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56420 Mortgage Insurance HUD/FHC decreases interest rate on insured home graduated payment mortgage loans.

56521 Air Traffic Control MSPB publishes order on motion for consolidation of controller appeals.

56564 Oil and Gas Interior/GS amends rules on discovery, development and production from onshore Federal and restricted Indian leases. (Part III of this issue).

56434 Selective Service System SSS proposes revised procedures for adjudicating claims of men for deferment or exemption from military service.

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Continuation of Temporary Duty Increase on the Importation Into the United States of Certain High-Carbon Ferrochromium

By the President of the United States of America

A Proclamation

1. Presidential Proclamation 4608 of November 15, 1978, issued pursuant to section 203(a)(1) of the Trade Act of 1974 (the Act) (19 U.S.C. 2253(a)(1)), provided for a temporary increase in the duty on imports of ferrochromium containing over 3 percent by weight of carbon provided for in item 607.31 of the Tariff Schedules of the United States (TSUS), when valued at less than 38 cents per pound of chromium content. This temporary increase was for the period from November 17, 1978, through November 16, 1981.

2. The United States International Trade Commission (the Commission), pursuant to sections 203(i)(2) and 203(i)(3) of the Act (19 U.S.C. 2253(i)(2) and 2253(i)(3)) and following an investigation, advised the President (United States International Trade Commission, Report TA-203-8) that termination of the temporary increase in the duty on certain high-carbon ferrochromium would have a significant adverse economic effect on the domestic high-carbon ferrochromium industry and recommended that the increased duty be extended.

3. Pursuant to section 203(h)(3) of the Act and (19 U.S.C. 2253(h)(3)), after taking into account the advice of the Commission and the considerations required by section 202(c) of the Act (19 U.S.C. 2252(c)), I have determined that extension for one year of the increased duty is in the national interest.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes of the United States, including sections 203(h)(3) of the Act (19 U.S.C. 2253), do proclaim that—

(1) Part 1 of Schedule XX to the GATT shall remain modified to conform to the extension of the duty increase provided by the proclamation.

(2) Subpart A, part 2 of the Appendix to the TSUS shall remain modified as set forth in the Annex to this proclamation.

(3) This proclamation shall be effective as to those articles entered, or withdrawn from warehouse for consumption, on or after November 16, 1981, and before the close of November 15, 1982, unless the period of effectiveness is modified or terminated earlier.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of November, in the year of our Lord nineteen hundred and eighty-one, and of the Independence of the United States of America the two hundred and sixth.
Subpart A, part 2 of the Appendix to the TSUS remains modified by insertion in numerical sequence the following provision:

<table>
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<tr>
<th>Item</th>
<th>Articles</th>
<th>Rates of Duty</th>
<th>Effective Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>923.18</td>
<td>Ferrochromium, containing over 3 percent by weight of carbon, valued less than 38 cents per pound of chromium content provided for in item 606.24</td>
<td>4.625 per lb.</td>
<td>On or before November 15, 1982</td>
</tr>
</tbody>
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[FR Doc. 81-33264]
Filed 11-16-81; 8:59 am
Billing code 3195-01-C
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.

FEDERAL RESERVE SYSTEM

12 CFR Part 201

Extensions of Credit by Federal Reserve Banks; Changes In Discount Rates

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors has amended its Regulation A, “Extensions of Credit by Federal Reserve Banks,” for the purpose of adjusting discount rates with a view to accommodating commerce and business in accordance with other related rates and the general credit situation of the country. In addition, the Board adopted a surcharge of 2 percentage points on frequent use of the discount window by large borrowers.

EFFECTIVE DATE: The changes were effective on the dates specified below.

FOR FURTHER INFORMATION CONTACT: James McAfee, Assistant Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202/452-3259).

SUPPLEMENTARY INFORMATION: Pursuant to the authority of 5 U.S.C. 553(b)(4)(B) and (d)(3), these amendments are being published without prior general notice of proposed rulemaking, public participation, or deferred effective date. The Board has for good cause found that current economic and financial considerations required that these amendments must be adopted immediately.

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS

Pursuant to section 14(d) of the Federal Reserve Act 12 U.S.C. 357, Part 201 is amended as set forth below:

1. Section 201.51 is revised to read as follows:

§ 201.51 Short term adjustment credit for depository institutions.

The rates for short term adjustment credit provided to depository institutions under § 201.3(a) of Regulation A are:

<table>
<thead>
<tr>
<th>Federal Reserve Bank</th>
<th>Rate</th>
<th>Effective</th>
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<tr>
<td>Boston</td>
<td>13</td>
<td>No. 2, 1981</td>
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<tr>
<td>New York</td>
<td>13</td>
<td>Do.</td>
</tr>
<tr>
<td>Philadelphia</td>
<td>13</td>
<td>Do.</td>
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<tr>
<td>Cleveland</td>
<td>13</td>
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<tr>
<td>Richmond</td>
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<tr>
<td>Atlanta</td>
<td>13</td>
<td>Nov. 2, 1981.</td>
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<tr>
<td>Chicago</td>
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<td>Nov. 2, 1981.</td>
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<tr>
<td>St. Louis</td>
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<tr>
<td>Minneapolis</td>
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<tr>
<td>Kansas City</td>
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<td>Dallas</td>
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<tr>
<td>San Francisco</td>
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</tbody>
</table>

A 2 percent surcharge is imposed additionally on borrowings for short-term adjustment purposes of institutions with deposits of $500 million or more.

2. Section 201.52 is revised to read as follows:

§ 201.52 Extended credit to depository institutions.

(a) The rates for seasonal credit extended to depository institutions under § 201.3(b)(1) of Regulation A are:

<table>
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<th>Federal Reserve Bank</th>
<th>Rate</th>
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<td>Kansas City</td>
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<td>San Francisco</td>
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<td>Nov. 2, 1981.</td>
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</tbody>
</table>

(b) The rates for other extended credit provided to depository institutions under sustained liquidity pressures or where there are exceptional circumstances or practices involving a particular institution under § 201.3(b)(2) of Regulation A are:

Note—These rates apply for the first 60 days of borrowing. A 1 percent surcharge applies for borrowing during the next 90 days and a 2 percent surcharge applied for borrowing thereafter. (12 U.S.C. 248(i), Interprets or applies 12 U.S.C. 357)

By order of the Board of Governors, November 9, 1981.

James McAfee,
Assistant Secretary of the Board.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 155

(Docket No. 76N-0103)

Canned Vegetables; Amendment of Standard of Identity for Asparagus

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the standard of identity for “Certain other canned vegetables”, to provide for the use of ascorbic acid, erythorbic acid, and the sodium salts of ascorbic acid and erythorbic acid as antioxidants to preserve color in “white” and “green-tipped and white” asparagus.

DATES: Effective July 1, 1983, for all affected products initially introduced or initially delivered for introduction into interstate commerce on or after this
Michigan asparagus growers out of raw materials and hand labor. One restrictive and did not reflect current proposed requirements were overly business. Other comments addressed resistance to totally unfamiliar sizes and changes coupled with consumer comment added that the proposed changes would cause major proposal as published and stated that manufacturers and processors, trade comment contended that the impact of canned asparagus, and another styles would, in all likelihood, mean the death of the industry. Another comment that the proposed black-ayed peas, disodium EDTA may be added in 1979, at the request of two trade associations, was reopened by a notice published in the Federal Register of December 15, 1978 (43 FR 55850). The purpose of the proposal was to adopt, insofar as practicable, a "Recommended International Standard for Canned Asparagus" (CAC/RS 56-1972) developed by the Codex Alimentarius Commission of the Food and Agriculture Organization/World Health Organization. The comment period which ended February 13, 1979, was reopened by a notice published in the Federal Register of May 15, 1979 (44 FR 28331), and extended to September 14, 1979, at the request of two trade associations.

Seven letters, each containing one or more comments, were received from manufacturers and processors, trade associations, and a supplier. Five comments opposed adoption of the proposal as published and stated that the present requirements for canned asparagus in § 155.200 are adequate and reflect current industry practices. Several comments stated that the proposed changes would cause major difficulties and added cost burdens to an industry which is already rapidly declining because of escalating costs of -raw materials and hand labor. One comment added that the proposed changes coupled with consumer resistance to totally unfamiliar sizes and styles would, in all likelihood, mean the death of the industry. Another comment stated that the proposed changes could force companies to discontinue packing canned asparagus, and another comment contended that the impact of the proposed standards would put the Michigan asparagus growers out of business. Other comments addressed specific provisions of the proposed standards and concluded that the proposed requirements were overly restrictive and did not reflect current industry manufacturing practices. No comment favored the proposal.

On the basis of these comments and its policy of limiting the number of new regulations, FDA concludes that the proposed separate standards are unnecessary and that canned asparagus will continue to be regulated under § 155.200 Certain other canned vegetables.

The Codex Alimentarius Commission will be informed that an imported food which complies with the requirements of the Codex standard for canned asparagus may move freely in interstate commerce in this country, providing it complies with applicable U.S. laws and regulations.

One comment supported that provision in the proposed regulation permitting the use of ascorbic acid to preserve color in "white" and "green-tipped and white" asparagus and suggested permitting the optional use of erythorbic acid, which is a stereoisomer of ascorbic acid. The comment stated that erythorbic acid, a safe and suitable (generally recognized as safe [GRAS]) substance, would provide food manufacturers with a more economical alternative to ascorbic acid with equivalent antioxidant efficiency. The comment also suggested that the sodium salts of either ascorbic acid or erythorbic acid, also GRAS substances, be permitted in the standard.

FDA agrees and § 155.200 is amended by adding new paragraph (c)(9) to provide for the optional use of ascorbic acid, erythorbic acid, and their sodium salts as antioxidants to preserve color in "white" and "green-tipped and white" asparagus. Accordingly, currently designated paragraph (c)(9), (10), (11), and (12) has been redesignated (c)(10), (11), (12), and (13) as set forth below.

PART 155—CANNED VEGETABLES

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(c), 52 Stat. 1046, 70 Stat. 910 as amended (21 U.S.C. 341, 371(c)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26652, May 11, 1981)), Part 155 is amended in § 155.200 by redesignating existing paragraphs (c)(9) through (12) as (c)(10) through (13) and adding new paragraph (c)(14), to read as follows:

§ 155.200 Certain other canned vegetables.

(c) * * *

(9) In the case of canned asparagus, ascorbic acid, erythorbic acid, or the sodium salts of ascorbic acid or erythorbic acid may be added in an amount necessary to preserve color in the "white" and "green-tipped and white" color types.

(10) In the case of canned asparagus preserved in glass containers, stannous chloride may be added in a quantity not to exceed 15 parts per million calculated as Sn (Sn), except that in the case of asparagus packed in glass containers with lids lined with an inert material the quantity of stannous chloride added may exceed 15 parts per million but not 20 parts per million calculated as Sn.

(11) In the case of canned black-ayed peas, disodium EDTA may be added in a quantity not to exceed 145 parts per million.

(12) In the case of potatoes, calcium disodium EDTA may be added in a quantity not to exceed 110 parts per million.

(13) A vinegar or any safe and suitable organic acid for all vegetables (except artichokes, in which the quantity of such optional ingredient is prescribed by the introductory text of paragraph (c) of this section, and except canned mushrooms, in which no vinegar is permitted), in a quantity which, together with the amount of any lemon juice or concentrated lemon juice that may be added, is not more than sufficient to permit effective processing by heat without discoloration or other impairment of the article. Organic acid, other than ascorbic acid as provided for in paragraph (c)(9) of this section, shall be used in canning mushrooms only where the inside metal of the container is fully enamel-lined and in glass containers with fully enamel-lined caps.

Any person who will be adversely affected by the foregoing regulation may at any time on or before December 17, 1981 submit to the Dockets Management Branch (HFA-305), address above, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure
to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. Except as to any provisions that may be stayed by the filing of proper objections, compliance with this final regulation, including any required labeling changes, may begin January 18, 1982, and all affected products initially introduced or initially delivered for introduction into interstate commerce on or after July 1, 1983, shall fully comply. Notice of the filing of objections or lack thereof will be published in the Federal Register.

Dated: November 6, 1981.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-32907 Filed 11-13-81; 8:45 am]

21 CFR Parts 211 and 610

(Docket No. 80N-0680)

Human and Veterinary Drug Products; Exemption From Expiration Dating and Stability Testing Requirements for Allergenic Extracts

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is exempting certain allergenic extract products from the requirements for expiration dating and stability testing that are contained in the current good manufacturing practice regulations for drug products. This action responds to petitions that have been received from seven manufacturers of allergenic extract products. Allergenic extract products will remain subject to the expiration dating requirements of 21 CFR Part 610 which govern biologic product labeling and any testing requirements that may be included in an approved license amendment.

EFFECTIVE DATE: January 18, 1982.

FOR FURTHER INFORMATION CONTACT: Steven H. Unger, Bureau of Drugs (HFD-30), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD. 20857, 301-443-6220.

SUPPLEMENTARY INFORMATION: In the Federal Register of July 22, 1980 (45 FR 46918), FDA proposed to amend the regulations describing current good manufacturing practice (CGMP) for human and veterinary drug products to exempt certain allergenic extracts from the expiration dating and stability testing provisions of the CGMP regulations. The action was taken in response to the requests of seven manufacturers of allergenic extracts who argued that compliance with those provisions was not feasible under current knowledge and technology.

The proposal gave 60 days for submission of written comments. Only one comment was submitted on the proposal. The comment supported the proposal and urged that it be finalized.

The effect of the amendment is to exempt allergenic extracts labeled "No U.S. Standard of Potency" from the CGMP provisions governing expiration dating and stability testing of products. The stability testing provisions of the CGMP regulations require that a drug's expiration date be established on the basis of stability studies conducted on the drug product (21 CFR 211.166).

As stated in the July 22, 1980 proposal, stability testing of a biological product entails the assessment of the product's biological activity (potency) measured ordinarily against the potency of a standard preparation. For allergenic extracts without established standards of potency, the stability tests contemplated by § 211.166 (21 CFR 211.166) cannot be conducted. Standards for most allergenic extracts have not yet been developed, due in large part to the complex nature of these preparations that are extracted from naturally occurring materials such as pollens, molds, foods, insects, dusts, and animal danders. As potency standards are developed, for example, antigen E potency of short ragweed extracts, manufacturers will be required to perform stability studies and to submit appropriate license amendments to support the dating period for their products. Allergenic extracts labeled "No U.S. Standard of Potency" remain subject to the expiration dating requirements set forth in § 610.53 (21 CFR 610.53) and any testing requirements that are included in an approved license application.

FDA advises that in the Federal Register of July 31, 1981 (46 FR 39139), a final rule was published that codified antigen E as an official standard of potency for ragweed pollen extracts. In response to a comment concerning stability studies [item number 7 (46 FR 39130)], FDA advised manufacturers that stability studies consistent with the CGMP requirements were to be underway when the rule becomes effective on January 27, 1982, and, pending completion of the studies, manufacturers could label their products with the dating period prescribed under § 610.53(a). However, FDA notes that § 610.53(a), as amended by this final rule, will no longer apply to allergenic extracts with U.S. standards of potency.

Several manufacturers have for some time been submitting antigen E stability data to the Bureau of Biologies, FDA. The Bureau also has been developing its own data. FDA has evaluated these available data and finds that they are satisfactory to establish interim dating periods, pending completion of stability studies, for the different forms (glycerinated, nonglycerinated, freeze-dried) and antigen E concentrations of short ragweed pollen extracts.

Therefore, in lieu of interim expiration dating based on § 610.53(a), FDA will furnish to each licensed manufacturer of allergenic extracts a summary of the available antigen E stability data and the dating periods supported by these data. On or after January 27, 1982, manufacturers must label their short ragweed pollen extracts or mixed extracts that include short ragweed pollen extract as a component with the expiration date supported by the stability data that will be furnished by the Bureau.

FDA will consider any manufacturer who labels its products with the expiration dates based on the stability data as being in compliance with §§ 211.137 and 211.166 if the manufacturer has an approved stability study underway to verify that the stability of its specific product is consistent with the furnished data. This policy in no way precludes a manufacturer from submitting its own stability data, in the form of an amendment to the license application, for a different dating period for a specific extract. FDA advises that this policy has no effect on the minimum quantity of antigen E required in each lot of extract or the lot release requirements for short ragweed pollen extract that become effective on January 27, 1982.

The economic impact of this rule has been assessed in accordance with Executive Order 12291. It has been determined that the rule is not a major rule as defined by that Order. Specifically, this rule exempts allergenic extracts that are labeled "No U.S. Standard of Potency" from the expiration dating and stability testing requirements of the CGMP regulations.
Under this rule, manufacturers of such products will be spared the expenses otherwise needed to comply with those sections of the CGMP regulations.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 512, 701, 52 Stat. 1050-1053 as amended, 1055-1056 as amended, 82 Stat. 343-349 [21 U.S.C. 352, 355, 360b, 371]) and under authority delegated to the Commissioner of Food and Drugs [21 CFR 5.10 (formerly 5.1; see 46 FR 20052; May 11, 1981)], Parts 211 and 610 are amended as follows:

PART 211—CURRENT GOOD MANUFACTURING PRACTICE FOR FINISHED PHARMACEUTICALS

1. Part 211 is amended:
   a. In §211.137 by redesignating paragraph (f) as (g) and adding new paragraph (f), to read as follows:

   § 211.137 Expiration dating.
   * * * * *
   (f) Allergenic extracts that are labeled “No U.S. Standard of Potency” are exempt from the requirements of this section.

   Allergenic Extracts labeled “No U.S. Standard of Potency”...

   Allergenic Extracts, Alum Precipitated labeled “No U.S. Standard of Potency”...

Effective date. This regulation is effective January 18, 1982.


Dated: November 2, 1981.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-32996 Filed 11-16-81; 8:45 am]
BILLING CODE 4160-01-M

21 CFR Parts 510 and 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) sponsored by I.M.S. Inc., providing for the safe and effective use of a 10-gram-per-pound tylosin premix for making complete swine feeds for increased rate of weight gain and improved feed efficiency.

Approval of this NADA relies upon safety and effectiveness data contained in Elanco Products Co.'s application.

NADA 12-491. Use of the data in NADA 12-491 to support this NADA has been authorized by Elanco. This approval does not change the approved use of the drug.

Consequently, approval of this NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), approval of this NADA has been treated as would an approval of a Category II supplement and does not require reevaluation of the safety and effectiveness data in NADA 12-491.

The application is approved and the regulations are amended to reflect approval of this NADA and to add the sponsor to the list of sponsors of approved NADA's.

In accordance with the freedom of Information provisions of Part 20 (21 CFR Part 20) and §514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

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

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 512(f), 52 Stat. 347 [21 U.S.C. 360b(1)]) and under authority delegated to the Commissioner of Food and Drugs [21 CFR 5.10 (formerly 5.1; see 46 FR 20052; May 11, 1981)] and redelegated to the Bureau of Veterinary Medicine [21 CFR 5.83], Parts 510 and 558 are amended as follows:

[FR Doc. 81-32996 Filed 11-16-81; 8:45 am]
BILLING CODE 4160-01-M
PART 510—NEW ANIMAL DRUGS

In Part 510, §510.600 is amended by adding a new sponsor alphabetically to paragraph (c)(1) and numerically to (c)(2), to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

(c) * * *

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<thead>
<tr>
<th>Firm name and address</th>
<th>Drug labeler code</th>
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<tr>
<td>I.M.S. Inc., 13619 Industrial Rd., Omaha, NE 68137... 050639</td>
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<tr>
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<tr>
<td>Terence Harvey,</td>
<td>050639</td>
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</tbody>
</table>

In Part 510, §510.600 is amended by adding a new sponsor alphabetically to paragraph (c)(1) and numerically to (c)(2), to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

(c) * * *

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<thead>
<tr>
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(c) * * *

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<tr>
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<tr>
<td>Acting Director, Bureau of Veterinary Medicine</td>
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</table>

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

In Part 558, §558.625 is amended by adding new paragraph (b)(77), to read as follows:

§ 558.625 Tylosin.

(b) * * *

(77) To 050639: 10 grams per pound, paragraph ([1][1][vii][i]) of this section.

Effective date. November 17, 1981.

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

Terence Harvey, Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 81-3932 Filed 11-16-81; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 200

[Docket No. R-81-835]

Revision of Use of Materials Bulletin No. 79—Acrylonitrile-Butadiene-Styrene (ABS) and Poly (Vinyl Chloride) (PVC) Plastic Drain, Waste, and Vent Pipe and Fittings

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Final rule.


This Bulletin is a part of the HUD Minimum Property Standards which is incorporated by reference at 24 CFR 200.927.

EFFECTIVE DATE: January 28, 1982.

FOR FURTHER INFORMATION CONTACT: Richard H. Kolodin, Materials Acceptance Division, Office of Architecture and Engineering Standards, Room 6178, Department of Housing and Urban Development, Washington, D.C. 20410, Telephone: (202) 755-5929. (This is a toll-free number.)

SUPPLEMENTARY INFORMATION: HUD Use of Materials Bulletin No. 79 (UM 79) was published on April 23, 1978 as an update of earlier HUD Use of Materials Bulletins No. 53 and 54 for Poly (Vinyl Chloride) (PVC) and Acrylonitrile-Butadiene-Styrene (ABS) plastic drain, waste and vent pipe and fittings. UM 79 set forth the requirements and conditions for HUD Field Office acceptance of PVC and ABS plastic materials used in drain, waste and vent sanitary systems. UM 79 incorporated several references to standards published by the American Society of Testing and Materials (ASTM), the Plastics Pipe Institute (PPI) and the National Sanitation Foundation (NSF). Early in 1979 ASTM published Standard No. F 628-79, Standard Specification for Acrylonitrile-Butadiene-Styrene (ABS) Plastic Drain, Waste, and Vent Pipe Having a Foam Core. At the request of consultants to the plastic pipe industry, and after a review by a nationally known HUD consultant, UM 79 was revised and is hereafter submitted as a final rule for promulgation as HUD Use of Materials Bulletin No. 796a. UM 79a was published as a proposed rule on August 28, 1980 (45 FR 57444) with comments due October 27, 1980. Comments from the publication of the proposed rule were minor and had no effect on the bulletin.

A Finding of No Significant Impact has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during normal business hours at the Office of the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

The Catalog of Federal Domestic Assistance does not apply to this rule.

Pursuant to section 605(b) of the Regulatory Flexibility Act, the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities.

A copy of existing UM 79 and the final UM 79a are available for review during normal business hours in the Office of Architecture and Engineering Standards, Room 6178, or in the Office of the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410.

PART 200—INTRODUCTION

Accordingly, in the Appendix to 24 CFR Part 200, Subpart S, under the heading “Use of Materials Bulletins”, in the “Mechanical” listing, add the following entry to the end of the list:

Acrylonitrile-Butadiene-Styrene (ABS) and Poly (Vinyl Chloride) (PVC) Plastic Drain, Waste and Vent Pipe and Fittings.................. UM-79a


Issued at Washington, D.C., on October 28, 1981.

Philip D. Winn,
Assistant Secretary for Housing—Federal Housing Commissioner.

For the convenience of the user, Use of Materials Bulletin UM-79a is printed below to read as follows:

Acrylonitrile-Butadiene-Styrene (ABS) and Poly (Vinyl Chloride) (PVC) Plastic Drain, Waste and Vent Pipe and Fittings.................. UM-79a

Department of Housing and Urban Development, Assistant Secretary for Housing—Federal Housing Commissioner.

For the convenience of the user, Use of Materials Bulletin UM-79a is printed below to read as follows:

Acrylonitrile-Butadiene-Styrene (ABS) and Poly (Vinyl Chloride) (PVC) Plastic Drain, Waste and Vent Pipe and Fittings

For the convenience of the user, Use of Materials Bulletin UM-79a is printed below to read as follows:

Acrylonitrile-Butadiene-Styrene (ABS) and Poly (Vinyl Chloride) (PVC) Plastic Drain, Waste and Vent Pipe and Fittings
Section II—Allowable Uses

ABS and PVC pipe, fittings and joint materials conforming to the standards and other publications referenced in Section III are acceptable for use in the construction of storm and sanitary drain-waste-vent (DWV) systems and building sewers for single and multifamily structures, including Housing for the Elderly and Care-Type Housing.

Included in these uses are interior storm water conduits, building storm drains, building storm sewers, and drain lines connecting septic tanks and soil absorption systems.

Exposure of ABS and PVC in parking garages, boiler/mechanical rooms or service/storage rooms—such pipe may be exposed in these spaces as long as they are protected from hot surfaces and mechanical damage, and are otherwise properly installed in accordance with the provisions of this Bulletin.

Section III—Reference Standards

The latest editions of the following publications form a part of this Bulletin:

- **ASTM Standards and Specifications**
  - D 1784: Rigid Poly(Vinyl Chloride) (PVC) Compounds and Chlorinated Poly(Vinyl Chloride) (CPVC) Compounds
  - D 1788: Rigid Acrylonitrile-Butadiene-Styrene (ABS) Plastics
  - D 2235: Solvent Cement for Acrylonitrile-Butadiene-Styrene (ABS) Plastic
  - D 2321: Underground Installation of Flexible Thermoplastic Sewer Pipe
  - D 2564: Solvent Cement for Poly(Vinyl Chloride) (PVC) Plastic Pipe and Fittings
  - D 2765: Poly(Vinyl Chloride) (PVC) Plastic Drain, Waste and Vent Pipe and Fittings
  - D 2795: Making Solvent Cemented Joints


with Poly(Vinyl Chloride) (PVC) Pipe and Fittings.

B. Dimensional Details and Test Requirements

Dimensions, tolerances, shapes and applicable test requirements for pipe, fittings and joint journals shall conform with the following specifications:

<table>
<thead>
<tr>
<th>Pipe and fittings</th>
<th>Joint journals</th>
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<tbody>
<tr>
<td>ABS (Pipe) Type 1 Grade 2</td>
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<tr>
<td>ASTM D 2661</td>
<td>ASTM D 2235</td>
</tr>
<tr>
<td>ABS (Pipe) Foam Core</td>
<td>ASTM D 2661</td>
</tr>
<tr>
<td>ASTM F 628*</td>
<td>ASTM D 2661</td>
</tr>
<tr>
<td>ABS (Fittings) Virgin Grade 1</td>
<td>ASTM D 2661</td>
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<tr>
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<td>ASTM D 2564</td>
</tr>
<tr>
<td>Virgin Type 1 (Grade 1 or 2)</td>
<td>ASTM D 1784</td>
</tr>
</tbody>
</table>

*Revised.

Section V—System Design and Installation Requirements

A. General Requirements

The selection, design, installation and leak testing of plastic piping systems shall conform with all applicable requirements of the HUD Minimum Property Standards, the

*Revised.

*Plastic Pipe Institute, A Division of the Society of the Plastics Industry, 355 Lexington Avenue, New York, New York 10017.


*National Sanitation Foundation, P.O. Box 1468, Ann Arbor, Michigan 48106.
applicable nationally recognized model code and industry standards of good practice as referenced below and summarized in Appendix A.

B. Requirements for Making Joints and Connections

The materials and installation techniques used for joining pipes and fittings shall assure adequate resistance of the completed system to leaking, and shall assure adequate resistance to joint failure from long-term exposure to the service environment. Only solvent cements with shelf life marking shall be used, and cements should be used before expiration of the shelf life period. The recommendations of the manufacturer and applicable industry standards shall be followed in making joints and connections. Standards and other publications defining generally accepted practice include the following:

ABS ASTM D 2661, Appendix X1
ASTM F 628, Appendix A1
PPI TR 12, Paragraph 6.2
PPI Plastics Piping Manual; Chapter 4, Page 49, Chapter 5, Pages 49-49
PVC ASTM D 2855
ASTM D 2665, Appendix X1
PPI Plastics Piping Manual; Chapter 4, Page 49, Chapter 7, Pages 59-60

C. Control of Expansion and Contraction

Design and installation detail shall provide for accommodation of thermal expansion and contraction without compromising the essential performance of the system. Hangers and supports, restraining fittings or expansion joints, and clearances adjacent to pipe and fittings shall be in accordance with the manufacturer's recommendations and applicable industry standards. Publications defining generally accepted practice include the following:

ABS ASTM D 2661, Appendix X1
ASTM F 628, Appendix A1
PPI TR 12, Section 4.2
PPI TR 21
PPI Plastics Piping Manual; Chapter 7, Page 59
PVC ASTM D 2855, Appendix X1
PPI TR 13, Sections 4.2 and 6.1
PPI TR 21
PPI Plastics Piping Manual; Chapter 7, Page 59

D. Requirements for Hangers and Supports

Hangers and straps shall not damage the pipe or fittings. Supports shall be provided for horizontal piping at intervals sufficient to prevent deflections (sagging) likely to interfere with drainage or leak resistance. Vertical stacks shall be anchored at appropriate intervals. Selection and installation of hangers and supports shall be in accordance with the manufacturer's recommendations and applicable industry standards. Publications defining generally accepted practice include the following:

ABS ASTM D 2661, Appendix X1
ASTM F 628, Appendix A1

E. Requirements for Underground Installation

Techniques used for trenching and backfilling shall not produce stresses and strains, or cutting or abrasive effects, likely to interfere with drainage or leak resistance or to result in structural collapse of pipe or fittings. Earth and live loads shall be less than the manufacturer's published load rating for the material and conditions of installation. Methods of installation used shall be in accordance with the manufacturer's recommendations and applicable industry standards. Publications defining generally accepted practice include the following:

ABS ASTM D 2321
ASTM D 2665, Appendix X1
ASTM F 628, Appendix A1
PPI TR 12, Paragraph 6.3
PPI Plastics Piping Manual; Chapter 5, Pages 41-42
PVC ASTM D 2321
ASTM D 2665, Appendix X1
PPI TR 13, Paragraph 6.3
PPI Plastics Piping Manual; Chapter 4, Pages 41-43

F. Requirements for Fire Safety

The following construction requirements for the use of thermoplastic DWV piping in non-fire rated and fire rated construction shall be compiled with:

1. All vertical and horizontal runs of plastic pipe (not including fixture trap and trap arm/ lateral) in private (habitat room) and public spaces shall be enclosed in walls, partitions, floor/ceiling assemblies, chases or shafts regardless of fire rating of these elements of construction. Exceptions are (1) Unfinished basements of one and two family dwellings and (2) Parking garages (3) Crawl spaces (4) Mechanical equipment rooms (5) and similar areas.

2. DWV systems installed in fire rated walls and chases shall not compromise the fire endurance ratings of such building elements as required in Section 405 of the HUD Minimum Property Standards. The following construction procedures shall be addressed so that fire rating of walls and chases are not compromised.

a. All penetrations through required fire resistive walls, partitions or chases shall be compiled with the fire endurance ratings of such building elements as required in Section 405 of the HUD Minimum Property Standards. The following construction procedures shall be addressed so that fire rating of walls and chases are not compromised.

b. Plastic pipes or laterals penetrating required fire resistive wall membranes shall not be greater than three inches in diameter.

c. Thermoplastic stacks and risers in chases more than forty feet in height shall be sleeved with galvanized steel not thinner than eighteen gauge and shall be fire-stopped and base packed as described above at each floor where the pipe is anchored, but not less than every fourth floor. Sleeves shall be not less than four pipe diameters in length or twelve inches, whichever is greater, and shall be positioned midway in the firestop.

d. The pipe and fittings of a plastic piping assembly enclosed in a (required) fire resistive wall or chase shall have sufficient clearance so that no part of the assembly, (e.g. fitting body or hub) other than the pipe lateral, penetrates the backside of the wall membrane.

3. Departure from the above construction requirements may be taken only on the basis of tests demonstrating that fire safety is not compromised by the proposed construction.

Section VI—Handling and Storage Requirements

Exposure to sunlight, heat, and cold, impact and superimposed weight can have a deleterious effect on plastic materials. Therefore, care will be taken in handling and storage so that the performance characteristics of pipe and fittings are not compromised. Handling and storage methods shall be in accordance with the manufacturer's recommendations and applicable industry standards. Publications defining generally accepted practice include the following:

ABS ASTM D 2661, Appendix X1
PPI TR 12, Paragraph 5
PPI Plastics Piping Manual; Chapter 4, Page 49, Chapter 5, Page 48
PVC ASTM D 2855, Appendix X1

Section VII—Determination of Compliance

Marking—Pipe, fittings and joining materials shall be marked or labeled in accordance with the following standards as applicable:

ABS ASTM D 2325
ASTM D 2661
ASTM D 3311
ASTM F 628 [Foam Core]*
PVC ASTM D 2664
ASTM D 3005

The marking shall indicate the applicable ASTM Specification and shall show the logo of an acceptable nationally recognized testing laboratory.* In addition, the marking shall identify the manufacturer's name or trademark.

*Revised.
Appendix A for HUD Use of Materials Bulletin No. 79a

Building Sewers for Residential Building
Design and Installation of ABS and PVC

56416 Federal Register / Vol. 46, No. 221 / Tuesday, November 17, 1981 / Rules and Regulations

1. Background.

2. Purpose of Scope.

3. General Information on Thermoplastic DWV Pipe and Methods of Fabrication.

4. Handling and Storage.


6. Control of Thermal Expansion and Contraction.

7. Requirements for Hangers and Supports.

8. Underground Piping.

9. Protection of Vent Terminals for the Effects of Long-Term Exposure to Sunlight.

10. Protection Against Freezing.

11. Installation in Warm Spacing.

12. Protection Against Harmful Chemicals and Power Cleaning Equipment.

1. Background

It is generally understood that satisfactory plumbing systems depend on accepted good practice for design and installation. Plumbing codes and regulating agencies usually require that installations be made in accordance with established good practice and with the recommendations of the manufacturer.

Although much valuable material is available in several different published documents, HUD examiners and inspectors need a concise and specific summary guide which reflects accepted good practice as it pertains to their particular needs.

2. Purpose and Scope

The purpose of this guide is to provide in a single brief document for HUD field office use, the essential requirements of acceptable design and installation practice. The guide should be considered an advisory document to facilitate compliance with industry standards of good practice as referenced in HUD Use of Materials Bulletin No. 79a.

The scope of this guide is limited to ABS and PVC plastic DWV pipe and fitting systems and building sewers as treated by HUD Use of Materials Bulletin No. 79a.

3. General Information on Thermoplastic DWV Pipe and Methods of Fabrication

Thermoplastic DWV pipe (ABS and PVC) is usually sold in 10 foot lengths. The pipe diameters and wall thicknesses with which this guide is concerned are defined by ASTM D 2661 and ASTM F 628 (ABS), and ASTM D 2665 (PVC). These dimensions have been abstracted in Table 3.1.

4. Handling and Storage

4.1 Protection Against Long-Term Exposure to Sunlight.

Do not store pipe and fittings in direct sunlight for long periods. However, exposure to sunlight of pipe openly stored at the building site during normal construction periods can be tolerated.

4.2 Support of Stored Pipe.

Store pipe in such a manner as to prevent sagging or bending. Provide adequate support where piping is exposed to wind, snow and ice loading.

| Table 3.1—Diameters and Wall Thicknesses of ABS and PVC Drain-Waste-Vent Pipe Conforming to ASTM D 2661 and F 628 (ABS), and D 2665 (PVC) (inches) |
|---|---|---|---|---|---|---|---|
| Normal pipe size | Outside diameter | Total wall thickness | Inner and outer wall thicknesses—ABS form core 1 |
| | ABS | PVC | ABS | PVC | ABS | PVC |
| | | | | | | |
| 1 1/4" | 1.660 | +0.010 | ±0.005 | ±0.005 | ±0.032 | 0.140 | ±0.005 | ±0.005 | ±0.005 | ±0.005 | ±0.005 | 0.038 | 0.038 | 0.038 |
| 1 1/2" | 1.900 | +0.010 | ±0.005 | ±0.005 | ±0.032 | 0.145 | ±0.005 | ±0.005 | ±0.005 | ±0.005 | ±0.005 | 0.038 | 0.038 | 0.038 |
| 2" | 2.275 | +0.010 | ±0.005 | ±0.005 | ±0.032 | 0.154 | ±0.005 | ±0.005 | ±0.005 | ±0.005 | ±0.005 | 0.038 | 0.038 | 0.038 |
| 3" | 3.000 | +0.015 | ±0.005 | ±0.005 | ±0.032 | 0.216 | ±0.005 | ±0.005 | ±0.005 | ±0.005 | ±0.005 | 0.047 | 0.047 | 0.047 |
| 4" | 4.000 | +0.015 | ±0.005 | ±0.005 | ±0.032 | 0.237 | ±0.005 | ±0.005 | ±0.005 | ±0.005 | ±0.005 | 0.056 | 0.056 | 0.056 |
| 6" | 6.250 | +0.011 | ±0.011 | ±0.011 | ±0.032 | 0.290 | ±0.005 | ±0.005 | ±0.005 | ±0.005 | ±0.005 | 0.112 | 0.112 | 0.112 |

1 Revised.

ABS and PVC plastic DWV pipe and fittings are generally joined with an appropriate solvent cement as defined by ASTM D 2235 (ABS) and ASTM D 2564 (PVC). (See Section 5 for further details.)

4.3 Protection Against Abrasion by Sharp Objects.

Store and handle pipe and fittings so as to avoid contact with sharp objects.

4.4 Safe Handling of Solvent Cements.

4.4.1 General solvents contained in most plastic pipe cements are classified as airbornes contaminants and they are flammable and combustible liquids. Follow the precautions listed herein to avoid injury to personnel and the hazards of fire.

4.4.2 Avoid prolonged breathing of solvent vapors. When pipe and fittings are being joined in enclosed areas, use a ventilating device to remove hazardous vapors. Select ventilating devices and locate them so as not to provide a source of ignition to flammable vapor mixtures.

4.4.3 Keep solvent cements away from all sources of ignition, heat, sparks, and open flame.

4.4.4 Keep containers from solvent cements tightly closed except when the cement is being used. The container type shall conform with Parts 1 to 199, Title 49—Transportation, Code of Federal Regulations. Container labeling shall conform with the requirements of the Federal Hazardous Substance Act as amended.

4.4.5 Dispose of all rags and other materials used for mopping up spills in a safety waste receptacle. Empty the receptacle and destroy the contents daily in a safe manner.

4.4.6 Most of the solvents used in pipe cements can be considered eye irritants and contact with the eye should be avoided as it may cause eye injury. Proper eye protection such as chemical goggles or face shields is required where the possibility of splashing exists in handling solvent cements. In case of eye contact, call a physician immediately and flush with quantities of water for 15 minutes.

*Information extracted from F 492.

Note: The information contained in this guide was summarized from the documents referenced under Section V of HUD Use of Materials Bulletin No. 79a, Acrylonitrile-Butadiene-Styrene (ABS) and Poly (Vinyl Chloride) (PVC) Plastic Drain, Waste and Vent Pipe and Fittings.

*Revised.
4.4.7 Avoid repeated contact with the skin. Wear gloves which are impermeable to and unaffected by the solvents. Use bristle paintbrushes, not brushes nor chemically affected to apply the solvents. Application of the solvents with bare hands is not acceptable. Dispose of used applicators in the same manner as the rags in 4.4.5. In the event of excessive skin contact, remove contaminated clothing and wash skin with soap and water. Clean contaminated clothing of flammable and toxic materials before wearing them again. 

4.5 Storage of Cement Cements. Store all cement in a cool place except when actually in use at the jobsite. The cement has a limited shelf life when not stored in hermetically sealed containers. Screw top containers are not considered to be hermetically sealed. Cement containers usually are stamped with a date signifying that the cement should be sold to the user on or before this date. Consult the cement manufacturer for specific storage recommendations. Cement is usually not acceptable. Dispose of used applicators with a shelf life date or date code.
Table 6.1.1.—Thermal Expansion Table for PVC Plastic Pipe

<table>
<thead>
<tr>
<th>Length, feet</th>
<th>Temperature Change, F</th>
<th>Length Change, in.</th>
</tr>
</thead>
<tbody>
<tr>
<td>40</td>
<td>0.54 0.67 0.80 0.84</td>
<td>0.67 0.80 1.07 1.21</td>
</tr>
<tr>
<td>50</td>
<td>0.67 0.80 0.84 1.07</td>
<td>1.21 1.34</td>
</tr>
<tr>
<td>60</td>
<td>1.07 1.54 1.61 1.88</td>
<td>2.05 2.42 2.69</td>
</tr>
<tr>
<td>70</td>
<td>1.61 2.01 2.41 2.52</td>
<td>3.22 3.62 4.02</td>
</tr>
<tr>
<td>80</td>
<td>2.14 2.68 3.22 3.76</td>
<td>4.59 4.83 5.36</td>
</tr>
<tr>
<td>90</td>
<td>2.68 3.35 4.02 4.70</td>
<td>5.36 6.02 6.70</td>
</tr>
</tbody>
</table>

Example: For length of run of 60 feet the chart indicates that the installation should provide for a linear expansion of 2.01 inches.

Table 6.1.2.—Thermal Expansion Table for PVC Plastic Pipe

<table>
<thead>
<tr>
<th>Length, feet</th>
<th>Temperature Change, F</th>
<th>Length Change, in.</th>
</tr>
</thead>
<tbody>
<tr>
<td>40</td>
<td>0.28 0.35 0.42 0.49</td>
<td>0.49 0.56 0.63 0.79</td>
</tr>
<tr>
<td>50</td>
<td>0.56 0.70 0.84 0.97</td>
<td>0.97 1.11 1.25 1.39</td>
</tr>
<tr>
<td>60</td>
<td>0.84 1.04 1.25 1.48</td>
<td>1.48 1.67 1.88 2.09</td>
</tr>
<tr>
<td>70</td>
<td>1.38 1.53 1.67 1.95</td>
<td>1.95 2.23 2.51 2.78</td>
</tr>
<tr>
<td>80</td>
<td>1.90 1.74 2.09 2.44</td>
<td>2.44 2.78 3.13 3.48</td>
</tr>
<tr>
<td>90</td>
<td>2.50 2.34 2.81 3.25</td>
<td>3.25 3.64 4.03 4.42</td>
</tr>
</tbody>
</table>

Example: For length of run of 60 feet the chart indicates that the installation should provide for a linear expansion of 2.01 inches.

For length of run of 60 feet the chart indicates that the installation should provide for a linear expansion of 2.01 inches.

6.2 Methods for Control.

6.2.1 Above-Ground DWV Installations.

Expansion or contraction seldom presents any problems in DWV installations in one and two family dwellings due to the short lengths of piping involved. It does become of concern in high rise buildings where long stacks are involved, or in large buildings with long runs of above-ground horizontal drains (e.g., suspended building drains). There are three generally recognized methods of accommodating expansion-contraction, as described below.

(a) If the DWV system is designed with one or more offsets in the stack or building drain, the offsets alone may provide a sufficient means for accommodating thermal expansion. The required lengths of offset for two pipe diameters and three pipe lengths with a temperature change of 50°F are shown in Table 6.2-1.

(b) Connections to Traps. See 5.1.4(b) above. Requirements for connection to threaded traps and trap nuts are the same for PVC as for ABS.
(c) Connection to Closet Flange. See 5.1.4(c) above. Requirements for connection to closet flanges are the same for PVC as for ABS.
(d) Connection to Non-Plastic Pipe. See 5.1.4(d) above. Requirements for connection to non-plastic pipe are the same for PVC as for ABS.
(e) Thread Tightness. See 5.1.4(e) above. Requirements for thread tightness are the same for PVC as for ABS.
(f) Transition to Bell-and-Spigot Pipe. See 5.1.4(f) above. Requirements for transition to bell-and-spigot pipe are the same for PVC as for ABS.
(g) Alignment and Grade. See 5.1.4(g) above. Requirements for alignment and grade are the same for PVC as for ABS.
(h) For further information on making joints and connections with PVC pipe and fittings, see ASTM D 2855, Making Solvent-Cemented Joint. With Poly(Vinyl Chloride) (PVC) Pipe and Fittings. This document discusses joints and connections, including cleaners and primers, viscosity of cements for different sizes of pipe, and illustrations showing techniques. See also PPI Plastics Piping Manual and PPI TR 13.

6.3 Control of Thermal Expansion and Contraction

6.3.1 Thermal Expansion.

Allow for thermal expansion and movement in all piping installations by the use of approved methods. Support, but do not rigidly restrain piping at branches or at changes of direction. Do not anchor pipe rigidly in walls. Holes through framing members shall be adequately sized to allow for free movement. The amount of longitudinal thermal expansion for installations subject to temperature changes may be estimated from Tables 6.1-1 and 6.1-2. The linear expansion shown is independent for the diameter of the pipe. Buried piping, or piping installed in the crawl space under a building, is normally subject to less than the ambient temperature change.

ABS and PVC DWV pipes are not normally adversely affected by ordinary operating temperatures in warm spaces (nominally not over 120°F), e.g., parking garages and boiler/mechanical rooms. However, such pipes shall be protected from mechanical damage and from potential damage due to close proximity to hot surfaces.
In many designs, expansion joints may be used for either PVC or ABS. There are a number of designs available which are basically a slip joint with an elastomeric seal; others utilize a bellows principle. If these methods are employed, the expansion joints shall be installed at intervals not exceeding 30 ft, and in accordance with the manufacturer's recommendations. Except at unusually low or high ambient temperatures, install the expansion joint in the neutral (midpoint) position so that it can move in either direction to take care of either expansion or contraction. For vertical piping (e.g., soil, waste, and vent stacks) the pipe shall be anchored either by securing the branches of the stack or by the installation of fixed clamps around the vertical pipe at or near each expansion joint to prevent the joint from telescoping together due to the weight of the stack. The recommendations of the expansion joint manufacturer shall be followed in the application and installation of expansion joints.

For ABS DWV there is a third method—the use of restraint. Engineering studies have shown that by restraining the pipe every 30 ft, it is possible to obtain longitudinal movement, satisfactorily installed, and made. Tensile or compressive forces developed by contraction or expansion are absorbed by the piping itself without harm. If the restraint method is used, special stack anchors, available from several manufacturers, shall be used and installed according to the manufacturer's recommendations. Except where rigid anchoring of DWV piping is required or is otherwise approved, pipe hangers and supports shall be installed so as to permit longitudinal movement of the pipe and fittings near walls, ceilings, floors, and framing members. Such hangers and supports shall be positioned so that ample clearance is provided to avoid interference with thermal movement.

### 6.2.2 Underground Piping

Thermal expansion and contraction is generally not a problem with underground piping such as building drains and building sewers. Movement in buried piping is generally less than in above-ground installations because of the more stable temperature environment and the restraint imposed by the earth cover.

If pipe of 3 in. diameter or less is installed at a temperature lower than the expected maximum service temperature, as in winter, the pipe may be installed straight, brought to within 15 F of the service temperature and the restraint imposed by the earth cover.

### 6.2.3 Trenching and Embedding

(a) Building drains under floor slabs. Make trench bottoms smooth and of uniform grade with either undisturbed soil or a layer of selected and compacted backfill so that no settlement will be encountered. Pipe must bear on this material throughout the entire length of its barrel.

(b) General recommendations. The width of trench shall be no greater than required to permit joining of the pipe in the ditch. The trench bottom shall be continuous, relatively smooth and free of rocks. Where ledge rock, hardpan or boulders are encountered, the trench bottom shall be padded using sand or compacted fine grained soils. The pipe shall be uniform and continuously supported over its entire length on firm, stable material. Blocking shall not be used to change pipe grade or to intermitently support pipe across excavated sections.

### 6.2.4 Burial Depth

Provide a minimum cover of 24 in. for locations subject to heavy overhead traffic. A minimum cover of 12 to 18 in. is normally adequate for locations subject to no overhead traffic or light overhead traffic. Provide sufficient cover to prevent stress levels in excess of the manufacturer's published load ratings due to the superimposed static and dynamic loads for the applicable installation conditions. Burial depth shall be limited to depths such that combined earth and superimposed static and dynamic loads will not yield stress levels in excess of the manufacturer's published load ratings for the applicable installation conditions. Effects of ground freezing shall be considered also when pipe is installed at depths subject to frost penetration.

### 8.3 Embedment and Backfilling

(a) Embedment. Backfilling. Use a graded, compacted backfill material of particle size of 1/8 in. or less to surround the pipe. Place the backfill in layers, and compact each layer sufficiently to develop uniform lateral passive soil forces against the pipe during the backfilling and compacting operation. Sand and gravel containing a significant proportion of fine-grained material, such as silt and clay, shall be compacted by mechanical tamper or by hand.

### 8.3.2 Backfilling

The remainder of the backfill above the pipe soil encasement area shall be placed and spread in approximately uniform layers in such a manner as to fill the trench completely so that there will be no unfilled spaces under or near rocks, or bumps of earth in the backfill. Remove large rocks, frozen clods and other debris greater than 3 in. in diameter from the backfill. The final backfill shall be consolidated by using rolling equipment or heavy tampers except that under sidewalks and driveways the backfill shall be compacted in layers. Rolling equipment shall not be used in consolidating initial backfill.

### 8.3.3 Compaction

Vibratory methods are preferred when compacting sand or gravels. Best results are obtained when the soils are in a nearly saturated condition. Where water flooding is used, provide sufficient initial backfill to ensure complete coverage of the pipe. Additional material shall not be added until the morning, or by cooling with water. The stresses produced by the final 15 F temperature change will be absorbed by the piping without harm.

<table>
<thead>
<tr>
<th>Temperature change, ( \text{F} )</th>
<th>10</th>
<th>20</th>
<th>30</th>
<th>40</th>
<th>50</th>
<th>60</th>
<th>70</th>
<th>80</th>
<th>90</th>
<th>100</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Loop length, in.</th>
<th>20</th>
<th>40</th>
<th>60</th>
<th>80</th>
<th>100</th>
</tr>
</thead>
<tbody>
<tr>
<td>11/8</td>
<td>7/8</td>
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<td>15/8</td>
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<td>9/8</td>
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<td>12/8</td>
<td>13/8</td>
<td>20/8</td>
<td>27/8</td>
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<td>7/8</td>
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<td>6/8</td>
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<td>12/8</td>
<td>13/8</td>
<td>20/8</td>
<td>27/8</td>
</tr>
</tbody>
</table>

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the water flooded backfill is firm enough to walk on. Avoid floating the pipe.

Additional information on underground installation is given in ASTM D 2321, "Underground Installation of Flexible Thermoplastic Sewer Pipe." Particular attention must be given to compacting the embankment on both sides and undermining the breaks in the pipe to ensure maximum ability to support soil loads and withstand static and dynamic loads.

6. Protection of Vent Terminals From the Effects of Long-Term Exposure to Sunlight

Plumbing vents of ABS or PVC exposed to sunlight shall be protected by exterior type water-base synthetic latex paints. Where roof or ambient temperature near vent terminal are expected to exceed 165°F (for ABS) or 140°F (for PVC) the terminal shall be protected by means of reflective shielding and thermal insulation. Deformation of these materials is based on tests. In the field, experience should be exercised in determining these temperatures.

10. Protection Against Freezing

When necessary to protect traps, fixtures and devices of ABS or PVC from the effects of freezing water, alcohol or petroleum products shall not be used. Use only approved plastic pipe antifreeze packaged for this purpose, or one of the following solutions:

(a) Sixty percent by weight of glycerin in water mixed at 73°F.
(b) Twenty-two percent by weight of magnesium chloride or sodium chloride in water.

11. Installation in Warm Spaces

ABS and PVC DWV pipes are not normally adversely affected by ordinary operating temperatures in warm spaces (nominally not over 120°F, e.g., parking garages and boiler/mechanical rooms. However, such pipes shall be protected from mechanical damage and from potential damage due to close proximity to hot surfaces.

12. Protection Against Harmful Chemicals and Power Cleaning Equipment

Contractors that perform cleaning services on plastic DWV pipes should be competent and aware of the limitations of these materials. (FR Dec. 8-32769 filed 11-16-81; 8:45 am)

BILLING CODE 4210-01-M

24 CFR Parts 203 and 234

[Docket No. R-81-946]

Mortgage Insurance Loans; Changes in Interest Rates

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This change in the regulations decreases the HUD/FHA interest rate on insured home graduated payment mortgage (GPM) loans. This action by HUD is designed to bring the maximum financing charges on GPM programs into line with market conditions and help assure adequate demand for such loans.

EFFECTIVE DATE: November 9, 1981.


SUPPLEMENTARY INFORMATION: The following miscellaneous amendments has been made to this chapter to decrease the maximum interest rate which may be charged on GPM loans insured by this Department. The maximum interest rate on HUD/FHA GPM insurance programs has been lowered from 17.00 percent to 16.50 percent.

The Secretary has determined that such changes are immediately necessary to meet the needs of the market and to prevent speculation in anticipation of a change, in accordance with his authority contained in 12 U.S.C. 1709-1, as amended. The Secretary has, therefore, determined that advance notice and public comment procedures are unnecessary and that good cause exists for making this amendment effective immediately.

A Finding of Inapplicability with respect to the National Environmental Policy Act of 1969 has been made in accordance with HUD's environmental procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410.

Accordingly, Chapter II is amended as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

Subpart A—Eligibility Requirements—Individually Owned Units

3. Section 234.75 paragraph (b) is revised to read as follows:

§ 234.75 Eligibility of graduated payment mortgages.

(b) The mortgage shall bear interest at the rate agreed upon by the mortgagor and the mortgagee, which rate shall not exceed 16.50 percent per annum, except that where an application for commitment was received by the Secretary before November 9, 1981, the mortgage may bear interest at the maximum rate in effect at the time of application.

4. Section 234.76 paragraph (c) is revised to read as follows:

§ 234.76 Eligibility of modified graduated payment mortgages.

(c) The mortgage shall bear interest at the rate agreed upon by the mortgagor and the mortgagee, which rate shall not exceed 16.50 percent per annum, except that where an application for commitment was received by the Secretary before November 9, 1981, the mortgage may bear interest at the maximum rate in effect at the time of application.
24 CFR Parts 215, 235, 236, and 812

Docket No. R-81-936

Financial Assistance—Nonimmigrant Student Aliens

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Interim rule.

SUMMARY: Parts 215, 235, 236 and 812 of 24 CFR are being amended to prohibit the Secretary from making financial assistance, under the United States Housing Act of 1937, section 235 or 236 of the National Housing Act, or section 101 of the Housing and Urban Development Act of 1965, available to nonimmigrant student-aliens. In order to implement the statute, 24 CFR Parts 215, 235, 236 and 812 are being amended. A new paragraph (l) is being added to §215.1, a new paragraph (g) is being added to §235.5, a new paragraph (l) is being added to §236.2. Paragraph (d) of §812.2 is being amended to exclude nonimmigrant student-aliens from the definition of family, and a new paragraph (g) is being added to §812.2 to define "nonimmigrant student-alien." Section 215.20(b) is being amended to exclude nonimmigrant student-aliens from receiving rent supplement assistance. A new paragraph (e) is being added to §236.10 to prohibit insurance of a mortgage under section 235 (and thus assistance) if the proposed mortgagor is a nonimmigrant student-alien. Also, in §235.325, paragraphs (c) and (d) are being revised to provide that nonimmigrant student-aliens who are unable to pay fair market rent at initial occupancy. In addition, a new paragraph (d) is being added to §236.70 to exclude nonimmigrant student-aliens who are unable to pay fair market rent at initial occupancy. A new paragraph (g) is being added to §236.70 to exclude nonimmigrant student-aliens who are unable to pay fair market rent at initial occupancy.

EFFECTIVE DATE: November 17, 1981.

COMMENTS DUE: January 18, 1982.

ADDRESS: All comments from interested persons should be sent to the Rules Docket Clerk, Office of General Counsel, Room S216, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Each comment should include the commenter's name and address, and must refer to the docket number indicated in the heading of the document. A copy of each communication will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT:
For Part 812: Edward Whipple, Rental and Occupancy Branch, Office of Public Housing, Department of Public and Affordable Housing, Washington, D.C. 20410, telephone (202) 755-5640.
effective as soon as possible. Therefore, these amendments are being published as an interim rule to become effective as soon as possible. For these same reasons, it is not appropriate to delay the effective date of these provisions for the 30-day period provided in 5 U.S.C. 553(d). However, the Department is soliciting comments from the public prior to issuing a final rule. All comments received will be considered by the Department in preparation of the final rule.

A finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the address listed above.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Rulemaking. The rule does not have a significant effect on the economy of $100 million or more; cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or have a significant adverse effect 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.

Pursuant to section 605(b) of the Regulatory Flexibility Act, the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities.

The Catalog of Federal Domestic Assistance numbers are: 14.103, Interest Reduction Payments—Rental and Cooperative Housing for Lower Income Families; 14.105, Interest Reduction—Homes for Lower Income Families; 14.146, Low Income Housing Assistance Program (Public Housing); 14.149, Rent Supplement—Rental Housing for Lower Income Families; and 14.166, Lower Income Housing Assistance Program (Section 8).

Accordingly, 24 CFR Parts 215, 235, 236 and 812 are amended as follows:

PART 215—RENT SUPPLEMENT PAYMENTS

1. Section 215.1 is amended by adding paragraph (l) as follows:

§ 215.1 Definitions.

(l) Nonimmigrant Student-Alien. ‘Nonimmigrant student-alien’ means an alien having a residence in a foreign country which he/she has no intention of abandoning, who is a bona fide student qualified to pursue a full course of study and who is admitted to the United States as a nonimmigrant alien as defined in section 101(a)(15)(F)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F)(i)), temporarily and solely for the purpose of pursuing such a full course of study at an established institution of learning or other recognized place of study in the United States. Nonimmigrant student-alien also means the alien spouse and minor children of such student if accompanying him/her or following to join him/her.

2. Section 215.20 is amended by placing the number (1) after the letter (b) in paragraph (b) and by adding a new paragraph (b)(2) to read as follows:

§ 215.20 Qualified tenant.

(b)(1)...

(b)(2) No rent supplement payment shall be made on behalf of a nonimmigrant student-alien, as defined in this Part; provided, however, that if such alien is a tenant in housing assisted under this Part and is receiving the benefit of assistance on November 17, 1981, the benefits of rent supplement payments shall continue to be available until expiration of the current lease term. When the lease of a nonimmigrant student-alien terminates after November 17, 1981, the alien shall have the option of vacating the unit or subject to compliance by such alien with all other conditions to continued occupancy of the unit) entering into a new lease without the benefit of rent supplement payments.

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

3. Section 235.5 is amended by adding a new paragraph (g) as follows:

§ 235.5 Definitions used in this subpart.

(g) "Nonimmigrant student-alien" means an alien having a residence in a foreign country which he/she has no intention of abandoning, who is a bona fide student qualified to pursue a full course of study and who is admitted to the United States as a nonimmigrant alien as defined in section 101(a)(15)(F)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F)(i)), temporarily and solely for the purpose of pursuing such a full course of study at an established institution of learning or other recognized place of study in the United States. Nonimmigrant student-alien also means the alien spouse and minor children of such student if accompanying him/her or following to join him/her.

4. Section 235.10 is amended by adding a new paragraph (e) as follows:

§ 235.10 Eligible mortgagors.

(e) No mortgage shall be endorsed for insurance under this subpart if the mortgagor is a nonimmigrant student-alien as defined in this subpart.

5. Section 235.325 is amended by adding a new paragraph (e) as follows:

§ 235.325 Qualified cooperative members.

(e) A member of a cooperative association who is a nonimmigrant student-alien as defined in § 235.5 shall not be qualified for assistance payments.

6. Section 235.375 is amended by adding a new sentence at the end of paragraph (a)(4), a new paragraph (a)(5), and a new sentence at the end of paragraph (e), as follows:

§ 235.375 Termination, suspension, or reinstatement of the assistance payments contract.

(a)(4)... If the mortgagor under the assigned mortgage is a nonimmigrant student-alien, as defined in § 235.5 of this Part, the assistance payments will be terminated.

(e) No assistance payments contract in which the mortgagor or the cooperative member is a nonimmigrant student-alien, as defined in § 235.5 shall be reinstated.

PART 236—MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENT FOR RENTAL PROJECTS

7. Section 236.2 is amended by adding paragraph (l) as follows:

§ 236.2 Definitions used in this subpart.

(l) Nonimmigrant Student-Alien. ‘Nonimmigrant student-alien’ means an alien having a residence in a foreign country which he/she has no intention...
of abandoning, who is a bona fide student qualified to pursue a full course of study and who is admitted to the United States as a nonimmigrant alien as defined in section 101(a)(15)(F)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F)(i)) and was receiving assistance on November 17, 1981, such alien may continue to receive the benefit of such payments until expiration of the current lease term. When the lease of a nonimmigrant student-alien terminates, § 236.70(d) shall apply but in no event shall such alien thereafter receive the benefit of rental assistance payments under this Subpart.

PART 812—DEFINITION OF FAMILY AND OTHER RELATED TERMS; OCCUPANCY BY SINGLE PERSONS

§ 812.2 Definitions.

(d) Family. (1) "Family" includes but is not limited to (i) an Elderly Family or Single Person as defined in this part, (ii) the remaining member of a tenant family, and (iii) a Displaced Person. (2) "Family" does not include a nonimmigrant student-alien, as defined in this section, provided, however, that if such alien was a tenant in housing assisted under the United States Housing Act of 1937 (hereafter "Act") and was receiving assistance on November 17, 1981, such assistance may be continued during the current term of the lease of such alien. When the lease of a nonimmigrant student-alien assisted under the Act, other than one occupying public housing as defined in the Act, terminates after November 17, 1981, the alien shall have the option of vacating the unit or (subject to compliance by such alien with all other conditions to continued occupancy of the unit) entering into a new lease without the benefit of assistance under the Act. When the lease of a nonimmigrant student-alien residing in public housing assisted under the Act, terminates after November 17, 1981, the public housing authority shall require the tenant to vacate the unit.

(g) Nonimmigrant Student-Alien. "Nonimmigrant student-alien" means an alien having a residence in a foreign country which he/she has no intention of abandoning, who is a bona fide student qualified to pursue a full course of study and who is admitted to the United States as a nonimmigrant alien as defined in section 101(a)(15)(F)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F)(i)) temporarily and solely for the purpose of pursuing such a full course of study at an established institution of learning or other recognized place of study in the United States. Nonimmigrant student-alien also means the alien spouse and minor children of such student if accompanying him/her or following to join him/her.
PART 1048—COMMERCIAL ZONES

Accordingly, § 1048.10 is amended by revising paragraph (c) to read as follows:

§ 1048.10 Washington, D.C.

(c) All points in Fairfax and Loudoun Counties, VA, and all points in Prince William County, VA, including the City of Manassas, VA, and the City of Manassas Park, VA.

Decided: October 13, 1981.

By the Commission, Review Board Number 1, Members Parker, Chandler and Fortier.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-33021 Filed 11-16-81; 8:45 am]
BILLING CODE 7035-01-M
Proposed Rules

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.

CIVIL AERONAUTICS BOARD

14 CFR Parts 207, 208, 212, and 380

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB proposes to amend its charter rules to allow airlines to conduct "part charters," which are flights that carry both charter and scheduled-service passengers. The proposed rule is designed to increase airlines' marketing flexibility and eliminate an unnecessary restraint on competition. This action is at the CAB's initiative.

DATES: Comments by: December 17, 1981.

Requests to be put on the Service List by: November 27, 1981.

The Docket Section prepares the Service List and sends it to each person listed on it, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 40236, Civil Aeronautics Board, 1825 Connecticut Avenue, NW, Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW, Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Patti Szrom, Special Authorities & Administration, Bureau of Domestic Aviation, 202-673-5020, or Patricia DePuy, Regulatory Affairs Division, Bureau of International Aviation, 202-673-5878; Civil Aeronautics Board, 1825 Connecticut Avenue, NW, Washington, D.C. 20428.

SUPPLEMENTARY INFORMATION: A "part charter" is a flight that includes both charter and scheduled-service passengers. The Board's passenger charter rules, by authorizing charters to be performed on a planeload basis only, have long prohibited part charters. The prohibition was designed to preserve a distinction between charter service and scheduled service, and to protect planeload charters against competition from part charters. (Part charters should not be confused with split charters, whereby two or more charterers together engage the entire capacity of an aircraft and no scheduled-service passengers are carried. Split charters are already permitted.)

In the Airline Deregulation Act of 1978, Pub. L. 95-504, Congress amended section 401(n)(1) of the Federal Aviation Act to prohibit passenger part charters in domestic Air transportation. In the International Air Transportation Competition Act (IATCA), Pub. L. 96-192, it amended section 401(n)(1) to extend the prohibition to foreign air transportation. Section 26(b) of IATCA, 94 Stat. 47, terminates the statutory prohibition on December 31, 1981.

The Board is thus free to amend its rules to allow part charters after December 31, 1981, and now proposes to do that. The original basis for the prohibition no longer exist, and there appears to be no good reason to continue it beyond the period mandated by Congress. When U.S. charter carriers were precluded from offering scheduled service the Board believed the part charter prohibition was necessary to protect those carriers from very low cost charter carriers on scheduled service. Now that the former charter carriers can operate scheduled service, and in view of new forms of scheduled service that have many of the characteristics of charters, we believe the restriction is no longer necessary. Moreover, protecting planeload charters against competition from part charters is inconsistent with the clear Congressional policy to let competition be the primary determinant of the type of service that airlines provide.

Allowing part charters would increase the travel options available to the public, especially in less popular markets where there is not enough traffic to support planeload charters. Part charter authority would also improve airlines' ability to make the most efficient use of their aircraft, by enabling them to offer the mix of services that best suits the demand in any given market and to sell seats that otherwise might fly empty.

To allow part charters the Board is therefore proposing to amend 14 CFR Parts 207 and 212, which apply to direct carriers, and 380, which applies to charter operators, to make part charters a legal charter form. The Board also proposes a corresponding amendment of Part 208, which applies only to U.S. carriers that have no scheduled route authority. Eliminating the planeload requirement for charters by these carriers would not enable them to conduct part charters as described above, because they would still lack the authority to carry scheduled traffic. Even so, such an amendment is worthwhile, because it would enable these carriers to perform flights where a portion of the space was chartered and the rest remained unsold. A carrier may find such a flight to be economically justified, and there is no need for the Board to supervise carriers' business judgement.

Under the proposed revisions to Part 207, a U.S. route carrier would be allowed to engage in part charters over any domestic or international route authorized by certificate or exemption. Foreign air carriers, however, would not automatically receive this authority. The proposed revisions to Part 212 would make part charters a legal charter form, but would require each foreign air carrier to apply for and obtain a statement of authorization before engaging in part charter services. The board also would entertain applications for "blanket" statements of authorization, under which the grantee carrier could perform unlimited part charters as long as the authorization remained in force. The procedures for applying for such authority would be the same as those now employed by foreign carriers seeking to obtain fifth freedom charter authority, except that applications for individual statements of authorization would be required 45 days before the planned part charter.

Our proposal to impose a prior approval requirement for foreign air carriers stems directly from the potentially significant economic value of part charters. In our view such a valuable right, which is not universally available from foreign governments.
should not be conferred automatically. Rather, it should be awarded only after a review of our aviation relations with the foreign carrier’s homeland and the confirmation that economically reciprocal rights exist for U.S. air carriers.

The Board is allowing 30 days for public comment on this proposal, with a view toward having a final rule in effect in time to allow part charters immediately after the statutory prohibition expires on December 31.

This proposal supersedes earlier proceedings in the following dockets, in which part-charter authority was at issue: Docket 27918-1 (North Atlantic Fares Investigation—Part Charter Phase); Docket 28404, (Contract Bulk Inclusive Tours, notice of proposed rulemaking EDR-900/SFDR-45/ODR-13, 41 FR 24903, June 21, 1976); and Docket 32283 (Exemption request of Pan American). Those proceedings, which have long been dormant although technically still open, are hereby terminated.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96-534, the Board certifies that this rule will not, if adopted as proposed, have a significant economic impact on a substantial number of small entities. Few if any of the direct air carriers that would be affected by the rule are small businesses. Charter operators, many of which are small businesses, would benefit from this rule because it would eliminate a restriction on the type of flights on which they may sell seats.

Accordingly, the Civil Aeronautics Board proposes to amend 14 CFR Chapter II as follows:

PART 207—CHARTER TRIPS AND SPECIAL SERVICES

In Part 207, Charter Trips and Special Services, § 207.11 would be amended by revising the introductory language in paragraph (a)(2), removing the last two sentences of paragraph (a)(3), and removing paragraph (b)(4) as follows:

§ 207.11 Charter flight limitations.

(a) [As amended by the proposed rule]

(2) Air transportation performed on a time, mileage, or trip basis—

PART 208—TERMS, CONDITIONS AND LIMITATIONS OF CERTIFICATES TO ENGAGE IN CHARTER AIR TRANSPORTATION

In Part 208, Terms, Conditions and Limitations of Certificates to Engage in Charter Air Transportation, § 208.6 would be amended by revising the introductory language in paragraph (a)(2) and removing the last two sentences of paragraph (a)(3) as follows:

§ 208.6 Charter flight limitations.

(a) [As amended by the proposed rule]

(2) Air transportation performed on a time, mileage, or trip basis where all or part of the capacity of an aircraft has been engaged by any of the following persons:

PART 212—CHARTER TRIPS BY FOREIGN AIR CARRIERS

1. In Part 212, Charter Trips by Foreign Air Carriers, § 212.3 would be amended by removing the last two sentences of paragraph (a)(2), and removing paragraph (b)(3), as follows:

§ 212.3 Charter flight limitations.

(a) [As amended by the proposed rule]

(2) In accordance with Subpart E.

2. Section 212.4 would be amended by moving “or” from the end of paragraph (b)(2) to the end of paragraph (b)(3) and adding a new paragraph (b)(4), so that paragraph (b) is revised to read as follows:

§ 212.4 Prior authorization requirements.

(b) Foreign air carriers shall obtain a statement of authorization for each—

(1) Fifth freedom charter flight to or from the United States,
ACTION: Proposed rulemaking.

SUMMARY: The Commission is publishing for comment a proposed rule that would authorize and direct self-regulatory organizations to conduct an inspection of every new broker-dealer member within six months of the firm’s registration with the Commission. The purposes of this proposal are to avoid duplicative Commission and self-regulatory organization inspections of broker-dealers and to use the Commission’s resources more efficiently.

DATE: Comments must be received on or before December 21, 1981.

ADDRESSES: All communications on this matter should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549. Comments should refer to File No. S7-914 and will be available for public inspection and copying in the Commission’s Public Reference Room, 1100 L Street, N.W., Washington, D.C. 20549.


SUPPLEMENTARY INFORMATION: The Commission today announced that it is proposing to authorize and direct self-regulatory organizations ("SROs") with examination responsibility under the Securities Exchange Act of 1934 (the "Act") (15 U.S.C. 78a et seq.) with respect to newly registered broker and dealer members to conduct the inspection required under section 15(b)(2)(C) (15 U.S.C. 780(b)(2)(C)) of the Act. The Commission’s proposal would require the SROs to conduct a financial and operational inspection of the broker or dealer member within six months of the date of the granting of registration to the broker or dealer by the Commission. It would also allow SROs to delay, for a period not to exceed six months, inspections for compliance with other applicable law and rules.

Discussion

Congress added section 15(b)(2)(C) to the Act as part of the Securities Acts Amendments of 1975 (Pub. L. 94-29) primarily because of its concern over the financial and operational difficulties in which new broker-dealer firms often find themselves in their early months of operation. The section generally requires that brokers and dealers be inspected by the Commission for compliance with the Act within six months of registration with the Commission. The section also authorizes the Commission to delay the inspection of any class of broker or dealer for up to six months, and further provides that, upon the Commission’s “authorization and direction,” an appropriate SRO shall conduct these first year inspections.

Although the Commission has not previously authorized and directed ("assigned") SROs to conduct inspections under section 15(b)(2)(C), these organizations have generally included within their member firm inspection programs early inspections of newly registered brokers and dealers. Such inspections appear to be substantially consistent with the kind of inspection contemplated by Congress when it enacted section 15(b)(2)(C). In addition, pursuant to the requirements of that section, the Commission’s regional offices also have conducted an examination program with respect to newly registered brokers and dealers.

It is the Commission’s view that assigning to SROs responsibility for inspections under section 15(b)(2)(C) would be consistent with and affirm the Act’s scheme of self-regulation, and permit more efficient use of the Commission’s resources by reducing duplicative examinations of brokers and dealers. The Commission also believes that this proposed assignment would impose minimal, if any, additional burdens upon the SROs, inasmuch as they currently conduct similar inspections.

