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Tuesday
November 17, 1981

Highlights

CONTINUED INSIDE

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Highlights

Contents

Federal Register
Vol. 46, No. 221
Tuesday, November 17, 1981

MEETINGS ANNOUNCED IN THIS ISSUE

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Proclamations:

4608 (See Proc. 4884)..... 56407
4884..... 56407

7 CFR

282..... 56561
624..... 56574

12 CFR

201..... 56409

14 CFR

Proposed Rules:

207..... 56425
208..... 56425
212..... 56425
380..... 56425

17 CFR

Proposed Rules:

240..... 56426

18 CFR

Proposed Rules:

271 (2 documents)..... 56428, 56429

21 CFR

155..... 56409
211..... 56411
510..... 56412
558..... 56412
610..... 56411

24 CFR

200..... 56413
203..... 56420
215..... 56421
234..... 56420
235..... 56421
236..... 56421
812..... 56421

26 CFR

Proposed Rules:

1..... 56431

30 CFR

Proposed Rules:

221..... 56564
231..... 56433
915..... 56433

32 CFR

Ch. XVI..... 56434

40 CFR

261..... 56582
265..... 56592

Proposed Rules:

52 (3 documents)..... 56461–56463
123..... 56464
180..... 56465
256..... 56465

47 CFR

Proposed Rules:

Ch. I..... 56466
2..... 56473
21..... 56473

49 CFR

1048..... 56423

50 CFR

Proposed Rules:

611..... 56480

Federal Register
Vol. 46, No. 221
Tuesday, November 17, 1981

Presidential Documents

Title 3—

The President

Proclamation 4884 of November 13, 1981

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.

Ronald Reagan

Billing code 3195-01-M

ANNEX

Subpart A, part 2 of the Appendix to the TSUS remains modified by insertion in numerical sequence the following provision:

Item	Articles	Rates of Duty 1	Rates of Duty 2	Effective Period
923.18	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	4.625 per lb. on chromium content	4.625 per lb. on chromium content	On or before November 15, 1982

[FR Doc. 81-33264]
Filed 11-16-81; 8:59 am]
Billing code 3195-01-C

Rules and Regulations

Federal Register
Vol. 46, No. 221
Tuesday, November 17, 1981

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)(3)(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:

Federal Reserve Bank	Rate	Effective
Boston	13	Nov. 2, 1981.
New York	13	Do.
Philadelphia	13	Do.
Cleveland	13	Do.
Richmond	13	Do.
Atlanta	13	Nov. 3, 1981.
Chicago	13	Nov. 2, 1981.
St. Louis	13	Do.
Minneapolis	13	Do.
Kansas City	13	Nov. 3, 1981.
Dallas	13	Nov. 6, 1981.
San Francisco	13	Nov. 2, 1981.

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:

Federal Reserve Bank	Rate	Effective
Boston	13	Nov. 2, 1981.
New York	13	Do.
Philadelphia	13	Do.
Cleveland	13	Do.
Richmond	13	Do.
Atlanta	13	Nov. 3, 1981.
Chicago	13	Nov. 2, 1981.
St. Louis	13	Do.
Minneapolis	13	Do.
Kansas City	13	Nov. 3, 1981.
Dallas	13	Nov. 6, 1981.
San Francisco	13	Nov. 2, 1981.

(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:

Federal Reserve Bank	Rate	Effective
Boston	13	Nov. 2, 1981.
New York	13	Do.
Philadelphia	13	Do.
Cleveland	13	Do.
Richmond	13	Do.
Atlanta	13	Nov. 3, 1981.
Chicago	13	Nov. 2, 1981.
St. Louis	13	Do.
Minneapolis	13	Do.
Kansas City	13	Nov. 3, 1981.
Dallas	13	Nov. 6, 1981.
San Francisco	13	Nov. 2, 1981.

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.

[FR Doc. 81-33013 Filed 11-16-81; 8:45 am]
BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 155

[Docket No. 78N-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

date. Voluntary compliance may begin January 18, 1982. Objections by December 17, 1981.

ADDRESS: Written objections are to be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF–214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–245–1164.

SUPPLEMENTARY INFORMATION: A proposal to amend the standard of identity for § 155.200 *Certain other canned vegetables* (21 CFR 155.200) by deleting those provisions applicable to canned asparagus and to establish separate standards of identity and quality for this food was published in the **Federal Register** of December 15, 1978 (43 FR 58580). 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(e), 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; 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)(9), 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 packed in glass containers, stannous chloride may be added in a quantity not to exceed 15 parts per million calculated as tin (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 tin (Sn).

(11) In the case of canned black-eyed 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)(7) 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.**

(Sec. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)))

Dated: November 6, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

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

BILLING CODE 4160-01-M

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21 CFR Parts 211 and 610

[Docket No. 80N-0080]

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, 301-443-5220.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 22, 1980 (45 FR 48918), 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 39129), a final rule was published that codified antigen E as an official standard of potency for short 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 GCMP 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 Biologics, 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 26052; 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.

