those months needed for qualifying producers for diversion.

The market administrator should be notified in writing of the designation of a reload point with stationary storage facilities as a non-pricing point, or the reversal of such designation before the first day of the month for which the pricing status is to be changed. Sufficient notification will ensure that producer milk received or reloaded there will be pooled, classified and priced properly. In addition, the status of the plant will be determined in time for handlers purchasing milk from or through that location to be aware of the manner in which the order will be applied to those receipts.

4. *Diversion of producer milk.*

Limits on the proportion of producer milk that may be diverted to nonpool plants and still be eligible for pooling should be increased to more nearly reflect the percentage of milk on the market that is in excess of the market's fluid needs. A handler's diversions of producer milk to nonpool plants should be limited to 35 percent of milk pooled in the months of September through November and 45 percent in the other months of the year instead of the present limit of 25 percent in each month. This modification should enable handlers to avoid uneconomic handling of milk that may currently be undertaken to qualify all of a handler's milk supply for pooling.

A spokesman for the cooperative proposing that the 25 percent limit on diversions of producer milk to nonpool plants be deleted testified that such a limit restricts only the method used to move milk to nonpool plants, and not the amount of milk. In addition, he pointed out that the present requirements for delivery of producer milk to pool plants are much more rigorous year-round than shipping standards for pool supply plants. The witness stated that his organization incurs substantial freight costs in addition to costs of 10–12 cents per hundredweight solely to move milk through its supply plants for the purpose of qualifying it for pooling, a procedure which is not only expensive but fuel-inefficient. A handler who sells a substantial portion of Class II milk to nonpool plants, he claimed, bears an undue and unfair burden of marketing costs in these unnecessary movements of milk. The witness further testified that the order provisions for individual producer qualifications assure that producers are adequately associated with the market, describing as stringent a requirement that a majority of shipments of a producer's milk be delivered to a pool plant for at least 2 months of a qualifying period. He stated that the diversion limit does nothing to ensure the adequate attachment of

producers to the pool, and thereby preclude dilution of the pool. A final point made by this witness was that the Class I needs of the order currently are not only being met, but are declining; and that in a market with only 50 percent Class I use, a 75 percent delivery requirement is excessive.

A witness representing most of the cooperatives on the market testified in opposition to the elimination of limits on diversions of producer milk to nonpool plants. He asserted that deleting the diversion limit would allow supplies of milk that are not really associated with the fluid market to share in the Class I pooling base, thereby reducing the uniform price to producers who are serving the Class I market. Since the diversion limit discourages pool riding by irresponsible parties who would be able regularly to divert milk to locations remote from the market, this witness expressed his conviction that milk would be available for Class I use whenever necessary only if the limit is retained. He pointed out that there are numerous pool manufacturing plants to which milk can be diverted and still qualify for pooling.

The proponent's witness testified only generally about the extra costs resulting from unnecessarily hauling, receiving, and shipping milk for qualifying purposes, and did not indicate the extent to which such inefficient handling of milk is required of his organization. Cooperatives operating pool manufacturing plants are likely to experience few difficulties in pooling their milk within the diversion limits. Cooperatives without such outlets, however, may indeed operate at a disadvantage in meeting pool delivery requirements even if the actual utilization of their milk differs little from that of producer groups possessing pool manufacturing facilities.

In the absence of any testimony regarding the magnitude of the proponent's need for relief from the inefficiencies caused by operating within the present diversion limits, the only evidence available upon which to base a determination of an appropriate level for such limits is the extent to which producer milk is needed for fluid use on a marketwide average. The percentage of producer milk assigned to Class I use over the course of one year is contained in the monthly statistical reports for August 1979 through July 1980 submitted by the market administrator. These reports show a range in percent of Class I utilization of producer milk of 47 percent to 63 percent during that period, with an average of 56 percent. Since over half of the milk pooled in New England is needed for fluid use, some limit on the proportion that may be diverted to nonpool plants for manufacturing should be retained to ensure that groups of producers whose milk is to be pooled will maintain a regular association with the fluid milk market. A requirement that 75 percent of producer milk be delivered to pool plants when less than 65 percent in any month will be used in Class I, however, would appear to be overly restrictive.

The months in which the highest proportion of producer milk is used in Class I are the fall and winter months, including September through November when supply plant performance standards are highest. With a Class I utilization percentage that is slightly less than 65 percent in those months, a limit of 35 percent on diversions of producer milk to nonpool plants should ensure an adequate supply for fluid needs. For other months, in which the percent of Class I use averaged slightly less than 55 percent during the period for which statistics were submitted, a 45 percent limit on diversions ought to be sufficient to meet the market's need for fluid milk. Increased diversion allowances will better reflect the proportion of producer milk that is surplus to fluid needs and should alleviate, if not eliminate, the necessity of unnecessary hauling and handling for purposes of qualifying reserve milk supplies for pooling.

The federation of cooperatives which presented testimony in opposition to the proposed deletion of diversion limits filed an exception to the increased diversion allowances adopted in the recommended decision. They suggested that instead of changing allowable diversions to 35 percent for September through November and 45 percent for the rest of the year, they would support diversion limits of 30 percent in September through November and 40 percent in December through August. The cooperatives expressed concern that milk supplies located in western New York, western Pennsylvania or Ohio which historically have not been associated with the New England market would be attracted to the market and would share in the New England pool if diversion allowances are increased. There is no evidence that milk supplies from so far away would be attracted to the New England market. The increased plant location adjustment rate adopted in this decision would reduce the blended price at distant plant locations. Thus, the New England blended price can be expected to become less competitive in distant areas such as western New York and thus not likely to encourage the association of these distant milk supplies with the New England market.

This group of cooperatives also objected to the amount of the recommended increased diversion allowances on the basis that much of the Class II milk is handled by or could be diverted to pool manufacturing plants. Also, they claimed, some of the milk assigned to Class II which was used to determine an appropriate level of allowable diversions is milk received at pool plants for fluid use which ends up in unavoidable Class II uses such as shrinkage, cream from standardization, and route returns.

If producer groups which do not own pool manufacturing plants are to have an opportunity to handle reserve milk as efficiently as possible by moving it directly to the nearest manufacturing plant, it is necessary that diversion limits be relaxed. The existence of pool manufacturing plants should not be a basis for narrowly limiting the amount of milk which may be diverted to nonpool manufacturing plants, since it would continue to encourage inefficient milk handling by producer groups that use nonpool manufacturing plant outlets.

With respect to the determination of allowable diversion percentages on the basis of marketwide Class II use, it is not intended that a handler who diverts milk have Class I usage of not less than the marketwide average. Rather the diversion limit is intended to encourage market participants to make their milk supplies available for fluid use and also to accommodate the efficient disposal of reserve milk supplies. In this regard, a market participant that moves 65 percent of its milk supply to pool plants during the short production months and 55 percent in any other month has demonstrated an association with the market to an extent that warrants the pooling of all of its milk supply.

5. *Butterfat accounting.*

Three related proposals to change provisions relating to butterfat sampling and testing methods, shrinkage allowances and overage accounting should not be adopted.

One proposal, as written, would decrease the amount of time allowed a handler after the end of each sampling period to notify producers of their average butterfat tests as determined under certain testing procedures. Additionally, the proposed amendment would create contradictory requirements within the order for the time allowed to notify producers of some test results. The proponent's representative indicated in testimony, however, that the intent of this proposal

is to establish the state or commonwealth in which the milk is received as the authority for determining whether sampling and testing methods used by the handler are acceptable. The market administrator or his representative would not be prohibited from doing independent testing and would continue to notify producers and handlers of the results of such testing. However, the witness specified that the market administrator would not be allowed to interfere with the normal and reasonable sampling and testing operations of a hauler or handler's representative.

No testimony was presented to indicate that the market administrator presently interferes, or has ever interfered, with a hauler's or handler's testing operations or that any of the procedures followed by the market administrator in the performance of his verification duties are contrary to the methods approved by the states or commonwealths having jurisdiction in the marketing area. In addition, a witness representing most of the cooperative associations in the market testified that his organization would experience difficulties in meeting the proposed notification requirements, both in amount of time allowed after the end of the testing period (7 days instead of 10) and in frequency of notification (3 times per month instead of 2 because the use of the random fresh sampling technique results in 3 10-day sampling periods).

In view of the difficulties which adoption of this proposal would create for handlers and because no need was shown for further specifying the authority having jurisdiction over sampling and testing procedures, the proposal should not be adopted.

Another amendment proposed by the same handler would increase the Class II shrinkage allowance from 2 percent to 3 percent for butterfat receipts established on the basis of 4 or fewer samples during the month. Witnesses for the proponent testified that a combination of sampling problems makes it difficult to obtain accurate representative samples from either farm bulk tanks or over-the-road tankers when the methods used are those which are commonly practiced in the dairy industry.

Some evidence was presented that farm tests exhibit a bias in favor of the producer, overstating the butterfat for which a handler must account and resulting in excess butterfat shrinkage. Witnesses agreed that when more samples are used to determine butterfat content a more accurate test should be expected, but concerns over the administrative difficulties involved in keeping separate records for those receipts having been tested 4 or fewer times from those tested more than 4 times were expressed by two representatives of producer groups. One witness further commented that this proposal would result in differing butterfat shrinkage allowances to handlers depending on their testing procedures, protesting that such unequal treatment would not be permissible under the Act.

No evidence supporting the necessity for an increase in the allowance for Class II butterfat shrinkage was introduced. In fact, witnesses for the proponent testified that equipment that can sharply reduce sampling error and thereby eliminate one of the primary causes of butterfat shrinkage is currently available at a reasonable cost. An examination of the statistics in the record shows that total butterfat shrinkage as a percentage of producer butterfat averaged just over 1 percent during the period August 1979–July 1980. During none of these months did the percentage of shrinkage exceed 1.47 percent for the market as a whole. During each month some handlers apparently exceeded their shrinkage allowances since some Class I butterfat shrinkage appeared in each month, in amounts which averaged only 0.21 percent of butterfat in producer milk per month. Class I butterfat shrinkage ranged from 0.09 percent to 0.42 percent during August 1979–July 1980, never approaching the 1 percent additional allowance that the proponent requested. It would appear from these data that while some milk handlers may experience difficulty operating within the Class II butterfat shrinkage allowance provided by the order, others are able to do so while using little more than half of that allowance. When combined with the aspects of this proposal that would make its administration difficult and its impact on handlers inequitable, the failure to demonstrate its necessity makes it apparent that the proposal should be denied.

The third proposal regarding butterfat accounting would result in no charge being imposed on a handler who experiences an amount of butterfat overage which can be offset by skim milk shrinkage in the same month. The proposal limits the amount of offset not subject to charge to one percent of butterfat in milk handled during the month and the occurrence of such an offset to once every quarter in a year. The witness for the proponent testified that a handler's butterfat overages are often due to inaccurate sampling of producer milk and therefore the handler should not be charged for butterfat used in excess of butterfat received.

A provision of this sort would reflect the concept that there could be no actual butterfat overage if there were no overuse of total product. As an opponent of the proposal pointed out, however, an overage represents milk (or butterfat) which has been used by the handler but for which the producer has not been paid. A butterfat overage occurring with a skim shrinkage may be the result of sampling, testing or accounting errors in areas of a handler's operation other than receipts of producer milk. Such a provision, then, would eliminate the means by which producers are paid for receipts unreported by handlers.