The concerns that gave rise to enactment of section 15(b)(2)(C) centered upon the potentially large losses to investors and the U.S. Treasury which could result from the operations of an inexperienced broker or dealer. Accordingly, and as indicated in paragraph (b) of the proposed rule, the Commission does not believe it would be appropriate to exercise its authority under the section to delay financial and operational inspections of any class of new brokers and dealers that have started operating. The Commission believes that the potential for loss of customer’s funds and securities if brokers and dealers were not inspected for compliance with applicable financial responsibility rules during their first six months of operations outweighs any marginal benefits of delaying those inspections.

Although Congress was primarily concerned with the financial and operational condition of brokers and dealers, section 15(b)(2)(C) encompasses inspections for compliance with the entire Act. To satisfy the requirements of section 15(b)(2)(C), inspections must therefore include, in addition to an inspection for compliance with applicable financial responsibility rules (as defined in paragraph (a) of the proposed rule), a complete “front office” compliance review for all other applicable provisions of the Act and rules thereunder.

Under the proposed assignment, SROs will be able to complete the front office review at the time of the financial and operational inspection or, pursuant to paragraph (c) of the proposed rule, delay the “front office” review for an additional period, which shall, however, be within one year of the date of the firm’s registration with the Commission.

Weeks or even months often pass after a firm’s registration until it actually starts conducting business. In those cases there may not be sufficient records within the first six months to permit a thorough, meaningful front office review. In recognition of this, paragraph (d) of the proposed rule delays, until the second six month period from registration, inspection of broker-dealer members that have not yet initiated operations. SROs are to determine through financial reporting and other communications with the member whether the member has commenced business. This delay should result in a more meaningful inspection under the section. Of course, if the review of books and records of the member during the initial financial and operational inspection indicates that there may be violations of the securities laws, then the SRO should conduct a full examination at that time.

In addition, paragraph (e) of the proposed rule would free an SRO from the responsibility to inspect a member where, for example, due to the lapse of time prior to the firm’s membership in the SRO, either another SRO has conducted an inspection of the firm pursuant to this rule or the Commission has conducted the inspection pursuant to section 15(b)(2)(C).

The Commission believes that the proposed action will permit it to utilize its limited resources more efficiently by eliminating its own duplicative inspections of newly registered brokers and dealers, and at the same time providing adequate flexibility to the SROs in designing and conducting their inspection programs.


without diminishing investor protections under the Act.

Regulatory Flexibility Act Certification

Pursuant to 5 U.S.C. 605(b), the Chairman has certified that the proposed rule would not, if promulgated, have a significant economic impact on a substantial number of small entities. This certification, including the reasons therefor, is attached to the release.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Text of Proposed Rule

In accordance with the foregoing, it is proposed to amend Part 240 of Chapter II of Title 17 of the Code of Federal Regulations by adding § 240.15b2-2 to read as follows:

§ 240.15b2-2 Inspection of newly registered brokers and dealers.

(a) Definition. For the purpose of this section the term “applicable financial responsibility rules” shall include:

(1) Any rule adopted by the Commission pursuant to sections 8, 15(c)(3), 17(a) or 17(e)(1)(A) of the Act;

(2) Any rule adopted by the Commission relating to hypothecation or lending of customer securities;

(3) Any rule adopted by any self-regulatory organization relating to capital, margin, recordkeeping, hypothecation or lending requirements; and

(4) any other rule adopted by the Commission or any self-regulatory organization relating to the protection of funds or securities.

(b) Each self-regulatory organization that has responsibility for examining a broker or dealer member for compliance with applicable financial responsibility rules is authorized and directed to conduct an inspection of the member, within six months of the member’s registration with the Commission, to determine whether the member is operating in conformity with applicable financial responsibility rules.

(c) The examining self-regulatory organization is further authorized and directed to conduct an inspection of the member no later than twelve months from the member’s registration with the Commission, to determine whether the member is operating in conformity with all other applicable provisions of the Act and rules thereunder.

(d) In each case where the examining self-regulatory organization determines that a broker or dealer member has not commenced actual operations within six months of the member’s registration with the Commission, it shall delay the inspection pursuant to this section until the second six month period from the member’s registration with the Commission:

(e) No inspection need be conducted as provided for in paragraphs (b) and (c) of this section if:

(1) The member was registered with the Commission prior to the effective date of this rule;

(2) An inspection of the member has already been conducted by another self-regulatory organization pursuant to this section; or

(3) An inspection of the member has already been conducted by the Commission pursuant to section 15(b)(2)(C) of the Act.

Statutory Authority

The Securities and Exchange Commission, acting pursuant to the Act, and particularly sections 2, 15 and 23 thereof (15 U.S.C. 78b, 78o, and 78w), hereby proposes for adoption § 240.15b2-2. The Commission finds that there will be no burden upon competition imposed by the amendment.

By the Commission.

George A. Fitzsimmons,
Secretary.
November 10, 1981.

Securities and Exchange Commission

Regulatory Flexibility Act Certification

I, John S. R. Shad, Chairman of the Securities and Exchange Commission, hereby certify, pursuant to 5 U.S.C. 605(b), that the proposed rule to authorize and direct appropriate self-regulatory organizations to conduct inspections of newly registered brokers and dealers as required under section 15(b)(2)(C) of the Securities Exchange Act of 1934, set forth in Securities Exchange Act Release No. 54-1926, if promulgated, will not have a significant economic impact on a substantial number of small entities. The reasons for this certification are that the promulgation of the proposed rule would entail only minimal additional burdens, if any, on self-regulatory organizations inasmuch as they already conduct inspections which are substantially similar to inspections required by section 16(b)(2)(C).

Further, the self-regulatory organizations most affected by the proposed rule would not be considered to be “small entities” under either the Regulatory Flexibility Act or the Commission’s proposed definitions of small entity. In addition, the overall effect of the proposed rule will be to reduce duplicative regulation of brokers and dealers.

Dated: November 10, 1981.

John S. K. Shad,
Chairman.

DEPARTMENT OF ENERGY
Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76 (Nebraska-1)]

High-Cost Gas Produced From Tight Formations; Proposed Designation

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(3) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(3), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This notice of proposed rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of Nebraska that the Niobrara Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on December 7, 1981.

PUBLIC HEARING: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on November 23, 1981.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20436.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8307, or Victor Zabel, (202) 357-8616.

Issued: November 9, 1981.

SUPPLEMENTARY INFORMATION:

I. Background

On January 23, 1981, the State of Nebraska Oil and Gas Conservation Commission (Nebraska) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission’s regulations (48 FR 56634, August 22, 1983), that the Niobrara Formation located in Chase, Cheyenne, Deuel, Dundy, Frontier, Garden, Hitchcock, Keith, and Perkins Counties,
Rulemaking is hereby issued to regulations, this Notice of Proposed Pursuant to § 271.703(c)(4) of the recommendation to the Commission on formation, Nebraska submitted Nebraska, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Nebraska's recommendation that the Niobrara Formation be designated a tight formation should be adopted. Nebraska's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The recommended formation is located in the southwest corner of Nebraska in the Denver-Julesburg Basin. It is situated in all of Chase, Deuel, Dundy, Hitchcock, Keith, and Perkins Counties, the western half of Frontier County, the eastern half of Cheyenne County, and the southernmost third of Garden County, Nebraska. The recommended area contains about 6,970 square miles, of which approximately 93.1 percent is fee acreage and 6.9 percent is state land. The average depth to the top of the producing interval is 2,450 feet. The Niobrara Formation measures about 400 feet in gross thickness and underlies the Fort Hays Limestone Formation and overlies Pierre Shale Formation.

III. Discussion of Recommendation

Nebraska claims in its submission that evidence gathered from its public records demonstrates that:

1. The average in situ gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;
2. The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(6)(ii)(B); and
3. No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Nebraska further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM79-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Nebraska that the Niobrara Formation, as described and delineated in Nebraska's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20423, on or before December 7, 1981. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76 (Nebraska-1), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than November 23, 1981.


PART 271—CEILING PRICES

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter 1, Title 18, Code of Federal Regulations, as set forth below, in the event Nebraska's recommendation is adopted.

Kenneth A. Williams,
Director, Office of Pipeline and Producer Regulation.

Section 271.703 is amended by adding new paragraph (d)(79) to read as follows:

§ 271.703 Tight formations.

(d) Designated tight formations. The following formations are designated as tight formations. A more detailed description of the geographical extent and geological parameters of the designated tight formations is located in the Commission's official file for Docket No. RM79-76, subindexed as indicated, and is also located in the official files of the jurisdictional agency that submitted the recommendation.

18 CFR Part 271

(Docket No. RM79-76 (Texas-7 Addition))

High-Cost Gas Produced From Tight Formations; Notice of Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This notice of proposed rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Railroad Commission of Texas that an additional area of the Lower Wilcox Formation be designated as a tight formation under § 271.703(d).
DATE: Comments on the proposed rule are due on December 7, 1981.

PUBLIC HEARING: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on November 23, 1981.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:
Leslie Lawner, (202) 357-8307, or Walter W. Lawson (202) 357-8556.

Issued: November 6, 1981.

SUPPLEMENTARY INFORMATION:

I. Background

On August 25, 1981, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that an additional area of the Lower Wilcox Formation, located in the southeastern part of the State of Texas, be designated as a tight formation. The Commission previously adopted a recommendation that the Lower Wilcox Formation in parts of Wharton, Austin and Colorado counties be designated as a tight formation (Order No. 133, issued in Docket No. RM79-76 (Texas—7) on February 19, 1981). Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Texas' recommendation that the Lower Wilcox Formation in the Bonus, S. (Wilcox 13,900') Field be designated as a tight formation should be adopted. Texas' recommendation and supporting data are available for public inspection.

II. Description of Recommendation

Texas recommends that the Lower Wilcox Formation, encountered in the Bonus, S. (Wilcox 13,900') Field located in the northwestern portion of Wharton County, Texas, Railroad Commission District 3, be designated as a tight formation. The recommended area is approximately 10 miles south of the town of Eagle Lake, and is within a 2.5 mile radius around the Laurel Fuel Company Winterman No. 3 well, which is located 2155 feet northwest of the southeastern boundary and 2500 feet southwest of the northeastern boundary of the Andrew Rabh Survey A-53 in Wharton County. (A more detailed description of the recommended area is contained in the recommendation on file with the Commission.) The Lower Wilcox Formation is located below the Claiborne Formation and above the Midway Formation. In the Laurel Fuel Company Winterman No. 3 well, the only producing well in the formation, the top of the recommended portion of the Lower Wilcox Formation is located at an approximate depth of 13,900 feet and is between 90 and 70 feet thick.

III. Discussion of Recommendation

Texas claims in its submission that evidence gathered through information and testimony presented at a public hearing convened by Texas on this matter demonstrates that:

1. The average in situ gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;
2. The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and
3. No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Texas further asserts that existing State and Federal regulations assure that development of this formation will not adversely affect any fresh water aquifers that are or are expected to be used as a domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM79-76 (Texas-7), August 12, 1980), notice is hereby given of the proposal submitted by Texas that the Lower Wilcox Formation, as described and delineated in Texas' recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before December 7, 1981. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-78 (Texas—7 Addition), and should give reasons including supporting data for any recommendation. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conform copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during business hours.

Any persons wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than November 23, 1981.


Kenneth A. Williams,
Director, Office of Pipeline and Producer Regulation.

PART 271—CEILING PRICES

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Texas' recommendation is adopted.

Section 271.703 is amended by revising paragraph (6)(18) to read as follows:

§ 271.703 Tight formations.

(18) Lower Wilcox Formation in Texas. RM79-76 (Texas—7).

(i) Three County Area.—(A) Delineation of formation. The Lower Wilcox Formation is found in the southern portion of Austin County, the northern portion of Wharton County, and the eastern portion of Colorado County, Texas.

(B) Depth. The top of the Lower Wilcox is located at an approximate depth of 12,700 feet and the base is located at an approximate depth of 12,700 feet, giving a thickness of 1,000 feet.

(ii) Bonus, S. (Wilcox 13,900') Field.—(A) Delineation of Formation. The Lower Wilcox Formation is found in the
DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[EE-39-78]

TREATMENT OF PUERTO RICAN RETIREMENT INCOME PLANS

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the tax treatment of certain trusts under Puerto Rican pension, profit-sharing and stock bonus plans (Puerto Rican plans). Changes to the applicable tax law were made by the Employee Retirement Income Security Act of 1974. The regulations would provide administrators of Puerto Rican plans with the guidance needed to comply with that Act and would affect pension, profit-sharing and stock bonus plans meeting the section 401(a) requirements to be treated as trusts described in section 401(a) of the Code for purposes of section 501(a).

Because a former employee moves out of Puerto Rico, is a participant. In addition, proposed § 1.501(a)-1(e) defines the term “participants” to include only current employees who are or may become eligible to receive benefits under the plan. The definition ensures that a plan does not lose its tax-exempt status for purposes of ERISA section 1022(i)(1), merely because the employee moves out of Puerto Rico. These rules will enable the Internal Revenue Service and plan administrators to perform their duties more easily while carrying out the intent of the law.

REGULATIONS UNDER ERISA SECTION 1022(i)(1)

Proposed § 1.401(a)-50 (d) would provide the procedure an administrator of a Puerto Rican plan must follow to make the irrevocable election referred to in section 1022(i)(2). It further provides that an administrator may treat any election as made (or considered made), any trust forming a part of the electing plan will be treated as a trust created or organized in the United States for purposes of section 401 of the Code. Therefore, if such a plan otherwise satisfies the qualification requirements of section 401(a), it would be a qualified trust under that section and would be exempt from taxation under section 501 of the Code. Of course, an administrator of a Puerto Rican plan never need make the section 1022(i)(2) election if, without regard to ERISA section 1022(i)(2), the trust under the plan would constitute a qualified trust under section 401(a).

Proposed § 1.401 (a)-50 (d) describes the method for determining the source of a distribution to participants and beneficiaries of an electing Puerto Rican plan who reside outside the United States. The source of the portion of the distribution representing amounts considered to be a return of contributions by the employer is where the labor or services giving rise to the employer contributions were performed. Proposed § 1.401 (a)-50 (d) provides that the amount of the distribution representing employer contributions which is to be treated as income from sources within the United States is equal to the portion of the distribution representing employer contributions multiplied by the ratio of the number of days of performance of labor or services within the United States for the employer to the total days of performance of labor or services for the employer. For that purpose, days of performance of labor or services within the United States does not include any time for which compensation was earned that was deemed not to be from sources within the United States under section 891(a)(3) of the Code. No part of the remaining portion of a distribution, that is, no part of the portion of the distribution other than that considered to be a return of employer contributions, is to be treated as income from sources within the United States. The remaining portion of this distribution represents employee contributions which have either already been taxed or would not have been subject to United States tax and therefore should not be treated as income from sources within the United States, and earnings on and accretions to employer and employee contributions, the source of which is the situs of the electing trust, Puerto Rico. A distribution to a non-resident alien that is within the section 871(f) rules for amounts received as an annuity will continue to be subject to that section.

Distributions from a qualified trust to participants and beneficiaries resident in the United States remain subject to.
the normal rules applicable to residents of the United States.

Comments and Requests for a Public Hearing

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

Regulatory Flexibility Act

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

Drafting Information

The principal author of these proposed regulations is Eric A. Raps of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

PART 1—INCOME TAX, TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph 1. Section 1.401(a)-50 is added immediately after § 1.401(a)-19 to read as follows:

§ 1.401(a)-50 Puerto Rican trusts: election to be treated as a domestic trust.

(a) In general. Section 401(a) requires, among other things, that a trust forming part of a pension, profit-sharing, or stock bonus plan must be created or organized in the United States to be a qualified trust. Proposed § 1.401(a)-50 of the Employee Retirement Income Security Act of 1974 (ERISA) (88 Stat. 942) provides that trusts under certain pension, etc., plans created or organized in Puerto Rico whose administrators have made the election referred to in section 1022(f)(2) are to be treated as trusts created or organized in the United States for purposes of section 401(a). Thus, if a plan otherwise satisfies the qualification requirements of section 401(a), any trust forming part of the plan for which an election is made will be treated as a qualified trust under that section.

(b) Manner and effect of election. A plan administrator may make an election under ERISA section 1022(f)(2) by filing a statement making the election, along with a copy of the plan, with the Director's Representative, Internal Revenue Service, Federal Building, Hato Rey, Puerto Rico 00917. The statement making the election must indicate that it is being made under ERISA section 1022(f)(2). The statement may also be filed in conjunction with a written request for a determination letter. If the election is made with a written request for a determination letter, the election may be conditioned upon issuance of a favorable determination letter and will be irrevocable upon issuance of such letter. Otherwise, once made, an election is irrevocable. It is generally effective for plan years beginning after the date it has been made. However, an election made before [90 days after date on which final regulations are published in the Federal Register] may, at the option of the plan administrator at the time he or she makes the election, be conditioned to have been made on any date between September 2, 1974, and the actual date of the election. The election will then be effective for plan years beginning on or after the date chosen by the plan administrator.

(c) Annuities, custodial accounts, etc. See section 401(f) for rules relating to the treatment of certain annuities, custodial accounts or other contracts, as trusts for purposes of section 401(a).

(d) Source of plan distributions to participants and beneficiaries residing outside the United States. Except as provided under section 671(f) (relating to amounts received as an annuity by nonresident aliens), the amount of a distribution from an electing plan that is to be treated as income from sources within the United States is determined as described below. The portion of the distribution considered to be a return of employer contributions is to be treated as income from sources within the United States in an amount equal to the portion of the distribution considered to be a return of employer contributions multiplied by the following fraction:

\[
\frac{\text{days of performance of labor or services within the United States for the employer.}}{\text{total days of performance of labor or services for the employer.}}
\]

The days of performance of labor or services within the United States shall not include the time period for which the employee's compensation is deemed not to be income from sources within the United States under subtitle A of the Code. Thus, for example, if an employee's compensation was not deemed to be income from sources within the United States under section 861(a)(3), then the time the employee resided in the United States earning that compensation would not be included in determining the days of performance of labor or services within the United States in the numerator of the above fraction. The remaining portion of the distribution, that is, any amount other than the portion of the distribution considered to be a return of employer contributions, is not be treated as income from sources within the United States. For example, if a distribution consists of amounts representing employer contributions, employee contributions, and earnings on employer and employee contributions, no part of the portion of the distribution attributable to employee contributions, or earnings on employer and employee contributions, will be treated as income from sources within the United States.

Par. 2. A new paragraph (c) is added to § 1.501(a)-1 to read as follows:

§ 1.501(a)-1 Exemption from taxation.

(c) Certain Puerto Rican pension, etc., trust. Effective for taxable years beginning after December 31, 1973, section 1022(f)(1) of the Employee Retirement Income Security Act of 1974 (ERISA) (88 Stat. 942) provides that trusts under certain Puerto Rican pension, etc., plans (as defined under P.R. Laws Ann. tit. 13, section 3168, and the articles thereunder), all of the participants of which are residents of the Commonwealth of Puerto Rico, are to be treated only for purposes of section 501(a) as trusts described in section 401(a). The practical effect of section 1022(f)(1) is to exempt these trusts from U.S. income tax on income from their U.S. investment. For purposes of section 1022(f)(1), the term "residents of the Commonwealth of Puerto Rico" includes persons who perform labor or services primarily within the Commonwealth of Puerto Rico, regardless of residence for other purposes, and the term "participants" is restricted to current employees who are...
not excluded under the eligibility provisions of the plan.

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.
November 11, 1981.

[FR Doc. 81-33080 Filed 11-16-81; 8:45 am]
BILLING CODE 4310-31-M

DEPARTMENT OF THE INTERIOR
Geological Survey

30 CFR Part 231
Operating Regulations for Exploration, Development and Production

AGENCY: Geological Survey, Interior.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking would revise the definition of "mining supervisor" and amend the section on "enforcement of orders" the action is being taken to clarify the meaning of these regulations. The intended effect of this action is to make it clear how these regulations will apply in practice.

DATE: Comments must be received by December 17, 1981.

ADDRESS: Comments may be mailed to Charles L. Sours, Chief, Branch of Onshore Rules and Procedures, Conservation Division, U.S. Geological Survey, National Center, Mail Stop 650, Reston, Virginia 22092.

FOR FURTHER INFORMATION CONTACT: Walter Lewiecki (703) 860-7506, FTS 928-6259, or Cecil Feeeny (703) 860-6259.

SUPPLEMENTARY INFORMATION: The principal authors of this proposed rulemaking are Walter Lewiecki, Branch of Onshore Resources Management, and Cecil Feeeny, Branch of Rules and Procedures, both in the Office of Onshore Resources Management, Conservation Division, U.S. Geological Survey, Reston, Virginia.

Paragraph (c) of §231.2 which defines "mining supervisor" is proposed for revision by replacing the word "Area" with "District", and by adding the "Deputy Conservation Manager for Mining" as a supervisor who may direct the mining supervisor. Also, the note under paragraph (c) would be removed by this revision.

Paragraph (b) of §231.73 would be amended by adding one sentence at the end of the paragraph.

Paragraph (c) of §231.73 would be amended by replacing the word "suspend" with "order the suspension of" in the last sentence.

It is hereby determined that this proposed rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed

statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule and does not require a regulatory analysis under Executive Order 12291 and 43 CFR Part 14. The Department has also certified that this rulemaking will not have a significant economic impact on a substantial number of small entities, thus a small flexibility analysis is not required.

PART 231—OPERATING REGULATIONS FOR EXPLORATION, DEVELOPMENT, AND PRODUCTION

Under the authority of the Act of February 25, 1920 (30 U.S.C. 189), and the Act of April 17, 1926 (30 U.S.C. 273), it is proposed to amend Part 231, Chapter II, Title 30 of the Code of Federal Regulations as set forth below:

1. Section 231.2 is amended by revising paragraph (c) as follows. The note following paragraph (c) is removed.

§ 231.2 Definitions.

(c) Mining Supervisor. The District Mining Supervisor, Conservation Division of the Geological Survey, a representative of the Secretary, subject to the direction and supervisory authority of the Director; the Chief, Conservation Division; the Deputy Division Chief for Onshore Minerals Regulation; the appropriate Regional Conservation Manager; and Deputy Conservation Manager for Mining.

Conservation Division, Geological Survey, authorized and empowered to regulate operations and to perform other duties prescribed in the regulations in this part, or any subordinate acting under the direction of such official.

2. Section 231.73 is amended by revising paragraphs (b) and (c) to read as follows:

§ 231.73 Enforcement of orders.

(b) A notice of noncompliance shall specify in what respects the operator has failed to comply with the provisions of applicable regulations, the terms and conditions of the permit or lease, the requirements of an approved exploration or mining plan or the orders and instructions of the mining supervisor, and shall specify the action which must be taken to correct the noncompliance and the time limits within which such action must be taken. The lessee/operator shall notify the mining supervisor when noncompliance items have been corrected.

(c) If in the judgment of the mining supervisor such failure to comply with the regulations, the terms and conditions of the permit or lease, the requirements of approved exploration or mining plans, or with the mining supervisor's orders or instructions threatens immediate, serious, or irreparable damage to the environment, the mine or the deposit being mined, or other valuable mineral deposits or other resources, the mining supervisor is authorized, either in writing or orally with written confirmation, to order the suspension of operations without prior notice.

Dated: September 11, 1981.

William P. Pendley,
Acting Assistant Secretary of the Interior.

[FR Doc. 81-33080 Filed 11-16-81; 8:45 am]
BILLING CODE 4310-31-M

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 915
Permanent State Regulatory Program of Iowa

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

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is considering modifying the deadline for Iowa to meet one of the conditions of approval of its State permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Based on a request of the State, the Office is proposing to extend the deadline for the State to resolve the condition until September 1, 1982.

DATE: Comments must be received by December 17, 1981 at the address below, no later than 5:00 p.m.

ADDRESS: Written comments must be mailed or hand-delivered to: Office of Surface Mining, U.S. Department of the Interior, Room 153, South Building, 1951 Constitution Avenue NW., Washington, D.C. 20240, Administrative Record Number SPA-16.


SUPPLEMENTARY INFORMATION: Under 30 CFR 732.13(i), the Secretary may conditionally approve a State permanent regulatory program which
contains minor deficiencies where the deficiencies are of such a size and nature as to render no part of the program incomplete, the State is actively proceeding with an effort to correct the deficiencies, and the State agrees to correct the deficiencies according to a schedule set in the notice of conditional approval. The correction of each deficiency is a condition of the approval. The conditional approval terminates if proceeding with steps to correct the nature as to render no part of the approval. The correction of each deficiency, and the State agrees to correct the deficiencies according to a schedule set in the notice of conditional approval. The correction of each deficiency is a condition of the approval. The conditional approval terminates if the conditions are not met according to the schedule. The dates are established in consultation with the State based on regulatory and administrative needs of the State's permanent program, the time required for changes to be adopted under State procedures or legislative schedules, and impact on SMCRA implementation.

The Iowa program was conditionally approved on January 21, 1981 (46 FR 5686-5689). In the notice of approval, the Secretary published the schedule for Iowa to resolve each of three conditions on the approval of that State's regulatory program. In a letter to the Director, OSM, dated September 28, 1981, the Iowa Department of Soil Conservation indicated that it would like an extension for meeting condition "b," as listed at 46 FR 5689, January 2, 1981. Copies of the State's letter of request and the above-cited Federal Register notice will be available for public review during regular business hours at the location listed above under "Address." Condition "b" stipulates that the Secretary's approval of the Iowa program will terminate on January 1, 1982, unless Iowa submits to the Secretary by that date copies of fully enacted statutes resolving the conflicting provisions of the Iowa Surface Coal Mining Act and section 17A.181(3) of the Iowa Administrative Procedures Act so as to provide that cessation orders for failure to abate notices of violation shall be issued immediately, to be consistent with section 521(a)(3) of SMCRA or otherwise amends its program to accomplish the same result. Inasmuch as the Secretary specifically requests comments on whether the extension of the deadline would render the deficiency major, the final term is used under 30 CFR 722.17(j).

The Office of Management and Budget has granted OSM an exemption from Section 3, 4, 7 and 8 of Executive Order 12291. Therefore, this rule is exempt from the Determination of Effects requirements of the Executive Order. This rule is deemed not to be a major Federal action within the meaning of section 102(2)(c) of NEPA under Sections 501(a) or 702(d) of the SMCRA. It is hereby designated as a categorical exclusion from the NEPA process. Therefore, this rule is exempt from the requirements of an Environmental Assessment, EIS, or FONSI.

The primary author if this rule is Mary Tisdale, State Program Specialist, 343-5361, Division of State Assistance, Program Operations and Inspection, Office of Surface Mining.

Dated November 9, 1981.

William P. Pendley,
Acting Assistant Secretary, Energy and Minerals.

PART 915—IOWA

30 CFR 915 is proposed to be amended by revising § 915.11(b) to read as follows:

§ 915.11 Condition of State regulatory program approval.
(a) * * *
(b) The approval found in § 915.10 will terminate on September 1, 1982, unless Iowa submits to the Secretary by that date copies of fully enacted statutes resolving the conflicting provisions of the Iowa Surface Coal Mining Act and § 17A.181(3) of the Iowa Administrative Procedures Act so as to provide that cessation orders for failure to abate notices of violation shall be issued immediately, to be consistent with section 521(a)(3) of SMCRA or otherwise amends its program to accomplish the same result.

[* * *]

BILLING CODE 4310-05-M

SELECTIVE SERVICE SYSTEM

32 CFR CFR Ch. XVI

Selective Service Regulations; Revised Procedures

AGENCY: Selective Service System.

ACTION: Proposed rule.

SUMMARY: Revisions in Selective Service Regulations have been prepared with the over-riding objective of improving the procedures and increasing the fairness in their application in adjudicating the claims of men for deferment or exemption from military service as provided in the Military Selective Service Act (50 U.S.C. App. 451 et seq.), Pursuant to Executive Order 12291, Selective Service has determined that the proposed rules are not major rules as defined in Section 1(b) of Executive Order 12291 of February 17, 1981. Proposed organizational changes and administrative arrangements have been developed to facilitate fair, effective, and efficient administration of the System.

DATES: Comment date: Written comments received on or before December 17, 1981 will be considered in accord with section 13(b) of the military Selective Service Act (50 U.S.C. App. 463(b)); Effective date: Subject to the comments received, and in the absence of substantive changes, the amendments will become effective upon republication in the Federal Register not earlier than December 17, 1981.


FOR FURTHER INFORMATION CONTACT: Edward A. Franklin, Associate Director for Policy Development, Selective Service System, Washington, D.C. 20435, Phone: (202) 724-0844.

SUPPLEMENTARY INFORMATION: These amendments to the Selective Service Regulations are published pursuant to section 13(b) of the Military Selective Service Act (50 U.S.C. App. 463(b)) and Executive Order 11623. The regulations implement the Military Selective Service Act (50 U.S.C. App. 451 et seq.) as amended. An earlier draft of the amendments was published at 45 FR 60125 [December 3, 1980].

In response to the December 1980 publication, Selective Service received 144 letters commenting on the amendments. A few letters dealt solely with Alternative Service, a subject which was not included in those proposed amendments or as they are proposed at this time. Those letters were forwarded to the Alternative Service Division for consideration in the development of a set of Alternative Service regulations which will eventually be added to the amended regulations proposed at this time.

Other than the Alternative Service comment letters, each letter was reviewed, summarized, and recorded on individual summary sheets. The following comments are regarded as
significant because of their numbers or their apparent reasonableness, or both.

Regulation: Sections 1605.6, 1605.22 1609.1, 1609.2, and 1609.3. The regulations are silent as to whether or not young persons, females, and other particular minorities must be represented on each board. Federal statutes generally, and the Military Selective Service Act particularly, prohibit various forms of discrimination in making board appointments.

Comment: Youth, females, and other minority groups, should be represented on local and appeal boards. (21 comments)

Position: The regulations should remain unchanged. The Selective Service System will comply with the member qualification requirements of the Military Selective Service Act.

Basis: The Military Selective Service Act contains specific criteria for qualification and appointment of board members. Compliance with this and other existing statutory requirements is mandatory. To assure compliance, a reasonable cross-section of the community within the jurisdiction of a board will be sought when making board appointments. This effort will, by its nature, vary from state to state and board to board. Therefore, a description of the contemplated efforts should not appear in the regulations.

Regulation: Sections 1609.5 and 1609.6(a). The Director may suspend any uncompensated person from his Selective Service position, pending consideration of that person's removal from the Selective Service System. The Director may also remove any uncompensated person from a Selective Service System, at his discretion.

Comment: The authority of the Director to remove board members should be limited to removal for cause. (20 comments)

Position: The regulations should remain unchanged. The Director should continue to exercise discretion in the removal of board members.

Basis: These comments are apparently based on fear and apprehension that the Director will abuse his discretionary authority to remove board members. The primary purpose of the regulation is to permit flexible and timely action when appropriate. Incorporation of some kind of administrative process or review would seriously restrict this flexibility. The removal power given here is no greater than those in effect in prior years. To our knowledge, no abuse of this power was ever alleged. Therefore, there is no need to alter this long-standing policy.

Regulation: Sections 1621.1 and 1621.2. Failure of any person who is requested to produce written evidence of registration is evidence of his failure to register.

Comment: The requirement of production of evidence of registration should be deleted. (25 comments)

Position: The recommendations in the comments should be adopted. The requirement of evidence of registration has been deleted.

Basis: With the central data bank, there is no longer a compelling need to require a person to retain or produce proof of registration. Information about a registrant can be obtained quickly and efficiently from the Selective Service computer registration files. In the past, this regulation was sometimes abused to hold over young men who were stopped by police for other reasons. We should not maintain a regulation which allows perpetuation of this practice. Finally, the acknowledgment letter we send registrants does not inform them that the letter is the evidence of registration and should be saved. It is, therefore, unfair to require them to produce that letter.

Regulation: Section 1618.3. Lists of persons available to give advice and counsel concerning Selective Service will be posted in area offices.

Comment: Advisor lists should be posted in post offices and at local board sites. (32 comments)

Position: The regulation concerning posting of advisor lists has been modified by adding that copies of advisor lists will be sent to individuals who request them; otherwise, the regulation should remain unchanged.

Basis: The local boards will not occupy fixed locations, so posting of advisor lists at local boards is impossible. Area offices, however, will be at fixed locations and will be the places to which registrants will undoubtedly go most frequently, to obtain information concerning their status in the Selective Service System. Therefore, area offices are the best Selective Service office available for posting of the advisor lists. This conclusion is reinforced when it is realized that the lists will, no doubt, require frequent revision and updating. These functions will be performed by area office personnel. It would be very difficult to keep the lists current and properly distributed to the 34,000 post offices, or any other non-Selective Service office, even if we assume that these organizations would agree to the posting. Posting the names of advisors is a service provided by Selective Service.

We can, however, retain control and have a broader dissemination of information by sending a current list of advisors to anyone who requests such a list. The list sent will only be the current list; a mailing list of subscribers for updated lists will not be maintained. The regulation has been amended to reflect this change.

Regulation: Section 1621.1(b). The registrant must notify the System of any change in any item provided on the registration form within 10 days after the change occurs.

Comment: The failure to notify the Selective Service System of a change of a registrant's current telephone number, which subjects the registrant to severe penalties for such a slight infraction and probably oversight, should be removed from the regulation. (13 comments)

Position: The regulation has been amended to identify those specific and significant items of information on the registration form which a registrant must keep current to maintain the integrity and the effectiveness of the registration process. The change in telephone number requirement has been deleted.

Basis: The draft regulation requires a registrant to report, under penalty of law, "any change of any item of information provided for on his registration form," This is an overstatement. Failure to give notice of a change of telephone number, which is not essential and may be changed frequently, should not be a violation.

Regulation: Sections 1624.5(a) and 1633.2(b). The date on which a registrant is ordered to report for induction shall be at least 10 days after the date on which the order to report is sent.

Comment: The ten day period in which to file a claim is too short. (68 comments)

Position: The claim filing period should remain unchanged.

Basis: These sections of the regulations have not been construed accurately by the commenters. Their comments suggest that a registrant has, in all cases, only ten days from the date of the order for induction to file and document a claim for postponement or reclassification.

The regulations do not require that a claim for reclassification be filed within ten days after the order for induction is sent. The regulations give a registrant up to the day before his induction reporting date to file a claim, which induction reporting date will be at least 10 days after the date on which the order for induction is issued.

We can, however, retain control and have a broader dissemination of information by sending a current list of advisors to anyone who requests such a list. The list sent will only be the current list; a mailing list of subscribers for updated lists will not be maintained. The regulation has been amended to reflect this change.

Regulation: Section 1621.1(b). The registrant must notify the System of any change in any item provided on the registration form within 10 days after the change occurs.

Comment: The failure to notify the Selective Service System of a change of a registrant's current telephone number, which subjects the registrant to severe penalties for such a slight infraction and probably oversight, should be removed from the regulation. (13 comments)

Position: The regulation has been amended to identify those specific and significant items of information on the registration form which a registrant must keep current to maintain the integrity and the effectiveness of the registration process. The change in telephone number requirement has been deleted.

Basis: The draft regulation requires a registrant to report, under penalty of law, "any change of any item of information provided for on his registration form". This is an overstatement. Failure to give notice of a change of telephone number, which is not essential and may be changed frequently, should not be a violation.

Regulation: Sections 1624.5(a) and 1633.2(b). The date on which a registrant is ordered to report for induction shall be at least 10 days after the date on which the order to report is sent.

Comment: The ten day period in which to file a claim is too short. (68 comments)

Position: The claim filing period should remain unchanged.

Basis: These sections of the regulations have not been construed accurately by the commenters. Their comments suggest that a registrant has, in all cases, only ten days from the date of the order for induction to file and document a claim for postponement or reclassification.

The regulations do not require that a claim for reclassification be filed within ten days after the order for induction is sent. The regulations give a registrant up to the day before his induction reporting date to file a claim, which induction reporting date will be at least 10 days after the date on which the order for induction is issued.
As a practical matter, the Selective Service System cannot establish a reporting date and a concurrent claim filing period greater than 10 days at the outset of a call for mobilization. By law, the System must be responsive to the mobilization needs of the Department of Defense for manpower. These needs are framed in terms of number of inductees and time of induction. Whatever the numbers, it has already been determined that the System must provide the first inductees within 13 days after the call for mobilization. With this requirement, a reporting date and a claim filing period of more than 10 days would impair the ability to have the first inductees within the first 13 days of mobilization.

In any event, no supporting documentation needs to accompany a claim at the time of filing. In practice, the registrant will be granted additional time after filing a claim in which to submit appropriate supporting evidence. As a matter of policy, the registrant will always be granted a reasonable and adequate time in which to file his claim, and to gather and produce supporting documentation.

**Regulation: Sections 1633.2(h) and 1633.3.** A registrant cannot file a claim before he receives an order for induction. Comment: Registrants should be permitted to file claims anytime after registration, to file evidentiary support for those claims anytime after registration, and to have claims adjudicated in advance of receipt of an order for induction. (35 comments)

**Position:** The regulations should remain unchanged. Conscientious objector claimants should be required to appear personally, all other claims may appear personally, but only at their option and upon their request.

**Basis:** An essential element in the consideration of a conscientious objection claim is the sincerity of the claimant. The best and, possibly, only method for evaluating the claimant's sincerity is through a personal appearance.

**Sincerity of the claimant is not as fundamental in non-conscientious objector claims. Therefore, in many instances, such claims can be properly adjudicated without the appearance of the claimant, documentary evidence usually being sufficient. In any event, where a claimant feels the need for a more personal communication with the board, the regulations, as now published, provide ample opportunity for a registrant to request a personal appearance.**

Constitutional due process and equal protection requirements, are more than adequately met in the regulation, as now drafted. No compelling reason has been offered to justify changing the regulation.

**Regulation: Sections 1648.5(f), 1651.4(f), and 1653.3(d).** A registrant may be accompanied by an advisor during the registrant's personal appearance before the local and appeal boards. However, only the local board and the registrant will be allowed to address questions to witnesses, and only the registrant and witnesses may address the local board. The registrant may confer with his advisor before he responds to any inquiry or statement by the local or appeal board.

Comment: Advisors who appear at a board hearing with claimants should be permitted to act as spokesmen for the claimant in the same manner as attorneys representing a client in a lawsuit. Also, attorneys should be permitted to advise claimants at hearings. (22 comments)

**Position:** The regulation should remain substantially unchanged. Advisors should be permitted to advise and counsel claimants, but should not be permitted to speak for them in a true representative capacity.

**Basis:** The legislative history of the Military Selective Service Act reflects a desire by the Congress to keep the claim processing procedures informal. Congress intended that a claimant's peers and neighbors decide his claim, informally, on the basis of demonstrated sincerity and objective compliance with the statutory and regulatory criteria. The elements of sincerity, honesty and demeanor can be best, if not exclusively, demonstrated by direct personal communication between the claimant and the members of the board. Any truly representative role by an advisor, especially one who is experienced and articulate, tends to distort by amplification and distraction, the true degree of sincerity felt by the claimant.

Board hearings are not adversary proceedings. If the comment recommendations were accepted, oral expositions by advisors would be presented without opposing argument. There would be no adversary testing of the validity of offered evidence and propounded arguments. In such circumstances, an experienced and articulate advisor may, by the skill and exuberance of his interrogation and exposition, tend to cloud the issues, distract the focus from pertinent facts, confuse the board, and unduly extend the proceedings.

Furthermore, in 1971, Congress particularly considered and explicitly rejected a provision permitting legal counsel to appear before local and appeal boards. The history of this effort can be found in Conference Committee Report No. 92-433 of the 92nd Congress. This report outlines the reconciliation of differences between the House and Senate versions of the bills that eventually became the 1971 amendments to the Military Selective Service Act. The Senate included in its version, "... the right to be accompanied and advised by private counsel at a personal appearance before
a local or appeal board”. The House version did not include the right to be accompanied by private counsel. In the words of the conference report, “The conferees agree that granting the right of counsel at appearances before local and appeal boards would require an unacceptable increase in the workload of local boards, could not reasonably be instituted without the retention of an extensive legal apparatus to provide attorneys for each board, and might result in inequities to registrants giving an advantage to those whose economic status makes it easier for them to obtain counsel.” We feel that by retaining the language currently found in the regulations we can expand a registrant’s right to advice and counsel and still comply with the intent of Congress to prohibit a registrant from being “represented” by counsel.

**Regulation: Sections 1651.2 and 1653.1(b).** A registrant must file an appeal with his local board within 10 days after the date he is mailed notice of a classification action.

**Comment:** The 10-day restriction on the time in which to file an appeal is too short. (16 comments)

**Position:** The time for filing an appeal has been changed to 15 days.

**Basis:** Historically, registrants were given 15 days to file an appeal, which proved sufficient. Absent some compelling reason to shorten that time to 10 days, the 15-day limit should be continued.

**Regulation: Section 1648.5 (c) and (d).** A summary of the oral testimony at a personal appearance shall be made and placed in the registrant’s file. The registrant may also summarize the testimony and his summary shall be placed in his file.

**Comment:** Verbatim transcripts of board hearings should be prepared and made available to claimants. In any event, a claimant should be permitted to record the testimony and proceedings at any hearing at which he personally appears. (33 comments)

**Position:** In substance, the regulation should remain unchanged.

**Basis:** The cited regulation deals only with the authority of compensated personnel to act on administrative classifications. It is conceded that military personnel shall not be local or appeal board members at any time. Under current regulations, a final denial of any classification claim may be made only by a civilian board. Administrative classifications claims are, in the first instance, decided by compensated personnel. During the early part of mobilization, many compensated personnel will be military. This is required, however, by the needs of mobilization for pre-trained people. Military compensated personnel will be the only available pre-trained people. All claim decisions are reviewable as a matter of right by civilian boards. Therefore, the policy of keeping all matters of right by civilian boards. Therefore, the policy of keeping administrative proceedings indicates that hearings may be closed for the benefit of a witness or party.

**Regulation: Section 1653.1.** No appeal may be taken by a registrant to the National Appeal Board from a unanimous classification decision of a District Appeal Board. The Director, however, may take an appeal from a District Appeal Board, even if it is not unanimous.

**Comment:** Appeals to the National Appeal Board should be heard even if the decision of the District Appeal Board is unanimous. (6 comments)

**Position:** The regulation has been changed so that the registrant and the Director, both, are limited to appeals
Boards.

**Basis:** A decision of a local board which has resulted in a split decision by the District Appeal Board suggests that the appealing party may have a reasonable basis for the appeal. The suggestion of merit is weaker if the District Appeal Board rendered a unanimous decision to deny the claim. Therefore, in an effort to maintain the expeditious informal proceeding intended by Congress, the limitation on appeals to the National Appeal Board should be retained.

In addition to the observation made in the comments, there is no apparent reason for the Director to operate under a different and preferential standard for filing an appeal.

### Additional Comments

The following comments were each made by only one person and, in our judgment, were more obviously resolvable than the preceding comments. Therefore, the basis for our position is contained in the position statement.

**Regulation: Section 1642.3(a)(1) and (3).** Reclassification of a registrant based upon hardship to a spouse is limited to a case of hardship only if the spouse is a wife.

**Comment:** Class 3-A, Hardship Deferral, should be expanded to include couples who have "alternative living styles" and, though not married, have the same responsibilities to each other as married couples.

**Position:** The regulation should remain unchanged. The suggested change would be virtually impossible to implement and would create a monumental occasion for abuse of the classification.

**Regulation: Section 1665.6.** Members of the National Appeal Board are appointed and removed by the President, at his discretion.

**Comment:** National Appeal Board members should serve 7-year terms and the board should have a balance of Republican and Democratic members appointed.

**Position:** The regulation should remain unchanged. The function of the board is not political in nature. Party credentials have no relation to the proper exercise of the duties and responsibilities of the board.

**Regulation: Section 1618.3.** The regulations are silent as to whether or not lists of the AFEES locations should be posted anywhere.

**Comment:** Lists of all the AFEES should be posted in all the post offices, and shown in all telephone directories.

**Position:** The regulation should remain unchanged. AFEES are elements of the Department of Defense. Lists of their locations are available at recruiting stations and will be available at Area Offices. There is no additional need to post the locations in Post Offices.

**Regulation: Section 1638.10.** The regulations are silent as to whether or not an inductee has any choice of military occupation upon induction.

**Comment:** Inductees should be permitted to select the branch of service and military occupational specialty based upon their education, aptitude, and background.

**Position:** The regulation should remain unchanged. The Department of Defense has exclusive control over the branch of service and the military occupational specialty to which an inductee will be assigned.

**Regulation: Section 1638.6(b).** Board members may not reject beliefs of conscientious objection claimants because they find them incomprehensible or inconsistent with their own beliefs.

**Comment:** A conscientious objection claim based on religious, moral or ethical beliefs must be presented in a manner which permits the board to understand the religious, moral or ethical basis. The word "incomprehensible" in the paragraph (f) of § 1636.6 should be stricken.

**Position:** The regulation should remain unchanged. The conscientious objection claim must be based on a sincere objection to participation in war in any form. Whether or not the board fully understands the "religious, moral, or ethical" background of the registrant's basis is not essential to determining whether or not the registrant is sincere and whether his objection is to participation in war in any form.

**Regulation: Section 1636.8.** The regulations do not require a conscientious objector claimant to take any specific unilateral and affirmative action or course of conduct prior to reclassification as a conscientious objector.

**Comment:** Conscientious objection claimants should be required to demonstrate that they would rather go to jail than go into the military.

**Position:** The regulation should remain unchanged. The suggested requirement is contrary to statute and case law and would be unconscionable in effect.

**Regulation: Section 1633.2(h) and (j).** All claims for reclassification must be filed no later than the day before the day the registrant is scheduled to report for induction; except, that a claim can be filed on the day scheduled for induction, if the basis for the claim occurred on the scheduled day, and the registrant had no control over the situation.

**Comment:** Claims should be allowed to be filed up to the last induction reporting date whether or not there is some reason beyond the registrant's control for not filing the claim before the first induction reporting date.

**Position:** The regulation should remain unchanged. The time frames within which a claim may be filed are adequate, even if strictly enforced. As a matter of fact, the time frames are characterized in minimum time frames and will be liberally construed to allow a registrant as much time as practicable in which to file a claim. There appears no compelling reason to change the time frames at this time.

**Regulation: Section 1653.3(b).** Only the registrant may address the National Appeal Board at a personal appearance hearing.

**Comment:** Because the National Appeal Board will not be conveniently located, a personal representative should be permitted to appear before the board in lieu of the registrant.

**Position:** The regulation should remain unchanged. The reasons against personal representatives appearing at National Appeal Board hearings are substantially the same as the reason previously stated concerning such appearances before the local and district appeal boards. (See discussion of Position and Basis concerning § 1648.5(f) et al. in this report).

**Regulation: Section 1618.3.** Advisor lists are to be posted at each area office.

**Comment:** Advisor lists should not be published, posted, or circulated by the Selective Service System. The lists encourage resistance, circumvention, delay and disruption of the induction process.

**Position:** The regulation should remain unchanged. Registrants are entitled to knowledgeable advice and assistance in the reclassification process. This regulation is simply an attempt to insure that the registrants who wish assistance can find it in a timely fashion.

**Regulation: Section 1642.3(a)(1).** The regulations are generally silent as to what standard of proof should be applied to establish a registrant’s claim for reclassification. Proof “beyond a reasonable doubt” or “by a clear preponderance of evidence” or any other standard frequently applied in judicial and administrative proceedings is not prescribed by the regulations. Proof must be convincing and to the satisfaction of the board. However,
there was one reference in the regulations to proof in support of a claim. The regulations refer to the qualitative character of evidence in claims based on a wife’s hardship. Previously, §1642.3(d) required that any “reasonable doubt” should be resolved in favor of the registrant.

Comment: Registrants should be required to prove claims “beyond a reasonable doubt.”

Position: The regulation should remain substantially unchanged. No particular standard of proof is established in the regulations, other than “to the satisfaction of the board.” Since the personal appearance is not an adversary proceeding, specific levels of proof are not appropriate. The claimant must establish his claim to the satisfaction of the board and if the board is not satisfied, it must specify its reason for denial. This is true for all claims. Therefore, §1642.3(d) has been deleted to remove the “reasonable doubt” language with respect to hardship claims.

Regulation: Section 1630. The regulations should be able to present witnesses at local and appeal boards as evidence.

Comment: The regulations should remain unchanged. The requirement would be impractical. Not every claim can be or needs to be supported with documents.

Regulation: Section 1630. The regulations should be consistent with the written statements he has made, and should generally substantiate the other information he offers. Inconsistencies may be the basis for denial of a claim.

Comment: The regulations should remain unchanged. Nothing in the regulation precludes the use of prior statements as evidence.

Regulation: Part 1630. The regulations are silent as to publication, indexing and centralized maintenance of board decision in any library or other public reference and research facilities.

Comment: The regulations should remain unchanged. Such a requirement would destroy the informal, administrative nature of the board proceeding.

Regulation: Section 1602.14. Class 2-D, study for ministry, is a judgmental classification. Class 2-M study for medical specialty, is an administrative classification.

Comment: The regulations should be consistent with the satisfaction of the board. Since the personal appearance is not an adversary proceeding, specific levels of proof are not appropriate. The claimant must establish his claim to the satisfaction of the board and if the board is not satisfied, it must specify its reason for denial. This is true for all claims. Therefore, §1642.3(d) has been deleted to remove the “reasonable doubt” language with respect to hardship claims.

Position: The comment is correct. Class 2-M has been removed from the regulations.

Regulation: Part 1630. The regulations do not provide for occupational deferments.

Comment: The comment is correct. Class 2-M has been removed from the regulations.

Statutory Comments

Some letters contained comments relating to matters which appear in the regulations only as a reiteration of some provisions of the Military Selective Service Act. Changes concerning those matters would require statutory amendment. Thus, they are beyond the power of Service to change.

For purposes of information and comprehensiveness of this report, the following are summaries of the comments which would require statutory amendments.

MSSA: Section 6(g)(1). Provides for the exemption of only ministers who preach and teach the principles of religion regularly, not incidentally.

Comment: The exemption of ministers should relate to “bona fide” ministers, rather than “full time” ministers who preach and teach the principles of religion of a church.

MSSA: Section 6(g). Provides for exemption of only ministers who preach and teach.

Comment: The exemption of ministers and the deferment of ministry students violates the first amendment of the United States Constitution concerning separation of church and state.

MSSA: Section 6(1). Provides for postponement of induction of certain students in high school, in college, in a university or in similar institutions of learning.

Comment: Postponement of induction of students is discriminatory against military industrial trainees.

MSSA: Sections 6(g)(1) and 16(g)(3). Provides for exemption of only ministers who preach and teach.

Comment: Ministers who do not regularly preach and teach religion should also be exempt from military service.

MSSA: 10(b)(3). Provides that only U.S. citizens may be board members.

Comment: Aliens should be permitted to sit on local and appeal boards as members since they are liable to conscription and are entitled to equal representation in the composition of the boards.

Significant Additions and Deletions Not Suggested by the Comments

Regulation: Sections 1651.4(f) and 1653.3(h). A registrant will not be allowed to present witnesses at
personal appearance proceedings before the appeal boards. However, the registrant will be permitted to appear, to testify and to present documentary evidence (testimonial or otherwise) to the appeal boards.

Basis: Historically, registrants appearing before appeal boards have not been permitted to present witnesses. The language and legislative history of Section 22 of the Military Selective Service Act, added in 1971, clearly indicate that Congress intended to permit personal appearances but not witnesses before appeal boards. The floor debates recorded in 117 Cong. Rec. 20502, 03, 08, 14, 1971 and 21954 and 21954 (1972) reflect the legislative history of Section 22 of the MSSA concerning witness at appeal proceedings.

Regulation: Sections 1630.15; 1633.6 and 1633.7(c). Class I-H which had been proposed to be deleted in the draft of the regulations published in 45 FR 80125-80150 on December 3, 1980, has been retained in this version.

The prior practice of classifying individuals not currently subject to induction.

Thomas K. Turnage, Director.
November 12, 1981.

The proposed amendments follow: 32 CFR Chapter XVI is amended by revising Parts 1602, 1609, 1621, 1624, 1627, 1630, 1633, 1636, 1639, and adding Parts 1605, 1618, 1642, 1645, 1648, 1651, 1653, and 1659 to read as follows:

PART 1602—DEFINITIONS

§ 1602.1 Definitions to govern.
The definitions contained in section 10 of the Military Selective Service Act, and the definitions contained in this part shall govern in the interpretation of the regulations of this chapter.

§ 1602.2 Administrative classification.
A reclassification action relating to a registrant's claim for Class 1-C, 1-D-D, 1-D-E, 1-H, 1-W, 4-A, 4-B, 4-C, 4-F, 4-G, 4-T, or 4-W.

§ 1602.3 AFEES.
An Armed Forces Examining and Entrance Station is a military installation to which registrants are ordered to report for examination or induction.

§ 1602.4 Aliens and nationals.
(a) The term “alien” means any person who is not a citizen or national of the United States.
(b) The term “national of the United States” means:
(1) A citizen of the United States,
(2) A person, though not a citizen of the United States, who owes allegiance to the United States.

§ 1602.5 Area office.
The Selective Service Office which is responsible for all administrative and operational support for the one or more local boards within its jurisdiction.

§ 1602.6 Area office staff.
The compensated employees, civilian and military, of the Selective Service System employed in an area office will be referred to as the area office staff.

§ 1602.7 Board.
The word “board” when used alone, unless the context otherwise indicates, includes a local board, district appeal board, and the National Appeal Board and panels thereof.

§ 1602.8 Classification.
Classification is the exercise of the power to determine claims or questions with respect to inclusion for or exemption or deferment from training and service under Selective Service Law.

§ 1602.9 Classifying authority.
The term “classifying authority” refers to any official or board who is authorized in section 1633.1 to classify a registrant.

§ 1602.10 Computation of time.
Unless otherwise specified the period of days allowed a registrant or other person to perform any act or duty required of him shall be counted as beginning on the day following that on which the notice is posted or mailed.

§ 1602.11 County.
The word “county” includes, where applicable, counties, independent cities, and similar subdivisions, such as the independent cities of Virginia and the parishes of Louisiana.

§ 1602.12 District appeal board.
A district appeal board or a panel thereof of the Selective Service System is a group of not less than three civilian members appointed by the President to classify registrants in accord with the provisions of Part 1651 of this chapter.

§ 1602.13 Governor.
The word “Governor” includes, where applicable, either the Governor of each of the States of the United States, the Mayor of the District of Columbia, the Governor of Puerto Rico, the Governor of the Virgin Islands, or the Governor of Guam.

§ 1602.14 Judgmental classification.
A classification action relating to a registrant’s claim for Class 1-A-O, 1-B, 1-D, 2-D, 3-A, or 4-D.

§ 1602.15 Local board.
A local board or a panel thereof of the Selective Service System is a group of not less than three civilian members appointed by the President after nomination by the governors to classify registrants in accord with the provisions of Part 1643 of this chapter.

§ 1602.16 Local board of jurisdiction.
The local board of jurisdiction is the local board to which the registrant is assigned by the Director of Selective Service.

§ 1602.17 Military service.
The term “Military service” includes service in the Army, the Navy, the Air Force, the Marine corps, and the Coast Guard.

§ 1602.18 National appeal board.
The National Appeal Board or a panel thereof of the Selective Service System is a group of not less than three civilian members appointed by the President to classify registrants in accord with the provisions of Part 1653 of this chapter.

§ 1602.19 Numbers.
Cardinal numbers may be expressed by arabic or roman symbols.

§ 1602.20 Registrant.
A “registrant” is a person registered under the Selective Service Law.

§ 1602.21 Selective Service Law.
The term “Selective Service Law” includes the Military Selective Service Act, all rules and regulations issued
The Director of Selective Service shall designate one member of each panel as chairman. A majority of the members of a panel shall constitute a quorum for the transaction of business, and a majority of the members present at any meeting at which a quorum is present shall decide any question. Each panel of the National Board shall have full authority to act on all cases assigned to it. The National Board or a panel thereof shall hold meetings in Washington, D.C., and, upon request of the Director of Selective Service or as determined by the chairman of the National Board, at any other place.

(b) The National Board or panel thereof shall classify each registrant who appeals to the President under Part 1653 of this chapter.

(c) No member of the National Board shall act on the case of a registrant who is the member's first cousin or closer relation, either by blood, marriage, or adoption, or who is the member's employer, fellow employee, or stands in the relationship of superior or subordinate of the member in connection with any employment, or is a partner or close business associate of the member, or is a fellow member or employee of the National Board. A member of the National Board must disqualify himself in any matter in which he would be restricted for any reason in making an impartial decision. Whenever a quorum of the National Board cannot act on the case of a registrant, and there is no panel of the National Board to which the case may be transferred, the decision of the District Appeal Board will be final.

(d) The National Board shall in all respects be independent of the Director of Selective Service, except that the director of Selective Service shall provide for the payment of the compensation and expenses of the members of the National Board, shall furnish that board and its panels necessary personnel, suitable office space, necessary facilities and services. The Director of Selective Service and the chairman of the National Board shall furnish to each other such information, advice, and assistance, as will further the attainment of the objectives of the Military Selective Service Act, and promote the effective administration of the Act.

(e) Each member of the National Board shall:

(1) Devote so much time to the affairs of the National Board as its responsibilities may require; and,

(2) Be compensated as provided in paragraph (f) of this section; and,

(3) While on the business of the National Board away from his home or
regular place of business, receive actual travel expenses and per diem in lieu of subsistence, in accordance with rates established by Federal Travel Regulations.

(f) The compensation of each member of the National Board shall be governed by the following:

(1) The member shall be compensated at an hourly rate for such time as is actually spent by him in the work of the National Board or a panel thereof without limitation as to the number of hours compensable in any one day; and,

(2) The member shall be compensated at an hourly rate for travel time away from his home or regular place of business while enroute to or from any meeting of the National Board, or while otherwise traveling on business of the National Board, but the compensable time for any trip to or from any such meeting or other business, shall be limited to 8 hours; and,

(3) Duties performed on a Saturday, Sunday, or holiday, shall be compensable as if performed or occurring on any other day of the week; and,

(4) The compensation shall be in accord with the provisions of section 5332 of Title 5, United States Code; and,

(5) The compensable hours per week, Sunday through the following Saturday, shall not exceed 40 hours, and the compensation in any pay period shall not exceed one twenty-sixth (1/26) of the governing annual rate of compensation.

Region Administration

§ 1605.7 Region manager.

(a) Subject to the direction and control of the Director of Selective Service, the Region Manager of Selective Service for each Region shall be in immediate charge of the Region Headquarters and shall be responsible for carrying out the region functions of the Selective Service System in the various states assigned to the region.

(b) The Region Manager will perform such duties as are prescribed by the Director of Selective Service.

§ 1605.8 Staff of region headquarters for Selective Service.

(a) Subject to applicable law, and within the limits of available funds, the staff of each region for Selective Service shall consist of as many officers, either military or civilian, as shall be authorized by the Director of Selective Service.

(b) In accordance with limitations imposed by the Director of Selective Service, the Region Manager is authorized to appoint such civilian personnel as he considers are required in the operation of the Region Headquarters.

State Administration

§ 1605.11 Governor.

The Governor is authorized to recommend a person to be appointed by the President as State Director of Selective Service for his State, who shall represent the Governor in all Selective Service matters.

§ 1605.12 State Director of Selective Service.

(a) The State Director of Selective Service for each State, subject to the direction and control of the Director of Selective Service, shall be in immediate charge of the State Headquarters for Selective Service in his State. The State Headquarters for Selective Service shall be an office of record for Selective Service operations only, and no records other than Selective Service records shall be maintained in such office.

(b) The State Director of Selective Service will perform such duties as are prescribed by the Director of Selective Service.

§ 1605.13 Staff of State Headquarters for Selective Service.

(a) Subject to applicable law and within the limits of available funds, the staff of each State Headquarters for Selective Service shall consist of as many officers, either military or civilian, as shall be authorized by the Director of Selective Service.

(b) In accordance with limitations imposed by the Director of Selective Service, the State Director of Selective Service is authorized to appoint such civilian personnel as he considers are required in the operation of the State Headquarters for Selective Service.

§ 1605.14 State Director of Selective Service for New York City.

The Governor of the State of New York is authorized to recommend a person to be appointed by the President as State Director of Selective Service for New York City, who shall represent the Governor in all Selective Service matters within the City of New York. Subject to the direction and control of the Director of Selective Service, the State Director of Selective Service for New York City shall be in immediate charge of the State Headquarters for Selective Service for New York City and shall perform such duties as are prescribed by the Director of Selective Service. The State Director of Selective Service for the State of New York shall have no jurisdiction in Selective Service matters within the City of New York. The State Headquarters of Selective Service for New York City shall be an office of record for Selective Service operations only, and no records other than Selective Service records shall be maintained in such office.

District Appeal Boards

§ 1605.21 Area.

The Director of Selective Service shall establish one or more district appeal boards in each of the Federal Judicial Districts in the several states of the United States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

§ 1605.22 Composition and appointment of district appeal boards.

The Director of Selective Service will prescribe the number of members for the district appeal boards. The President shall appoint members of district appeal boards from among citizens of the United States who are residents of the area for which the respective boards have jurisdiction. The Director of Selective Service shall furnish necessary personnel, suitable office space, facilities and services to support each district appeal board.

§ 1605.23 Designation.

The Director of Selective Service shall assign each district appeal board within a Federal Judicial District a specific identification by which it shall be known. If a district appeal board consists of more than one panel, each panel shall have a specific identifying number. Such numbers shall be assigned in numerical sequence beginning with numeral 1.

§ 1605.24 Jurisdiction.

The district appeal board shall have jurisdiction to review and to affirm or change any local board decision appealed to it when:

(a) An appeal is submitted by a registrant from a local board in its area; or

(b) An appeal is submitted to it from a local board not in the appeal board area by a registrant whose principal place of employment or residence is located within the jurisdiction of the appeal board; or

(c) An appeal is submitted or transferred to it by the Director of Selective Service to assure the fair and equitable administration of the law.

§ 1605.25 Disqualification.

(a) No member of a district appeal board shall act on the case of a registrant who is the member's first cousin or closer relation, either by blood, marriage, or adoption, or who is...
the member's employer, employee, or fellow employee, or stands in the relationship of superior or subordinate of the member in connection with any employment, or is a partner or close business associate of the member, or is a fellow member or employee of the board.

(b) A member of a district appeal board must disqualify himself in any matter in which he would be restricted for any reason in making an impartial decision.

(c) Whenever a quorum of the district appeal board cannot act on the case of a registrant, and there is no panel of the district appeal board to which the case may be transferred, the district appeal board shall transmit such case to the Director of Selective Service for transfer to another district appeal board.

§ 1605.26 Organization and meetings.

Each district appeal board, or panel thereof, shall elect a chairman and a vice-chairman at least every two years. A majority of the members present at any meeting shall constitute a quorum for the transaction of business. A majority of the members present at any meeting at which a quorum is present shall decide any question. Every member, unless disqualified, shall vote on every question or classification. In case of a tie vote on a question or classification, the board shall postpone action until the next meeting. If the question or classification remains unresolved at the next meeting, the file will be transferred for classification in accord with §1605.25(c) of this chapter. If any member is absent so long as to hamper the work of the board, the chairman, a member of the board, or by any compensated employee of the Selective Service shall report that fact to the Director of Selective Service.

§ 1605.27 Minutes of meetings.

A Selective Service compensated employee will keep the minutes of each appeal board meeting. In the absence of a compensated employee the minutes will be kept by an appeal board member.

§ 1605.28 Signing official papers.

Official documents issued and minutes of meetings maintained by a district appeal board may be signed by any member of the board, or by any compensated employee of the Selective Service System authorized to perform administrative duties for the board, except when otherwise prescribed by the Director of Selective Service.

Local Boards

§ 1605.51 Local board areas.

(a) The Director of Selective Service shall divide each State into local board areas and establish local boards. There shall be at least one local board in each county except where the Director of Selective Service establishes an intercounty board. When more than one local board is established with the same geographical jurisdiction, registrants residing in that area will be assigned among the boards as prescribed by the Director of Selective Service. The Director of Selective Service may establish panels of local boards.

(b) There will be created and established foreign local boards which shall consist of three or more members each and shall be located at points designated by the Director. Such local boards shall be local boards of jurisdiction for registrants whose permanent address is not within a state, territory or possession of the United States.

§ 1605.52 Composition of local boards.

The Director of Selective Service shall prescribe the number of members of local boards.

§ 1605.53 Designation.

The Director of Selective Service shall assign each local board within a State a specific identifying number by which it shall be known. Such identifying numbers shall be assigned in numerical sequence beginning with the numeral 1.

§ 1605.55 Disqualification.

(a) No member of a local board shall act on the case of a registrant who is the member's first cousin or closer relation, either by blood, marriage, or adoption, or who is the member's employer, employee, or fellow employee, or stands in the relationship of superior or subordinate of the member in connection with any employment, or is a partner or close business associate of the member, or a fellow member or employee of the area office.

(b) A member of the local board must disqualify himself in any matter in which he would be restricted, for any reason, in making an impartial decision.

(c) Whenever a quorum of a local board cannot act on the case of a registrant, the area office supervisor shall cause such case to be transferred to another board within the area office. In those instances where only one board exists in an area office, the case should be transmitted to the nearest area office for transfer to a board under its jurisdiction.

§ 1065.56 Organization and meetings.

Each local board shall elect a chairman and vice-chairman at least every two years. A majority of the membership of the board shall constitute a quorum for the transaction of business. A majority of the members present at any meeting at which a quorum is present shall decide any question or classification. Every member present, unless disqualified, shall vote on every question or classification. In case of a tie vote on any question or classification, the board shall postpone action on the question or classification until it can be decided by a majority vote at the next meeting. If the question or classification remains unresolved at the next meeting, the file will be transferred for classification in accord with §1605.55(c) of this chapter. If any member is absent so long as to hamper the work of the board, the chairman, a member of the board, or a Selective Service compensated employee shall report that fact to the Director of Selective Service and appropriate action shall be taken. If through death, resignation, or other cause, the membership of a board falls below the prescribed number, it shall continue to function provided a quorum of the prescribed membership is present at each official meeting.

§ 1065.58 Minutes of meetings.

A compensated employee of the appropriate area office will keep the minutes of each meeting of a local board. In the absence of a compensated employee the minutes will be kept by a board member.

§ 1065.59 Signing official papers.

Official papers issued by a local board may be signed by any member of the board or compensated employee of the area office, or any compensated employee of the Selective Service System whose official duties require him to perform administrative duties at the area office except when otherwise prescribed by the Director of Selective Service.

Area Office Administration

§ 1065.60 Area.

(a) The Director of Selective Service shall prescribe the number of area offices to be established and shall define the boundaries thereof.
§ 1609.1 Uncompensated positions.

Members of local boards, members of district appeal boards, and all other persons volunteering their services to assist in the administration of the Selective Service Law shall be uncompensated. No person serving without compensation shall accept remuneration from any source for services rendered in connection with Selective Service matters.

§ 1609.2 Citizenship.

No person shall be appointed to any uncompensated position in the Selective Service System who is not a citizen of the United States.

§ 1609.3 Eligibility.

(a) The President, upon the recommendation of the respective Governors, will consider for appointment as a member of a local board, any person who:

1. Is within the age limitations prescribed by the Military Selective Service Act and could serve for a minimum of five years; and
2. Is a citizen of the United States; and
3. Is a resident of the county in which the local board has jurisdiction; and
4. Is not an active member of the Armed Services or any reserve component thereof, or retired member; and
5. Has not served as a member of a Selective Service board for a period of more than 20 years; and
6. Is able to perform such duties as necessary during standby status; and
7. Is able to devote sufficient time to board affairs; and
8. Is willing to fairly and uniformly apply Selective Service Law.

(b) The President, upon the recommendation of the Director of Selective Service, will consider for appointment as a member of a district appeal board any person who:

1. Is within the age limits prescribed by the Military Selective Service Act and could serve for a minimum of five years; and
2. Is a citizen of the United States; and
3. Is a resident of the Federal Judicial District over which the district appeal board has jurisdiction; and
4. Is not an active member of the Armed Services or any reserve component thereof, or retired member; and
5. Has not served as a member of a Selective Service board for a period of more than 20 years; and
6. Is able to perform such duties as necessary during standby status; and
7. Is able to devote sufficient time to the district appeal board affairs; and
8. Is willing to fairly and uniformly apply Selective Service Law.

The President shall appoint members of the National Appeal Board from among citizens of the United States who:

1. Are within the age limitations applicable to all appeal boards as prescribed by the Military Selective Service Act; and
2. Are not active members of the Armed Services or any reserve component thereof, or retired members; and
3. Have not served as a member of the National Board for a period of more than five years; and
4. Are able to perform such duties as necessary during standby status; and
5. Are able to devote sufficient time to board affairs; and
6. Are willing to fairly and uniformly apply Selective Service Law.

§ 1609.4 Oath of office.

Every person who undertakes to render voluntary uncompensated service in the administration of the Selective Service Law shall execute an Oath of Office and Waiver of Pay before he enters upon his duties.

§ 1609.5 Suspension.

The Director of Selective Service may suspend from duty any uncompensated person engaged in the administration of the Selective Service Law pending his consideration of the advisability of removing such person.

§ 1609.6 Removal.

(a) The director of Selective Service may remove any uncompensated person engaged in the administration of the Selective Service Law.

(b) The Governor may recommend to the Director of Selective Service the removal, for cause, of the State Director or any uncompensated person engaged in the administration of the Selective Service Law in his State. The Director of Selective Service shall make such investigation of the Governor's recommendations he deems necessary, and upon completion of his investigation, he shall take such action as he deems proper.

§ 1609.7 Use of information.

Any information or records obtained by compensated or uncompensated personnel during the performance of their official duties, including proceedings before the boards, shall be restricted to official use by the personnel of the Selective Service System except as specifically authorized by law.

PART 1618—NOTICE TO REGISTRANTS

Sec.
1618.1 Waiver of right or privilege.
1618.2 Filing of documents.
1618.3 Listing of advisors to registrants.
1618.4 Transmission of orders and other official papers to registrants.


§ 1618.1 Waiver of right or privilege.

If a registrant fails to claim and exercise any right or privilege within the required time, he shall be deemed to have waived the right or privilege unless the Director of Selective Service, for good cause, waives the time limit.

§ 1618.2 Filing documents.

A document other than a registration card received by an element of the Selective Service System will be considered to have been filed on the
date that it is received; Provided, That a document that is received which was transmitted by the United States Postal Service (USPS) and was enclosed in a cover that bears a legible USPS postmark date will be deemed to have been received on that date.

§ 1618.3 Listing of advisors to registrants.
The Director of Selective Service will post in the area office the name, address, and telephone number of any person, upon his request, who desires to advise registrants of their rights under Selective Service Law. Posting of a name is not an endorsement by the Director concerning the competence of the person whose name is posted, nor of the assurance of the accuracy of the information that he or she will furnish. Those persons who have indicated a willingness to provide advice without monetary compensation will be identified. Upon written request, the area office will furnish a copy of the list to any registrant.

§ 1618.4 Transmission of orders and other official papers to registrants.
Personnel of the Selective Service System will transmit orders or other official papers addressed to a registrant by handing them to him personally or mailing them to him at his current mailing address last reported by him in writing to the Selective Service System.

PART 1621—DUTY OF REGISTRANTS

Sec.
1621.1 Reporting by registrants of their current status.
1621.2 Duty to report for and submit to induction.

§ 1621.1 Reporting by registrants of their current status.
It is the duty of every registrant who registered after July 1, 1980:
(a) To keep the System currently informed in writing of the address where mail will reach him until otherwise notified by the Director of Selective Service; and
(b) To notify the System within 10 days of any change in the following items of information that he provided on his registration form: name, current mailing address and permanent residence address.
(c) To submit to the classifying authority, information concerning his status within 10 days after the date on which the classifying authority mails him a request therefor, or within such longer period as may be fixed by the classifying authority; and
(d) Who has a postponement of induction, or has been deferred or exempted from training and service, to immediately notify the System of any changes in facts or circumstances relating to the postponement, deferment or exemption.

§ 1621.2 Duty to report for and submit to induction.
When the Director of Selective Service orders a registrant for induction, it shall be the duty of the registrant to report for and submit to induction at the time and place ordered unless the order has been canceled. If the time when the registrant is ordered to report for induction is postponed, it shall be the continuing duty of the registrant to report for and submit to induction at such time and place as he may be reordered. Regardless of the time when the circumstances under which a registrant fails to report for induction when it is his duty to do so, it shall thereafter be his continuing duty from day to day to report for and submit to induction at the place specified in the order to report for induction.