(g) Pending consideration of a proposed exemption, published in the **Federal Register** of September 29, 1978, the requirements in this section shall not be enforced for human OTC drug products if their labeling does not bear dosage limitations and they are stable for at least 3 years as supported by appropriate stability data.

b. In § 211.166 by adding new paragraph (d) to read as follows:

§ 211.166 Stability testing.

* * * * *

(d) Allergenic extracts that are labeled "No U.S. Standard of Potency" are exempt from the requirements of this section.

PART 610—GENERAL BIOLOGICAL PRODUCTS STANDARDS

2. Part 610 is amended in § 610.53(a) by revising the fifth and sixth entries in the table to read as follows:

§ 610.53 Dating periods for specific products.

(a) * * *

Allergenic Extracts labeled "No U.S. Standard of Potency"	With 50 percent or more glycerin, three years (5° C, three years). With less than 50 percent glycerin, eighteen months (5° C, eighteen months). Products for which cold storage conditions are inappropriate, eighteen months, provided labeling recommends storage at no warmer than 30° C. Section 610.51 does not apply. Powders and tablets, five years, provided labeling recommends storage at no warmer than 30° C. Section 610.51 does not apply. Freeze dried products, five years (5° C, three years).
Allergenic Extracts, Alum Precipitated labeled "No U.S. Standard of Potency".	Eighteen months (5° C, eighteen months).

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

(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))

Dated: November 2, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-32906 Filed 11-16-81; 8:45 am]

BILLING CODE 4160-01-M

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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, and to add the sponsor to the list of sponsors of approved NADA's.

EFFECTIVE DATE: November 17, 1981.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV–136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: I.M.S. Inc., 13619 Industrial Rd., Omaha, NE 68137, is sponsor of an NADA (127–195) to provide for use of a 10-gram-per-pound tylosin premix for making complete swine feeds. The complete feed is used 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 approved 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 (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 510 and 558 are amended as follows:

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) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
I.M.S. Inc., 13619 Industrial Rd., Omaha, NE 68137	050639
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
050639	I.M.S. Inc., 13619 Industrial Rd., Omaha, NE 68137.
* * * * *	

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 (f)(1)(vi)(*a*) of this section.

* * * * *

Effective date. November 17, 1981.

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

Dated: November 5, 1981.

Terence Harvey,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 81-32926 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.

SUMMARY: This rule promulgates HUD Use of Materials Bulletin No. 79a (UM 79a). This is a revision to HUD Use of Materials Bulletin No. 79 (UM 79) dated April 25, 1978. The change is necessitated in order to incorporate a recently published national standard covering Acrylonitrile-Butadiene-Styrene (ABS) plastic drain pipe:

American Society for Testing and Materials Standard No. F 628-79 Standard Specification for Acrylonitrile-Butadiene-Styrene (ABS) Plastic Drain, Waste, and Vent Pipe Having a Foam Core.

This Bulletin is 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 not a toll-free number.)

SUPPLEMENTARY INFORMATION: HUD Use of Materials Bulletin No. 79 (UM 79) was published on April 25, 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 herewith submitted as a final rule for promulgation as HUD Use of Materials Bulletin No. 79a. 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 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 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 regular 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

Authority: Sec. 7(d), Department of Housing and Urban Development Act of 1965, 79 Stat. 670; 42 U.S.C. 3535(d); sec. 211, 52 Stat. 23; 12 U.S.C. 1715b and 81 Stat. 54; 5 U.S.C. 552(a).

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:

Note.—The text of UM-79a will not appear in the Code of Federal Regulations.

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

To: Regional Administrators, Directors, Offices of Regional Housing, Field Office Managers and Supervisors

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

Series and Series Number: _____

Use of Materials Bulletin No. 79a

Date: _____

Members of the HUD Staff processing cases and inspecting construction shall use this information in determining acceptability of the subject material for the uses indicated.

This bulletin should be filed with Bulletins on Special Methods of Construction and Materials as required by prescribed procedures. Additional copies may be requisitioned by the field offices.

The technical description, requirements and limitations expressed herein do not constitute an endorsement, approval or acceptance by the Department of Housing and Urban Development of the subject matter, and any statement or representation, however made, indicating approval or endorsement by the Department of Housing and Urban Development is unauthorized and false, and will be considered a violation of the United States Criminal Code 18, U.S.C. 709.

Any reproduction of this Bulletin must be in its entirety and any use in sales promotion or advertising is not authorized.

Subject to good workmanship, compliance with applicable codes, and the methods of application listed herein, the materials described in this bulletin may be considered suitable for HUD Housing Programs, including Housing for the Elderly and Care-Type Housing.

The eligibility of a property under these Programs is determined on the property as an entity and involves the consideration of underwriting and other factors not indicated herein. Thus, compliance with this bulletin should not be construed as qualifying the property as a whole, or any part thereof, as to its eligibility.

The methods of application for the materials listed herein are to be considered as part of the HUD Minimum Property Standards and shall remain effective until this bulletin is cancelled or superseded.