With regard to exempting butterfat overages from a charge only once per quarter, while it is true that the situation for which the proposal was designed should occur infrequently, it should also occur randomly if due to no systematic error. Truly random occurrences would be just as likely in consecutive months as once per quarter, and no such restriction could be placed upon them. Frequent occurrence, however, would indicate that some constant problem exists in sampling, testing or accounting for milk received and used. One opponent of the proposal stated that such a provision would remove a handler's incentive to try to rectify accounting problems that lead to overage and excess shrinkage by removing the penalties associated with those problems.

As in the case of the other proposals related to butterfat accounting, neither need for nor benefit from any change in the current provisions was demonstrated by the proponents. No evidence was presented to show that existing allowances are inadequate. Instead, the only evidence available indicates that the experience of milk handlers falls well within the present allowances.

6. *Proposals not supported.* Two proposals by the milk dealers' association which were included in the notice of hearing, but not supported in testimony, should be denied. One of these proposals would reduce supply plant shipping requirements 10 percentage points per month for the period August through December and allow diverted milk to be included as qualifying shipments. A representative of the cooperative federation testified on behalf of the federation that changes made in shipping standards by a December 1978 order amendment had alleviated sufficiently earlier problems

in meeting those requirements. The witness testified that while there may be isolated instances of handlers unable to maintain the present shipping standards, such occurrences were temporary and probably the result of recent abnormal producer shifts. Supply plant shipping standards in New England were characterized as modest when compared with those in other orders. A significant reduction in shipping requirements, it was feared, would lead to unneeded supplies of milk becoming attached to and pooled in New England, resulting in an adverse impact on producer blend prices.

The other proposal which was not supported by testimony was an alternative to the proposals to increase location adjustment rates and to adjust those rates automatically by a formula. This proposal would add a new section to the order in which supply plants would, in addition to current transportation allowances on milk assigned to Class I, be allowed an additional 8-cent credit for receiving and reloading costs and an additional one-half cent per hundredweight for each zone difference in location between the supply and distributing plants. The rate per hundredweight for each zone distant from Zone 1 would be adjusted by .05 cents for each 5-cent change in diesel fuel prices. A proprietary handler stated his intention to testify against this proposal if any testimony was received in favor of it.

Given the absence of testimony supporting either of these proposals, the failure to establish a need for revising supply plant performance standards, and the adoption of part of the proposal to increase transportation allowances elsewhere in this decision, there is no reason to adopt either of these proposals.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

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

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

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

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a MARKETING AGREEMENT regulating the handling of milk, and an ORDER amending the order regulating the handling of milk in the New England marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the **Federal Register.** The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

Determination of Producer Approval and Representative Period

August 1981 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the New England marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on November 5, 1981.

John Ford,

Deputy Assistant Secretary, Marketing and Inspection Services.

Order[1] Amending the Order, Regulating the Handling of Milk in the New England Marketing Area

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the New England marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.),* and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

thereof, will tend to effectuate the declared policy of the Act;

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

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof, the handling of milk in the New England marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Acting Administrator, on August 28, 1981, and published in the **Federal Register** on September 2, 1981 (46 FR 43980), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein:

PART 1001—MILK IN THE NEW ENGLAND MARKETING AREA

1. In § 1001.4 paragraph (b) is revised to read as follows:

§ 1001.4 Plant.

* * * * *

(b) Bulk reload points (separate premises used for the purpose of transferring bulk milk from one tank truck to another tank truck while en route from dairy farmers' farms to a plant). If stationary storage tanks are used for transferring milk at the premises, the operator of the facility shall make an advance written request to the market administrator that the facility be treated as a reload point; otherwise it shall be a plant. The cooling of milk, collection or testing of samples, and washing and sanitizing of tank trucks at the premises shall not disqualify it as a bulk reload point.

2. In § 1001.15 paragraph (c) is revised to read as follows:

§ 1001.15 Diverted milk.

* * * * *

(c) Milk moved, as described in paragraphs (a) and (b) of this section, from dairy farmers' farms to nonpool plants in excess of 35 percent in the months of September through November and 45 percent in other months, of the total quantity of producer milk received (including diversions) by the handler during the month shall not be diverted milk. Such milk, and any other milk reported as diverted milk that fails to meet the requirements set forth in this section, shall be considered as having been moved directly from the dairy farmers' farms to the plant of physical receipt, and if that plant is a nonpool plant the milk shall be excluded from producer milk. If the handler fails to designate the dairy farmers whose milk is to be so excluded, the entire quantity of milk that the handler caused to be moved from dairy farmers' farms directly to nonpool plants during the month shall be excluded from producer milk.

3. Section 1001.41 is revised to read as follows:

§ 1001.41 Classification of inventories.

(a) A handler who operates a pool distributing plant may claim a Class I classification of some or all inventories of fluid milk products at the end of each month pending final disposition of such fluid milk products.

(b) If a handler does not claim a Class II classification of any fluid milk products received, inventories of fluid milk products at the end of each month shall be classified as Class I milk pending final disposition of such fluid milk products.

4. In § 1001.47 paragraphs (a), (b) and (c) are revised to read as follows:

§ 1001.47 Additional assignments to Class I and Class II milk.

(a) Assign to Class I milk bulk fluid milk products received from other pool plants, unless Class II utilization was requested by the transferee and transferor handlers.

(b) Assign to Class I milk the receipts of producer milk that have not been previously assigned pursuant to § 1001.43(d) and receipts of milk from cooperative associations in their capacity as handlers under § 1001.9(d).

(c) Assign to Class I milk the bulk fluid milk products received from other pool plants that have not been previously assigned.

* * * * *

§ 1001.50 [Amended]

5. In § 1001.50(a), the amount "$2.42" is changed to "$2.28".

6. In § 1001.52, paragraph (a) is revised, paragraphs (b), (c) and (d) are removed, and paragraph (g) is revised, as follows:

§ 1001.52 Plant location adjustments.

* * * * *

(a) The following zones are defined for the purpose of determining location adjustments:

(1) Zone 1 shall include the State of Rhode Island and the Massachusetts counties of Barnstable, Bristol, Dukes, Norfolk, Plymouth and Suffolk, and between Boston and Massachusetts highway route number 128.

(2) Zone 2 shall include the Massachusetts counties of Middlesex (only that portion south of Massachusetts highway route number 2 not included in Zone 1) and Worcester (only the townships of Berlin, Blackstone, Bolton, Douglas, Hopedale, Mendon, Milford, Millville, Northborough, Northbridge, Southborough, Sutton, Upton, Uxbridge, Westborough and that portion of Harvard township south of Massachusetts highway route number 2).

(3) Zone 3 shall include:

(i) The Connecticut counties of Middlesex (except the townships of Cromwell, Durham, Haddam, Middlefield, Middletown, and Portland), New London, Tolland (except the townships of Ellington and Somers), and Windham.

(ii) The Massachusetts county of Worcester (only the townships of Auburn, Boylston, Charlton, Clinton, Dudley, Crafton, Holden, Lancaster, Leicester, Millbury, Oxford, Paxton, Shrewsbury, Southbridge, Sterling, Webster, West Boylston, and Worcester City).

(4) Zone 5 shall include:

(i) The Connecticut counties of Fairfield, Hartford, Litchfield, Middlesex (only the townships of Cromwell, Durham, Haddam, Middlefield, Middletown and Portland), New Haven, and Tolland (only the townships of Ellington and Somers).

(ii) The Massachusetts counties of Hampden (only the townships of Brimfield, Holland, Monson, Palmer and Wales), Hampshire (only the township of Ware), and Worcester (only the townships of Brookfield, East Brookfield, Hardwick, New Braintree, North Brookfield, Oakham, Spencer, Sturbridge and West Brookfield).

(5) Zone 6 shall include the Massachusetts counties of Hampden (except the townships of Brimfield, Holland, Monson, Palmer and Wales), and Hampshire (except the township of Ware).

(b)–(d) [Reserved]

* * * * *

(g) The location adjustments for each plant shall be the amounts shown in the following table for the zone in which the plant is located:

LOCATION ADJUSTMENTS FOR DETERMINATION OF ZONE PRICE

Distance to Boston (miles)	Plant location zone	Class I and blended price adjustments (cents per hundredweight)
1 to 10	1	+72.0
11 to 20	2	+69.5
21 to 30	3	+67.0
31 to 40	4	+64.5
41 to 50	5	+62.0
51 to 60	6	+59.5
61 to 70	7	+57.0
71 to 80	8	+54.5
81 to 90	9	+52.0
91 to 100	10	+49.5
101 to 110	11	+47.0
111 to 120	12	+44.5
121 to 130	13	+42.0
131 to 140	14	+39.5
141 to 150	15	+15.0
151 to 160	16	+12.5
161 to 170	17	+10.0
171 to 180	18	+7.5
181 to 190	19	+5.0
191 to 200	20	+2.5
201 to 210	21	+0.0
211 to 220	22	−2.5
221 to 230	23	−5.0
231 to 240	24	−7.5
241 to 250	25	−10.0
251 and over	[2]26	[1]

[1] Class I and blended price location adjustments applicable to plants located in subsequent zones shall be obtained by extending the table at the rate of 2.5 cents for each additional 10 miles except that in no event shall the Class I or blended price at any zone be less than the Class II price for the month.

[2] Includes 26 and over.

7. In § 1001.53, the word "and" at the end of paragraph (f) is removed, the period at the end of paragraph (g) is changed to a semicolon followed by the word "and", and a new paragraph (h) is added to read as follows:

§ 1001.53 Determination of applicable zone locations for pricing purposes.

* * * * *

(h) For purposes of computing the value of fluid milk products at class prices, any fluid milk products moved in bulk from a pool plant to another pool plant at which a higher Class I price applies and which is classified as Class I milk shall be priced at the Class I price applicable at the location of the plant to which the milk was moved subject to a location adjustment credit for the transferee-plant determined by the market administrator as follows:

(1) After the assignments pursuant to § 1001.46 for the transferee-plant, multiply the remaining pounds of Class I skim milk by 110 percent and the remaining pounds of Class I butterfat by 150 percent;

(2) Subtract the respective pounds of skim milk and butterfat in bulk fluid milk products physically received at the plant from the following sources:

(i) Producers;

(ii) Cooperative associations in their capacity as handlers under § 1001.9(d);

(iii) Receipts of diverted milk from pool plants; and

(iv) Receipts (other than diverted milk) from pool plants at which the same or a higher Class I price applies;

(3) Assign any pounds remaining (which are not in excess of Class I transfers) to skim milk and butterfat in bulk receipts of fluid milk products (except diverted milk) from other pool plants at which a lower Class I price applies in sequence according to the zone location of the plants, beginning with the plant in the lowest numbered zone; and

(4) Mutiply the hundredweight computed for each transferor-plant in paragraph (h)(3) of this section by the difference in the Class I prices applicable at the transferee-plant and transferor-plant and total such amounts.

8. In § 1001.60 paragraphs (a) (1) and (3), and (i) are revised to read as follows:

§ 1001.60 Computation of value of fluid milk products at class prices.

* * * * *

(a) * * *

(1) Producer milk assigned under §§ 1001.43(d) and 1001.47(b) except that for any cooperative association in its capacity as a handler under § 1001.9(d) the quantity of producer milk shall be reduced by the total quantity of milk moved to pool plants during the month, to the limit of the quantity of producer milk;

(2) * * *

(3) Milk received at a pool plant from a cooperative association in its capacity as a handler under § 1001.9(d) and assigned under § 1001.47(b).