PART 1624—INDUCTIONS

Sec.
1624.1 Random selection procedures for induction.
1624.2 Issuance of induction orders.
1624.3 Age selection groups.
1624.4 Selection and/or rescheduling of registrants for induction.
1624.5 Order to report for induction.
1624.6 Postponement of induction.
1624.7 Expulsion of deferment or exemption.
1624.8 Transfer for induction.
1624.9 Induction into the Armed Forces.
1624.10 Order to report for examination.

§ 1624.1 Random Selection Procedures for Induction.
(a) The Director of Selective Service shall from time to time establish a random selection sequence for induction by a drawing to be conducted in the place and on a date the Director shall fix. The random selection method shall use 365 days, or when appropriate, 366 days to represent the birthdays (month and day only) of all registrants who, during the specified calendar year(s) attain their 18th year of birth. The drawing, commencing with the first day selected, and continuing until all 365 days or, when appropriate 366 days are drawn, shall be accomplished impartially. The random sequence number thus determined for any registrant shall apply to him so long as he remains subject to induction for military training and service by random selection.

(b) The date of birth of the registrant that appears on his Selective Service Registration Record on the day before the lottery is conducted to establish his random selection sequence will be conclusive as to his date of birth in all matters pertaining to his relations with the Selective Service System.

§ 1624.2 Issuance of induction orders.
The Director of Selective Service, upon receipt of a call from the Secretary of Defense for persons to be inducted into the Armed Forces in accord with § 1624.4 of this part, shall issue orders to report for induction to registrants whose registration records are in the master computer file at the beginning of any day on which orders are issued. Orders shall be issued in such numbers and at such times as will assure that such call or requisition is filled. The names contained in the Selective Service System data base on a given day will constitute the valid list of registrants from which induction orders can be issued on that day.

§ 1624.3 Age selection groups.
Age selection groups are established as follows:
(a) The age 20 selection group for each calendar year consists of registrants who have attained or will attain the age of 20 in that year.
(b) The age 21 selection group for each calendar year consists of registrants who have attained or will attain the age of 21 in that year and, in like manner, each age selection group will be so designated through age group 25.
(c) The age 26 through 34 selection groups consist of registrants who meet the following three criteria:
(1) They have attained or will attain the age of 26 through 34, respectively, during the calendar year; and
(2) They have been previously ordered to report for induction but have not been inducted; and
(3) Has been classified in one of the following classes:
(i) Class 1-D-D.
(ii) Class 2-D.
(iii) Class 3-A.
(iv) Class 4-B.
(v) Class 4-F.
(d) The age 19 selection group for each calendar year consists of registrants who have attained the age of 19 in that year.
(e) The age 18 selection group shall consist of registrants who have attained the age of 18 years and six months and who have not attained the age of 19 years in the order of their dates of birth with the oldest being selected first.
§ 1624.4 Selection and/or rescheduling of registrants for induction.

A registrant in Class 1–A shall be selected and ordered or rescheduled to report for induction in the following categories and in the order indicated: Provided, That a registrant who has been identified in accord with the procedures prescribed by the Director of Selective Service as one who will become a member of one of the following categories on the next January 1, may, prior to January 1, be selected and ordered to report for induction on a date after January 1 as a member of such category.

(a) Volunteers for induction in the order in which they volunteered.

(b) Registrants whose postponements have expired.

(c) Registrants in the age 20 selection group for the current calendar year who have not attained the age of 19 in the order of their random sequence number (RSN) established by random selection procedures in accord with § 1624.1 of this part.

(d) Registrants in the age 20 selection group for the current calendar year in the order of their random sequence number (RSN) established by random selection procedures in accord with section § 1624.1 of this part.

(e) Registrants in each succeeding age selection group commencing with age 21 selection group and terminating with the age 19 selection group, in turn, within the group, in the order of their random sequence number (RSN) established by random selection procedures in accord with § 1624.1 of this part.

(f) Registrants in the age 19 selection group for the current calendar year in the order of their random sequence number (RSN) established by random selection procedures in accord with § 1624.1 of this part.

(g) Registrants in the age 18 year and six months selection group and who have not attained the age of 18 in the order of their date of birth with the oldest being selected first.

§ 1624.5 Order to report for induction.

(a) Immediately upon determining which persons are to be ordered for induction, the Director of Selective Service shall issue to each person selected an Order to Report for Induction. The order will be sent to the current address most recently provided the Selective Service System. The date specified to report for induction shall be at least 10 days after the date on which the Order to Report for Induction is issued unless the registrant has volunteered for induction.

(b) Any person who has been ordered for induction who is distant from the address to which the order was sent must either report at the time and place specified in the order, or voluntarily submit himself for induction processing at another AFES on or before the day that he was required to report in accordance with his induction order.

(c) The Director of Selective Service may direct the cancellation of any Order to Report for Induction at any time.

(d) Any Order to Report for Induction issued by the Director of Selective Service to a registrant who is an alien, who has not resided in the United States for one year will be void. Such order will be deemed only to be an order to produce evidence of his status. When an alien registrant has been within the United States for two or more periods (including periods before his registration) and the total of such periods equals one year, he shall be deemed to have resided in the United States for one year. In computing the length of such periods, any portion of one day shall be counted as a day. Upon establishing a one year residency, the alien registrant will be assigned to the age selection group corresponding to his age.

§ 1624.6 Postponement of induction.

(a) The filling of a claim in accord with § 1633.2 of this chapter postpones the date the registrant is required to report for induction until not earlier than the tenth day after the claim is finally determined in accord with the provisions of this chapter. A claim is finally determined when the registrant does not have a right to appeal the last classification action with respect to that claim or he fails to exercise his right to appeal.

(b) In the case of the death of a member of the registrant’s immediate family, extreme emergency involving a member of the registrant’s immediate family, serious illness of the registrant, or other emergency beyond the registrant’s control, the Director of Selective Service, after the Order to Report for Induction has been issued, may postpone for a specific time the date when such registrant shall be required to report. The period of postponement shall not exceed 60 days from the date of the induction order. When necessary the Director of Selective Service may grant one further postponement, but the total postponement shall not exceed 90 days from the reporting date on the induction order.

[c][1] Any registrant who is satisfactorily pursuing a full-time course of instruction at a high school or similar institution of learning and is issued an order to report for induction shall, upon presentation of appropriate facts in the manner prescribed by the Director of Selective Service, have his induction postponed:

(i) Until the time of his graduation therefrom;

(ii) Until he attains the twentieth anniversary of his birth;

(iii) Until the end of his last academic year, after beginning that year before he attained the twentieth anniversary of his birth;

(iv) Until he ceases satisfactorily to pursue such course of instruction, whichever is the earliest.

(2) Any registrant who, while satisfactorily pursuing a full-time course of instruction at a college, university, or similar institution of learning, is ordered to report for induction shall, upon the presentation of appropriate facts in the manner prescribed by the Director of Selective Service, have his induction postponed:

(i) Until the end of the semester or term, or academic year in the case of his last academic year, or

(ii) Until he ceases to satisfactorily pursue such course of instruction, whichever is the earlier.

(3) A postponement authorized by this subsection may be terminated by the Director of Selective Service for cause upon less than 10 days’ notice to the registrant.

(d) The Director of Selective Service may authorize a delay of induction for any registrant whose date of induction conflicts with a religious holiday historically observed by a recognized church, religious sect or religious organization of which he is a member. Any registrant so delayed shall report for induction on the next business day following the religious holiday.

(e) A postponement to expire not more than 90 days from the date the registrant files his claim for Class 3-A will be granted if a board determines that the hardship to the registrant’s dependents would not likely continue beyond that period of time. The reasons for the decision to grant a postponement are recorded in the registrant’s file and a copy thereof will be furnished the registrant.

(f) The Director of Selective Service shall issue to each registrant whose induction is postponed a written notice thereof.

(g) No registrant whose induction has been postponed shall be inducted into the Armed Forces during the period of any such postponement. A postponement of induction shall not
render invalid the Order to Report for Induction which has been issued to the registrant, but shall operate only to postpone the reporting date, and the registrant shall report on the new date scheduled, without having been issued to him a new Order to Report for Induction.

(f) Any registrant receiving a postponement under the provisions of this section, shall, after the expiration of such postponement, be rescheduled for report for induction at the place to which he was originally ordered in accordance with instructions received from Selective Service.

§ 1624.7 Expiration of deferment or exemption.

The Director of Selective Service shall issue an Order to Report for Induction to a registrant whenever his deferment or exemption expires. Provided, That no registrant will be issued an Order to Report for Induction whose age group is not currently being inducted.

§ 1624.8 Transfer for induction.

The Director of Selective Service may direct that a registrant or registrants in a specified group of registrants be transferred for induction to such AFEES as he may designate.

§ 1624.9 Induction into the Armed Forces.

Registrants in classes 1-A and 1-A-O, who have been ordered for induction and found qualified under standards prescribed by the Secretary of Defense, will be inducted at the AFEES into the Armed Forces.

§ 1624.10 Order to Report for examination.

The Director of Selective Service may order any registrant who has filed a claim for classification in a class other than Class 1-A or whose induction has been postponed to report for an Armed Forces examination to determine his acceptability for military service; such registrant will not be inducted until his claim for reclassification has been decided. The date specified to report for examination shall be at least 10 days after the date on which the Order to Report for Examination is issued.

PART 1627—VOLUNTEERS FOR INDUCTION

Sec.

1627.1 Who may volunteer.

1627.2 Registration of volunteers.

1627.3 Classification of volunteers.


§ 1627.1 Who may volunteer.

Any registrant who has attained the age of 17 years, who has not attained the age of 20 years, and who has not completed his active duty obligation under the Military Selective Service Act, when inductions are authorized, may volunteer for induction into the Armed Forces unless:

(a) Is classified in Class 4-F or is eligible for Class 4-P; or

(b) Has been found temporarily unacceptable with reexamination believed justified (RBJ) and the period of time specified for this return for examination has not been terminated and the basis for his temporary rejection continues to exist; or

(c) Has been examined and his acceptability is undetermined (AU); or

(d) Is an alien who has not resided in the United States for a period of at least one year; or

(e) Has not attained the age of 18 years and does not have the consent of his parent or guardian for his induction.

§ 1627.2 Registration of volunteers.

(a) If a person who is required to be registered but who has failed to register volunteers for induction, he shall be registered.

(b) In registering a volunteer, the area office shall follow the procedure set forth in § 1615.3 of this chapter.

§ 1627.3 Classification of volunteers.

When a registrant eligible to volunteer is in a class other than 1-A or 1-A-O files an Application for Voluntary Induction, he shall be classified in Class 1-A and processed for induction.

PART 1630—CLASSIFICATION RULES

Sec.

1630.2 Classes.

1630.10 Class 1-A: Available for Unrestricted Military Service.

1630.11 Class 1-A-O: Conscientious Objector Available for Alternative Service only.

1630.12 Class 1-C: Member of the Armed Forces of the United States, the National Oceanic and Atmospheric Administration or the Public Health Service.

1630.13 Class 1-D-D: Deferment for Certain Members of a Reserve Component or Student taking Military Training.

1630.14 Class 1-D-E: Exemption of Certain Members of a Reserve Component or Student taking Military Training.

1630.15 Class 1-H: Registrant not Subject to Induction.

1630.17 Class 1-O: Conscientious Objector Available for Alternative Service.

1630.18 Class 1-W: Conscientious Objector Performing Alternative Service in Lieu of Induction.

1630.20 Class 2-D: Registrant Deferred Because of Study Preparing for the Military.

1630.30 Class 3-A: Registrant Deferred Because of Hardship to Others.

1630.40 Class 4-A: Registrant who has Completed Military Service.

1630.41 Class 4-B: Official Deferred by Law.

1630.42 Class 4-C: Alien or Dual National.

1630.43 Class 4-D: Minister of Religion.

1630.44 Class 4-F: Registrant not Qualified for Military Service.

1630.45 Class 4-G: Registrant Exempted from Service Because of the Death of his Father or Sibling while Serving in the Armed Forces or Who is Awaiting a Missing in Action.

1630.49 Class 4-T: Treaty Alien.

1630.47 Class 4-W: Registrant who has Completed Alternative Service in Lieu of Induction.


§ 1630.2 Classes.

Each registrant shall be classified in one of the classes prescribed in this part.

§ 1630.10 Class 1-A: Available for Unrestricted Military Service.

(a) All registrants available for unrestricted military service shall be in Class 1-A.

(b) All registrants in the selection groups as determined by the Director of Selective Service are available for unrestricted Military Service, except those determined by a classifying authority to be eligible for exemption or deferment from military service or for noncombatant or alternative service, or who have random sequence numbers (RSNs) determined by the Director not to be required to fill calls by the Secretary of Defense.


In accord with Part 1636 of this chapter any registrant shall be placed in Class 1-A-O who has been found, by reason of religious, ethical, or moral belief, to be conscientiously opposed to participation in combatant military training and service in the Armed Forces.

§ 1630.12 Class 1-C: Member of the Armed Forces of the United States, the National Oceanic and Atmospheric Administration or the Public Health Service.

In Class 1-C shall be placed:

(a) Every registrant who is or who becomes by enlistment or appointment, a commissioned officer, a warrant officer, a pay clerk, an enlisted man, or an aviation cadet of the Regular Army, the Navy, the Air Force, the Marine Corps, the Coast Guard, the National Oceanic and Atmospheric Administration or the Public Health Service.
(b) Every registrant who is a cadet, United States Military Academy; or midshipman, United States Naval Academy; or a cadet, United States Air Force Academy; or cadet, United States Coast Guard Academy.

c) Every registrant who by induction becomes a member of the Army of the United States, the United States Navy, the United States Marine Corps, the Air Force of the United States, or the United States Coast Guard.

d) Exclusive of periods for training only, every registrant who is a member of a reserve component of the Armed Forces and is on active duty, and every member of the reserve of the Public Health Service on active duty and assigned to the various offices and bureaus of the Public Health Service including the National Institutes of Health, or assigned to the Coast Guard, the Bureau of Prisons of the Department of Justice, Environmental Protection Agency, or the Environmental Science Service Administration or who are assigned to assist Indian tribes, groups, bands, or communities pursuant to the Act of August 5, 1954 (68 Stat. 674), as amended.

§ 1630.13 Class 1-D-D: Deferral for Certain Members of a Reserve Component.

(a) In Class 1-D-D shall be placed any registrant who:

(1) Has been selected for enrollment or continuance in the Senior (entire college level) Reserve Officer’s Training Corps, or the Air Reserve Officer’s Training Corps, or the Naval Reserve Officer’s Training Corps, or the Naval and Marine Corps officer candidate program of the Navy, or the platoon leader’s class of the Marine Corps, or the officer procurement programs of the Coast Guard and the Coast Guard Reserve, or is appointed an ensign, U.S. Naval Reserve, while undergoing professional training;

(2) Has agreed in writing to accept a commission, if tendered, and to serve subject to order of the Secretary of the military department having jurisdiction over him (or the Secretary of Transportation with respect to the U.S. Coast Guard), not less than 2 years on active duty after receipt of a commission; and

(3) Has agreed to remain a member of a regular or reserve component until the sixth anniversary of his receipt of a commission. Such registrant shall remain eligible for Class 1-D-D until completion of the course of instruction and so long thereafter as he continues in a reserve status upon being commissioned except during any period he is eligible for Class 1-C under the provisions of § 1630.12.

(b) Is a fully qualified and accepted aviation cadet applicant of the Army, Navy, or Air Force, who has signed an agreement of service and is within such numbers as have been designated by the Secretary of Defense. Such registrant shall be retained in Class 1-D-D during the period covered by such agreement but in no case in excess of four months.

c) In Class 1-D-D shall be placed any registrant referred to in paragraph (a) or (d) of this section who:

(1) Prior to the issuance of orders for him to report for induction;

(2) Prior to the date scheduled for his induction and pursuant to a proclamation by the Governor of a State to the effect that the authorized strength of any component of the Armed Forces of the State cannot be maintained by the enlistment or appointment of persons who have not been issued orders to report for induction; or

(3) Prior to the date scheduled for his induction and pursuant to a proclamation by the President that the strength of the Army or the Navy of the Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve, or Coast Guard Reserve cannot be maintained by the enlistment or appointment of persons who have not been issued orders to report for induction;

(d) Exclusive of periods for training only, every registrant who is a member of a reserve component of the Armed Forces and is on active duty, and every member of the reserve of the Public Health Service on active duty and assigned to the various offices and bureaus of the Public Health Service including the National Institutes of Health, or assigned to the Coast Guard, the Bureau of Prisons of the Department of Justice, Environmental Protection Agency, or the Environmental Science Service Administration or who are assigned to assist Indian tribes, groups, bands, or communities pursuant to the Act of August 5, 1954 (68 Stat. 674), as amended.

§ 1630.14 Class 1-D-E: Exemption of Certain Members of a Reserve Component.

(a) Is a student enrolled in an officer procurement program at a military college the curriculum of which is approved by the Secretary of Defense; or

(b) Has been enlisted in the Delayed Entry Program (DEP) at least ten days prior to his scheduled induction date; or

(c) Has been transferred to a reserve component of the Army, Navy, Air Force, Marine Corps or Coast Guard after a period of extended active duty, which was not for training only.

§ 1630.15 Class 1-H: Registrant Not Subject to Processing for Induction.

In Class 1-H shall be placed any registrant who is not eligible for Class 1-A and is not currently subject to processing for induction.

§ 1630.16 Class 1-O: Conscientious Objector Available for Alternative Service.

In accord with Part 1639 of this chapter any registrant shall be placed in Class 1-O who:

(a) Has been found, by reason of religious, ethical, or moral belief to be conscientiously opposed to participation in war in any form and to be conscientiously opposed to participation in both combatant and noncombatant training and service in the armed forces; or

(b) Has been separated from the armed forces (including their reserve components) by reason of conscientious objection to participation in both combatant and noncombatant training and service in the armed forces. A registrant so classified will be assigned to civilian service and shall serve the remainder of his obligation under the Military Selective Service Act.
§ 1630.18 Class 1-W: Conscientious Objector Performing Alternative Service in Lieu of Induction.

In Class 1-W shall be placed any registrant who has entered upon and is performing alternative service contributing to the maintenance of the national health, safety, or interest, in accordance with the order of the Director.

§ 1630.26 Class 2-D: Registrant Deferred Because of Study Preparing for the Ministry.

In accord with Part 1630 of this chapter any registrant shall be placed in Class 2-D who has requested such deferment and:

(a) Who is preparing for the ministry under the direction of a recognized church or religious organization; and

(b) Who is satisfactorily pursuing a full-time course of instruction required for entrance into a recognized theological or divinity school. He has been pre-enrolled; or

(c) Who is satisfactorily pursuing a full-time course of instruction in or at the direction of a recognized theological or divinity school; or

(d) Who having completed theological or divinity school is a student in a full-time graduate program or is a full-time intern. The registrant's studies must be related to and lead to entry into service as a regular or duly ordained minister of religion, and satisfactory progress in these studies as required by the school in which the registrant is enrolled must be maintained for continued eligibility for the deferment.

§ 1630.30 Class 3-A: Registrant Deferred Because of Hardship to Others.

(a) In accord with Part 1642 of this chapter any registrant shall be placed in Class 3-A:

(1) Whose induction would result in extreme hardship to his wife when she alone is dependent upon him for support; or

(2) Whose deferment is advisable because his child(ren), parent(s), grandparent(s), brother(s), or sister(s) is dependent upon him for support; or

(3) Whose deferment is advisable because his wife and his child(ren), parent(s), grandparent(s), brother(s), or sister(s) are dependent upon him for support; or

(4) Who has been separated from active military service by reason of dependency or hardship and the hardship condition still exists.

(b) The classification of each registrant in Class 3-A will not be granted for a period less than 91 days or longer than 365 days from the date he was last classified in Class 3-A. At expiration of the classification in Class 3-A, eligibility for deferment must be reestablished.

§ 1630.40 Class 4-A: Registrant who has Completed Military Service.

(a) In Class 4-A shall be placed any registrant other than a registrant eligible for classification in Class 1-C or 1-D-D who is within any of the following categories:

(1) A registrant who was discharged or transferred to a reserve component of the Armed Forces for the convenience of the Government after having served honorably on active duty for a period of not less than six months in the Army, the Navy, the Air Force, the Marine Corps, or the Coast Guard; or

(2) A registrant who has served honorably on active duty for a period of not less than twenty-four months as a commissioned officer in the National Oceanic and Atmospheric Administration or the Public Health Service, provided that such period of active duty in the Public Health Service as a commissioned Reserve Officer shall have been performed by the registrant while assigned to any of the various offices and bureaus of the Public Health Service including the National Institutes of Health, or while assigned to the Coast Guard, or the Bureau of Prisons of the Department of Justice, Environmental Protection Agency, or the National Oceanic and Atmospheric Administration or the Environmental Science Services Administration, or who are assigned to assist Indian tribes, groups bands or communities pursuant to the Act of August 5, 1954 (68 Stat. 674), as amended.

(3) A registrant who, while an alien, has served on active duty in any of the armed forces of a foreign nation shall be written in the English language; or

(4) Periods of active duty in any of the Armed Forces while being processed for entry into or separation from any educational program or institute referred to in paragraphs [b] (2) or (3) of this section;

(5) Periods of active duty of members of the Reserve of the Public Health Service other than when assigned to staff any of the various offices and bureaus of the Public Health Service, including the National Institutes of Health, of the Coast Guard or the Bureau of Prisons of the Department of Justice, Environmental Protection Agency, or the Environmental Science Services Administration, or who are assigned to assist Indian tribes, groups bands, communities pursuant to the Act of August 5, 1954 (68 Stat. 674), as amended.

§ 1630.41 Class 4-B: Official Deferred by Law.

In Class 4-B shall be placed any registrant who is a Vice President of the United States, a governor of a State, Territory or possession, or any other official chosen by the voters of the entire State, Territory or Possession; a member of a legislative body of the United States or of a State, Territory or Possession; a judge of a court of record of the United States or of a State, Territory or Possession, or the District of Columbia.

§ 1630.42 Class 4-C: Alien or Dual National.

In Class 4-C shall be placed any registrant who:
has been within the United States for year, including any period of time before resided in the United States for one paragraph shall be retained in Class 4-C Act of all rights, privileges, exemptions, nonimmigrant status under paragraph of registered and thereafter has acquired registration and thereafter has acquired Law to present himself for and submit to paragraph returns to the United States person is exempt from liability for paragraph (2) of section 101(a) of the permanent residence as defined in section 247(b) of that amended (66 Stat. 163, 8 U.S.C. 1101), and who by reason of occupational status is subject to adjustment to nonimmigrant status under paragraph (15)(A), (15)(E), or (15)(G) or section 101(a) but who executes a waiver in accordance with section 247(b) of that Act of all rights, privileges, exemptions, and immunities which would otherwise accrue to him as a result of that occupational status. A registrant placed in Class 4-C under the authority of this paragraph shall be retained in Class 4-C only for so long as such occupational status continues.

e) Is an alien and who has not resided in the United States for one year, including any period of time before his registration. When such a registrant has been within the United States for two or more periods and the total of such period equals one year, he shall be deemed to have resided in the United States for one year. In computing the length of such periods, any portion of one day shall be counted as a day.

§ 1630.43 Class 4-D: Minister of Religion.

In accord with Part 1645 of this chapter any registrant shall be placed in Class 4-D who is a:

(a) Duty ordained minister of religion; or

(b) Regular minister of religion.

§ 1630.44 Class 4-F: Registrant not Qualified for Military Service.

In Class 4-F shall be placed any registrant who:

(a) Is found by an Armed Forces Examining and Entrance Station (AFEES), under applicable physical, mental or administrative standards, to be not qualified for service in the Armed Forces; except that no such registrant whose further examination or re-examination is determined by AFEES to be justified shall be placed in Class 4-F until such further examination has been accomplished and such registrant continues to be found not qualified for military service.

(b) Who meets the disqualification standards set by the Secretary of Defense.

§ 1630.45 Class 4-G: Registrant Exempted from Service Because of the Death of his Father or Sibling While Serving in the Armed Forces or Whose Father or Sibling is Missing in Action.

In Class 4-G shall be placed any registrant who, except during a period of war or national emergency declared by Congress, is:

(a) A surviving son or brother:

(1) Whose father or sibling of the whole blood was killed in action or died in line of duty while serving in the Armed Forces of the United States after December 31, 1959, or died subsequent to such date as a result of injuries received or disease incurred in the line of duty during such service; or

(2) Whose father or sibling of the whole blood is in a captured or missing status as a result of such service in the Armed Forces during any period of time; or

(b) The sole surviving son of a family in which the father or one or more siblings were killed in action before January 1, 1959 while serving in the Armed Forces of the United States, or died after that date due to injuries received or disease incurred in the line of duty during such service before January 1, 1960.

§ 1630.46 Class 4-T: Treaty Alien.

In Class 4-T shall be placed any registrant who is an alien who established that he is exempt from military service under the terms of a treaty or international agreement between the United States and the country of which he is a national, and who has made application to be exempted from liability for training and service in the Armed Forces of the United States.

§ 1630.47 Class 4-W: Registrant who has Completed Alternative Service In Lieu of Induction.

In Class 4-W shall be placed any registrant who subsequent to being ordered to perform alternative service in lieu of induction has been released from such service and is satisfactorily performing the work for a period of 24 months, or has been granted an early release by the Director of Selective Service after completing at least 6 months of satisfactory service as prescribed in part 1656 of this chapter.

PART 1633—ADMINISTRATION OF CLASSIFICATION

Sec.

1633.1 Classifying authority.

1633.2 Claim for other than Class 1-A.

1633.3 Submission of claims.

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1633.5 Securing information from government agencies.

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1633.10 Notification to registrant of classification action.

1633.11 Assignment of registrant to a local board.


§ 1633.1 Classifying authority.

The following officials are authorized to classify registrants into the indicated classes established by Part 1630 of this chapter:

(a) The Director of Selective Service may in accord with the provisions of this chapter classify a registrant into any class for which he is eligible except Classes 1-A-O, 1-O, 2-D, 3-A, and 4-D. Provided, That the Director may not reclassify a registrant other than a volunteer for induction, into Class 1-A out of another class prior to the expiration of the registrant's entitlement to such classification. The Director may, before issuing an induction order to a registrant, appropriately classify him if the Secretary of Defense has certified him to be a member of an armed force or reserve component thereof.

(b) The National Selective Service Appeal Board may in accord with Part 1653 of this chapter classify a registrant into any class for which he is eligible.

(c) A district appeal board may in accord with Part 1651 of this chapter classify a registrant into any class for which he is eligible.

(d) A local board may in accord with Part 1649 of this chapter classify a registrant into Class 1-A-O, 1-O, 2-D, 3-A, or 4-D for which he is eligible.

(e) A local board may also classify a registrant into Class 1-C, 1-D-D, 1-D-E, 1-W, 4-A-B, 4-C, 4-F, 4-G, 4-T or 4-W upon request by the registrant for a review of a classification denial action under subsection 1633.1(f) of this part.

(f) Compensated employees of an area office may in accord with part 1633.2 of this chapter classify a registrant into Class 1-C, 1-D-D, 1-D-E, 1-W, 4-A, 4-
§ 1633.2 Claim for other than class 1-A.
(a) A "claim" is a request for postponement of induction or classification into a class other than 1-A. The three types of claims are:
(1) Claim for postponement;
(2) Claim for administrative classification; and
(3) Claim for judgemental classification.
Administrative classifications are as specified in §1633.1(f) of this part. Judgemental classifications are as specified in Part 1648.
(b) The initial determination of claims for all postponements and administrative classifications are made by area office compensated personnel. After a denial of a claim for a student postponement or claim for an administrative classification the registrant may request the local board to consider the claim.
(c) The initial determination of a judgemental classification is made by a local board.
(d) A registrant may request and be granted a personal appearance whenever a local or appeal board considers his claim for reclassification. Personal appearances will be held in accordance with Parts 1648, 1651 and 1653.
(e) A registrant who has filed a claim for classification in Class 1-A-O or Class 1-O shall be scheduled for a personal appearance in accord with §1648.4 before his claim is considered.
(f) If granted, the effect of a postponement is to delay the reporting date for induction specified on the original order. When a postponement expires, a registrant will be rescheduled and given a new reporting date under the original order.
(g) If granted, a deferment or exemption supersedes the original order to report for induction. When a deferment or exemption expires or ends, the registrant will be placed in the appropriate RSN order within his original age selection group. If called again, a new order to report for induction will be issued.
(h) Any registrant who has received an order to report for induction may, prior to the day he is scheduled to report, submit to the Selective Service System a claim that he is eligible to be classified into any class other than Class 1-A. The registrant may assert a claim that he is eligible for more than one class other than Class 1-A. The registrant cannot subsequently file a claim with respect to a class for which he was eligible prior to the day he was originally scheduled to report.

§ 1633.3 Submission of claims
Except as otherwise expressly provided by the Director, no document relating to any registrant's claims or potential claims will be retained by the Selective Service System and no file relating to a registrant's possible classification status shall be established prior to that registrant being ordered to report for induction.

§ 1633.4 Information relating to claims for deferment or exemption
The registrant shall be entitled to present all relevant written information which he believes to be necessary to assist the classifying authority in determining his proper classification; such information may include documents, affidavits, and depositions. The affidavits and depositions shall be as concise and brief as possible.

§ 1633.5 Securing information
The classifying authority is authorized to request and receive information whenever such information will assist in determining the proper classification of a registrant.

§ 1633.6 Consideration of classes.
Claims of a registrant will be considered in the reverse order of the listing of the classes below. When grounds are established to place a registrant in one or more of the classes listed in the following table, the registrant shall be classified in the lowest class for which he is determined to be eligible, with Class 1-A-O considered the highest class and Class 1-H considered the lowest class, according to the following table:

- Class 1-A-O: Conscientious Objector Available for Noncombatant Military Service Only
- Class 1-O: Conscientious Objector Available for Alternative Service
- Class 2-D: Registrant Deferred Because of Hardship of Others
- Class 2-D: Registrant Deferred Because of Study Preparing for the Ministry
- Class 3-A: Registrant Deferred Because of Hardship of Others
- Class 4-D: Minister of Religion
- Class 4-E: Exemption of Certain Members of Reserve Component or Student Taking Military Training
- Class 4-G: Registrant Exempted From Service Because of the Death of his Father or Sibling While Serving in the Armed Forces
- Class 4-H: Registrant Exempted From Service Because of the Death of his Father or Sibling While Serving in the Armed Forces or Whose Father or Sibling is Missing in Action
- Class 4-W: Conscientious Objector who has Completed Alternative Service in Lieu of Induction
- Class 4-A: Registrant who has Completed Military Service
- Class 1-W: Conscientious Objector Performing Alternative Service in Lieu of Induction
- Class 1-C: Member of the Armed Forces of the United States, the National Oceanic and Atmospheric Administration, or the Public Health Service
- Class 4-T: Treaty Alien
- Class 4-F: Registrant not Qualified for unrestricted military service until his original age selection group.
- Class 1-B: Registrant Deferred by Law
- Class 4-B: Official Deferred by Law
- Class 4-C: Registrant Exempted From Service Because of his membership or activity in any labor, political, religious, or other organization.
- Class 4-A: Registrant deferred or exempted from service has been determined by a classifying authority.
- Class 1-D: Deferment for Certain Members

§ 1633.7 General principles of classification.
(a) Each classified registrant in a selection group is available for unrestricted military service until his eligibility for noncombatant service, alternative service, or deferment or exemption from service has been determined by a classifying authority.
(b) The classifying authority in considering a registrant's claim for eligibility for noncombatant or alternative service, or for deferment or exemption from military service, shall not discriminate for or against him because of his membership or activity in any labor, political, religious, or other organization.
(c) Any registrant whose deferment or exemption is terminated will be reclassified 1-H and not subject to induction until such time as he is again ordered for induction in the proper age selection group.

§ 1633.8 Basis of classification.
The registrant's classification shall be determined on the basis of the official forms of the Selective Service System and other written information in his file, oral statements, if made by the registrant at his personal appearance before the board, and oral statements, if made by the registrant's witnesses at his personal appearance. Any information in any written summary of the oral information presented at a registrant's personal appearance that was prepared by an official of the Selective Service System or by the registrant will be placed in the registrant's file. The file shall be subject to review by the registrant during normal business hours.
§ 1636.2 The claim of conscientious objection.

Whenever a classifying authority denies the request of a registrant for classification into a particular class or discharge from service in the Armed Forces based on a claim that his religious training and belief were intended to foster peace or opposition to war in any form and conscientiously opposed to participation in war in any form, it shall notify the registrant in writing of the classification action taken

The Director of Selective Service may order a registrant to report for service whenever the facts upon which the classification action was not from his religious training and belief may be based on strictly religious beliefs, or on personal beliefs that are purely ethical or moral in source or content and occupy in the life of a registrant a place parallel to that filled by belief in a Supreme Being for those holding more traditionally religious views.

(c) A registrant's objection must be sincere.

§ 1636.4 Basis for classification in class 1-A-O.

A registrant must be conscientiously opposed to participation in war in any form and conscientiously opposed to participation in both combatant and noncombatant training and service in the Armed Forces.

(b) A registrant's objection may be founded on religious training and belief: it may be based on strictly religious beliefs, or on personal beliefs that are purely ethical or moral in source or content and occupy in the life of a registrant a place parallel to that filled by belief in a Supreme Being for those holding more traditionally religious views.

(c) A registrant's objection must be sincere.

§ 1636.10 Notification to registrant of classification action.

The Director of Selective Service will notify the registrant of any classification action of a classifying authority; except that notice will not issue when automatic reversion to Class 1-H occur upon expiration of exemptions and deferments. This automatic classification action does not result from action of a classifying authority.

§ 1633.11 Assignment of registrant to a local board.

The Director of Selective Service shall assign a registrant to a local board that has jurisdiction over the registrant's permanent address that he last furnished the Selective Service System prior to the issuance of his induction order. The original local board to which the registrant was assigned will remain his local board unless a board change is granted. A request to transfer from an assigned local board to another board must be made at the time a claim is filed. It will be granted if the change results in assigning the registrant to a local board closer to where he is living. A registrant will be permitted only one transfer during the processing of a claim unless authorized by the Director.

§ 1633.12 Reconsideration of classification.

No classification is permanent. The Director of Selective Service may order the reclassification of any classification action when the facts upon which the classification is based change or when he finds that the registrant made a misrepresentation of any material fact related to his claim for classification. No action may be taken under the preceding sentence of this paragraph unless the registrant is notified in writing of the impending action and the reasons thereof, and is given an opportunity to respond in writing within 10 days of the mailing of the notice. If a classification is reconsidered in accord with this paragraph, the claim will be treated in all respects as if it were the original claim for that classification.

PART 1636—CLASSIFICATION OF CONSCIENTIOUS OBJECTORS

Sec. 1636.1 Purpose; definitions.

1636.2 The claim of conscientious objection.
§ 1636.7 Impartiality.

Boards may not give preferential treatment to one religion over another, and all beliefs whether of a religious, ethical, or moral nature are to be given equal consideration.

§ 1636.8 Considerations relevant to granting or denying a claim for classification as a conscientious objector.

(a) After the registrant has submitted a claim for classification as a conscientious objector and his file is complete, a determination of sincerity will be made based on:

(1) All documents in the registrant’s file folder; and

(2) The oral statements of the registrant at his personal appearance(s) before the local and/or appeal board; and

(3) The oral statements of the registrant’s witnesses, if any, at his personal appearance(s) before the local and/or appeal board; and

(4) The registrant’s general demeanor during his personal appearance(s).

(b) The registrant’s stated convictions should be a matter of conscience which would give him no rest or peace should he participate in war.

(c) The board should be convinced that the registrant’s personal history since the crystallization of his conscientious objection is not inconsistent with his claim and demonstrate that the registrant’s objection is not solely a matter of expediency. A recent crystallization of beliefs does not necessarily indicate expediency.

(d) The information presented by the registrant should reflect a pattern of behavior in response to war and weapons which is consistent with his stated beliefs. Instances of violent acts or conviction for crimes of violence, or employment in the development or manufacturing of weapons of war. If the claim is based upon or supported by a life of nonviolence, may be indicative of inconsistent conduct.

(e) The development of a registrant’s opposition to war in any form may bear on his sincerity. If the registrant claims a recent crystallization of beliefs, his claim should be supported by evidence of a religious or educational experience, a traumatic event, an historical occasion, or some other special situation which explains when and how his objection to participation in war crystallized.

(f) In the event that a registrant has previously worked in the development or manufacturing of weapons of war or has served as a member of a military reserve unit, it should be determined whether such activity was prior to the stated crystallization of the registrant’s conscientious objector beliefs. In consistent conduct prior to the actual crystallization of conscientious objector beliefs is not necessarily indicative of insincerity. But, inconsistent conduct subsequent to such crystallization may indicate that registrant’s stated objection is not sincere.

(g) A registrant’s behavior during his personal appearance before a board may be relevant to the sincerity of his claim.

(1) Evasive answers to questions by board members or the use of hostile, belligerent, or threatening words or actions, for example, may be proper circumstances be deemed inconsistent with a claim in which the registrant bases his objection on a belief in nonviolence.

(2) Care should be exercised that nervous, frightened, or apprehensive behavior at the personal appearance is not misconstrued as a reflection of insincerity.

(h) Oral response to questions posed by board members should be consistent with the written statements of the registrant and should generally substantiate the submitted information in the registrant’s file folder; any inconsistent material should be explained, for concluding that his claim is insincere.

(i) The registrant may submit letters of reference and other supporting statements of friends, relatives and acquaintances to corroborate the sincerity of his claim, although such supplemental documentation is not essential to approval of his claim. A finding of insincerity based on these letters or supporting statements must be carefully explained in the board’s decision, specific mention being made of the particular material relied upon for denial of classification in Class 1-A-O or Class 1-O.
§ 1639.9 Types of decisions.
The following are the types of decisions which may be made by a board when a claim for classification in Class 1-A-O or Class 1-O has been considered.

(a) Decision to grant a claim for classification in Class 1-A-O or Class 1-O, as requested, based on a determination that the truth or sincerity of the registrant's claim is not refuted by any information contained in the registrant's file or obtained during his personal appearance.

(b) Decision to deny a claim for classification in Class 1-A-O or Class 1-O based on all information before the board, and a finding that such information fails to meet the tests specified in sections 1636.3 or 1636.4 of this part. If supported by information contained in the registrant's file or obtained during his personal appearance the board may find that the facts presented by the registrant in support of his claim are untrue.

(c) Decision to grant classification in Class 1-A-O to a registrant even though he requested reclassification in Class 1-O. It should be noted that the registrant who requests classification in Class 1-O should be classified in Class 1-A-O only when the information presented demonstrates clearly that the registrant is opposed only to bearing arms and that he does not object to noncombatant service.

(d) Decision to grant classification in Class 1-O to a registrant even though he requested reclassification in Class 1-A-O. It should be noted that the registrant who requests classification in Class 1-A-O should be classified in Class 1-O only when the information presented demonstrates clearly that the registrant is eligible for classification in Class 1-O.

§ 1639.10 Statement of reasons for denial.
(a) Denial of a conscientious objector claim by a board must be accompanied by a statement specifying the reason(s) for such denial as prescribed in §§ 1639.9, 1651.4 and 1653.3 of this chapter. The reason(s) must, in turn, be supported by evidence in the registrant's file.

(b) If a board's denial is based on statements by the registrant or on a determination that the claim is inconsistent or insincere, this should be fully explained in the statement of reasons accompanying the denial.

PART 1639—CLASSIFICATION OF REGISTRANTS PREPARING FOR THE MINISTRY

Sec.
1639.3 Basis for classification in Class 2-D.
1639.4 Exclusion from Class 2-D.
1639.5 Impartiality.
1639.9 Considerations relevant to granting or denying claims for Class 2-D.
1639.7 Types of decisions.
1639.8 Statement of reason for denial.


§ 1639.1 Purpose; definitions.
(a) The provisions of this part shall govern the consideration of a claim by a registrant for classification in Class 2-D (Section 1630.28 of this chapter).

(b) The definitions of this paragraph shall apply to the interpretation of the provisions of this part:

(1) The term "Ministry" refers to the vocation of a "duly ordained minister of religion" or "regular minister of religion" as defined in Part 1645 of this chapter.

(2) The term "recognized church or religious organization" is a church or religious organization established on the basis of a community of faith and belief, doctrines and practices of a religious character, and it engages primarily in religious activities.

(3) The term "recognized theological or divinity school" is a theological or divinity school whose graduates are acceptable for ministerial duties either as an ordained or regular minister by the church or religious organization sponsoring a registrant as a ministerial student.

(4) The term "graduate program" must be a program where the registrant's studies are officially approved by his church or religious organization for entry into service as a regular or duly ordained minister of religion.

(5) The term "full-time intern" applies to a program that must run simultaneous with or immediately follow the completion of the theological or divinity training and is required by a recognized church or religious organization for entry into the ministry.

(6) The term "satisfactorily pursuing a full-time course of instruction" means maintaining a satisfactory academic record as determined by the institution while receiving full-time instruction in a structured learning situation. A full-time course of instruction does not include instructions received pursuant to a mail order program.

§ 1639.2 The claim for Class 2-D.
A claim to classification in Class 2-D must be made by the registrant in writing, such document being placed in his file folder.

§ 1639.3 Basis for classification in Class 2-D.
(a) In Class 2-D shall be placed any registrant who is preparing for the ministry under the direction of a recognized church or religious organization; and

(1) Who is satisfactorily pursuing a full-time course of instruction required for entrance into a recognized theological or divinity school in which he has been pre-enrolled; or

(2) Who is satisfactorily pursuing a full-time course of instruction in a recognized theological or divinity school; or

(3) Who, having completed theological or divinity school, is a student in a full-time graduate program or is a full-time intern, and whose studies are related to and lead toward entry into service as a regular or duly ordained minister of religion. Satisfactory progress in these studies as determined by the school in which the registrant is enrolled, must be maintained for qualification for the deferment.

(b) The registrant's classification shall be determined on the basis of the written information in his file folder, oral statements, if made by the registrant at his personal appearance before a board, and oral statements, if made by the registrant's witnesses at his personal appearance.

§ 1639.4 Exclusion from class 2-D.
A registrant shall be excluded from Class 2-D when:

(a) He fails to establish that the theological or divinity school is a recognized school; or

(b) He fails to establish that the church or religious organization which is sponsoring him is so recognized; or

(c) He ceases to be a full-time student; or

(d) He fails to maintain satisfactory academic progress.

§ 1639.5 Impartiality.
Boards may not give precedence to any religious organization or school over another, and all are to be given equal consideration.

§ 1639.6 Considerations relevant to granting or denying claims for class 2-D.
(a) The registrant's claim for Class 2-D must include the following:

(1) A statement from a church or religious organization that the registrant is preparing for the ministry under its direction; and

(2) Current certification to the effect that the registrant is satisfactorily pursuing a full-time course of instruction required for entrance into a recognized theological or divinity school in which he has been pre-enrolled; or

(3) Current certification to the effect that the registrant is satisfactorily
pursuing a full-time course of instruction in a recognized theological or divinity school; or

(a) Current certification to the effect that the registrant, having completed a theological or divinity school, is satisfactorily pursuing a full-time graduate program or is a full-time intern, whose studies are related to an lead toward entry into service as a regular or duly ordained minister of religion.

(b) A board may require the registrant to obtain from the church, religious organization, or school detailed information in order to determine whether or not the theological or divinity school is in fact a recognized school or whether or not the church or religious organization which is sponsoring the registrant is recognized.

§ 1639.7 Types of decisions.

(a) A board may grant a classification into Class 2-D until the end of the academic school year.

(b) Upon the expiration of a 2-D classification, a board shall review any request for extension of the classification in the same manner as the first request for Class 2-D. This section does not relieve a registrant of his duties under § 1623.1 of this chapter.

§ 1639.8 Statement of reason for denial.

(a) Denial of a claim for a ministerial student deferment by a board must be accompanied by a statement specifying the reason(s) for such denial as prescribed in §§ 1633.9, 1651.4 and 1653.3 of this chapter. The reason(s) must in turn, be supported by evidence in the registrant's file.

(b) If a board's denial is based on statements by the registrant or his witnesses at a personal appearance, this must be fully explained in the statement of reasons accompanying the denial.

PART 1642—CLASSIFICATION OF REGISTRANTS DEFERRED BECAUSE OF HARDSHIP TO OTHERS

§ 1642.1 Purpose; definitions.

(a) The provisions of this part govern the consideration of a claim by a registrant for classification in Class 3-A (Section 1630.30 of this chapter).

(b) The following definitions apply to the interpretation of the provisions of this Part.

(1) The term "dependent" shall apply to the wife, child, parent, grandparent, brother or sister of a registrant.

(2) The term "child" includes an un-born child, a stepchild, a foster child or a legally adopted child, who is legitimate or illegitimate, but shall not include any person 18 years of age or older unless he or she is physically or mentally handicapped.

(3) The term "parent" shall include any person who has stood in the place of a parent to the registrant for at least 5 years preceding the 18th anniversary of the registrant's date of birth and is now supported in good faith by the registrant.

(4) The term "brother" or "sister" shall include a person having one or both parents in common with the registrant, who is either under 18 years of age or is physically or mentally handicapped.

(5) The term "support" includes but is not limited to financial assistance.

(6) Hardship is the unreasonable deprivation of a dependent's financial assistance, personal care or companionship furnished by the registrant when that deprivation would be caused by the registrant's induction.

§ 1642.2 The claim for classification in class 3-A.

A claim for classification in Class 3-A must be made by the registrant in writing. Prior to the consideration of the claim, the registrant shall submit supporting documentation, such documents being placed in his file folder.

§ 1642.3 Basis for classification in class 3-A.

(a) In Class 3-A shall be placed any registrant:

(1) Whose induction would result in extreme hardship to his wife when she alone is dependent upon him for support; or

(2) Whose deferment is advisable because his child(ren), parent(s), grandparent(s), brother(s) or sister(s) is dependent upon him for support; or

(3) Whose deferment is advisable because his wife and child(ren), parent(s), grandparent(s), brother(s) or sister(s) are dependent upon him for support; or

(4) Who has been separated from active military service by reason of dependency or hardship and the dependency or hardship conditions still exist.

(b) In its consideration of a claim by a registrant not separated from active military service by reason of dependency or hardship for classification in class 3-A, the board will first determine whether the registrant's wife, child(ren), parent(s), grandparent(s), brother(s) or sister(s) is dependent upon the registrant for support. Support may be financial assistance, personal care or companionship, but no person to whom the registrant contributes less than 50% of the cost of his necessities will be deemed financially dependent upon the registrant for support. If that determination is affirmative, the board will determine whether the registrant's induction would result in extreme hardship to his wife when she is the only dependent, or whether the registrant's deferment is advisable because his child(ren), parent(s), grandparent(s), brother(s) or sister(s) is dependent upon him for support, or because his wife and child(ren), parent(s), grandparent(s), brother(s) or sister(s) are dependent upon him for support. A deferment is advisable whenever the registrant's induction would result in hardship to his dependents.

(2) In its consideration of a claim by a registrant separated from the active military service by reason of dependency or hardship and who is not eligible for Class 4-A or 1-D-D the board will determine whether the facts that were the basis for the registrant's separation from the military service continue substantially to exist.

(c) The registrant's classification shall be determined on the basis of the written information in his file, oral statements, if made by the registrant at his personal appearance before a board, and oral statements, if made by the registrant's witnesses at his personal appearances.

§ 1642.4 Ineligibility for class 3-A.

(a) A registrant is ineligible for Class 3-A when:

(1) He assumed an obligation to his dependents specifically for the purpose of evading training and service; or

(2) He acquired excessive financial obligations primarily to establish his dependency claim; or

(3) His dependents would not be deprived of reasonable support if the registrant is inducted; or

(4) There are other persons willing to assume the support of his dependents; or

(5) The dependents would suffer only normal anguish of separation from the registrant if he is inducted; or

(6) The hardship to a dependent is based solely on financial conditions and can be removed by payment and allowances which are payable by the
United States to the dependents of persons who are serving in the Armed Forces; or

(7) The hardship to the dependent is based upon considerations that can be eliminated by payments and allowances which are payable by the United States to the dependents of persons who are serving in the Armed Forces.

(b) A postponement to expire not more than 90 days from the date the registrant files his claim for Class 3-A will be granted if the board determines that the hardship to the registrant’s dependent would not likely continue beyond that period of time. The reason for the actions taken in accord with the immediately preceding sentence will be recorded in the registrant’s file and a copy thereof will be furnished the registrant.

§ 1642.5 Impartiality.

(a) Boards shall consider all questions in a claim for classification in class 3-A with equal consideration of race, creed, color, sex or ethnic background.

(b) Boards may not give precedence to any type of dependency hardship over another.

§ 1642.6 Considerations relevant to granting or denying claims for class 3-AO.

(a) The registrant’s claim for Class 3-A must include the following, with documentation, as applicable:

(1) Registrant’s and his dependent’s marital status;

(2) Physician’s statement concerning any dependent who is physically or mentally handicapped;

(3) Employment status of registrant and his dependents; and

(b) Each case must be weighed carefully and decided on its own merits.

§ 1642.7 Types of decisions.

(a) A board may, except as provided in § 1642.4(b) of this Part, grant a classification into Class 3-A for such period of time it deems appropriate but in no event shall the period exceed one year.

(b) Upon the expiration of a 3-A classification a board shall review any request for an extension of the classification as it were the first request for that classification, and the fact that the registrant was placed in Class 3-A under apparently similar circumstances will not be a factor in the decision of the board. This section does not relieve a registrant from his duties under section 1621.1 of this chapter.

(c) A claim for a 3-A classification will be denied when action is taken in accord with § 1642.4(b) of this Part.

(d) A board shall deny a claim for Class 3-A when the evidence fails to meet the criteria established in this Part.

§ 1642.8 Statement of reason for denial.

(a) Denial of a claim for Class 3-A by a board must be accompanied by a statement specifying the reason(s) for such denial as prescribed in §§ 1633.9, 1651.4 and 1653.3 of this chapter. The reason must in turn, be supported by evidence in the registrant’s file.

(b) If a board’s denial is based on statements by the registrant or his witnesses at a personal appearance, this must be fully explained in the statement of reasons accompanying the denial.

PART 1645—CLASSIFICATION OF MINISTERS OF RELIGION

§ 1645.1 Purpose; definitions.


1645.2 The claim for minister of religion classification.

1645.3 Basis for classification in Class 4-D.

1645.4 Exclusion from Class 4-D.

1645.5 Impartiality.

1645.6 Considerations relevant to granting or denying a claim for Class 4-D.

1645.7 Evaluation of Claim.

1645.8 Types of decisions.

1645.9 Statement of reason for denial.

Part 1645—Classification of Ministers of Religion

Sec.

1645.1 Purpose; definitions.

1645.2 The claim for minister of religion classification.

1645.3 Basis for classification in Class 4-D.

1645.4 Exclusion from Class 4-D.

1645.5 Impartiality.

1645.6 Considerations relevant to granting or denying a claim for Class 4-D.

1645.7 Evaluation of Claim.

1645.8 Types of decisions.

1645.9 Statement of reason for denial.


§ 1645.1 Purpose; definitions.

(a) The provisions of this part govern the consideration of a claim by a registrant for classification in Class 4-D (Section 1630.43 of this chapter).

(b) The definitions of this paragraph shall apply in the interpretation of the provisions of this part:

(i) The term "duly ordained minister of religion" means a person:

(i) Who has been ordained in accordance with the ceremonial rite or discipline of a church, religious sect, or organization established on the basis of a community of faith and belief, doctrines and practices of a religious character; and

(ii) Who preaches and teaches the doctrines of such church, sect, or organization; and

(iii) Who administers the rites and ceremonies thereof in public worship; and

(iv) Who, as his regular and customary vocation, preaches and teaches the principles of religion; and

(v) Who administers the ordinances of public worship as embodied in the creed or principles of such church, sect, or organization.

(ii) The term "regular minister of religion" means one who as his customary vocation preaches and teaches the principles of religion of a church, a religious sect, or organization of which he is a member, without having been formally ordained as a minister of religion, and who is recognized by such church, sect, or organization as a regular minister.

(iii) The term "regular or duly ordained minister of religion" does not include:

(i) A person who irregularly or incidentally preaches and teaches the principles of religion of a church, religious sect, or organization; or

(ii) Any person who may have been duly ordained a minister in accordance with the ceremonial rite or discipline of a church, religious sect or organization, but who does not regularly, as a bona fide vocation, teach and preach the principles of religion and administer the ordinances of public worship, as embodied in the creed or principles of his church, sect, or organization.

(iii) The term "vocation" denotes one's regular calling or full-time profession.

§ 1645.2 The claim for minister of religion classification.

A claim to classification in Class 4-D must be made by the registrant in writing, such document being placed in his file folder.

§ 1645.3 Basis for classification in Class 4-D.

In accordance with Part 1630 of this chapter any registrant shall be placed in Class 4-D who is as:

(a) Duly ordained minister of religion;

(b) Regular minister of religion.

§ 1645.4 Exclusion from Class 4-D.

A registrant is excluded from Class 4-D when his claim clearly shows that:

(a) He is not a regular minister or a duly ordained minister; or

(b) He is a duly ordained minister of religion in accordance with the ceremonial rite or discipline of a church, religious sect or organization, but who does not regularly, as his bona fide vocation, teach and preach the principles of religion and administer the ordinances of public worship, as embodied in the creed or principles of his church, sect, or organization; or

(c) He is a regular minister of religion, but does not regularly, as his bona fide vocation, teach and preach the principles of religion and administer the ordinances of public worship, as embodied in the creed of his church, sect or organization; or

(d) He is not recognized by the church, sect, or organization as regular or duly ordained minister of religion and does not administer the ordinances of public worship, as embodied in the creed of his church, sect, or organization.
§ 1645.5 Impartiality.

Boards may not give preferential treatment to one religion or sect over another and no preferential treatment will be given a duly ordained minister over a regular minister.

§ 1645.5 Considerations relevant to granting or denying a claim for Class 4-D.

(a) The board shall first determine whether the registrant is requesting classification in Class 4-D because he is a regular minister of religion or because he is a duly ordained minister of religion.

(b) If the registrant claims to be a duly ordained minister of religion, the board will:

(1) Determine whether the registrant has been ordained. In accordance with the ceremonial ritual or discipline of a church, religious sect, or organization established on the basis of a community of faith and belief, doctrines and practices of religious character, to preach and teach the principles of such church, sect, or organization and to administer the rites and ceremonies thereof in public worship; and

(2) Determine whether the registrant as his regular, customary, and bona fide vocation, preaches and teaches the principles of religion and administers the ordinances of public worship, as embodied in the creed or principles of the church, sect, or organization by which the registrant was ordained.

(c) If the registrant claims to be a regular minister of religion, the board will:

(1) Determine whether the registrant as his customary and regular calling or occupation, preaches and teaches the principles of religion of a church, a religious sect, or organization of which he is a member, without having been formally ordained as a minister of religion; and

(2) Determine whether the registrant is recognized by such church, sect, or organization as a regular minister.

(d) If the board determines that the registrant is a regular minister of religion or duly ordained minister of religion he shall be classified in Class 4-D.

§ 1645.6 Evaluation of claim.

(a) In evaluating a claim for classification in Class 4-D, the board will not consider:

(1) The training or abilities of the registrant for a duty as a minister;

(2) The motive or sincerity of the registrant in serving as a minister.

(b) The board should be careful to ascertain the actual duties and functions of registrants seeking classification in Class 4-D, such classification being appropriate only for leaders of the various religious groups, not granted to members of such groups generally.

(c) Preaching and teaching the principles of one's sect, if performed part-time or half-time, occasionally or irregularly, are insufficient to establish eligibility for Class 4-D. These activities must be regularly performed and must comprise the registrant's regular calling or full-time profession. The mere fact of some secular employment on the part of a registrant requesting classification in Class 4-D does not in itself make him ineligible for that class.

(d) The board should request the registrant to furnish any additional information that it believes will be of assistance in the consideration of the registrant's claim for classification in Class 4-D.

§ 1645.7 Types of decisions.

(a) If the board determines that the registrant is a regular minister of religion or a duly ordained minister of religion, he shall be classified in Class 4-D.

(b) The board will deny a claim for Class 4-D when the evidence fails to meet the criteria established in this Part.

§ 1645.8 Statement of reason for denial.

(a) Denial of a 4-D claim by a board must be accompanied by a statement specifying the reason(s) for such denial as prescribed in §§ 1633.9, 1651.4 and 1653.3 of this chapter. The reason(s) must in turn, be supported by evidence in the registrant's file.

(b) If the board's denial is based on statements by the registrant or his witnesses at a personal appearance or on documentation in the registrant's file, such basis will be fully explained in the statement of reasons accompanying the denial.

PART 1648—CLASSIFICATION BY LOCAL BOARD

Sec.

1648.1 Authority of local board.

1648.2 Reassignment of local board.

1648.3 Opportunity for personal appearance.

1648.4 Appointment for personal appearance.

1648.5 Procedures during personal appearance before the local board.

1648.6 Registrants transferred for classification.

1648.7 Procedures upon transfer for classification.


§ 1648.1 Authority of local board.

The local board of jurisdiction shall consider and determine all claims for classification which it receives.
at which he may appear, the registrant shall be informed of the time and place of such meeting and that he may present evidence, including witnesses, bearing on his classification.

(b) Should the registrant who has filed a claim for classification in Class 1-A-O or Class 1-O fail to appear at his scheduled personal appearance the board will not consider his claim for classification in Class 1-A-O or Class 1-O and he will be rescheduled for a second personal appearance. If he fails to appear at the second personal appearance, the board shall consider any written explanation of such failure that has been filed within 5 days (or extension thereof granted by the board) after such failure to appear. If the board determines that the registrant’s failure to appear was for good cause it shall reschedule the registrant’s personal appearance. If the board does not receive a timely written explanation of the registrant’s failure to appear for his rescheduled personal appearance or if the board determines that the registrant’s failure to appear was not for good cause, he will be deemed to have abandoned his claim for Class 1-A-O or 1-O and will be notified that his claim will not be considered. The board will notify the registrant in writing of its action under this paragraph.

(c) Whenever a registrant who has filed a claim for a class other than Class 1-A-O or Class 1-O for whom a personal appearance has been scheduled, fails to appear in accord with such schedule, the board shall consider any written explanation of such failure that has been filed within 5 days (or extension thereof granted by the board) after such failure to appear. If the board determines that the registrant’s failure to appear was for good cause it shall reschedule the registrant’s personal appearance. If the board does not receive a timely written explanation of the registrant’s failure to appear for his rescheduled personal appearance or if the board determines that the registrant’s failure to appear was not for good cause, he will be deemed to have abandoned his claim for Class 1-A-O or 1-O and will be notified that his claim will not be considered. The board will notify the registrant in writing of its action under this paragraph.

§ 1648.5 Procedures during personal appearance before the local board.

(a) A quorum of a board shall be present during all personal appearances. Only those members of the board before whom the registrant appeared shall classify him.

(b) At any such appearance, the registrant may present evidence, including witnesses; discuss his classification; direct attention to any information in his file; and present such further information as he believes will assist the board in determining his proper classification. The information furnished should be as concise as possible.

(c) The registrant may present the testimony of not more than three witnesses unless it is the judgment of the board that the testimony of additional witnesses is warranted. The registrant may summarize in writing, the oral information that he or his witnesses presented. Such summary shall be placed in the registrant’s file.

(d) A summary will be made of all oral testimony given by the registrant and his witnesses at his personal appearance and such summary shall be placed in the registrant’s file.

(e) If the registrant does not speak English adequately he may appear with a person to act as interpreter for him. The interpreter shall be sworn in accordance with § 1651.81(b) Such interpreter will not be deemed to be a witness unless he testifies in behalf of the registrant.

(f) During the personal appearance only the registrant or his witnesses may address the board or respond to questions of the board and only the registrant and the board will be allowed to address questions to witnesses. A registrant may, however, be accompanied by an advisor of his choosing and may confer with the advisor before responding to an inquiry or statement by the board; Provided, That, those conferences do not substantially interfere with or unreasonably delay the orderly process of the personal appearance.

(g) If, in the opinion of the board, the informal, administrative nature of the personal appearance is unduly disrupted by the presence of a advisor, the board chairman may require the advisor to leave the hearing room. In such case, the board chairman shall put a statement of reasons for his action in the registrant’s file.

(h) Registrants are prohibited from making verbatim transcripts, using cameras or otherwise recording proceedings before the board. This does not prevent the registrant from making a written summary of all testimony presented.

(i) Proceedings before the local boards shall be open to the public only upon the request of or with the permission of the registrant. The board chairman may limit the number of persons attending the hearing in order to maintain order. If during the hearing the presence of non-participants in the proceeding becomes disruptive, the chairman may close the hearing.

§ 1648.6 Registrants transferred for classification.

(a) Before a board of jurisdiction has undertaken the classification of a registrant, the file may be transferred by the Director of Selective Service to another board for classification.

(b) The Director of Selective Service may transfer a registrant to another board for classification at any time when:

(1) A board cannot act on the registrant’s claim because of disqualification under the provisions of section 1605.55 of this chapter; or

(2) He deems such transfer to be necessary in order to assure equitable administration of the Selective Service Law.

§ 1648.7 Procedures upon transfer for classification.

A board to which a registrant is transferred for classification shall classify the registrant in the same manner it would classify a registrant assigned to it. When the classification has been decided by the transfer board, the file will be returned to the local board of jurisdiction in the manner prescribed by the Director.

PART 1651—CLASSIFICATION BY DISTRICT APPEAL BOARD

Sec. 1651.1 Who may appeal to a district appeal board.

1651.2 Time within which Registrants may Appeal.

1651.3 Procedures for Taking an Appeal.

1651.4 Review by District Appeal Board.

1651.5 File to be Returned After Appeal to the District Appeal Board is Decided.


§ 1651.1 Who may appeal to a district appeal board.

(a) The Director of Selective Service may appeal from any determination of a local board when he deems it necessary to assure the fair and equitable administration of the Selective Service Law; Provided, That, no such appeal will be taken after the expiration of the appeal period prescribed in § 1651.2 of this part.

(b) The registrant may appeal to a district appeal board from the denial of his claim for classification by the local board.

§ 1651.2 Time within which registrants may appeal.

The registrant who wishes to appeal must file the appeal with his local board within 15 days after the date he is
mailed a notice of classification action. The registrant who wishes a personal appearance before the district appeal board must file a request at the same time he files the appeal.

§1651.3 Procedures for taking an appeal.

(a) When the Director of Selective Service appeals to a district appeal board he shall place in the registrant's file a written statement of his reasons for taking such appeal. When an appeal is taken by the Director, the registrant will be notified that the appeal has been taken, the reason therefore, and that the registrant may appear in person before the appeal board in accord with §1651.4(e).

(b) The registrant may appeal the classification action of the local board by filing with it a written notice of appeal. The registrant's notice of appeal need not be in a particular form but must include the name of the registrant and his request. Any notice shall be liberally construed so as to permit the appeal.

(c) The registrant may also request an opportunity to appear in person before the district appeal board and such opportunity shall be provided by the board having jurisdiction over the local board which last classified him.

(d) The registrant must attach to his appeal a statement specifying the reasons he believes the classification action of the local board is inappropriate, directing attention to any information relevant to his claim.

§1651.4 Review by district appeal board.

(a) Prior to the adjudication of an appeal, the clerk of the appeal board or any compensated employee authorized to perform the administrative duties of the board shall review the file to insure that no procedural errors have occurred during the history of the current claim. Files containing procedural errors will be returned to the local board that classified the registrant for any additional processing necessary to correct such errors.

(b) Files containing procedural errors that were not detected during the initial screening but which subsequently surfaced during processing by the appeal board, will be acted on and the board will take such action necessary to correct the errors and process the appeal to completion.

(c) A board shall consider appeals in the order of their having been filed.

(d) Upon receipt of the registrant's file, a board shall ascertain whether the registrant has requested a personal appearance before the board. If no such request has been made, the board may classify the registrant on the basis of the material in his file.

(e) Not less than 10 days [unless the registrant requests an earlier appointment] in advance of the meeting at which his classification will be considered, the board shall inform any registrant with respect to whom the Director of Selective Service has appealed or who has requested a personal appearance that he may appear at such meeting and present written evidence bearing on his classification.

(f) During the personal appearance only the registrant may address the board or respond to questions of the board. The registrant will not be permitted to present witnesses at the personal appearance before the district appeal board. The registrant may, however, be accompanied by an advisor of his choosing and may confer with the advisor before responding to an inquiry or statement by the board: Provided, That, those conferences do not substantially interfere with or unreasonably delay the orderly process of the personal appearance.

(g) If, in the opinion of the board, the informal, administrative nature of the hearing is unduly disrupted by the presence of an advisor during the personal appearance the board chairman may require the advisor to leave the hearing room. In such case, the board chairman shall put a statement of reasons for his action in the registrant's file.

(h) Whenever a registrant who has filed a claim for whom a personal appearance has been scheduled, fails to appear in accord with such schedule, the board shall consider any written explanation of such failure that has been filed within 5 days (or extension thereof granted by the board) after such failure to appear. If the board determines that the registrant's failure to appear was for good cause it shall reschedule the registrant's personal appearance. If the board does not receive a timely written explanation of the registrant's failure to appear for his scheduled personal appearance or if the board determines that the registrant's failure to appear was not for good cause, the registrant will be deemed to have abandoned his request for personal appearance and he will be classified on the basis of the material in his file. The board will notify the registrant in writing of its action under this paragraph.

(i) A quorum of the board shall be present during all personal appearances. Only those members of the board before whom the registrant appeared shall classify him.

(j) At any personal appearance, the registrant may: present his oral testimony; point out the class or classes in which he thinks he should have been placed; and direct attention to any information in his file. The registrant may present any additional written information he believes will assist the board in determining his proper classification. The information furnished should be as concise as possible.

(k) The registrant may summarize in writing the oral information that he presented. Such summary shall be placed in the registrant's file.

(l) A summary will be made of oral testimony given by the registrant at his personal appearance and such summary shall be placed in the registrant's file.

(m) A district appeal board shall classify a registrant who has requested a personal appearance after he:

(1) Has appeared before the board; or
(2) Has withdrawn his request to appear; or
(3) Has waived his right to an opportunity to appear; or
(4) Has failed to appear.

(n) In considering a registrant’s appeal, a board shall not receive or consider any information other than the following:

(1) Information contained in the registrant's file; and
(2) Oral statements by the registrant during the registrant's personal appearance; and
(3) Written evidence submitted by the registrant to the board during his personal appearance.

(o) In the event a board classifies the registrant in a class other than that which he requested, it shall record its reasons therefor in the file.

(p) Registrants are prohibited from making verbatim transcripts or otherwise recording proceedings before the board. This does not prevent the registrant from making a written summary of his testimony.

(q) Proceedings before the appeal boards shall be open to the public only upon the request of or with the permission of the registrant. The board chairman may limit the number of persons attending the hearing in order to maintain order. If during the hearing the presence of non-participants in the proceedings becomes disruptive, the chairman may close the hearing.

§1651.5 File to be returned after appeal to the district appeal board is decided.

When the appeal to a district appeal board has been decided, the file shall be returned as prescribed by the Director of Selective Service.
§ 1653.1 Who may appeal to the President.
(a) The Director of Selective Service may appeal to the President from any non-unanimous determination of a district appeal board when he deems it necessary to assure the fair and equitable administration of the Selective Service Law: Provided, That, no such appeal will be taken after the expiration of the appeal period prescribed in subsection (b) below.
(b) When a registrant has been classified by a district appeal board and one or more members of the board disented from that classification, he may within 15 days after a notice thereof has been mailed, appeal to the President and may request a personal appearance before the National Selective Service Appeal Board.

§ 1653.2 Procedures for taking an appeal to the President.
(a) When the Director of Selective Service appeals to the President he shall place in the registrant's file a written statement of his reasons for taking such appeal. When an appeal is taken by the Director the registrant will be notified that the appeal has been taken, the reasons therefore, and that the registrant may appear in person before the National Board in accord with § 1653.3(b).
(b) An appeal to the President by the registrant shall be taken by filing a written notice of appeal with the local board that classified him. He may at the same time file a written request to appear before the National Selective Service Appeal Board. Such notice need not be in any particular form but must state the name of the registrant and the fact that he wishes the President to review the determination.

§ 1653.3 Review by the National Selective Service Appeal Board.
(a) An appeal to the President is determined by the National Board by its classification of the registrant in a class other than 1-A or by its refusal to take such action.
(b) Prior to the adjudication of an appeal, the clerk of the appeal board or any compensated employee authorized to perform the administrative duties of the board shall review the file to insure that no procedural errors have occurred during the history of the current claim. Files containing errors will be returned to the board where the errors occurred for any additional processing necessary to correct such errors.
(c) Files containing procedural errors that were not detected during the initial screening but which subsequently surfaced during processing by the appeal board, will be acted on and the board will take such action necessary to correct the errors and process the appeal to completion.
(d) The board shall consider appeals in the order of their having been filed.
(e) Upon receipt of the registrant's file, the board shall ascertain whether the registrant has requested a personal appearance before the board. If no such request has been made, the board may classify the registrant on the basis of the material in his file.
(f) The board shall proceed to classify any registrant who has not requested a personal appearance after the specified time in which to request a personal appearance has elapsed.
(g) Not less than 10 days in advance of the meeting at which his claim will be considered, the board shall inform any registrant with respect to whom the Director of Selective Service has appealed or who has requested a personal appearance that he may appear at such meeting and present written evidence bearing on his classification.
(h) During the personal appearance only the registrant may address the board or respond to questions of the board. The registrant will not be permitted to present witnesses at the personal appearance before the national Appeal Board. A registrant may, however, be accompanied by an advisor of his choosing and may confer with the advisor before responding to an inquiry or statement by the board: Provided, That, those conferences do not substantially interfere with or unreasonably delay the orderly process of the personal appearance.
(i) If, in the opinion of the board, the informal, administrative nature of the personal appearance is unduly disrupted by the presence of an advisor, the board chairman may require the advisor to leave the hearing room. In such a case, the board chairman shall put a statement of reasons for his action in the registrant's file.
(j) Whenever a registrant who has filed a claim for whom a personal appearance has been scheduled fails to appear in accord with such schedule, the board shall consider any written explanation of such failure that has been filed within five days (or extension thereof granted by the board) after such failure to appear. If the board determines that the registrant's failure to appear was for good cause it shall reschedule the registrant's personal appearance. If the board does not receive a timely written explanation of the registrant's failure to appear for his scheduled personal appearance or if the board determines that the registrant's failure to appear was not for good cause, the registrant will be deemed to have abandoned his request for personal appearance and the board will proceed to classify him on the basis of the material in his file. The registrant will be notified in writing of its action under this paragraph.
(k) A quorum of the board shall be present during all personal appearances. Only those members of the board before whom the registrant appeared shall classify him.
(l) At any such appearance, the registrant may present oral testimony, point out the class or classes in which he thinks he should have been placed, and direct attention to any information in his file. The registrant may present such further written information as he believes will assist the board in determining his proper classification. The information furnished should be as concise as possible.
(m) The registrant may summarize in writing the oral information that he presented and any such summary shall be placed in his file.
(n) A summary will be made of the oral testimony given by the registrant at his personal appearance and such summary shall be placed in the registrant's file.
(o) The board shall classify a registrant who has requested a personal appearance after he:
(1) Has appeared before the National Board; or
(2) Has withdrawn his request to appear; or
(3) Has waived his right to an opportunity to appear; or
(4) Has failed to appear.
(p) In considering a registrant's appeal, the board shall not receive or consider any information other than the following:
(1) Information contained in the registrant's file; and
(2) Oral statements by the registrant at his personal appearance; and
(3) Written evidence submitted by the registrant to the board during his personal appearance.
ENVIRONMENTAL PROTECTION AGENCY

PART 1659—EXTRAORDINARY EXPENSES OF REGISTRANTS

§ 1659.1 Claims.
(a) Claims for payment of actual and reasonable expenses of:
(1) Emergency medical care, including hospitalization of registrants who suffer illness or injury; and
(2) The transportation and burial of the remains of registrants who suffer death while acting under orders issued by or under the authority of the Director of Selective Service will be paid in accordance with the provisions of this section.
(b) Claims for payment of expenses incurred for the purposes set forth in paragraph (a) of this section shall be presented to the Director of Selective Service.
(c) (1) The term "emergency medical care, including hospitalization", as used in this section, shall be construed to mean such medical care or hospitalization that normally must be rendered promptly after an occurrence of illness or injury. Discharge by a physician or facility subsequent to such medical care or hospitalization shall be justification to terminate the period of emergency.
(d) The death of a registrant shall be deemed to have occurred while acting under orders issued by or under the authority of the Director of Selective Service if it results directly from an illness or injury suffered by the registrant while so acting and occurs prior to the completion of an emergency medical care, including hospitalization, occasioned by such illness or injury.
(e) No such claim shall be paid unless it is presented within the period of one year from the date on which the expenses were incurred.
(f) No such claim shall be allowed in case it is determined that the cause of injury, illness, or death was due to negligence or misconduct of the registrant.
(g) Payment of such claims when allowed shall be made only:
(1) Directly to the person or facility with which the expenses were incurred; or
(2) By reimbursement to the registrant, a relative of the registrant, or the legal representative of the registrant's estate, for original payment of such expenses.
(Military Selective Service Act, 50 U.S.C. App. 451 et seq. EO 11063)
[FR Doc. 81-20797 Filed 11-6-81; 8:45 am]
BILLING CODE 8155-14-M

SUMMARY: Four revisions to the Connecticut State Implementation Plan (SIP) were submitted to EPA by the Director of the Air Compliance Unit of the Connecticut Department of Environmental Protection (DEP) on July 7, 1981. Three of these revisions have been addressed by EPA in a separate rulemaking notice (46 FR 45378, September 11, 1981). In this notice, EPA proposes to approve the fourth revision which will change regulation 19-508-18(d) to reduce the total suspended particulate (TSP) emission rate for oil burning equipment from 0.2 to 0.14 pounds of TSP per million Btu. The DEP's review is being conducted in accordance with the provisions of this section.