Section I—General Statement

This Bulletin sets forth the requirements and conditions for the acceptance of plastic drainage, waste and vent pipe and fittings manufactured from Acrylonitrile-Butadiene-Styrene (ABS) or Poly (Vinyl Chloride) (PVC) plastic. The information contained herein is available for use as a guide by manufacturers, architects, engineers and builders seeking appropriate HUD acceptance. These materials are acceptable for use in the applications detailed in Section II. Terminology used is consistent with that of the nationally recognized model plumbing codes.

This Bulletin supersedes the following Use of Materials Bulletins and Notice:

Number	Subject	Date
UM 53a	Polyvinyl Chloride Plastic Drainage Waste and Vent Pipe and Fittings.	Feb. 22, 1971.
UM 54	ABS (Acrylonitrile-Butadiene-Styrene) Plastic Drainage Waste and Vent Pipe and Fittings.	Mar. 2, 1970.
UM 79*	Acrylonitrile-Butadiene-Styrene (ABS) and Poly (Vinyl Choride) (PVC) Plastic Drain, Waste and Vent Pipe and Fittings.	Apr. 25, 1978.
Notice H 78-99 (HUD)	Clarification of Use of Materials Bulletin No. 79, Acyrlonitrile-Butadiene-Styrene and Poly (Vinyl Chloride) Drain, Waste and Vent Pipe and Fittings.	Sept. 20, 1978.

* Revised.

Section II—Allowable Uses

ABS and PVC pipe, fittings and joining 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 conductors, 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 [1]

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 Pipe and Fittings
D 2321 Underground Installation of Flexible Thermoplastic Sewer Pipe
D 2564 Solvent Cement for Poly(Vinyl Chloride) (PVC) Plastic Pipe and Fittings
D 2661 Acrylonitrile-Butadiene-Styrene (ABS) Plastic Drain, Waste, and Vent Pipe and Fittings
D 2665 Poly(Vinyl Chloride) (PVC) Plastic Drain, Waste and Vent Pipe and Fittings
D 2855 Making Solvent Cemented Joints with Poly(Vinyl Chloride) (PVC) Pipe and Fittings
D 3311 Drain, Waste and Vent (DWV) Plastic Fittings Patterns
E 119 Standard Methods of Fire Tests of Building Construction and Materials
F 628* Acrylonitrile-Butadiene-Styrene (ABS) Plastic Drain, Waste, and Vent Pipe Having a Foam Core

Other Publications

PPI [2] TR [3] 12 crylonitrile-Butadiene-Styrene (ABS) Plastic Piping Design and Installation.
PPI TR 13 Poly(Vinyl Chloride) (PVC) Plastic Piping Design and Installation
PPI TR 21 Thermal Expansion and Contraction of Plastic Pipe
PPI Plastics Pipe Manual
NSF [4] Standard No. 14 Thermoplastic Materials, Pipe, Fittings Valves, Traps and Joining Materials

[1] American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103.

Section IV—Materials

A. Composition and Properties

Pipe, fittings and joint cements shall be manufactured from materials as defined in the following specifications:

Pipe and fittings	Joint cements
ABS (Pipe) Type I Grade 2 ASTM D 1788. ABS (Pipe) Foam Core ASTM F 628*. ABS (Fittings) Virgin black ASTM D 2661. PVC (Pipe and Fittings) Virgin Type I (Grade 1 or 2), ASTM D 1784.	ASTM D 2235 (for ABS). ASTM D 2564 (for PVC).

*Revised.

B. Dimensional Details and Test Requirements

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

Pipe and fittings	Joint cements
ABS ASTM D 2661	ASTM D 2235.
ABS ASTM F 628 (Foam Core)*.	ASTM D 2235.
PVC ASTM D 2665	ASTM D 2564.

*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.

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

[3] Technical Report (or the Plastics Pipe Institute).

[4] 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 40, Chapter 5, Pages 48–49
PVC ASTM D 2855
ASTM D 2665, Appendix X1.
PPI Plastics Piping Manual; Chapter 4, Page 40, 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 56
PVC ASTM D 2665, Appendix X1.
PPI TR 13, Sections 4.2 and 6.1
PPI TR 21
PPI Plastics Piping Manual, Chapter 7, Page 56

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 A*
PPI TR 12, Paragraph 6.1
PPI Plastics Piping Manual, Chapter 5, Page 50
PVC ASTM D 2665, Appendix X1
PPI TR 13, Paragraph 6.1
PPI Plastics Piping Manual; Chapter 4, Page 41, Chapter 7, Page 58

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 2661, 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 (habital room) and public spaces shall be enclosed in walls, partitions, floor/ceiling assembles, chases or shafts regardless of fire rating of these elements of construction. Exceptions are (1) Unfinished basements of one and two family dwellings (including row type housing) (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, which are cut to allow the passage of plastic pipe, shall not be excessively larger than required for passage of the lateral and shall be back packed or sealed with plaster spackling or suitable non-combustible material resistent to deterioration or disruption caused by movement of the pipe.

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 back 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 suffficient 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 XI.
PPI TR 12, Paragraph 5
PPI Plastics Piping Manual; Chapter 4, Page 40, Chapter 5, Page 48
PVC ASTM D 2665, Appendix XI.
PPI TR 13, Paragraph 5
PPI Plastics Piping Manual; Chapter 4, Page 40

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 2235
ASTM D 2661
ASTM D 3311
ASTM F 628 (Foam Core)*
PVC ASTM D 2564
ASTM D 2665

The marking shall indicate the applicable ASTM Specification and shall show the logo of an acceptable nationally recognized testing laboratory.[5] In addition, the marking shall identify the manufacturer's name or trademark.