* * * * *

(i) Add together the amounts obtained under paragraphs (a) through (d) of this section, subtract therefore the sum of the amounts obtained under paragraphs (e) through (h) of this section, and subtract the amount of the location adjustment credit computed pursuant to § 1001.53(h).

[FR Doc. 81-32602 Filed 11-10-81; 8:45 am]

BILLING CODE 3410-02-M

federal register

Thursday
November 12, 1981

Part IV

National Foundation on the Arts and the Humanities

Nondiscrimination on the Basis of Handicap; Final Rule

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

45 CFR Part 1170

Nondiscrimination on the Basis of Handicap; Final Rule

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Final rule.

SUMMARY: These regulations implement section 504 of the Rehabilitation Act of 1973, Pub. L. 93–112, 29 U.S.C. 794. Section 504 provides that "no otherwise qualified handicapped individual shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance* * *." The regulations define and forbid acts of discrimination against qualified handicapped persons in programs and activities receiving Federal financial assistance from the National Endowment for the Humanities. As employers, recipients are prohibited from engaging in discriminatory employment practices on the basis of handicap and must make reasonable accommodation to the handicap of employees unless the accommodation would cause the employer undue hardship. As providers of services, recipients are required to make programs operated in existing facilities accessible to handicapped persons, to ensure that new facilities are constructed in a manner readily accessible to handicapped persons, and to operate their programs in a nondiscriminatory manner.

EFFECTIVE DATE: December 14, 1981.

FOR FURTHER INFORMATION CONTACT: Joseph Schurman, General Counsel, National Endowment for the Humanities, 806 15th Street, N.W., Washington, D.C. 20506, 202–724–0367.

SUPPLEMENTARY INFORMATION:

Background

On April 28, 1976 the President issued Executive Order 11914 (41 FR 17871) directing the Secretary of Health, Education and Welfare (HEW) to coordinate implementation by Federal agencies of section 504 of the Rehabilitation Act of 1973, as amended (section 504). HEW was to determine who are handicapped individuals and guidelines for determining what are discriminatory practices within the meaning of section 504. By the executive order other agencies were directed to issue regulations consistent with HEW standards and procedures, to furnish the Secretary with reports and information upon request and to cooperate with HEW in the implementation of section 504.

On June 24, 1977 HEW issued their proposed guidelines. On January 3, 1978 Secretary Califano signed final HEW guidelines which became effective on January 13, 1978 (43 FR 2132, 45 CFR Part 85). Pursuant to § 85.4(b) of the HEW guidelines, Federal agencies that extended Federal financial assistance were required to issue a proposed rulemaking within 90 days of the publication of the guidelines in the Federal Register.

On April 14, 1978, the National Endowment for the Humanities published its proposed regulations regarding Nondiscrimination on the Basis of Handicap in programs or activities receiving Federal financial assistance from the National Endowment for the Humanities. The initial 60-day comment period was extended until September 1, 1978. All written comments were carefully considered.

On July 23, 1979, the National Endowment forwarded its draft final regulations to the Department of Health, Education and Welfare for their review pursuant to Executive Order 11914 and Title 45, Code of Federal Regulations, § 85.4(b). On June 3, 1980, the Department of Health and Human Services, successor to the Department of Health, Education and Welfare, recommended changes to the Endowment's draft final regulations. After making these changes, the Endowment submitted it draft final regulations to the Department of Health and Human Services.

On November 2, 1980, Executive Order 12250 was issued which transferred the authority of the Secretary of Health and Human Services with respect to section 504 regulations to the Attorney General. After approval by the Attorney General the draft final regulations were forwarded to the Office of Management and Budget for review in accordance with Executive Order 12291 of February 17, 1981. All the necessary review and approvals have been completed.

Pursuant to Executive Order 12250, the Attorney General is reviewing the regulations set forth in this notice and other regulations issued under section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794). Publication of these regulations has been approved by the Department of Justice, but they are likely to be amended to comply with requirements prescribed hereafter by the Attorney General pursuant to Executive Order 12250.

Note on References to HEW

Although Executive Order 12250 revoked Executive Order 11914, the regulations of the Secretary of Health and Human Services, as successor to the Secretary of Health, Education and Welfare, relating to the coordination of the implementation of section 504 of the Rehabilitation Act of 1973, as amended, were deemed to have been issued by the Attorney General pursuant to Executive Order 12250 and continue in effect until revoked or modified by the Attorney General. It should be noted that although the Supplementary Information refers to HEW's Guidelines or HEW's regulation, that is because the Summary of Regulation was written in 1979 when the Secretary of Health, Education and Welfare was responsible for implementing section 504. There has been no substantive change in the guidelines or regulations, only the title of the official responsible for coordination has changed from the Secretary of Health, Education and Welfare to the Attorney General. Therefore, the Endowment left the references to HEW in the Supplementary Information in an effort to publish the final rule more expeditiously.

Executive Order 12291

It has been determined that this final rule is not a major rule under Executive Order 12291. Accordingly, a regulatory impact analysis is not required.

Regulatory Flexibility Act

Joseph D. Duffey, Chairman, National Endowment for the Humanities, has determined that this action will not have a significant economic impact on a substantial number of small entities. This rule will be applicable to Endowment grantees, such as educational agencies and institutions and museums. This rule is based on the Section 504 regulations issued by the former Department of Health, Education and Welfare, which are currently administered by the Department of Education. Also based on the HEW regulations are the regulations issued by the National Endowment for the Arts. Because almost all of the National Endowment for the Humanities grantees are grantees of either the Department of Education or the National Endowment for the Arts, and because this rule does not apply to individuals such as Fellowship recipients, compliance cost to the public will be minimized, and there will not be a significant economic impact on a substantial number of small entities.

These regulations are published pursuant to an order of the Honorable William P. Gray, Judge of the United States District Court, Central District of California, in the case of *Paralyzed Veterans of America, et al., vs. William French Smith, etc., et al.*, No. 79-1979 WPG, dated June 16, 1981 ordering the National Endowment for the Humanities and other named agencies to publish a final regulation implementing section 504 of the Rehabilitation Act (29 U.S.C. 794) on an expedited basis.

The Problem of Discrimination

The National Endowment for the Humanities recognizes that the problem of ending discrimination on the basis of handicap involves extremely complex issues. The diversity of types of handicaps, as well as the wide variety of programs and activities receiving Endowment financial assistance make the task of prescribing general rules of non-discriminatory treatment a difficult one. The goal throughout has been to draft regulations that preserve the essential elements of a strong and effective program for ending discrimination while avoiding the imposition of unnecessary or counterproductive administrative obligations on recipients.

In the past many handicapped persons have been excluded from programs entirely or denied equal treatment, because they are handicapped. Eliminating such exclusions and denials of equal treatment is not sufficient to assure genuine equal opportunity. In drafting a regulation to prohibit exclusion and discrimination, it became clear that different or special treatment of handicapped persons, because of their handicaps may be necessary in a number of contexts in order to ensure equal opportunity. For example it is meaningless to "admit" a handicapped person in a wheelchair to a program if the program is offered only on the third floor of a walk-up building. Nor is one providing equal opportunity to a blind person by admitting him or her to a museum but providing no means for the person to appreciate the museum's artifacts.

These problems have been compounded by the fact that ending discriminatory practices and providing equal access to programs may involve major burdens on some recipients. Although burdens and costs provide no basis for exemption from section 504 nor this regulation, these factors have been taken into account in the regulations in prescribing the actions necessary to end discrimination and to bring handicapped persons into full participation in federally financed programs and activities.

Summary of Regulation

The regulation is divided into six subparts. Subpart A—General Provisions defines the important terms that are used throughout the regulation, the purpose and applicability of the regulation.

Section 1170.3(i) defines the term "recipient." As indicated, the recipient includes any state or its political subdivision, any instrumentality of a state or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient including any successor, assignee, or transferee of a recipient. It should be noted that the ultimate beneficiary of the assistance is excluded from the definition of a recipient. This language points out the inapplicability of these regulations to assistance programs administered directly by the Federal Government to beneficiaries, e.g., fellowship award programs. However, with respect to direct assistance programs the regulations may apply whenever the direct aid provided to an individual is extended on condition that the aid be spent in a particular program or activity, thereby benefiting the program or activity.

The general prohibitions against discrimination on the basis of handicap are set forth in Subpart B. General illustrative applications of these basic principles to Endowment supported programs are set forth in § 1170.13.

Subpart C, dealing with employment practices, bars discrimination by recipients of Endowment assistance in recruitment, hiring, compensation, job assignment, classification and fringe benefits. It also requires employers to make reasonable accommodation to qualified handicapped applicants or employees unless it can be demonstrated that the accommodation would impose an undue hardship on the employer.

Subpart D sets forth the central requirement of the regulation with respect to physical access—program accessibility. All new facilities are required to be constructed so as to be readily accessible to and usable by handicapped persons. Every existing facility need not be made physically accessible, but all recipients must ensure that programs conducted in those facilities are made accessible. While flexibility is allowed in choosing methods that in fact make programs accessible, structural changes in such facilities must be undertaken if no other means of assuring program accessibility is available.

Subpart E deals with postsecondary education. It proscribes discrimination against handicapped persons in recruitment, admission, and treatment after admission. Colleges and universities are required to make reasonable adjustments to permit handicapped persons to fulfill academic requirements, and to ensure that they are not effectively excluded from programs because of the absence of auxiliary aids. Groups of colleges may not establish consortia exclusively for handicapped students.

Subpart F contains the Endowment's system for enforcement of section 504. This system incorporates enforcement and hearing procedures promulgated by the Endowment in connection with Title VI of the Civil Rights Act of 1964 (45 CFR 1110). The remainder of the subpart concerns assurances required, self evaluation, adoption of grievance procedures, designation of a responsible employee, and notice. These sections have been included in order to encourage recipients to resolve complaints internally and effect compliance without Federal intervention.

Section-by-Section Analysis of Regulation

The following analysis describes some of the sections, discusses significant comments, and explains the basis for any changes made from the proposed regulation published April 14, 1978.

Miscellaneous

(1) *Braille and Cassette Tape Formats.* It was suggested by two comments that the proposed regulations be available in Braille and cassette tape formats. Regulations in this format will be made available upon request. Requests for copies of the regulations should be addressed to Office of the General Counsel, National Endowment for the Humanities, 806 15th Street, N.W., Washington, D.C. 20506.

(2) *Supplementary Information.* It was suggested that supplementary information be included similar to the preamble and analysis parts of the Department of Health, Education and Welfare regulations (42 FR 22675, 45 CFR Part 84) regarding nondiscrimination against the handicapped. The supplementary information has been provided.

(3) *Sections Renumbered.* In response to several suggestions and to increase the clarity and readability of the regulations the sections have been

renumbered and reorganized. There are now six subparts containing twenty-three sections instead of the previous twelve sections in the proposed regulations. In the discussion of comments all references will be to the new numbering system followed by the applicable number from the numbering system for sections used in the propoosed rule.

Subpart A—General Provisions

(4) *Purpose and Application.* Sections 1170.1—Purpose and § 1170.2—Application have been redrafted to be clearer and more readable.