DATE: Comments must be received on or before December 17, 1981. Comments should be submitted to Harley F. Laing, Chief, Air Branch, EPA Region I, Room 1003, J.F.K. Federal Building, Boston, Massachusetts 02203.

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, Room 1003, J.F.K. Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460; the Office of the Federal Register, 110 L Street, NW., Washington, D.C.; and the Connecticut Department of Environmental Protection, Air Compliance Unit, State Office Building, Hartford, Connecticut 06115.

FOR FURTHER INFORMATION CONTACT: Sarah Simon, Air Branch, EPA Region I, Room 1003, J.F.K. Federal Building, Boston, Massachusetts 02203, (617) 223-4448.

SUPPLEMENTARY INFORMATION: The Connecticut DEP has proposed revisions to Regulation 19-508-18, governing TSP emissions, which would strengthen the existing regulations by tightening the emission limits for certain categories of sources. The state has proposed the following limits:
1. Residual oil-burning sources: 0.14 pounds of particulate matter per million Btu.
2. Iron foundry cupolas: More stringent of (a) removal of 90% by weight of all particulates in discharge gases or (b) release of not more than 1.7 pounds of particulates per ton of iron produced.
3. Hot mix asphalt plants: 0.1 pounds of particulates per ton of asphalt produced.
4. Foundry sand process sources: Removal of at least 90% of particulate matter from the process or the emission of not more than 0.75 pounds of particulates per ton of material cast.

In its final rulemaking notice (45 FR 84781, Dec. 23, 1980) regarding Connecticut's attainment plan, EPA specified two conditions under which the state's attainment plan for the primary TSP standard would be approved. These were: (1) Review of EPA's Reasonably Available Control Technology (RACT) guidance determinations of particulate emission regulations which represent RACT for Connecticut sources and, if necessary, adoption and implementation of such particulate emission regulations or a written submittal to EPA of the technical
support delineating why no regulation change is necessary for oil burning boilers, asphalt batch plants, quarry operations, ferrous foundries, non-ferrous foundries and Portland cement concrete batch plants: (2) Reexamination and reevaluation of Connecticut's existing particulate emission regulations for fabricated metal products manufacturing; stone, clay and glass products manufacturing; and textile mills products manufacturing: submission to EPA of a written statement summarizing the findings of such reevaluation, and adoption and implementation of revised particulate emission regulations consistent with such findings.

In order to meet these two conditions, the DEP has proposed to make the regulatory changes specified above. The DEP has also submitted material, on June 19, 1981 and August 5, 1981 as well as with the July 7, 1981 submission, justifying why no further regulatory changes are necessary.

With regard to the first condition, the DEP is amending its regulations concerning residual oil combustion, iron cupolas, asphalt plants and foundry sand and has determined that the amended regulations will represent the application of RACT. The DEP has also determined that its existing regulations for non-ferrous foundries, quarry operations and concrete batching represent the application of RACT. After evaluating the state submittals, EPA concurs in these determinations. EPA (Region I) developed Guidance to assist in a state's determination of RACT for the source categories listed in the first condition. Connecticut has reviewed its regulations in light of the Regional Guidance. While portions of Connecticut's proposals are not in strict conformity with the Regional recommendations, the Guidance did not establish an inflexible regulatory requirement, as discussed at 45 FR 64781.

As to the second condition, the DEP has determined that its existing TSP regulation applies to and represents the application of RACT for all of the source categories listed. After evaluating the state submittals, EPA concurs in this determination.

Proposed Action

EPA is proposing to approve a change in regulation 19-508-18(d) to reduce the TSP emission rate for oil burning equipment from 0.2 to 0.14 pounds of TSP per million Btu, and revisions of regulation 19-508-18(f) to reduce allowable TSP emissions from iron foundries, hot mix asphalt plants, and foundry sand processes. EPA is also proposing to approve Connecticut's TSP attainment plan because Connecticut will have satisfied the conditions stated at 45 FR 64781 once the proposed regulatory changes are adopted by the State and formally submitted to EPA for incorporation into the SIP.

Under the "parallel process" procedure outlined in the summary of this notice, EPA's review and proposed rulemaking for these revisions are being conducted concurrently with their review and adoption at the state level. If the regulations adopted by the state are substantially changed, EPA will evaluate those changes and publish a revised notice of proposed rulemaking for those regulations. If no substantial changes are made, EPA will approve these revisions.

Pursuant to the provisions of 5 U.S.C. sections 606(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 6709 (January 27, 1981). The attached rules, if promulgated, constitute SIP revisions under sections 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 a Regulatory Impact Analysis. These regulations are not Major because they will only approve state actions.

These regulations were 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 in 40 CFR Part 51. These revisions are being proposed pursuant to sections 110(a) and 301 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7411).

Dated: September 17, 1981.

Lester A. Sutton,
Regional Administrator.

FOR FURTHER INFORMATION CONTACT: David S. Kircher, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295. (303) 837-3911

SUPPLEMENTARY INFORMATION: On August 17, 1981, the Governor of Utah submitted a revision to its State Implementation Plan which included regulations for the prevention of significant deterioration of air quality (PSD).

Section 110(a)(2)(D) and Part C of the Clean Air Act establish specific requirements for the prevention of significant deterioration of air quality in areas where ambient levels are lower than the national standards. The Act defines the amount of deterioration that can be tolerated in an area in terms of maximum allowable increases in ambient air quality concentrations (increments). These increments vary and are a function of the classification of the area. There are three applicable classifications under this program: (a) Class I where the increments are very stringent and practically no deterioration is allowed, (b) Class II where moderate, well controlled growth is allowed, and (c) Class III where a considerable amount of growth is allowed. While the Act established several mandatory Class I areas, most of the nation is now Class II, and the Act...
This notice of proposed rulemaking is issued under the authority of section 110 of the Clean Air Act (42 U.S.C. 7410).

Dated: September 28, 1981.

Steven J. Durham,
Regional Administrator.

[FR Doc. 81-33976 Filed 11-16-81; 8:45 am]
BILLING CODE 6560-36-M

SUPPLEMENTARY INFORMATION:

Background

On October 23, 1980, the State of Maryland submitted to the Environmental Protection Agency a State Implementation Plan (SIP) for the control of lead (Pb) emissions. The plan submitted by the State delineates the air quality problem areas with respect to lead. According to the State, the highest levels of lead have been recorded in the Metropolitan Baltimore Intrastate Air Quality Control Region (AQCR). Between 1974 and 1978, violations of the National Ambient Air Quality Standard (NAAQS) for lead (1.5 micrograms per cubic meter, averaged over a three-month period) were recorded at four different monitors in the AQCR. The State of Maryland has attributed these violations to both stationary sources and mobile sources. The State also discusses violations that have occurred in the National Capital Area (NCA), but for this area, the State attributes only mobile sources as the cause of the violations. For the remainder of Maryland, the State informed EPA that no violations of the NAAQS have been recorded.

Control Strategy Demonstration

For the Metropolitan Baltimore AQCR, where the highest levels of lead were recorded and where the contributing sources were both stationary and mobile sources, the State developed a control strategy demonstration based on diffusion modeling. The State employed its Multiple Source Dispersion Model (MSDM), which is a revised Air Quality Display Model (AQDM). Both point sources (stationary sources greater than four tons per year) and area sources (mobile sources and stationary sources less than four tons per year) were input into the model. The following variables were also input into the model: wind speed, wind direction, mixing height, and stack parameters (stack height, existing temperature, diameter and velocity). Although the MSDM is not an EPA-approved model, the results of the model have been reviewed by EPA on a case-by-case basis and have been found to be equivalent to those of EPA-approved models for urban areas with respect to pollutants such as total suspended particulates (TSP). Since lead has the same airborne characteristics as TSP, EPA considers the use of MSDM as an acceptable method of demonstrating attainment of the NAAQS for lead in the Metropolitan Baltimore AQCR. The State also submitted on July 27, 1981, for clarifying purposes, information which shows the correlation between the receptor points in the MSDM modeling.
analysis and the TSP lead/monitor locations in Baltimore.

Both the modeling analysis and monitored air quality data have concluded that the point of highest concentration for lead is near a frit manufacturing plant in Baltimore. This plant is currently under a Secretarial Order for the control of TSP emissions. The State believes that lead emissions will be reduced along with the reduction in TSP emissions and thus considers the Secretarial Order as a control strategy to attain lead standards in Baltimore.

On July 27, 1981, the State submitted to EPA a Secretarial Order, signed on December 1, 1980, that by its terms supersedes that version which the State had described in the control strategy portion of the lead SIP. The remainder of the control strategy for the Metropolitan Baltimore Intestate AQCR consists of a regulation limiting the use of waste oil as fuel (COMAR Regulation 10.18.11.05) and control of mobile source emissions under the federally mandated restrictions of lead content in fuels. Based on these control strategies, the MSDM predicts AQCR-wide attainment of the lead standard by December 31, 1982. For the Metropolitan Washington AQCR, the State performed a modified rollback analysis to determine the emission reduction needed to attain the lead standard AQCR-wide by December 31, 1982. The State determined that since there are no major point sources for lead, there is no need to perform a diffusion modeling analysis. The State has concluded that mobile sources were the major contributor to the one monitor site that has recorded violations of the lead standard (Hyattsville, Maryland). Using the rollback analysis, the State has also concluded that the emission reductions resulting from the federally mandated restrictions of the lead content in gasoline and fuel additives will be sufficient to ensure AQCR-wide attainment of the lead standard by December 31, 1982.

Provisions for Review of New Sources

Maryland's lead SIP contains regulations controlling construction and operation of any new stationary source of lead. Sections 03A[1][e] and .03A1[i][j] of COMAR 10.18.02 require permits for any new stationary source of lead that discharge one ton per year or more of lead or lead compounds measured as elemental lead. In addition, COMAR 10.18.02.03H requires a permit application for stationary sources of lead that discharge five (5) tons per year or more of lead or lead compounds measured as elemental lead to follow a more rigorous review procedure.

Identical to that required for NSPS sources, NESHAPS sources, or 100-ton sources located in nonattainment areas.

Test Methods

In a separate submittal, the State of Maryland submitted to EPA a SIP revision describing the method for determining lead emissions from stationary sources. EPA has proposed approval of these testing procedures and has requested public comment in a separate rulemaking action, 46 FR 52340 (1981).

Public Hearings

The State provided proof that public hearings with respect to the lead SIP were held on June 2, 1980 in Towson, Maryland and June 3, 1980 in Riverdale, Maryland in accordance with the requirement of 51.4. The State has also scheduled a public hearing for December 15, 1981 to solicit public comment on the acceptability of the Secretarial Order for the frit manufacturing plant as a control strategy for controlling lead emissions.

EPA Actions

EPA has reviewed Maryland's lead SIP and has determined that it meets the scope and intent of 40 CFR 51.60 through 51.68 (Control Strategy —Lead). Therefore, EPA proposes to approve Maryland's lead SIP. In addition, EPA proposes to approve as part of the SIP, the aforementioned letter dated July 27, 1981 submitted by the State of Maryland to EPA to clarify portions of the SIP. This letter contains the Secretarial Order for the frit manufacturing plant in Baltimore as well as information that shows the correlation between the receptor points in the MSDM modeling analysis and the TSP/lead monitor locations in Baltimore. With respect to EPA's proposed approval of COMAR 10.18.11.05, EPA will require Maryland to submit to EPA, as a revision of the lead SIP, any Secretarial Order granted by the State of Maryland under the provisions of 10.16.11.05C referring to conditions under which the State will approve the use of waste oil.

The public is invited to comment on whether EPA should approve Maryland's lead SIP. All comments received on or before December 17, 1981, will be considered. 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. 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. See 46 FR 6709 (January 27, 1981). This notice, if promulgated, constitutes a SIP approval under Sections 110 and 172 within the terms of the January 27 certification. This action only approves State actions. It imposes no new requirements.

(42 U.S.C. 7471-642)

Dated: October 8, 1981.

Peter R. Bibko,
Regional Administrator.
[FR Doc. 81-33078 Filed 11-16-81; 8:45 am]
BILLING CODE 6560-38-M

40 CFR Part 123

[SW-1-FRL-1987-2]

Connecticut Application for Interim Authorization, Phase I, Hazardous Waste Management Program

AGENCY: Environmental Protection Agency, Region I.

ACTION: Notice of public hearing and public comment period.

SUMMARY: EPA has promulgated regulations under Subtitle C of the Resource Conservation and Recovery Act (RCRA) (as amended) to protect human health and the environment from the improper management of hazardous waste. Phase I of the regulations was published in the Federal Register on May 19, 1980 (45 FR 33003). These regulations include provisions for authorization of State programs to operate in lieu of the Federal program. Today EPA is announcing the availability for public review of the Connecticut application for Phase I interim authorization, inviting public comment, and giving notice of a public hearing to be held on the application.

DATES: Comments on the Connecticut interim authorization application must be received by December 30, 1981.

Public Hearing: EPA will conduct a public hearing on the Connecticut interim authorization application at 10:00 am on December 18, 1981. EPA reserves the right to cancel the public hearing if significant public interest in a hearing is not expressed. The State of Connecticut will participate in the public hearing.

ADDRESSES: The public hearing will be held at: State Office Building, Room 221.
165 Capitol Avenue, Hartford, Connecticut 06113. Copies of the Connecticut interim authorization application are available at the following addresses for inspection and copying by the public:


(2) Environmental Protection Agency, Region I Office Library, Room 2108 B, John F. Kennedy Federal Building, Boston, Massachusetts 02203 (telephone (617) 223-5791/4017).

(3) EPA Headquarters Library, Room 2404, 401 M Street SW., Washington, D.C. 20460.

Written comments and requests to speak at the hearing should be sent to: William R. Torrey, III, Connecticut State Coordinator, Waste Management Branch, U.S. EPA, Region I, John F. Kennedy Federal Building, Boston, Massachusetts 02203 (telephone (617) 223-5791/4017).


SUPPLEMENTARY INFORMATION: In the May 19, 1980 Federal Register (45 FR 33063), the Environmental Protection Agency promulgated Phase I of its regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (as amended), to protect human health and the environment from the improper management of hazardous waste. EPA’s Phase I regulations establish, among other things: the initial identification and listing of hazardous wastes; the standards applicable to generators and transporters of hazardous waste, including manifest system; and the “interim status” standards applicable to existing hazardous waste management facilities before they receive permits. The May 19 regulations also include provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified State programs can be granted interim authorization. The interim authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect. In order to qualify for interim authorization, the State hazardous waste program must, among other things:

(1) Have had enabling legislation in existence prior to August 17, 1980; and,

(2) Be “substantially equivalent” to the Federal program.

A full description of the requirements and procedures for State interim authorization is included in 40 CFR Part 123 Subpart F (45 FR 33479). The State of Connecticut has submitted a complete application to EPA for Phase I interim authorization. Copies of the State submittal are available for public inspection and comment as noted above. A public hearing is to be held on the submittal, unless significant public interest is not expressed, as also noted above.

Conduct of Hearing

The hearing is intended to provide an opportunity for interested persons to present their views and submit information for consideration by EPA in the decision whether to grant Connecticut interim authorization for Phase I of the RCRA program. A panel of EPA employees involved in relevant aspects of the decision will be present to receive the testimony. The hearing will be informally structured. Individuals providing oral comments will not be sworn in, nor will formal rules of evidence apply. Questions may be posed by panel members to persons providing oral comments; however, no cross-examination by other participants will be allowed. Representatives from the State of Connecticut will testify first and present a short overview of the State program. Other commenters will then be called in the order in which their requests were received by EPA. As time allows, persons who did not sign up in advance but who wish to comment on the State’s application for Phase I interim authorization will also be given an opportunity to testify. Each organization or individual will be allowed as much time as possible for oral presentation based on the number of requests to participate and the time available for the hearing. As a general rule, in order to ensure maximum participation and allotment of adequate time for all speakers, participants should limit the length of their statements to 10 minutes. The public hearing will be followed, as time permits, by a question and answer session during which participants may pose questions to members of the panel.

Preparation of Transcripts

A transcript of the comments received at the hearing will be prepared. To ensure accurate transcription, participants should provide written copies of their statements to the hearing chairperson. Transcripts will be available upon request from William R. Torrey, III, Connecticut State Coordinator, Waste Management Branch, Region I, U.S. Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts 02203 (telephone (617) 223-5775) approximately three days after the hearing at cost.

Dated: November 9, 1981.

Lester A. Sutton,
Regional Administrator, Region I.
in the July 31, 1979, Federal Register (44 FR 45066), U.S. EPA shall approve or disapprove a State plan within six months of submittal. This notice announces the availability of the Minnesota State Plan and invites public comment on it. After review of the State plan and public comments, rulemaking action on the Minnesota State Plan will be detailed in a separate Federal Register notice.

**DATE:** Comments must be received by December 17, 1981.

**ADDRESS:** Copies of the adopted Minnesota State Solid Waste Management Plan are available for public inspection during normal business hours at the following addresses:

- U.S. Environmental Protection Agency, Region V, Waste Management Branch, 111 West Jackson Boulevard, Chicago, Illinois 60604
- U.S. Environmental Protection Agency, Headquarters' Library, Room 2404, 401 M Street SW., Washington, D.C. 20460
- Minnesota Pollution Control Agency Library, 1935 West County Road B-2, Roseville, Minnesota 55113, (612) 296-7718

Written comments should be sent to: Judy Kertcher, Chief, Regulatory Analysis and Information Section, Waste Management Branch, U.S. EPA, Region V, 111 West Jackson Boulevard, Chicago, Illinois 60604. It is requested that you submit three copies along with the original of any comment.

**FOR FURTHER INFORMATION CONTACT:** Lillian Bagus, Regulatory Analysis and Information Section, Waste Management Branch, U.S. EPA, Region V, 111 West Jackson Boulevard, Chicago, Illinois, 60604, (312) 886-6142

**SUPPLEMENTARY INFORMATION:** On July 31, 1979, (44 FR 45066), U.S. EPA published guidelines for the development and implementation of State Solid Waste Management Plans under the authority of section 4002(b) of the Solid Waste Disposal Act, as amended by The Resource Conservation and Recovery Act of 1976, as amended, (RCRA). The guidelines establish the requirements for State plans and recommend methods and procedures to meet those requirements.

Under section 4007 of RCRA, the Administrator shall approve plans which meet the requirements of paragraphs (1), (2), (3) and (5) of section 4003 and which contain provisions for revision. To assist the public in their review of the plan, these requirements are summarized below:

1. The plan shall identify the responsibilities of the State, local and regional authorities in implementing the plan and describe the means for coordinating regional planning and implementation. This includes the distribution of Federal funds to these authorities.

2. The plan shall prohibit the establishment of new open dumps in accordance with sections 4004 and 4005 and contain requirements that all solid waste shall be utilized for resource recovery or disposed of in sanitary landfills or otherwise disposed of in an environmentally sound manner.

3. The plan shall provide for the closing or upgrading of all existing open dumps in accordance with sections 4004 and 4005.

4. The plan shall provide that no State or local government shall be prohibited from entering into long-term contracts for the purpose of resource recovery projects.

5. The plan shall provide specific provisions for revision.

In addition to the above requirements, the plan must also address the guidelines which were published in the July 31, 1979, Federal Register and are summarized below:

1. The plan shall provide for the establishment of necessary State regulatory powers.

2. The plan shall provide for adequate resource conservation, recovery, storage, treatment and disposal facilities and practices necessary to use or dispose of solid and hazardous waste in an environmentally sound manner.

3. The plan shall provide for coordination with Federal programs that affect State solid waste.

4. The plan shall provide for public participation in the development of the plan, the annual work program, State regulations and the permitting of facilities.

5. U.S. EPA is currently reviewing the revised and adopted plan. At the completion of its review, U.S. EPA will publish a notice in the Federal Register announcing rulemaking action on these submittals. If the State cannot meet all of the above requirements, U.S. EPA may grant partial approval as described in the September 23, 1981, Federal Register. This notice amends 40 CFR Part 256 to allow for partial plan approval of the State plan that would provide an opportunity for compliance schedules leading to compliance with the open dumping prohibition. U.S. EPA will consider the compliance schedule portion of the plan for approval while the State continues to work on the rest of the plan. All interested persons are advised that these submittals are available for review at the locations listed above. Comments must be received by December 17, 1981.

- Dated: November 3, 1981.
- Valdas V. Adamkus, Regional Administrator.

**BILLING CODE 6560-38-M**

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**FEDERAL COMMUNICATIONS COMMISSION**

47 CFR Ch. I

[Gen. Docket No. 81-706; FCC 81-487]

**List of the Commission's Rules To Be Reviewed Pursuant to the Regulatory Flexibility Act During 1981-82**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of rules to be reviewed.

**SUMMARY:** The Commission's plan for periodic review of FCC regulations pursuant to the requirements of the Regulatory Flexibility Act of 1980, 5 U.S.C. 610 was published in the Federal Register on July 31, 1981 (46 FR 39183). In accord with that plan, this action identifies specific rules or groups of closely related rules to be reviewed during 1981-1982, provides brief descriptions of the rules as well as the need for and legal basis of those rules.

**DATES:** Comments due on or before December 17, 1981.

**FOR FURTHER INFORMATION CONTACT:** Don McClure or Maurice Talbot, Office of General Counsel, (202) 254-6530.

- Adopted: October 21, 1981.
- Released: October 30, 1981.

By the Commission:

1. On July 29, 1981, the Federal Communications Commission released its Regulatory Flexibility Act (RFA) (5 U.S.C. § 601 et seq.) plan for periodic review of all rules issued by the agency which have, or will have, a significant economic impact upon a substantial number of small entities. See 46 Fed. Reg. 39183 (July 31, 1981). Attached to the Commission's plan was a table outlining a broad schedule for reviewing FCC regulations toward the ends specified by the RFA during the next five years.

2. In accordance with the foregoing plan, the staff has reviewed the subparts of the Commission's regulations targeted for review from September 1981 through August 1982. The attached Appendix lists specific rules or closely related groups of rules which are to be
examin[ed pursuant to Section 610(c) of the Commission's RFA review. The public is invited to comment on these rules. Comments should address the following: (1) the nature of the economic impact the rule(s) has (or have) on the commenting party, (2) the continued need for the rule(s), (3) the complexity of the rule(s); (4) the extent to which the rule(s) overlap(s), duplicate(s) or conflict(s) with other Federal rules, and, to the extent feasible, with state and local governmental rules; (5) the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule(s); (6) any other matters that would facilitate an informed review of the specified regulations. The Commission, by its Regulatory Review Working Group (RRWG), is undertaking a much broader review of all rules and policies with the objective of eliminating those which no longer serve the public interest. The annual review being conducted in accordance with the RFA is distinct from but complements the broader effort being pursued by the RSWG. Therefore, to the maximum extent feasible, the material generated with respect to RFA requirements will be considered in conjunction with the Commission's regulatory review effort.

4. The accompanying Appendix specifies, for each rule or group of rules listed, the Bureau or Office responsible for evaluating comments on the designated rules. To enhance the efficiency of the reviewing process, parties are asked to submit comments directed to each reviewing Bureau or Office in a separately captioned filing. Commenting parties should submit one original and one copy of each filing to the Secretary, Federal Communications Commission, 1919 M Street, N.W.

### Appendix

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<td>Subpart J.</td>
<td>Equipment authorization procedures—type approval and certification,</td>
<td>These rules implement Section 302 of the Communications Act. Radio-frequency devices may not be marketed unless they have received an appropriate equipment authorization. Subject J. defines the types of authorizations, the process by which one applies for and receives them, and relevant measurement procedures to be used to assure the Commission that devices comply with its technical standards.</td>
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Washington, D.C. 20554. Comments should specify the docket number of this proceeding and the name of the reviewing Bureau or Office. Thus, for example, a party wishing to comment on the rules designated in Parts 22 and 74 must submit two separate sets of comments; comments on Part 22 captioned General Docket 81-706 (Common Carrier Bureau—Mobile Services Division) and comments on Part 74 captioned General Docket 81-706 (Broadcast Bureau).

5. Interested parties may file comments on or before December 17, 1981.

Federal Communications Commission. William J. Tricario, Secretary.
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<td>47 U.S.C. §§302, 303(g), and 303(p).</td>
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#### HIGH-INTENSITY OBSTRUCTION LIGHTING.

| 17.39 | Specifications for the high intensity lighting of antenna structures having a skeletal tower up to and including 91.44 meters (300 feet) in height. | Do   |
| 17.40 | Specifications for the high intensity lighting of antenna structures having a skeletal tower over 91.44 meters (300 feet) up to and including 182.88 meters (600 feet) in height. | Do   |
| 17.41 | Specifications for the high intensity lighting of antenna structures having a skeletal tower over 182.88 meters (600 feet) up to and including 304.80 meters (1,000 feet) in height. | Do   |
| 17.42 | Specifications for the high intensity lighting of antenna structures having a skeletal tower over 304.80 meters (1,000 feet) in height. | Do   |
| 17.43 | Painting and lighting of new and existing structures. | Do   |
| 17.44 | Temporary warning lights. | Do   |
| 17.45 | Inspection of tower lights and associated control equipment. | Do   |
| 17.46 | Notification of extinguishment or improper functioning of lights. | Do   |
| 17.47 | Recording of tower light inspections in the station record. | Do   |
| 17.48 | Cleaning and repainting. | Do   |
| 17.49 | Time when lights should be exhibited. | Do   |
| 17.50 | Lighting equipment and paint. | Do   |
| 17.51 | Rated lamp voltage. | Do   |
| 17.52 | Maintenance of lighting equipment. | Do   |
| 17.53 | Report of radio transmitting antenna construction, alteration and/or removal. | Do   |
| 17.54 | Facilities to be located on land under the jurisdiction of the U.S. Forest Service or the Bureau of Land Management. | Do   |

These rules are needed to provide for the various practical aspects of how carriers make mobile services available to the public, i.e., they set standards to prevent electrical interference; give guidelines for operating base stations; control points and mobile units; establish technical limitations on facilities; list frequencies available, set priorities for operation; describe procedural and substantive requirements; and explain the public's rights and obligations.

### 47 U.S.C. §§154(a) and 303(j).
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The USOC regulations specified in these rule parts permit the Commission to prescribe the forms of any and all accounts, records, and memoranda to be kept by carriers subject to the Communications Act, including the accounts, records, and memoranda of the movement of traffic, as well as of receipts and expenditures of money.

This rule requires filing with the FCC copies of certain contracts, agreements, concessions, licenses, authorizations or other arrangements with respect to Communications traffic affected by the Act. To the extent the Act permits such contracts, this rule permits the FCC to monitor contracts to ascertain the impact on the just and reasonable rates required by the Act.

This rule permits the FCC to monitor negotiations in order to ascertain their impact on the just and reasonable rates required by the Act.

This rule permits the FCC to monitor the determination of division of revenues in order to insure implementation of Commission policy and to ascertain impact on the just and reasonable rates required under the Act.

This rule requires notice of nonrate service being provided by the regulated telegraph carrier to enable the FCC to guard against potential subsidization of unregulated services by regulated services.

These rules were designed to ensure that all tariffs are formally sound and well organized, and provide both the FCC and the public with cost data and other information needed for proper analysis under the standards of the Act. Certain of these rules recognizes differences between tariff filings made by dominant and nondominant carriers by relaxing requirements in the latter case.

These rules are designed to fulfill legal requirements of Section 214 of the Communications Act regarding extension, construction and acquisition of channels of communications by common carriers and provide a vehicle for the FCC to authorize resale common carriers.

These four rules sections set forth the FCC’s policy concerning a telephone company’s provision and ownership of cable television service in its telephone service area. The rules are designed to carry out the telephone-cable television cross-ownership policy adopted in Docket 18509, 21 FCC 2d 207 (1970).
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47 U.S.C. §§ 302(a), 302(a)-c, 302(f), 303(a) and 303(b).

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**Private Radio Bureau**

| 83.24 | Eligibility for station license | do | 47 U.S.C. §§ 152, 154(b), 154(d), 301, 303, 307, 308, 309, 390, 392 |
| 83.25 | Administrative classification of stations | do |             |
| 83.42 | Changes during license term | do |             |
| 83.102 | Posting station license | do |             |
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| 83.112 | General requirements for receiving apparatus | do |             |
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**Private Land Mobile Radio Services**

| 90.17 | Local government radio service | do |             |
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These rules are necessary to establish licensing requirements in the services specified, including standards for eligibility, frequencies available and any special obligations deemed necessary for efficient operation of the services in question. 

47 U.S.C. §§ 154(a) and 303(a).
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These rules are necessary to establish uniform licensing and operating requirements to foster proper and efficient operations in the General Mobile Radio Service.

These rules establish operating guidelines, technical standards and other substantive requirements to foster efficient operations of stations in the amateur radio service.

47 U.S.C. §§154(b) and 303(r).

47 CFR Parts 2 and 21

[Gen. Docket No. 81-743; RM-3625; FCC 81-508]


**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** FCC proposes to amend Parts 2 and 21 of its Rules to modify the calculation of necessary bandwidth for high capacity microwave radio relay systems. This action is taken to increase spectrum efficiency. It is suspected that a change in the method of calculating necessary bandwidth for high capacity microwave radio relay systems would allow a larger number of telephone channels to be carried within the same authorized radio bandwidth with no impairment to their quality.

**DATES:** Comments must be received on or before December 29, 1981, reply comments no later than January 28, 1982.

**ADDRESS:** Secretary, Federal Communications Commission, Washington, D.C. 20554.


In the matter of amendment of Parts 2 and 21 of the Commission's rules concerning calculation of necessary bandwidth for frequency modulation microwave radio relay systems. Notice of proposed rulemaking, Gen. Docket No. 81-743 RM-3625, FCC 81-508.

Adopted: October 22, 1981.

Released: October 30, 1981.

By the Commission:
1. On March 12, 1980, American Telephone & Telegraph Company (AT&T) filed a petition to modify Section 2.202 of the Rules.1 AT&T claims that the change in the method of calculating necessary bandwidth for high capacity microwave radio relay systems would allow a larger number of telephone channels to be carried within the same authorized radio bandwidth with no impairment to their quality.

Pleadings

2. Pleadings were filed by GTE Service Corporation (GTE), MCI Telecommunications Corporation (MCI), Raytheon Company (Raytheon), Rockwell International Corporation (Rockwell), and American Satellite Company (ASC). Southern Pacific Communications Company (SPCC) filed comments after expiration of the official comment period.

3. AT&T states that the mathematical constant that is meant to be characteristic of the average talker2 power level in the equation used to calculate the necessary radio bandwidth for the transmission of multi-channel telephone signals is no longer applicable (See Appendix A). Specifically, AT&T proposes to change the —15 dBmO constant in the formula indicated in Section 2.202(f) to one more representative of the current normal talker. AT&T's initial filing proposed to change the specific constant (—15) in the formula to an undefined variable, “L”, where “L” would be determined periodically from a system's measurements. AT&T contends that although its present measurements indicate the constant should be —19.6,3 they expect that the normal talker level to become even smaller because of anticipated further network improvements. They state that a general constant “L” would allow automatic incorporation of those benefits as they occur.

4. AT&T contends that changing the constant would allow a wider degree of latitude for trading off the transmission characteristics of the telephone circuits versus the number of telephone circuits carried in the licensed radio bandwidth. They indicate that this would allow, on microwave routes presently limited to 1500 telephone circuits on the 4 GHz band and 1600 circuits on the 8 GHz band, increased loads to 1800 and 2400 circuits, respectively, while still meeting end-to-end telephone circuit performance standards.

5. GTE, MCI, Raytheon, Rockwell and SPCC support the general intent of AT&T's petition to permit the use of a new constant such that a larger number of telephone circuits could be transmitted within the same authorized radio bandwidth with no impairment of telephone quality. AT&T, Raytheon, and Rockwell oppose the use of the undefined variable, “L”, as proposed by AT&T, for average talker power level and favor the use of a specific numeric value. AT&T, in its reply comments, agreed to a single value for average talker power level of —19.6 dBmO as supported by the Bell Laboratory measurements.

6. Raytheon points out that the Federal Communications Commission's Rules for determining peak deviation in multi-channel telephony cover the full channel capacity range in several steps: 12 to 60 channels, 60 to 240 channels, 240 channels or more. The equations for these steps are similar and contain the same terms. The numerical values assigned to certain of the terms change from step-to-step. Raytheon states that Part 2 of the Rules applies to all services and not just the common carriers. Both Raytheon and Rockwell state that by addressing only the “240 or more” case and assuming that the currently defined expression for loadings of less than 240 channels were to remain unchanged, an undesirable discontinuity would occur at the transition at 240 channels. Raytheon points out in this regard that circuit loadings of slightly less than 240 channels would, per the mathematical model predictions, require wider necessary bandwidths than those predicted for loadings in the greater than 240 channel range.

7. AT&T in its reply comments addressed the matter of discontinuity, indicating that the lower levels of loading categories, i.e. 12 to 60 and 60 to 240 circuits per radio channel, may also benefit from a change in the expressions used for calculating necessary bandwidth. Although AT&T admittedly had not studied this question in depth, it proposed, if a fixed value in the expression related to signal power in the channel where adopted, terms in the multiplying factors in Sections 2.202(f) and 2.988(f) of the Rules be considered as follows:

for: $N_c = 12$ to $60$, $\quad -2.0 + 2 \log 10 N_c$ and

$N_c = 60$ to $240$, $\quad -5.6 + 4 \log 10 N_c$;

Where $N_c$ - number of $4\,\text{kHz}$ voice channels in the baseband signals.

8. ASC states that AT&T's proposed rulemaking would make it possible for terrestrial point-to-point microwave channels to be loaded with a larger number of voice-grade circuits. ASC opposes AT&T's petition on the grounds that “the proposed increase in channel loading would increase interference to satellite channels . . . substantially impair existing satellite communications services, and make it virtually impossible to coordinate future satellite communications services in some locations.” ASC, in support of its petition, has provided a technical explanation of the processes by which interference occurs and its interpretation of the effects of AT&T's proposed rulemaking. ASC explains that because of the characteristics of multi-channel telephone radio transmissions, the amount of spectrum that will be occupied by potentially interfering emissions from the terrestrial radio transmitters will be proportional to the number of $4\,\text{kHz}$ telephone circuits being transmitted. ASC further explains that it has designed its systems in a manner that takes advantage of the radio bandwidth not being significantly occupied by the emissions due to the telephone circuits and contends that if AT&T is allowed to increase their circuit loading, this significantly non-occupied bandwidth will decrease to a point where it might impair the performance of existing satellite installations and preclude the possibility of new installations.

9. ASC further contends that the effect of the Commission's existing rules is to limit the loading of terrestrial point-to-point microwave channels in the 4 GHz band to $1500$ voice-grade channels. They also note that the bands in question (4 and 6 GHz) have been allocated for use by satellite and terrestrial point-to-point microwave transmitters on a coequally shared basis and that in developing their services, ASC relied on the Commission's existing rules.

10. AT&T in its reply comments states that, outside the standard coordination process (see paragraph 15 below), no
potential user of spectrum has any prior rights to the use of the spectrum. Further, consideration of ASC’s denial request would forego improvements of spectrum utilization in thousands of terrestrial FM microwave systems so that an undetermined number of future earth stations might be afforded blanket protection in advance of their precise site specification needs. AT&T proposes that the public interest would better be served by using the existing processes. Specifically, where greater circuit loads on terrestrial microwave systems are contemplated, standard coordination practices would be followed to prevent interference to existing and planned satellite systems.

Discussion

11. It has been the Commission’s policy, commensurate with the intent of the Communications Act of 1934 and the Commission’s rules, to encourage the efficient use of the spectrum whenever practicable. In the case of multi-channel telephony, continual increases of circuit loading on FM radio relay microwave systems have occurred in all radio bands allocated for the fixed services. For example, in the 4 GHz band the number of 4 kHz voice channels carried on a single radio channel has increased from 480 circuits in 1950 to 1500 circuits in 1973. These improvements have not required any increase in the licensed radio channel bandwidth. Generally on existing routes, where increases in circuit capacity have been needed, the implementation has been accomplished on the original existing transmission equipment. Among the benefits accruing to the public in this case is an increasingly intensive utilization of the 4 GHz bands which appears to avoid significant increases in the rate base that would have otherwise been caused by investment for new radio facilities. Similar improvements have also occurred in the 6 and 11 GHz common carrier bands.

12. The Commission’s concerns for spectrum efficiency resulted in the adoption of § 21.719(c) of the Rules which establishes minimum telephony channel loading requirements for the licensing of transmitters in the 4, 6 and 11 GHz bands. A licensee must demonstrate that there is an expectation of carriage of at least 900 4 kHz voice circuits in the licensed bandwidth within a 5 year or other reasonable time frame. Alternatively, the maximum theoretical number of 4 kHz circuits that could be transmitted by FM microwave systems is proportional to the licensed bandwidth of the system and can be deduced from an analysis of the formulas appearing in § 2.202(1) (see Appendix A). Theoretically, under ideal conditions, up to 2500 4 kHz circuits could be transmitted on a 4 GHz FM radio channel *+* with a power of 500 MHz licensed link bandwidth. The analysis further indicates that the number of 4 kHz (sp to the maximum) circuits that can be transmitted in the 20 MHz bandwidth is independent of the value of the formula constant herein under discussion (i.e., —15 dBmO). No restrictions are imposed by Part 21 of the rules on terrestrial carriers which limit the implementation of transmission systems in the 4 GHz band to 1500 circuits or less. We believe that 4 GHz systems generally are not currently implemented with 1800 circuits because the currently specified “average talker” constant in the Section 2.202(1) formulas, in effect, would reduce the signal-to-noise performance level of some telephone circuits on a 1800 circuit system below normally acceptable standards. AT&T’s proposal to change the constant (from —15 to —19.6) in the formula would effectively raise the transmission gain of those 4 kHz circuits thereby improving the signal-to-noise performance.

13. To assist in evaluating the effect of AT&T’s proposal, the Commission’s staff computed the RF spectra for 1500 and 1800 channel loads in the 4.0 GHz band, assuming the transmission characteristics of the Western Electric TD-2 system (See Appendix C). During subsequent discussions with ASC and AT&T, similar curves were produced by ASC. An FM transmission system of existing 2500 voice circuits constrained to at 20 MHz radio transmission bandwidth would never be considered as a candidate for service. Such a system would require that the transmitter be reduced to zero Hertz in order to meet the bandwidth constraints which in turn would result in a zero received signal level. It is probable that future higher capacity systems, if economic will employ a different form of modulation process. For example, a theoretical maximum of 3000 circuits could be transmitted in a 20 MHz radio channel if single sideband technology were utilized.

* These spectra, as is common of very low modulation index FM systems, have most of the carrier power at the carrier frequency (94% for 1500 channel loading and 96% for 1800 channel loading). Most of the remaining power is in the first order sideband which is a replica of the baseband modulating signal including pre-emphasis. Moving away from the carrier in either direction, the power density levels gradually decreases, with the highest levels found at the corresponding lowest baseband frequency. There is a precipitous drop in level of about 20 dB between the first order and the second order sideband. Across the second order sideband, the spectral density also decreases slowly until twice the top baseband frequency is approached. There it drops again in level somewhat more gently than at the top of the first order sideband. The RF spectra thus have somewhat of a stairapparance. ASC’s concerns center around the fact that the higher level first order sidebands will occupy a larger channel bandwidth. If circuit loads are allowed to increase.

AT&T. A comparison of these curves indicates that the power density level of a 1600 channel system implemented for —15 dBmO average talker load has actually up to 15 dBmO and will be about 5 dB better than if the system was implemented for an actual —19.6 dBmO average talker load. However, we note further that the power density levels and significant first order sideband spectrum for an 1800 circuit transmitter are exactly the same if the system is both implemented and operated at either the —15 dBmO or —19.6 dBmO level. The same characteristics apply to the 1500 circuit system. Furthermore, comparing the two systems, the 1500 channel system, implemented for and carrying a —19.6 dBmO average talker load has power density levels that are about 8 dB higher than the 1800 channel system implemented for and carrying a —19.6 dBmO average talker load. Thus, we note both a disadvantage and an advantage accruing to ASC if the constant in the formula is decreased as proposed and, in an area with potentially interfering sites, the terrestrial system increases loading from 1500 to 1800 circuits. There would be a disadvantage in increasing the threat of interference from the wider (but lower level) occupied bandwidth as well as an advantage decrease in the potentially interfering level of 8 dB over most of the first order sideband.

14. We are aware that the majority of transmitters, presently licensed to operate at 4 GHz within the Bell System are not loaded beyond 1500 telephone circuits. Under those conditions approximately 5.5 MHz of bandwidth could be available for satellite communications use under the plan presently implemented by ASC.

Uncoordinated increases to 1800 circuit systems by AT&T could have some adverse impact on existing earth station facilities designed to co-exist with 1500 circuit terrestrial systems. *In areas where frequency congestion is high, increasing loading to 1800 circuits may...
leave only 3.0 MHz of the 5.5 MHz available to the earth stations. However the 3.0 MHz must have power density level resulting from the proposed change in average talker level may make it easier to coordinate over a wider bandwidth in less congested areas. (See Appendix C).

15. Contrary to ASC's contention, Part 21 of the Commission's Rules does not explicitly limit the number of telephone channels that can be transmitted within the authorized bandwidth. The Commission has always encouraged increased spectrum efficiency wherever possible. We believe that it is still in the public interest to continue to do so and that AT&T's proposal supports that intent. Accordingly, we will proceed with a Notice of Proposed Rulemaking at this time incorporating the concepts proposed by AT&T. Notwithstanding this, we also believe that ASC as a satellite carrier with rights granted to share the use of spectrum with the terrestrial fixed services should have assurances of continued use of the spectrum on a reasonable basis. A review of the sharing principles allows an interpretation that achieves that purpose.

16. The obligations and constraints placed on applicants entitled to share spectrum where there is a potential for interference are outlined in the rules and generally are determined by the filing order of the applicants. The initial applicant intending to use spectrum in an area, generally, can plan the use of the spectrum limited only by prevailing rules and policies. Subsequent applicants entitled to share the spectrum, however, must plan their service in a manner that will not unreasonably interfere with the initial applicant. The initial applicant, in the presence of a second applicant, is obligated to refrain from making subsequent changes in operations that might adversely affect the second applicant without first coordinating the proposed change. Detailed procedures for frequency coordination are described in § 21.100, § 21.706(c) and §§ 25.251-25.256 of the rules which specifically describe the coordination process between point-to-point microwave services and satellite services that must be followed.

17. The 4/6 GHz bands are coequally shared between the Terrestrial Fixed and the Fixed-Satellite Services. ASC's authorization as a satellite carrier allows its use of the spectrum on that basis. It has utilized sophisticated techniques relying on terrestrial system spectra to effect coordination of its earth stations serving customers directly on an economical basis. See American Satellite Corporation, supra note 7. AT&T acknowledges this situation and states that "if any case where increased deviation for a greater circuit load is contemplated, standard frequency coordination practices would be followed to prevent any interference to existing and planned systems in excess of permissible levels." (Reply at p. 9) We believe that this is the most appropriate means of satisfying ASC's concerns with respect to the satellite service while permitting the terrestrial services to take advantage of the changes proposed by AT&T. However, because of the large number of existing 4GHz radio routes, we perceive the possibility that terrestrial carriers can greatly limit further satellite development in the proximity of those routes if the carriers choose to coordinate for circuit capacity in a wholesale manner. In order to forestall terrestrial carriers from unnecessarily foreclosing use of the 4 GHz band to satellite services, we will propose a modification of § 21.710(c) in this Notice of Proposed Rulemaking. The proposed rule will require that terrestrial carriers coordinate all 4 GHz microwave links that are intended to carry more than 1500 kFHz voice circuits and, unless having previously done so, seek authorization for the implementation of the channels within six months of the coordination. We believe that this is a reasonable compromise in that terrestrial carriers will have access to this otherwise unoccupied incremental spectrum only with a showing of a specific need, thereby allowing other uses at all other times.

18. The proposed amendments to the regulations as set forth in Appendix B are issued pursuant to the authority contained in section 4(f), 302. 303(e), 303(f), and 303(r) of the Communications Act of 1934, as amended. In accordance with the applicable procedures set forth in § 1.416 of the regulations, interested persons may file comments on or before December 29, 1981 and reply comments on or before January 28, 1982. All comments must be prepared a written summary of that presentation on the day of oral presentation, that written summary must served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each ex parte presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.1231.

21. In accordance with the Regulatory Flexibility Act of 1980, the regulations proposed in this Notice have been reviewed for their impact on small entities. It has been determined that the companies in this industry exceed the size standards set forth in Part 21, relevant and timely comments will be considered. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order. A summary of these Commission procedures governing ex parte presentations in informal rulemaking is available from the Commission's Consumer Assistance Office, FCC, Washington, D.C. 20554.
Schedule A of the Small Business Administration Rules and Regulations. Pursuant to section 605(b) of the Regulatory Flexibility Act of 1980 an initial regulatory analysis will not be required as there is no significant impact on a substantial number of small entities.

22. In accordance with provisions of § 1.419 of the regulations, an original and five copies of all comments, reply comments, pleadings, briefs, and other documents shall be furnished the Commission. To obtain the widest possible response in this proceeding, informal comments (without extra copies) will also be accepted, but these comments should make specific reference to this proceeding. Responses will be available for public inspection during regular business hours in the Commission’s Public Reference Room located at its headquarters at 1919 M Street, NW., Washington, D.C. 20554. For further information contact Alvin W. Paul at (202) 653-6288 or Alex C. Latker at (202) 632-7695.


Federal Communications Commission.

William J. Tricarico,
Secretary.

Appendix A

Sections 2.202 and 2.989 of the Commission’s rules specify procedures for determining the necessary bandwidth for the radio transmission of information. The necessary bandwidth is the minimum bandwidth required to ensure a specified rate and quality of transmission.

For a frequency division multiplex frequency modulation (FDM/FM) telephony system of more than 240 circuits, the necessary bandwidth, $B_n$, is

$$B_n = 2M + 2 \left[ d \times 3.76 \times \text{antilog} \left( -15 + 10 \log N_c \right) \right] K$$

where $M =$ maximum modulation frequency in hertz,

$d =$ per channel deviation

$3.76 =$ peak load factor of $14$ dB (in volts)

$-15 =$ average power in a message circuit in (dBmO)

$N_c =$ number of circuits in the multiplexed message load

$K =$ unity

Note.—The symbol "corresponds to"

The term enclosed in brackets is the peak deviation, D. The numerator of the fraction $\left( -15 + 10 \log N_c \right)$ represents the average power of the composite signal delivered to the modulator input of the transmitter. In practice the deviation, d, is chosen by the licensee so that the necessary bandwidth, $B_n$ (which includes the peak deviation, D, due to all "talkers") is slightly less than the authorized bandwidth.

Appendix B

PART 2—FREQUENCY ALLOCATIONS
AND RADIO TREATY MATTERS;
GENERAL RULES AND REGULATIONS

1. In § 2.202, the introductory text and the last three entries in the table in subparagraph (f)(1)(ii) and the last three entries of Table II FREQUENCY MODULATION are proposed to be revised to read as follows:

§ 2.202 Bandwidths.

<table>
<thead>
<tr>
<th>Number of telephone channels</th>
<th>Multiplying factors</th>
</tr>
</thead>
<tbody>
<tr>
<td>More than 3, but less than 12</td>
<td>$3.76 \times \text{antilog} \left[ -0.2 - 0.2 \log_{10} N_c \right] / 20$</td>
</tr>
<tr>
<td>At least 12, but less than 60</td>
<td>$3.76 \times \text{antilog} \left[ -0.5 - 0.0 \log_{10} N_c \right] / 20$</td>
</tr>
<tr>
<td>At least 60, but less than 240</td>
<td>$3.76 \times \text{antilog} \left[ -1.96 + 0.0 \log_{10} N_c \right] / 20$</td>
</tr>
<tr>
<td>240 or more</td>
<td>$3.76 \times \text{antilog} \left[ -1.96 + 0.0 \log_{10} N_c \right] / 20$</td>
</tr>
</tbody>
</table>


### Frequency Modulation

<table>
<thead>
<tr>
<th>Description and class of emission</th>
<th>Necessary bandwidth in hertz</th>
<th>Details</th>
<th>Designation of emission</th>
</tr>
</thead>
<tbody>
<tr>
<td>Composite transmission: F9</td>
<td>[ B_w = 2P + 2DK, K = 1 ]</td>
<td>Microwaves radio relay system specifications: 60 telephone channels occupying baseband between 60 and 300 kHz; rms per-channel deviation 200 kHz; continuity pilot at 331 kHz produces 100 kHz rms deviation of main carrier. Computation of ( B ): ( D = (200 \times 10^6 \times 3.76 \times 1.19)) Hz = 0.895 \times 10^7; ( P = 0.331 \times 10^6 ) Hz. Bandwidth: 2.452 \times 10^7 Hz.</td>
<td>Designation of emission F9</td>
</tr>
<tr>
<td></td>
<td>Bw</td>
<td>Microwave radio relay system specifications: 1200 telephone channels occupying 60 and 5564 kHz; rms per-channel deviation 200 kHz; continuity pilot at 6199 kHz produces 140 kHz rms deviation of main carrier. Computation of ( B ): ( D = (200 \times 10^6 \times 3.76 \times 3.63) = 2.73 \times 10^9 ) Hz; ( M = 5.564 \times 10^8 ) Hz; ( P = 6.2 \times 10^8 ) Hz; ( 2M + 2D &gt; 2P ). Bandwidth: 16.59 \times 10^8 Hz.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Bw</td>
<td>Microwave radio relay system specifications: 600 telephone channels occupying baseband between 60 and 2540 kHz; continuity pilot at 8500 kHz produces 146 kHz rms deviation of main carrier. Computation of ( B ): ( D = (200 \times 10^6 \times 3.76 \times 2.565) = 1.93 \times 10^9 ) Hz; ( M = 2.54 \times 10^8 ) Hz; ( P = 8.5 \times 10^8 ) Hz; ( 2M + 2D &gt; 2P ). Bandwidth: 17 \times 10^8 Hz.</td>
<td></td>
</tr>
</tbody>
</table>

2. In § 2.989, the last three entries in the table in paragraph (f)(2) are proposed to be revised to read as follows:

<table>
<thead>
<tr>
<th>Number of telephone channels that modulate the transmitter</th>
<th>Number of dB by which the average power level test signal shall exceed the modulation reference level</th>
</tr>
</thead>
<tbody>
<tr>
<td>More than 3 and less than 12</td>
<td>( -2.0 + 2 \log_{10} N_c )</td>
</tr>
<tr>
<td>At least 12 and less than 60</td>
<td>( -5.6 + 4 \log_{10} N_c )</td>
</tr>
<tr>
<td>At least 60 and less than 240</td>
<td>( -19.5 + 10 \log_{10} N_c )</td>
</tr>
</tbody>
</table>

PART 21—DOMESTIC PUBLIC FIXED RADIO SERVICE

§ 21.710 [Amended]

3. Section 21.710(c) is proposed to be amended by adding the following to the end of the paragraph:

(c) For the 4 GHz band, new applicants and existing licensees or applicants intending to utilize baseband frequencies above 7.3 MHz or operate with more than 1500 equivalent 4 kHz voice channels per radio channel must effect coordination pursuant to § 21.708(c). Licensees must also file for the necessary authority pursuant to § 214 of the Communications Act and Part 63 of this chapter to construct channels in excess of 1500 voice channels per radio channel within six months of coordination.

BILLING CODE 6712-01-M
DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

50 CFR Part 611
Foreign Fishing; Atlantic Mackerel Allocation

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

ACTION: Notice of proposed Atlantic mackerel allocation.

SUMMARY: Under the authority delegated by the Assistant Administrator for Fisheries, NOAA, the Regional Director, Northeast Region, National Marine Fisheries (NMFS), is proposing to allocate the entire reserve of Atlantic mackerel (Scomber scombrus) to foreign nations. The Atlantic mackerel reserve of 6,000 metric tons (mt) would be transferred to the total allowable level of foreign fishing (TALFF). This action requests public comments on the proposed allocation.

DATE: Comments must be submitted in writing on or before December 2, 1981.

ADDRESS: All comments should be sent to National Marine Fisheries Service, Management Division, State Fish Pier, Gloucester, Massachusetts 01930. Mark “Comments on proposed mackerel allocation” on the outside of the envelop.

FOR FURTHER INFORMATION CONTACT: Salvatore A. Testaverde, 617-281-3600.

SUPPLEMENTARY INFORMATION: Implementing regulations for the Fishery Management Plan for Atlantic Mackerel (FMP), as amended (46 F.R. 39831), establish a reserve for mackerel and provisions to allocate all or part of the reserve to TALFF. The Northeast Regional Director, NMFS, is directed by regulation to review the U.S. Atlantic mackerel harvest from April through September, and project commercial and recreational landings for the remainder of the 1981-1982 fishing year. The NMFS also must consider the ability and intend of domestic harvests and processors to harvest and process mackerel for the remainder of the period.

If the projection shows that the estimate of domestic annual harvest (DAH) of 20,000 mt adequate for the domestic fishery through the fishing year, then the entire reserve of 6,000 mt is allocated to TALFF.

Earlier this year, the Mid-Atlantic Fishery Management Council (Council) certified an annual fishing level of 135 mt of Atlantic mackerel under Section 201(d)(3) of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The Council, at its October meeting, withdrew the mackerel certification. The TALFF and reserve remain at 4,000 mt and 6,000 mt respectively.

The domestic commercial mackerel landings from April through September, 1981, were 2,603 mt. This represents a 24 percent increase over the 1,989 mt landed in the same period of the previous fishing year. Taking this 24 percent increase of landings plus an estimated 4,000 mt recreational catch and other relevant data into consideration, the Regional Director projects that the total mackerel landings by U.S. fishermen for the 1981-1982 fishing year will be between 7,000 mt and 8,000 mt, i.e. less than 20,000 mt. Therefore, the entire 6,000 mt of reserve is proposed to be allocated to TALFF. When the final rule is adopted, 50 CFR 611.20, Appendix 1 will be amended to show the allocation. The following table summarizes this information.

<table>
<thead>
<tr>
<th>Species and species code</th>
<th>Areas</th>
<th>OY</th>
<th>DAH</th>
<th>DAP</th>
<th>JVP=(DAH-DAP)</th>
<th>DNP</th>
<th>Reserve</th>
<th>TALFF</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mackerel fishery</td>
<td>Mackerel, Atlantic, 204</td>
<td>20,000</td>
<td>20,000</td>
<td></td>
<td>6,000</td>
<td>4,000</td>
<td>0</td>
<td></td>
</tr>
</tbody>
</table>

(16 U.S.C. 1821 and 1855)

Dated: November 10, 1981.

Robert K. Crowell,
Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 81-33124 Filed 11-16-81; 8:45 am]

BILLING CODE 3510-22-M
DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

Basin Electric Power Cooperative, Bismarck, N. Dak.; Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65) and in conformity with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $587,300,000 to Basin Electric Power Cooperative of Bismarck, North Dakota. These loan funds will be used to provide supplemental funds to complete the Antelope Valley Station Project which consists of two 438 MW lignite fired generating units, related transmission and water supply facilities, associated surface lignite mine development, and social impact alleviation facilities.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. James L. Grahl, General Manager, Basin Electric Power Cooperative, 1717 East Interstate Avenue, Bismarck, North Dakota 58501.

In order to be considered, proposals must be submitted on or before December 17, 1981 to Mr. Grahl. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Basin Electric Power Cooperative and REA deem appropriate. Prospective lenders are advised that guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration. Copies of REA Bulletin 20-22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C. this 6th day of November, 1981.

Harold V. Hunter,
Administrator, Rural Electrification Administration.

[FR Doc. 81-33089 Filed 11-18-81; 8:45 am]
BILLING CODE 3410-15-M

Sam Rayburn G. & T., Inc., San Augustine, Tex.; Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65) and in conformity with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $55,000,000 to Sam Rayburn G. & T., Inc. (Sam Rayburn) of San Augustine, Texas. This loan guarantee will be used to finance a 10 percent undivided ownership interest in Gulf States Utilities' 540 MW Nelson Station, Coal Unit No. 8.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. John H. Butts, Manager, Sam Rayburn G. & T., Inc., P.O. Box 479, San Augustine, Texas 77872.

In order to be considered, proposals must be submitted on or before December 17, 1981 to Mr. Butts. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received as Sam Rayburn and REA deem appropriate. Prospective lenders are advised that guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration. Copies of REA Bulletin 20-22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C. this 10th day of November, 1981.

Harold V. Hunter,
Administrator, Rural Electrification Administration.

[FR Doc. 81-33088 Filed 11-18-81; 8:45 am]
BILLING CODE 3410-15-M

Western Farmers Electric Cooperative, Anadarko, Okla.; Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65) and in conformity with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $62,500,000 to Western Farmers Electric Cooperative (Western Farmers) of Anadarko, Oklahoma. This loan guarantee will provide supplemental funds needed to complete Western Farmers' 376 MW Hugo coal-fired generating plant.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Maynard Human, Manager, Western Farmers Electric Cooperative, P.O. Box 429, Anadarko, Oklahoma 73005.

In order to be considered, proposals must be submitted on or before December 17, 1981 to Mr. Human. The
right is reserved to give such consideration and to make such evaluation or other disposition of all proposals received as Western Farmers and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.


This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C. this 10th day of November, 1981.

Harold V. Hunter,
Administrator, Rural Electrification Administration.

[FR Doc. 81-33090 Filed 11-16-81; 8:45 am]
BILLING CODE 3410-15-M

Soil Conservation Service

Briley Township Recreation Area R.C. & D. Measure, Michigan; No Significant Environmental Impact

AGENCY: Soil Conservation Service, Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Homer R. Hilner, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, telephone 917-337-6922.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Briley Township Recreation Area R.C.&D Measure, Montmorency County, Michigan.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Homer R. Hilner, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the installation of practices for critical area treatment. Critical area treatment will include shaping and grading a diversion for surface water, eight acres of seeding and mulching, and tree and shrub planting. Total construction cost is estimated to be $13,900; $10,000 RC&D funds and $3,900 local funds.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Homer R. Hilner. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until 30 days after the date of this publication in the Federal Register.

Dated: November 4, 1981.

Joseph W. Haas,
Deputy Chief for Natural Resource Projects.

[Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable]

[FR Doc. 81-33090 Filed 11-16-81; 8:45 am]
BILLING CODE 3410-16-M

Tranquility Wildlife Area R.C. & D. Measure, Ohio; No Significant Environmental Impact

AGENCY: Soil Conservation Service, Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Robert R. Shaw, State Conservationist, Soil Conservation Service, Room 522, 200 North High Street, Columbus, Ohio 43215, telephone 614-469-6992.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Tranquility Wildlife Area RC&D Measure, Adams County, Ohio.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Robert R. Shaw, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for stabilizing critically eroding areas on land owned and managed by the Ohio Division of Wildlife. A grass-legume mixture will be established by frost-seeding to provide permanent cover and control erosion.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Robert R. Shaw. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until 30 days after the date of this publication in the Federal Register.

Dated: November 4, 1981.

Joseph W. Haas,
Deputy Chief for Natural Resource Projects.

[Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable]

[FR Doc. 81-33090 Filed 11-16-81; 8:45 am]
BILLING CODE 3410-16-M

County Road 47 R.C. & D. Measure, Ohio; No Significant Environmental Impact

AGENCY: Soil Conservation Service, Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Robert R. Shaw, State Conservationist, Soil Conservation Service, Room 522, 200 North High Street, Columbus, Ohio 43215, telephone 614-469-6992.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Tranquility Wildlife Area RC&D Measure, Adams County, Ohio.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Robert R. Shaw, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for stabilizing critically eroding areas on land owned and managed by the Ohio Division of Wildlife. A grass-legume mixture will be established by frost-seeding to provide permanent cover and control erosion.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Robert R. Shaw. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until 30 days after the date of this publication in the Federal Register.

Dated: November 4, 1981.

Joseph W. Haas,
Deputy Chief for Natural Resource Projects.

[Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable]

[FR Doc. 81-33090 Filed 11-16-81; 8:45 am]
BILLING CODE 3410-16-M
being prepared for the County Road 47 RC&D Measure, Pike County, Ohio. The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Robert R. Shaw, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for stabilizing a road slip by installing a subsurface drainage system to remove excess water. The slip area will also be regraded and seeded to control erosion.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Robert R. Shaw. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until 30 days after the date of this publication in the Federal Register.

Dated: November 4, 1981.

[Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.]

Joseph W. Haas,
Deputy Chief for Natural Resource Projects.

FOR FURTHER INFORMATION CONTACT: Mr. Robert R. Shaw, State Conservationist, Soil Conservation Service, Room 522, 200 North High Street, Columbus, Ohio 43215, telephone 614-469-6962.


The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Robert R. Shaw, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for providing drainage improvement and flood protection for a park. A diversion terrace and grassed waterway will be constructed to intercept surface runoff and convey it to a stable outlet. A subsurface drainage system will be installed along with gravel drains to eliminate random wet spots. All areas disturbed by construction activity will be seeded to control erosion.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Robert R. Shaw. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until 30 days after the date of this publication in the Federal Register.

Dated: November 4, 1981.

Joseph W. Haas,
Deputy Chief for Natural Resource Projects.

FOR FURTHER INFORMATION CONTACT: Mr. Robert R. Shaw, State Conservationist, Soil Conservation Service, Room 522, 200 North High Street, Columbus, Ohio 43215, telephone 614-469-6962.


The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Robert R. Shaw, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for providing flood protection for the Vinton County Fairgrounds, and controlling erosion along 20 miles of county roads. The conservation practices to be installed include a diversion terrace and critical area seeding.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Robert R. Shaw. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until 30 days after the date of this publication in the Federal Register.

Dated: November 4, 1981.

Joseph W. Haas,
Deputy Chief for Natural Resource Projects.

BILLYING CODE 3410-16-M
Silverbrook Run R.C. & D. Measure, Delaware; No Significant Environmental Impact.

AGENCY: Soil Conservation Service, Agriculture.

ACTION: Notice of Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Otis D. Fincher, State Conservationist, Soil Conservation Service, Treadway Towers, Suite 204, 9 East Lockerman Street, Dover, Delaware 19901, telephone 302-678-0750.


The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Otis D. Fincher, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns clearing, grading, and shaping of a small stream which drains 630 acres of urban land and placing rock riprap at selected locations to reduce streambank erosion. The construction area will be vegetated with grasses, trees, and shrubs to reduce erosion, improve aesthetics, and create wildlife habitat. The planned work will remove urban debris, a few willow trees, and some sediment bars from the channel between new Street and the B&O Railroad near Cathedral Cemetery. The channel will be fenced at strategic locations to limit access to maintenance personnel and reduce existing hazards to public safety.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Otis D. Fincher. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until 30 days after the date of this publication in the Federal Register.

Dated: November 4, 1981.

Joseph W. Haas,
Deputy Chief for Natural Resource Projects.

[Catalog of Federal Domestic Assistance Program No. 10.001, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearance review of Federal and federally assisted programs and projects is applicable.]

[PR Doc. 81-33084 Filed 11-16-81; 0:45 am]

BILLING CODE 3410-16-M

Regiest Brook Flood Prevention R.C. & D. Measure, Maine; No Significant Environmental Impact

AGENCY: Soil Conservation Service, Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Billy R. Abercrombie, State Conservationist, Soil Conservation Service, USDA Office Building, University of Maine, Orono, Maine 04473, telephone 207-866-2132.


The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Billy R. Abercrombie, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for control of floodwaters in the town of Fort Kent, Maine. The planned works of improvement include installation of diversion ditches, underground conduit systems, and a concrete lined channel through a residential area to collect, convey, and dispose of surface water, and seeding the areas disturbed by construction.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Billy R. Abercrombie. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until 30 days after the date of this publication in the Federal Register.

Dated: November 4, 1981.

Joseph W. Haas,
Deputy Chief for Natural Resource Projects.

[Catalog of Federal Domestic Assistance Program No. 10.001, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearance review of Federal and federally assisted programs and projects is applicable.]

[PR Doc. 81-33085 Filed 11-16-81; 0:45 am]

BILLING CODE 3410-16-M

George D. Aiken R.C. & D. Area Critical Area Treatment R.C. & D. Measures, Vermont; No Significant Environmental Impact

AGENCY: Soil Conservation Service, Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. John C. Titchner, Acting State Conservationist, Soil Conservation Service, One Burlington Square, Burlington, Vermont 05401, telephone 802-861-0765.


The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. John C. Titchner, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for control of floodwaters in the town of Fort Kent, Maine. The planned works of improvement include installation of diversion ditches, underground conduit systems, and a concrete lined channel through a residential area to collect, convey, and dispose of surface water, and seeding the areas disturbed by construction.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data
sliding areas generally associated with State or community facilities. The planned actions include protection of segments (average length of 400 feet) of streambank and shoreline undergoing rapid erosion advancement, and treatment of unstable slopes which are experiencing rapid erosion or displacement. There are presently over 30 such segments and slopes identified as needing treatment in the R.C. & D. area.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. John C. Titchner. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until 30 days after the date of this publication in the Federal Register.

Dated: November 4, 1981.

Joseph W. Haas,
Deputy Chief for Natural Resource Projects.

[FR Doc. 81-33056 Filed 11-18-81; 8:45 am]
BILLING CODE 3410-16-M

Richland Creek Watershed, Mississippi

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of Availability of a Record of Decision.

FOR FURTHER INFORMATION CONTACT:
Mr. Billy C. Griffin, State Conservationist, Soil Conservation Service, Federal Building, Suite 1321, 100 West Capitol Street, Jackson, Mississippi 39231, telephone 601-963-4335.

NOTICE: Mr. Billy C. Griffin, responsible Federal official for projects administered under the provisions of Public Law 83-556, 16 U.S.C. 1001-1008, in the State of Mississippi, is hereby providing notification that a record of decision to proceed with the installation of Richland Creek Watershed is available. Single copies of this record of decision may be obtained from Mr. Billy C. Griffin at the above address.

Dated: November 4, 1981.

Joseph W. Haas,
Deputy Chief for Natural Resource Projects.

[Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable]
COMMISSION ON CIVIL RIGHTS  
California 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 California Advisory Committee to the Commission will convene at 1:00 p.m. and will end at 5:00 p.m., on December 13, 1981, at the Miyako Hotel, 1623 Post Street, San Francisco, California 94115. The purpose of this meeting is to discuss the Committee's project on reapportionment and policy-community relations on Signal Hill in San Francisco.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Maurice B. Mitchell, 230 Eucalyptus Hill Drive, Santa Barbara, California 93103, (805) 999-1563 or the Western Regional Office, 3600 Wilshire Boulevard, Suite 610, Los Angeles, California 90010, (213) 688-9347.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.


John I. Binkley,  
Advisory Committee Management Officer.

BILLING CODE 6335-01-M  

DEPARTMENT OF COMMERCE  
International Trade Administration  

Bicycle Speedometers From Japan;  
Preliminary Results of Administrative Review of Antidumping Finding  

AGENCY: International Trade Administration, Commerce.
ACTION: Notice of Preliminary Results of Administrative Review of Antidumping Finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on bicycle speedometers from Japan. The review covers the 23 known manufacturers, resellers and exporters of this merchandise to the United States presently under the finding and separate time periods for each up to October 31, 1980. This review indicates the existence of dumping margins in particular periods for certain manufacturers, resellers, and exporters. We are also clarifying the scope of the antidumping finding to make clear that certain exerciser speedometers are not included.

As a result of this review, the Department has preliminarily determined to assess dumping duties for individual exporters equal to the calculated differences between United States price and foreign market value or constructed value on each of their shipments during the periods of review. Where company-supplied information was inadequate or non-existent, the Department has used the best information available. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 17, 1981.


SUPPLEMENTARY INFORMATION:

Background

On November 22, 1872, a dumping finding with respect to bicycle speedometers from Japan was published in the Federal Register as Treasury Decision 72-322 (37 FR 24826). On January 1, 1980, the provisions of title I of the Trade Agreements Act of 1979 became effective. Title I replaced the provisions of the Antidumping Act of 1921 (“the 1921 Act”) with a new title VII to the Tariff Act of 1930 (“the Tariff Act”). On January 2, 1980, the authority for administering the antidumping duty law was transferred from the Department of the Treasury to the Department of Commerce (“the Department”). The Department published in the Federal Register of March 28, 1980 (45 FR 20511-20512) a notice of latent intent to conduct administrative reviews of all outstanding dumping findings.

As required by section 751 of the Tariff Act, the Department has conducted an administrative review of the finding on bicycle speedometers from Japan. The substantive provisions of the 1921 Act and the appropriate Customs Service regulations apply to all unliquidated entries made prior to January 1, 1980.

Scope of the Review

An importer has questioned whether double gear hub drive speedometers used on bicycle exercisers are “bicycle speedometers” of the class or kind covered by the dumping finding. The speedometers subject to the antidumping investigation were single gear hub drive speedometers that are used on both bicycles and bicycle exercisers.

On a bicycle, the hub drive mechanism attaches to the right side of the front wheel, but on an exerciser it attaches to the left side. This difference means that the needle on the speedometer face plate rotates clockwise on a bicycle but counterclockwise on an exerciser when a single gear hub drive mechanism is used. Subsequent to the date of the dumping finding, a double gear hub drive speedometer was developed for use on exercisers in order to restore the counterclockwise movement of the needle on the face plate.

In this case, the class or kind of speedometers included in the antidumping investigation and subject to the finding were limited to those classifiable as “bicycle speedometers” in item 711.93 of the Tariff Schedules of the United States (TSUS). On May 12, 1981, the U.S. Customs Service ruled that double gear hub drive speedometers of a type chiefly used on exercisers are classifiable as speedometers other than bicycle speedometers in item 711.98, TSUS, and that single gear hub drive speedometers of a type chiefly used on bicycles are classifiable as bicycle speedometers in item 711.93, TSUS (46 FR 28418). While the tariff classification is not necessarily conclusive in all cases it is a significant factor in this situation. Accordingly, double gear hub drive speedometers are not within the scope of the dumping finding on bicycle speedometers.

We know of three companies engaged in the production and sale of exerciser speedometers. Until we publish our final results which will include our final decision on the scope question, we will delay any action on shipments of this merchandise.

The Department knows of 23 firms engaged in the manufacture, sale, or export of bicycle speedometers to the United States and presently covered by the finding. This review covers all 23 firms for all time periods during which these companies exported bicycle speedometers to the United States and which were not previously reviewed by Treasury through October 31, 1980. Different time periods are involved for different companies.