*Revised.

[5] One such testing laboratory is the National Sanitation Foundation Testing Laboratory, Ann Arbor, Michigan 48106, whose logo for DWV thermoplastic piping products is "NSF-dwv" certifying compliance with the requirements of the standard(s) identified by the marking. This program is administered under the protocol detailed in NSF 14, Thermoplastic Materials, Pipe, Fittings, Valves, Traps and Joining Materials.

*Revised.

*Revised.

Guide for Generally Accepted Practice for the Design and Installation of ABS and PVC Plastic Drain, Waste and Vent Systems and Building Sewers for Residential Building

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

Department of Housing and Urban Development, Office of Architecture and Engineering Standards, Washington, D.C. 20410

Contents

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 publicated 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.[1] The guide should be considered as 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 [1] plastic drain, waste and vent 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.

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).

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]

Nominal pipe size	Outside diameter				Total wall thickness			Inner and outer wall thicknesses—ABS foam core [1]	
	Average	Tolerance on average		Permissible deviations of diameter from measured average (out-of-roundness)	Minimum	Tolerance			
	ABS and PVC	ABS	PVC	ABS and PVC	ABS and PVC	ABS	PVC	Min. inner wall	Min. outer wall
1¼	1.660	+0.010 −0.000	±0.005	±0.012	0.140	±0.015 −0.000	±0.020 −0.000	0.056	0.028
1½	1.900	+0.010 −0.000	±0.006	±0.012	0.145	±0.015 −0.000	±0.020 −0.000	0.058	0.029
2	2.375	+0.010 −0.000	±0.006	±0.012	0.154	±0.015 −0.000	±0.020 −0.000	0.062	0.031
3	3.500	+0.015 −0.000	±0.008	±0.015	0.216	±0.020 −0.000	±0.025 −0.000	0.087	0.043
4	4.500	+0.015 −0.000	±0.009	±0.015	0.237	±0.024 −0.000	±0.028 −0.000	0.095	0.047
6	6.625	+0.011 −0.011	±0.011	±0.025	0.280	+0.030 −0.000	+0.034 −0.000	0.112	0.056

[1] Revised.

ABS and PVC pipe can be cut by several methods. Pipe is cut by manufacturers with cut-off saws equipped with carbide-tipped circular blades. These give the best long-term tool performance and produce a neat square pipe cut without burrs. This is considered the best and most efficient means of cutting the pipe in quantity. When cutting pipe in the shop or at the building site, it is recommended that a cut-off radial arm saw be used. When this is not feasible or desirable, a number of alternatives may be utilized. These are: (a) Portable electric hand saw with a fine-toothed blade; (b) hand saw and miter box; and (c) wheel type pipe cutter with special wheels for plastic pipe. Each of these three methods has certain advantages and disadvantages. The electric hand saw requires a power supply, requires some care and skill to produce a square cut, and will not cut through a 3 inch pipe in a single pass even with a 8 inch blade. It has the advantage of requiring little time and effort and produces a neat, clean, square cut. The hand saw and miter box requires a stand or base and more physical effort and time. It produces a square cut that requires little de-burring. The pipe cutter requires the most physical effort both in cutting and de-burring. However, it produces a square cut and is quite suitable for cutting pipe up to 2 inches.

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.

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.*[2]

4.4.1 General solvents contained in most plastic pipe cements are classified as airborne contaminants and are highly 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.

[1] 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.

[2] Information extracted from F 402.

4.4.7 Avoid repeated contact with the skin. Wear gloves which are impervious to and unaffected by the solvents. Use bristle paint brushes or other applicators not 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 Solvent Cements.*

Store solvent cements in a cool place except when actually in use at the jobsite. The cements have 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 unsuitable for use on the job if it exhibits an appreciable change from the original viscosity, or if a sign of gelation is apparent. Restoration of the original viscosity or removal of gelation by *adding solvents or thinners is not acceptable* after shelf life has expired. Use only cements that are marked with a shelf life date or date code.

5. Making Joints and Connections

5.1 *ABS.*

5.1.1 *Solvent Cements.*

Use solvent cements which meet the requirements of ASTM Specification D 2235, Solvent Cement for Acrylonitrile-Butadiene-Styrene (ABS) Plastic Pipe and Fittings, and which are packaged in 1 quart containers or smaller for field use. If, within the shelf life of the cement, *thinning is required* to reduce viscosity for use with smaller pipe, use *only methyl ethyl ketone.* The solvent cement shall provide sufficient open time for making good joints and connections but joints must be completed as rapidly as possible after applying the cement. Should delay develop in assembly, an additional coat of solvent cement shall be applied immediately prior to joining. CAUTION. If longer open time (slower drying) is required for particular types of installation special instructions and specifications should be obtained from the cement manufacturer. Any solvent cement of a "long-open-time" type should be evaluated for possible deleterious effects on the pipe and fittings. The use of such solvent cement should be avoided if at all possible.