(5) *Definitions.* It was urged that procurement contracts and contracts of insurance or guaranty be included in the definition of "Federal financial assistance," § 1170.3(f). The exemption of the proposed regulation has been retained. Procurement contracts are covered by the Department of Labor's regulation under Section 503 of the Rehabilitation Act. The definition of "Federal financial assistance" in HEW's Guidelines 45 CFR 85.3(e), 43 FR 2132 (1978) has been followed. This has also been done concerning the exemption of contracts of insurance or guaranty in accordance with the following language included in Appendix A of HEW's final regulations 45 CFR 84, 42 FR 22685 (1977). "There is no indication, however, in the legislative history of the Rehabilitation Act of 1973 or of the amendment to that act in 1974, that Congress intended section 504 to have a broader application in terms of federal financial assistance than other civil rights statutes. Indeed, Congress directed that section 504 be implemented in the same manner as Titles VI and IX. In view of the long established exemption of contracts of insurance or guaranty under Title VI, we think it unlikely that Congress intended section 504 to apply to such contracts."

It was suggested that the definition in § 1170.3(j) "handicapped person" was too broad and that by being almost all-inclusive it lends itself to as much discrimination as it attempts to eliminate. Another suggestion was that in enforcement priority be given to those with the most severe handicaps. HEW guidelines, 45 CFR 85.31, 43 FR 2132, (1978), issued in accordance with Executive Order 11914 include the definition of handicapped person which conforms to the statutory definition required by HEW guidelines. It should be noted that the definition of the term "handicapped person" utilized by the Act for purposes of section 504 was amended by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, Pub. L. 95-602, to exclude from the definition, in connection with employment, any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to the property or safety of others. This amendment is consistent with the position taken by HEW regarding this issue and reflects the findings included in a legal opinion by the Attorney General issued April 12, 1977.

It was suggested that the definition of "qualified handicapped person," § 1170.3(k), excluded persons who needed no accommodation, and that the definition should be revised to read, "a qualified handicapped person means with respect to employment, a handicapped person who, with or without reasonable accommodation, can perform the essential functions of the job in question." The definition as presently drafted implicitly includes a qualified handicapped person who requires no accommodation to be made for his of her particular needs.

It was suggested that the definition of "qualified handicapped person" be amended to place the burden on the employer to show that a particular handicap prevents the performance of the duties involved. This suggestion has not been adopted because the same result is achieved by the requirement contained in paragraph (a) of § 1170.23. This requires an employer to establish that any selection criteria that tends to screen out handicapped persons is job-related.

(6) *Effect of state or local law.* It was suggested that a section be added concerning the effect of state or local law or other requirements and the effect of employment opportunities. Such a section has been added.

Subpart B—Discrimination Prohibited

(7) *Discriminatory Actions Prohibited.* It was stated that in § 1170.12—Discriminatory actions prohibited, a subsection included in HEW guidelines prohibiting a recipient from selecting the site or location of a facility that has a discriminatory effect on handicapped persons was omitted from the proposed regulations. The subsection on this point appears as § 1170.12(d), formerly § 1170.4(b)(4), of the final regulations.

It was suggested that there was no section requiring recipients to administer programs in the most integrated setting appropriate to the needs of qualified handicapped persons. This point apears at § 1170.12(f), formerly § 1170.4(b)(6).

Another suggestion was that the word "possible" should be substituted for the word "appropriate" in § 1170.12(f), formerly § 1170.4(b)(6), where recipients are required to administer programs in the most integrated setting appropriate to the needs of qualified handicapped persons. This suggestion was not adopted. It was felt that the present wording provided maximum flexibility to the recipients while providing that the setting be suitable for the needs of the handicapped.

Another suggestion would require agency approval before recipients established policies that treat handicapped persons differently from nonhandicapped persons. Such a requirement would tend to add an unnecessary layer in the recipient's decisionmaking process. It was intended that the recipient be given the flexibility to resolve problems of discrimination against the handicapped within the framework of these regulations.

(8) *Illustrative Examples.* There were several comments concerning § 1170.13—Illustrative Examples, formerly § 1170.6—Illustrative Applications. There was particular concern with paragraphs (f) and (g) which provided for affirmative action. The Supreme Court in *Southeastern Community College* v. *Davis* stated "Section 504 does not refer at all to affirmative action, and * * * it does not provide for implementation by administrative action." This section has been rewritten and expanded; it was also moved to follow the section on discriminatory actions prohibited.

Subpart C—Employment Practices

(9) *Employment.* It was suggested that there be listed specific activities to which the prohibition against employment discrimination applies. The enumeration listed in HEW's final regulations (45 CFR 84.11(b) and (c)) has been adopted.

(10) *Reasonable accommodation.* Several comments suggested that the portion of the regulation on reasonable accommodation § 1170.22, formerly § 1170.4(d), be augmented with examples. This has been done by adopting the language at 45 CFR 84.12 (b) and (c) of HEW's final regulations.

An objection was raised to what was viewed as a presumption that some recipients are exempt from coverage under section 504 on the basis of some type of reasonable accommodation. The addition of paragraphs (b) and (c) provides guidance regarding the meaning of reasonable accommodation.

Section 1170.22(b) lists some of the actions that constitute reasonable accommodation. The list is neither all inclusive nor meant to suggest that employers must follow all the actions listed. Paragraph (c) of the section sets forth factors that the Endowment will consider in determining whether an accommodation necessary to enable an applicant or employee to perform the duties of a job would impose an undue hardship. The weight given to each of these factors in making the determination as to whether an accommodation constitutes undue hardship will vary depending on the facts of a particular situation. Thus, a very small library or museum might not be required to expend more than a nominal sum to accommodate a deaf employee, while it might not constitute undue hardship for a large institution to accommodate a deaf employee by providing an interpreter.

It was suggested that language be included stating that exemptions from the reasonable accommodation provision would be the exception, not the rule. Such a provision would be vague and difficult to enforce, and hence the language of the proposed regulation was retained.

One suggestion was to include a provision forbidding the denial of any employment opportunity to a qualified handicapped employee or applicant if the basis for the denial is the need to make reasonable accommodation. This suggestion was not adopted. Discrimination prohibited in employment is set forth in § 1170.21.

(11) *Employemt criteria.* It was suggested that § 1170.23, formerly § 1170.4(e), be augmented along the lines of HEW's regulation, 45 CFR 84.13. This latter suggestion was adopted to expand and clarify this section.

(12) *Preemployment inquiries.* It was suggested that by following the exact language of the HEW Guidelines details in § 1170.24, formerly § 1170.4(f), concerning the applicability of preemployment inquiries were omitted and that this section should be expanded. This has been done.

Subpart D—Program Accessibility

(13) It was suggested that the portion of the proposed regulation formerly § 1170.4(g) to § 1170.4(i) be a separate subpart or section. It was made a separate subpart.

Subpart D—Program Accessibility

(14) *Existing facilities.* Numerous comments were received in connection with § 1170.32—Existing facilities, formerly § 1170.4(h). Several commentors suggested it would be helpful if there were more illustrative examples of actions to be taken to make existing facilities available. This has been done at § 1170.32(b).

There were several suggestions concerning time periods for compliance. The time periods in the final regulations are the same as those for the National Endowment for the Arts. These time periods reflect the standards set forth in HEW guidelines. They differ from HEW's final regulations only in allowing one year instead of six months for development of a transition plan.

It was urged that the transition plan should be available for public inspection; and should include a description of physical obstacles; and include the steps being taken to achieve accessibility. This has been provided in this section as it has been revised.

One comment raised the issue of the Architectural Barriers Act of 1968, Pub. L. 90-480 that requires that, after 1968, all new construction and alterations receiving direct Federal financial assistance be accessible. The Endowment's regulations do not interfere with, nor affect the requirements of that act.

In response to a suggestion, the subsection on transition plan, § 1170.32(d), has been expanded to provide more details on the minimum requirements of a transition plan. In addition, a section on notice to interested persons has been added.

(15) *New construction.* In connection with § 1170.33—New construction, formerly § 1170.4(i), it was suggested that the phrase "to the maximum extent feasible" would be troublesome because the word feasible is vague. The suggestion was to use "consistent with program accessibility" as a replacement phrase. This suggestion was not adopted because the suggested language does not strengthen the section, but does create inconsistency by deviating from the HEW Guidelines.

Another suggestion was to add language to include new facilities or "parts of facilities." This would be unnecessary since the definition in § 1170.3(h) includes parts of facilities.

One suggestion would permit departures from American National Standards Institute (ANSI) accessibility standards only when it was clearly evident that equivalent access to "and usability of" the facility or part of the facility is thereby provided. It was not felt this was necessary because the ANSI standards are specifications for making buildings and facilities accessible to, and usable by, the physically handicapped.

One comment urged more flexibility than the ANSI standards provide. These standards are a minimum necessary for accessibility. They are not intended to discourage innovation in barrier-free construction by requiring absolute adherence to a rigid design standard. For this reason departure from particular requirements of the ANSI standard has been provided where the recipient can demonstrate that equivalent access to the facility is provided.

(16) *Historic Properties.* Several comments urged the inclusion of a section on program accessibility in historic properties. The Endowment intends to adopt and include in its regulations a uniform standard currently being developed by interested Federal agencies.

Subpart E—Postsecondary Education

(17) It was urged that the proposed rules concerning educational institutions be expanded. This has been done in Subpart E—Postsecondary Education.

Subpart F—Enforcement

(18) *Assurances Required.* In response to several comments the former §§ 1170.5—Assurances Required and 1170.6—Illustrative Applications have been redrafted. Former § 1170.6—Illustrative Applications is now included in Subpart B—Discrimination Prohibited as § 1170.13—Illustrative Examples.

(19) In response to several suggestions, sections have been added concerning remedial action, voluntary action, and self-evaluation; adoption of grievance procedures; notice; and the effect of state or local law or other requirements and effect of employment opportunities.

(20) The enforcement procedural provisions for enforcement and compliance are the provisions applicable to Title VI of the Civil Rights Act of 1964. These are the procedures required by the HEW Guidelines.

In consideration of the foregoing, a new Part 1170 is added to Subchapter D, Chapter XI, Title 45 of the Code of Federal Regulations.

Dated: November 5, 1981.

Joseph D. Duffey,

Chairman, National Endowment for the Humanities.

PART 1170—NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES

Subpart A—General Provisions

Sec.

1170.1 Purpose.
1170.2 Application.
1170.3 Definitions.

Sec.

1170.4 Effect of State or local law or other requirements and effect of employment opportunities.
1170.5–1170.10 [Reserved]

Subpart B-Discrimination Prohibited

1170.11 General prohibition against discrimination.
1170.12 Discriminatory actions prohibited.
1170.13 Illustrative examples.
1170.14–1170.20 [Reserved]

Subpart C—Employment Practices

1170.21 Discrimination prohibited.
1170.22 Reasonable accommodation
1170.23 Employment criteria.
1170.24 Preemployment inquiries.
1170.25–1170.30 [Reserved]

Subpart D—Program Accessibility

1170.31 Discrimination prohibited.
1170.32 Existing facilities.
1170.33 New Construction.
1170.34 Historic properties. [Reserved]
1170.35–1170.40 [Reserved]

Subpart E—Postsecondary Education

1170.41 Application of this subpart.
1170.42 Admissions and recruitment.
1170.43 Treatment of students; general.
1170.44 Academic adjustments.
1170.45 Housing.
1170.46 Financial and employment assistance to students.
1170.47 Nonacademic services.
1170.48–1170.50 [Reserved]

Subpart F—Enforcement

1170.51 Assurances required.
1170.52 Remedial action, voluntary action, and self-evaluation.
1170.53 Designation of responsible employee and adoption of grievance procedures.
1170.54 Notice.
1170.55 Endowment enforcement and compliance procedures.
1170.56–1170.99 [Reserved]

Authority: Executive Order 11914; sec. 504, Rehabilitation Act of 1973, as amended (Pub. L. 93–112) (29 U.S.C. 794), Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (Pub. L. 95–602).