The issue of the Department's obligation to conduct administrative review of entries, unliquidated as of January 1, 1980 and covered by previously issued appraisement instructions (“master lists”), is under review. Liquidation has been suspended pending disposition of the issue.

Of the 23 firms, two did not respond to our request for information. For these non-responsive firms, we used the best information available to determine the assessment and estimated deposit rates. The best information available is the highest current rate among all responding firms, which is 28.94 percent. Two firms, Tokyo Pac Sales, Ltd. and Taiyo Electric Manufacturing, Ltd., have gone out of business.

For these firms, we used the best information available, i.e., the most recent information for each firm, to determine the assessment rate. These two companies will not be included in future administrative reviews. We have also determined that six companies have not exported bicycle speedometers to the United States during the period of review. The estimated deposit rate for non-shipping firms is the most recent information for each of those firms.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act or section 205 of the 1921 Act, as appropriate.

Purchase price was based either on the packed price to an unrelated purchaser in the United States, or to an unrelated Japanese trading company for export to the United States, as appropriate. Where applicable, deductions were made for foreign inland freight, shipping charges, handling charges, and loading charges. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, the price to purchasers in third countries when sufficient sales did not exist in the home market, or constructed value when
sufficient sales did not exist in the home market or to purchasers in third countries, as defined in section 773 of the Tariff Act or section 205 or 206 of the 1921 Act. Prices were adjusted, where applicable, for inland freight and discounts. Adjustments were also made, where applicable, for credit costs and advertising in accordance with § 353.15 of the Commerce Regulations and § 153.10 of the Customs Regulations. Adjustments were made for differences in level of trade in accordance with § 353.16 of the Commerce Regulations and § 153.11 of the Customs Regulations, and for differences in packaging, where applicable. Constructed value is the sum of the cost of materials, fabrication, general expenses, profit and packing. We used the statutory minimum for general expenses and for profit when the actual amounts for these factors were below the minimum. We adjusted the foreign market value for differences in level of trade in accordance with § 353.19 of the Commerce Regulations and § 153.15 of the Customs Regulations. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of the United States price to foreign market value, we preliminarily determine that the following margins exist:

<table>
<thead>
<tr>
<th>Japanese seller exporter</th>
<th>Time period</th>
<th>Margin Per. cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Royal Industries Limited (seller—Ahoon Sales Co., Ltd.)</td>
<td>July 1, 1979 to Oct. 31, 1980</td>
<td>2.42</td>
</tr>
<tr>
<td>Yagami Corporation</td>
<td>do</td>
<td>5.48</td>
</tr>
<tr>
<td>(mfr.—Asahi Koki Seisakusho Co., Ltd.)</td>
<td>Jan. 1, 1972 to May 31, 1973</td>
<td>7.6</td>
</tr>
<tr>
<td>(mfr.—Toshiba Electric Co.)</td>
<td>June 1, 1973 to Oct. 31, 1980</td>
<td>17.0</td>
</tr>
<tr>
<td>Feeder Inc.</td>
<td>do</td>
<td>10.0</td>
</tr>
<tr>
<td>Shim-E Trading Co., Ltd.</td>
<td>do</td>
<td>10.0</td>
</tr>
<tr>
<td>Hitec Industrial Co., Ltd.</td>
<td>do</td>
<td>10.0</td>
</tr>
<tr>
<td>Maruko Machinery</td>
<td>Apr. 1, 1979 to Oct. 31, 1980</td>
<td>10.0</td>
</tr>
<tr>
<td>Sanyo Electric Trading Company (seller—Sanyo Electric Co.)</td>
<td>April 1, 1979 to Oct. 31, 1980</td>
<td>6.65</td>
</tr>
<tr>
<td>Takishin Ltd. (seller—Nihon Nippon Electric Co., Ltd.)</td>
<td>June 1, 1979 to Oct. 31, 1980</td>
<td>26.94</td>
</tr>
<tr>
<td>(seller—Sanyo International K.K.)</td>
<td>do</td>
<td>26.94</td>
</tr>
</tbody>
</table>

Interested parties may submit written comments on these preliminary results on or before December 17, 1981, and may request disclosure and/or a hearing on or before December 2, 1981. Any request for an administrative protective order must be made no later than November 23, 1981. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all entries made with the statutory margins calculated above. Adjustments were made for differences in level of trade in accordance with § 353.19 of the Commerce Regulations and § 153.15 of the Customs Regulations. No other adjustments were claimed or allowed. The Department will issue appraisement instructions separately on each shipper's account for substantially all of the imports of this product from Hungary. The petitioner has been separately notified and is being consulted regarding the proposal to suspend the investigation. All other parties to the proceeding also have been notified of the proposal.

EFFECTIVE DATE: November 17, 1981.


SUPPLEMENTARY INFORMATION: On February 12, 1981, we received a petition from counsel representing Rockwell International Corporation of Pittsburgh, Pennsylvania. The petitioners have separately filed a copy of the petition with the United States International Trade Commission ("ITC"). The petition alleged that truck trailer axle-and-brake assemblies and parts thereof are being, or are likely to be, sold in the United States at less than fair value and that the truck trailer axle industry in the United States is being materially injured, or is threatened with material injury, by reason of the importation of this merchandise. After conducting a summary review of the petition, the ITC institutes an investigation, and notice was published in the Federal Register of March 11, 1981 (46 FR 16109).

On March 30, 1981, the ITC notified us that it had determined, as required by section 735(a) of the Act, that there is a reasonable indication that an industry in the United States is materially injured, or threatened with material injury, by reason of the importation of the subject imports. The Commission's
were published in the Federal Register of April 8, 1981 (46 FR 21121).

On September 10, 1981, we preliminarily determined that truck trailer axle-and-brake assemblies are being sold in the United States at less than fair value. Notice of the preliminary affirmative antidumping determination was published in the Federal Register on September 17, 1981 (46 FR 46152).

We verified RABA's response to the producer's questionnaire on September 28-30, 1981, and then proceeded to verify the response supplied by O/CAVA, the surrogate company on October 5-7, 1981. We determined that RABA's exports of the product to the United States were made at prices lower than the equivalent O/CAVA home market prices during the period September 1, 1980 through February 28, 1981.

We have determined that the product description in the notice of preliminary determination is hereby corrected to read "truck trailer axle-and-brake assemblies and parts thereof with the exception of brake assemblies imported separately." This conforms to the language of the initiation notice. Additionally, the date for the final determination should have read November 24, 1981.

Extension of the Investigatory Period

Counsel for the respondent, by letter of November 2, 1981, has requested an extension in this investigation. In accordance with § 353.44 of the Commerce Department regulations (19 CFR 353.44) we have granted this extension. The final determination in this investigation will not be made on or before January 25, 1982, should we not publish a final suspension agreement or should an interested party request a continuation of the investigation in accordance with section 734(g) of the Act (19 U.S.C. 1673c. 19 CFR 353.42).

Gary N. Horick,
Deputy Assistant Secretary for Import Administration.
November 12, 1981.

Office of the Secretary

National Voluntary Laboratory Accreditation Program; Report of October 1981 Accreditation Actions

AGENCY: Assistant Secretary of Commerce for Productivity, Technology, and Innovation, Commerce.

ACTION: Notice of laboratory accreditation actions.

SUMMARY: Seventy-two laboratories were newly accredited or had their accreditation renewed under the National Voluntary Laboratory Accreditation Program (NVLAP) during October 1981, for specific test methods of thermal insulation materials, freshly mixed field concrete, and carpet. Table 1 lists the names and addresses of the newly accredited laboratories and identifies the test methods for which each is accredited. Table 2 lists the names of the laboratories which have had their accreditation renewed, and identifies any test methods which have been added or dropped for each laboratory.

Expired Accreditations

Materials Testing Consultants, Inc. of Grand Rapids, Michigan chose not to renew its accreditation which expired October 19, 1981. Accreditation of General Testing Laboratories, Inc. of Kansas City, Missouri expired October 19, 1981 and evaluation for renewal of its accreditation was still in progress at the end of October.

Term

The accreditations granted during the month of October are valid for one year, except that any accreditation may be revoked before the expiration date due to violation of the criteria or other conditions of the law, the NVLAP Procedures (19 CFR Parts 7a, 7b, and 7c). NVLAP accreditation in no way relieves the laboratories from the necessity of observing and being in compliance with any existing Federal, State, and local statutes, ordinances, and regulations that may be applicable to the operations of the laboratory, including consumer protection and antitrust laws.

Accreditation Actions

Seventy-two laboratories were newly accredited or had their accreditation renewed under the National Voluntary Laboratory Accreditation Program (NVLAP) during October 1981, for specific test methods of thermal insulation materials, freshly mixed field concrete, and carpet. Table 1 lists the names and addresses of the newly accredited laboratories and identifies the test methods for which each is accredited. Table 2 lists the names of the laboratories which have had their accreditation renewed, and identifies any test methods which have been added or dropped for each laboratory.
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resulting in a reduction in the level from 652,911 dozen to 542,911 dozen; and (5) Applying swing and 80,000 dozen transferred from the Category 339 level to the sublimit for Category 339, increasing the sublimit from 239,563 dozen to 324,270 dozen. The adjusted sublevel also includes a reduction of 1,362 dozen to account for 1980 overshipments.

All adjustments apply to goods produced or manufactured in Pakistan and exported during the eighteen-month period which began on January 1, 1981, and extends through June 30, 1982.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 23683); August 12, 1980 (45 FR 53506); December 24, 1980 (45 FR 53506); May 5, 1981 (46 FR 52121), and October 5, 1981 (46 FR 49969) and October 27, 1981 (46 FR 52460).

### SUMMARY:
The Bilateral Cotton Textile Agreement of January 4 and 9, 1978, as amended, between the Governments of the United States and Pakistan provides, among other things, for percentage increases in certain specific category ceilings (swing) and for the carryover of shortfalls in certain categories from the previous agreement year (carryover). The Governments of the United States and Pakistan have also agreed, pursuant to the terms of the agreement, to reserve the level of restraint established for Category 339 during the agreement period which began on January 1, 1981 and extends through June 30, 1982 by 80,000 dozen during the same agreement period.

### EFFECTIVE DATE:
November 18, 1981.

### FOR FURTHER INFORMATION CONTACT:

### SUPPLEMENTARY INFORMATION:
On December 24, 1980 there was published in the Federal Register (45 FR 85140) a letter dated December 19, 1980 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which announced the establishment of eighteen-month levels of restraint established for Category 339 during the agreement period which began on January 1, 1981 and extends through June 30, 1982 by 80,000 dozen during the same agreement period.

### Category Amended 12-month level of restraint

<table>
<thead>
<tr>
<th>Category</th>
<th>Amended 12-month level of restraint</th>
</tr>
</thead>
<tbody>
<tr>
<td>315</td>
<td>59,914,621 square yards.</td>
</tr>
<tr>
<td>339</td>
<td>542,911 dozen.</td>
</tr>
<tr>
<td>339pt1</td>
<td>524,270 dozen.</td>
</tr>
</tbody>
</table>

1 The levels or restraint have not been adjusted to reflect any imports after December 31, 1980.

The actions taken with respect to the governments of Pakistan and with respect to imports of cotton textile products from Pakistan have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 552. This letter will be published in the Federal Register.

Sincerely,
Paul T. O'Day, Chairman, Committee for the Implementation of Textile Agreements.

November 13, 1981.

### COMMODITY FUTURES TRADING COMMISSION

Commodity Exchange, Inc., Proposed Gold Coins Futures Contract

### AGENCY:
Commodity Futures Trading Commission.

### ACTION:
Notice of availability of the terms and conditions of proposed commodity futures contract.

### SUMMARY:
The Commodity Exchange, Inc. ("Comex") has applied for designation as a contract market in gold coins. The Commodity Futures Trading Commission ("Commission") has determined that the terms and conditions of the proposed futures contract are of major economic significance and that, accordingly, making the proposed contract available for public inspection and comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

### DATE:
Comments must be received on or before January 4, 1982.

### ADDRESS:
Interested persons should submit their views and comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Reference should be made to the Comex Gold Coins futures contract.

### FOR FURTHER INFORMATION CONTACT:

### SUPPLEMENTARY INFORMATION:
A copy of the terms and conditions of the Comex proposed gold coins futures contract will be available for inspection at the Office of the Secretariat, Commodity Futures Trading
MidAmerica Commodity Exchange; Proposed Refined Sugar Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures contract.

SUMMARY: The MidAmerica Commodity Exchange ("MACE") has applied for designation as a contract market in refined sugar. The Commodity Futures Trading Commission ("Commission") has determined that the terms and conditions of the proposed futures contract are of major economic significance and that, accordingly, making the proposed contract available for public inspection and comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before January 18, 1982.

ADDRESS: Interested persons should submit their views and comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Reference should be made to the MACE Proposed Refined Sugar Futures Contract.


SUPPLEMENTARY INFORMATION: A copy of the terms and conditions of the MACE's proposed refined sugar futures contract will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Copies can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254-6314.

Any person interested in submitting written data, views or arguments on the terms and conditions of the proposed futures contract, or with respect to other materials submitted by MACE in support of its application, should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581 by January 4, 1982. Such comment letters will be publicly available except to the extent that they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C., on November 12, 1981.

Jane K. Stuckey,
Secretary of the Commission.
Air Force Federal Register, Liaison Officer.

Bonuses no earlier than December 1, 1981.

For further information, contact the Senior Executive Service Management Office at (202) 695-0939.

Carol M. Rose, Major General, GS Deputy Chief of Staff for

Name of panel: Army Advisory Panel on

Open Meeting

Army Advisory Panel on ROTC Affairs;

Date of meeting: December 3, 1981

Place: Pentagon, Washington, DC.

Date of meeting: December 3, 1981

Time: 8:00 a.m. to 4:30 p.m.

Proposed agenda: The meeting will be conducted in both workshop and general sessions. Panel members will participate in two workshops: ROTC Planning in the 1980's and 90's and Campus Perceptions of ROTC Affairs. Current issues and existing trends, both on and off campus, will be discussed in order to solicit Panel members assistance in shaping ROTC long range planning and advertising programs. Following the workshops, the Panel will meet in general session to act on workshop responses. This meeting is open to the public. Any interested person may attend, appear before, or file statements with the Panel at the time and in the manner provided by the Panel.

Robert A. Sullivan,

Major General, GS Deputy Chief of Staff for

ROTC.

For further information concerning this notice, contact: LTC Neil K. Nydegger, HQDA (DAJA-IP) Pentagon—Office at (202) 695-0550.

John O. Roach II,

Department of the Army, Liaison Officer with the Federal Register.

[FR Doc. 81-33042 Filed 11-16-81; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Notice of Intent Correction


John O. Roach II,

Department of the Army, Liaison Officer with the Federal Register.

[FR Doc. 81-33043 Filed 11-16-81; 8:45 am]

BILLING CODE 3710-08-M

Department of the Army

Army Advisory Panel on ROTC Affairs;

Open Meeting

November 2, 1981.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following panel meeting:

Name of panel: Army Advisory Panel on ROTC Affairs

Date of meeting: December 3, 1981

Place: Pentagon, Washington, DC.

In compliance with the National Environmental Policy Act (NEPA), the Navy will complete a Draft Environmental Impact Statement (DEIS) to assess the potential impacts of siting LCAC operational bases at the above listed prime candidate sites. Factors such as noise, generated waves, craft speeds, training beach location, and physical placement of the base will be addressed in the DEIS.

It is anticipated that public scoping meetings will be convened for each of the geographic areas concerned as soon as possible after the Navy has hired a contractor to begin development of the DEIS. Public notification of such scoping meetings will occur as soon as dates and locations are established. In the interim, interested persons are invited to submit comments on this proposed action for consideration by the Navy. Please address your correspondence to the following address: Commander, Naval Facilities Engineering Command, Hoffman Building II, 200 Stovall Street, Alexandria, Virginia 22332, ATTN: A. W. Collins, Captain, CEC, USN.

When the DEIS is completed, a public notice of its availability for review by the public will be announced in order that interested persons may comment on that document. A Final Environmental Impact Statement (FEIS) will incorporate all comments received from the public. The Navy will submit the DEIS and FEIS to appropriate Federal, state, and local agencies as required by law.

No decision to begin construction will be made until the environmental process is complete, including publishing a Public Record of Decision.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 81-33193 Filed 11-16-81; 8:45 am]

BILLING CODE 3510-AE-M

Intent To Grant a Limited Exclusive Patent License to Advance Products Corporation

Pursuant to the provisions of the General Service Administration's temporary licensing regulations, the Department of the Army announces its intent to grant an exclusive license to Advance Products Corporation, a corporation of the State of Michigan, a limited exclusive license under U.S. Patent No. 4,006,646, issued February 8, 1977, entitled "Anti-Friction Worm and Wheel Drive," invented by Erwin F. Geppert.

This license will be granted unless compelling reasons for not granting such a license are received by the Chief, Intellectual Property Division, Office of The Judge Advocate General, Department of the Army, Washington, DC 20310 within 60 days of this notice.

Available land and a mission not obviously incompatible with LCAC operations were surveyed. Each candidate site, five on the west coast and ten on the east coast, was evaluated using specific criteria relating to ocean access, available support facilities, mission compatibility, environmental factors, and physical characteristics. Based on this evaluation, the following sites are considered prime candidates for selection as east and west coast LCAC bases:

Naval Amphibious Base, Little Creek, Virginia.

Naval Amphibious Base Annex, Camp Pendleton, California.

Marine Corps Base, Camp Pendleton, California.

In accordance with the National Environmental Policy Act (NEPA), the Navy will complete a Draft Environmental Impact Statement (DEIS) to assess the potential impacts of siting LCAC operational bases at the above listed prime candidate sites. Factors such as noise, generated waves, craft speeds, training beach location, and physical placement of the base will be addressed in the DEIS.

It is anticipated that public scoping meetings will be convened for each of the geographic areas concerned as soon as possible after the Navy has hired a contractor to begin development of the DEIS. Public notification of such scoping meetings will occur as soon as dates and locations are established. In the interim, interested persons are invited to submit comments on this proposed action for consideration by the Navy. Please address your correspondence to the following address: Commander, Naval Facilities Engineering Command, Hoffman Building II, 200 Stovall Street, Alexandria, Virginia 22332, ATTN: A. W. Collins, Captain, CEC, USN.

When the DEIS is completed, a public notice of its availability for review by the public will be announced in order that interested persons may comment on that document. A Final Environmental Impact Statement (FEIS) will incorporate all comments received from the public. The Navy will submit the DEIS and FEIS to appropriate Federal, state, and local agencies as required by law.

No decision to begin construction will be made until the environmental process is complete, including publishing a Public Record of Decision.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 81-33193 Filed 11-16-81; 8:45 am]

BILLING CODE 3510-AE-M

For further information concerning this notice, contact: LTC Neil K. Nydegger, HQDA (DAJA-IP) Pentagon—Room 2D 444, Washington, DC 20310, Telephone No. 695-0550.

John O. Roach II,

Department of the Army, Liaison Officer with the Federal Register.

[FR Doc. 81-33042 Filed 11-16-81; 8:45 am]

BILLING CODE 3710-08-M
DEPARTMENT OF EDUCATION
Dependents’ Education Advisory Council: Meeting

AGENCY: Advisory Council on Dependents’ Education.

ACTION: Notice of partially closed meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Council on Dependents’ Education. This notice also describes the functions of the council.

DATE: December 2-4, 1981, 8:30 a.m. to 5:30 p.m.


FOR FURTHER INFORMATION CONTACT: Dr. William L. Smith, Administrator of Education for Overseas Dependents, 400 Maryland Avenue, S.W., Washington, D.C. 20202, 202-245-8011.

SUPPLEMENTARY INFORMATION: The Advisory Council on Dependents’ Education is established under section 1411 of the Defense Dependents’ Education Act of 1978, as amended (20 U.S.C. 1292). The Council is established to:

1. Recommend to the Director general policies for operation of the defense dependents’ education system with respect to curriculum selection, administration, and operation of the system.

2. Make recommendations to the Director and to the Secretary of Education on the orderly transfer of the functions under the Dependents’ Education Act of 1978 to the Secretary and Department of Education.

3. Provide information to the Director from other Federal agencies concerned with primary and secondary education with respect to education programs and practices which such agencies have found to be effective and which should be considered for inclusion in the defense dependents’ education system.

4. Advise the Director on the design of the study and the selection of the contractor referred to in section 1412(a)(2) of the title, and

5. Perform such other tasks as may be required by the Secretary of Education.

The meeting of the Council is open to the public except as indicated below. The proposed agenda includes:

- Adoption of organizational framework, by-laws, permanent rules, and procedures.
- Determination of procedures for formulating recommendations on general policies for operating the DOD

DEPARTMENT OF ENERGY

Schedule for the Public Hearings and Availability of the Draft Northeast Regional Environmental Impact Statement; Hearings

AGENCY: Department of Energy.

ACTION: Notice of public hearings and the availability of the draft environmental impact (DEIS).

SUMMARY: The Department of Energy (DOE) announces the availability of the Draft Northeast Regional Environmental Impact Statement, DOE/EIS-0063-D (October 1981), assessing the environmental impacts associated with the conversion from oil and natural gas to coal or alternate energy sources of up to forty-two powerplants in the Northeastern United States. The document was prepared in connection with the Department’s responsibilities under the Powerplant and Industrial Fuel Use Act of 1979.

DATES: Written comments are invited and should be received at DOE by January 8, 1982, in order to insure consideration in preparing the final environmental impact statement. Public hearings will be held on December 16, 17, and 18, in Boston, New York, and Philadelphia, respectively. The hearings will begin at 9:00 a.m. and continue until 5:00 p.m. Intentions to speak at the public hearings should be received at DOE by December 1, 1981.

ADDRESSES: Requests for copies of the DEIS, written comments on the DEIS, and intentions to speak at the hearings should be addressed to: Marsha S. Goldberg, Department of Energy, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, N.W., Room 3322, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

prepared in connection with the Department's responsibilities under the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 6965-6962) (FUA) to minimize or eliminate oil and natural gas consumption in existing electrical generating units. The document assesses the environmental impacts due to the conversion from oil and natural gas to coal or alternate energy sources of up to 42 powerplants in the Northeastern United States.

The 42 powerplants included in the study are located in a ten-state region extending from Maryland to Maine. The sites were selected by DOE by excluding (1) all units over twenty-five years of age, and (2) stations with an aggregate capacity of less than 100 megawatts (MW) from a list of 117 coal-capable plants developed by the President's Coal Commission. The final list of 42 focused attention on those powerplants with the greatest potential for oil displacement and economic benefits, and with the longest remaining useful life.

The proximity of these 42 coal-capable plants suggested a potential for interacting impacts creating larger or different types of effects than would generally be associated with the use of alternate fuels (especially coal) at the individual plants. The physical extent of these collective impacts might also reach beyond the area surrounding the individual plants into a large geographic region.

II. Scope of the DEIS

The primary purpose of the draft NEREIS is to assess and document the potential for cumulative and interactive environmental impacts associated with the potential conversion of multiple generating stations to coal. The structure of FUA is such that the cessation of burning oil or natural gas in utility boilers is a voluntary action on the part of owner/operators. FUA does not require the use of an alternate fuel nor does it mandate the continued operation of a unit. Thus there are only a limited number of alternatives to the proposed action. The alternatives that are considered in the document are grouped into two categories.

The first category, Alternatives within the Statutory Authority of FUA, includes the No-Action Alternative, and the Conversion Alternatives. The conversion of all 42 powerplants has been assumed since it is impossible, under the authority of FUA, to determine with any certainty either which or how many of the 42 powerplants will voluntarily convert, or what the conditions of the conversion will be. The NEREIS is, however, designed to provide decision-makers with information on the types and magnitude of impacts associated with a range of possible coal conversion strategies. This is accomplished by structuring the environmental impact assessment around four conversion scenarios defined in terms of the air emission limitations that could be imposed by a state or Federal agency as a condition for conversion under existing statutes and regulations.

The four air quality scenarios are: (1) the emissions from burning coal at the rate specified for oil in the current State Implementation Plan (SIP); (2) the emissions from burning coal at the rate specified for coal in the current SIP; (3) the emissions from burning coal at the rate specified in the 1971 New Source Performance Standards; and (4) the emissions from burning coal at rates proposed by certain utilities and state agencies for the powerplants in their control with all other powerplants modeled at the coal SIP. The assessment of the air quality scenarios with all powerplants involved represents a "worst-case" analysis of the air quality impacts associated with those scenarios.

The second category, Alternatives Outside the Statutory Authority of FUA, addresses the environmental impacts associated with conservation of power use and with alternative energy technologies (solar, wind, small-scale hydroelectricity, coal cogeneration, wood, and geothermal) as substitutes for oil and gas.

The substantive areas of environmental impact that are analyzed are: air quality; water quality; land use; biotic resources; socioeconomics; and health effects.

III. Comment Procedures

A. Availability of Draft EIS

Copies of the DEIS have been distributed to Federal, State and local agencies, and to organizations and individuals known to be interested in the Northeast Regional Environmental Impact Statement. Additional copies may be obtained from the Office of Fuels Conversion, Department of Energy, 2000 M Street, N.W., Washington, DC 20461, Phone (202) 853-4511, as well as from the DOE Regional offices listed below. Copies of the documents used in preparing the DEIS are also available at the same addresses.

The DEIS and supporting documents are also available for public inspection at the following locations:

- Public Information Room, Department of Energy, 2000 M Street, NW.
- Public Information Room, Department of Energy, 1000 Independence Avenue, SW., Room 1E-190, Washington, DC 20585, Hours: 8:00 a.m.-4:00 p.m.
- U.S. Department of Energy, Region I, 150 Causeway, Room 700, Boston, Massachusetts 02114, Attention: Duane Day. Phone: (617) 223-5207. Hours: 8:00 a.m.-4:00 p.m.
- U.S. Department of Energy, Region II, 20 Federal Plaza, Room 3300, New York, New York 10297, Attention: William Wood. Phone: (212) 264-1021. Hours: 8:00 a.m.-5:00 p.m.
- U.S. Department of Energy, Region III, 421 Cherry Street, 10th Floor, Philadelphia, Pennsylvania 19102, Attention: Eugene Harris. Phone: (215) 592-3890. Hours: 8:00 a.m.-4:00 p.m.

B. Written Comments

Interested parties are invited to provide written comments on the DEIS to the Office of Fuels Conversion at the Washington address given above. Comments should be identified on the outside of the envelope with the designation "Draft Northeast Regional Environmental Impact Statement." All comments and related information should be received by DOE by January 5, 1982, in order to insure consideration in preparing the final statement. Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing. Any material not accompanied by a statement of confidentiality will be considered nonconfidential. DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

C. Public Hearings

1. Participation Procedure. Public hearings on the draft statement will be held at the following locations on the dates indicated:

(a) JFK Federal Building, Government Center, Conference Room 2003, Boston, Massachusetts 02203, December 16, 1981

(b) 26 Federal Plaza, New York, New York 10287, Room 305C, December 17, 1981

(c) Federal Building, 1421 Cherry Street, 10th Floor, Philadelphia, Pennsylvania 19102, December 18, 1981

The hearings are scheduled from 9:00 a.m. to 5:00 p.m. to provide an opportunity for oral presentations by interested persons. A DOE official will designate a presiding officer to chair the hearing.
This will not be a judicial or evidentiary-type hearing. Any person who desires to speak at the hearing should notify the Office of Fuels Conversion at the Washington, D.C. address listed above before December 1, 1981, so that time can be scheduled. Although not required, persons who intend to speak are encouraged to provide a brief summary of the presentation. Individuals who did not make an advance arrangement to speak may register to speak at the hearing. An opportunity will be provided to these individuals to speak after all scheduled speakers. Time for each participant will be limited depending on time available and the number of responses.

2. Conduct of Hearings. DOE will arrange the schedule of presentations to be heard and will establish basic rules and procedures for conducting the hearing. The length of each presentation may be limited, depending on the number of persons desiring to speak. 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, to the presiding officer. Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer at the start of the hearing.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Office, Room GA-152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585. Additional copies of the complete transcript will also be available at the public document centers noted above. Any persons may purchase a copy of the transcript from the reporter.

Issued in Washington, D.C. on the 9th day of November 1981.

Barton R. House,
Acting Assistant Secretary for Environmental Protection, Safety, and Emergency Preparedness.

[FR Doc. 81-33062 Filed 11-16-81; 8:45 am]

BILLING CODE 6450-01-M

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order and provides an opportunity for public comment on the proposed Consent Order.

DATE: Comments by: December 17, 1981.

ADDRESS: Send comments to: Wayne L. Tucker, Southwest District Manager for Enforcement, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235.

FOR FURTHER INFORMATION CONTACT: Wayne L. Tucker, Southwest District Manager for Enforcement, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235 [phone] 214/707-7745.

SUPPLEMENTARY INFORMATION: On October 20, 1981, the Office of Enforcement of the ERA executed a proposed Consent Order with Bayou State Oil Corporation (Bayou) of Shreveport, Louisiana and its affiliate Ida Gasoline Company, Inc. (Ida) of Oil City, Louisiana. Under 10 CFR 205.189[b], a proposed Consent Order which involves a sum of $500,000 or more, excluding interest and penalties, becomes effective no sooner than thirty days after publication in the Federal Register requesting comments concerning the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate an alternative Consent Order.

I. The Consent Order

Bayou, with its home office located in Shreveport, Louisiana, is a firm engaged in the refining of crude oil. Ida operates a gasoline blending plant in Oil City, Louisiana. Both Bayou and Ida are subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, and 212 during the period covered by this Consent Order ("settlement period"). To resolve certain potential civil liability arising out of the Mandatory Petroleum Allocation and Price Regulations and related regulations, 10 CFR Parts 205, 210, 211, and 212, in connection with Bayou's and Ida's transactions involving refined petroleum products during the period September 1973 through December 1977, the Office of Enforcement, ERA, Bayou, and Ida entered into a Consent Order, the significant terms of which are as follows:

A. Bayou and Ida have certain common shareholders. The DOE has alleged that Bayou and Ida are a single "firm" as defined in 10 CFR 212.31 and for DOE's regulatory purposes. Bayou and Ida have disputed that they are one "firm" under the DOE's regulations.

B. The DOE has alleged that, during the settlement period, Bayou and Ida together sold refined petroleum products at prices in excess of the applicable ceiling or maximum lawful selling prices and either reported incorrectly or failed to file certain reports required by DOE's regulations for refiners. Bayou and Ida have expressly denied these allegations.

C. Bayou and Ida, without admitting liability, desire to settle all potential civil liability between themselves and the Office of Enforcement concerning the transactions which allegedly occurred during the settlement period and avoid the expense and inconvenience of litigation. Similarly, the Office of Enforcement believes it is in the best interest of the government and the general public to conclude the compliance proceedings now by means of this Consent Order.

D. The provisions of 10 CFR 205.199, including those regarding the publication of this Notice, are applicable to the Consent Order.

II. Refund

In this Consent Order, Bayou and Ida together will refund the sum of $850,000 including interest to be paid in one amount within 30 days following the effective date of this Consent Order. Upon full satisfaction of the terms and conditions of this Consent Order by Bayou and Ida, the DOE releases Bayou and Ida from any civil claims that the DOE may have arising out of the specified transactions during the settlement period. The Director, Office of Enforcement, ERA shall direct that these monies be deposited in a suitable account for ultimate disposition by DOE in accordance with 10 CFR Part 205, Subpart V or other applicable statutes and regulations.

Bayou and Ida together agree to pay the sum of $25,000 in compromise of civil penalties relating to the above described transactions during the settlement period.

III. Submission of Written Comments

The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments to Wayne L. Tucker, Southwest District Manager for Enforcement, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235. You may obtain a free copy of this Consent Order by writing to the

Economic Regulatory Administration Bayou State Oil Corp. and Ida Gasoline Co., Inc.: Proposed Consent Order

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of proposed consent order and opportunity for comment.

FOR FURTHER INFORMATION CONTACT: Wayne L. Tucker, Southwest District Manager for Enforcement, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235.
same address or by calling 214/767–7745.

You should identify your comments on the outside of your envelope and on the documents you submit with the designation, “Comments on Bayou Oil Corporation and Ida Gasoline Company, Inc., Consent Order.” We will consider all comments we receive by 4:30 p.m., local time on December 17, 1981. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

City of Kissimmee, Florida: Availability of Tentative Staff Analysis

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of availability of tentative staff analysis.

SUMMARY: On July 14, 1981, The City of Kissimmee, Florida petitioned the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for a permanent peakload powerplant exemption from the provisions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8331 et seq. (FUA or the Act) which prohibit (1) the use of petroleum or natural gas as a primary energy source in new powerplants and (2) the construction of a new powerplant without the capability to use an alternate fuel as a primary energy source. A final rule setting forth the procedure for petitioning and the criteria for an exemption was published in the Federal Register on June 6, 1980 (45 FR 53199) and on October 5, 1981.

Kissimmee Municipal Electric plans to construct and operate a 29,000 KW natural gas and/or oil-fired combustion turbine unit to be known as Roy Hansel Unit No. 21 located in Kissimmee, Florida.

Kissimmee Municipal Electric submitted a sworn statement with its petition, signed by Mr. Jack T. Danforth, Manager of Kissimmee Municipal Electric, as required by 10 CFR 632.41(b)(1). In his statement, Mr. Danforth certified that the unit will be operated solely as a peakload powerplant and will be operated only to meet peakload demand for the life of the plant. He also certified that the maximum design capacity of the unit is 29,000 KW; that the maximum generation that the unit will be allowed during any 12-month period is the design capacity times 1,500 hours or 43,500,000 Kwh.

Under the requirements of 10 CFR 632.41(b)(1)(ii), if a petitioner proposes to use natural gas, or to construct a powerplant to use natural gas in lieu of an alternate fuel as a primary energy source, it must obtain an air quality certification from the Administrator of the Environmental Protection Agency or the Director of the appropriate state air pollution control agency. However, since ERA has determined that there are no presently available alternate fuels which may be used in the proposed powerplants, no such certification can be made. The certification requirement is therefore waived with respect to this petition.

Tentative Staff Analysis

On the basis of Kissimmee’s sworn statements and information provided, the staff recommends that ERA grant the requested peakload powerplant exemption.

The public file containing a copy of the Tentative Staff Analysis and other documents and supporting materials is available upon request at: ERA Room 6128, Federal Building, Room 6128, Washington, D.C. 20585. Phone (202) 252–2987. Comments received from the Environmental Protection Agency’s Office of Public Information, Economic Regulatory Administration, Department of Energy, Federal Building, Room 6120, Washington, D.C. 20585. Phone (202) 533–8700


The public file containing a copy of the Tentative Staff Analysis and other documents and supporting materials is available upon request at: ERA Room 6120, Federal Building, Washington, D.C. Monday through Friday, 8:00 a.m.–4:30 p.m.

SUPPLEMENTARY INFORMATION: Kissimmee plans to install a 29,000 KW natural gas-and/or oil-fired combustion turbine to be known as Roy Hansel CT

Issued in Dallas, Texas on the 30th day of October, 1981.

Wayne I. Tucker,
Southwest District Manager, Economic Regulatory Administration.

BILING CODE 6452–01–M
Kissimmee pursuant to 10 CFR 503.15(b), has been reviewed by DOE’s Office of Environment, in consultation with the Office of General Counsel. It has been determined that Kissimmee’s responses to the questions therein indicate that the operation of the peakload powerplant will have no impact on those areas regulated by specified laws that impose consultation requirements on DOE, and otherwise affirms the applicability of the categorical exclusion to this FUA action. Therefore, no additional environmental review is deemed to be required.

This Tentative Staff Analysis does not constitute a decision by ERA to grant the requested exemption. Such a decision will be made in accordance with 10 CFR 503.66 on the basis of the entire record of this proceeding, including any comments received on the Tentative Staff Analysis.

Terms and Conditions

Section 214(a) of the Act gives ERA the authority to attach terms and conditions to any order granting an exemption. Based upon the information submitted by Kissimmee Municipal Electric and upon the results of the staff analysis, the staff of ERA recommends that any order granting the requested peakload powerplant exemption should, pursuant to section 214(a) of the Act, be subject to the following terms and conditions:

A. Kissimmee Municipal Electric shall not produce more than 43,500,000 Kwh during any 12-month period with CT Unit No. 21. Kissimmee shall provide annual estimates of the expected periods (hours during specific months) of operation of the unit for peakload purposes (e.g., 8:00-10:00 a.m. and 3:00-6:00 p.m. during the June-September period, etc.). Estimates of the hours in which Kissimmee expects to operate CT Unit No. 21 during the first 12-month period shall be furnished within 30 days from the date of this order.

B. Kissimmee shall comply with the reporting requirements set forth in 10 CFR 503.43(d).

C. The quality of any petroleum to be burned in the unit will be the lowest grade available which is technically feasible and capable of being burned consistent with applicable environmental requirements.

D. Kissimmee shall comply with the terms and conditions which may be imposed pursuant to the environmental requirements set forth in 10 CFR 503.15(b).

Issued in Washington, D.C. on November 9, 1981.

Rayburn Hamlik,
Administrator, Economic Regulatory Administration.

[FR Doc. 81-33066 Filed 11-16-81; 8:45 am]
BILLING CODE 6450-01-M

[ERA Docket No. 81-CERT-025]

Consolidated Edison Co. of New York, Inc.; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

Consolidated Edison Company of New York, Inc. (Con Edison), 4 Irving Place, New York, New York 10003, filed an application on October 19, 1981, with the Economic Regulatory Administration (ERA) for certification of an eligible use of natural gas to displace fuel oil at six of its steam and electric generating stations located in New York City: Astoria in Queens; East River in Manhattan; Narrows in Brooklyn; Ravenswood in Queens; Waterside in Manhattan; and East 60th Street in Manhattan, pursuant to 10 CFR Part 585 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file and 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.—4:30 p.m. Monday through Friday, except Federal holidays.

In its application, Con Edison states that the volume of natural gas for which it requests certification is approximately 2.20 billion cubic feet. This volume is estimated to displace the use of approximately 312,000 barrels of residual fuel oil (0.3 percent sulfur), approximately 15,000 barrels of No. 2 fuel oil (0.2 percent sulfur), and approximately 41,000 barrels of kerosene (0.65 percent sulfur) per year.

The quantities at each location are subject to considerable variation with changes in demand and availability of the various steam and electric generating units, but estimated oil displacement volumes are listed below:

<table>
<thead>
<tr>
<th>Location</th>
<th>Estimated volume (billion cubic feet)</th>
<th>Estimated oil displacement (000 barrel)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>0.3% sulfur residual</td>
<td>0.05% sulfur kero.</td>
</tr>
<tr>
<td>Astoria, 20th Ave. &amp; 12 St., Queens</td>
<td>0.725</td>
<td>121</td>
</tr>
<tr>
<td>East River, 14th St &amp; East River, Manhattan</td>
<td>0.154</td>
<td>10</td>
</tr>
<tr>
<td>Narrows, 53rd St. &amp; 1st Ave, Brooklyn</td>
<td>0.096</td>
<td>6</td>
</tr>
</tbody>
</table>

The eligible seller is New York State Electric and Gas Corporation, 4500 Vestal Parkway East, Binghamton, New York 13902. The gas will be transported by Transcontinental Gas Pipe Line Corporation, P.O. Box 1995, Houston, Texas 77001 and Tennessee Gas Pipeline Company, a Division of Tenneco, Inc., P.O. Box 2511, Houston, Texas 77001.

Con Edison has in effect a certification by the ERA, effective April 13, 1981 (Docket No. 81-CERT-005), which authorizes purchases of approximately 62 billion cubic feet per year from other eligible sellers for use at the steam and electric generating stations named in this application.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 7108, RG-13, 2000 M Street, N.W., Washington, D.C. 20461, Attention: Paula A. Daigneault, within ten (10) calendar days of the date of publication of this notice in the Federal Register.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by an 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 Con Edison and any persons filing comments and will be published in the Federal Register.

SUPPLEMENTARY INFORMATION: The proposed voluntary guideline for the cost of service standard established by PURPA section 111(d)(1) was published in the Federal Register on September 4, 1980. The purpose of this voluntary guideline was to assist regulatory authorities in their consideration of the cost of service standard and the four other ratemaking standards in section 111(d), each of which is tied to the cost of service. The proposed guideline offered direction on the following issues:

- (a) marginal versus embedded costs,
- (b) estimation of marginal costs,
- (c) adjustments to marginal cost-based rates, and
- (d) alternative marginal costing methodologies.

The notice proposing the voluntary guideline requested the public to submit written and oral comments to ERA concerning the guideline and provided for two public hearings, on November 13 and 18, 1980, and a comment period ending November 21, 1980. ERA received over 400 comments covering a variety of issues and representing a wide spectrum of opinions from public utility commissions, state agencies, electric utilities, trade associations, industrial and commercial firms, and private citizens.

The content and diversity of the public comments have required extraordinarily careful study and analysis. We have concluded that the revisions needed to satisfactorily address the problems raised by the public would be so extensive as to necessitate reproposal of the guideline. Under Title I of PURPA, state regulatory authorities and nonregulated electric utilities are to complete hearings on the cost of service standard (and the other four ratemaking standards) by November 6, 1981. Since a revised proposed guideline would be needed, we cannot possibly issue a final guideline by that date. The objective of the guideline is to assist states in their consideration of the standard, and no useful purpose would be served by continuing work toward a guideline which cannot be timely.

Accordingly, the proposed guideline is hereby withdrawn and no final cost of service guideline will be issued.

Office of Hearings and Appeals
Cases Filed; Week of October 23 through October 30, 1981

During the week of October 23 through October 30, 1981, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

November 9, 1981.

George B. Breznay,
Director, Office of Hearings and Appeals.
**LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued**

<table>
<thead>
<tr>
<th>Date</th>
<th>Name and location of applicant</th>
<th>Case No.</th>
<th>Type of submission</th>
</tr>
</thead>
<tbody>
<tr>
<td>Oct. 27, 1981</td>
<td>Ashland Oil, Inc., Ashland, Kentucky</td>
<td>HEE-0000</td>
<td>Exception from the Entitlements Program. If granted: Ashland Oil Inc. would receive an exception from the provisions of 10 CFR 211.67 regarding a scheduled adjustment to the firm's reported crude oil receipts. Motion for Discovery. If granted: Discovery would be granted to Ashland Oil, Inc. in connection with its Application for Exception. Case No. HEE-0000.</td>
</tr>
<tr>
<td>Do</td>
<td>do</td>
<td>HED-0004</td>
<td>Interim Exempted Decision. If granted: The firm would be granted the interim exemption.</td>
</tr>
</tbody>
</table>

**ENVIRONMENTAL PROTECTION AGENCY**

[TSH-FRL-1985-8; OPTS-59071]

**Certain Chemicals Premanufacture Exemption Applications**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's revised statement of interim policy published in the Federal Register of November 7, 1980 (45 FR 74378). This notice, issued under section 5(h)(1) of TSCA, announces receipt of two applications for exemptions, provides a summary, and requests comments on the appropriateness of granting each of the exemptions.

**DATE:** Written comments by: December 2, 1981.

**ADDRESS:** Written comments, identified by the document control number "[OPTS-59071]" and the specific TME number should be sent to: Document Control Officer (TS-703), Office of Pesticides and Toxic Substances, Management Support Division, Environmental Protection Agency, Rm. E-401, 401 M Street SW, Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances.
and the Office of the Comptroller of the Currency.

**ACTION:** An interagency statement regarding the policies the participating agencies will generally apply in enforcing the Equal Credit Opportunity and Fair Housing Acts.

**SUMMARY:** This document sets forth the general policies that the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the Office of the Comptroller of the Currency (hereafter referred to as the “agencies”) will generally apply in enforcing the Equal Credit Opportunity Act and the Fair Housing Act. Coordination among the agencies is desirable to bring about uniformity in the administrative actions that will be taken when violations of the Acts are detected. The Federal Home Loan Bank Board has elected not to participate in this joint policy statement because it believes its existing policies are both sufficient and compatible with the joint statement.

**EFFECTIVE DATE:** November 17, 1981.

**FOR FURTHER INFORMATION CONTACT:** Jerad C. Kluckman, Federal Reserve Board, 202/452-3401; Peter M. Kravitz, Federal Deposit Insurance Corporation, 202/389-4261; Linda M. Cohen, National Credit Union Administration, 202/457-1080; and Robert R. Klinzing, Office of the Comptroller of the Currency, 202/447-0934.

**SUPPLEMENTARY INFORMATION:** The following Enforcement Policy Statement is issued pursuant to the enforcing agencies’ authority under the Equal Credit Opportunity Act (ECOA) (15 U.S.C. 1691, et seq.), the Fair Housing Act (42 U.S.C. 3601, et seq.); and under 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) for the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation; and under the Federal Credit Union Act (12 U.S.C. 1786(e)(1)) for the National Credit Union Administration.

The agencies believe it appropriate to remind institutions of their responsibilities under these laws and that the agencies will vigorously enforce them. Creditors will be required to institute procedures to assure that all violations of the Acts, including those not cited in this policy statement, will not recur. In addition, failure to comply with certain specific provisions of the Acts has been judged by the agencies to be particularly serious and usually to warrant retrospective action to correct the conditions resulting from the violations.

**Equal Credit Opportunity and Fair Housing Acts Enforcement Policy Statement:** The objective of this Enforcement Policy Statement is to ensure that the rights of credit applicants are protected by requiring creditors to take corrective action for certain, more serious past violations of the Equal Credit Opportunity and Fair Housing Acts as well as to be in compliance in the future. In an effort to achieve that objective, the agencies will encourage voluntary correction and compliance with the Acts. Whenever violations addressed by this Policy Statement are discovered, the creditor will be required to take action to ensure that such violations will not recur and to correct the effects of violations discovered.

The agencies will generally require the creditor to take action to correct conditions resulting from violations occurring within 24 months prior to the discovery of violations by an agency, except for violations concerning adverse action notices for which corrective action will be required for violations occurring within six months prior to discovery.

Violations in the following areas are considered serious by the agencies and will usually be subject to retrospective corrective action:

- Discouraging applicants on a prohibited basis in violation of the Fair Housing Act or § 202.4 or § 202.5(a) of Regulation B;
- Using credit criteria in a discriminatory manner in evaluating applications in violation of the Fair Housing Act or §§ 202.4 through 202.7 of Regulation B;
- Imposing different terms on a prohibited basis in violation of the Fair Housing Act or § 202.4 or § 202.6(b) of Regulation B;
- Requiring cosigners, guarantors or the like on a prohibited basis in violation of § 202.7(d) of Regulation B;
- Failing to furnish separate credit histories as required by § 202.10 of Regulation B;
- Failing to provide an adequate notice of adverse action under § 202.9 of Regulation B.

This Policy Statement will neither preclude the use of any administrative authority that any of the agencies possess to enforce these laws, nor limit the agencies discretion to take other action to correct conditions resulting from violations of these laws, nor preclude referral of cases to the Attorney General. Additionally, this Policy Statement does not foresee a credit applicant’s right to bring civil action under the Equal Credit Opportunity or Fair Housing Acts or to file a complaint with the Department of Justice or the Department of Housing and Urban Development for violations of housing laws. Further, this Policy Statement does not supersede or substitute for any regulations or enforcement policies issued by any of the agencies or the Department of Housing and Urban Development under the Fair Housing Act.

**Dated:** November 6, 1981.

**William W. Wiles,**
Secretary, Board of Governors of the Federal Reserve System.

**Dated:** November 6, 1981.

**Hoyt L. Robinson,**
Executive Secretary, Federal Deposit Insurance Corporation.

**Dated:** November 6, 1981.

**Rosemary Brady,**
Secretary to the Board, National Credit Union Administration.

**Dated:** November 9, 1981.

**Charles E. Lord,**

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**FEDERAL MARITIME COMMISSION**

**Independent Ocean Freight Forwarder License Applicants**

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

All Countries Forwarding, Inc., 13566 Kuyndahl, #211, Houston, TX 77090, Officers: Issa Istd, President, Ogra Istd, Vice President, Maria A. White, Vice President;

Roy Leon & Company, Inc., P.O. Box 593255, Miami, FL 33159, Officers: Roy Leon, President/Secretary, Manuel Leon, Vice President, Marcelo R. Leon, Treasurer/Assistant Secretary;

Trans-Overseas Corporation, 28055 Wick Road, Romulus, MI 48175, Officers: Jose Carlos Callo, President/Director, Eugene F.
Secretary.
Assistant Secretary of the Board.

BILLING CODE 6730-01-M

Theodore E. Downing, Jr., voting shares of Azle State Bank, Azle, Texas, 56502

Company Act

Holding Company

writing to the Reserve Bank, to be considered on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Bankeast Corporation, Manchester, New Hampshire, is also engaged in the following nonbank activities: mortgage banking, and operating a guaranty savings bank. In addition to the factors considered under section 3 of the Act (banking factors), the Board will consider the proposal in the light of the company’s nonbanking activities and the provisions and prohibitions in section 4 of the Act (12 U.S.C. 1843).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 4, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 9, 1981.

Theodore E. Downing, Jr., Assistant Secretary of the Board.

BILLING CODE 6210-01-M

FEDERAL RESERVE SYSTEM

Azle Bancorp; Formation of Bank Holding Company

Azle Bancorp, Azle, Texas, has applied for the Board’s approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Azle State Bank, Azle, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 4, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 5, 1981.

Theodore C. Hurney, Secretary.

BILLING CODE 6730-01-M

Bankeast Corp.; Proposed Acquisition of Rochester Savings Bank and Trust Company

Bankeast Corporation, Manchester, New Hampshire, has applied, pursuant to section 4(c)(6) of the Bank Holding Company Act (12 U.S.C. 1843(c)(6)) and § 225.4(b)(2) of the Board’s Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Rochester Savings Bank and Trust Company, Rochester, New Hampshire.

Applicant states that the proposed subsidiary would engage in the activity of operating a guaranty savings bank. These activities would be performed from offices of Applicant’s subsidiary in Rochester and Sanbornville, New Hampshire, and the geographic areas to be served are Strafford and portions of Rockingham Counties. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(f).

Interested persons may express their views on the question whether consummation of the proposal can “reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsafe and unsound banking practices.” Any requests for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Boston. Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 4, 1981.

Board of Governors of the Federal Reserve System, November 9, 1981.

Theodore E. Downing, Jr., Assistant Secretary of the Board.

BILLING CODE 6730-01-M

Biggsville Financial Corp.; Formation of Bank Holding Company

Biggsville Financial Corporation, Biggsville, Illinois, has applied for the Board’s approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First State Bank of Biggsville, Biggsville, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 27, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.
Buhl Bancorporation, Inc.; Formation of Bank Holding Company

Buhl Bancorporation, Inc., Buhl, Minnesota, has applied for the Board’s approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 95.1 percent or more of the voting shares of The First National Bank of Buhl, Buhl, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 29, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 9, 1981.
Theodore E. Downing, Jr.,
Assistant Secretary of the Board.

BILLING CODE 6210-01-M

International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers & Helpers; Acquisition of Bank

International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers & Helpers; Kansas City, Kansas, has applied for the Board’s approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire from time to time additional shares (up to 47.5 percent) of the voting shares of the Brotherhood Bank and Trust Company, Kansas City, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 4, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 9, 1981.
Theodore E. Downing, Jr.,
Assistant Secretary of the Board.

BILLING CODE 6210-01-M

First Farmers Investment Corporation, Inc.; Formation of Bank Holding Company

First Farmers Investment Corporation, Inc., Greenfield, Illinois, has applied for the Board’s approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 84.2 percent or more of the voting shares of Farmers State Bank of Greenfield, Greenfield, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 3, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 9, 1981.
Theodore E. Downing, Jr.,
Assistant Secretary of the Board.

BILLING CODE 6210-01-M

Lincoln County Bancorp., Inc.; Formation of Bank Holding Company

Lincoln County Bancorp., Inc., Troy, Missouri, has applied for the Board’s approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Peoples Bank of Lincoln County, Troy, Missouri, and by acquiring 80 percent or more of the voting shares of Winfield Banking Company, Winfield, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 4, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 9, 1981.
Theodore E. Downing, Jr.,
Assistant Secretary of the Board.

BILLING CODE 6210-01-M

Mercantile Bancorporation, Inc.; Acquisition of Bank

Mercantile Bancorporation, Inc., St. Louis, Missouri, has applied for the Board’s approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 90 percent or more of the voting shares of Security Bank of Sikeston, Sikeston, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 4, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 9, 1981.
Theodore E. Downing, Jr.,
Assistant Secretary of the Board.

BILLING CODE 6210-01-M
Pee Dee Bankshares, Inc., Formation of Bank Holding Company

Pee Dee Bankshares, Inc., Timmonsville, South Carolina, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 86 percent or more of the voting shares of Pee Dee State Bank, Timmonsville, South Carolina. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than December 4, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 9, 1981.

Theodore E. Downing, Jr.,
Assistant Secretary of the Board.

Sun Banks of Florida, Inc., Acquisition of Bank

Sun Banks of Florida, Inc., Orlando, Florida, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Commercial Bank of Okeechobee, Okeechobee, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than December 4, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 9, 1981.

Theodore E. Downing, Jr.,
Assistant Secretary of the Board.

Republic of Texas Corporation; Acquisition of Bank

Republic of Texas Corporation, Dallas, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares less directors' qualifying shares, of First National Bank of Sherman, Sherman, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than November 27, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 9, 1981.

Theodore E. Downing, Jr.,
Assistant Secretary of the Board.

Tucker Bros., Inc.; Formation of Bank Holding Company

Tucker Bros., Inc., Jacksonville, Florida, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 22.4 percent or more of the voting shares of First State Bank of Winter Garden, Winter Garden, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Tucker Bros., Inc., Jacksonville, Florida, has also applied, pursuant to section 4(c)(6) of the Bank Holding Company Act (12 U.S.C. 1843(c)(6)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage de novo (or continue to engage in an activity earlier commenced de novo), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(6) of the Bank Holding Company Act (12 U.S.C. 1843(c)(6)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage de novo (or continue to engage in an activity earlier commenced de novo), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or
unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than December 9, 1981.

A. Federal Reserve Bank of Cleveland
   (Harry W. Hunning, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101
   Mellon National Corporation, Pittsburgh, Pennsylvania (trust company activities Florida): To engage, through a subsidiary known as Mellon Trust Company, N.A., in activities that may be carried on by a trust company, including activities of a fiduciary, investment advisory, agency or custodian nature. Such activities will be conducted at offices in Arvida Financial Plaza, Glades Road, Boca Raton, Florida, serving the State of Florida. Comments on this application must be received not later than November 27, 1981.

B. Federal Reserve Bank of Atlanta
   (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:
   1. Carrol County Financial Corporation, Temple Georgia: general insurance activities; Georgia: To engage, through its subsidiary, Insurance West Agency, Inc., in the sale of general insurance in towns, with a population of less than 5,000. These activities will be conducted from offices in Temple, Villa Rica, and Bowden, Georgia, serving these towns and the rural areas surrounding these towns.
   2. Mountain Financial Company, Maryville, Tennessee (personal and real property leasing activities; Tennessee): To engage through its subsidiary, Mountain Leasing Corporation, in leasing personal and real property or acting as agent, broker, or adviser in leasing such property from an office in Maryville, Tennessee, serving Blount County, Tennessee, counties contiguous to Blount County, and other areas in the Knoxville, Tennessee, Standard Metropolitan Statistical Area.

C. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:
   Security Pacific Corporation, Los Angeles, California (finance and credit-related insurance activities; California): To engage through its subsidiary, Security Pacific Finance Corp., in making or acquiring for its own account or for the account of others, loans and extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a consumer finance company, and acting as broker or agent for the sale of credit-related life, accident and health insurance and credit-related property and casualty insurance. These activities would be conducted from offices of Security Pacific Finance Corp. located in Escondido, California, serving the State of California. Comments on this application must be received not later than November 27, 1981.

D. Other Federal Reserve Banks.
   None.

Board of Governors of the Federal Reserve System, November 9, 1981.

Theodore E. Downing, Jr.,
Assistant Secretary of the Board

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration
[Docket No. 81G-0282]

UOP, Inc; Filling of Petition for Affirmation of GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Perito, Duerk, Carlson & Pinco, P.C., on behalf of UOP, Inc., has filed a petition (GRASP 1G0277) proposing affirmation that high fructose corn syrup prepared from corn syrup glucose by the action of a glucose isomerase enzyme preparation, derived from Streptomyces olivochromogenes and immobilized with polyethylenimine crosslinked with glutaraldehyde, is generally recognized as safe (GRAS) as a direct human food ingredient.

DATE: Comments by January 18, 1982.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5000 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mary C. Custer, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-9463.

SUPPLEMENTARY INFORMATION:

Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 and the regulations for affirmation of GRAS status in § 170.35 (21 CFR 170.35), notice is given that a petition (GRASP 1G0277) has been filed by Perito, Duerk, Carlson & Pinco, P.C., Washington, DC, on behalf of UOP, Inc., 20 UOP Plaza, Des Plaines, IL 60016, proposing affirmation that high fructose corn syrup prepared from corn syrup glucose by the action of a glucose isomerase enzyme preparation, derived from Streptomyces olivochromogenes and immobilized with polyethylenimine crosslinked with glutaraldehyde, is GRAS as a direct human food ingredient.

The petition has been placed on display at the Dockets Management Branch (address above).

Any petition that meets the format requirements outlined in § 170.35 is filed by the agency. There is no pre-filing review of the adequacy of data to support a GRAS conclusion. Thus, the filing of a petition for GRAS affirmation should not be interpreted as preliminary indication of suitability for affirmation.
Interested persons may, on or before January 18, 1982, review the petition and/or file comments (two copies, identified with the docket number found in brackets in the heading of this document) with the Dockets Management Branch (address above). Comments should include any available information that would be helpful in determining whether the substance is, or is not, GRAS. A copy of the petition and received comments may be seen in the Dockets Management Branch, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 2, 1981.
Sanford A. Miller,
Director, Bureau of Foods.

[FR Doc. 81-32993 Filed 11-16-81; 8:45 am]
BILLING CODE 4160-03-M

Health Resources Administration

Application Announcement for Grants for Graduate Programs in Health Administration

The Bureau of Health Professions, Health Resources Administration, announces that applications for Fiscal Year 1982 Grants for Graduate Programs in Health Administration, are now being accepted under the authority of section 791 of the Public Health Service Act as amended by Pub. L. 97-35.

Section 791 authorizes the Secretary to award grants to public or nonprofit private educational entities (including schools of social work but excluding schools of public health) to support accredited graduate educational programs in health administration, hospital administration, and health planning. An application may not be approved unless the program for which support is requested has been accredited by an accrediting body or bodies approved for such purpose by the Secretary of Education (that is, the Accrediting Commission on Education for Health Services Administration).

Each application must contain assurances that at least 25 individuals will graduate from the program for which support is requested in the school year beginning in the fiscal year for which a grant is received; and that the applicant shall expend or obligate at least $100,000 from non-Federal sources for such programs.

Each applicant must also provide an institutional plan for activities to be pursued in developing, expanding, or enriching the program in special areas identified in the program regulations published at 42 CFR 58.5 and the application instructions.

Fiscal Year 1982 application materials are being made available without final action on an appropriation for this program. Based on the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35), approximately $1.5 million is expected to be available in Fiscal Year 1982 for grants. However, this amount is subject to change when the final Fiscal Year 1982 appropriation is enacted.

Requests for application materials and questions regarding grants policy should be directed to Grants Management Officer (E-10), Bureau of Health Professions, Health Resources Administration, Center Building, Room 4-27, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone: (301) 436-7360.

To be considered for Fiscal Year 1982 funding, applications must be received by the Grants Management Officer, at the above address no later than December 7, 1981.

Should additional programmatic information be required, please contact Mr. K. Paul Knott, Educational Development Branch, Division of Associated Health Professions, Bureau of Health Professions, Health Resources Administration, Center Building, Room 5-27, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone: (301) 436-6900.

This program is listed at 13.963 in the Catalog of Federal Domestic Assistance. Applications submitted in response to this announcement are not subject to review by State and areawide clearinghouses under the procedures in the Office of Management and Budget Circular A-95. Dated: November 10, 1981

Robert Graham,
Acting Administrator.

[FR Doc. 81-32993 Filed 11-16-81; 8:45 am]
BILLING CODE 4100-15-M

Application Announcement for Grants for Traineeships for Graduate Programs in Health Administration

The Bureau of Health Professions, Health Resources Administration, announces that applications for Fiscal Year 1982, Grants for Traineeships for Graduate Programs in Health Administration, are now being accepted under the authority of section 791A (previously section 749) of the Public Health Service Act as amended by Pub. L. 97-35.

Section 791A authorizes the Secretary to award grants to public or nonprofit private educational entities (including schools of social work but excluding schools of public health) with accredited programs in health administration, hospital administration, or health policy analysis and planning. An application may not be approved unless the program for which support is requested has been accredited by an accrediting body or bodies approved for such purpose by the Secretary of Education (that is, the Accrediting Commission on Education for Health Services Administration).

Of the amount received by a grantee, at least 80 percent shall go to students with previous postbaccalaureate degrees or three years' work experience in health services. Traineeships may include the payment of stipends, tuition, and fees.

Fiscal Year 1982 application materials are being made available without final action on an appropriation for this program. The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35) authorizes approximately $500,000 in Fiscal Year 1982 for grants. However, this amount is subject to change when the final appropriation for Fiscal Year 1982 is enacted.

Requests for application materials and questions regarding grants policy should be directed to Grants Management Officer (A-19), Bureau of Health Professions, Health Resources Administration, Center Building, Room 4-27, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone: (301) 436-7360.

To be considered for Fiscal Year 1982 funding, applications must be received by the Grants Management Officer, at the above address no later than December 14, 1981.

Should additional programmatic information be required, please contact Mr. K. Paul Knott, Educational Development Branch, Division of Associated Health Professions, Bureau of Health Professions, Health Resources Administration, Center Building, Room 5-27, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone: (301) 436-6900.

This program is listed at 13.962 in the Catalog of Federal Domestic Assistance. Applications submitted in response to this announcement are not subject to review by State and areawide clearinghouses under the procedures in the Office of Management and Budget Circular A-95.
Public Health Service

Health Maintenance Organizations
Correction

In FR Doc. 81-32390, appearing at page 55010 in the issue of Thursday, November 5, 1981, all but the last zip code under the heading “Tulare” at the end of column three on page 55010 should have appeared under the heading “Kern” instead.

BILLING CODE 4160-15-M

DEPARTMENT OF THE INTERIOR

Geological Survey

Oil and Gas and Sulphur Operations in the Outer Continental Shelf
AGENCY: Geological Survey, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that MTS Limited Partnership has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 3306, Block 624, Matagorda Island Area, offshore Texas.

The purpose of this notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the Office of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 637-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: November 9, 1981.

Lowell G. Hammons,
Conservation Manager, Gulf of Mexico OCS Region.

BILLING CODE 4310-31-M

Bureau of Land Management

California; Revocation of Small Tract Classifications

October 22, 1961.

Pursuant to the authority delegated by Bureau Order No. 701 of July 23, 1964 (29 FR 10529), the small tract classifications and segregation of public lands described in Federal Register notices summarized as follows are hereby terminated in their entirety.

No. C3-3
FR Doc. 63-4001, appearing at page 3736 in the issue of April 17, 1965.

No. C3-16
FR Doc. 64-9157, appearing at page 12787 in the issue of September 10, 1964.

No. C3-17
FR Doc. 64-9842, appearing at page 12558 in the issue of September 3, 1964.

No. 544
FR Doc. 58-3501, appearing at page 3276 in the issue of May 14, 1958.

No. 546
FR Doc. 56-3964, appearing at page 3675 in the issue of May 28, 1958.

No. 548
FR Doc. 58-6547, appearing at page 6306 in the issue of August 15, 1958.

No. 554
FR Doc. 59-877, appearing at page 744 in the issue of February 3, 1959.

No. 618
FR Doc. 61-2077, appearing at page 2056 in the issue of March 9, 1965.

1. The above referenced classifications segregated approximately 3075 acres of public land located in Shasta County from appropriation under all other public land laws, including location under the United States mining laws, but not leasing under the mineral leasing laws, pursuant to the Act of June 1, 1936 (52 Stat. 603; 43 U.S.C. 622a), as amended. The Small Tract Act of 1938 was repealed by Section 702 of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2769); the classifications, therefore, no longer serve a useful purpose.

2. Numerous small tracts of land were patented pursuant to the Small Tract Act under which the mineral estates were reserved to the United States. Approximately 1945 acres of land described in the above referenced...
Federal Register notices were not disposed of and remain in Federal ownership. Accordingly, at 10 a.m. on November 16, 1981, the lands remaining in Federal ownership will be open to operation of the public land laws, generally, including location under the U.S. mining laws, subject to valid existing rights, the provisions of existing withdrawals and classifications, and the requirements of applicable laws. Until appropriate rules and regulations are issued by the Secretary, the reserved minerals on the nonpublic lands will not be subject to location under the U.S. mining laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, Room E-2241, Federal Building, 2800 Cottage Way, Sacramento, California 95825-1989.

Ron Hoffman,
Acting State Director.

[U-2922, U-3484, U-4445]

Utah: Termination of Classification for Multiple-Use Management


2. The classification orders segregated the public lands from appropriation under the agricultural land laws (43 U.S.C. Pts. 7 and 9; 25 U.S.C. 334), from sale under Section 2455 of the Revised Statutes (43 U.S.C. 1177), and from disposition through State and private exchanges under section 8 of the Act of June 28, 1934 (46 Stat. 1272), as amended by section 3 of the Act of June 28, 1934 (43 Stat. 576; 43 U.S.C. 315a) at 10:00 a.m. on December 23, 1981, the lands shall be open to the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, University Club Building, 130 East South Temple, Salt Lake City, Utah 84111.

Dated November 6, 1981.
Roland G. Robison Jr.,
State Director.

Arizona Strip District Multiple Use Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: The Arizona Strip District Multiple Use Council will meet on Monday and Tuesday, December 14 and 15, 1981 to visit Wilderness Study Areas in the Vermilion Resource Area of the Arizona Strip District.

DATES: December 14 and 15, 1981.

ADDRESS: The Federal Building, 190 East Tabernacle Street, St. George, Utah 84770.

SUPPLEMENTARY INFORMATION: The meeting will be a 2 day tour of selected Wilderness Study Areas in the Vermilion Resource Area in northwestern Arizona. The Council will depart from the Federal Building at 100 East Tabernacle Street in St. George, Utah at 8:00 a.m. on Monday, December 14, 1981 and return on Tuesday, December 15, 1981. If weather does not permit a field tour of the WSA's, color slides will be used to familiarize the Council with the areas. The Council will advise the District Manager regarding the application of the wilderness study criteria to the Wilderness Study Areas in the Vermilion Resource Area.

Interested persons are welcome to join the tour. However, the District can only guarantee transportation for members of the Commission.

FOR FURTHER INFORMATION CONTACT: Billy R. Templeton, 396 East Tabernacle Street in St. George, Utah or Telephone 801-673-3545.

Billy R. Templeton,
District Manager, Arizona Strip District.

[BFR Doc. 81-33047 Filed 11-16-81; 8:45 am]

BILLING CODE 4310-84-M

Colorado; Termination of All Listed Classifications of Public Lands for Multiple-Use Management Except for Certain Parcels of Land Affected by Mineral Segregations

Correction

In FR Doc. 81-32113, appearing on page 55012, in the issue of Thursday, November 5, 1981, make the following corrections:

1. On page 55013, first column, tenth line, last word, "Dolores" should be spelled "Dolores".

2. On page 55013, first column, twentieth line, "C-500" should have read "C-5000".

3. On page 55013, first column, fifteenth line from the bottom of the page, the citation "33 FR 10673" should read "33 FR 10583, 10569".

BILLING CODE 4305-51-M

National Park Service

Chesapeake and Ohio Canal National Historical Park Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Chesapeake and Ohio Canal National Historical Park Commission will be held Saturday, December 5, 1981, at 2:00 p.m. in the Regional Conference Room, National Capital Region, 1100 Ohio Drive, S.W., Washington, D.C. 20242.

The Commission was established by Pub. L. 91-664 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Chesapeake and Ohio Canal National Historical Park.

The members of the Commission are as follows:

Honorable Donald R. Frueh, Chairman, Hagerstown, Maryland
Mrs. Constance Morell, Bethesda, Maryland
Mrs. Dorothy Grotos, Arlington, Virginia
Miss Margaret Dietz, Lovettsville, Virginia
Mr. William H. Asell, Jr., Romney, West Virginia
Mr. Silas Siurry, Shepherdstown, West Virginia
Mr. Donald H. Shannon, Washington, D.C.
Mr. Rockwood F. Foster, Washington, D.C.
Mr. Kenneth S. Rollins, Brookmont, Maryland
Mr. Edwin F. Wescott, Jr., Brookmont, Maryland
Mr. Rockwood H. Foster, Washington, D.C.
Mr. Mr. John D. Milard, Cumberland, Maryland
Mr. Dr. James H. Gilford, Frederick, Maryland
Mr. Silas Starry, Shepherdstown, West Virginia
Mr. Mrs. Dorothy Grotos, Arlington, Virginia
Mr. Mrs. Constance Morell, Bethesda, Maryland

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Mr. Kenneth S. Rollins, Brookmont, Maryland
Mr. Edwin F. Wescott, Jr., Brookmont, Maryland
Mr. Rockwood H. Foster, Washington, D.C.
Mr. Dr. James H. Gilford, Frederick, Maryland
Mr. Mr. John D. Milard, Cumberland, Maryland
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Mr. Rockwood F. Foster, Washington, D.C.
Mr. Kenneth S. Rollins, Brookmont, Maryland
Mr. Edwin F. Wescott, Jr., Brookmont, Maryland
Mr. Rockwood H. Foster, Washington, D.C.
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Mrs. Dorothy Grotos, Arlington, Virginia
Miss Margaret Dietz, Lovettsville, Virginia
Mr. William H. Asell, Jr., Romney, West Virginia
Mr. Silas Siurry, Shepherdstown, West Virginia
Mr. Donald H. Shannon, Washington, D.C.
Mr. Rockwood F. Foster, Washington, D.C.
The meeting will be open to the public. Any member of the public may file a written statement with the Commission concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact Richard L. Stanton, Superintendent, C&O Canal National Historical Park, P.O. Box 4, Sharpsburg, Maryland 21782, telephone 301/739-4200. Minutes of the meeting will be available for public inspection four (4) weeks after the meeting at Park Headquarters, Sharpsburg, Maryland.

Dated: November 9, 1981.

Robert Stanton,
Regional Director, National Capital Region.

Golden Gate National Recreation Area Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Golden Gate National Recreation Area Advisory Commission will be held at 10:00 a.m. (PST) on Saturday, December 12, 1981, at Tamalpais High School, Mill Valley. The Advisory Commission was established by Pub. L. 92-589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service systems in Marin and San Francisco counties.

Members of the Commission are as follows:

Mr. Frank Boerger, Chairman
Ms. Amy Meyer, Secretary
Mr. Ernest Aylas
Mr. Richard Bartke
Mr. Fred Blumberg
Ms. Mary Patterson Doss
Mr. Jerry Friedman
Ms. Daphne Greene
Mr. Peter Hans, Sr.
Dr. Burr Heneman
Mr. John Jacobs
Ms. Gimmy Park Li
Mr. Duane “Doc” Mattison
Mr. John Mitchell
Mr. H. Robinson
Mr. John J. Spring
Dr. Edgar Wayburn
Mr. Joseph Williams

Agenda items for this meeting will be staff briefings, a commendation for Greg Moore, the vote upon the Marin Headlands/Education and Recreation Committees’ recommendations for the Marin Headlands Plan, the annual election of the Advisory Commission’s Chairman and Vice-Chairman and an update by the Point Reyes Committee on the proposal by the California Department of Fish and Game to open the Point Reyes National Seashore to hunting.

The meetings are open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing to receive further information on this meeting or who wish to submit written statements may contact William J. Whalen, General Superintendent of the Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, CA 94123, telephone (415) 556-2920.

Minutes of the meeting will be available for public inspection by January 12, 1981 in the Office of the General Superintendent, Golden Gate National Recreation Area, Fort Mason, San Francisco, CA 94123.

Dated: November 10, 1981.

John H. Davis,
Regional Director, Western Region.

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before November 6, 1981. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by December 2, 1981.

Carol D. Shall,
Acting Keeper of the National Register.

Hawaii
Honolulu County
Honolulu, Van Ness, Ernest Shelton, House, 3260 Round Top Dr.