5.1.2 *Socket Fit.*

ABS pipe and fittings are manufactured to close tolerances. Close tolerances are required to ensure satisfactory "interference" fit between pipe and fitting during the solvent cement joining. Use only pipe and fittings combinations that give interference fits. Pipe and fittings that give a loose fit in the socket will not properly fuse chemically. Allowable tolerances provide a forced fit, thus assuring chemical fusion and yielding maximum strength of solvent cemented joints. Attempting to compensate for a loose fit after assembly by applying additional cement will result in an unsatisfactory joint.

5.1.3 *Joining Technique.*

(a) *Cutting the Pipe.* Cut the pipe square using saws or pipe cutters designed specifically for this material. Protect pipe and fittings from serrated holding devices and abrasion.

(b) *Cleaning Pipe.* Remove burrs and wipe off all moisture, dust and other foreign matter from surfaces to be cemented.

(c) *Application of Cement.* Using an ordinary pure bristle paint brush of adequate size, or the brush supplied with the can of solvent cement, first apply a moderate even coating of cement in the fitting socket, completely covering the joining surfaces only. (Heavy or excessive applications of cement in the socket may result in an obstruction inside the piping after the joint is completed). Next, without delay apply cement to the outside of the pipe. (Make sure that the coated distance on the pipe is equal to the depth of the fitting socket).

(d) *Assembly.* Make the joint as quickly as possible after application of the cement and before the cement dries. Insert the pipe into the fitting socket, turning the pipe slightly while inserting, (e.g. about ¼ turn, where possible) to ensure even distribution of cement. Make sure that the pipe is inserted to the full depth of the socket, and hold pipe into socket for a few seconds to prevent "backing out." Then immediately remove excess solvent cement from the exterior of the joint with a clean, dry cloth. Should the cement dry too much before the joint is made up, as indicated by difficulty in the insertion of the pipe into the fitting or by apparent dryness of the cement film, reapply cement before assembling. Do not attempt to disturb the pipe fitting joint until after the cement has set: damage to the joint and loss of fit may result. Handling of the assembly with care is permissible within 2 minutes after joining. Allow 15 minutes for the joint to develop good handling strength.

(e) *Visibility of Marking.* Position pipe and fittings so that identifying markings are readily visible for inspection when installed.

5.1.4 *Joints.*

(a) *Threading Connections.* Do not cut threads on ABS drain, waste and vent pipe. Molded threads are permitted. Adapter fittings for transition to threaded continuation are required. The joint between the ABS pipe and transition fitting shall be of the solvent cement type. Only approved thread tape or thread lubricant specifically intended for use with ABS plastic pipe shall be used. Conventional pipe thread compounds, putty, linseed oil base products, and unknown mixtures shall be avoided.

(b) *Connections to Traps.* Connect threaded traps and trap nuts by means of approved threaded adaptors.

(c) *Connection to Closet Flanges.* Install screw-type closet flanges in the drainage system by means of an approved threaded adapter fitting. Install calk-type closet flanges in accordance with the procedures outlined in (f) below.

(d) *Connection to Non-Plastic Piping.* When connecting plastic pipe to other types of piping, use only approved types of fittings and adaptors, designed for the specific transition intended. Consult the manufacturer.

(e) *Thread Tightness.* Where a threaded joint is made, obtain tightness by maximum hand tightening plus additional tightening with a strap wrench not to exceed one full turn.

(f) *Transition to Bell-and-Spigot Pipe.* Make connections or transitions to bell-and-spigot cast iron soil pipe and fittings, and to bell-and-spigot pipe and fittings of other materials, utilizing approved mechanical compression joints designed for this use, or utilizing calked joints made in an approved manner. In calking, pack the joint with oakum or hemp and fill with molten lead to a depth of not less than 1 inch. Allow a period of 4 minutes for cooling, then calk the lead at the inside and outside edges of the joint. Do not overheat the lead; heat to its melting point only.

(g) *Alignment and Grade.* Align all piping system components properly without strain. Do not bend or pull pipe into position after being solvent welded. The grade of horizontal drainage and vent piping shall be as specified in the applicable code.

(h) For further information on making joints and connections with ABS pipe and fittings, consult:

PPI Plastics Piping Manual
PPI TR 12

5.2 *PVC.*

5.2.1 *Solvent Cements.*

Use solvent cements which meet the requirements of ASTM Specification D 2564, Solvent Cements for Poly(Vinyl Chloride) (PVC) Plastic Pipe and Fittings, and which are packaged in 1 quart containers or smaller for field use. If, within the shelf life of the cement, thinning is required use only thinner supplied by the cement manufacturer for the specific cement being thinned.

5.2.2 *Socket Fit.*

PVC pipe and fittings are manufactured to close tolerances. Close tolerances are required to ensure satisfactory "interference" fit between pipe and fitting during the solvent cement joining. Use only pipe and fitting combinations that give interference fits. Pipe and fittings that give a loose fit in the socket will not properly fuse chemically. Allowable tolerances provide a force fit, thus assuring chemical fusion yielding maximum strength of solvent cemented joints. Attempting to compensate for a loose fit after assembly by applying additional cement will result in an unsatisfactory joint.