Subpart A—General Provisions

§ 1170.1 Purpose.

The purpose of this part is to implement section 504 of the Rehabilitation Act of 1973, which is designed to eliminate discrimination on the basis of handicap in any program or activity receiving Federal financial assistance.

§ 1170.2 Application.

This part applies to each recipient of Federal financial assistance from the National Endowment for the Humanities and to each program or activity that receives or benefits from such assistance.

§ 1170.3 Definitions.

As used in this part:

(a) "Section 504" means section 504 of the Rehabilitation Act of 1973, Pub. L. 93–112, as amended by the Rehabilitation Act Amendments of 1974, Pub. L. 93–516, 29 U.S.C. 794 *et seq.* and by the Rehabilitation, Comprehensive Services and Developmental Disabilities Amendments of 1978, Pub. L. 95–602.

(b) The term "Endowment" or the term "agency" means the National Endowment for the Humanities.

(c) The term "Chairman" means the Chairman of the National Endowment for the Humanities.

(d) The term "responsible Endowment official" with respect to any program receiving Federal financial assistance means the Chairman of the Endowment, the Director of the Office of Equal Employment Opportunity, or other Endowment official designated by the Chairman.

(e) The term "United States" means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, the Northern Mariana Islands, Wake Island, the Canal Zone, and the territories and possessions of the United States, and the term "State" means any one of the foregoing.

(f) "Federal financial assistance" means any grant, loan, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which the agency provides or otherwise makes available assistance in the form of:

(1) Funds;

(2) Services of Federal personnel; or

(3) Real and personal property or any interest in or use of such property, including:

(i) Transfers or leases of such property for less than fair market value or for reduced consideration; and

(ii) Proceeds from a subsequent transfer or lease of such property if the Federal share of its fair market value is not returned to the Federal government.

(g) The term "program" includes any program, project, or activity involving the provision of services, financial aid, or other benefits to individuals (including education or training, health, housing, or other services, whether provided through employees of the recipient of Federal financial assistance or provided by others through contracts or other arrangements with the recipient, and including work opportunities and cash or loan or other assistance to individuals), or for provision of facilities for furnishing services, financial aid or other benefits to individuals. The service, financial aid, or other benefits provided under a program receiving Federal financial assistance shall be deemed to include any services, financial aid, or other benefits provided with the aid of Federal financial assistance or with the aid of any non-Federal funds, property, or other resources required to be expended or made available for the program to meet matching requirements or other conditions which must be met in order to receive the Federal financial assistance, and to include any services, financial aid, or other benefits provided in or through a facility provided with the aid of Federal financial assistance or such non-Federal resources.

(h) "Facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or interest in such property.

(i) "Recipient" means any state or its political subdivision, any instrumentality of a state or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance.

(j) "Handicapped person" means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. For purposes of section 504, in connection with employment, this term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to the property or the safety of others. As used in this paragraph, the phrase:

(1) "Physical or mental impairment" means:

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or

mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, and drug addiction and alcoholism.

(2) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) "Has a record of such impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) "Is regarded as having an impairment" means

(i) Has a physical or mental impairment that does not substantially limit major life activities but is treated by a recipient as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in paragraph (j)(1) of this section but is treated by a recipient as having such an impairment.

(k) "Qualified handicapped person" means:

(1) With respect to employment, a handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question and

(2) With respect to postsecondary and vocational education services, a handicapped person who meets the academic and technical standards requisite to admission or participation in the recipient's education program or activity;

(3) With respect to services, a handicapped person who meets the essential eligibility requirements for the receipt of such services.

§ 1170.4 Effect of State or local law or other requirements and effect of employment opportunities.

(a) The obligation to comply with this part is not obviated or alleviated by the existence of any state or local law or other requirement that, on the basis of handicap, imposes prohibitions or limits upon the eligibility of qualified handicapped persons to receive services or to practice any occupation or profession.

(b) The obligation to comply with this part is not obviated or alleviated because employment opportunities in any occupation or profession are or may be more limited for handicapped persons than for nonhandicapped persons.

§§ 1170.5–1170.10 [Reserved]

Subpart B—Discrimination Prohibited

§ 1170.11 General prohibition against discrimination.

No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives or benefits from Federal financial assistance.

§ 1170.12 Discriminatory actions prohibited.

(a) A recipient, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap:

(1) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

(2) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(3) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(4) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons than is provided to others unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;

(5) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or service to beneficiaries of the recipient's program;

(6) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

(7) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

(b) A recipient may not deny a qualified handicapped person the opportunity to participate in programs or activities that are not separate or different, despite the existence of permissibly separate or different programs or activities.

(c) A recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration.

(1) that have the effect of subjecting qualified handicapped persons to discrimination on the basis of handicap,

(2) that have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient's program with respect to handicapped persons, or

(3) that perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same state.

(d) A recipient may not, in determining the site or location of a facility, make selections

(1) that have the effect of excluding handicapped persons from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity that receives or benefits from Federal financial assistance or

(2) that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity with respect to handicapped persons.

(e) The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute or executive order to handicapped persons or the exclusion of a specific class of handicapped persons from a program limited by Federal statute or executive order to a different class of handicapped persons is not prohibited by this part.

(f) Recipients shall administer programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons.

(g) Recipients shall take appropriate steps to ensure that communications with their applicants, employees, and beneficiaries are available to persons with impaired vision and hearing.

§ 1170.13 Illustrative examples.

(a) The following examples will illustrate the application of the foregoing provisions to some of the activities funded by the National Endowment for the Humanities.

(1) A publication or a museum catalogue supported by the Endowment may be made usable by the blind and the visually impaired through cassette tapes, records, discs, braille, readers and simultaneous publications.

(2) A lecture, meeting or symposium supported by Federal funds may be made available to deaf and hearing impaired persons through the use of a sign language interpreter or by providing scripts in advance of the performance.

(3) Specific programs supported by Federal funds may be offered in an inaccessible facility provided that the same program is also offered to the public at large in an accessible space.

(4) A qualified handicapped person is one who is able to meet all of a program's requirements in spite of his handicap. An educational institution is not required to disregard the disabilities of handicapped individuals or to lower or to make substantial modifications of standards to accommodate a handicapped person.

(b) State humanities committees are obligated to develop methods of administering Federal funds so as to ensure that handicapped persons are not subjected to discrimination on the basis of handicap either by sub-grantees or by the manner in which the funds are distributed.

(c) In the event Endowment funds are utilized to construct, expand, alter, lease or rent a facility, the benefits of the programs and activities provided in or through that facility must be conducted in accordance with these regulations, e.g., a museum receiving a grant to renovate an existing facility must assure that all museum programs and activities conducted in that facility are accessible to handicapped persons.

(d) In carrying out the mandate of section 504 and these implementing regulations recipients should administer Endowment assisted programs and activities in the most integrated setting appropriate, e.g., tours made available to the hearing impaired should be open to the public at large and everyone should be permitted to enjoy the benefits of a tactile experience in a museum.

§§ 1170.14–1170.20 [Reserved]

Subpart C—Employment Practices

§ 1170.21 Discrimination prohibited.

(a) *General.* No qualified handicapped person shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity that receives or benefits from Federal financial assistance.

(b) A recipient shall make all decisions concerning employment under any program or activity to which this part applies in a manner which ensures that discrimination on the basis of handicap does not occur and may not limit, segregate, or classify applicants or employees in any way that adversely affects their opportunities or status because of handicap.

(c) A recipient may not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped applicants or employees to discrimination prohibited by this subpart. The relationships referred to in this paragraph include relationships with employment and referral agencies, with labor unions, with organizations providing or administering fringe benefits to employees of the recipient, and with organizations providing training and apprenticeship programs.

(d) *Specific activities.* The provisions of this subpart apply to:

(1) Recruitment, advertising, and the processing of applications for employment;

(2) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;

(3) Rates of pay or any other form of compensation and changes in compensation;

(4) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(5) Leaves of absence, sick leave, or any other leave;

(6) Fringe benefits available by virtue of employment, whether or not administered by the recipient;

(7) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(8) Employer sponsored activities, including social or recreational programs; and

(9) Any other term, condition, or privilege of employment.

(e) A recipient's obligation to comply with this subpart is not affected by any inconsistent term of any collective bargaining agreement to which it is a party.

§ 1170.22 Reasonable accommodation.

(a) A recipient shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped applicant or employee unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program.

(b) Reasonable accommodation may include:

(1) Making facilities used by employees readily accessible to and usable by handicapped persons, and

(2) Job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, the provision of readers or interpreters, and other similar actions.

(c) In determining pursuant to paragraph (a) of this section whether an accommodation would impose an undue hardship on the operation of a recipient's program, factors to be considered include:

(1) The overall size of the recipient's program with respect to number of employees, number and type of facilities, and size of budget;

(2) The type of the recipient's operation, including the composition and structure of the recipient's workforce; and

(3) The nature and cost of the accommodation needed.

§ 1170.23 Employment criteria.

(a) A recipient may not make use of any employment test or other selection criterion that screens out or tends to screen out handicapped persons or any class of handicapped persons unless:

(1) The test score or other selection criterion, as used by the recipient, is shown to be job-related for the position in question; and

(2) Alternative job-related tests or criteria are unavailable.

(b) A recipient shall select and administer tests concerning employment so as best to ensure that, when administered to an applicant or employee who has a handicap that impairs sensory, manual, or speaking skills, the test results accurately reflect the applicant's or employee's job skills, aptitude, or other factors relevant to adequate performance of the job in question.

§ 1170.24 Preemployment inquiries.

(a) A recipient may not, except as provided below, conduct a preemployment medical examination, make preemployment inquiry as to whether the applicant is a handicapped person, or inquire as to the nature or severity of a handicap. A recipient may, however, make preemployment inquiry into an applicant's ability to perform job-related functions.

(b) If a recipient is taking remedial action to correct the effects of past discrimination, if a recipient is taking voluntary action to overcome the effects of conditions that resulted in limited participation in its federally assisted program or activity, or if a recipient is taking affirmative action under section 503 of the Rehabilitation Act, the recipient may invite applicants for employment to indicate whether and to what extent they are handicapped, provided, that:

(1) The recipient states clearly on any written questionnaire used for this purpose or makes clear orally if no written questionnaire is used that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary or affirmative action efforts; and

(2) The recipient states clearly that the information is being requested on a voluntary basis, that it will be kept confidential as provided in paragraph (d) of this section, that refusal to provide it will not subject the applicant or employee to any adverse treatment, and that it will be used only in accordance with this part.

(c) Nothing in this section shall prohibit a recipient from conditioning an offer of employment on the results of a medical examination conducted prior to the employee's entrance on duty, provided, that:

(1) All entering employees are subjected to such an examination regardless of handicap; and

(2) The results of such an examination are used only in accordance with the requirements of this part.