Kauai County
Lihue, Lihue Civic Center Historic District, Off HI 50

Indiana
Whitley County
Columbia City vicinity, Leaman-Stewart Farm, N of Columbia City

Massachusetts
Bristol County
Fall River, Fall River Waterworks, Bedford St.

Mississippi
Franklin County
Meadville, Franklin County Courthouse, Courthouse Sq.

New York
Kings County
Brooklyn, Caney Island Fire Station/Pumping Station, 2301 Neptune Ave.

Bureau of Reclamation

Colorado; Contract Negotiations with Colony Development Operation, Battlement Mesa, Inc., et al.; Public Review and Comment; Public Hearings

The Department of the Interior, through the Regional Director, Lower Missouri Region of the Bureau of Reclamation, has completed negotiations of water service contracts with the following entities for water service from Ruedi Reservoir, Fryingpan-Arkansas Project, Colorado:

1. Colony Development Operation. The Exxon Company is the operator, and has requested a contract for 6,000 acre-feet of water annually for industrial use in connection with its proposed oil shale plant and related activities.

2. Battlement Mesa, Inc. A new community associated with the proposed oil shale plant has requested a contract for 1,250 acre-feet of water for municipal and domestic use.

3. Basalt Water Conservancy District. An independent contracting entity has requested a contract for 500 acre-feet of water annually for municipal and domestic purposes.

4. West Divide Water Conservancy District. An independent contracting entity has requested a contract for 100 acre-feet of water annually for municipal and domestic purposes.

The proposed water service contracts were prepared pursuant to the Act of June 17, 1902 (32 Stat. 388), and particularly section 9(c)2) of the Reclamation Project Act of August 4, 1939 (53 Stat. 1187).

The proposed water service contracts cover the taking of industrial water needed for oil shale development and municipal and domestic water required to meet increasing demands due to population growth and development associated with energy development in the Colorado River Basin in western Colorado.

The proposed contracts, allowing for the delivery of water, will require compliance with the National Environmental Policy Act of 1969 and...
the Endangered Species Act of 1973, as amended. Also, all pertinent Reclamation Instructions will be complied with.

The Bureau of Reclamation has constructed Ruedi Dam and Reservoir as a feature of the Fryingpan-Arkansas Project, pursuant to the Act of August 16, 1962 (76 Stat. 389). The primary purposes of the dam and reservoir are to provide replacement water to satisfy demands of holders of senior diversion rights in western Colorado simultaneously with Fryingpan-Arkansas Project diversions to the Arkansas Basin in eastern Colorado, and to furnish water and regulatory storage to western Colorado water users. Recreation and preservation of fish and wildlife resources also are incidental purposes of the dam and reservoir.

Ruedi Dam and Reservoir are located on the Fryingpan River, approximately 13 miles east of Basalt, Colorado. The Fryingpan River is a tributary to the Roaring Fork River which is a tributary of the Colorado River.

Repayment of the proportionate capital cost of Ruedi Dam and Reservoir allocated to regulatory use is required by the Act of August 16, 1962 (76 Stat. 389), authorizing construction of the Fryingpan-Arkansas Project. The outstanding capital costs and accumulated interest during construction for the regulatory use of Ruedi Dam were approximately $9.8 million at the end of fiscal year 1981.

The proposed industrial water service rate for the Colony Development Operation consists of a standby charge of $15 per acre-foot, which is subject to a 5-year review and adjustment based on the contractor's actual share of operation, maintenance, and replacement costs. The delivery charge in the amount of $40 for the first 2,000 acre-feet, $60 for the second 2,000 acre-feet, and $80 for the last 2,000 acre-feet will not be subject to the 5-year review and adjustment clause.

The proposed municipal and domestic contracts for Battlement Mesa, Basalt Water Conservancy District, and West Divide Water Conservancy District provide for a standby charge of $6 per acre-foot and a delivery charge of $9 per acre-foot. Each of these charges is subject to a 5-year review and adjustment, but together cannot exceed $55 per acre-foot. The industrial and municipal/domestic contracts require minimum annual deliveries as determined through negotiations. Comments on the proposed contracts will be received up to 30 days from the date of this notice. All written correspondence concerning the proposed contracts are available to the general public pursuant to the terms and procedures of the Freedom of Information Act of September 6, 1966 (80 Stat. 363), as amended.

Public hearings will be held in Glenwood Springs, Colorado, at the Holiday Inn on Thursday, December 17, 1981, at 1 p.m., and in Golden, Colorado, at the Holiday Inn West on Wednesday December 16, 1981, at 2 p.m., for the purpose of receiving both written and oral comments on the proposed contracts. All comments received at the hearing will be given the same consideration as the written comments received during the 30-day review and comment period.

For further information and copies of the proposed water service contracts, please contact Robin D. McKinley, Bureau of Reclamation, P.O. Box 25247, Denver, Colorado 80225, telephone 303-234-3327 or 303-254-6562; Thomas A. Gibbens, Bureau of Reclamation, Fryingpan-Arkansas Project Office, P.O. Box 515, Pueblo, Colorado 81002, telephone 303-544-5277; or J. F. Rinckel, Project Manager, Grand Junction Projects Office, P.O. Box 1728, Grand Junction, Colorado 81501, telephone 303-323-0300. Copies of the contracts are also available at the Colorado River Water Conservation District Office, P.O. Box 1125, Glenwood Springs, Colorado 81601.

Dated: November 13, 1981.

Eugene Hinds,
Assistant Commissioner, Bureau of Reclamation.

INTERSTATE COMMERCE COMMISSION

[MC-F-14706]

A & A Transfer And Storage Co. Inc., et al.—Pooling

AGENCY: Interstate Commerce Commission.

ACTION: Approval of pooling of government traffic.

SUMMARY: The Commission has approved the pooling by twelve carriers of traffic authorized under the master certificate issued in Transportation of Government Traffic, 131 M.C.C. 845 (1979). Individual shipments will be transported by any member of the pool in the area of a member that has booked traffic moving in the direction of the equipment. The booking carrier would receive 25 percent of the revenues and the hauling carrier 75 percent. The booking carrier must inform the governmental party that the movement is subject to a pool. Any carrier who holds governmental traffic authority may join the pool, with Commission approval, by December 10, 1981.

DATES: Letter requests to join the pool must be filed with the Commission by December 10, 1981. The full decision was served on November 10, 1981.

ADDRESSES: SEND REQUESTS TO:

(1) Interstate Commerce Commission, Section on Finance, Room 5417, Washington, D.C. 20423;


FOR FURTHER INFORMATION CONTACT: Ellen D. Hanson, 202-275-7245; Bruce Kasson, 202-275-7035.

SUPPLEMENTARY INFORMATION: For further information, see the Commission's decision.

Decided: November 5, 1981.

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

Agatha L. Mergenovich, Secretary.

[FR Doc. 81-33020 Filed 11-16-81; 8:45 am]

BILLING CODE 4310-09-M

FOR EX PARTE NO. MC43)

Lease and Interchange of Vehicles by Motor Carrier

Decided: October 29, 1981.

Lenertz, Inc. (No. MC-14275), and Leneria, Inc. of Iowa (No. MC-151154) have filed a petition for waiver, with respect to equipment trip leased between them, of Paragraph (c) of §1057.22 of the Lease and Interchange of Vehicles Regulations (49 CFR Part 1057), which requires a simple written agreement between authorized carriers signed "by the parties or their authorized representatives" affixing control and responsibility on the lessor during the trip lease and an exchange of equipment receipts during transfer.

Findings

1. Petitioners are commonly controlled.
2. Petitioners have presented no evidence warranting waiver of the relatively simple requirements of Paragraph (e) of § 1057.22.

3. The execution of the standard simple written agreement required by Paragraph (e) of § 1057.22, which may be accomplished by authorized regular employee representatives, including drivers, imposes no unreasonable economic burden.

It is ordered, that the petition of Lenertz, Inc. (No. MC-142715), and Lenertz, Inc. of Iowa (No. MC-151154) is denied.

By the Commission, Motor Carrier Leasing Board, Board Members J. Warren McFarland, Robert S. Turkington, and John H. O’Brien, Board Member Robert S. Turkington not participating.

Agatha L. Mergenovich, Secretary.

MC 28088 (Sub-82X), filed October 15, 1981. Applicant: NORTH & SOUTH LINES, INC., 2710 S. Main St., P.O. Box 49, Harrisonburg, VA 22801.

Representative: John R. Sisk, Jr., 915 Pennsylvania Blvd., Fredericksburg, VA, 22401.

Decision-Notice

Federal Register / Vol. 46, No. 221 / Tuesday, November 17, 1981 / Notices 56511

[Volume No. 197]

Motor Carriers Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: November 10, 1981.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the Federal Register of December 31, 1980, at 45 FR 88474.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed. Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(b).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Ewing, and Shaffer.

Agatha L. Mergenovich, Secretary.

MC 28088 (Sub-82X), filed October 15, 1981. Applicant: NORTH & SOUTH LINES, INC., 2710 S. Main St., P.O. Box 49, Harrisonburg, VA 22801.

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In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.
Sub 52; (B) remove (1) "joint-line service" restriction, Subs 10, 16, 20, 23, 29, 32, 44, 48 and 54; and (2) "pick-up" and "delivery only" restriction, Sub 1 (regular-route); and (C) broaden to (1) service at all intermediate points, Sub 1 (regular-route); (2) radial authority, Subs 1, 5, 6, 7, 8, 10, 12, 13, 18, 19, 20, 22, 23, 24, 25, 28, 29, 31, 32, 33, 41, 42, 43, 44, 45, 47, 48, 49 and 55; and (3) between points in the U.S. under continuing contract(s) with a named shipper. MC 143329.

MC 30624 (Sub-23)X, filed November 2, 1981. Applicant: AALCO EXPRESS COMPANY, INC., 13727 Shoreline Drive, Earth City, MO 63045. Representative: John R. Sims, Jr., 915 Pennsylvania Blvd., 425-33rd Street, N.W., Washington, D.C. 20004. Lead and Subs 4, 7, 8, 9, 12, 14, 15, 19, 20, and 21. Broaden: (1) To "general commodities (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk)" from "commodities (exceptions)" lead and Subs 20; "transportation equipment" from airplanes and airplane parts and equipment in Sub-9; "clay, concrete, glass or stone products, petroleum, natural gas and their products" from cement, sand, gravel, stone, tar, asphalt, and mixtures or such commodities (exceptions); Sub-12; "machinery" from uncrated commercial refrigeration cases, and related parts and equipment thereof, Subs-14 and 18; and "machinery, furniture and fixtures" from uncrated commercial refrigeration cases, checkout counters, shelving, walk-in coolers, and parts thereof, Sub-20; (2) To (St. Louis County [Robertson, MO], Sub-9; St. Louis, St. Charles, Jefferson, Lincoln, Warren and Franklin Counties, MO, St. Louis, MO and Monroe, St. Clair and Madison Counties, IL [St. Louis, MO and points within 25 miles of St. Louis], Sub-20; St. charles, St. Louis, MO and Jefferson Counties, MO, St. Louis, MO and Monroe, Madison, and St. Clair Counties, IL, St. Louis, MO, Subs-14 and 19; St. Louis County [Bridgeton, MO], Fulton County [Gloversville, NY], and Camden County [Cherry Hill and Bellmawr, NJ], Sub-20; (3) To (Crawford, Christian, Lawrence, and Champaign Counties, IL [Robinson, Pana, Lawrenceville, and Champaign and points within 10 miles thereof]; Posey and Vigo Counties, IN [Mount Vernon and terminal site in Vigo County, Approximately 2 miles from Terre Haute, Indiana], and Jefferson Counties, MO, St. Louis, MO and Monroe, Madison and St. Clair Counties, IL, Sub-1, and (b) Douglas County, IL, (Bourbon), Sub 7F; and (2) radial authority, both subs.

MC 120075 (Sub-16)X, filed November 3, 1981. Applicant: ACME TRUCK LINE, INC., P.O. Box 103, 2855 Laptop Blvd, Harvey, LA 70058. Representative: Paul D. Angenand, P.O. Box 2207, 1806 Rio Grande, Austin, TX 78768. Sub 12 certificate; Broaden to (1) "metal products" from iron and steel articles; (2) county-wide authority: Harris and Chambers Counties, TX, (3) county-wide authority: Chambers Counties, TX (Baytown) and (3) radial authority.

MC 134270 (Sub-31)X, filed November 3, 1981. Applicant: M.H.C. MESSENGERS, INCORPORATED, 31 Virginia Avenue, Carteret, NJ 07008. Representative: Robert B. Peper, 168 Woodbridge Avenue, Highland Park, NJ 08804. Lead and Subs 1 and 2 to (1) broden (a) in lead vaccines, drugs, and medicines to "chemicals and related products and health care products," (b) in Sub 1 medicine medical supplies, and health care products to "chemicals and related products and health care products," and (c) in Sub.2 pharmaceutical products to "chemicals and related products and health care products," (2) To (St. Louis, MO and Subs 1 and 2 radial service (3) in lead, remove restriction to weight of shipment; (4) In Subs 1 and 2 delete shipper's facilities restrictions; (5) In lead change to county wide as follows: Southeast, NJ: to Hudson County, New Brunswick, NJ, to Middlesex County, Bound Brook, NJ to Somerset County, and Teterboro and South Hackensack, NJ to Bergen Counties, (6) In Subs 1 and 2 delete "in bulk" restriction and (7) in lead delete radioactive materials (nuclides) and (8) in lead delete dangerous materials (nuclides).

MC 144466X (Sub-9)X, filed October 30, 1981. Applicant: R & J TRANSPORT, 929 N. 24th St., Manitowoc, WI 54220. Representative: Wayne W. Wilson, 150 East Gilman St., Madison, WI 53703. Sub 1F certificate. Broaden: (1) "chemicals and related products" from cosmetic body care products, and to "food and related products" from health food products; (2) facilities at Dallas, TX to Dallas, Tarrant, Denton, Collin, Rockwall, Kaufman, and Ellis Counties, TX; and (3) to radial authority.

MC 144466X (Sub-9)X, filed October 30, 1981. Applicant: R & J TRANSPORT, 929 N. 24th St., Manitowoc, WI 54220. Representative: Wayne W. Wilson, 150 East Gilman St., Madison, WI 53703. Sub 1F certificate. Broaden: (1) "chemicals and related products" from cosmetic body care products, and to "food and related products" from health food products; (2) facilities at Dallas, TX to Dallas, Tarrant, Denton, Collin, Rockwall, Kaufman, and Ellis Counties, TX; and (3) to radial authority.
Motor Carriers; Permanent Authority
Decisions; Decision-Notice

The following applications, filed on or after February 8, 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 66771. 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 the applicant's representative upon request and payment to the applicant's representative of $10.00. Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unsupported) 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 unsupported 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 intrastate authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman’s Office, (202) 275-7320.

Volume No. OP1-302

Decided: November 6, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 150589 (Sub-3), filed November 2, 1981. Applicant: DAVE STRICKLER, INC., 97 Anital Place, Mableton, GA 30186. Representative: Virgil H. Smith, 74 Highway N, Box 245, Tyrone, CA 90290, (404) 969-1690. Transporing general commodities (except classes A and B explosives), between points in GA, on the one hand, and, on the other, those points in the U.S. in and east of WI, IL, MO, AR, and TX.

MC 151471 (Sub-2), filed October 29, 1981. Applicant: STEINBECKER BROS., INC., PO Box 852, Greeley, CO 80632. Representative: Jack B. Wolfe, 1600 Sherman St. #963, Denver, CO 80203, (303) 639-8589. Transporting food and related products, between points in the U.S., under continuing contract(s) with Protimex Corp of Los Angeles, CA and Southern Beef Co., of Tolleson, AZ.


MC 152730 (Sub-10), filed October 29, 1981. Applicant: DEFENDABLE TRANSIT, INC., PO Box 348, County Road 300 South, Hartford City, IN 47348. Representative: Larry Correll (same address as applicant), (317) 348-0051. Transporting insulation and insulation products, between points in Hamilton, Madison, and Shelby Counties, IN, on the one hand, and, on the other, points in the U.S.

MC 153800 (Sub-1), filed October 29, 1981. Applicant: S & B TRUCKING, INC., Route 1, Box 151, Colfax, WI 54730. Representative: John B. Van de North, Jr., 2200 First National Bank Bldg., St. Paul, MN 55101, (612) 257-1215. Transporting (1) hides, between points in IA, IL, IN, MN, MO, MT, ND, NE, NM, OK, SD, TX, WI, and WY, on the one hand, and, on the other,
points in Chippewa and Milwaukee Counties, WI, Harrison and Webb Counties, TX, Hillaboro County, NH, and Fulton County, NY. [2] Tanning materials and supplies, between points in NY, MA, NJ, NH, PA, ME, and RI, on the one hand, and, on the other, points in Milwaukee County, WI, and (3) leather, between points in Milwaukee County, WI, on the one hand, and, on the other, points in PA, MA, and ME.

MC 159990 (Sub-2), filed November 2, 1981. Applicant: FASTWAY FREIGHT, INC., 395 Valley Blvd., Bloomington, CA 92316. Representative: Frederick J. Coffman, 1384 N. Kelly Ave., P.O. Box 1455, Upland, CA 91786, (714) 981-0981. Transporting chemicals, between points in Gahanna County, OH, on the one hand, and, on the other, points in CA.

MC 159980, filed December 10, 1981. Applicant: MILLER TRUCKING, INC., South Street Route, Chambers, NE 69725. Representative: Jack L. Shultz, P.O. Box 62026, Lincoln, NE 68501, (402) 475-0701. Transporting dry fertilizer, between points in Carroll County, ID, on the one hand, and, on the other, points in PA, OK, IA, KS, NE, SD, and WY.

MC 159992, filed October 29, 1981. Applicant: FASTWAY FREIGHT, INC., R.D. #1, Box 361, Lawrence Corner Rd., Elmer, NJ 08318. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110-1997. Transporting general commodities (except classes A and B explosives) between Philadelphia, PA, on the one hand, and, on the other, Baltimore, MD, points in NJ, New Castle and Kent Counties, DE, Washington, Frederick, Carroll, Baltimore, Harford and Cecil Counties, MD, and those points in PA on the north and south of a line beginning at the PA-PA State line and extending along a U.S. Hwy 22 to junction Interstate Iwy 83, then along Interstate Iwy 83 to the PA-MD State line.

MC 150000, filed October 30, 1981. Applicant: NEW YORK STATE DESTINATIONS, P.O. Box 432, Lake George, NY 12845. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103. As a broker, at Lake George, NY, in arranging for the transportation of passengers and their baggage, in the same vehicle with passengers, in special and charter operations, beginning and ending at points in NY, and extending to points in the U.S. (including AK and HI).

Volume No. OPT-2-219
Decided: November 5, 1981.
By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)
Barrow, Henry, Hall and Forsyth Counties, GA, (c) Between points in Grundy, Sequatchie, Hamilton, Rhea, Marion, Bradley, McMinn, and Monroe Counties, TN, on the one hand, and, on the other, points in Dade, Whitfield, Murray, Walker, Chattooga, Gordon, Floyd, Bartow, Polk, Paulding, Douglas, Fulton, Cherokee, Cobb, DeKalb, Clayton, Rockdale, Newton, Walton, Gwinnett, Clarke, Barrow, Henry, Hall, and Forsyth Counties, GA, and (d) Between points in Dade, Whitfield, Murray, Walker, Chattooga, Gordon, and Floyd Counties, GA, on the one hand, and, on the other, points in Bartow, Polk, Paulding, Douglas, Fulton, Cherokee, Cobb, Clayton, DeKalb, Rockdale, Newton, Walton, Gwinnett, Clarke, Barrow, Henry, Hall, and Forsyth Counties, GA.

MC 149873 (Sub-5), filed October 29, 1981. Applicant: NTL INC. P.O. Box 6645, Lincoln, NE 68505. Representative: J. Max Harding (same address as applicant), 402-689-3900. Transporting frozen meat and frozen meat products, between points in the U.S., under continuing contract(s) with International Meat and Food Products, Inc., of El Paso, TX.

MC 157213, filed October 27, 1981. Applicant: NICHOLEN OIL, INC., 2305 7th Avenue North, Fargo, ND 58102. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126. (701) 233-4487. Transporting petroleum and petroleum products between points in the U.S., under continuing contract(s) with Inker Oil Company, of Inker, ND.

MC 158009 (Sub-2), filed October 22, 1981. Applicant: SAHARA EXPRESS, A DIVISION OF SAHARA PACKING COMPANY, 741 ½ Perkidge, P.O. Box 1932, Corona, CA 91720. Representative: Frederick J. Coffman, 1634 N. Kelly Ave., P.O. Box 1455, Upland, CA 91736. (714) 981-0681. Transporting general commodities (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Acme Fast Freight, Inc., of New York, NY.

MC 158043, filed October 22, 1981. Applicant: FRANCE-CALIFORNIA TOURIST SERVICES, CORP., 860 Eddy St. #2, San Francisco, CA 94109. Representative: James W. Sturgeon, II (same address as applicant), 415-928-5891. Transporting general commodities (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Acme Fast Freight, Inc., of New York, NY.

MC 152389 (Sub-4), filed October 21, 1981. Applicant: CCM ENTERPRISES, INC., Suite 40, 27 Produce Drive, Cincinnati, OH 45202. Representative: John R. Matesyk (same address as applicant), 513-621-7568. Transporting food and related products, between points in the U.S., under continuing contract(s) with Armour Food Company, of Phoenix, AZ, and Banquet Foods Corporation, of Baldwin, MO.

MC 152519, filed October 19, 1981. Applicant: LARRY JACOBSON, d.b.a. JACOBSON FARMS, Rural Route #2, Box 43, Williston, ND 58801. Representative: Jack B. Wolfe, 1900 Sherman #865, Denver, CO 80203. (303) 839-5856. Transporting chemicals and related products, between points in Lee County, IA, on the one hand, and, on the other, points in MT, ID, UT, NM, MA, CA, TN, and those in NY north of NY Hwy 52.

MC 152539, filed October 28, 1981. Applicant: DARYL THOMASON TRUCKING, INC., P.O. Box 1087, Broken Bow, OK 74728. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. (817) 332-4718. Transporting explosives, between points in the U.S., under continuing contract(s) with Champion International Corporation, of Stamford, CT, and Niagara of Wisconsin Paper Corporation, of Niagara, WI.

MC 154154 (Sub-13), filed November 2, 1981. Applicant: A & S TRUCKING, P.O. Box 4027, Missoula, MT 59806. Representative: Charles A. Murray, Jr., 2622 Third Ave., N, Billings, MT 59101. (406) 252-4165. Transporting chemicals and related products, between points in MT, WA, OR, CA, NV, UT, ID, WY, CO, SD, NE, KS, MN, IA, WI, TX, OK, LA, AZ, and NM.

MC 143364 (Sub-1), filed October 29, 1981. Applicant: SENTER TRANSPORTATION CO., INC., 65 Hale St., Haverhill, MA 01833. Representative: David M. Marshall, 101 State St., Suite 304, Springfield, MA 01103. (413) 732-1136. Transporting (1) petroleum and petroleum products, between points in MA, CT, RI, VT, NH, ME, and (2) alcohol and alcohol products, between points in NY, NJ, and PA, on the one hand, and, on the other, points in MA, CT, RI, VT, NH, and ME.

MC 145084 (Sub-2), filed October 28, 1981. Applicant: THOMASSON TRANSPORTATION COMPANY, a
Transporting general commodities (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contracts with Thomason Lumber Co., of Philadelphia, PA, Builder Marks of America, Inc., of Greenville, SC, Petrie-Wood Treaters, of Fordyce, AR, Merrill International Corp. of Southfield, MI, Henderson Steel Corp., of Meridian, MS, Merco Steel Corp., of Dallas, TX, Texas Machine Works, of Louisville, KY, the Ohio Brass Co., of Barberton, OH, and Boeing Equipment Limited, of Tempe, AZ.


MC 146585 (Sub-7), filed November 2, 1981. Applicant: DOUBLE DD TRUCK LINE, INC., P.O. Box 230, Canby, OR 97013. Representative: Jerry R. Woods, 1600 One Main Pl., 101 SW Main St., Portland, OR 97204, (503) 224-5525. Transporting steel mill and foundry supplies, refractories, and chemical and mineral compounds, between points in the U.S. (except AK and HI), under continuing contract(s) with Fossco, Inc., of Brookpark, OH.

MC 147665 (Sub-9), filed October 28, 1981. Applicant: BASSETT FURNITURE INDUSTRIES OF NORTH CAROLINA, INC., dba BASSETT TRUCKING COMPANY, P.O. Box 47, Newton, NC 28668. Representative: Ronald N. Cobert, 1730 M St., NW., Washington, DC 20036, (202) 298-2900. Transporting general commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Rail Services, Inc., of Chicago, IL.

MC 150645 (Sub-7), filed October 30, 1981. Applicant: TILEWAYS, INC., 7634 Hawn Freeway, Dallas, TX 75217. Representative: Edwin M. Snyder, P.O. Box 45355, Dallas, TX 75254, (214) 358-3941. Transporting general commodities (except classes A and B explosives, household goods and commodities in bulk) between points in the U.S., Stock, AK and HI), under continuing contract(s) with Lakeside Pecking Company of Manitowoc, WI.

MC 150505 (Sub-2), filed October 30, 1981. Applicant: WHITE TRUCKING, INC., R. R. #1, Washburn, IL 61760. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, (217) 544-5488. Transporting (1) chemicals and related products, and (2) plastic and plastic products, between points in the U.S. (except AK and HI), under continuing contract(s) with Northern Petrochemical Co., of Des Plaines, IL.

MC 153134, (Sub-9), filed October 29, 1981. Applicant: HI COUNTRY CARRIERS, INC., 4081 S. Broadway, Englewood, CO 80110. Representative: Jack B. Wolfe, 1000 Sherman, #665, Denver, CO 80203, (303) 899-5868. Transporting such commodities as are dealt in or used by manufacturers and distributors of fiberglass products, between points in the U.S. (except AK and HI), under continuing contract(s) with Kinnickrom, Inc., of Santa Ana, CA.

MC 153794, (Sub-2), filed October 30, 1981. Applicant: WILLIE L. TURNER, d.b.a. TURNER TRUCK SERVICE, Route 1, 523 K-45, Blanchard, OK 73010. Representative: Max C. Morgan, P.O. Box 1540, Edmond, OK 73034, (405) 346-7700. Transporting food and related products, between points in AR, LA, MS, MO, OK, TN, and TX.

MC 154774, filed October 29, 1981. Applicant: OVERLAND CARRIER SERVICE, INC., d.b.a. OCS, 1135 Avenue "J" East, Grand Prairie, TX 75050. Representative: Edwin M. Snyder, P.O. Box 45538, Dallas, TX 75245, (214) 358-3341. Transporting machinery and metal products, between points in Dallas County, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 155775, (Sub-1), filed October 29, 1981. Applicant: NORTHERN WISCONSIN TRUCKING, INC., 1916 11 Mile Rd., Bear Lake, MI 49614. Representative: William B. Elmer, 1135 Avenue "J" East, Grand Prairie, TX 75050. Transporting machinery and metal products, between points in Milwaukee, WI, and points in St. Louis County, MN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 157375 (Sub-2), filed October 30, 1981. Applicant: W. H. HILL FOLIAGE, INC., P.O. Box 1642, Eastola, FL 32726. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703, (904) 357-2610. Transporting food and related products, (1) between points in WI, on the one hand, and, on the other, points in AL, FL, GA, MS, and TN; and (2) between points in TN, on the one hand, and, on the other, points in AL, FL, GA, and MS.

MC 158035, filed November 4, 1981. Applicant: NORTHLAND TRANSPORTATION CO., P.O. Box 65, Magnei, NE 68749. Representative: Donald L. Stern, Suite 610, 7171 Mercy Rd., Omaha, NE 68106, (402) 362-1200. Transporting commodities in bulk, between points in IA, NE, KS, WY, SD, MN, and MO.

MC 158865, filed October 30, 1981. Applicant: W.S.B. LEASING COMPANY, 520 East Church St., Libertyville, IL 60048. Representative: Harold O. Orlofske, 255 West Wisconsin Ave., P.O. Box 388, Neenah, WI 54956, (414) 730-2843. Transporting food and related products between Chicago, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 158884 (Sub-1), filed October 30, 1981. Applicant: JOHN W. BELL and ROBERT L. BELL, d.b.a. BELL TRANSPORTATION COMPANY, 1303 South Second Street, Laramie, WY 82070. Representative: Jeffrey A. Knoll, 6530 DTC Parkway, Englewood, CO, (303) 770-8410. Transporting building materials, between points in Albany County, NY, on the one hand, and, on the other, points in CO.

MC 159004, filed October 28, 1981. Applicant: S AND B GREAT FREIGHT, INC., 9701 West Higgins Rd., Rosemont, IL 60018. Representative: Carl L. Stoener, 25 South LaSalle St., Chicago, IL 60603, (312) 693-5700. Transporting general commodities (except classes A and B explosives, commodities in bulk, and household goods as defined by the Commission), between points in the U.S. (except AK and HI), under continuing contract(s) with National Tea Co., and its subsidiary National Super Markets, Inc., both of Rosemont, IL.

MC 159014, filed October 28, 1981. Applicant: HOWARD WULK, d.b.a. WULK INSULATION, 8678 Supply Way, Boise, ID 83705. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83705, (208) 343-3071. Transporting (1) building materials and (2) lumber and wood products, between points in AZ, CA, ID, NV, OR, and WA, on the one hand, and, on the other, points in ID and OR.

MC 159015, filed October 28, 1981. Applicant: COAST REFRIGERATED TRANSPORT CO., INC., P.O. Box 2135, Eugene, OR 97402. Representative: David C. White, 2201 SW Fourth Ave., Portland, OR 97201, (503) 626-6981. Transporting bananas, between points in Los Angeles and Ventura Counties,
Supplementary Information: Pursuant to the 1978 amendments to the Comprehensive Employment and Training Act (CETA), 29 U.S.C. 801 et seq., the Office of Indian and Native American Programs (OINAP) announces a program authorized under Title VII of CETA to demonstrate the effectiveness of a variety of approaches to tie private industry closer to employment and training programs. It is anticipated, based on the Administration's budget request that approximately $4.6 million will be available for this program to Native American grantees who are eligible under Section 302(c)(1)(A) and (B) of CETA. Award of grants under this program is contingent upon congressional appropriations and the availability of funds. A "Solicitation for Grant Application" (SGA) that will describe application procedures and items necessary for a proposal will be issued immediately to all eligible Native American grantees. Such Native American grantees are those that are presently designated as CETA grantees under section 302(c)(1)(A) and (B) of CETA. These CETA grantees are composed of Native American Indian tribes, bands, or groups on Federal or State reservations, including Alaska Native Villages or groups, Oklahoma Indians having a governing body, and Hawaiian Natives being served through public or private non-profit organizations. Selection of proposals will be done on a competitive basis. Criteria on which proposals will be evaluated are contained in the SGA. Regulations for the Native American Private Sector Initiatives Programs (NAPSIP) are found in regulations governing the Indian and Native American Employment and Training Programs at 20 CFR Parts 675 and 688. Eligible applicants are not required to submit proposals. However, all eligible applicants wishing to obtain Title VII funds must submit a proposal consistent with the requirements of the SGA.

All eligible Native American grantees desiring NAPSIP funds must first establish a Private Industry Council (PIC) to assist in the development of the proposal and the implementation of the program if award is made. The PIC must be made up of representatives from private industry, organized labor, community based organizations, and educational institutions. A majority of the membership must be from private industry. Details on the PIC are contained in the SGA and the regulations at 20 CFR 688.271.
Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2272) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period November 2-6, 1981.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 223 of the Act must be met.

1. That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision thereof, have become totally or partially separated,

2. That sales or production, or both, of the firm or subdivision have decreased absolutely, and

3. That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (2) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W—11,335; Marcim Mfg., Inc., Atwater, CA

TA-W—11,938; Edmos Corporation, Glen Philadelphia, PA, and Coalport, PA

TA-W—11,158, 11,159, & 11,698; Wonderalls, Inc., Marlette, MI

TA-W—11,524, 11,525, & 11,526; Wonderalls, Inc., Marlette, MI

TA-W—11,436 & 11,499A; Parco, Inc., Marquette, MI, and Snow Screw Products, Inc., Marquette, MI

TA-W—12,019; White Form Equipment Co., Syracuse, NY

TA—W—12,562; DeB Components, A Div. of Amet, Inc., Coloma, MI

TA—W—11,522; Leathermark Sportswear, McGregor-Daniger, Inc., Clearfield, PA

Philadephia, PA, and Coalport, PA

With respect to outerwear and shirts, a survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

With respect to sweaters, U.S. imports did not increase as required for certification.

TA—W—11,268; Leathermark Sportswear, New York, NY

Aggregate U.S. imports of leather apparel did not increase as required for certification.

TA—W—11,713—11,721; Brunswick Corp., Marine Power Group, Plant #12, Fond du Lac, WI; Plant #14, Stilwater, OK; Plant #15, Oshkosh, WI; Plant #30, St. Cloud, FL; Plant #37, Placida, FL; Plant #38A, Oshkosh, WI; Plant #38, Oshkosh, WI; Plant #33, Oshkosh, WI; and Plant #6, Oshkosh, WI

Aggregate U.S. imports of sterling motors are negligible. U.S. imports of outboard motors have not increased.

TA—W—11,106; Millimeter Chemical Co., Berkley Heights, NJ

Aggregate U.S. imports of organic acids intermediates and of tranquilizers are negligible. Sales of carisiprodal increased in 1980 compared with 1979.

TA—W—12,627: Suzy Love Maternity Lnd., New York, NY

Aggregate U.S. imports of metal cans did not increase as required for certification.

TA—W—12,706: Diversified Containers, Inc., Howell, MI

Aggregate U.S. imports of metal cans did not increase as required for certification.

TA—W—12,289; General Broach and Engineering Co., Detroit, MI

With respect to workers producing broaching machines and broaching tools and fixtures, a survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

With respect to production broaching workers do not produce an article within the meaning of Section 222(3) of the Act.

TA—W—11,936; Edmos Corporation, Glen Cove, NY

Aggregate U.S. imports of finished fabric are negligible.

TA—W—11,335; Marcim Mfg., Inc., Hoboken, MI

Investigation revealed that sales by manufacturers for which the subject firm produced under contract did not decline. In the following cases the investigation revealed that criterion (2) has not been met.

TA—W—12,463; MCR Fashions, Inc., Hoboken, NJ

Affirmative Determinations

TA—W—12,059; Butterfield Shake Co., Hoquiam, WA

A certification was issued for a petition received on January 6, 1981 covering all workers of the firm separated on or after December 31, 1979.

I hereby certify that the aforementioned determinations were issued during the period November 2-6, 1981. Copies of these determinations are available for inspection in Room 10.332, U.S. Department of Labor, 601 D Street, NW, Washington, D.C. 20213 during normal working hours or will be mailed to persons who write to the above address.

Dated: November 10, 1981.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance

BILLING CODE 4510-30-M
Investigations Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act and Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 27, 1981.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. 20213.

Signed at Washington, D.C., this 9th day of November 1981.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

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**APPENDIX**

<table>
<thead>
<tr>
<th>Petitioner: Union/workers or former workers of...</th>
<th>Location</th>
<th>Date received</th>
<th>Date of petition</th>
<th>Petition No.</th>
<th>Articles produced</th>
</tr>
</thead>
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**OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION**

**North Carolina Standards; Approval**

**1. Background.** Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 16 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902.

On February 1, 1973, notice was published in the Federal Register (38 FR 3341) of the approval of the North Carolina plan and the adoption of Subpart I to Part 1982 containing the decision.


These standards were promulgated by filing with the North Carolina Attorney General on June 24, 1980; August 13, 1980; October 13, 1980; October 28, 1980; and December 8, 1980, respectively, pursuant to the North Carolina Occupational Safety and Health Act of 1973 (Chapter 256, General Statutes).

2. Decision. Having reviewed the state submission in comparison with Federal standards, it has been determined that the state standards are identical to the Federal standards and are hereby approved.

3. Location of supplement for inspection and copying. A copy of the standards supplement along with the approved plan, may be inspected and copied during normal business hours at the following location: Office of the Commissioner of Labor, North Carolina Department of Labor, 4 W. Edenton, Raleigh, North Carolina 27601; Office of the Regional Administrator, Suite 587, 1375 Peachtree Street. NE., Atlanta, Georgia 30307; and Office of the Director of Federal Compliance and State Programs, Room N3613, 200 Constitution Avenue, NW., Washington, D.C. 20210.

4. Public participation. Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds good cause exists for not publishing the supplement to the North Carolina State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards and are therefore deemed to be at least as effective.

2. The standards were adopted in accordance with procedural requirements of State law and further participation would be unnecessary.

This decision is effective November 17, 1981.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 607))

Signed at Atlanta Co., this 30th day of January 1981.

Karen L. Mann, Acting Regional Administrator.

BILLING CODE 4510-20-M

South Carolina Standards; Approval

1. Background. Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 607) (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with Section 18(e) of the Act and 29 CFR Part 1902. On December 6, 1972, notice was published in the Federal Register (37 FR 25932) of the approval of the South Carolina plan and the adoption of Subpart C to Part 1952 containing the decision.

The South Carolina plan provides for the adoption of Federal standards as State standards after public hearing. Section 1953.20 of 29 CFR provides that "where any alteration in the federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to the State plan shall be required." By letter dated May 27, 1981 from Edgar L. McGowan, Commissioner, South Carolina Department of Labor, to Karen L. Mann, Acting Regional Administrator, and incorporated as a part of the plan, the State submitted the following amended State standards comparable to Federal Standards:

1910.1025(a) Lead Correction, dated August 26, 1979; Part 1910, Subpart S. Electrical, dated January 16, 1981. The State amended the following standards to make them compatible with the 1981 Electrical Code: § 1926.803(j) Electrical; § 1926.404(a) Hazardous Locations; § 1926.401(h) Grounding and Bonding; § 1926.400(a)(e)(f)(h) Electrical General; § 1926.151(a) Ignition Hazards; § 1926.331(d) Arc Welding and Cutting.

These standards were promulgated after public hearings held on April 8, 1981 and filed with the South Carolina Secretary of State May 14, 1981, pursuant to Act 379, South Carolina Aids and Joint Resolutions, 1971 (Sections 40-281 through 40-274 South Carolina Code of Laws, 1962).

2. Decision. Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are identical to or as effective as the Federal standards. The State standards are hereby approved.

3. Location of supplement for inspection and copying. A copy of the standards supplement along with the approved plan may be inspected and copied during normal business hours at the following locations: Office of the Commissioner of Labor, North Carolina Department of Labor, 3600 Forest Drive, Columbus, South Carolina 29211; Office of the Regional Administrator, Suite 587, 1375 Peachtree Street, NE., Atlanta, Georgia 30307; and Director of Federal Compliance and State Programs, Room N3613, 200 Constitution Avenue, NW., Washington, D.C. 20210.
MERIT SYSTEMS PROTECTION BOARD

Notice of Order on Motion for Consolidation of Air Traffic Controller Appeals

AGENCY: Merit Systems Protection Board.

ACTION: Notice of order on motion for consolidation of air traffic controller appeals.

SUMMARY: By its order dated November 10, 1981, the Merit Systems Protection Board has provided an opportunity to the Federal Aviation Administration and approximately 11,000 non-probationary air traffic controller appellants to respond to a motion for limited consolidation of removal cases involving controllers who allegedly participated in an illegal strike commencing on or about August 3, 1981.

COMMENT DATE: November 30, 1981.

ADDRESS: Robert E. Taylor, Secretary, Merit Systems Protection Board, ATTN: ATC Appeals, 1220 Vermont Avenue, NW, Washington, D.C. 20419.

FOR FURTHER INFORMATION CONTACT: Darrell L. Netherton, (202) 653-7175.

SUPPLEMENTARY INFORMATION: For the information of the public, the Order of the Board in this matter is reprinted below:

Date: November 10, 1981.

Merit Systems Protection Board.

Ersa H. Poston,
Vice Chair.

Order on Motion for Consolidation

Appellants in this case, David A. Trick, was removed from his career position as an air traffic controller by the Federal Aviation Administration (the agency) on grounds of alleged participation in an illegal strike and unauthorized absence. He filed a timely appeal with the Board's Washington Regional Office on September 24, 1981, and requested a hearing as provided by 5 U.S.C. 7701. In his petition for appeal he indicated an intention to call as a witness at his hearing (and excluding additional witnesses to be subsequently identified) the chief of the agency's Washington Air Route Traffic Control Center, Leesburg, Virginia, who served as both proposing and deciding official for the agency.

During the month preceding and seven weeks following the filing of appellant's appeal, the Board's eleven Regional Offices throughout the country have received over 11,000 appeals by other air traffic controllers who were removed by the agency on the same or substantially identical grounds as appellant Trick. As of November 9, 1981, these appeals include 10,878 appellants who, like appellant Trick, were non-probationary competitive service employees with a statutory right of appeal to this Board pursuant to 5 U.S.C. 7513(d). In most cases the agency has by now transmitted its administrative record documenting the removal action to the Board's Regional Offices, and some preliminary processing and filing of discovery requests has occurred. None of the cases has yet proceeding to evidentiary hearing, in part because of the need for coordinated scheduling to avoid undue disruption of agency operations by multitudinous appearances as witnesses of key agency officials, such as the control center chief already designated as a potential witness in Appalachian's case. The number of such pending controller strike cases varies from a low of about 300 in the Board's Washington Regional Office to 2,500 in the Chicago Regional Office.

On October 30, 1981, appellant Trick filed with the Board's Washington Regional Office a Motion for Consolidation in which he requests the Board to consolidate "the entire class" of approximately 11,000 air traffic controller removal appeals and transfer them to a single Presiding Official of the Board, for the purpose of (1) determining common issues of law and fact; (2) overseeing such discovery as would most efficiently be held at the national level; and (3) certifying to the Board "questions the resolution of which will facilitate the fair and efficient disposition of such appeals" when they are thereafter returned to the control of their original transferor Presiding Officials for "determination of any necessary remaining issues."

The grounds set forth in support of the motion include asserted substantial common issues of law and fact; savings in time, travel, and expense for the agency, appellants, and the Board; and substantial narrowing of the scope of the individual hearings. In an affidavit attached to his motion, appellant Trick asserts that he has communicated with representatives of more than 10,000 air traffic controller appellants all of whom "experienced a complete removal for the purposes of determining common issues of law and fact and for discovery." A copy of the entire motion with its attachments is appended hereto.

Recognizing that the motion raises matters which relate to appeals pending in ten other Regional Offices as well as those before the Board's Washington Regional Office, and which are thus beyond the scope of that Office's authority, the Presiding Official appropriately referred the motion to the Board for consideration.

The Board has authority to consolidate appeals even without the consent of the parties if it is "of the opinion" that consolidation "could result in the appeals being processed more expeditiously and would not adversely affect any party." 5 U.S.C. 7701(f). However, Congress clearly intended that before such authority is exercised the parties should be given notice and an opportunity to present their views in some form. See S. Rep. No. 95-909, 95th Cong., 2d Sess. 55 (1978). Accordingly, as the attached Certificate of Service reflects, we are serving copies of this Order and of the appended Motion for Consolidation on all designated representatives of the non-probationary air traffic controller appellants who were removed by the agency for allegedly participating in an illegal strike commencing on or about August 3, 1981, on such appellants individually if they have not designated a representative, on the agency's designated representative in each of the Board's Regions, and on the agency's Chief Counsel.

By service of this Order the Board is affording all interested parties an opportunity to respond to appellant Trick's motion within the time hereafter set forth. All responding parties should note that the proposed consolidation

\footnote{An additional 146 air traffic controller appellants who were similarly removed by the agency appear, at least preliminarily, to have been probationary employees with only the limited appeal rights provided by the Office of Personnel Management's regulations at 5 C.F.R. 550. These probationary controllers are not included among the appellants to whom this Order is addressed and on whom this Order is being served.}
relates only to such common issues of law and fact as may be national in scope, in the sense of affecting cases arising from multiple agency facilities and pending in multiple Regional Offices of the Board. Such issues may be common to all appellants or to identifiable groups of appellants.

However, the Board's consideration of the instant motion does not preclude the separate consideration of previously or later filed motions at the Regional Office level for sub-consolations on a local or Regional basis for determination of particular issues which may be common, for example, only to appellants who were employed at the same agency facility. Any such issues would not be "national in scope" as that term is used herein. Such subconsolations, or other procedures, steps at local or Regional levels to avoid undue burdens or repetitive testimony and to promote expeditious and efficient processing, may be considered independently by the Board's Regional Offices. In any event, each appellant will retain entitlement to individualized determination of any facts or issues which may be uniquely relevant to his or her appeal.

In the interest of sharpening the issues and of efficient use of resources, all parties responding to the appended Motion for Consolidation and to this Order should address the following matters as specifically as possible:  
1. National Issues. Identification of all common issues of fact and law which may be national in scope, and which therefore may appropriately be the subject of discovery and determination on a national consolidated basis;  
2. National Discovery. The nature and extent of anticipated discovery requests in any such consolidated proceeding;  
3. National Witnesses. The identification, by name and title, of persons whose testimony would probably be requested with respect to matters to be determined in any such consolidated proceeding;  
4. Representation. The extent to which appellants, or groups of appellants, can agree or have agreed upon designation of common or lead counsel for purposes of (a) serving and receiving service of pleadings and documents, and/or (b) representation with respect to any such consolidated proceeding;
5. Nonstrike-Related Dispositive Issues. Identification by name (and MSPB docket number if assigned) of all interested appellants raising potentially dispositive individual defenses which are unrelated to the alleged strike, such as having been on approved leave at the time in issue, specifying the nature of such defense and whether, in the event such defense is unsuccessful, issues common to other appellants would then be relevant to such appellant's case;  
6. Prejudicial Effects. Identification by name (and MSPB docket number if assigned) of any interested party who believes that his, her or its rights would be prejudiced or interests adversely affected by any such consolidation, specifying the nature, extent and reasons for such prejudice and supporting by affidavit any facts relied upon to show such prejudice or adverse effect.

Accordingly, it is hereby ordered that the agency and all non-probationary appellants who were removed by the agency for allegedly participating in an illegal strike commencing on or about August 3, 1981, may submit a response in writing to the Motion for Consolidation appended hereto and to this Order by mailing such response to the Board's Secretary on or before November 30, 1981.

It is further ordered that:
1. All responses shall be captioned "David A. Trick v. FAA, MSPB Docket No. DC7552811F1144," shall be titled "Response to Order on Motion for Consolidation," and shall specify the name (and MSPB docket number if assigned) of the responding party;  
2. All responses shall contain numbered paragraphs corresponding with those immediately preceding the ordering paragraphs of this Order, as numbered 1 through 6 at pages 5-6 hereof, and addressing the matters specified therein under the headings set forth in those numbered paragraphs;  
3. The original and two copies of each response shall be filed with the Secretary of the Board by mail addressed as follows:

Robert E. Taylor, Secretary, Merit Systems Protection Board, ATTN: ATC Appeals, 1230 Vermont Avenue, NW., Washington, D.C. 20419
2. Each response shall include a written certification by the respondent or representative that one copy of such response has simultaneously been served by mail to each of the following:
Richard L. Leighton, Esquire, Counsel to David A. Trick, 2033 M Street, NW., Suite 800, Washington, D.C. 20006
J. E. Murdock, III, Chief Counsel, Federal Aviation Administration, Room 900E, Washington, D.C. 20591

For the Board.
Esa H. Poston, Vice Chair.
Ronald P. Wertheim, Member.

BILLING CODE 7400-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[N 81-78]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces the forthcoming meeting of the NASA Advisory Council, Informal Ad Hoc Solar System Exploration Committee.

DATE AND TIME: December 3-4, 1981, 8:30 a.m. to 4:30 p.m., each day.

ADDRESS: Building 100, Room 101, Jet Propulsion Laboratory, 4800 Oak Grove Drive, Pasadena, CA 91109.

FOR FURTHER INFORMATION CONTACT: Mrs. Diane M. Mangell, National Aeronautics and Space Administration, Code SL-4, Washington, DC 20546 (202) 765-3728.

SUPPLEMENTARY INFORMATION: The Informal Ad Hoc Solar System Exploration Committee was established under the NASA Advisory Council to translate the scientific strategy developed by the Committee on Planetary Exploration (COMPLEX) into a realistic, technically sound sequence of missions consistent with that strategy and with resources expected to be available for solar system exploration.

The committee will report its findings to the Council and to NASA. The
committee is chaired by Dr. Noel W. Hanera and is composed of four other members of the Council and its standing committees, who will meet with about 9 other invited participants and certain NASA personnel.

An Ad Hoc Subgroup of the Solar System Exploration Committee will meet with Jet Propulsion Laboratory and Ames Research Center scientists to review progress being made on studies of candidate planetary exploration missions for the 1990's. The product of the review will be more definitive versions of the scientific objectives of the missions. The meeting will be open to the public up to the seating capacity of the room (approximately 50 persons including the Subcommittee members and participants). Visitors will be requested to sign a visitor's register.

**TYPE OF MEETING:** Open.

Russell Ritchie,
Deputy Associate Administrator for External Relations

November 6, 1981.

[FR Doc. 81-3007 Filed 11-16-81; 8:45 am]

**BILLING CODE 7510-01-M**

[Notice 81-77]

**NASA Advisory Council, Aeronautics Advisory Committee; Meeting**

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Informal Advisory Subcommittee on Transport Aircraft.

**DATE AND TIME:** December 8, 1981, 8:30 a.m. to 5:30 p.m.; December 9, 1981, 8:30 a.m. to 5 p.m.; December 10, 1981, 9 a.m. to 12 Noon

**ADDRESS:** NASA Langley Research Center, Building 1216, Conference Room 225, Hampton, VA.

**FOR FURTHER INFORMATION CONTACT:** Mr. Roger Winblade, National Aeronautics and Space Administration, Code R7-2, Washington, D.C. 20546 (202/755-3000).

**SUPPLEMENTARY INFORMATION:** The Informal Advisory Subcommittee on Transport Aircraft has been established to assist the NASA in assessing the current adequacy of transport aircraft technology and recommend actions to reduce deficiencies through modification of the planned NASA research and technology program in transport advanced aerodynamics, active controls, materials, propulsion, avionics, and safety. The Subcommittee, chaired by Mr. Russell Hopps, is comprised of eight members. The meeting will be open to the public up to the seating capacity of the room (approximately 50 persons including the Subcommittee members and participants).

**TYPE OF MEETING:** Open.

**AGENDA:**

December 8, 1981
8:30 a.m.—Opening Remarks.
9 a.m.—Overview of Office of Aeronautics and Space Technology (OAST) Aeronautics Programs/Management.
8:30 a.m.—Update of NASA FY 82 Budget and Outlook.
10 a.m.—Review of NASA Research & Technology Base Activities Applicable to Transports.
5:30 p.m.—Adjourn.

December 9, 1981
6:30 a.m.—Transport Aircraft Composite Structure Program.
10:30 a.m.—Potential All-Electric Transport Program.
12:30 p.m.—Status and Tour of Langley Research Center National Transonic Facility.
1:30 p.m.—Update of Advanced Turboprop Program.
2 p.m.—Redefinition of Laminar Flow Programs.
5 p.m.—Adjourn.

December 10, 1981
9 a.m.—Subcommittee Recommendations.
12 Noon—Adjourn.

Russell Ritchie,
Deputy Associate Administrator for External Relations

November 10, 1981.

[FR Doc. 81-3008 Filed 11-16-81; 8:45 am]

**BILLING CODE 7510-01-M**

**NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES**

**Humanities Panel: Meetings**

**AGENCY:** National Endowment for the Humanities, NEH.

**ACTION:** Notice of meetings.

**SUMMARY:** Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, NW., Washington, DC 20506.

1. **Date:** November 30-December 1, 1981.
   **Time:** 9:00 a.m. to 5:30 p.m.
   **Room:** 607.
   Program: This meeting will review applications submitted for Pilot Grants, Division of Education Programs, for projects beginning after April 1, 1982.

2. **Date:** December 2, 1981.
   **Time:** 9:00 a.m. to 5:30 p.m.
   **Room:** 607.
   Program: This meeting will review applications submitted for Elementary and Secondary Education, Division of Education Programs, for projects beginning after March 1, 1982.

3. **Date:** December 4, 1981.
   **Time:** 9:00 a.m. to 5:30 p.m.
   **Room:** 1134.
   Program: This meeting will review applications submitted for General Research Program: State, Local, and Regional Studies Panel, Division of Research Programs, for projects beginning after April 1, 1982.

4. **Date:** December 6, 1981.
   **Time:** 9:00 a.m. to 5:30 p.m.
   **Room:** 314.
   Program: This meeting will review applications submitted for Summer Stipends in Ethnic Studies, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1982.

5. **Date:** December 8, 1981.
   **Time:** 9:00 a.m. to 5:30 p.m.
   **Room:** 607.
   Program: This meeting will review applications submitted for Summer Stipends in Women's Studies, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1982.

The proposed meetings are 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. Because the proposed meeting will consider information that is likely to disclose:

1. Trade secrets and commercial or financial information obtained from a person and privileged or confidential;
2. Information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and
3. Information the disclosure of which would significantly frustrate implementation of proposed agency action;

Pursuant to authority granted me by the Chairman’s Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of
SECURITIES AND EXCHANGE COMMISSION

[Release No. 22266; 70-6662]

Blackstone Valley Electric Co. et al.; Proposed Short-Term Borrowings by Subsidiaries

November 9, 1981.

In the matter of Blackstone Valley Electric Company, Washington, Highways, P.O. Box 1111, Lincoln, Rhode Island 02865; Eastern Edison Company, 110 Mulberry Street, Brockton, Massachusetts 02303; Montaup Electric Company, P.O. Box 391, Fall River, Massachusetts 02722; Eastern Utilities Associates, P.O. Box 2333, Boston, Massachusetts 02210; Eastern Utilities Associates ("EUA"), a registered holding company, and Blackstone Valley Electric Company ("Blackstone"), Eastern Edison Company ("Eastern Edison") and Montaup Electric Company ("Montaup"), electric utility subsidiary companies of EUA, have filed an application-declaration with this Commission pursuant to Sections 6(a), 7, 9(a), 10, 12(b), 12(c), and 12(f) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 42(b)(2), 43(a), 45(a), 50(a)(2) and 50(a)(3) promulgated thereunder.

The applicant states that it is a no-load, open-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on September 29, 1981, and an amendment thereto on October 28, 1981, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 hereunder, to the extent necessary to permit Applicant to value its assets using the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The applicant states that it is a no-load, open-end, diversified management investment company organized as an unincorporated business trust under the laws of Massachusetts. The Applicant further states that Bache Halsey Stuart Shields Incorporated is its Investment Manager and Distributor ("Distributor"). Applicant states that its investment objectives are to attain high current income consistent with the preservation of capital and the maintenance of liquidity. It further states that it will seek to achieve its objectives by investing primarily in United States Government securities that mature within one year from date of purchase, including a variety of securities which are issued or guaranteed by the United States Treasury, by various agencies of the United States Government or by various instrumentalities which have been established or sponsored by the United States Government. To a limited extent, within various aggregate

issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fittsimmans, Secretary.

[FR Doc. 81-33037 Filed 11-10-81; 8:45 am] BILLING CODE 7536-01-M

[Release No. 12030; 812-9797]

Chancellor Government Securities Trust; Filing of Application for Order for Exemption

November 10, 1981.

Notice is hereby given that Chancellor Government Securities Trust ("Applicant"), 100 Gold Street, New York, NY 10038, an open-end, diversified, management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on September 29, 1981, and an amendment thereto on October 28, 1981, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 hereunder, to the extent necessary to permit Applicant to value its assets using the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The applicant states that it is a no-load, open-end, diversified management investment company organized as an unincorporated business trust under the laws of Massachusetts. The Applicant further states that Bache Halsey Stuart Shields Incorporated is its Investment Manager and Distributor ("Distributor"). Applicant states that its investment objectives are to attain high current income consistent with the preservation of capital and the maintenance of liquidity. It further states that it will seek to achieve its objectives by investing primarily in United States Government securities that mature within one year from date of purchase, including a variety of securities which are issued or guaranteed by the United States Treasury, by various agencies of the United States Government or by various instrumentalities which have been established or sponsored by the United States Government. To a limited extent, within various aggregate

issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.
portfolio restrictions, Applicant may purchase government securities on a "when-issued" or "delayed delivery" basis and may enter into repurchase and reverse repurchase agreements relating thereto.

Secondarily, Applicant may invest, subject again to certain aggregate portfolio restrictions, in negotiable certificates of deposit which are fully insured either by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

Applicant intends normally to hold its portfolio securities to maturity. Historically, securities issued or guaranteed by the United States Government or its agencies and instrumentalities have involved minimal risk of loss of principal or interest if held to maturity.

As here pertinent, Section 2(a)(41) of the Act defines "value" to mean: (1) With respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by an investment company’s board of directors.

Rule 22c-1 provides, in part, that no registered investment company, or principal underwriter therefor, issuing any redeemable security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

Rule 2a-4 provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption, and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule with estimates used where necessary or appropriate. Rule 2a-4 further provides that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors. The Commission has expressed the view that, among other things, it is inconsistent with the provisions of Rule 2a-4 for a "money market" fund to value its portfolio instruments with over 60-day maturities on an amortized cost basis and that such valuation should be made with reference to market factors (Investment Company Act Release No. 9789, May 31, 1977).
instrument with a remaining maturity of greater than one year, of (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days. In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as is reasonably practicable.

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1 above, and, Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of its board of trustees' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of trustees' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments to those U.S. dollar denominated instruments which the board of trustees determines present minimal credit risks and which are of "high quality" as determined by any major rating agency or, in the case of any instrument that is not rated, of comparable quality as determined by its board of trustees.

6. Applicant will include in each quarterly report, as an attachment to Form N-1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Applicant further represents that the granting of the requested exemptions is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 4, 1981, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his/her interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he/she may request that he/she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

Cincinnati Stock Exchange;
Applications for Unlisted Trading Privileges and of Opportunity for Hearing

November 10, 1981.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(C) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

- Dome Petroleum Ltd., Common Stock, No Par Value (File No. 7-6076)
- Beatrice Foods Company, Common Stock, No Par Value (File No. 7-6077)
- Gulf Canada Ltd., Common Stock, No Par Value (File No. 7-6075)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested person are invited to submit on or before December 3, 1981 written data, views and arguments concerning the above-referenced applications. 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 applications 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 Regulations, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.
Middle South Utilities, Inc., et al.; Proposed Issuance and Sale of Common Stock by Subsidiary Companies and Acquisition Thereof by Holding Company

November 12, 1981.

In the matter of Middle South Utilities, Inc., 225 Baronne Street, New Orleans, Louisiana 70112; Arkansas Power & Light Company, First National Building, Little Rock, Arkansas 72203; Louisiana Power & Light Company, 142 Delaronde Street, New Orleans, Louisiana 70174; Mississippi Power & Light Company, Electric Building, Jackson, Mississippi 39205.

Middle South Utilities, Inc., a registered holding company, and three of its subsidiary companies, Arkansas Power & Light Company ("Arkansas"), Louisiana Power & Light Company ("Louisiana"), and Mississippi Power & Light Company ("Mississippi"), have filed an application-declaration with this Commission pursuant to Sections 6(a), 7, 9(a), and 10 of the Public Utility Holding Company Act of 1935 ("Act").

Arkansas, Louisiana, and Mississippi propose, from time to time through December 31, 1982, to issue and sell their common stock, and Middle South proposes to acquire such stock, up to the following aggregate number of shares and for up to the following cash consideration:

Arkansas—6,400,000 shares ($80,000,000); Louisiana—13,152,000 shares ($100,000,000); and Mississippi—670,000 shares ($20,010,000). (The issuance and sale of the 670,000 Mississippi shares has been previously authorized, File No. 70-6554, but Mississippi wants the time extended to December 31, 1982.) The net proceeds from the issuance of these shares would be used in financing the construction program and for other corporate purposes.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 11, 1981, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 81-37104 Filed 11-16-81; 8:39 am]

BILLING CODE 8010-01-M

Midwest Securities Trust Co.; Proposed Rule Change

Proposed Rule Change by Midwest Securities Trust Company, relating to a charge-back procedure for third party dividend and bond interest claims.

Comments requested on or before December 8, 1981.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b)(1), notice is hereby given that on October 9, 1981, the Midwest Securities Trust Company 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

Attached as Exhibit A is the MST System Administrative Bulletin dated June 25, 1981, for claiming dividend and bond interest through the MSTC/MCC settlement facilities is necessitated by the reoccurring difficulties encountered by MSTC in claiming dividend and bond interest for certificates deposited with MSTC by participants which are registered in customer or non-participant names, and miss record date when re-registered into MSTC's nominee name.

The procedure is consistent with Section 17A of the Exchange Act in that it provides for the prompt and accurate transfer of record ownership and the funds related thereto.

II. Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Securities Trust Company does not believe that any burdens will be placed on competition as a result of the proposed rule 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 (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 accept comments from interested persons.

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, and 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 to 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 8, 1981.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 10, 1981.

George A. Fitzsimmons, Secretary.

[FR Doc. 61-3310 Filed 11-16-81; 8:45 am]
BILLING CODE 8010-01-M

Municipal Securities Rulemaking Board; Self-Regulatory Organizations; Proposed Rule Changes

Proposed rule changes by Municipal Securities Rulemaking Board, relating to Uniform Practice. Comments requested on or before December 8, 1981. Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on November 4, 1981, the Municipal Securities Rulemaking Board filed with the Securities and Exchange Commission the proposed rule changes 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 changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Municipal Securities Rulemaking Board ("Board") is filing herewith the following proposed amendment to rule G-12 on uniform practice (hereafter referred to as the "proposed rule change"). The text of the proposed rule change is as follows:

Rule G-12. Uniform Practice ¹ (a) through (d) No change.
(e) Delivery of Securities. The following provisions shall, unless otherwise agreed by the parties, govern the delivery of securities:
   (i) No change.
   (ii) Securities Delivered. All securities delivered on a transaction shall be identical as to the information set forth in subparagraph (E) of paragraph (c) (v) and, to the extent applicable, the information set forth in subparagraphs (A) and (C) of paragraph (c) (vi). All securities delivered shall also be identical as to the "in whole" call provisions of such securities.
   (iii) through (xvi) renumbered as (i) through (xvii). No substantive change.
   (f) through (i) No change.

II. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

A. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) The purpose of the proposed rule change is to incorporate into the text of the "good delivery" requirements of G-12 (1) the provisions of a previously-filed Board interpretation clarifying that securities delivered must be identical with respect to the "in whole" calls (File No. SR-MS RB-81-15), and (2) a requirement that securities delivered be identical with respect to the specific details of the securities description required under subparagraphs (c)(v)(E) and (c)(vi)(A) and (C) of rule G-12, previously reflected solely in the reclamation provisions regarding delivery of incorrect or misdescribed securities.

(b) The proposed rule change is adopted pursuant to section 15B(b)(2)(C) of the Securities Exchange Act of 1934, as amended (the "Act"), which requires and empowers the Board to adopt rules designed * * * to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in * * * clearing, settling, processing information with respect to and facilitating transactions in municipal securities, to remove impediments and, to perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest * * *.

The Board believes that the proposed rule change will facilitate clearance and settlement of transactions and help to protect investors by clarifying the requirements of good delivery on interdealer transactions and ensuring that the securities delivered are those contracted for.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board believes that the proposed rule change will not have any impact on competition, inasmuch as the proposed rule change merely incorporates into the text of the "good delivery" requirements of the rule a previously-existing interpretation and a standard previously included in the reclamation portion of the rule.

C. Self-Regulatory Organization's Statement of Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Board neither solicited nor received comments on the proposed rule change from members, participants or others.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

On or before December 22, 1981, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:
   (A) By order approve such proposed rule changes, or
   (B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes 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 8, 1981.

¹ Italics indicate new language; [brackets] indicate deletions.
Northeast Utilities and Northeast Nuclear Energy Co.; Proposal To Issue Secured Notes; Guarantee by Parent

November 10, 1981.

Northeast Utilities ("Northeast"), 174 Brush Hill Avenue, West Springfield, Maine 01089, a registered holding company, and Northeast Nuclear Energy Company ("NNEC"), Selden Street, Berlin, Connecticut 06037, a subsidiary of Northeast have filed an application-declaration with this Commission pursuant to Sections 9(a), 7 and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 45 and 50(2) thereunder.

The Connecticut Light & Power Company ("CL&P"), The Hartford Electric Light Company ("HELCO") and Western Massachusetts Electric Company ("WMECO"), subsidiaries of Northeast are the owners as tenants-in-common ("Owners") of the nuclear electric generating units known as Millstone Unit Nos. 1 and 2 located at the Millstone Nuclear Power Station in Waterford, Connecticut. CL&P, HELCO and WMECO own 53 percent, 28 percent and 19 percent interests, respectively. Millstone Unit No. 1, with a capacity of approximately 560,000 kilowatts, was placed in operation in late 1970, and Millstone Unit No. 2, with a capacity of approximately 630,000 kilowatts, was placed in operation in late 1975. NNEC is the agent of the Owners with respect to the operation of these units pursuant to a Trust Agreement and Supplemental Indenture between the Owners and NNEC.

Pursuant to a financing program authorized by the Commission (HCAR No. 17780, November 30, 1972), NNEC, as the owner of the fuel for Millstone Unit Nos. 1 and 2, supplies the fuel to CL&P. HELCO and WMECO for use in the Unit Nos. 1 and 2 reactors under a Fuel Supply Contract, as amended. In 1972, as part of its nuclear fuel financing program, NNEC issued secured notes (Series A Secured Notes) under the Trust Indenture dated as of December 1, 1972 ("Indenture") between NNEC and the Connecticut Bank and Trust Company, Trustee. In October 1973, and on January 6, 1976, NNEC issued Series B Secured Notes under a Second Supplemental Indenture. Series C Secured Notes were issued by NNEC in December 1977 under a Third Supplemental Indenture. NNEC proposes to issue, at 100 percent of the principal amount, to Citibank N.A., an aggregate of $25,000,000 principal amount of its secured notes, Series D, due December 1, 1982 ("Series D Secured Notes"). The Series D Secured Notes will bear interest, payable semi-annually, at either of two alternative variable rates, as specified by NNEC in advance for each semi-annual payment period, such variable rates to be determined by Citibank, N.A.'s formulas. Under the first alternative the rate would be 75 basis points in excess of Citibank's Corresponding Pool Rate maturity. The Corresponding Pool rate is the lower of (a) the cost of CD's corrected for reserve requirements, or (b) LIBOR, both rates tied to a maturity ranging from 1 day to 1 year. Under the second alternative the rate would be Citibank's Alternate Base Rate defined as the greater of (a) the Citibank Base Rate, or (b) 1/2 of 1 percent above the latest three-week moving average of secondary market morning offering rates in the United States for three-month CD's rounded to the nearest 1/4 of 1 percent. Assuming a Corresponding Pool Rate of 14.28 percent the effective cost of borrowing would be 15.03 percent under the first alternative. Assuming a Citibank Alternate Base Rate of 17 percent, the effective cost of borrowing would be 17 percent under the second alternative.

The Series D Secured Notes will be issued under a Fourth Supplemental Indenture (Fourth Indenture) to be dated as of December 1, 1981 which will set forth the terms of the Series D Secured Notes. The terms will include a provision that no Series D Secured Note shall be redeemed at the applicable general redemption price if such redemption is for the purpose of or in anticipation of refunding a Series D Secured Note through the application, directly or indirectly, of funds borrowed by NNEC. The Series D Secured Notes, like the Series A, Series B, and Series C Secured Notes, will contain no provision for a sinking fund.

Northeast will enter into an agreement with Citibank guaranteeing NNEC's payment of the principal, premium, if any, and interest on the Series D Secured Notes.

The net proceeds from the issue and sale of the Series D Secured Notes will be used by NNEC to pay obligations incurred in connection with the purchase of nuclear fuel for Millstone Unit Nos. 1 and 2. Such obligations may include short-term borrowings, amounts owed to vendors, and amounts owed to Waterford Fuel Supply Trust. Nuclear core elements now on site and expected to be delivered on or about December 1, 1981 will be security under the Indenture pursuant to which the Series D Secured Notes will be issued.

The Series D Secured Notes are expected to be the last Series of Secured Notes issued under the current nuclear fuel financing program. All of NNEC's Secured Notes will mature on December 1, 1982. At that time NNEC expects to have in place a new fuel financing program that will provide, through a trust arrangement, a comprehensive framework for the financing of nuclear fuel during the entire fuel cycle for Millstone Unit Nos. 1 and 2 and for Millstone Unit No. 3, a nuclear generating unit under construction at the Station in which CL&P, HELCO and WMECO collectively have a 65 percent ownership interest.

The application-declaration and any amendments thereto are available for public inspection through the commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 4, 1981, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the application-declarrants at the addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons, Secretary.

[FR Doc. 81-33106 Filed 11-16-81; 8:45 am]

BILLING CODE 8010-01-M

Northwestern Mutual Life Insurance Co., et al.; Filing of Application for an Order for Exemptions

November 10, 1981.

In the matter of the Northwestern Mutual Life Insurance Company, NML Equity Services, Inc., and, NML Variable Annuity Account I, 720 East Wisconsin Avenue, Milwaukee, Wisconsin 53202.

[Release No. 12032; 812-4848]
Notice is hereby given that the Northwestern Mutual Life Insurance Company (“NML”), NML Equity Services, Inc. (“Equity”), and NML Variable Annuity Account I (“Account I”) (together, “Applicants”) filed an application on March 18, 1981, and an amendment thereto on October 9, 1981, for an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 (“Act”) granting exemptions to the extent requested from Sections 2(a)(32), 2(a)(35), 22(c), 26(a), 26(a)(2), 27(c)(1), 27(c)(2), and 27(d) of the Act and Rule 22c-1 thereunder. All interested persons are referred to the application, as amended, on file with the Commission for a statement of the representations made therein, which are summarized below.

NML is a mutual life insurance company organized under the laws of Wisconsin. Equity is a wholly-owned subsidiary of NML registered as a broker-dealer and will serve as the underwriter of the variable annuity contracts proposed to be issued in connection with Account I. NML and Equity are the co-depositors of Account I. Account I, a unit investment trust registered under the Act, was established by NML on November 26, 1980, pursuant to the provisions of the Wisconsin insurance laws and in connection with the sale of certain variable annuity contracts (“Contracts”).

The Contracts are individual deferred and immediate variable annuity contracts for use in situations which do not qualify for special tax treatment under the Internal Revenue Code. The deferred Contracts may be purchased as periodic payment contracts with an initial minimum purchase payment of $1,000, and minimum subsequent purchase payments of $100, or as single purchase contracts with a minimum purchase payment of $1,000. Immediate Contracts require a minimum purchase payment of $5,000. Under a deferred Contract, the minimum amount which may be applied under an annuity payment plan is $5,000.

Net purchase payments under the Contracts are allocated to Account I and simultaneously invested in shares of NML One Fund, Inc. (“Fund”), a registered open-end management investment company. The Contracts have a front-end sales charge of 3 percent of purchase payments, reducing to 2 percent on payments which exceed $25,000 on a cumulative basis and to 1 percent on payments in excess of $100,000. In addition, an annual charge of 0.5 percent of administrative expenses is made at the time a deferred Contract is issued and on each anniversary thereafter until annuity benefits become payable. The Contracts provide that a daily charge at the aggregate rate of 1 percent of the assets of Account I be imposed for annuity rate and expense guarantees assumed by NML, of which NML estimates one-half of 1 percent is for the assumption of annuity rate risks and one-half of 1 percent is for the assumption of expense risks. The Contracts provide that this charge may be increased to a maximum annual rate of 1¼ percent. Any applicable premium taxes will also be deducted from purchase payments.