5.2.3 *Joining Technique.*

(a) *Cutting the Pipe.* See 5.1.3(a) above. Cutting requirements for PVC are the same as for ABS.

(b) *Cleaning Pipe.* See 5.1.3(b) above. Cleaning requirements for PVC are the same as for ABS.

(c) *Application of Cement.* See 5.1.3(c) above. Cement application requirements for PVC are the same for ABS.

(d) *Assembly.* See 5.1.3(d) above. Assembly requirements for PVC are the same for ABS.

(e) *Visibility of Marking.* See 5.1.3(e) above. Requirements for visibility of markings are the same for PVC as for ABS.

5.2.4 *Joints.*

(a) *Threaded Connections.* Do not cut threads on PVC drain; waste, and vent pipe. Molded threads are permitted. Adapter

fittings for transition to threaded construction are required. The joint between the PVC pipe and transition fitting shall be of the solvent cement type. Only approved thread tape or thread lubricant specifically intended for use with PVC plastic pipe shall be used. Conventional pipe thread compounds, putty, linseed oil base products, and unknown mixtures shall be avoided.

(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. Control of Thermal Expansion and Contraction

6.1 *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.

TABLE 6.1–1.—THERMAL EXPANSION TABLE FOR ABS PLASTIC PIPE

Length, feet	Temperature Change, F						
	40	50	60	70	80	90	100
	Length Change, in.						
20	0.54	0.67	0.80	0.94	1.07	1.21	1.34
40	1.07	1.34	1.61	1.88	2.05	2.42	2.69
60	1.61	2.01	2.41	2.82	3.22	3.62	4.02
80	2.14	2.68	3.22	3.76	4.29	4.83	5.36
100	2.68	3.35	4.02	4.70	5.36	6.03	6.70

Example:

Highest temperature expected	100 F
Lowest temperature expected	50 F
Total variation	50 F

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

Length, feet	Temperature Change, F						
	40	50	60	70	80	90	100
	Length Change, in.						
20	0.28	0.35	0.42	0.49	0.56	0.63	0.70
40	0.56	0.70	0.84	0.97	1.11	1.25	1.39
60	0.84	1.04	1.25	1.46	1.67	1.88	2.09
80	1.13	1.39	1.67	1.95	2.23	2.51	2.78
100	1.39	1.74	2.09	2.44	2.78	3.13	3.48

Example:

Highest temperature expected	100 F
Lowest temperature expected	50 F
Total variation	50 F

For length of run of 60 feet the chart indicates that the installation should provide for a linear expansion of 1.04 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.

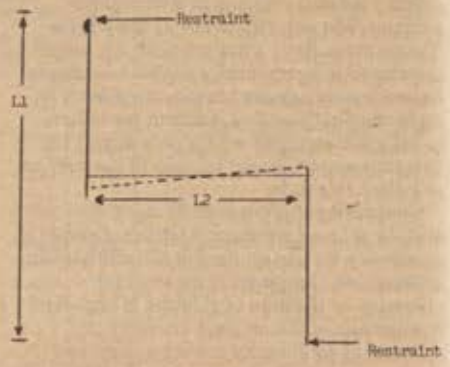
(a) If the DWV system is designed with one or more offsets in the stack or building drain, the offsets alone may provide a sufficient means for accommodating thermal expansion. The required lengths of offset for two pipe diameters and three pipe lengths with a temperature change of 50 F are shown in Table 6.2–1.[3]

[3] See PPI Plastics Piping Manual, Chapter 3 for formula and discussion.

TABLE 6.2–1.—MINIMUM LENGTH OF OFFSET,[4] L2, FOR A 50°F TEMPERATURE CHANGE

L1 (length of run feet)	Diameter (inches)	L2 (length of offset)	
		ABS (inches)	PVC (inches)
20	3	29	21
	4	33	24
40	3	41	30
	4	47	34
60	3	50	36
	4	57	41

[4] Based on Eq (2), Page 25, PPI Plastics Piping Manual.

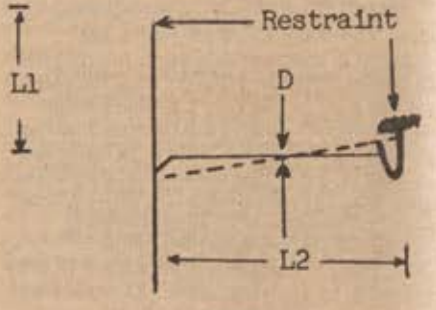


If the main run of pipe (e.g. a soil or waste stack) is subject to longitudinal movement at the point of connection of a branch pipe (e.g., a fixture drain or a trap arm) the minimum length of branch pipe shall be in accordance with Table 6.2–2.[3]

TABLE 6.2–2.—MINIMUM LENGTH OF BRANCH,[3] L2, FOR A 50s°F TEMPERATURE CHANGE

L1 (length of run feet)	Diameter (inches)	L2 (length of offset)	
		inches	inches
6	1½	10	7.5
	2	12	8.4
	3	14	10
8	1½	12	8.7
	2	13	9.7
	3	16	12
10	1½	14	9.7
	2	15	11
	3	18	13
20	1½	19	14
	2	21	15
	3	26	19
30	1½	23	17
	2	26	19
	3	32	23

[3] See Footnote 2, Page 13.
[4] See Footnote 3, Page 14.