(d) Information obtained in accordance with this section as to the medical condition or history of the applicant shall be collected and maintained on separate forms that shall be accorded confidentiality as medical records, except that:

(1) Supervisors and managers may be informed regarding restrictions on the work or duties of handicapped persons and regarding necessary accommodations;

(2) First aid and safety personnel may be informed, where appropriate, if the condition might require emergency treatment; and

(3) Government officials investigating compliance with the Act shall be provided relevant information upon request.

§§ 1170.25–1170.30 [Reserved]

Subpart D—Program Accessibility

§ 1170.31 Discrimination prohibited.

No qualified handicapped person shall, because recipient's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which this part applies.

§ 1170.32 Existing facilities.

(a) *Program accessibility.* A recipient shall operate each program or activity to which this part applies so that the program or activity, when viewed in its entirety, is readily accessible to handicapped persons. This paragraph does not necessarily require a recipient to make each of its existing facilities or every part of a facility accessible to and usable by handicapped persons.

(b) *Methods.* A recipient may comply with the requirements of paragraph (a) of this section through such means as redesign of equipment, reassignment of classes or other services to accessible buildings, alteration of existing facilities and construction of new facilities in conformance with the requirements of 1170.33, or any other methods that result in making its program or activity accessible to handicapped persons. A recipient is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with paragraph (a) of this section. In choosing among available methods for meeting the requirement of paragraph (a) of this section, a recipient shall give priority to those methods that offer program and activities to handicapped persons in the most integrated setting appropriate.

(c) *Time period.* A recipient shall comply with the requirement of paragraph (a) of this section within sixty days of the effective date of this part except that where structural changes in facilities are necessary, such changes shall be made within three years of the effective date of this part, but in any event as expeditiously as possible.

(d) *Transition plan.* In the event that structural changes to facilities are necessary to meet the requirement of paragraph (a) of this section, a recipient shall develop, within one year of the effective date of this part, a transition plan setting forth the steps necessary to complete such changes. The plan shall be developed with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons. A copy of the transition plan shall be made available upon request for public inspection. The plan shall, at a minimum:

(1) Identify physical obstacles in the recipient's facilities that limit the accessibility of its program or activity to handicapped persons;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve full program accessibility and, if the time period of the transition plan is longer than one year, identify the steps that will be taken during each year of the transition period; and

(4) Indicate the person responsible for implementation of the plan.

(e) *Notice.* The recipient shall adopt and implement procedures to ensure that interested persons, including persons with impaired vision or hearing can obtain information as to the existence and location of services, activities, and facilities that are accessible to and usable by handicapped persons.

§ 1170.33 New construction.

(a) New facilities shall be designed and constructed to be readily accessible to and usable by handicapped persons. Alterations to existing facilities shall, to the maximum extent feasible, be designed and constructed to be readily accessible to and usable by handicapped persons.

(b) *American National Standards Institute accessibility standards.* Design, construction, or alteration of facilities in conformance with the "American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," published by the American National Standards Institute, Inc., (ANSI A 117.1—1961[R 1971]) (Copies obtainable at $2.75 each from American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018), shall constitute compliance with paragraph (a) of this section. Departures from the ANSI standards by the use of comparable standards shall be permitted when it is clearly evident that equivalent access to the facility of part of the facility is thereby provided.

§ 1170.34 Historic properties. [Reserved]

§§ 1170.35–1170.40 [Reserved]

Subpart E—Postsecondary Education

§ 1170.41 Application of this subpart.

Subpart E applies to postsecondary education programs and activities, including postsecondary vocational education programs and activities, that receive or benefit from Federal financial assistance and to recipients that operate, or that receive or benefit from Federal financial assistance for the operation of, such programs or activities.

§ 1170.42 Admissions and recruitment.

(a) *General.* Qualified handicapped persons may not, on the basis of handicap, be denied admission or be subjected to discrimination in admission or recruitment by a recipient to which this subpart applies.

(b) *Admissions.* In administering its admission policies, a recipient to which this subpart applies:

(1) May not apply limitations upon the number or proportion of handicapped persons who may be admitted;

(2) May not make use of any test or criterion for admission that has a disproportionate, adverse effect on handicapped persons or any class of handicapped persons unless

(i) the test or criterion, as used by the recipient, has been validated as a predictor of success in the education program or activity in question and

(ii) alternate tests or criteria that have a less disproportionate, adverse effect are not shown by the Chairman to be available.

(3) Shall assure itself that

(i) Admissions tests are selected and administered so as best to ensure that, when a test is administered to an applicant who has a handicap that impairs sensory, manual, or speaking skills, the test results accurately reflect the applicant's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the applicant's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure);

(ii) Admissions tests that are designed for persons with impaired sensory, manual, or speaking skills are offered as often and in as timely a manner as are other admissions tests; and

(iii) Admissions tests are administered in facilities that, on the whole, are accessible to handicapped persons; and

(4) Except as provided in paragraph (c) of this section, may not make preadmission inquiry as to whether an applicant for admission is a handicapped person but, after admission, may make inquiries on a confidential basis as to handicaps that may require accommodation.

(c) *Preadmission inquiry exception.* When a recipient is taking remedial action to correct the effects of past discrimination pursuant to § 1170.52(a) or when a recipient is taking voluntary action to overcome the effects of conditions that resulted in limited participation in its federally assisted program or activity pursuant to § 1170.52(b), the recipient may invite applicants for admission to indicate whether and to what extent they are handicapped, provided, that:

(1) The recipient states clearly on any written questionnaire used for this purpose or makes clear orally if no written questionnaire is used that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary action efforts; and

(2) The recipient states clearly that the information is being requested on a voluntary basis, that it will be kept confidential, that refusal to provide it will not subject the applicant to any adverse treatment, and that it will be used only in accordance with this part.

(d) *Validity studies.* For the purpose of paragraph (b)(2) of this section, a recipient may base prediction equations on first year grades, but shall conduct periodic validity studies against the criterion of overall success in the education program or activity in question in order to monitor the general validity of the test scores.

§ 1170.43 Treatment of students; general.

(a) No qualified handicapped student shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any academic, research, occupational training, housing, health insurance, counseling, financial aid, physical education, athletics, recreation, transportation, or other postsecondary education program or activity to which this subpart applies.

(b) A recipient to which this subpart applies that considers participation by students in education programs or activities not operated wholly by the recipient as part of, or equivalent to, an education program or activity operated by the recipient shall assure itself that the other education program or activity, as a whole, provides an equal opportunity for the participation of qualified handicapped persons.

(c) A recipient to which this subpart applies may not, on the basis of handicap, exclude any qualified handicapped student from any course, course of study, or other part of its education program or activity.

(d) A recipient to which this subpart applies shall operate its programs and activities in the most integrated setting appropriate.

§ 1170.44 Academic adjustments.

(a) *Academic requirements.* A recipient to which this subpart applies shall make such modifications to its academic requirements as are necessary to ensure that such requirements do not discriminate or have the effect of discriminating, on the basis of handicap, against a qualified handicapped applicant or student. Academic requirements that the recipient can demonstrate are essential to the program of instruction being pursued by such student or to any directly related licensing requirement will not be regarded as discriminatory within the meaning of this section. Modifications may include changes in the length of time permitted for the completion of degree requirements, substitution of specific courses required for the completion of degree requirements, and adaptation of the manner in which specific courses are conducted.

(b) *Other rules.* A recipient to which this subpart applies may not impose upon handicapped students other rules, such as the prohibition of tape recorders in classrooms or of dog guides in campus buildings, that have the effect of limiting the participation of handicapped students in the recipient's education program or activity.

(c) *Course examinations.* In its course examinations or other procedures for evaluating students' academic achievement in its program, a recipient to which this subpart applies shall provide such methods for evaluating the achievement of students who have a handicap that impairs sensory, manual, or speaking skills as will best ensure that the results of the evaluation represents the student's achievement in the course, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where such skills are the factors that the test purports to measure).

(d) *Auxiliary aids.* (1) A recipient to which this subpart applies shall take such steps as are necessary to ensure that no handicapped student is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination under the education program or activity operated by the recipient because of the absence of educational auxiliary aids for students with impaired sensory, manual, or speaking skills.

(2) Auxiliary aids may include taped texts, interpreters or other effective methods of making orally delivered materials available to students with hearing impairments, readers in libraries for students with visual impairments, classroom equipment adapted for use by students with manual impairments, and other similar services and actions. Recipients need not provide attendants, individually prescribed devices, readers for personal use or study, or other devices or services of a personal nature.

§ 1170.45 Housing.

(a) *Housing provided by the recipient.* A recipient that provides housing to its nonhandicapped students shall provide comparable, convenient, and accessible housing to handicapped students at the same cost as to others. At the end of the transition period provided for in Subpart

D, such housing shall be available in sufficient quantity and variety so that the scope of handicapped students' choice of living accommodations is, as a whole, comparable to that of nonhandicapped students.

(b) *Other housing.* A recipient that assists any agency, organization, or person in making housing available to any of its students shall take such action as may be necessary to assure itself that such housing is, as a whole, made available in a manner that does not result in discrimination on the basis of handicap.

§ 1170.46 Financial and employment assistant to students.

(a) *Provision of financial assistance.* (1) In providing financial assistance to qualified handicapped persons, a recipient to which this subpart applies may not

(i) On the basis of handicap, provide less assistance than is provided to nonhandicapped persons, limit eligibility for assistance, or otherwise discriminate or

(ii) Assist any entity or person that provides assistance to any of the recipient's students in a manner that discriminates against qualified handicapped persons on the basis of handicap.

(2) A recipient may administer or assist in the administration of scholarships, fellowships, or other forms of financial assistance established under wills, trusts, bequests, or similar legal instruments that require awards to be made on the basis of factors that discriminate or have the effect of discriminating on the basis of handicap only if the overall effect of the award of scholarships, fellowships, and other forms of financial assistance is not discriminatory on the basis of handicap.

(b) *Assistance in making available outside employment.* A recipient that assists any agency, organization, or person in providing employment opportunities to any of its students shall assure itself that such employment opportunities, as a whole, are made available in a manner that would not violate Subpart C if they were provided by the recipient.

(c) *Employment of students by recipients.* A recipient that employs any of its students may not do so in a manner that violates Subpart C.

§ 1170.47 Nonacademic services.

(a) *Physical education and athletics.* (1) In providing physical education courses and athletics and similar programs and activities to any of its students, a recipient to which this subpart applies may not discriminate on the basis of handicap. A recipient that offers physical education courses or that operates or sponsors intercollegiate, club, or intramural athletics shall provide to qualified handicapped students an equal opportunity for participation in these activities.

(2) A recipient may offer to handicapped students physical education and athletic activities that are separate or different only if separation or differentiation is consistent with the requirements of § 1170.43(d) and only if no qualified handicapped student is denied the opportunity to compete for teams or to participate in courses that are not separate or different.

(b) *Counseling and placement services.* A recipient to which this subpart applies that provides personal, academic, or vocational counseling, guidance, or placement services to its students shall provide these services without discrimination on the basis of handicap. The recipient shall ensure that qualified handicapped students are not counseled toward more restrictive career objectives than are nonhandicapped students with similar interests and abilities. This requirement does not preclude a recipient from providing factual information about licensing and certification requirements that may present obstacles to handicapped persons in their pursuit of particular careers.

(c) *Social organizations.* A recipient that provides significant assistance to fraternities, sororities, or similar organizations shall assure itself that the membership practices of such organizations do not permit discrimination otherwise prohibited by this subpart.