Contract values under deferred Contracts may be redeemed during the accumulation period subject to the limitation of a contingent deferred sales charge. Partial redemptions may be effected under these Contracts provided that at least 100 accumulation units remain. For immediate Contracts and deferred Contracts after annuity payments have begun, redemptions are permitted subject to a contingent deferred sales charge in certain instances except during the course of an annuity payment plan for which a life contingency is in effect. Partial redemptions so permitted under these Contracts, however, may not be effected where remaining monthly annuity payments would be less than $25. The contingent deferred sales charge will be applied (1) to redemptions of contract values prior to the date on which annuity payments begin, (2) if a variable annuity payment plan with a specified period of less than five years is selected, (3) if the annuitant under a variable plan withdraws within five years after annuity payments begin, and (4) if a fixed-dollar annuity payment plan is selected, except one involving a life contingency where the amount placed under the payment plan does not exceed purchase payments paid prior to the fifth anniversary of the Contract preceding the date of the transaction, less any redemptions. The charge will be equal to 2 percent of the lesser of (1) the amount redeemed or (2) total purchase payments less previous redemptions. The charge will be reduced to 1 percent on Contracts where total purchase payments equal at least $25,000, insofar as the values redeemed do not exceed purchase payments paid prior to the fifth anniversary of the Contract preceding the date of the redemption, less previous redemptions. Applicants represent that in no event will the total charges imposed through the front-end sales charge and the contingent deferred sales charge, if any, exceed 9 percent of any respective purchase payments to which they relate. Both the front-end charge and the contingent deferred charge are intended as sales charges to pay distribution costs.

Contingent Deferred Sales Charge

Section 2(a)(32) of the Act defines “sales load” as the difference between the price of a security to the public and that portion of the proceeds from its sale which is received and invested, less any portion of such difference deducted for trustee’s or custodian’s fees, miscellaneous fees, tax premiums, issue taxes or administrative expenses or fees which are not properly chargeable to sales or promotional activities. Appellants contend that the definition of sales load contemplates front-end deductions therefor. They assert, however, that any contingent deferred sales charge is still a sales charge, notwithstanding the timing of its imposition. Accordingly, they request exemption from the provisions of Section 2(a)(32) to the extent necessary to permit the offer and sale of the Contracts with the proposed contingent deferred sales charge.

Section 27(c)(2), in relevant part, prohibits the issuer of a periodic payment plan certificate and any depositor or underwriter for such issuer from selling such periodic payment plan certificate unless the proceeds of all payments (other than any sales load) are deposited with a trustee or custodian having the qualifications prescribed in Section 26(a)(1), and held under an indenture or agreement containing substantially the provisions required by Sections 26(a)(2) and 26(a)(3) of the Act. Section 27(c)(2)(C) of the Act provides, in substance, that no payment to the depositor or principal underwriter of a unit investment trust shall be allowed the custodian bank as an expense, except a fee, not exceeding such reasonable amount as the Commission may prescribe as compensation for performing bookkeeping and other administrative services of a character normally performed by the trustee or custodian. Applicants assert that while the Contracts defer the time when a portion of the sales charge may be imposed, such deferral does not change the nature or purpose of the charge. Further, they state that there is nothing in the Act to suggest that deferred sales charges would not have been permitted if they had been in use at the time the Act was promulgated, and Applicants request an exemption from the provisions of Sections 26(a)(2)(C) and 27(c)(2) of the Act, to the extent necessary, in order to permit the offer and sale of the...
Contracts with the contingent deferred sales charge as proposed.

Section 2(a)(32) of the Act, in substance, defines a redeemable security as a security under the terms of which the holder is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof. Section 27(d) of the Act, in substance, requires that the holder of a periodic payment plan certificate be able to surrender his certificate within a specified time and receive the value of this account and the return of sales charges in excess of a certain percentage. Applicants submit that sections 2(a)(32) and 27(d) contemplate the deduction of the entire sales charge from purchase payments at the time they are made. Applicants contend that the fact that some of the sales charges are not deducted from the amount initially invested does not change the essential nature of the deduction being made and does not alter the fact that the investor in fact receives his proportionate share of the issuer's current net assets and the value of his account upon redemption. Therefore, Applicants request, to the extent necessary, an exemption from the provisions of Sections 2(a)(32) and 27(d) of the Act to permit the offer and sale of the Contracts with the contingent deferred sales charge as proposed.

Section 27(c)(1) of the Act, in pertinent part, makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor or underwriter of such company, to sell any such certificate unless it is a redeemable security. Applicants contend that the imposition of a deferred sales charge upon the proceeds of redemption is not a restriction on redemption within the meaning of Section 27(c)(1). According to the Applicants, deferral of the sales charge until redemption in no way prevents the contractowner from receiving his proportionate share or current value on redemption and has the effect of increasing the value available for redemption. Applicants request an exemption from the provisions of Section 27(c)(1) to the extent that one is deemed necessary, in order to permit the offer and sale of the Contracts with the deferred sales charge as proposed.

Rule 22c-1, promulgated under Section 22(c) of the Act, in pertinent part, prohibits a registered investment company issuing a redeemable security from selling, redeeming or repurchasing any such security except at a price based on the current net asset value of such security. When the contractowner redeems all or a part of the contract value, the proceeds paid on such redemption will be based on the current net asset value. The contingent deferred sales charge will be deducted at the time of redemption in arriving at the contractowner's proportionate share or account value. Applicants do not believe that the imposition of the contingent deferred sales charge is violative of Section 22(c) or Rule 22c-1. However, they request an exemption from the provisions of Section 22(c) and Rule 22c-1 thereunder, to the extent that one is deemed necessary, in order to permit the offer and sale of the Contracts with the deferred sales charge as proposed.

Performance of Custodial Functions

Sections 26(a) and 27(c)(2) of the Act provide, in substance, that a registered unit investment trust or issuer of a periodic payment plan certificate and any depositor or underwriter for such trust or issuer is prohibited from redeeming periodic payment plan certificates unless the proceeds of all payments, other than the sales load, are deposited with a qualified bank as trustee or custodian having the qualifications prescribed in Section 26(a)(1) and are held by such trustee or custodian under an agreement containing substantially the provisions required by paragraphs (2) and (3) of Section 26(a). Applicants contend that the provisions of these sections were designed to assure performance of contractual obligations under periodic payment plans, to minimize the opportunities for misuse of the assets of unit investment trusts and to prevent sponsors for reaping hidden profits. Applicants contend that because NML is subject to extensive and rigorous supervision and control by the Wisconsin Commissioner of Insurance and the insurance department of each state in which it does business, such supervision and control provides assurance against misfeasance and affords the essential protection of trusteeship. The assets of account 1 will consist entirely of shares of the Fund, and the shares will be held in book-entry form. Since certificates for the shares will not be issued, Applicants state that it will not be possible to establish physical custody of the Account's assets. Applicants contend that a requirement for issuance of share certificates would not provide any meaningful measure of additional safety and would result in unnecessary administrative expenses. Applicants state that the Fund's custodian will have physical custody of all portfolio securities and other assets of the Fund, in compliance with applicable requirements of the Act. NML will maintain a record of all purchases and redemptions of Fund shares with respect to Account 1. Under the foregoing circumstances, the Applicants contend that the dangers against which Sections 26(a) and 27(c)(2) are directed are not present. Accordingly, an exemption from Sections 26(a) and 27(c)(2) is requested, to the extent necessary, to permit NML to perform custodial functions with respect to Account 1 as proposed.

Payment of Contract Fees and Charges

As noted, Section 26(a)(2)(C) of the Act provides, in substance, that no payment to the depositor or principal underwriter of a unit investment trust shall be allowed the custodian bank as an expense, except a fee, not exceeding such reasonable amount as the Commission may prescribe, as compensation for performing bookkeeping and other administrative expenses normally performed by the custodian. Section 26(a)(2)(D) requires that the custodian have possession of all securities and other property in which the funds of the trust are invested subject only to the charges and collections allowed under clauses (A), (B) and (C) of Section 26(a)(2) until distribution thereof to the security holders of the trust. The proposed Contracts provide that there shall be deducted an annual charge of $30 for administrative expenses. The charge will be made when a deferred Contract is issued and on each anniversary thereafter until annuity benefits become payable. There shall also be deducted an asset charge at the annual rate of 1 percent. This amount will be paid to NML for providing mortality and expense guarantees with respect to the Contracts. NML or its agent will provide bookkeeping and other administrative services of the type normally performed by custodians of unit investment trusts. Finally, deduction and payment of any applicable premium taxes will be made. Applicants request an order exempting them from the provisions of Sections 26(a)(2) and 27(c)(2) to the extent necessary to permit the deduction by NML and the payment to NML of (1) the annual charge of $30 for administrative expenses, (2) the proposed fee for providing the mortality and expense undertakings (to be deducted on a daily basis) and (3) applicable premium taxes.

Applicants consent to the order granting the requested exemption being made subject to the following conditions: (1) that charges to contract owners for administrative services shall not exceed such reasonable amounts as the Commission shall prescribe, jurisdiction being reserved for such purpose; and (2) that the payments of...
Sums and charges out of the assets of Account 1 shall not be deemed to be exempted from regulation by the Commission by reason of the order, provided that consent to this condition shall not be deemed to be a concession to the Commission of authority to regulate the payments of sums and charges out of such assets other than charges for administrative services, and Applicants reserve the right, in any proceeding before the Commission or in any suit or action in any court, to assert that the Commission has no authority to regulate the payments of such other sums and charges.

Section 6(c) authorizes the Commission to exempt any person, security or transaction or any class or classes of persons, securities or transactions, from the provisions of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants contend that the requested exemptions are necessary and appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 7, 1981, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the applications will be issued, as of course, following December 7, 1981 unless the Commission thereupon orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 81-33573 Filed 11-18-81; 8:45 am]

BILLING CODE 8010-01-M

Pacific Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

November 20, 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 following stocks:

Manville Corporation, Common Stock, $2.50 Par Value (File No. 7-6077)

This security is listed and registered on one or more other national securities exchanges and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit, on or before December 3, 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 applications 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. 81-33573 Filed 11-18-81; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[SBLC 01/B-0014]

The First Connecticut Small Business Lending Co.; Filing of Application for Eligibility Determination as a Small Business Lending Company

An Application for Eligibility Determination as a Small Business Lending Company has been filed by The First Connecticut Small Business Lending Company, 177 State Street, Bridgeport, Connecticut 06604, with the Small Business Administration pursuant to § 120.4(b) of SBA Regulations [13 CFR 120.4(b) 1981], promulgated under the Small Business Act.

As a Small Business Lending Company (SBLC), under § 120.4(b), the Applicant will be engaged solely in the making of loans to small business concerns, in participation with SBA, and in accordance with applicable SBA Regulations; and, it will be subject to supervision and examination by SBA.

The Applicant is incorporated under the laws of the State of Connecticut, and it will commence operations with an initial capitalization of $1,000,000. It intends to conduct its operations in the States of Connecticut, New York, Massachusetts, Rhode Island, New Jersey and Florida, and to sell in the Secondary Market the SBA's guaranteed portions of loans made to small business concerns.

The Officers and Directors of the Applicant are:

Name and Title

Steven A. Breiner, 194 Driftwood Lane, Trumbull, Connecticut 06611; President and Director

Lawrence R. Yurdin, 4 Stones Throw Road, Easton, Connecticut 06612; Vice President and Director

James M. Breiner, 3200 Park Avenue, Bridgeport, Connecticut 06604; Treasurer and Director

David Engleson, 3200 Park Avenue, Bridgeport, Connecticut 06604; Secretary and Director

Ronald Belfin, 30 Wimbleton Lane, Easton, Connecticut 06612; Director

Emil Meshberg, 10 Brighton View Road, Fairfield, Connecticut 06430

Eames Kirkut, 3071 Morehouse Highway, Fairfield, Connecticut 06430; Director

The First Connecticut Capital Corporation, 177 State Street, Bridgeport, Connecticut 06604, upon completion of reorganization, will be the parent of the Applicant and will own 100 percent of its outstanding common stock. The parent will be a publicly owned company with no one person or entity owning ten (10) percent or more of its outstanding stock.

This corporation was organized and chartered for the purpose of a holding company to own the stock of the Applicant and The First Connecticut Small Business Investment Company, and such other companies as in the future it may deem appropriate. The First Connecticut Small Business Investment Company is licensed by the Small Business Administration under
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the Small Business Investment Act of 1958, as amended.

The Officers and Directors of the Parent are:

Name and Title

James A. Bremer, Chairman of the Board
David Engelhorn, President and Director
Lawrence R. Yurdin, Vice President
Jerome G. Coffey, 540 Joan Drive, Fairfield, Connecticut 06430; Secretary
Louis I. Cohen, 103 Joan Drive, Westport, Connecticut 06880; A&E's Soc'y. Treasurer and Director
Edward Ardolino, Whiting Farm Road, Branford, Connecticut 06405; Director
Gordon F. Christie, 872 Hillsbide Road, Fairfield, Connecticut 06405; Director
P. Francis D'Addario, 70 Williams Road, Trumbull, Connecticut 06611; Director
Mario D'Addario, 51 Bonniverie Drive, Trumbull, Connecticut 06611; Director
Edward Freda, 773 Orange Center Road, Orange, Connecticut 06477; Director
Sidney S. Kessler, 19 Maplewood Lane, Roslyn, New York 11576; Director
Henry Margenau, 173 Westwood Road, New Haven, Connecticut 06515; Director
Allan J. Rosen, 85 Gate Ridge Road, Easton, Connecticut 06612; Director

Matters involved in SBA's consideration of the application include the general business reputation and character of management, and the probability of successful operation of the company under their management, including adequate profitability and financial soundness, in accordance with the Small Business Act and the Regulations promulgated thereunder.

Notice is hereby given that all interested parties may, not later than 15 days from the date of publication of this Notice, submit to SBA written comments on the proposed Applicant and/or its management. Any such communication should be addressed to: Wayne S. Foren, Director, Office of Lender Relations and Certification, 1441 L Street, NW., Rm 720, Washington, D.C. 20436.

A copy of this Notice shall be published in a newspaper of general circulation in Bridgeport, Connecticut, as well as in the Eastern Regional edition of the Wall Street Journal.

Dated: November 10, 1981.

(Catalog of Federal Domestic Assistance Program No. 59.012 Small Business Loans)

Michael Cardenas, Administrator.

[FR Doc. 81-33084 Filed 11-19-81; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular Public Debt Series—No. 56-81]

Treasury Notes of November 30, 1983
Series X-1983

November 12, 1981.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $4,750,000,000 of United States securities, designated Treasury Notes of November 30, 1983, Series X-1983. (CUSIP No. 912327 MP4). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities, to the extent that the aggregate amount of tenders for such accounts exceeds the aggregate amount of maturing securities held by them.

2. Description of Securities

2.1. The securities will be dated November 30, 1981, and will bear interest from that date, payable on a semiannual basis on May 31, 1982, and each subsequent 6 months on November 30 and May 31 until the principal becomes payable. They will mature November 30, 1983, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered, and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Wednesday, November 18, 1981. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, November 17, 1981.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders may also show the yield desired, expressly in terms of an annual yield with two decimals, e.g.,
7.11%. Common fractions may not be used. Noncompetitive tenders must show the term “noncompetitive” on the tender form in lieu of a specific yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a 1/3 of one percent increment, which results in an equivalent average accepted price close to 100,000 and a lowest accepted price above the original issue discount limit of 99.500. That rate of interest will be as close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That rate of interest will be determined and each successful bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tenders is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Monday, November 30, 1981. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Wednesday, November 25, 1981. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual’s social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to “The Secretary of the Treasury for [securities offered by this circular]” the name and taxpayer identifying number). If new securities in coupon form are desired, the assignment should be to “The Secretary of the Treasury for [securities offered by this circular]” to be delivered to (name and address). Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 22226. The interim certificates must be returned at the risk and expense of the holder.
5.5 Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.


6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Paul H. Taylor,
Fiscal Assistant Secretary.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the departmental procedures applicable to such regulations.

[FR Doc. 81-33248 Filed 11-16-81; 8:45 am]

BILLING CODE 4810-40-M

VETERANS ADMINISTRATION

Structure Reorganization

To improve the timely, efficient, and effective oversight of the Administration of Veterans Benefits, the Veterans Administration has undergone a structural realignment of its top level executive staff. To ensure a close-working relationship between the Administrator and the general management of the Veterans Administration, five Associate Deputy Administrators have been appointed. The Associate Deputy Administrator for Planning and Finance will improve and integrate the agency's program planning and evaluation, budget formulation and financial management functions. The Associate Deputy Administrator for Congressional and Public Affairs will develop a complementary and effective program for congressional and public liaison.

Robert P. Nimmo,
Administrator.

[FR Doc. 81-33038 Filed 11-16-81; 8:45 am]

BILLING CODE 8730-81-M
Sunshine Act Meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

Federal Communications Commission
Federal Deposit Insurance Corporation
Federal Reserve System
International Trade Commission
International Trade Commission
Securities and Exchange Commission

1 FEDERAL COMMUNICATIONS COMMISSION

The following item has been deleted from the list of agenda items scheduled for consideration at the November 12, 1981, Open Commission Meeting and previously listed in the Commission's Notice of November 5, 1981.

Agenda, Item No., and Subject
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.
Issued: November 12, 1981.
William J. Tricarico,
Secretary, Federal Communications Commission.
[S-1717-81 Filed 11-13-81; 3:55 pm]
BILLING CODE 6712-01-M

2 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 9:15 a.m. on Friday, November 13, 1981, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider the following matters:
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. 44,972-L (Amended)—Franklin National Bank, New York, New York

In calling the meeting, the Board of Directors determined, on motion of Director Irvine H. Sprague (Appointive), seconded by Director Charles E. Lord (Acting Comptroller of the Currency), that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting by authority of subsections (c)(4) and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4) and (c)(9)(B)).
Dated: November 13, 1981.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.

3 FEDERAL RESERVE SYSTEM

Board of Governors.

TIME AND DATE: 10 a.m., Monday, November 23, 1981.
STATUS: Closed.

MATTERS TO BE CONSIDERED:
1. Proposed target budget for a new building for the Omaha Branch of the Federal Reserve Bank of Kansas City.
2. Personnel actions (appointments, promotions, assignees, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. 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 13, 1981.
James McAfee,
Assistant Secretary of the Board.
[S-1716-81 Filed 11-13-81; 5:55 pm]
BILLING CODE 6210-01-M

4 INTERNATIONAL TRADE COMMISSION

[USITC SE-91-34A]


PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:30 a.m. Friday, November 13, 1981.

CHANGES IN THE MEETING: Emergency action to close a portion of the meeting originally announced as open to the public.

Pursuant to the specific exemptions of 5 U.S.C. 552b(c)(4) and in conformity with 10 CFR 201.37(b)(4), Commissioners Alberger, Calhoun, Bedell, Stern, Eckes, and Frank determined, pursuant to 10 CFR 201.37(b) that Commission business requires the change in the determination of the Commission to open or close this portion of the meeting and directed the issuance of this notice at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.
[S-1715-81 Filed 11-13-81; 3:55 pm]
BILLING CODE 7020-02-M

5 NATIONAL TRANSPORTATION SAFETY BOARD

[NM-81-40]

TIME AND DATE: 10 a.m., Tuesday, November 24, 1981.
PLACE: NTSB Board Room, National Transportation Safety Board, 200 Independence Avenue, S.W., Washington, D.C. 20594.
STATUS: The first two items will be open to the public; the remaining items will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:
2. Personal actions (appointments, promotions, assignees, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. 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 13, 1981.
James McAfee,
Assistant Secretary of the Board.
[S-1716-81 Filed 11-13-81; 5:55 pm]
BILLING CODE 6210-01-M
Opinion and Order:


CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202-382-6525.

November 13, 1981.

DATE PREVIOUSLY ANNOUNCED: Thursday, November 5, 1981.

CHANGES IN THE MEETING: Additional items. The following additional item will be considered at an open meeting scheduled for Thursday, November 19, 1981, at 2:30 p.m.:

Consideration of whether to grant an application by Paul E. Van Dusen to become associated with Marcus, Stowell & Beye, Inc., a registered broker-dealer, in a supervisory capacity. For further information, please contact Robert Anderson at (202) 272-2916.

The following additional item will be considered at a closed meeting scheduled for Thursday, November 19, 1981, following the 2:30 p.m. open meeting:

Regulatory matter regarding financial institution.

Chairman Shad and Commissioners Loomis, Evans, Thomas, and Longstreth determined by vote that Commission business required consideration of these matters and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Paul Lowenstein at (202) 272-2092.

November 13, 1981.
Pennsylvania Food Stamp Direct Delivery Demonstration Project
DEPARTMENT OF AGRICULTURE
Food and Nutrition Service
7 CFR Part 282
Pennsylvania Food Stamp Direct Delivery Demonstration Project

AGENCY: Food and Nutrition Service, USDA.
ACTION: Results of the Six Month Pennsylvania Direct Delivery Demonstration Project.

SUMMARY: On October 7, 1980, 45 FR 66448, the Department published in the Federal Register emergency final rulemaking establishing procedures for the Pennsylvania Food Stamp Direct Delivery Demonstration Project. This project, scheduled to run for six months, from September 1, 1980, to March 1, 1981, was authorized under section 12(b)(1) of the Food Stamp Act of 1977. The emergency final regulations established the test project in parts of the Federal, Passyunk, and Snyder Districts of Philadelphia and parts of the Hill District of Pittsburgh.

Direct Delivery was required in order to reduce the excessive amount of program loss caused by unauthorized duplicate issuance. The system required recipients to pick-up their food stamp authorization (ATP) at a specified location and then transact it, thus eliminating the possibility of a lost ATP. We are hereby notifying the public of the results, in terms of reduced losses and recipient reaction, of the Pennsylvania Food Stamp Direct Delivery Demonstration Project. Additionally, we are notifying the public of the expansion of Direct Delivery throughout Philadelphia and Pittsburgh under the Department's regulatory waiver authority contained in the Department's State Plans of Operation and Operating Guidelines Regulations (§ 272.3(c)). Specifically, the provisions of 7 CFR 274.2(e)(2), regarding the staggering of issuance through the 15th of the month, and § 274.2(e)(5), regarding the mailing of ATPs are waived to permit the operation of the special issuance procedures in the designated areas. The Pennsylvania State agency has requested this waiver and the Administrator of FNS has determined both that it would result in a more effective and efficient administration of the program and that all other requirements of the waiver authority of § 272.3(c) have been met. Expansion of Direct Delivery was completed on September 1, 1981.


SUPPLEMENTARY INFORMATION: This Notice has been reviewed under Executive Order 12291. It has been determined that this Notice will not have an annual effect on the economy of $100 million or more, will not result in major increases in costs or prices, and will not have a significant adverse affect on competition, employment, productivity, investment or foreign trade. Therefore, the Notice has not been classified as major. The determination is based on the fact that the rule is expected to result in a significant savings of program funds and will not place a significant additional administrative burden on the State and local agencies which generate the program. Moreover, the Notice is unrelated to the ability of the United States-based enterprises to compete with foreign-based enterprises.

As a result of the success of the six month Pennsylvania Food Stamp Direct Delivery Demonstration Project, the Department is expanding the Project throughout Philadelphia and Pittsburgh. In the six month test, the number of replacement ATPs issued in the test Districts dropped from an average 781 to 341 per month. However, in the parts of the Districts covered by Direct Delivery and average number of monthly replacements was only four. Direct Delivery covered approximately half of the test Districts. Based on these figures, the Department realized a savings of $38,440.10 per month or $230,640.60 for life of the test. The Department's expenses for the test were $102,093.94. Our evaluation of this project noted no increase in the number of requests for replacement of stolen food stamps.

Direct Delivery also received a favorable response from the recipients who participated in the system. This Department reviewed the results of surveys conducted prior to (August 1980) and during (February 1981) the operation of Direct Delivery. The results indicated an overwhelming support of the new system. Prior to Direct Delivery more than 60 percent of the recipients said they did not receive their ATP's on time while after, 91 percent indicated that their ATP was received on time (nine percent did not respond to this question). Recipients on public assistance (PA) were asked whether they were able to transact both their PA check and ATP at the same time. Prior to Direct Delivery, less than 40 percent indicated they were able to do so while after implementation, this percentage rose to 90 percent. This “one stop” feature of Direct Delivery is a significant benefit to recipients in terms of convenience and time saved. Finally, recipients were asked to rate both systems. Prior to implementation, less than 50 percent thought the system to be convenient or better. After implementation, 80 percent thought the system was more convenient. It is interesting to note that no comments were received by the Department during the comment period which extended throughout the life of the project.

Based on the dramatic decrease in the number of ATP replacements, the overall cost benefits to this Department and the State of Pennsylvania, as well as recipient acceptance of Direct Delivery, the Department believes expansion of Direct Delivery is warranted.

91 Stat. 958 (7 U.S.C. 2011-2027)
(Catalog of Federal Domestic Assistance Program No. 10.551 Food Stamps)
Dated: November 6, 1981.

G. William Hoagland,
Administrator.

[FR Doc. 81-32966 Filed 11-16-81:8:45 am]
BILLING CODE 3410-30-M
Part III

Department of the Interior

Geological Survey

Oil and Gas Operating Regulations;
Onshore Federal and Restricted Indian Leases
DEPARTMENT OF THE INTERIOR
Geological Survey

30 CFR Part 221
Oil and Gas Operating Regulations;
Onshore Federal and Restricted Indian Leases

AGENCY: Geological Survey, Interior.
ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking would amend the regulations governing the discovery, development, and production from onshore Federal and restricted Indian leases. The proposed regulations revise and modernize the regulations in 30 CFR Part 221 which were promulgated in 1942, and (1) eliminate unnecessary items, (2) reflect advancements made in technology, (3) incorporate provisions for environmental protection, (4) recognize outstanding departmental opinions and policy directives, and (5) provide more meaningful enforcement actions.

EFFECTIVE DATE: Comments on this proposed rulemaking must be received by December 17, 1981.

ADDRESS: Comments may be mailed to: Mr. Eddie R. Wyatt, Acting Deputy Division Chief, Onshore Minerals Regulation, Conservation Division, U.S. Geological Survey, National Center, Mail Stop 660, Reston, Virginia 22092.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald R. Daniels, (703) 660-7535, (FTS) 926-7535, or Mr. Stephen H. Specter, (703) 660-6259, (FTS) 926-6259.

SUPPLEMENTARY INFORMATION: The principal authors of this proposed rulemaking are Mr. Gerald R. Daniels, Chief, Branch of Fluid Minerals Management, Mr. C. J. Curtis, Assistant to the Conservation Manager, North Central Region, Mr. Frank A. Salverowicz, Deputy Conservation Manager for Oil and Gas, Central Region, and Mr. Stephen H. Specter, Branch of Onshore Rules and Procedures.

This proposed rulemaking is intended to remove regulations that the U.S. Geological Survey (GS) has identified as unnecessary, and to modify other provisions needed, for the effective operation of oil and gas development on onshore Federal and Indian leases. The GS first announced its intention to propose rulemaking by Notice of Intent published on May 22, 1981 (46 FR 27968). Comments were invited for 45 days ending July 6, 1981. Numerous responses were received including 12 from oil and gas operators, 2 from oil and gas industry associations, 1 from an organization which represents several Indian Tribes which have energy interests, 1 from a local government entity, 4 from other Federal Agencies, and from most of the Regional offices of the GS's Conservation Division. All comments received either after the closing date, have been considered.

The comments received expressed interest in revising regulatory areas which are discussed as follows.

Many comments suggested that regulations should provide more precise direction to Government decisionmakers and to operators who are being regulated through the establishment of criteria for compliance and for making decisions.

Most comments suggested that the regulations were basically sound and require only selected revisions and clarification. We agree with the view expressed by one commenter that the hallmark of wise regulation is flexibility for both industry and Government. One reason the existing regulations have served for almost 40 years is that they have been flexible enough to allow for appropriate handling of new or unusual situations. However, we also agree that clear guidance and direction is needed for all concerned parties. It is the intention to provide specific guidance and direction through the use of Onshore Oil and Gas Orders and Notices to Lessees. All orders will be made available for public comment before final adoption; will provide for specific requirements, guidelines, and policies concerning an operating requirement; will provide for appropriate flexibility; and will be updated as needed to meet changing conditions. A list of all current orders and the requirements for issuance would be included in the rules at section 221.13. Notices to Lessees. All orders will provide guidelines and policies for specific items of importance within a Region with a review process at Division level to insure uniformity between Regions. The provisions that specify which official of the GS is authorized to take action have been clarified. The proposed regulations also delegate approval authority to the lowest appropriate level to improve flexibility and response time.

Many comments suggested that much of the paperwork filed with the GS is unnecessary and could be eliminated. The proposed regulations have been incorporated by modifying the requirements of §§ 221.21, 221.58, and 221.61 of the current rules. This proposal eliminates reports which are no longer required by the Supervisor to properly monitor leasehold operations. The major changes include elimination of the daily report of gas-producing wells, the substantially reducing the operations for which a notice of intention (Sundry Notice) must be submitted for approval; elimination of the requirement for submitting an application prior to installation of a positive displacement metering systems and elimination of a separate report for an installation less than 200 feet from a lease boundary or legal subdivision line. Streamlining changes are also proposed in the designation of operator requirements.

Many comments suggested that the relationship between the GS and the various surface management agencies should be clarified.

This proposal discusses the GS's role as the approving agency for drilling, development, and production activities on an oil and gas lease. The responsibilities for consultation with other agencies and interested parties (§ 221.23) and the specific operations regulated by the Supervisor have been clarified (§ 221.70) to assist operators in determining which agency has jurisdiction in specific situations.

Many comments suggested that all operations be approved or rejected within a certain time frame.

This suggestion has been adopted by providing that approval or denial of operations will be given within 30 days from submittal of a complete application unless circumstances beyond the control of the GS prevent such action. In such circumstances, the operator will be advised within 30 days of the date on which the Supervisor's final action can be expected. It is anticipated that the 30-day period would not be met only (1) when the Supervisor is required to prepare an environmental assessment, (2) when an environmental impact statement is required, or (3) when significant environmental concerns or difficult operating conditions require additional time for the Supervisor or the surface management agency to determine the modifications or stipulations needed for mitigating environmental effects or for the conducting of safe operations.

Many comments suggested that current requirements for designation of an operator be simplified (§ 221.19). Bond coverage must be provided for each operation and current Bureau of Land Management regulations in 43 CFR Part 3104 do not authorize a designated operator to provide such bond. This is a valid concern and modification of the appropriate provisions of 43 CFR are being recommended to allow operators either to (1) submit a “designation of operator” form where bond coverage is provided by the lessee(s) or approved holder(s) of operating rights, or (2) submit a letter certifying that the lessee...
permit bond coverage to be provided by of record agree to the designation and location and spacing requirements be changed to conform with the requirements of the individual States (§ 221.11, 221.20, and 221.21).

Rulemaking has already been completed (46 FR 44755) which modifies the written justification for drilling within 200 feet of a lease boundary or subdivision line within the lease. This rulemaking would make further modifications which will eliminate the need for added justification in the large majority of cases. The primary role of State Boards and Commissions in establishing spacing is recognized and the provisions for the Supervisor's approval of well spacing would be modified.

Some comments suggested modifying the appeals provisions of §§ 221.17 and 221.61 to provide for the prompt correction of erroneous or unreasonable decisions.

A provision for a technical and procedural review has been included in this proposal in response to these comments. If a lessee or operator exercises this review option, a decision will be given by the appropriate GS official within 10 working days. This procedure is not considered to be an appeal and will not affect the lessee or operator's rights to formally appeal to the Director. It will provide the lessee a method of obtaining review and a prompt decision from any decisions or procedural requirements. Legal issues will not be addressed by this review.

Some comments suggested that the use of Notices to Lessees be clarified (§ 221.5).

This rulemaking specifically authorizes the use of "Notices to Lessees" and "Onshore Oil and Gas Orders" to implement the regulations and clarifies their relation to the regulations. Orders will only be issued after publication for comment in the Federal Register and will be the primary means of clarifying or providing details to implement the regulations. Notices will be used for minor clarifications required to meet varied operating conditions in different regions and will be issued after review at the Division level. All current Notices to lessees will be reviewed. The content of the current Notices will, in the future, be the subject of Onshore Oil and Gas Orders. Orders and Notices can easily be modified whenever necessary. For the convenience of the lessees and operators, all Onshore Oil and Gas orders will be listed in these regulations. A few comments suggested that the information reporting requirements for well completions and subsequent operations be extended from 15 days to 30 days after completion of operations. At the present time, operators may use a liberal interpretation as to when operations are completed and reports required. In addition, the Supervisor requires up-to-date well-status information in order to monitor operations, thus this recommendation has not been adopted. A few comments suggested that the definition of "waste" be modified and that clarification be provided as to which lost oil and gas would be considered as waste. These sections have been modified and a definition of avoidable loss has been provided.

A few comments suggested that the requirement for marking an abandoned well be eliminated. The provision has been modified to provide for waiving such requirements when requested by the surface owner or surface management agency.

A few comments suggested that oral approval of abandonment be provided. The regulations have been modified to remove the requirement for the written approval of the Supervisor prior to abandonment. The Supervisor has in the past, and will continue, to grant oral approval for plugging of dry holes whenever such oral approval is necessary.

A few comments suggested that provisions exempting submittal data from disclosure be modified. The provisions concerning proprietary data were added to specifically define information which will be withheld from disclosure under the provisions of the Freedom of Information Act. The time limit for holding such information proprietary generally conforms with those of the individual States.

In addition to the changes suggested by parties responding to the Notice of Intent, this proposed rulemaking incorporates editorial changes and other modifications which the Conservation Division recommended as being needed to effectively discharge its responsibilities and to update provisions in light of current technology. These modifications include the following.

The provisions for liquidated damages have been increased by a factor of 10 from the amounts established by the 1942 regulations. The factor of 10 was arrived at after considering several parameters including the consumer price index, gross national product, and increases in the royalty value of oil and gas. Three new specific categories of liquidated damages have been added. One deals with the assessment for failure to comply with a written order or instruction after reasonable notice has been given; the second deals with the abandonment of a well without prior approval; and the third deals with the failure to maintain required seals. A review of any assessment levied may be requested under both the technical and procedural review section and the appeals section of the regulations.

The provisions for penalties have been proposed to provide the Conservation Division an effective means for obtaining compliance in a limited number of instances. The penalty provisions provide for notice and hearing before the Conservation Manager with the right of subsequent appeal under 30 CFR Part 260.

Provisions have been added concerning the Conservation Division's environmental review and protection responsibilities under the National Environmental Policy Act and associated legislation.

These provisions merely document the Division's current practices under an existing Notice to Lessees and are general in nature. They neither add to nor delete current requirements. The provisions will be supplemented on Onshore Orders and Notices to Lessees providing specific details. The orders and notices are intended to be flexible and may be modified to meet changing conditions or responsibilities.

Provisions pertaining to run tickets, seals, and other factors associated with the handling and sale of crude oil have been strengthened and clarified to meet increased emphasis on preventing oil loss and assuring proper handling and measurement.

Provisions relating to royalty obligations of the lessee and to the Conservation Division's royalty management program are not being proposed for revision by this rulemaking. Sections 221.40 through 221.59 are being reserved for royalty and accounting matters. Should the rulemaking to revise royalty management not progress concurrent to this rulemaking, all current royalty provisions will be renumbered §§ 221.40 through 221.59 and published in the final rulemaking of this part. This will enable continuation of royalty management programs pending completion of the separate royalty rulemaking.

The information collection requirements contained in Part 221 which require the filing of forms have been approved by the Office of Management and Budget (OMB) under
PART 221—ONSHORE OIL AND GAS OPERATIONS

General Provisions

Sec. 221.1 Purpose and scope.
221.2 Definitions.
221.3 Information collection.
221.4 Cross references.

Jurisdiction and Responsibilities

221.10 Jurisdiction.
221.11 Responsibility of the DCM.
221.12 Responsibility of the Supervisor.
221.13 Onshore Oil and Gas Orders.
221.14-221.19 [Reserved]

Requirements for Lessees and Operators

221.20 General requirements.
221.21 Conduct of operations.
221.22 Drilling and producing obligations.
221.23 Drilling applications and plans.
221.24 Well identification.
221.25 Control of wells.
221.26 Samples, tests, and surveys.
221.27 Subsequent well operations.
221.28 Other lease operations.
221.29 Well abandonment.
221.30 Environmental obligations.
221.31 Safety and health programs.
221.32 Well records and reports.
221.33 Confidentiality.
221.34 Measurement of oil.
221.35 Measurement of gas.
221.36 Disposition of production.
221.37-221.39 [Reserved]

Royalty Requirements

221.40-221.50 [Reserved]

Noncompliance and Assessments

221.60 Acts of noncompliance.
221.61 Assessments for noncompliance.
221.62 Penalties.
221.63 Payment of assessments or penalties.
221.64-221.66 [Reserved]

Special Provisions

221.70 Surface rights.
221.71 Damages on restricted Indian lands.
221.72 Oil and gas exploration and development contracts—restricted Indian lands.
221.73-221.76 [Reserved]

Relief, Conflicts, and Appeals

221.80 Relief from operating and producing requirements.
221.81 Conflicts between regulations.
221.82 Technical and procedural review.
221.83 Appeals.


General Provisions

§ 221.1 Purpose and scope.

The regulations in this part govern operations associated with the discovery, development, and production of oil and gas deposits from leases issued or approved by the United States, including restricted Indian lands, and those under the jurisdiction of the Secretary of the Interior by law or administrative arrangement, including the National Petroleum Reserve in Alaska. They are intended to promote the orderly and efficient drilling and development and production of oil and gas. The regulations in this part are administered under the direction of the Director of the U.S. Geological Survey. The regulations of this part shall become effective on [30 days after publication of final rulemaking in the Federal Register].

§ 221.2 Definitions.

(a) Avoidably lost. Avoidably lost production shall mean the venting or flaring of produced gas without the prior authorization, approval, ratification, or acceptance of the Supervisor and the loss of produced oil or gas when the Supervisor determines that such loss occurred as a result of (1) negligence on the part of the lessee, or (2) the failure of the lessee to take all reasonable measures to prevent and/or control the loss, or (3) the failure of the lessee to comply fully with the applicable lease terms and regulations, applicable orders and notices, or the written orders of the Supervisor, or (4) any combination of the foregoing.

(b) Communication Agreement. An agreement approved to allow separate tracts to be developed and operated in conformity with an established well-spacing or well-development program. (See 43 CFR 3105.2).

(c) Conservation Manager. The officer in charge of a Regional Office of the Conservation Division of the U.S. Geological Survey.

(d) Deputy Conservation Manager (DCM). The officer in charge of a Regional Oil and Gas Office, or its equivalent, who is authorized, under the direction of the appropriate Conservation Manager, to approve unitization, communication, and other agreements and to approve, supervise, and direct oil and gas operations under Federal and restricted Indian lands oil and gas leases that lie within the jurisdictional boundaries of that Region.

(e) Designated Operator or Agent. The party designated by the lessee(s) or holder(s) of operating rights under an approved operating agreement, who is authorized to conduct operations on the leased land or a portion thereof.

(f) Director. The Director of the U.S. Geological Survey.

(g) District Supervisor (Supervisor). The officer in charge of a District Oil and Gas Office, or its equivalent, who is authorized, under the direction of the appropriate DCM, to approve drilling and other well operations and to supervise and direct oil and gas operations under Federal and restricted Indian lands oil and gas leases that lie
within the jurisdictional boundaries of that District.

(i) Division Chief. The Chief, or designee, Conservation Division, U.S. Geological Survey.

(ii) Gas. Any fluid, either combustible or noncombustible, which is extracted from a reservoir and which has neither independent shape nor volume, but tends to expand indefinitely; a substance that exists in a gaseous or rarefied state under standard temperature and pressure condition.

(iii) Gas Storage Agreement. An agreement authorizing the subsurface storage of gas, whether or not produced from federally owned lands, in lands leased or subject to leasing.

(iv) Lease. An agreement issued pursuant to 43 CFR Part 5100 which, in the discretion of the Secretary, provides for the exploration, development, and production of oil or gas deposits owned by the lessor subject to the terms and conditions of the lease, regulations, and statutes.

(v) Leased lands, leasehold. Lands and deposits made subject to an oil and gas lease.

(a) Lessee. The party authorized by or through a lease or an approved assignment thereof, to explore for, develop, and produce oil or gas on the lease lands in accordance with the lease terms, regulations, and law.

(b) Lessor. The party to a lease who holds legal or beneficial title to the mineral estate in the leased lands.

(c) National Petroleum Reserve in Alaska. The area also known as NPR-A which was designated by section 102 of the Naval Petroleum Reserve Production Act of 1976 (90 Stat. 303) and established by Executive Order of the President, dated February 27, 1933, except for tract Number 1 as described in Public Land Order 2344 dated April 24, 1961.

(d) Notice to Lessees and Operators (NTL). A written order issued by the DCM. NTL's implement the regulations in this part, and operating orders, and serve as instructions on specific item(s) of importance within a Region or portion thereof.

(e) Oil. Any fluid hydrocarbon substance other than gas which is extracted in a fluid state from a reservoir and which exists in a fluid state under the existing temperature and pressure conditions of the reservoir. Oil includes liquefiable hydrocarbon substances such as drip gasoline and other natural condensates recovered or recoverable in a liquid state from produced gas without resorting to a manufacturing process.

(f) Onshore Oil and Gas Order. A formal numbered order issued by the Division Chief that implements the regulations in this part.

(g) Operator. The party that has control or management of operations on the leased land or a portion thereof. The operator may be a lessee, designated operator, holder of rights under an approved operating agreement, or designated agent of such holder.

(h) Paying well. A paying well is a well producing hydrocarbons of sufficient value to pay for direct operating costs and the costs of lease rentals or minimum royalty.

(i) Secretary. The Secretary of the Interior or his duly authorized representative.

(j) Superintendent. The Superintendent of an Indian agency, or other officer authorized to act in matters of record and law with respect to oil and gas leases on restricted Indian lands.

(k) Waste of oil or gas. Any act or failure to act by the lessee that is not sanctioned by the Supervisor as necessary for proper development and production and which results in (1) a reduction in the quantity or quality of oil and gas ultimately producible from a reservoir under prudent and proper operations, or (2) avoidable surface loss of oil or gas.

§ 221.2-1 Information collection.

The information collection requirements contained in this Part 221 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned the following Clearance Numbers:

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<th>Operating Forms</th>
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<td>8-329/329A</td>
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<td>8-331C</td>
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The information is being collected for Federal and Indian royalty accounting purposes. The information will be used to permit accounting and auditing of royalties submitted by the operator of Federal and Indian oil and gas leases. The obligation to respond is mandatory only after the lessee obtains oil and gas production and sales from a Federal or Indian lease.

§ 221.3 Cross references.

25 CFR Parts 171, 172, 173, 174, and 184
30 CFR Parts 223, 225, 226, and 290
43 CFR Parts 1320 and Group 3100

§ 221.4—221.9 [Reserved]

§ 221.10 Jurisdiction.

Subject to the supervisory authority of the Secretary and the Director, all operations conducted pursuant to a lease by, or on behalf of, a lessee are subject to the regulations in this part and are under the jurisdiction of the DCM for the Region in which the leased land is located.

§ 221.11 Responsibility of the DCM.

The DCM is authorized and directed to approve utilization, comminution, gas storage, and other contractual agreements; to assess compensatory royalty; to approve suspensions of operations or production, or both; to issue NTL's; to approve and monitor other operator proposals for drilling, development, or production of oil or gas; to perform technical and procedural reviews; to assess monetary penalties or liquidated damages; and to exercise supervisory control over operations approved, inspected, and regulated by the District Supervisor.

§ 221.12 Responsibility of the Supervisor.

The Supervisor is authorized and directed to approve, inspect, and regulate the operations that are subject to the regulations in this part; to require compliance with lease terms, with the regulations in this part, and all other
applicable regulations promulgated under the cited laws; and to require that all operations be conducted in a manner which protects other natural resources and the environmental quality, protects life and property, and results in the maximum ultimate economic recovery of oil and gas with minimum waste and with minimum adverse effect on the ultimate recovery of other mineral resources. The Supervisor may issue written or oral orders to govern specific lease operations. Any such oral orders shall be confirmed in writing by the Supervisor within 10 working days from issuance thereof. Before approving operations on a leasehold, the Supervisor shall determine that the lease is in effect, that the operator is authorized to conduct such operations, that acceptable bond coverage has been provided, and that the proposed plan of operations is sound from both a technical and environmental standpoint.

§ 221.13 Onshore Oil and Gas Orders.

(a) The Division Chief is authorized to issue Onshore Oil and Gas Orders when necessary to implement and supplement the regulations in this part. All Orders will be published in the Federal Register after opportunity for public comment.

(b) The Onshore Oil and Gas Orders listed below are currently in effect. These Orders are binding on lessees and operators of Federal and restricted Indian oil and gas leases which have been, or may hereafter be, issued.

(i) The Onshore Oil and Gas Orders promulgated thereunder, with the lease terms, with the regulations in this part, necessary to implement and supplement the regulations in this part. All Orders issue Onshore Oil and Gas Orders when required in order that the lease may be subject to termination or modification based upon the DCM's continuing assessment of oil and gas development of the leased lands. Such assessment is to be made reasonably frequently and is to be based upon the continuing requirements of proper handling, measurement, and disposition of leasehold production; conducting all operations in a manner which protects other natural resources and the environmental quality, protects life and property, and results in maximum ultimate economic recovery of oil and gas with minimum waste and with minimum adverse effect on ultimate recovery of other mineral resources.

§ 221.20 General requirements.

The lessee shall comply with applicable laws as cited in “Authority,” with all other applicable regulations promulgated thereunder, with the lease terms, with the regulations in this part, Onshore Oil and Gas Orders, Notices to Lessees and Operators, and other orders and instructions of the Supervisor. These include, but are not limited to, proper handling, measurement, and disposition of leasehold production; conducting all operations in a manner which protects other natural resources and the environmental quality, protects life and property, and results in maximum ultimate economic recovery of oil and gas with minimum waste and with minimum adverse effect on ultimate recovery of other mineral resources.

§ 221.21 Conduct of operations.

Leasehold operations shall be conducted by the lessee or its designees. The lessee may designate another party as operator in a manner and form acceptable to the Supervisor. Acceptance of an executed designation as authority for the designee to act for the lessee in matters relating to the conduct of lease operations does not relieve the lessee from the ultimate responsibility for compliance with applicable laws, regulations, lease terms, Onshore Oil and Gas Orders, Notices to Lessees and Operators, and the orders and instructions of the Supervisor. Any contractor or other person in charge of or conducting operations on a leasehold will be considered the agent of the lessee with full responsibility for acting on behalf of the lessee insofar as complying with applicable laws, regulations, the lease terms, Notices to Lessees and Operators, Onshore Oil and Gas Orders, and other orders and instructions of the Supervisor. The serving of orders, instructions, or notices on the contractor or other person in charge of or conducting operations on a leasehold, when delivered personally or by ordinary mail, will be deemed to be service upon the lessee. Lessees shall notify the Supervisor in writing when a designation of operator has been canceled. A designated operator cannot designate a different party as operator.

§ 221.22 Drilling and producing obligations.

(a) The lessee shall conduct all operations in a manner which protects the environmental quality and other natural resources, results in the maximum ultimate economic recovery of oil and gas with minimum waste and with minimum adverse effect on ultimate recovery of other mineral resources.

(b) The lessee shall drill diligently and produce continuously from such wells as are necessary to protect the lessee from loss of royalty by reason of drainage. After notice in writing, the lessee shall promptly drill and produce such other wells as the Supervisor may reasonably require in order that the lease may be properly and timely developed and produced in accordance with good economic operating practices.

(c) The DCM may assess compensatory royalty under which the lessee will pay a sum determined as adequate to compensate the lessor for lessee's failure to drill and produce wells required to protect the lessee from loss through drainage by wells on adjacent lands. Such assessment is subject to termination or modification based upon the DCM's continuing review of available information relating to development of the leased lands.

§ 221.23 Drilling applications and plans.

(a) Each well shall be drilled in conformity with an acceptable well-spacing program at a surveyed well location approved or prescribed by the Supervisor after appropriate environmental and technical reviews (§ 221.30). An acceptable well-spacing program may be either (1) one which conforms with a spacing order issued by a State Commission or Board and accepted by the DCM, or (2) one which is located on a lease committed to a communitized or unitized tract at a location approved by the DCM.

(b) Any well drilled on restricted Indian land shall be subject to the location restrictions specified in the lease and/or Title 25 of the Code of Federal Regulations.

(c) The lessee shall submit, and obtain written approval of, a request for permission to drill, together with a drilling plan, to the Supervisor for approval in the prescribed manner prior to commencing drilling operations, or causing surface disturbance preliminary thereto.

(d) Each drilling plan shall contain the information specified in applicable notices or orders, including (1) a description of the drilling program describing the blowout prevention, circulating medium, casing, and cementing program for each well, and other major features thereof, including those features pertaining to pollution prevention and control; (2) the surface and projected completion zone location of each well; (3) the projected depths at which important geologic markers, fresh water zones, coal beds, and other mineral zones, including formations to be tested, are expected to be encountered; (4) the subsurface completion methods to be used; (5) the projected depths of any anticipated abnormal pressures or temperatures expected to be encountered or potential hazards such as hydrogen sulfide gas, along with plans for mitigating such hazards; (6) a description of surface equipment and facilities to be employed for proper completion and control of the well and (7) such other pertinent data as the Supervisor may reasonably require. Each drilling plan must also include a surface use plan containing information in sufficient detail to permit an appraisal of the expected environmental effects, including road and drillpad location and construction, expected location of production facilities, methods for containment and disposal of waste material, and plans for restoration of the surface.

(e) A complete Application for Permit to Drill, Form 9-331C, must be submitted
at least 30 days before commencement of operations is anticipated. The application must be administratively and technically complete. A complete application consists of the following: (1) a drilling plan or other pertinent information required by paragraph (d) of this section and appropriate orders and notices, (2) bond coverage as required by 43 CFR Subpart 3104, (3) designation of operator, where necessary and (4) such other information as may be required by applicable orders and notices. Generally, complete applications filed less than 30 days prior to the desired date of commencement of drilling operations cannot be processed within that time.

(f) Upon receipt of a complete Application for Permit to Drill, the Supervisor will consult with the appropriate Federal Surface Management Agency and with other appropriate interested parties and will take one of the following actions within 30 days: (1) approve the application as submitted or with appropriate modifications or stipulations; (2) return the application and advise the operator of the reasons for disapproval; or (3) advise the operator, either in writing or orally with subsequent written confirmation, of the reasons why final action will be delayed along with the date such final action can be expected.

§ 221.24 Well Identification.

(a) Lessee shall properly identify in a conspicuous place each drilling, producing, or abandoned well, with the name of the operator, the lease serial number, the well number, the surveyed description of the well (either footages or quarter-quarter sections, the section, township, and range), and, when specifically requested by the Supervisor, the name of the Indian allotted lessor or the name of the Indian allotted lessee. The lessee shall maintain all well markings in a legible condition.

(b) The well identification requirement for an abandoned well may be waived in writing by the Supervisor upon submission of a request by the surface owner or surface management agency.

§ 221.25 Control of wells.

(a) Drilling wells. The lessee shall take all necessary precautions to keep each well under control at all times, and shall utilize and maintain materials and equipment necessary to insure the safety of operating conditions and procedures. The lessee shall conduct drilling operations in a manner so that the completed well does not deviate significantly from the vertical. A significant projected deviation of the well bore from the vertical will be permitted only with prior written approval of the Supervisor. Unless otherwise surveyed by the lessee, any deviation of more than 6 degrees from the vertical or from an approved drilling plan must be promptly reported to the Supervisor.

(b) Vertical drilling. The lessee shall conduct drilling operations in a manner so that the completed well does not deviate significantly from the vertical. A significant projected deviation of the well bore from the vertical will be permitted only with prior written approval of the Supervisor. Unless otherwise surveyed by the lessee, any deviation of more than 6 degrees from the vertical or from an approved drilling plan must be promptly reported to the Supervisor.

(c) High pressure or loss of circulation. The lessee shall take immediate steps and utilize necessary resources to maintain or restore control over any well in which the pressure equilibrium has become unbalanced.

(d) Protection of fresh water and other minerals. The lessee shall isolate freshwater-bearing and other mineral-bearing formations and protect them from contamination. Tests of the effectiveness of such measures shall be conducted by the lessee using test procedures and practices approved or reasonably prescribed by the Supervisor.

§ 221.26 Samples, tests, and surveys.

(a) When required by the Supervisor, the lessee shall conduct tests, run logs, and make other surveys reasonably necessary to determine the presence, quantity, and quality of oil, gas, other minerals, or the presence or quality of water; the amount and/or direction of deviation of any well from the vertical; the geologic formation; casing, tubing, or other pressures; and relevant characteristics of the oil and gas reservoirs penetrated.

(b) When reasonably required by the Supervisor, the lessee shall collect and have analyzed such formation samples and fluid samples to determine the identity and character of any formation.

(c) The Supervisor may, in his discretion, order a deviation or directional survey and the lessee shall make such survey at the request of the owner of a mineral interest in offset lands. The survey will be made at the risk and expense of the owner requesting the survey and shall be made by a party acceptable to said owner and the lessee. A copy of the completed survey shall be furnished to the Supervisor and the requesting owner.

(d) Results of samples, tests, and surveys approved or prescribed under this section shall be provided to the Supervisor without cost to the lessee.

§ 221.27 Subsequent well operations.

A plan for proposed subsequent well operations shall be submitted by the lessee for approval by the Supervisor prior to commencing operations to redrill, deepen, perform major repairs, plug-back, recondition, or convert to injection. A subsequent report on these operations will be filed on Form 9-331. Cleanouts, repairs, shooting, water shut-off, squeezing, stimulation, and changes in the method of recovery of production, which conform to the standard prudent operating practice shall not require the approval of the Supervisor, provided such work does not change the production or injection zones open to the wellbore and does not involve additional surface disturbance. Except for cleanouts and repairs, subsequent reports will be filed on form 9-331. The Supervisor may prescribe that each plan contain all or a portion of the information set forth in § 221.23.

§ 221.28 Other lease operations.

Prior to commencing any operations on the lease which will result in additional surface disturbance, the lessee shall submit a proposed plan of operations to the Supervisor for approval.

§ 221.29 Well abandonment.

(a) The lessee shall promptly plug and abandon, in accordance with a plan first approved or prescribed by the Supervisor, each newly completed or recompleted well in which oil or gas is not encountered in paying quantities or which, after being completed as a producing well, is demonstrated to be no longer capable of producing oil or gas in paying quantities, unless the Supervisor shall approve or prescribe the use of the well as a service well for injection to recover additional oil or gas or for subsurface disposal of produced water. In the case of a newly-drilled or recompleted well the approval to abandon may be written or verbal. The Supervisor may authorize a delay in the permanent abandonment of a well for a period of 12 months. When justified by the lessee, the Supervisor may authorize additional delays, no one of which may exceed 12 months.

(b) Completion of a well as plugged and abandoned may include conditioning the well as a water supply source for lease operations or for use by the surface owner or appropriate government agency, when authorized by the Supervisor. All costs over and above the normal plugging and abandonment expense will be paid by the party accepting the water well.

(c) A well which has been completed for production of oil or gas shall not be abandoned until the inability of the well to produce oil or gas in paying quantities is demonstrated to the satisfaction of the Supervisor.

(d) No well may be temporarily abandoned without the prior approval of the Supervisor. Upon the removal of
drilling or producing equipment from the site of a well which is to be permanently abandoned, the surface of the lands disturbed in connection with the conduct of operations shall be rehabilitated or restored in accordance with a plan first approved or prescribed by the Supervisor.

§ 221.30 Environmental obligations.
(a) The lessee shall conduct operations in a manner which allows protection of mineral resources and which protects the other natural resources and the environmental quality and, in that respect, shall comply with the pertinent orders of the Supervisor and other standards and procedures as set forth in the applicable cited laws, regulations, lease terms and conditions, and the approved drilling plan or subsequent operations plan. Before approving any Application for Permit to Drill submitted pursuant to § 221.23 of this part, or other plan requiring environmental review pursuant to departmental requirements, the Supervisor shall prepare an environmental record of review or an environmental assessment as appropriate. These environmental documents will be used in determining whether or not an environmental impact statement is required and in determining any applicable terms and conditions of approval of the submitted plan.

(b) The lessee shall exercise due care and diligence to assure that leasehold operations do not result in undue damage to surface or subsurface resources or surface improvements. All produced water must be disposed of by injection into the subsurface, by approved pits, or by other methods which have been approved by the Supervisor. Upon the conclusion of operations, the lessee shall restore and rehabilitate the disturbed surface in a manner approved or reasonably prescribed by the Supervisor.

(c) All spills or leakages of oil, gas, water, hazardous substances or waste materials, blowouts, fires, personal injuries, and fatalities shall be reported by the lessee in accordance with these regulations and as prescribed in applicable orders or notices. The lessee shall exercise due diligence in taking necessary measures, subject to approval by the Supervisor, to control and remove pollutants and to extinguish fires. A lessee's compliance with the requirements of the regulations in this part shall not relieve the lessee of the obligation to comply with other applicable laws and regulations.

(d) When reasonably required by the Supervisor, a contingency plan shall be submitted describing procedures to be implemented to protect life, property, and the environment. (e) The lessee's liability for damages to third parties shall be governed by applicable law.

§ 221.31 Safety precautions.
The lessee shall perform operations and maintain equipment in a safe and workmanlike manner. The lessee shall take all precautions necessary to provide adequate protection for the health and safety of life and the protection of property. Compliance with health and safety requirements prescribed by the Supervisor shall not relieve the lessee of the responsibility for compliance with other pertinent health and safety requirements under applicable laws or regulations.

§ 221.32 Well records and reports.
(a) The lessee shall keep accurate and complete records with respect to all lease operations including, but not limited to, production facilities and equipment, drilling, producing, redrilling, deepening, repairing, plugging back, and abandonment operations, disposition of leasehold products, and other matters pertaining to operations.

(b) Standard forms for providing basic data are listed in § 221.2-1. As noted on Form 9-330, two copies of all electric or other logs run on the well must be furnished to the Lessee of the 6-month period, the lessee may request that the data be held without the consent of the lessee for a period of 6 months; (2) upon expiration of the 6-month period, the lessee may request that the data be held confidential for an additional 6-month period; and (3) upon termination of a lease, whether by expiration of its terms or otherwise, such information shall be made available to the public.

(b) Information requested to be kept confidential under this section shall be clearly identified by the lessee by marking each page of documents submitted with the words "CONFIDENTIAL INFORMATION" at the top of the page. All pages so marked shall be physically separated from other portions of the submitted materials. All information not marked "CONFIDENTIAL INFORMATION" will be available for public inspection.

(c) Information obtained from a lessee under this part on a restricted Indian lease shall be available only to the Tribe or allotted Indian lessor, their agent or authorized Interior Department officials. Such information will not be made available to any other party without the express authorization of the Tribe or allotted Indian lessor.

§ 221.34 Measurement of oil.
All oil production shall be measured by tank gauging or positive displacement metering systems pursuant to methods and procedures prescribed in applicable orders and notices. Where production cannot be measured due to spillage or leakage, the amount of production shall be determined in accordance with the methods and procedures approved or reasonably prescribed by the Supervisor. Within 30 days after treating and measurement facilities are installed or modified on a lease, a schematic diagram will be submitted to the Supervisor clearly depicting the vessels, piping and metering system involved with handling and disposal of oil, water, and gas.

§ 221.35 Measurement of gas.
All gas production shall be measured by orifice meters on the lease pursuant to methods and procedures prescribed in applicable orders and notices. The measurement of the volume of all gas produced shall be adjusted by computation to the standard pressure and temperature of 14.69 psi and 60 F unless otherwise prescribed by the Supervisor. Regardless of the pressure and temperature at which the gas is actually measured. Gas lost without measurement by meter shall be measured or estimated in accordance with methods prescribed in applicable orders and notices.

§ 221.36 Disposition of production.
(a) The lessee shall put into marketable condition, if economically feasible, all products produced from the leased land.
(b) Where a treating procedure approved by the Supervisor results in oil accumulating on a pit over a period of time, such oil must either be (1) recirculated through the regular treating system, or (2) pumped into a strapped tank and measured for sale in the same manner as from any sales tank in accord with applicable orders and notices. In the absence of prior approval from the supervisor, oil should only go to a pit in an emergency and must be reported and the pit emptied in accordance with applicable orders and notices.

(c) A proper run ticket must be completed by the purchaser or transporter prior to Federal or Indian oil being removed from the sales facilities. When transported by truck, the transport driver must be given a copy, which is subject to inspection, and a copy must be left at the facilities on the leasehold or unit or delivered to an operator representative in the area.

(d) The lessee shall conduct operations in such a manner as to prevent avoidable loss of oil and gas. Seals must be placed on all lines leaving oil storage tanks on the lease and on all valves used to connect test facilities used in calibrating metering systems. Adequate records and information regarding seals must be maintained by the lessee in accordance with applicable orders and notices and furnished on request of the Supervisor.

(e) When requested by the DCM, the lessee shall furnish, on the leasehold or unit, or at a delivery point off the leased land, storage for royalty oil, without cost to the lessor, for 30 days following the end of the calendar month in which the royalty accrued.

§ 221.37-221.39 [Reserved]

Royalty Requirements

§ 221.40-221.59 [Reserved]

Noncompliance and Assessments

§ 221.60 Acts of noncompliance.

In the event of an act of noncompliance, the Supervisor is authorized to shut down operations; to enter upon a lease and to perform, or have performed, at the sole risk and expense of the lessee, operations that the lessee fails to perform when directed in writing by the Supervisor; to recommend cancellation of the lease and forfeiture under the bond; and to assess liquidated damages in specific instances of noncompliance when the lessee fails to comply with applicable law, the regulations in this Part and the applicable lease terms, $250. An amount equal to the assessment shall be assessed each day until corrective measures are initiated and diligently prosecuted to completion in accordance with a plan approved or reasonably prescribed by the Supervisor.

(h) For failure to maintain records and file required reports, records, samples, or data as required by the regulations in this part and by applicable orders and notices, $100.

(i) For failure to obtain approval of a plan for well abandonment prior to commencement of operations, $100.

(j) For failure to maintain seals required by the regulations in this part and by applicable orders and notices, or for failure to maintain the integrity of any seal placed upon any property or equipment by the Supervisor, $500.

§ 221.62 Penalties.

Whenever a lessee fails to comply with any provisions of the lease, of the regulations in this part, of applicable orders or notices, or of any other appropriate orders of the DCM or his representative, the DCM shall give the lessee notice to remedy any defaults or violations. Failure by the lessee to perform or commence the necessary remedial action pursuant to the notice may subject the lease to cancellation by the Secretary of the Interior or the lessee to a penalty of not more than $1,000 per day for each and every day the terms of the lease, the regulations, or such orders are violated; or to both such penalty and cancellation. Normally, a penalty would only be assessed for violations involving serious threats to health, safety, property, or the environment, or for continuous disregard of reasonable orders. The lessee shall be entitled to notice and a hearing within 30 days after such notice, with respect to the terms of the lease, regulations, or orders violated. The hearing shall be held by the appropriate Conservation Manager whose findings shall be conclusive unless an appeal be taken pursuant to 30 CFR Part 290.

§ 221.63 Payment of assessments or penalties.

(a) Assessments made under § 221.61 are due upon issuance and shall be paid within 30 days of receipt of "Certified Mail" written notice, as directed by the Supervisor or DCM in the notice.

(b) Penalties under § 221.62 shall be paid within 30 days of the completion of a hearing authorized by that section, if requested, or of any appeal pursuant to 30 CFR Part 290.
operators of Title 25 and this part. The DCM is not authorized or empowered to perform operational cost accounting functions, collect or distribute funds resulting from profit-sharing provisions contained in such a contract nor to enforce those contract provisions relating to performance which are beyond the scope of the regulations in this part.

§ 221.73-221.79 [Reserved]

Relief, Conflicts, and Appeals

§ 221.80 Relief from operating and producing requirements.

(a) Applications for relief from either the operating or the producing requirements of a lease shall be filed in triplicate with the DCM, and they shall include a full statement of the circumstances that render such relief necessary.

(b) The DCM is authorized to act on applications submitted for a suspension of operations and production filed pursuant to 43 CFR 3103.3-8. In the absence of a well capable of production on the leasehold, a suspension of operations and production will only be granted by the DCM in the interest of conservation. The application for suspension must be filed with the DCM prior to the expiration date of the lease; must be executed by all lessors of record or, in the case of a Federal unit approved under 30 CFR Part 226, by the unit operator on behalf of committed tracts or by all lessors of such tracts; and include a full statement of the circumstances that render such relief necessary.

(c) If approved, a suspension of operations and production will be effective on the first of the month in which the completed application was filed with the DCM. Suspensions will terminate when they are no longer justified in the interest of conservation or when such action is in the interest of the lessor. The circumstances under which suspensions will terminate will be stated by the DCM in his approval letter.

§ 221.81 Conflicts between regulations.

In the event of any conflict between the regulations in this part and the regulations contained in Title 25 with respect to oil and gas operations on restricted Indian lands, the regulations in Title 25 shall govern, subject, however, to the limitations placed on the jurisdiction and authority of the Supervisor in § 221.72 of this part. In the event of any conflict between the regulations in this part and the regulations in 43 CFR Group 3100, the regulation in this part shall govern with respect to the lessor's obligations in the conduct of oil and gas operations, acts of noncompliance, and the jurisdiction and authority of the Supervisor.

221.82 Technical and procedural review.

A lessee or operator may request a technical and procedural review of any instructions, orders, or decisions issued by the Supervisor or DCM under the regulations in this part. Such request must be filed in writing within 5 working days of the date such instructions, orders, or decision were received and must be filed with the next level reviewing official (the DCM or Conservation Manager, as appropriate). The reviewing official will issue a final decision within 10 working days. Where a technical and procedural review is requested, the decision issued upon review will represent the final decision from which an appeal may be taken pursuant to § 221.83 of this part.

§ 221.83 Appeals.

Instructions, orders, or decisions issued under the regulations in this part may be appealed in accordance with the provisions of 30 CFR Part 220. An appeal shall not result in a suspension of the requirement for compliance with the order or decision from which the appeal is taken unless the official to whom the appeal is made determines that suspension of the requirements of the order or decision will not be detrimental to the interests of the lessor or upon submission and acceptance of a bond deemed adequate to indemnify the lessor from loss or damage.

Dated: October 15, 1981.

Daniel N. Miller, Jr.,
Assistant Secretary of the Interior.
Part IV

Department of Agriculture

Soil Conservation Service

Emergency Watershed Protection Program
DEPARTMENT OF AGRICULTURE

Soil Conservation Service

7 CFR Part 624

Emergency Watershed Protection Program

AGENCY: Soil Conservation Service (SCS), USDA.

ACTION: Final rule.

SUMMARY: This action prescribes regulations, policies, and procedures to govern the Emergency Watershed Protection (EWP) Program. The action amends and revises previous rules for the program and culminates a regulatory review of the program as directed by the Secretary of Agriculture.

EFFECTIVE DATE: November 17, 1981.

FOR FURTHER INFORMATION CONTACT: Harris W. Judy, Acting Director, Project Development and Maintenance, Soil Conservation Service, P.O. Box 2890, Washington, D.C. 20013; (202) 447-5527.

The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from Harris W. Judy.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1512-1 to implement Executive Order 12291 and has been classified "nonmajor."

It will not affect the national economy by $100 million or more, nor will it cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions. It will not have 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.

Norman A. Berg, Chief, Soil Conservation Service, has determined that this action will not have a significant economic impact on a substantial number of small entities.

There will be no major increase in cost or prices for consumers, individuals, industries, Federal, State, or local government agencies or geographic regions.

The rule will govern a program of technical and financial assistance in which participation is voluntary. Thus, it will not impose any unnecessary regulatory, information or compliance burden on small businesses, organizations, or governmental jurisdictions as defined in the Regulatory Flexibility Act, Public Law 96-354 (5 U.S.C. 601).

General—Title IV of the Agricultural Credit Act of 1976 (Public Law 95-334) authorizes certain emergency conservation programs to control wind and water erosion, rehabilitate agricultural lands, conserve and enhance water supplies, and reduce hazards to life and property in the event of natural disasters. Section 401 of Title IV authorizes a program of assistance to agricultural producers for emergency measures to control erosion and rehabilitate farmlands damaged by natural disasters that have created new conservation problems. Section 402 authorizes a program of assistance to agricultural producers for emergency conservation programs to control water erosion or enhancement measures during periods of severe drought. Section 403 authorized a program of emergency measures to retard runoff and prevent erosion as necessary to safeguard lives and property when natural occurrences cause sudden impairment of a watershed.

The Secretary of Agriculture has delegated the authority provided by Sections 401 and 402 of Title IV to the Agricultural Stabilization and Conservation Service. He has delegated the authority to carry out the program authorized by Section 403 to the Soil Conservation Service (SCS). The program authorized by Section 403 is similar to the Emergency Watershed Protection (EWP) Program administered by SCS under authority provided in Section 216 of the Flood Control Act of 1950 (Public Law 81-516).

Although the authority provided by Section 403 of the Flood Control Act has not been rescinded, appropriations for the EWP program are now provided under Title IV of the Agricultural Credit Act. This has the effect of substituting provisions in the EWP program for those in Section 403.

This rule completes a regulatory review of the EWP program under Executive Order 12291. On December 13, 1978, a notice of intent to review the regulations, policies, and procedures governing the EWP program was published in the Federal Register (43 FR 58192). This notice included a request for comments and suggestions from the public. The 1978 notice was supplemented by an advance notice of proposed rulemaking and request for additional public comment on the implementation of the emergency conservation authorities provided by the Agricultural Credit Act. This advance notice was published on July 25, 1979 (44 FR 43477). Proposed rules to govern the EWP program were published for public comment on September 18, 1979 (44 FR 54073).

These rules were developed in consultation with personnel from the U.S. Fish and Wildlife Service, Department of the Interior; the U.S. Forest Service, Department of Agriculture; and representatives from the Office of the Secretary of Agriculture.

Public Comment—All comments received in response to: (1) the December 13, 1978, notice of intent to review the regulations governing the program; (2) the advance notice of proposed rulemaking published on July 25, 1979; and (3) the proposed rule, published on September 18, 1979, were considered in developing the final regulations to govern the EWP program. Paragraph numbers referred to in the public comments are contained in the draft rules published on September 18, 1979 (44 FR 54073). The full text of all written comments received is on file and available for public inspection.

Comment—One comment questioned the necessity for two separate agencies in the Department of Agriculture administering emergency conservation programs.

Response—One objective of the Secretary's directive on the implementation of Title IV programs was to eliminate overlap and duplication among emergency conservation programs wherever practical and appropriate to the purposes of the programs. Several alternatives for the administration of the three programs authorized by Title IV were developed in response to the Secretary's directive. One of these
alternatives would have consolidated the administration of all emergency conservation programs for non-Federal lands in one agency. The following factors were considered in evaluating this and other alternatives: (1) differences in the nature of the three programs authorized under Title IV; (2) differences in program resources and activities necessary to effectively carry out the three emergency conservation authorities; (3) differences in the capability of USDA agencies to carry out the programs authorized under Title IV; and (4) legislative history as it reflects congressional intent.

After the alternatives were considered, it was determined that the purposes of Title IV could be best achieved if the authority to administer the programs authorized under Sections 401 and 402 were delegated to the Agricultural Stabilization and Conservation Service (ASCS) and the authority to administer the program authorized under Section 403 was delegated to SCS.

Response—Section 624.5 defines the two broad types of emergency situations—exigency and nonexigency that were vague and needed clarification.

Response—The definitions of exigency and nonexigency situations (§ 624.5) have been revised to improve clarity. The revised definitions distinguish between exigencies and nonexigencies according to the probability that the threat to life or property caused by a watershed impairment will be realized over the near-term. An exigency exists to the extent that the near-term probability of damage is sufficiently high as to demand immediate action. A nonexigency emergency exists when the near-term probability of threat to life or property is high enough to be considered an emergency but not so critical as to constitute a public exigency.

Response—An agreement should be reached between the sponsors and SCS that provides for (a) conducting an assessment of upland watershed situations and (b) requiring that an accelerated program of upland soil and water conservation measures be considered instead of instream EWP if it can be demonstrated that such measures would reduce the potential for future damages along streams.

Response—The regulations emphasize the need to relieve imminent hazards to life and property from floods and the products of erosion under the emergency conditions. Emergency watershed protection work is not intended to be a long-range solution for the problems of a watershed. Emergency measures are limited to the minimum that will reduce the threat to life and property to the degree to which such threat existed before impairment of the watershed. Other programs, such as the Small Watershed Program (Pub. L. 83–366), provide authority to develop long-term solutions that include the use of soil and water conservation practices and other structural means instead of channel modification work if they are more economically defensible and environmentally sound.