(b) 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 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.

(c) For ABS DWV there is a third method—the use of restraint. Engineering studies have shown that by restraining the pipe every 30 ft. to prevent longitudinal movement, satisfactory installations can be 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 manufacturers' recommendations.

(d) Except where rigid anchoring of DWV piping is required or is otherwise appropriately provided, 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 buildng sewers. Movements in buried piping are generally less than in above-ground installations because of the more stable temperature environment and the restraint imposed by the earth cover.

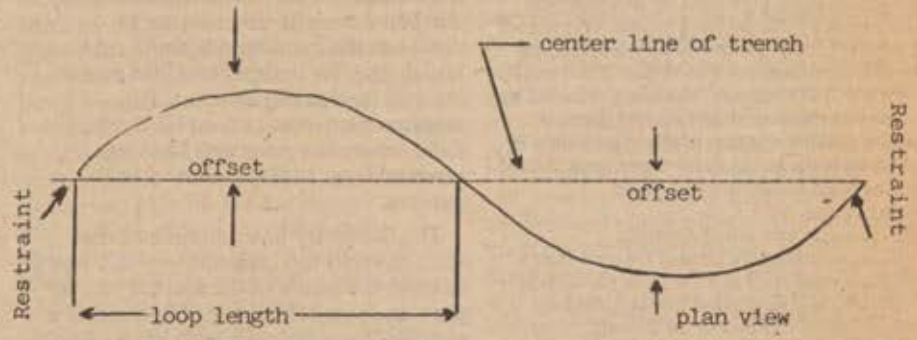
If pipe of 3 in. diameter or less is installed at a temperature lower than the expected maximum service temperature, as in winter, the pipe may be installed straight, brought to the (higher) service temperature and the increased length taken up by snaking. The trenching may then be backfilled in the normal manner. Rigid pipe with solvent cemented joints or other rigid couplings, up to 3 in. nominal size, can be handled by snaking, provided the joint has cured sufficiently. Offsets and loop lengths for snaking rigid pipe are shown in Table 6.2-3.

For larger sizes of pipe, snaking is not practical, or possible, in most cases. When snaking is not possible the line shall be completely installed except that it is left unconnected at one end. The pipe is then brought to within 15 F of the service temperature and the final connection made. This can be accomplished by "shade" backfilling in summer, i.e. allowing the pipe to cool at night and then connecting early in 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 6.2-3.—RECOMMENDED OFFSETS AND LOOP LENGTHS FOR SNAKING RIGID PIPE

[Applicable to Sizes of 3 in. and Less]

Temperature change, °F	10	20	30	40	50	60	70	80	90	100
	Offset for contraction, in.									
Loop length, feet:										
20	1½	2	2½	3	3½	4	4½	5	5½	6
50	3¾	5	6¼	7½	8¾	10	11¼	12½	13¾	15
100	7½	10	12½	15	17½	20	22¼	25	27½	30



7. *Requirements for Hangers and Supports.*

Hangers and straps shall not compress, distort, cut or abrade the piping and shall allow free movement of pipe. Support all piping at intervals of not more than 4 ft., at end of branches and at change of direction or elevation. Supports shall allow free movement. Maintain vertical piping in straight alignment. Support trap arms in excess of 3 ft. in length as close as possible to the trap. Securely fasten closet rings to the floor with corrosion-resistant fasteners with top surface of closet ring ¼ in. above the finished floor. Stabilize closet bends or stubs against all horizontal or vertical movement. Protect pipe exposed to damage by sharp edges (e.g., in passages through structural members, sheet metal, subflooring etc.) with grommets or sleeves of rubber or plastic.

8. *Underground Piping.*

8.1 *Trenching and Bedding.*

(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 intermittently support pipe across excavated sections.

8.2 *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 loads 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.*

8.3.1 *Embedment.*

Use a graded, compacted backfill material of particle size of ½ 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 lumps 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 only may 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 perferred 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 insure complete coverage of the pipe. Additional material shall not be added until

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 embedment on both sides and underneath the haunches of the pipe to ensure maximum ability to support soil loads and superimposed static and dynamic loads.

9. *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 temperatures 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 Doc. 81-32709 Filed 11-16-81; 8:45 am]

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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.

FOR FURTHER INFORMATION CONTACT: John N. Dickie, Director, Financial Analysis Division, Office of Financial Management, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410 (202-426-4667).

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

1. Section 203.45 paragraph (b) is revised to read as follows:

§ 203.45 Eligibility of graduated payment mortgages.

* * * * *

(b) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, 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.

* * * * *

2. Section 203.46 paragraph (c) is revised to read as follows:

§ 203.46 Eligibility of modified graduated payment mortgages.

* * * * *

(c) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, 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.