§§ 1170.48–1170.50 [Reserved]

Subpart F—Enforcement

§ 1170.51 Assurances required.

(a) *Assurances.* An applicant for Federal financial assistance for a program or activity to which this part applies shall submit an assurance, on a form specified by the responsible Endowment official, that the program will be operated in compliance with this part. An applicant may incorporate these assurances by reference in subsequent applications to the Endowment.

(b) *Duration of obligation.* (1) In the case of Federal financial assistance extended in the form of real property or to provide real property or structures on the property, the assurance will obligate the recipient or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used for the purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

(2) In the case of Federal financial assistance extended to provide personal property, the assurance will obligate the recipient for the period during which it retains ownership or possession of the property.

(3) In all other cases the assurance will obligate the recipient for the period during which Federal financial assistance is extended.

(c) *Covenants.* (1) Where Federal financial assistance is provided in the form of real property or interest in the property from the Endowment, the instrument effecting or recording this transfer shall contain a covenant running with the land to assure nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

(2) Where no transfer of property is involved but property is purchased or improved with Federal financial assistance, the recipient shall agree to include the covenant described in paragraph (b)(2) of this section in the instrument effecting or recording any subsequent transfer of the property.

(3) Where Federal financial assistance is provided in the form of real property or interest in the property from the Endowment, the covenant shall also include a condition coupled with a right to be reserved by the Endowment to revert title to the property in the event of a breach of the covenant. If a transferee of real property proposes to mortgage or to otherwise encumber the real property as security for financing construction of new, or improvement of existing, facilities on the property for the purposes for which the property was transferred, the responsible Endowment official may, upon request of the transferee and if necessary to accomplish such financing and upon such conditions as he or she deems appropriate, agree to forbear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective.

§ 1170.52 Remedial action, voluntary action, and self-evaluation.

(a) *Remedial action.* (1) If the Chairman finds that a recipient has discriminated against persons on the basis of handicap in violation of section 504 or this part, the recipient shall take such remedial action as the Chairman

deems necessary to overcome the effects of the discrimination.

(2) Where a recipient is found to have discriminated against persons on the basis of handicap in violation of section 504 or this part and where another recipient exercises control over the recipient that has discriminated, the Chairman, where appropriate, may require either or both recipients to take remedial action.

(3) The Chairman may, where necessary to overcome the effects of discrimination in violation of section 504 or this part, require a recipient to take remedial action:

(i) With respect to handicapped persons who are no longer participants in the recipient's program but who were participants in the program when such discrimination occurred or

(ii) With respect to handicapped persons who would have been participants in the program had the discrimination not occurred.

(b) *Voluntary action.* A recipient may take steps, in addition to any action that is required by this part, to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity by qualified handicapped persons.

(c) A recipient shall within one year of the effective date of this part:

(1) Evaluate, with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons, its current policies and practices and the effects thereof that do not or may not meet the requirements of this part;

(2) Modify, after consultation with interested persons, including handicapped persons or organizations representing handicapped persons, any policies and practices that do not meet the requirements of this part;

(3) Take, after consultation with interested persons, including handicapped persons or organizations representing handicapped persons, appropriate remedial steps to eliminate the effects of any discrimination that resulted from adherence to these policies and practices.

(4) A recipient that employs fifteen or more persons shall maintain on file, make available for public inspection, and provide to the Endowment upon request, for at least three years following completion of the self-evaluation:

(i) A list of the interested persons consulted;

(ii) A description of areas examined and any problems identified; and

(iii) A description of any modifications made and of any remedial steps taken.

(5) The completed self-evaluation should be signed by a responsible official designated to coordinate the recipient's efforts in connection with this section.

§ 1170.53 Designation of responsible employee and adoption of grievance procedures.

(a) *Designation of responsible employee.* A recipient that employs fifteen or more persons shall designate at least one person to coordinate its efforts to comply with this part.

(b) *Adoption of grievance procedures.* A recipient that employs fifteen or more persons shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by this part. Such procedures need not be established with respect to complaints from applicants for employment or from applicants for admission to postsecondary educational institutions.

§ 1170.54 Notice.

(a) A recipient that employs fifteen or more persons shall take appropriate initial and continuing steps to notify participants, beneficiaries, applicants, and employees, including those with impaired vision or hearing, and unions or professional organizations holding collective bargaining or professional agreements with the recipient that it does not discriminate on the basis of handicap in violation of section 504 and this part. The notification shall state, where appropriate, that the recipient does not discriminate in admission or access to, or treatment or employment in, its programs and activities. The notification shall also include an identification of the responsible employee designated pursuant to § 1170.53(a). A recipient shall make the initial notification required by this paragraph within 90 days of the effective date of this part. Methods of initial and continuing notification may include the posting of notices, publication in newspapers and magazines, placement of notices in recipients' publication, and distribution of memoranda or other written communications.

(b) If a recipient publishes or uses recruitment materials or publications containing general information that it makes available to participants, beneficiaries, applicants, or employees, it shall include in those materials or publications a statement of the policy described in paragraph (a) of this section. A recipient may meet the requirement of this paragraph either by including appropriate inserts in existing materials and publications or by revising and reprinting the materials and publications.

§ 1170.55 Endowment enforcement and compliance procedures.

The procedural provisions applicable to Title VI of the Civil Rights Act of 1964 apply to this part. These procedures are found in §§ 1110.6–1110.11 of Part 1100 of this title.

§§ 1170.56–1170.99 [Reserved]

[FR Doc. 81-32637 Filed 11-10-81; 8:45 am]

BILLING CODE 7536-01-M

federal register

Thursday
November 12, 1981

Part V

Office of Management and Budget

Budget Deferrals

OFFICE OF MANAGEMENT AND BUDGET

Budget Deferrals

TO THE CONGRESS OF THE UNITED STATES:

In accordance with the Impoundment Control Act of 1974, I hereby report nine deferrals totaling $132.0 million and one proposal to rescind $20.5 million in budget authority previously provided by the Congress.

This group of deferrals constitutes the final in a series of actions taken to restrain spending of funds made available by Continuing Resolution, Pub. L. 97-51. As I stated in my special messages of October 20, 23, and 29, these actions are not only in accord with Congressional intent to review the amounts provided by the resolution as a ceiling, but are also necessary to preserve the Congress' options to enact regular appropriations consistent with my revised budget request levels for fiscal year 1982.

Deferrals under the Continuing Resolution are included in this special message for the Departments of Agriculture, Health and Human Services, and Transportation.

I am also proposing to rescind advance 1983 funds for the Corporation for Public Broadcasting.

The details of the rescission proposal and the deferrals are contained in the attached reports.

Ronald Reagan.

THE WHITE HOUSE,
November 6, 1981.

BILLING CODE 3110-01-M

CONTENTS OF SPECIAL MESSAGE
(In thousands of dollars)

Rescission #	Item	Budget Authority
	Other Independent Agencies	
	Corporation for Public Broadcasting	
R82-3	Public broadcasting fund	20,500

Deferral #	Item	Budget Authority
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	Food and Nutrition Service	
D82-209	Food program administration	487
D82-210	Child nutrition programs	472
D82-211	Special supplemental food programs (WIC)	13,831
	Department of Health and Human Services	
	Health Services Administration	
D82-212	Indian health services	10,950
	Centers for Disease Control	
D82-213	Preventive health services	791
	Office of Assistant Secretary for Health	
D82-214	Health services management	1,142
	Health Care Financing Administration	
D82-215	Program management	420
	Human Development Services	
D82-216	Work incentives	10,523
	Department of Transportation	
	Federal Railroad Administration	
D82-217	Grants to National Railroad Passenger Corporation	93,400
	Subtotal, deferrals	132,016
	Total, rescission proposal and deferrals	152,516

Rescission Proposal No: R82-3

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency: Corporation for Public Broadcasting	New budget authority (P.L. 96-38): $137,000,000
Bureau:	Other budgetary resources: ---
Appropriation title & symbol: Public Broadcasting Fund 2030151	Total budgetary resources: 137,000,000
	Amount proposed for rescission: $20,500,000
OMB identification code: 20-0151-0-1503	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☒ Annual (1983 advance appropriations) ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The Corporation for Public Broadcasting (CPB) is the primary vehicle for providing Federal assistance to the 217 radio and 170 television stations that currently comprise the noncommercial broadcasting system. This proposal is a part of the President's September, 1981 budget revisions which would reduce fiscal year 1983 appropriations in order to reduce 1983 outlays.

Estimated Effects: It is expected that the Corporation will use discretion in distributing the amount proposed for rescission including a pro-rata reduction to all of its program areas while maintaining maximum support for local stations. A proposed distribution would allow $69.3 million for Community Service Grants (CSG's) to local T.V. and radio stations, $25 million for national radio and television productions and $22.2 million for the remaining fixed costs and other expenses of the Corporation.

Outlay Effects:

(In millions of dollars)

1983 Outlay Estimates		Outlay Savings			
Without Rescission	With Rescission	1982	1983	1984	1985
$137.0	$116.5	---	$20.5	---	---

R82-3

CORPORATION FOR PUBLIC BROADCASTING

Of the funds provided for "The Corporation for Public Broadcasting" for fiscal year 1983 in P.L. 96-38, $20.5 million are rescinded.

Deferral No: 282-209

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Agriculture	New budget authority (P.L. 97-51): $11,843,000
Bureau: Food and Nutrition Service	Other budgetary resources: 49,131
Appropriation title & symbol: Food Program Administration 12X3508	Total budgetary resources: 11,892,131
	Amount to be deferred: Part of year: $ 487,131
	Entire year: $
OMB identification code: 12-3508-0-1-605	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification:

The Food Program Administration provides for the Federal Operating expenses of the Food and Nutrition Service related to the administration of the Child Nutrition Programs, Special Milk Program, Special Supplemental Food Programs (WIC), Food Stamp Program and the Food Donations Program. It is necessary to defer these funds to preserve all funding level options in appropriations action taken by the Congress subsequent to October 1, 1981. This deferral will remain in effect until final congressional action on the President's request is completed, but not beyond the expiration of the Continuing Resolution or any extensions thereof.

Estimated Effects:

This deferral action will restrain the rate of obligations that might otherwise occur under the Continuing Resolution (P.L. 97-51) to a rate consistent with the President's current fiscal 1982 budget request. The impact will be to constrain expenditures associated with personnel training, equipment purchases, and other expenses associated with Federal administration of the domestic food assistance programs for the duration of the Continuing Resolution.

Outlay Effect:

This deferral action--by itself-has no significant effect on fiscal 1982 outlays due to its expected short duration. However, if the Congress provides regular appropriations at a level consistent with the President's request, $487,131 of the annual savings achieved could be attributed to the funding level now available.

Deferral No: 082-210

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Agriculture	New budget authority (P.L. 97-51): $ 798,379,000
Bureau: Food and Nutrition Service	Other budgetary resources:
Appropriation title & symbol: Child Nutrition Programs 122/33539	Total budgetary resources: 798,379,000
	Amount to be deferred: Part of year: $ 472,000
	Entire year:
OMB identification code: 12-3539-0-1-605	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program: ☒ Yes 1/ ☐ No 1/ Nutrition Education and Training only.	☐ Other
Type of account or fund: ☐ Annual ☒ Multiple-year September 30, 1983 (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification:

The Child Nutrition Program account funds a variety of meal subsidies and other activities, including small grants to States for Nutrition Education and Training (NET). It is necessary to defer these funds to preserve all funding level options in appropriations action taken by the Congress subsequent to October 1, 1981. This deferral will remain in effect until final congressional action on the President's request is completed, but not beyond the expiration of the Continuing Resolution or extensions thereof.