Response—Section 624.5(c)(1) has been modified to permit extensions of 10 days for obligating funds and 30 days for completing the work.

Response—Section 624.5 limits the use of rock riprap, cribbing, and piling to protect roads, bridges, buildings, and public facilities. One comment expressed concern that this restriction would not allow the use of structural solutions for streambank stabilization except where private and public facilities are involved. Another respondent addressed this restriction but added a concern for water quality above a public water supply.

Response—The rules have been revised to eliminate the list of measures that may or may not be installed. The concern for water quality has been addressed in § 624.6.

Response—The last sentence in § 624.5A(4) is not clear; i.e., does it mean that rock riprap, cribbing, and piling cannot be used on private property at all or can those measures plus any other stabilizing methods be used? The list of measures has been removed from this section. The list of measures included were intended as examples that might be installed. Measures may be installed on private property but must clearly accrue public benefits.

Response—Section 624.5A and B should be reviewed to provide assistance in restoring public water supplies through the use of structural measures in landslide conditions.

Response—Emergency watershed protection authorization limits assistance to measures for runoff reiradation and soil erosion prevention to safeguard life and property. Streambank stabilization, using structural measures, is allowed if there is demonstrated public benefit and the project is economically and environmentally defensible. Each individual project is evaluated, and if streambank stabilization meets the criteria established for the program, it would be eligible.

Response—One of the primary purposes of the regulatory review of the emergency watershed program was to improve the uniformity of responsiveness in emergency situations. These regulations have been drafted to achieve that purpose not only in the degree of assistance and the conditions under which it is offered but also in the basic ability of the program to respond in emergencies.

Before the regulatory review of the program, the Federal share of the construction costs of emergency measures was generally at or near 100 percent. Under this condition, available funds were often exhausted a few months after the fiscal year began, which left the program without funds with which to respond to subsequent emergencies. Although additional funds were generally supplied through supplemental appropriations, often they were not available for many months. In some cases, one or more years lapsed between the date of an emergency and the date when emergency measures were actually installed. This raised serious questions not only about the equity and uniformity of the program’s response capability but also about the nature of the problems being addressed with emergency funds.

Federal funds may be up to 100 percent of the cost of constructing emergency measures in exigency situations. In nonexigency situations, Federal funds may be up to 80 percent of construction costs. This reflects a basic policy of Federal assistance in emergency situations; i.e., not to assume complete responsibility, which is usually accompanied by a decline in private and local responsibility, initiative, and control. The non-Federal share may be in cash or in-kind and may come from project sponsors or the owners or users of land on which the measures are to be installed. During the time that the
program has operated under this cost-sharing arrangement, no emergency situation has gone unaddressed for lack of funds and manpower with which to respond.

Often the benefits of emergency watershed protection accrue at the local level. Willingness to pay part of the cost by those who derive the benefits is regarded as a partial test of the criterion that the benefits justify the costs. In this context, failure of project sponsors and others to reprogram available funds and manpower in nonexigency situations or to make additional resources available raises serious questions about the soundness of the measures proposed for installation as public investments.

The provision that Federal funds may bear up to 80 percent of the cost of constructing emergency measures in nonexigency situations has been retained in the final rule.

Comment—One comment indicated that 220 days is more than enough time to obtain the necessary permits in nonexigency situations.

Response—The process for obtaining necessary permits varies considerably among localities, depending primarily on local, State, and Federal requirements. These variances have a direct bearing on time requirements. The rule has been formulated to limit assistance to true emergency situations but to deny assistance because of time delays beyond sponsors' control.

Comment—In § 624.5, the discussion of environmentally sound construction should specifically mention State approved or certified Best Management Practices (BMP's).

Response—Since BMP's are intended to be environmentally sound, they are to be used whenever practical to achieve objectives of the program. The broad term environmentally sound is intended to include BMP's.

Comment—One comment cites concern that environmental aspects of emergency work may lead to an unauthorized betterment of previous conditions.

Response—Section 624.6 limits improvements to predisaster conditions. The inclusions of environmental considerations in emergency work is intended to include only those adverse environmental effects that might result from needed work.

Comment—A comment addressed the requirement that local sponsors assume responsibility for operation and maintenance of EWP emergency work yet exclude operation and maintenance from eligibility.

Response—Measures funded under the EWP program are limited to those that relieve imminent hazards to life and property. Operation and maintenance activities are not considered to be emergency measures. Local sponsors must agree to operate and maintain measures as a condition of assistance. The acceptance of these responsibilities by the sponsors includes that of meeting the needs and demands resulting from normal as well as unusual situations.

Comment—Several commenters expressed concern that the difficulty of separating operation and maintenance work from EWP activities where both are done simultaneously for more efficient expenditure of monies may preclude cost savings that could result from combining operation and maintenance with EWP activities.

Response—Local agencies having operation and maintenance responsibilities should develop and keep current reliable estimates of the costs of operating and maintaining their facilities and structures. Those estimates could be used as a guide in prorating costs for emergency work and those for operation and maintenance. The regulations do not preclude cost-saving combinations of works but the use of EWP funds to cover the operation and maintenance responsibility of local sponsors is prohibited.

Comment—Section 624.7 places limitations on the use of EWP funds. Nine respondents commented on this section. Specific concerns on limitations include (1) performing normal operation and maintenance, (2) repairing, rebuilding, or maintaining private or public transportation facilities, public utilities, or similar facilities, and (3) performing work on features of projects installed under the authority of Pub. L. 85-566, Resource Conservation and Development (R&CD), or Pub. L. 78-534.

Response—Section 624.7 of Pub. L. 85-566, Resource Conservation and Development (R&CD), or Pub. L. 78-534 (18 U.S.C. 2203) specifically authorizes the Secretary of Agriculture to undertake emergency measures for runoff retardation and soil erosion prevention to safeguard life and property from floods, drought, and the products of erosion in any watershed whenever fire, flood, or any other natural occurrence is causing or has caused a sudden impairment of that watershed. This authorization limits EWP assistance to those measures that can be applied to reduce imminent hazards to life and property. Disaster relief programs administered by FEMA are available for repairing damages to private or public transportation facilities, public utilities, or similar facilities. To prevent overlap and duplication among Federal programs, assistance available through other programs is not available through EWP.

Local sponsors agree to the operation and maintenance of works of improvement installed under the authority of Pub. L. 85-566, Resource Conservation and Development, or Pub. L. 78-534. Operation and maintenance agreements specify these responsibilities. This final rule is not intended to relieve the responsibility assumed in the agreements. However, the rules have been modified to provide exceptions at the discretion of the Chief of the Soil Conservation Service.

Comment—One comment stated that cleanout of debris basins should continue to be eligible for SCS assistance.

Response—Debris basins are planned and installed for the purpose of trapping debris. They are designed with the provision of periodic cleanout. Since this is a normal operating procedure, such work is not included in the emergency category.

Comment—One comment suggested adding a sixth item to § 624.7 to prohibit EWP work that adversely affects downstream water rights.

Response—The rules and regulations have been expanded to include this limitation on EWP work.

Comment—One comment noted that existing coordination mechanisms available through State clearinghouses should be used.

Response—Section 624.8 has been changed to include coordination with State clearinghouses.

Comment—Numerous commenters objected to the detail of environmental and economic assessment necessary to qualify for nonexigency assistance. Also, one commenter suggested that States be required to determine procedural guidelines for reporting emergency situations.

Response—Each state conservationist (STC) is expected to designate a basic investigation group. The EWP group should have a predetermined list of standard unit values to use in making the assessment. The objective of assessments is to help insure that measures installed with EWP assistance are sound public investments. The assessment procedures are streamlined versions of more complex procedures used under normal circumstances.

Comment—One commenter suggested that an "Analysis of Impact on Downstream Water Rights" be included as a part of the investigation needed when requiring funds for EWP work.

Response—This suggestion has been included in § 624.6(b)(2) of the rule.
PART 624—EMERGENCY WATERSHED PROTECTION

§ 624.1 Purpose.


§ 624.2 Objective.

The objective of the Emergency Watershed Protection (EWP) program is to assist in relieving imminent hazards to life and property from floods and the products of erosion created by natural disasters that cause a sudden impairment of a watershed.

§ 624.3 Scope.

(a) Authorized EWP technical and financial assistance may be made available when an emergency exists. Emergency watershed protection consists of emergency measures for runoff retardation and soil erosion prevention as needed to reduce hazards to life and property from floods, drought, and the products of erosion on any watershed impaired by a natural disaster.

(b) Technical assistance includes engineering and other technical expertise necessary for planning and installing emergency measures. Emergency watershed protection is authorized in the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands.

§ 624.4 Administration.

SCS shall provide overall administration and guidance for EWP. SCS will transfer funds to the Forest Service (FS) of the U.S. Department of Agriculture (USDA) at the national level for work to be installed by FS or its cooperators. Under general program criteria and procedures established by SCS, FS is responsible for administering EWP measures on National Forests and National Grasslands. FS is also responsible for emergency measures on all forested lands or rangelands within the National Forests, on adjacent rangelands that are administered under formal agreement with FS, and on other forest lands. On these lands, emergency work is done by either SCS or FS as mutually agreed. In carrying out their responsibilities, FS and SCS work cooperatively with other Federal, State, and local government agencies.

§ 624.5 Eligible emergencies, recipients, and assistance.

(a) Conditions of eligibility. Emergency watershed protection assistance is made available when the following conditions of eligibility are determined to exist by the state conservationist. Procedures for providing emergency assistance vary according to whether the watershed emergency constitutes an exigency or a nonexigency situation. Emergency measures for both types of situations are determined to exist by the state conservationist. Procedures for providing emergency assistance vary according to whether the watershed emergency constitutes an exigency or a nonexigency situation. Emergency measures for both types of situations are those undertaken to remove or reduce hazards created by the disaster in order to safeguard life and property from flooding, drought, or the products of erosion.

(i) Natural occurrence includes but is not limited to floods, fires, windstorms, earthquakes, volcanic actions, and drought.

(ii) A watershed impairment exists when the ability of a watershed to carry out its natural functions is reduced to the extent of creating an imminent threat to life or property.

(b) Eligible recipients. Include those public or private landowners, land managers, and users, or others who—

(1) Have a legal interest in or responsibility for the values threatened by a watershed emergency; and

(2) Have exhausted or have insufficient funds or other resources available to provide adequate relief from the applicable hazards.

(c) Eligible assistance. (1) In an exigency—

(i) Purchases and contracts may be negotiated without formal advertising.
(ii) Federal emergency funds may bear up to 100 percent of the construction costs of emergency measures.

(ii) Funds must be obligated within 10 days after receipt of the emergency funds or after the date of the disaster event when conditions permit beginning construction activities, whichever is later.

(iv) Emergency work must be completed within 30 days after funds are obligated.

The SCS Chief retains discretion to grant extensions for good cause. Documentation must support requests for extensions. Extensions may extend an additional 10 days for the obligation of funds and an additional 30 days for the completion of work.

(2) In a nonexigency—

(i) Federal emergency funds may bear up to 80 percent of the construction costs for emergency measures.

(ii) Funds must be obligated and construction completed within 220 consecutive calendar days after the date of receipt of funds. Extensions are permitted at the discretion of the SCS Chief if unforeseen or uncontrollable events cause delays. A request for such an extension must be documented.

(3) Sponsors may provide their share of construction costs in the form of cash; in-kind services such as labor, equipment, survey, and design, etc.; or a combination of cash and in-kind services. Cost sharing is waived for in-kind services such as labor, equipment, survey, and design, etc.

Authorization and approval of emergency measures must include but is not limited to—

(i) Number and extent of values at risk because of the watershed impairment;

(ii) Estimating damages to the values at risk if the threat is realized;

(iii) Events that must occur for the threat to be realized and the estimated probability of their occurrence both individually and collectively; and

(iv) Estimates of the nature, extent, and cost of emergency measures to be constructed to relieve the threat.

(2) In nonexigency situations, the state conservationist shall also submit adequate information to substantiate the environmental defensibility of the emergency measures proposed for installation. This must include but is not limited to—

(i) Thorough descriptions of beneficial and adverse effects on environmental resources including fish and wildlife habitat;

(ii) Descriptions of water quality and water conservation impacts as appropriate; and

(iii) Analysis of effects on downstream water rights.

The Chief shall issue instructions as are necessary to determine the economic and environmental defensibility of measures proposed for installation consistent with this rule.

(c) Implementation. (1) When planning emergency measures, emphasis should be placed on measures that are the least expensive and most environmentally sound. The measures should be accomplished by using the least damaging construction techniques and equipment that will retain as much of the existing characteristics of the channel and riparian habitat as possible. Emergency measure construction practices may include but are not limited to such things as seasonal construction, minimum clearing, reshaping spoil, limiting excavation to one bank (on alternating sides where appropriate), and prompt revegetation of disturbed areas.

(2) An EWP team consisting of SCS personnel from the National Office and the technical service center shall determine the eligibility of all permanent, enduring, or long-life measures or practices proposed for construction. The team shall determine the need for funds before any commitments are made.

(3) Where lands under jurisdiction of FS are involved, the team will be assisted by FS representatives of the National Office and area or regional offices. The team shall also be available, at the request of the state conservationists, regional foresters, and area directors, to help determine the eligibility of other EWP measures or practices and to assist with administrative details.

§ 624.7 Limitations on use of emergency funds.

Emergency watershed protection funds may not be used to:

(a) Perform operation or maintenance (periodic work that is necessary to maintain the efficiency and effectiveness of a measure to perform as originally designed and installed).

(b) Solve watershed problems that existed before the disaster.

(c) Repair, rebuild, or maintain private or public transportation facilities, public utilities, or similar facilities.


(e) Perform work on measures installed by other Federal agencies. Exceptions may be made at the discretion of the Chief of SCS.

(f) Construct works that would adversely affect downstream water rights.

(g) Make improvements to public or private property not essential to the reduction of threats caused by watershed improvement.

(h) Perform any work not determined to be economically and environmentally defensible under the provisions of this rule.

§ 624.8 Environment.

Environmental aspects of emergency work are to be given careful consideration. A program environmental impact statement for EWP work has been developed in compliance with section 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91-196, 83 Stat. 852 (42 U.S.C. 4332 et seq.)). The SCS Chief shall notify the Director of the Environmental Protection Agency by letter, with a copy to the Chairman of the Council on Environmental Quality, when funds are made available for emergency work. The notification is to be a supplement to the program environmental impact statement. An environmental assessment is to be prepared for all
nonexigency situations. State conservationists shall notify concerned area and field offices of the U.S. Fish and Wildlife Service, the Environmental Protection Agency, and, through existing coordination mechanisms of State clearinghouses, the State fish and game and other appropriate agencies of anticipated EWP work. They shall invite the assistance of these agencies in preparing environmental assessments and in planning and implementing the emergency work. Archeological, historical, or other special expertise needed is to be solicited from appropriate agencies and groups. Environmental and other considerations are to be integrated into emergency work by using an interagency and interdisciplinary planning approach. § 624.9 Application. Sponsors may apply to any SCS office for EWP assistance. SCS shall help sponsors prepare their applications. The SCS offices are defined in Part 600 of this chapter. Information supplied should include the nature, location, and scope of the problems and the assistance needed. § 624.10 Investigation and request for funds. (a) On receipt of an application for EWP, the state conservationist and regional forester or area director, where appropriate, shall immediately investigate the emergency situation to determine if EWP is applicable. In carrying out EWP work, state conservationists shall take into consideration two broad types or degrees of emergency situations: (1) an imminent situation of unusual urgency—and exigency—and (2) an emergency requiring action but of less urgency than an imminent situation. (See § 624.5) (b) Prompt remedial action to eliminate an imminent threat to loss of life is to be provided when an exigency exists. The state conservationist shall notify Project Development and Maintenance and indicate the nature of the emergency and the estimated amount of funds needed. If funds are made available, the state conservationist may authorize actions necessary to remedy the emergency. The state conservationist shall confirm the situation in a memorandum to the Chief that explains the nature of the emergency, the location of the emergency, the kind of remedial work and funds needed, sponsors, description of potential damage, etc. In these situations, the memorandum from the state conservationist with its brief information constitutes the request for funds. (c) If an exigency does not exist but the impairment justifies emergency assistance, the state conservationist shall submit a request for funds to the Chief within 60 days after the disaster event. Neither SCS nor FS may commit funds until notified by the National Office of the availability of funds. [FR Doc. 81-33107 Filed 11-16-81; 8:45 am] BILLING CODE 3410-16-M
Part V

Environmental Protection Agency

Hazardous Waste Management System: Identification and Labeling of Hazardous Waste
ENVI RONMENTAL PROTEC TION
AGENCY

40 CFR Part 261 
[SWH-FRL 1950-8]

Hazardous Waste Management System: Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Interim final rule and request for comments.

SUMMARY: The Environmental Protection Agency (EPA) is today revising the regulations for hazardous waste management under the Resource Conservation and Recovery Act to exempt certain categories of mixtures of solid wastes and hazardous wastes from the presumption of hazardousness presently contained in the regulations. EPA is taking this action because the Agency believes that the risk posed to human health and the environment from the management of these waste mixtures is not substantial, so that automatically defining these waste mixtures as hazardous is inappropriate. This amendment will substantially reduce the regulatory burden to those persons who would otherwise have applied the regulations for hazardous waste management to these mixtures.

DATES: Effective date: November 17, 1981. Comment date: EPA will accept public comment on this amendment until January 18, 1982.

ADDRESS: Comments should be sent to Deneen M. Shrader, Docket Clerk (Docket 3001), Office of Solid Waste (WH-602), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Public Docket: The public docket for this regulation is located in Room 2711, U.S. Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460, and is available for viewing from 8:00 am to 4:00 pm, Monday through Friday, excluding holidays.


SUPPLEMENTARY INFORMATION:

I. Background

On May 19, 1980, EPA promulgated the first phase of regulations implementing the hazardous waste management system under Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended (RCRA). 45 FR 33086 (1980). These regulations included the identification and listing of hazardous wastes in 40 CFR Part 261. Section 261.3 of these regulations (45 FR 33119) defines a hazardous waste as a solid waste which (1) exhibits any of the characteristics defined in Subpart C of Part 261; (2) is listed in Subpart D of Part 261, and has not been excluded by application of §§ 260.20 and 260.22; or (3) is a mixture of a solid waste and one or more hazardous wastes which are listed in Subpart D of Part 261 and has not been excluded by application of §§ 260.20 and 260.22. This latter provision was adopted to prevent generators from evading Subtitle C requirements simply by commingling listed hazardous wastes with nonhazardous solid wastes (45 FR 33085), and because many wastes do indeed remain hazardous after admixture or dilution.

EPA recognized that a rule designating all waste mixtures containing listed hazardous wastes as hazardous could create some unintended results (45 FR 33085). It could, for example, result in some waste mixtures being considered hazardous wastes which do not pose a substantial hazard to human health or the environment because they contain only very small amounts of listed hazardous wastes. It was felt that many of these problems could be addressed by using the petition procedures of §§ 260.20 and 260.22. Moreover, it seemed likely that, in many cases, the burden of having to manage a waste mixture as a hazardous waste could be easily avoided by carefully segregating hazardous from nonhazardous wastes. It was further recognized that solutions may not readily address the unintended problems brought about by this provision, and EPA, therefore, expressly invited public comment on other approaches for solving these problems (45 FR 33085).

The regulated community has commented in comments to the May 19 regulation that the petition process, alone, is not workable because it would require excessive numbers of petitions to address the myriad of such problems, and, therefore, would be too resource-intensive for both the regulated community and for EPA. In addition, they argue that, in many cases, the segregation of hazardous and nonhazardous wastes needed in order to comply with the rule cannot be easily or inexpensively accomplished. Finally, they claim that mixtures which contain only small amounts of listed hazardous wastes often do not pose a substantial threat to human health or the environment, and therefore do not merit the rigorous regulation required by the Subtitle C regulations. These comments have raised these arguments particularly with respect to wastewater mixtures that contain only small amounts of process wastes listed as hazardous under §§ 261.31 and 261.32, or small amounts of discarded commercial chemical products or manufacturing chemical intermediates listed under §§ 261.33 (e) and (f).

A second area where the current rule does not appear necessary involves mixtures of solid wastes and which are listed as hazardous solely because they exhibit one or more of the characteristics of hazardous wastes. Under the current rule these mixtures are presumed to be hazardous unless they are delisted, even when they do not exhibit any of the applicable characteristics.

The Agency is therefore taking action to exclude from the presumption of hazardousness certain types of mixtures of listed hazardous wastes and wastewaters, and mixtures of solid wastes and hazardous wastes which are listed solely because they exhibit one or more of the hazardous waste characteristics.

The following sections of this preamble describe the particular types of mixtures which will be excluded. Any excluded mixture may still be a hazardous waste if it is listed independently, or if it exhibits a hazardous waste characteristic.

II. Problems Encountered With Application of the Current Mixture Rule to Wastewater Treatment Facilities

The Agency believes that the mixture rule, as presently drafted, sweeps too broadly when applied to all mixtures of wastewater and listed hazardous wastes. Strict application of the mixture rule would cause to be hazardous waste a mixture of large volumes of nonhazardous wastewater and the relatively small amounts of listed hazardous wastes which are introduced

1 This is not to say that the mixture presumption does not have validity in many settings involving mixtures of listed wastes and wastewater. There are situations where such mixtures are mixed with wastewaters in concentrations sufficient to render hazardous the resulting mixture and wastewater treatment sludges. Furthermore, many wastewater treatment facilities contain impoundments which are of special environmental concern when they are used to treat store, or dispose of hazardous wastes. Many pollutants are water soluble, and impounded wastes are constantly exposed to water under conditions where a hydraulic head can develop. Hazardous constituents are especially available for leaching to the environment under these conditions.
into the wastewater as a result of normal manufacturing operations or on-site laboratory operations. Resulting wastewater treatment sludges would likewise be hazardous wastes under § 261.3(c)(2). In many cases, however, these relatively small amounts of listed hazardous wastes are likely to be greatly diluted in the wastewater, so that the resulting mixture is not hazardous. In addition, hazardous constituents of these listed hazardous wastes may adsorb to soil, degrade or otherwise attenuate during the course of wastewater treatment, further reducing the potential hazardousness of the mixture. A presumption of hazardousness is not warranted in these situations.

Data submitted by the Chemical Manufacturers Association (CMA) and the American Petroleum Institute (API) indicate that small amounts of spent solvents listed in § 261.31, discarded commercial chemical products and manufacturing intermediates listed in § 261.33, and discarded laboratory wastes often are mixed with large volumes of process wastewater in a relatively innocuous manner. They claim that these practices, in some cases, are unavoidable (e.g., unanticipated spills into a wastewater system) and, in other cases, are reasonable and efficient practices for managing these small volumes of waste. In addition, data from API indicates that relatively small amounts of the sludge resulting from cleaning of heat exchangers (EPA Hazardous Waste No. K050) often is mixed with large volumes of wastewater as a result of reasonable and efficient waste management practices, without significantly increasing the resulting concentration of hexavalent chromium in the wastewater.

Although these data, in some cases, show sizable amounts of listed hazardous wastes discharged into non-hazardous wastewaters, the relative quantity of these listed wastes mixed into the wastewaters is small, oftentimes exceedingly small. Consequently, the resulting concentration in the wastewater of the hazardous constituents of the listed hazardous wastes are very small. For example, 1,1,1-trichloroethane, a solvent used in large quantities in petroleum refineries for degreasing purposes, has been measured in the untreated refinery wastewater at 4–283 ppb, averaging 21 ppb. Additionally, sampling performed by the Agency in the petroleum refining and pharmaceutical industries (two industries with high solvent usage) show that their raw wastewaters contain an aggregate of 0.01 and 0.08 ppm, respectively, of the carcinogenic solvents carbon tetrachloride, tetrachloroethylene and trichloroethylene. The Agency data also show that the combined concentration in the raw wastewater of the listed solvents methylene chloride, 1,1,1-trichloroethane, chlorobenzene, o-dichlorobenzene, and toluene is 0.2 ppm in petroleum refineries, and 2.3 ppm in the pharmaceutical industry. Leaks and other de minimis discharges of § 261.33 chemical products or manufacturing intermediates from normal manufacturing operations are another source of listed hazardous wastes that are frequently discharged into and mixed with non-hazardous wastewater, but which appear to contribute little to total pollutant loadings. Data provided by CMA for several chemical manufacturing operations (two facilities processing petrochemicals, one producing hydrogen fluoride, and one synthesizing formaldehyde resins) show that the incremental amounts of § 261.33 materials reaching the wastewater treatment system as a result of spills, leaks, maintenance and laboratory activities usually constitute a small percentage (in all cases except one less than one percent) of the total amount of such materials contained in the wastewater influent. For example, a plastics manufacturing plant using acrylonitrile (a commercial chemical product listed in § 261.33) discharges into its wastewater treatment system only 8 lb per day of discarded acrylonitrile resulting from equipment leakage and cleanup, relief-device discharges, and line rinsings, whereas the quantity of acrylonitrile introduced into its wastewaters from the manufacturing process per se amount to 800 lb per day. 

On-site laboratory operations also often discharge small amounts of listed hazardous wastes into a plant's wastewater. Many of the commercial chemical products listed in § 261.33 are either used or analyzed in laboratories. Also, laboratory operations typically use a variety of solvents and often discharge small quantities of the spent solvents listed in § 261.31 into a plant's wastewater treatment system. An industrial laboratory is estimated to produce between 20 and 1600 kg of hazardous wastes per year. A high proportion of these wastes is probably discarded to wastewater.

Another source of listed hazardous wastes which is mixed into wastewater is of particular concern to the petroleum refining industry. Refinery operations and maintenance activities require removal of accumulated residues from the cooling water side of heat exchangers. These residues are listed as a hazardous waste (EPA Hazardous Waste No. K050). In the course of daily cleaning operations, these residues are managed most efficiently by being discharged into the refinery wastewater treatment system. On the average, a typical refinery, about 75–150 kg per year of heat exchanger bundle sludges are flushed to the sewer system. Dilution of these residues in the large volumes of refinery wastewater results in very low concentrations of total chromium. It is estimated that these concentrations are almost always less than 1 ppm (usually much less than 0.1 ppm). Sampling performed by the Agency at seven refineries showed less than 0.05 ppm of total chromium. Concentrations of hexavalent chromium, the species of chromium of specific concern because of its toxicity, are estimated to be even smaller.

Based on the foregoing evidence, EPA believes there is a justified need for amending the mixture rule in § 261.3(a)(2)(ii) to restrict this rule as it applies to wastewater mixtures, so as to avoid Subtitle C regulation of wastewater mixtures that do not pose a substantial threat to human health or environmental resources.
the environment. In doing this, however, the Agency must ensure that modification of the mixture rule will not allow or encourage generators to discharge large quantities of listed hazardous wastes into wastewater treatment systems to circumvent proper management of these listed wastes. Today's amendment is designed to meet these purposes by limiting the mixture rule so that, with the addition of wastewater treatment, it will be impossible to discharge listed hazardous wastes into wastewater streams, and which are reasonably and efficiently managed by being discharged into a plant's wastewater treatment system. EPA believes that the small quantities of listed hazardous wastes allowed by the Agency's amendment in exempted wastewater mixtures will be present in such low concentrations that they do not pose a substantial hazard to human health or the environment, and, furthermore, often will be treated in the plant's wastewater treatment system.

Today's amendment (except for §261.3[a][3]) applies only to wastewater mixtures managed in wastewater treatment systems with discharge subject to regulation under either Section 402 or 507(b) of the Clean Water Act. This requirement will help to prevent the indiscriminate discharge of wastes into wastewater treatment systems, because to do so could jeopardize the generator's ability to comply with its Clean Water Act discharge requirements. By the phrase "wastewater subject to regulation under either Section 402 or 507(b) of the Clean Water Act," used in today's amendment, the Agency means to include all facilities which generate wastewater which is discharged into surface water or into a POTW sewer system. The Agency also means to include those facilities (known as "zero dischargers") which have eliminated the discharge of wastewater as a result of, or by exceeding, NPDES or pretreatment program requirements.

The amendment does not apply to facilities which discharge into privately owned treatment works. The Agency has no information on the types of listed waste and wastewater mixtures occurring at these facilities. In addition, they have no regulatory obligation to treat their wastes prior to discharge. The likelihood of indiscriminate mixing of listed hazardous wastes and wastewaters at these facilities is thus greater than in those subject to regulation under the Clean Water Act. The privately owned treatment works to which these unregulated facilities discharge, however, may qualify for the mixture rule exclusion if their own discharge is subject to regulation under the NPDES or pretreatment programs, and provided further that the influent streams to these treatment works meet the relevant exclusion limits contained in today's regulations. The following sections of this preamble describe the several provisions of today's amendment in more detail.

A. Mixtures of Wastewater and Hazardous Waste From Non-Specific Sources Listed in 40 CFR 261.31

The Agency believes that, of the hazardous wastes listed in §261.31, only the spent solvents need be covered by today's amendment because these are the only wastes in §261.31 that seldom are principal wastestreams, and often are discharged in small quantities into wastewaters as a practical way of managing them. Most of the other wastes listed in §261.31 are principal wastestreams generated in manufacturing operations, and typically would be introduced into wastewaters in relatively large quantities.

Spent solvents are generated in a great many manufacturing and allied operations such as degreasing, maintenance, extraction, purification and constituent application procedures. (The substances may also be used in a manufacturing process as chemical reactants or process intermediates, and, when so used, are not considered to be spent solvents.) It is not always possible to collect and segregate spent solvents (e.g., various spills or incidental losses from degreasing or maintenance operations); those materials often drain or are washed into wastewater sewer systems. Also, it is often practical and reasonable to discharge the small quantities of spent solvent generated in diverse and separate manufacturing and allied operations into the nearest sewer connected to the wastewater treatment system. These small quantities of spent solvent are conveniently managed by and treated in the chemical or biological wastewater treatment system.

The Agency has decided to deal with these situations by amending §261.3[a][2] to provide that the mixture rule does not apply to mixtures of §261.31 spent solvents in wastewaters if the combined concentrations of the spent solvent in the resulting mixture are no greater than 1 or 25 ppm, depending on the type of solvent (§261.3[a][2][iv] (A) and (B) of today's amendment). The lower limit applies to those listed spent solvents determined by the Agency's Carcinogenic Assessment Group (CAG) to possess substantial evidence of carcinogenicity, namely carbon tetrachloride, tetrachloroethylene (perchloroethylene) and trichloroethylene. The upper limit applies to the remaining listed spent solvents which are listed in §261.31 because they are toxic (T): methylene chloride, 1,1,1-trichloroethane, chlorobenzene, o-dichlorobenzene, cresols, cresylic acid, nitrobenzene, toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, and spent chlorofluorocarbon solvents. The Agency chose these limits after considering a number of factors. First, it concluded that different limits should be set for these two groups of spent solvents because the scientific literature shows a decisive difference among the concentrations of these solvents in water that produce adverse health and environmental effects. Second, the agency considered the factors listed in §261.11[a][3] to make a judgment about the concentration of spent solvents for each group that it deemed would not cause the wastewater mixture, if improperly managed, to pose a

19 The spent fluorocarbon solvents are included in this aggregate limitation due to the fact that their listing rests on a different basis than that of the other spent solvents, namely, the threat to the ozone layer after volatilization. Limitation of the concentration of these solvents in wastewater would, as a practical matter, help meet this concern by reducing the amount of fluorocarbon solvent available for release. The Agency, therefore, has tentatively determined to include the spent fluorocarbon solvents in the aggregate limitation. We do however, solicit comments as to whether a separate limit should be adopted for this class of solvents, and what this limit should be.

20 The Water Quality Criteria established by EPA under Section 304(a) of the Clean Water Act set criteria of 0.8, 2.7 and 0.4 ppb for carbon tetrachloride, trichloroethylene and tetrachloroethylene, respectively, and set much lower criteria for the remaining seven of the substances in the second group of spent solvents. The figures cited for the carcinogenic solvents are for a 10^-6 additional cancer risk level due to a lifetime exposure from daily ingestion of twoliters of water, and consumption of 0.5 g of fish and shellfish. See 45 Fed. Reg. 79318 (November 28, 1980).
substantial hazard to human health or the environment. An important factor in the consideration was the reduction of spent solvent concentrations that typically would be achieved in the treatment of the wastewater mixture before its intended or unintended (e.g., subsurface leakage) release into the environment. The Agency reasoned that virtually all of the wastewater mixtures covered by today's amendment will be given treatment, and that this treatment will typically be biological, physical or chemical treatment capable of reducing the spent solvent concentrations in the wastewater, particularly if the concentrations assured by the limits selected. The Agency concluded that, if the spent solvent concentrations in the wastewater mixture prior to treatment are limited to 1 and 25 ppm, the wastewater treatment process will typically reduce these concentrations in any releases of the wastewater to levels that do not pose a substantial harm to human health or the environment. Indeed, effluent guidelines data and human health or the environment. This demonstration can be made through an audit of various records already maintained at most facilities, including invoices showing solvent purchases, lists indicating to whom and how much solvent was distributed, and other, similar, operating records. An EPA inspector would look to such documents to verify the computation made by the generator. The Agency is selecting the average weekly influent flow, rather than a system's design flow, to account for situations when the wastewater treatment system does not operate at design capacity.

The following example shows how compliance could be demonstrated: If a facility estimates that it uses a maximum of 700 kg of 1,1,1-trichloroethane (methyl chloroform, MC) and 150 kg of methylene chloride per week as solvents, and if the weekly flow into the headworks of the generator's wastewater treatment facility is estimated to average 5 MGD, the mixed wastewater would be exempt from the mixture rule because the average MC concentration in its influent wastewater is 3.3 ppm, the average methylene chloride concentration is 1.1 ppm, and the combined concentration is 4.4 ppm, less than the exemption maximum of 25 ppm for the non-carcinogenic solvents.

In using this means of evaluating compliance, the Agency is making a worst-case assumption that all solvent used at a facility becomes mixed with process wastewater, unless the facility can demonstrate that a certain portion of the solvent is not disposed to wastewater. This assumption is one of the factors the Agency believes justifies its decision to adopt a concentration level for the spent solvents above health-based concentration values. The audit should be repeated whenever a change in the generator's operations could affect the amount of spent solvents in the wastewater. If EPA were to suspect a generator was violating the provisions of this amendment, the Agency would follow normal investigatory steps (such as verifying supply records or interviewing employees) to establish the company's compliance. Deliberate falsification of relevant records, of course, could subject a generator to civil or criminal sanctions.

B. Mixtures of Wastewater and Hazardous Wastes From Specific Sources Listed in 40 CFR §261.32

The Agency believes that hazardous wastes listed in §261.32 typically are generated in large volumes relative to the non-hazardous wastewaters generated at the same plant, and, if mixed with the wastewater, often constitute a significant portion of the wastewater mixture, thereby causing the mixture to pose a substantial hazard to human health or the environment. The Agency, therefore, believes that §261.32—listed wastes which are mixed with non-hazardous wastewater ordinarily should not be excluded from the mixture rule. However, the Agency will consider amending the mixture rule on a case-by-case basis if a particular industry can provide sufficient evidence that their §261.32—listed wastes, when mixed with their non-hazardous wastewater, would not present a substantial hazard. In fact, the petition processes established in §260.20 can be used for this purpose.

At this time, in §261.3(a)(2)(v)(C) of today's amendment, the Agency has decided to grant API's request to exclude from the mixture rule wastewater mixtures that are hazardous only because they contain EPA Hazardous Waste No. K050 (Heat exchanger bundle cleaning sludge from the petroleum refining industry) and which are treated in a facility subject to regulation under Section 402 or Section 307(b) of the Clean Water Act. This listed hazardous waste often is mixed with non-hazardous wastewater as a consequence of backflushing of the heat exchanger bundles during intermittent cleaning operations in the course of refinery operations. Back-flushing is a daily routine maintenance procedure. More vigorous cleaning, often by hydroblasting, is performed every one to two years. In either case, the accumulated sludges are often disposed...
to the refinery's sewer system. In two large refineries, these sludges correspond to 0.0004 percent and 0.002 percent of the wastewater flow into the refineries treatment systems.\(^*\)

The heat exchanger bundle sludges are listed as hazardous because they contain hexavalent chromium. However, data provided by API indicate that the cleaning operations raise the total chromium content of the raw wastewater to much less than 1 ppm (24 to 63 ppb),\(^*\) a level unlikely to cause harm, since it virtually meets the National Interim Primary Drinking Water Standard. The chromium also would undoubtedly undergo further attenuation before reaching environmental receptors. In addition, almost all of the chromium is reduced to the trivalent state by reducing agents such as sulfides present in the raw wastewater. Refinery wastewater (effluent from DAF float or API separator) contains about 7.1 ppm of sulfide, 0.7 ppm of trivalent chromium and 0.3 ppm of hexavalent chromium.\(^*\)

Two large refineries report 10-30 ppm of sulfide in untreated wastewater.\(^*\)

Although these wastes are alkaline (pH 8-9)\(^*\) a condition conducive to the oxidation of chromium, the tenfold excess of sulfide is sufficient to reduce the hexavalent chromium. Most of the already small incremental increase of chromium concentrations from this source will therefore be in the relatively non-toxic trivalent form.\(^*\)

Although the total environmental loading of chromium in petroleum refinery wastewaters resulting from heat exchanger bundle cleaning sludges is not insconsiderable (about 1300 kg/year),\(^*\) the fact that it is almost completely trivalent, and is present in low concentrations in these wastewaters, justifies exempting them from the mixture rule at 40 CFR 261.3(a)(2).

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\(^*\)Letter from S. M. D'Orsie, Exxon Company to M. Steinberg, Morgan, Lewis and Bockhis, August 12, 1981.

\(^*\)See footnote 2. These data were calculated from Tables III-5 and II-10 of the referenced document.

\(^*\)See footnote 26.

\(^\dagger\)See footnote 27.

\(^\dagger\)See footnote 28.

\(^*\)In addition, the overwhelming proportion of chromium in the wastewater will end up in the wastewater treatment sludges which are subject to the EP toxicity characteristic for hexavalent chrome to determine whether they are hazardous wastes. These sludges are the wastes of real concern in the process, and the EP characteristic provides a means of asserting appropriate regulatory control if they contain unacceptable levels of hexavalent chromium.

\(^*\)See footnote 2.

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\(^*\)U.S. EPA. 1978. Compilation of Air Pollutant

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C. Mixtures of Wastewater and Discarded Commercial Chemical Products and Manufacturing Chemical Intermediates Listed in 40 CFR 261.33

In § 261.3(a)(2)(iv)(D) of today's amendment, EPA is excluding from the mixture rule wastewater mixtures that are hazardous waste solely because they contain discarded commercial chemical products or manufacturing chemical intermediates listed in § 261.33 arising from normal handling of the materials, either as raw products used in the manufacturing process or as intermediate or chemical products used in or produced by the manufacturing process. Small amounts of § 261.33 materials which are being produced by or used as raw product in a manufacturing process are often unavoidably lost in normal material handling operations. For example, small amounts of raw material are lost in various unloading or material transfer operations (e.g., small drippage when transfer hose lines are disconnected, and fugitive dusts when certain materials are emptied from bins or transferred from bins). Additionally, small amounts of manufactured products or intermediates are lost in material handling, manufacturing process or storage activities (e.g., losses from packing of pumps being used to transfer product, unanticipated spills, relief valve discharges, rinsates from drained or otherwise emptied containers and purgings associated with pressure relief or taking samples).\(^\dagger\)

These are all normal losses which are typically minimized because the materials have value, and their loss creates an economic penalty. Although these losses theoretically can be prevented, it is often only at considerable cost, which usually exceeds the cost of the lost material.

These small losses of raw materials, products or intermediates are often disposed of by draining or washing them into the wastewater treatment system. This typically is a reasonable and practical means of disposing of these lost materials. Segregating and separately managing them often would be exceedingly expensive and may not be necessary because the small quantities can be assimilated and treated in the wastewater treatment system.

EPA believes that where the above described losses of § 261.33 materials are being disposed of by being mixed into non-hazardous wastewaters, the amount of such discarded § 261.33 materials will typically be very small relative to the quantity of wastewater. At the resulting concentrations in the wastewater, which often will be reduced by the wastewater treatment process, the Agency believes these wastewater mixtures will pose a substantial hazard to human health or the environment.

Section 261.3(a)(2)(iv)(D) of today's amendment only exempts wastewater mixtures resulting from § 261.33 materials where such materials arise from de minimis losses of these materials in normal manufacturing operations and where such materials are being used as raw materials or are being produced by the generator.\(^*\)

By so restricting this amendment, the Agency believes it is limiting the mixture rule exemption to wastewater mixtures that contain very small concentrations of § 261.33 materials and concentrations unlikely to pose a substantial hazard to human health and the environment. The Agency has not employed the alternative of applying a concentration or quantity limit on the § 261.33 materials allowed in mixtures to which the exemption applies. The Agency believes that this alternative and the auditing procedures that would be necessary for its implementation is not necessary because the value of § 261.33 materials typically will preclude other than de minimis losses and resulting discharges. There may, however, be situations where a particular facility or group of facilities are operated so slployly that losses of § 261.33 materials to wastewater during normal manufacturing activities are high, and results in hazardous concentrations of these chemicals in the wastewater. In these circumstances, the Agency will use its listing authority to list the wastewaters from individual facilities. Comments are solicited on the Agency's approach to this potential problem.

This amendment does not exempt wastewater mixtures that derive from the discarding of off-specification § 261.33 materials, the discarding of these materials during abnormal manufacturing operations (e.g., plant shutdowns, operation malfunctions resulting in substantial spills, leaks or other releases), or the discarding of these materials where they are not being used as raw materials or are not being manufactured as intermediate or final products or intermediates. The Agency believes that such discarded § 261.33 materials would be properly treated as hazardous waste.
products (e.g., the discarding of § 261.33 pesticides being used for pest control on the plant property or the discarding of § 261.33 solvents or other materials used in the plant's wastewater treatment systems. Indeed, some of these discharges are almost unavoidable (e.g., laboratory spills washed into a sink drain, and residues from the washing of glassware which are carried in the wastewater into the sewer). Other discharges are the most reasonable and efficient way of disposing of many of these wastes.

The Agency believes that these discharges from laboratories into a plant's wastewater treatment system typically will be small relative to the total volume of the plant's wastewater. Moreover, the Agency believes that the concentration of listed hazardous wastes imparted to the plant's wastewaters by these laboratory discharges will be even smaller. API estimates \(^*\) that refinery laboratories discard to the wastewater sewer and treatment systems about 20 to 150 kg/month of various chemical wastes, some of which may be listed hazardous wastes. Even if one assumes that all of these chemical wastes are listed hazardous wastes and are discharged into a typical daily wastewater flow of 5 million gallons, the resulting concentration of listed hazardous wastes in the wastewater would be 0.26 ppm. The Agency believes that these concentrations, and even higher concentrations—up to 1 ppm—do not pose a substantial hazard to human health or the environment, even if these concentrations are represented in wastewater discharges from the treatment systems (e.g., subsurface discharges from unlined surface impoundments).\(^*\)

To assure that the exemption in today's amendment is only available to highly diluted \(^*\) mixtures of laboratory wastes and nonhazardous wastewaters, the regulatory language in § 261.33 reflects this point. EPA has incorporated a limit of one percent of laboratory wastewaters to total wastewater on an annual average volumetric basis. The limit is expressed in this way to simplify the implementation of this exemption, that is, to avoid the necessity of sampling and calculating or otherwise measuring or estimating the actual concentrations of listed hazardous wastes introduced by laboratories into wastewater sewer and treatment systems. Under today's amendment, a generator may demonstrate compliance with this limit by measuring (preferably) or conservatively calculating values of the annual average wastewater discharge from the laboratory and the annual average wastewater flow entering the wastewater treatment system. EPA believes that this limitation will typically assure laboratory-derived listed hazardous waste concentrations in wastewaters of less than 1 ppm, which the Agency deems will not pose a substantial hazard to human health or the environment. It is possible that some facilities, whose average laboratory wastewater flow exceeds the exemption limit of one percent of the total wastewater flow, do not discharge hazardous chemical wastes into their wastewater in amounts warranting application of the mixture rule. The Agency has therefore provided another compliance test, which some facilities may prefer to employ; facilities may be able to show that the estimated combined average concentration of toxic (T) §§ 261.31, 261.32 and 261.33 materials resulting from laboratory operations, in the headworks of their wastewater treatment system does not exceed 1 ppm. If choosing this option a facility will be able to show compliance by means of an audit of laboratory purchases, an estimate of the aggregate amounts of §§ 261.31, 261.32 and 261.33 toxic materials utilized, and data on wastewater flow into the headworks of its treatment or pre-treatment facility. Facilities must make the worst case

\(^{*}\)Where an unused material (such as volume) which would be a listed spent solvent if discarded after use as a solvent, is instead discarded to wastewater prior to use, the principle set out in this section applies, and the discharge does not count as a laboratory operation, because it is a scaled-down version of a manufacturing process, and so does not generate the diversity of chemical wastes which are characteristic of laboratory operations.

\(^{*}\)A recent survey determined that more than 25 different chemicals are used daily in 47 percent of 1439 academic and industrial laboratories questioned, and that 100 different chemicals are used daily in 30 percent of these laboratories. Survey of Laboratory Practices and Policies for Employee Protection from Exposure to Chemicals. American Chemical Society, 1155 16th Street N.W., Washington, D.C. 20036. July 1981.
assumption that all listed hazardous wastes used in the laboratories will be discarded to wastewater, unless they can demonstrate through appropriate records that these materials were disposed of elsewhere. The data should be averaged on a yearly basis (an annualized basis was chosen in order to even out fluctuations, and in order to simplify recordkeeping).

III. wastes Listed Solely Because They Exhibit a Hazardous Waste Characteristic

Certain wastes are listed in §§ 261.31, 263.32 and 263.33 solely because they exhibit one of the characteristics of hazardous waste. Examples are hazardous wastes F003 (certain ignitable solvents), K044, K045 and K047 (certain residues from explosives manufacture), and certain discarded commercial chemicals listed in §§ 261.33(e) and (f). Mixtures of any of these wastes and other solid wastes are presumptively hazardous by application of the mixture rule. This result seems inappropriate, because the mixture itself can be tested to determine whether it exhibits the characteristics of hazardous wastes. Therefore, in § 261.3(a)(6)(iii) of today’s amendment, EPA is exempting from the mixture rule mixtures of non-hazardous solid wastes and wastes listed in subpart D solely because they exhibit one or more of the hazardous waste characteristics identified in Subpart C. This amendment, unlike the others adopted today, applies to all waste mixtures, not just to mixtures of listed wastes and wastewaters whose discharge is subject to regulation under section 402 or 307(b) of the Clean Water Act.

IV. Effective Date

Section 3010(b) of RCRA provides that EPA’s hazardous waste regulations and revisions to the regulations take effect six months after promulgation. The purpose of this requirement is to allow persons handling hazardous waste, sufficient lead time to prepare and to comply with major new regulatory requirements. For the amendment promulgated today, however, the Agency believes that an effective date of six months after promulgation would cause unnecessary disruption in the implementation of the regulation and would not be in the public interest. Since this amendment reduces, rather than increases, the existing requirements for persons generating hazardous waste, there is no basis for allowing a lengthy period of time for persons managing treatment facilities, to prepare for compliance. Therefore, this amendment will take effect immediately as an interim final rule.

V. Interim Final Rule and Request for Comment

EPA has determined under section 553 of the Administrative Procedure Act, 4 U.S.C. 553, that there is good cause for promulgating these amendments as interim final rules without prior notice and comment. In the first place, the Agency during the comment period on the May 19 regulations, already has received criticism of the applicability of the mixture of certain discarded process wastes and process wastewaters. Today’s action is a direct outgrowth of these comments. The Agency thus believes that the policy underlying the notice and comment requirement has been substantially satisfied here. EPA further believes that the effect of delaying promulgation of this amendment would be disruptive and counterproductive and could cause unnecessary hardship to many facilities. We are particularly concerned that facilities which otherwise would not be deemed to be managing hazardous wastes might have to install groundwater monitoring wells at substantial expense because their wastewaters are presumptively hazardous. Since the groundwater monitoring requirement becomes effective on November 19, 1981, the present amendment, as a practical matter, must be implemented immediately to provide relief to this class of facilities. In this situation, we think the use of advance notice and comment procedures would be contrary to the public interest.

At the same time, the Agency believes that the public should have an opportunity to comment on this rule, end, indeed, specifically invites comment on the issues raised herein. Thus, we will provide ample opportunity to comment before these amendments are issued in “final final” form.

VI. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is “major” and therefore subject to the requirement of a Regulatory Impact Analysis. This interim final regulation is not a major rule because it will not result in an effect on the economy of $100 million or more, nor will it result in an increase in costs or prices to industry. In fact, this regulation will reduce the overall costs and economic impact of EPA’s hazardous waste management regulations. There will be no adverse impact on the ability of U.S.-based enterprises to compete with the foreign-based enterprises in domestic or export markets. Because this amendment is not a major regulation, no Regulatory Impact Analysis is being conducted.

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

VII. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., whenever an agency is required to publish general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (i.e., small business, small organizations, and small governmental jurisdiction). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will generally have no adverse economic impact on small entities. Accordingly, I hereby certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation therefore does not require a regulatory flexibility analysis.

Dated: November 12, 1981.

Anne M. Gorsuch,
Administrator.

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

For the reasons set out in the preamble, 40 CFR Part 261 is amended as follows:

1. The authority citation for Part 261 reads as follows:


2. In § 261.3, paragraph (a)(2) is revised to read as follows:

§ 261.3 Definition of hazardous waste.

(a) Particulate matter.

(2) It meets any of the following criteria:

(i) It exhibits any of the characteristics of hazardous waste identified in Subpart C.

(ii) It is listed in Subpart D and has not been excluded from the lists in Subpart D under §§ 260.20 and 260.22 of this chapter.

(iii) It is a mixture of a solid waste and a hazardous waste that is listed in Subpart D solely because it exhibits one or more of the characteristics of hazardous waste identified in Subpart C.
C, unless the resultant mixture no longer exhibits any characteristic of hazardous waste identified in Subpart C.

(iv) It is a mixture of solid waste and one or more hazardous wastes listed in Subpart D and has not been excluded from this paragraph under §§ 260.20 and 260.22 of this chapter; however, the following mixtures of solid wastes and hazardous wastes listed in Subpart D are not hazardous wastes (except by application of paragraph (a)(2)(i) or (ii) of this Section) if the generator can demonstrate that the mixture consists of wastewater the discharge of which is subject to regulation under either Section 402 or Section 307(b) of the Clean Water Act (including wastewater at facilities which have eliminated the discharge of wastewater) and:

(A) One or more of the following spent solvents listed in § 261.31—carbon tetrachloride, 1,1,1-trichloroethane, trichloroethylene—provided that the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not to be discharged to wastewater) divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pre-treatment system does not exceed 1 part per million; or

(B) One or more of the following spent solvents listed in § 261.31—methylene chloride, 1,1,1-trichloroethane, chlorobenzene, o-dichlorobenzene, cresols, cresylic acid, nitrobenzene, toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, spent chlorofluorocarbon solvents—provided that the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not to be discharged to wastewater) divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pre-treatment system does not exceed 25 parts per million; or

(C) One of the following wastes listed in § 261.32—heat exchanger bundle cleaning sludge from the petroleum refining industry (EPA Hazardous Waste No. K050); or

(D) A discarded commercial chemical product, or chemical intermediate listed in § 261.33, arising from de minimis losses of these materials from manufacturing operations in which these materials are used as raw materials or are produced in the manufacturing process. For purposes of this subparagraph, "de minimis" losses include those from normal material handling operations (e.g. spills from the unloading or transfer of materials from bins or other containers, leaks from pipes, valves or other devices used to transfer materials); minor leaks of process equipment; storage tanks or containers; leaks from well-maintained pump packings and seals; sample purgings; relief device discharges; discharges from safety showers and rinsing and cleaning of personal safety equipment; and rinsates from empty containers or from containers that are rendered empty by that rinsing; or

(E) Wastewater resulting from laboratory operations containing toxic (T) wastes listed in Subpart D, provided that the annualized average flow of laboratory wastewater does not exceed one percent of total wastewater flow into the headworks of the facility's wastewater treatment or pre-treatment system, or provided the wastes, combined annualized average concentration does not exceed one part per million in the headworks of the facility's wastewater treatment or pre-treatment facility. Toxic (T) wastes used in laboratories that are demonstrated not to be discharged to wastewater are not to be included in this calculation.

...
Environmental Protection Agency

Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities
SUPPLEMENTARY INFORMATION:

I. Introduction

On May 19, 1980, EPA promulgated hazardous waste regulations in 40 CFR Parts 260-265 (45 FR 33065 et seq.) which established, in conjunction with earlier regulations promulgated on February 20, 1980 (45 FR 12721 et seq.), the principal elements of the hazardous waste management program under Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6921 et seq.). Since that time, the Agency has received numerous requests to promulgate regulations tailored to the special problems involved in the management of smaller quantities of different hazardous wastes. In particular, some commenters have stated that some of the interim status hazardous waste standards for landfills are geared towards large, homogeneous waste streams but are inappropriate for generators, such as laboratories, who produce smaller quantities of many different wastes. For reasons discussed in Sections II and III of this preamble, many of these commenters have requested that the Agency allow these smaller quantities of waste to be disposed of in liquid and solid hazardous waste landfill. By allowing the burial of containerized liquid hazardous waste in landfills until November 19, 1981. As a result of reconsideration of this restriction, EPA is today promulgating an interim final rule to allow the disposal of small containers of liquid and solid hazardous waste in landfills provided that the wastes are placed in overpacked drums (lab packs) in the manner specified in today’s rule. The purpose of today’s rule is to provide an environmentally sound disposal option for generators of small containers of hazardous wastes, such as laboratories.

II. Summary of Comments

Most of the comments that the Agency has received on the subject of lab packs have been in responses to the February 20, 1981 amendment to 40 CFR 265.312, which concerns the disposal of ignitable hazardous waste in landfills. These commenters...
stated that disposal of lab packs in secure landfills is environmentally sound, provided that certain packaging and pretreatment conditions are followed. The commenters, in general, requested that small containers—ample to 5-gallon pails—should be allowed to be disposed of in lab packs in landfills. One commenter specifically requested that small containers (one gallon and smaller, approved for DOT shipment) be permanently allowed to be landfilled since these non-leaking, small containers, in cartons and palletized, do not pose a substantial risk to human health and the environment. However, the commenter further stated the EPA could require that small containers be placed in 55-gallon steel drums with the voids packed with absorbent materials before landfiling. The commenters stated that the techniques for handling lab packs prevent the potential for escape of liquids. Additionally, they stated that the quantity of such waste is small and will not burden landfills that are capable of handling chemical waste. Even if the bottles or cans break or leak, the packing will absorb the liquids. Commenters also stated that isolating materials that may be incompatible is very important (i.e., incompatible materials should not be placed in the same lab pack), since chemicals must not be allowed to react to cause fires or other hazards. Further, one commenter provided a list of substances that he felt should not be allowed to be lab-packed for disposal in landfills because, even in small quantities, these substances present too great a hazard for land disposal.

III. Discussion of the Problem

Many thousands of generators currently generate a variety of hazardous wastes in smaller quantities. Most of these generators are laboratories, including chemistry and biology laboratories in junior and senior high schools, colleges and universities, hospitals and clinics, Governmental agencies with laboratories, large and small research firms, and chemical, pharmaceutical and other manufacturing firms. Although the number of generators fitting this description is not known, the 15th edition of Industrial Research Laboratories of the United States contains information on 10,028 research and development facilities belonging to 6,947 organizations engaged in fundamental and applied research, including development of products and processes. Most of the facilities are owned and operated by industrial firms but some foundations and cooperatively supported units are also covered, as well as university laboratories having research facilities separate from university control. The American Chemical Society’s Directory of College Chemistry Faculty (which covers two- and four-year colleges and universities) lists approximately 3,200 college departments of chemistry, biochemistry, chemical engineering, or medical-pharmaceutical chemistry, each of which can be expected to have at least one laboratory.

The Agency has received several examples indicating the magnitude of laboratory waste generation. One large university stated that it has more than 2,000 laboratories, each of which generates a wide variety of waste chemicals in small quantities. One company that picks up small quantities of laboratory wastes from generators and then packs and transports the wastes in lab packs for disposal commented that it handled over 25,000 different chemicals in approximately 500,000 small containers in 1980. The containers varied generally from ampules of a few grams to 5-gallon pails. One research laboratory stated that it typically generates well over a thousand such small containers (several milliliters up to about one gallon in size) for disposal each month.

The availability of commercial treatment options for small quantities of hazardous waste is greatly limited. A typical laboratory produces small quantities of many different wastes. The variety and quantity of compounds discarded are often unpredictable. Often the specific waste characteristics are unknown and the cost to characterize such wastes is prohibitive. Commercial treatment facilities (e.g., incinerators and solvent recovery operations) typically accept only reasonably sized lots of well-characterized liquid wastes delivered in a form which makes them readily suitable for treatment. Diverse laboratory wastes in small containers are not considered to be readily suitable for treatment by operators of these facilities.

Because in many cases the contents of each small container of laboratory or hazardous waste cannot be precisely defined, commercial waste handlers are reluctant to incinerate them. Proper incineration requires analysis of waste feeds for identification and designation of principal organic hazardous constituents, a very difficult task with respect to diverse drummed wastes.

IV. Solutions

Based on the lack of available treatment or disposal options for laboratory wastes and on the Agency’s conclusion that landfill disposal of small containers of hazardous wastes in overpacked drums is environmentally sound, the Agency has decided to allow lab packs to be disposed of in hazardous waste landfills.

The Agency believes that the disposal of lab packs in landfills is an environmentally sound practice. Although the drums in which the laboratory wastes are overpacked will eventually degrade, the Agency believes that by having, at a minimum, sufficient absorbent material in each drum to completely absorb all of the liquid content of the inside containers, lab packs will not contribute substantial volumes of liquids to landfill leachate. Today’s requirement that the outside container be full (i.e., absorbent material to the top of the drum with no void space), will assure that no breakage or rupture of the inside containers will occur during handling and placement.

One disposal alternative, other than disposal in lab packs, is to mix liquid wastes with an absorbent material before placement in a drum, or to pour liquid wastes directly into drums with sufficient absorbent material to solidify the liquid wastes. Provided that the liquids are sufficiently absorbed or solidified to remove free liquids, full drums of such treated wastes are already allowed to be landfilled under the regulations, even after the § 265.314 ban on containerized liquids in landfills takes effect. This method differs from packaging in lab packs in that liquid wastes are absorbed prior to disposal rather than contained in inside containers. The effectiveness of the absorption is therefore observable. While the option of mixing before disposal may be viable for some generators, based on the chemical handling procedures of many laboratories, disposal in overpacked inside containers may be much more practical and often safer for small quantities of wastes.

V. DOT and EPA Coordination

The Department of Transportation (DOT) has issued regulations governing the transport of hazardous materials at 49 CFR Parts 171-179. Those regulations specify packaging requirements applicable to the transport of hazardous materials in commerce within the United States. However, the DOT regulations do not cover all hazardous wastes and are not applicable to all lab packs (e.g., lab packs disposed of on-site).

It should be noted that EPA has previously adopted certain DOT regulations in its Standards Applicable to Generators of Hazardous Waste (40 CFR Parts 260,等)。
CFR Part 262). Pursuant to § 262.30, a generator who transports hazardous waste or offers hazardous waste for transport off-site, must package the waste in accordance with applicable DOT regulations on packaging under 49 CFR Parts 173, 178, and 179. Therefore, any generator transporting lab packs for off-site disposal is already required to conform with all applicable DOT requirements for packaging.

The objective of the DOT regulations is to insure the safe transport of hazardous materials. EPA's concern in promulgating today's regulation is to insure the safe disposal of hazardous wastes. To the extent possible, EPA has adopted DOT specifications for the packaging of lab packs for disposal. However, because the objective of the DOT regulations varies somewhat from the purpose of today's rule, in some cases the requirements of § 265.316 are different, or stricter than the DOT requirements. However, the Agency has attempted to ensure consistency with the requirements of DOT and to avoid the imposition of conflicting requirements wherever possible.

Today's rule applies certain DOT specifications to some situations which are outside of DOT's jurisdiction and thus are not directly covered by the DOT regulations (e.g., lab packs being disposed of on-site). On the other hand, generators or transporters who are already covered by the DOT regulations must still comply with all applicable sections of those regulations. Thus lab packs offered for transportation may, as in the past, be subject to additional DOT requirements such as weight and container size limitations. In addition, DOT prohibits the shipment of corrosive liquids in metal outside drums or barrels (see 49 CFR 173.23) unless an exemption is obtained in accordance with 49 CFR Part 73. Subpart B. Since EPA is requiring metal outside containers for purposes of disposal (§ 265.316(b)), persons subject to the DOT regulations wishing to dispose of corrosive liquids in lab packs must first obtain an exemption from DOT.

VI. Content of the Regulation

To achieve the objectives discussed above, today's regulation adds a new section to Part 265 (§ 265.316) and makes conforming amendments to §§ 265.312 and 265.314. In accordance with today's regulation, wastes to be disposed of in lab packs must be packaged in sealed inside containers. The inside containers must be of a design and constructed of a material that will not react dangerously with, be decomposed by, or be ignited by, the waste held therein. In addition, the inside containers must be of the size and type specified in the DOT hazardous materials regulations (49 CFR Parts 173, 178, and 179), if those regulations specify a particular inside container for that waste. The requirement of using DOT-specified inside containers for purposes of packaging wastes for disposal in lab packs is applicable whether or not the lab pack will be regulated by DOT for purposes of transportation. The reason that EPA is adopting DOT's specifications for inside containers is that EPA seeks to achieve the same objective that DOT has defined in its regulations, namely that the inside containers safely and effectively hold a material without leakage. Based on the fact that EPA seeks to achieve the same objective, the Agency has decided to employ the DOT specifications for inside containers.

The DOT hazardous materials regulations do not specify inside containers for all hazardous wastes, however. Therefore, for any waste not addressed in the DOT regulations, inside containers must meet only the general performance standard (i.e., be of a design and constructed of a material that will not react dangerously with, be decomposed by, or be ignited by, the waste held therein).

In addition to the requirement that the inside containers be non-leaking, the Agency has also included a requirement in § 265.316(a) that all inside containers be tightly and securely sealed. This requirement is intended to help insure that no waste leaks from the inside containers before the lab pack is placed in the landfill.

Section 265.316(d) prohibits the placement of incompatible wastes in the same landfill cell unless § 265.17(b) is complied with. Section 265.17(b) states that: the mixture or commingling of incompatible wastes or incompatible wastes and materials must be conducted so that it does not: (1) Generate extreme heat or pressure, fire or explosion, or violent reaction; (2) Produce uncontrolled toxic mists, fumes, dusts, or gases in sufficient quantities to threaten human health; (3) Produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosions; (4) Damage the structural integrity of the device or facility containing the waste; or (5) Through other like means threaten human health or the environment. Section 265.13 is, of course, applicable to the placement of lab packs in landfills.

Sections 265.313(b) deals with the outside container and the type of absorbent material required. EPA is requiring that the inside containers be overpackaged in DOT specification open-head metal drums no larger than 110 gallons in capacity and surrounded by, at a minimum, a sufficient quantity of absorbent material to completely absorb all of the liquid contents of the inside containers. DOT specifications for containers are contained in 49 CFR Parts 178 and 179.

All lab packs must be in DOT specification outside drums, whether or not the wastes contained in the lab pack are covered by the DOT regulations. The reason for this is that these drums have already been determined by DOT to be sturdy enough to safely hold hazardous materials. The 110-gallon capacity is well above the maximum size DOT specification container. In addition, this capacity limitation is designed to ensure that lab packs will be used for their intended purpose, i.e., the disposal of smaller quantities of many different wastes.

Commenters have stated that many off-site landfill operators will accept containerized wastes only in 55-gallon drums. Comments are specifically solicited on whether a capacity limitation for outside containers is appropriate and if so, what this limitation should be. Based on the volume and content of comments received on this issue, the Agency will consider amending the 110-gallon limitation.

In many cases, the DOT regulations allow a variety of acceptable packaging options including metal, fiberboard, plastic or wooden containers. However, for purposes of disposal, EPA is
The higher the absorptive capacity of the... require that all outside containers be metal. The need for metal drums is due to the nature of disposal. Allowing fiber or wooden containers to be used as an outside container would increase the risk of breaking or rupturing the inside containers because fiber or wooden containers are more likely to be... crushed during handling and after placement in a landfill than are metal drums. The drums must be of the open head variety to allow the proper placement of the inside containers and absorbent. The inside containers must be overpacked and surrounded, at a minimum, by a sufficient quantity of absorbent material to completely absorb all the liquid contents of the inside containers. In addition, the outside container must be full after packing with the inside containers and absorbent material to prevent breakage of inside containers. The absorbent material used must not be capable of reacting dangerously with, being decomposed by, or being ignited by the contents of the inside containers in accordance with § 265.17(b). The Agency has not specified the type of absorbent that must be used in a lab pack. However, based on comments received, it appears that vermiculite and fuller’s earth are commonly used because of their price, availability, and the fact that they will not react dangerously with most wastes.

The Agency has not specified a maximum limit on the size of the inside containers except where the DOT regulations impose a specific requirement. However, the total amount of liquid which may be placed in the lab pack will be limited by the amount of absorbent material required. Of course, the higher the absorptive capacity of the absorbent material used for overpacking, the more liquid the lab pack may contain.

VII. Ban on Certain Reactive Wastes

Section 265.312 bans the disposal of reactive waste in landfills unless the waste is treated or rendered non-reactive prior to or immediately after placement in the landfill. However, as a result of comments received, the Agency recognizes that cyanide- and sulfide-bearing wastes, which are deemed reactive because they meet the characteristic of reactivity set forth in 40 CFR 261.23(a)(5), may be safely landfilled in lab packs provided they are properly handled so as to avoid contact with incompatible wastes, as required by § 265.316(d).

By definition cyanide- and sulfide-bearing wastes are those which will generate toxic gases, vapors, or fumes when exposed to acidic or basic conditions characterized by a pH between 2 and 12.5. All other reactive wastes will explode or release toxic gases, vapors, or fumes, when they are at standard pressure and temperature; when they are mixed with or exposed to water; when they are subject to a strong initiating force; or when they are heated under confinement, or else are DOT-forbidden, Class A, or Class B explosives. While it is possible to isolate cyanide- and sulfide-bearing wastes in a lab pack from wastes or conditions that would cause them to generate toxic gases, vapors, or fumes, it is much more difficult to protect other reactive wastes from conditions which would cause them to explode or otherwise dangerously react, even when packaged in a lab pack. Therefore, today’s regulation contains a ban on the landfill disposal of reactive wastes, other than cyanide- and sulfide-bearing wastes, in lab packs unless the waste is rendered non-reactive prior to packaging.

It should be noted that some wastes, such as oxidizers, may meet a characteristic of reactivity as well as the characteristic of ignitability. Although, pursuant to today’s rule, ignitable wastes may be landfilled in lab packs, any ignitable waste that also meets a characteristic of reactivity other than § 261.23(a)(5), may not be disposed of in a lab pack unless it is treated or rendered non-reactive prior to packaging.

VIII. Effective Date

Section 3010(b) of RCRA provides that EPA’s hazardous waste regulations and revisions to the regulations take effect six months after promulgation. The purpose of this requirement is to allow persons handling hazardous wastes sufficient lead time to prepare and to comply with major new regulatory requirements. Today’s amendments are designed to reduce burdens imposed by existing regulations. Therefore, an effective date of six months after promulgation would be contrary to the purpose of section 3010(b). For this reason, this rule and amendments take effect immediately.

IX. Interim Final Rule and Amendments and Request for Comment

EPA is promulgating today’s rule and amendments as interim final and is providing a 60-day comment period. The Agency believes that the public should have an opportunity to comment on the rule and amendments and, indeed, has specifically requested comments. However, the Agency believes that the rule and amendments should be put into effect during the comment period. To do otherwise would be contrary to the public interest by causing the regulated community to comply with requirements which this rule and amendments are designed to change. Therefore, the Agency finds that there is a “good cause” to allow today’s rule and amendment to take effect prior to notice and public participation under Section 533(b)(1) of the Administrative Procedures Act.

X. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is “major” and therefore subject to the requirement of a Regulatory Impact Analysis. This interim final regulation is not major since its effect is to reduce the overall costs and economic impact of EPA’s hazardous waste management regulations. This reduction is achieved by allowing the landfill disposal in lab packs of certain hazardous wastes which would otherwise be banned from landfills. This being the case, the present rule and amendments are not a major regulation and no Regulatory Impact Analysis need be conducted.

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

XI. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). The Administrator may instead certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will generally have no adverse economic impact on small entities in that it merely provides another disposal option to entities already subject to regulation under RCRA. Accordingly, I hereby certify that this final regulation will not have a significant economic impact on a substantial number of small entities. This regulation therefore does not require a regulatory flexibility analysis.
Dated: November 12, 1981.
Anne M. Gorsuch,  
Administrator.

PART 265—INTERIM STATUS  
STANDARDS FOR OWNERS AND  
OPERATORS OF HAZARDOUS WASTE  
TREATMENT, STORAGE, AND  
DISPOSAL FACILITIES

For the reasons set out in the  
preamble, 40 CFR Part 265 is amended  
as follows:

1. The authority citation for Part 265  
reads as follows:

Authority: Secs. 1006, 2002(a), and 3004,  
Solid Waste Disposal Act, as amended by the  
Resource Conservation and Recovery Act of  
1976, as amended (42 U.S.C. 6905, 6912(a),  
and 6924).

2. Section 265.312 is amended by  
revising paragraph (a) to read as  
follows:

§ 265.312 Special requirements for  
ignitable or reactive waste.

(a) Except as provided in paragraphs  
(b) and (c) of this section and in  
§ 265.316, ignitable or reactive waste  
must not be placed in a landfill, unless  
the waste is treated, rendered, or mixed  
before or immediately after placement in  
the landfill so that:

(1) The resulting waste, mixture, or  
dissolution of material no longer meets  
the definition of ignitable or reactive  
waste under § 261.21 or 261.23 of this  
chapter, and

(2) Section 265.17(b) is complied with.

3. Section 265.314 is amended by  
revising paragraph (b)(2) and by adding  
paragraph (b)(3) to read as follows:

§ 265.314 Special requirements for liquid  
waste.

(b) * * *

(2) The container is very small, such  
as an ampule; or

(3) The container is disposed of in  
accordance with § 265.316.

4. A new § 265.316 is added to read as  
follows:

§ 265.316 Disposal of small containers of  
hazardous waste in overpacked drums (lab  
packs).

Small containers of hazardous waste  
in overpacked drums (lab packs) may be  
placed in a landfill if the following  
requirements are met:

(a) Hazardous waste must be  
packaged in non-leaking inside  
containers. The inside containers must  
be of a design and constructed of a  
material that will not react dangerously  
with, be decomposed by, or be ignited  
by the waste held therein. Inside  
containers must be tightly and securely  
sealed. The inside containers must be of  
the size and type specified in the  
Department of Transportation (DOT)  
hazardous materials regulations (49 CFR  
Parts 173, 178 and 179), if those  
regulations specify a particular inside  
container for the waste.

(b) The inside containers must be  
overpacked in an open head DOT- 
specification metal shipping container  
(49 CFR Parts 178 and 179) of no more  
than 416-liter (110 gallon) capacity and  
surrounded by, at a minimum, a  
sufficient quantity of absorbent material  
to completely absorb all of the liquid  
contents of the inside containers. The  
metal outer container must be full after  
packing with inside containers and  
asorbent material.

(c) The absorbent material used must  
not be capable of reacting dangerously  
with, being decomposed by, or being  
ignited by the contents of the inside  
containers, in accordance with  
§ 265.17(b).

(d) Incompatible wastes, as defined in  
§ 260.10(a) of this chapter, must not be  
placed in the same outside container.

(e) Reactive waste, other than  
cyanide- or sulfide-bearing waste as  
deefined in § 261.23(a)(5) of this chapter,  
must be treated or rendered non- 
reactive prior to packaging in  
accordance with paragraphs (a) through  
d(e) of this section. Cyanide- and sulfide- 
bearing reactive waste may be packaged  
in accordance with paragraphs (a)  
through (d) of this section without first  
being treated or rendered non-reactive.
## Reader Aids

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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.)

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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

REMINDERS

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today’s List of Public Laws.

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