Estimated Effects:

This deferral action will restrain the rate of obligations that might otherwise occur under the Continuing Resolution (P.L. 97-51) to a rate consistent with the President's current fiscal 1982 budget request. States which do not have Federal funds available from prior-fiscal years may continue such activities using State or local funds or not renew NET. This deferral will have a modest effect on most school districts.

Outlay Effect:

This action will have no significant effect on fiscal 1982 outlays for the Child Nutrition Programs. If the Congress provides regular appropriations consistent with the President's request, $472,000 of the annual savings achieved could be attributed to the funding level now available.

Deferral No: 082-211

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Agriculture	New budget authority (P.L. 97-51): $ 105,196,000 1/
Bureau: Food and Nutrition Service	Other budgetary resources:
Appropriation title & symbol: Special Supplemental Food Program (WIC) 122/33510	Total budgetary resources: 105,196,000
	Amount to be deferred: Part of year: $ 33,831,000 1/
	Entire year:
OMB identification code: 12-3510-0-1-605	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program: ☒ Yes ☐ No	☐ Other
Type of account or fund: ☐ Annual ☒ Multiple-year September 30, 1983 (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

1/ Amounts available under the Continuing Resolution are tentative and subject to adjustment when verifiable data on FY 81 participation, fund balances, and costs are available from States and projects.

Justification: The Special Supplemental Food Programs provide nutrition supplements and nutrition education to women, and their infants and children who are at nutritional risk and have inadequate incomes. It is necessary to defer these funds to preserve funding level options in appropriation action taken by the Congress subsequent to October 1, 1981. This deferral will remain in effect until final congressional action on the President's request is completed, but not beyond the expiration of the Continuing Resolution or any extension thereof.

Estimated Effects: This deferral action will restrain the rate of obligations that might otherwise occur under the Continuing Resolution (P.L. 97-51) to a rate consistent with the President's current fiscal year 1982 budget request. Precise estimates of September 1981 caseloads, fund balances, and costs are not yet available. When these data are available, a better estimate of the composite amounts, including funds available from the prior year necessary to support but not exceed current caseload will be made. Monthly benefits for October have been issued to most recipients and available funds will finance some October and November monthly benefits. Funds made available may maintain current participation.

Outlay Effect: This deferral action by itself has no significant outlay effect due to its short duration. If the Congress provides regular appropriations consistent with the President's request, FY 82 outlays will be reduced by approximately $13 million as a result of this action.

Deferral No: D82-212

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Health and Human Services	New budget authority (P.L. 97-51) $ 88,174,000
Bureau Health Services Administration	Other budgetary resources 5,166,000
Appropriation title & symbol Indian Health Services 7520390	Total budgetary resources 93,340,000
	Amount to be deferred: Part of year $ 10,950,000 Entire year
OMB identification code: 75-0390-0-1-551	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other
Grant program ☐ Yes ☒ No	
Type of account or fund: ☒ Annual ☐ Multiple-year _____ (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The Indian health services account provides health services to American Indians and Alaska Natives living on or near reservations. It is necessary to defer these funds to preserve all funding level options in appropriations action taken by the Congress subsequent to October 1, 1981. This deferral will remain in effect until final congressional action on the President's request is completed, but not beyond the expiration of the Continuing Resolution or any extensions thereof.

Estimated effects: This deferral action will restrain the rate of obligation that might otherwise occur under the Continuing Resolution (P.L. 97-51) to a rate consistent with the President's current fiscal 1982 budget request. Every effort has been made to preserve clinical services provided directly by the Indian Health Service (IHS) for Indians in both the hospital and clinic setting. Under this proposal, no reduction-in-force will have to be implemented, nor will clinical care provided in IHS facilities have to be reduced.

Outlay effect: This deferral action--by itself--has no significant effect on fiscal 1982 outlays due to its expected short duration. However, if the Congress provides regular appropriations at a level consistent with the President's request, $8,000,000 of the annual savings achieved could be attributed to the funding level now available.

Deferral No: D82-211

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Health and Human Services	New budget authority (P.L. 97-51) $ 51,669,000
Bureau Centers for Disease Control	Other budgetary resources 5,137,000
Appropriation title & symbol Preventive Health Services 7520943	Total budgetary resources 56,806,000
	Amount to be deferred: Part of year $ 791,000 Entire year
OMB identification code: 75-0943-0-1-550	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other
Grant program ☒ Yes ☐ No	
Type of account or fund: ☒ Annual ☐ Multiple-year _____ (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The Centers for Disease Control provide disease prevention and health promotion assistance to State and local health agencies. Assistance is provided through program grants and technical expertise. It is necessary to defer $791,000 of the funds provided for venereal disease grants under the Continuing Resolution to preserve all funding level options in appropriations action taken by the Congress subsequent to October 1, 1981. This deferral will remain in effect until final congressional action on the President's request is completed, but not beyond the expiration of the Continuing Resolution or any extensions thereof.

Estimated effects: This deferral action will restrain the rate of obligations that might otherwise occur under the Continuing Resolution (P.L. 97-51) to a rate consistent with the President's current fiscal year 1982 budget request. The deferral for venereal disease grants will have no immediate program impact since awards could be provided later in the fiscal year.

Outlay effect: This deferral action--by itself--has no significant effect on fiscal 1982 outlays due to its expected short duration. However, if the Congress provides regular appropriations at a level consistent with the President's request, $427,000 of the annual savings achieved could be attributed to the funding level now available.

Deferral No: D82-214

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 95-344

Agency Department of Health and Human Services	New budget authority (P.L. 97-51) $ 23,313,000
Bureau Office of Assistant Secretary for Health	Other budgetary resources 8,349,000
Appropriation title & symbol: Health Services Management 7521101	Total budgetary resources 31,662,000
	Amount to be deferred: Part of year $ 1,142,000
	Entire year
CMB identification code: 75-1101-0-1-550	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program ☒ Yes ☐ No	☐ Other
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The Office of the Assistant Secretary for Health (OASH) maintains overall Public Health Service management responsibility and administers program activities for health statistics, health services research, health maintenance organizations, and related health promotion staff offices. It is necessary to defer $1,142,000 for OASH to preserve all funding level options in appropriations action taken by the Congress subsequent to October 1, 1981. This deferral will remain in effect until final congressional action on the President's request is completed, but not beyond the expiration of the Continuing Resolution or any extensions thereof.

Estimated effects: This deferral action will restrain the rate of obligations that might otherwise occur under the Continuing Resolution (P.L. 97-51) to a rate consistent with the President's current fiscal year 1982 budget request. The deferral is not expected to have a significant impact due to its short duration.

Outlay effect: This deferral action--by itself--has no significant effect on fiscal 1982 outlays due to its expected short duration. However, if the Congress provides regular appropriations at a level consistent with the President's request, $423,000 of the annual savings achieved could be attributed to the funding level now available.

Deferral No: D82-215

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 95-344

Agency Department of Health and Human Services	New budget authority (P.L. 97-51) $ 12,770,000
Bureau Health Care Financing Administration	Other budgetary resources 180,566,000
Appropriation title & symbol: Program Management 7520511	Total budgetary resources 193,336,000
	Amount to be deferred: Part of year $ 420,000
	Entire year
CMB identification code: 75-0511-0-1-550	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program ☒ Yes ☐ No	☐ Other
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The HCFA program management account supports HCFA administrative costs, Medicare contractors, research, demonstration and evaluation projects on Medicare and Medicaid, funds State surveys of Medicare and Medicaid providers, and supports professional standards review organizations (PSROs). It is necessary to defer these funds to preserve all funding level options in appropriations action taken by the Congress subsequent to October 1, 1981. This deferral will remain in effect until final congressional action on the President's request is completed, but not beyond the expiration of the Continuing Resolution or any extensions thereof.

Estimated effects: This deferral action will restrain the rate of obligations that might otherwise occur under the Continuing Resolution to a rate consistent with the President's current fiscal year 1982 budget request. The deferral for general research funds will have no immediate program impact since awards could be made later in the fiscal year.

Outlay effect: This deferral action--by itself--has no significant effect on fiscal 1982 outlays due to its expected short duration. However, if Congress provides regular appropriations at a level consistent with the President's request, $ 420,000 of the annual savings achieved could be attributed to the funding level now available.

Deferral No: D82-216

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Health & Human Services	New budget authority (P.L. 97-51): $89,529,840
Bureau: Human Development Services	Other budgetary resources:
Appropriation title & symbol: Work Incentives 7521639	Total budgetary resources: 89,529,840
	Amount to be deferred: Part of year: $10,522,750
	Entire year:
OMB identification code: 75-1629-0-1-504	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program: ☒ Yes ☐ No	☐ Other
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The Work Incentive Program is a program of employment and training for the recipients of aid to Families with Dependent Children who are required to register for employment and work-related training. Primary program emphasis is on placing participants in self-supporting employment, thus reducing the costs of the nation's welfare assistance. It is necessary to defer these funds to preserve all funding level options in appropriations action taken by Congress subsequent to October 1, 1981. This deferral will remain in effect until final congressional action on the President's request is completed, but not beyond the expiration of the Continuing Resolution or any extensions thereof.

Estimated Effects: This deferral action will restrain the rate of obligations that might otherwise occur under the Continuing Resolution (P.L. 97-51) to a rate consistent with the President's current fiscal 1982 budget request.

Outlay Effects: This deferral action, by itself, has no significant effect on FY 1982 outlays due to its expected short duration. However, if the Congress provides regular appropriations at a level consistent with the President's request, $9.0 million of the annual savings achieved could be attributed to the funding level now available.

[FR Doc. 81-32764 Filed 11-10-81; 8:45 am]
BILLING CODE 3110-01-C

Deferral No: D82-217

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Transportation	New budget authority (P.L. 97-51): $254,900,000
Bureau: Federal Railroad Administration	Other budgetary resources: 102,000,000
Appropriation title & symbol: Grants to National Railroad Passenger Corporation 69X0704	Total budgetary resources: 356,900,000
	Amount to be deferred: Part of year: $93,400,000
	Entire year:
OMB identification code: 69-0704-0-1-401	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program: ☒ Yes ☐ No	☐ Other
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: Grants to the National Railroad Passenger Corporation provide funds to Amtrak for operations, labor protection, and capital funding of the national intercity rail passenger system. It is necessary to defer these funds to preserve all funding level options in appropriations action taken by the Congress subsequent to October 1, 1981. This deferral includes $66.0 million of the advance capital appropriation for 1982 and $27.4 million of funds provided under the Continuing Resolution (P.L. 97-51). It will remain in effect until final congressional action on the President's request is completed, but not beyond the expiration of the Continuing Resolution or any extensions thereof.

Estimated Effects: The deferral action will restrain the rate of obligations that might otherwise occur under the Continuing Resolution to a rate consistent with the President's current fiscal 1982 budget request. The impact on the program will be to defer payments of $93.4 million to the operating railroads during the period of the continuing resolution.

Outlay Effects: This deferral action--by itself--has no significant effect on fiscal 1982 due to its expected short duration. However, if the Congress provides regular appropriations at a level consistent with the President's request, $3.3 million annual savings achieved could be attributed to the funding level now available.

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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/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing November 10, 1981