* * * * *

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

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 mortgagee and the mortgagor, 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 mortgagee and the mortgagor, 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.

* * * * *

(Sec. 3(a), 82 Stat. 113; 12 USC 1709-1; sec. 7, Department of Housing and Urban Development Act, 42 USC 3535(d))

Issued at Washington, D.C., November 6, 1981.

Philip D. Winn,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 81-33073 Filed 11-16-81; 8:45 am]

BILLING CODE 4210-01-M

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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. The amendment implements section 214 of the Housing and Community Development Act of 1980.

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 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Each comment should include the commentor'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 Parts 215 and 236: James J. Tahash, Program Planning Division, Office of Multifamily Housing Management and Occupancy, Department of Housing and Urban Development, Washington, D.C. 20410, telephone (202) 426-8730

For Part 235: John Coonts, Single Family Development Division, Office of Single Family Housing, Department of Housing and Urban Development, Washington, D.C. 20410, telephone (202) 755-6720

For Part 812: Edward Whipple, Rental and Occupancy Branch, Office of Public Housing, Department of Housing and Urban Development, Washington, D.C. 20410, telephone (202) 755-5840. (These are not toll-free numbers.).

SUPPLEMENTARY INFORMATION: Section 214 of the Housing and Community Development Act of 1980 contains a prohibition against the Secretary's making Federal 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 (i) 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 § 235.10 to prohibit insurance of a mortgage under section 235 (and thus assistance) if the proposed mortgagor is a nonimmigrant student-alien. Paragraph (a) of § 236.70 is being amended to exclude 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 now receiving assistance from receipt of such assistance in the future. Paragraph (e) is added to § 235.325 to disqualify a cooperative member for assistance payments if the cooperative member is a nonimmigrant student-alien. Also, in § 235.375, paragraphs (a) and (e) are being revised to provide that nonimmigrant student-alien mortgagors shall have assistance terminated if the mortgage is assigned to the Secretary, to deny the reinstatement of any suspended assistance payments to nonimmigrant student-aliens, and to terminate the assistance payments contract when the property or a cooperative membership is purchased by a nonimmigrant student-alien. A new paragraph (c) is being added to § 236.710 to exclude nonimmigrant student-aliens from the definition of qualified tenant.

Section 329 of the Housing and Community Development Amendments of 1981 amended section 214 of the Housing and Community Development Act of 1980 to preclude the Secretary of the Department of Housing and Urban Development also from making financial assistance under these same programs available to other classes of aliens while continuing the 1980 Act's prohibition on assistance to nonimmigrant student-aliens. The Department intends as soon as practicable also to promulgate regulations implementing section 329.

The Department has already instituted temporary procedures designed to identify applicants for housing assistance, tenants currently receiving housing assistance benefits, and some section 235 mortgagors, who are nonimmigrant student-aliens. In its forthcoming regulations implementing the broader prohibitions referred to above enacted in 1981, the Department will supplement and improve these procedures. The expanded procedures will involve obtaining appropriate, evidence of citizenship and/or residence status from the applicants, tenants and mortgagors, which may include documentation such as birth certificates, citizenship papers, so-called "green" cards, social security information and the like, as well as certifications which can be used as the basis for criminal prosecution under title 18 of the U.S. Code in cases of false swearing or submission of forged documentation.

Applicants for housing assistance identified through the Department's temporary or permanent procedures as nonimmigrant student-aliens will be advised that they are ineligible for such assistance.

Tenants currently receiving housing assistance benefits who are identified through these procedures as nonimmigrant student-aliens will be advised that their assistance benefits will be terminated at the expiration of existing leases. Tenants other than those residing in public housing, may, subject to compliance with all other conditions to continued occupancy, elect to enter into new leases which do not provide for Federal assistance. Tenants in public housing whose leases expire must vacate their premises since applicable procedures provide no alternative.

Current section 235 homeowners and cooperative members who are nonimmigrant student-aliens will not be terminated except in the case of assignment of the mortgage to the Secretary, or a request for the reinstatement of suspended assistance payments.

The Secretary has determined that because these rules are limited to implementing a statutory mandate, prior notice and public comment are not necessary and would be contrary to the public interest and that good cause exists for making this regulation

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 Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) 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 Supplements—Rental Housing for Lower Income Families; and 14.156, 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 (i) as follows:

§ 215.1 Definitions.

* * * * *

(i) *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 pursing 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) * * *

(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 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) to read 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)(1), 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)(1) * * * 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.

* * * * *

(5) The property or cooperative membership is purchased by a nonimmigrant student-alien as defined in § 235.5.

(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)), 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.

* * * * *

8. Section 236.70 is amended by revising paragraph (a) and by adding a new paragraph (d) as follows:

§ 236.70 Occupancy requirements.

(a) *Initial occupancy.* Initial occupancy of the project by tenants who are eligible and do not pay the fair market rental shall be restricted to individuals and families determined by the mortgagor as meeting the income requirements established by the Commission. Nonimmigrant student-aliens, as defined in this Subpart, who are unable to pay the fair market rent will not be eligible for admission to the project.

* * * * *

(d) *Nonimmigrant Student-Aliens.* A nonimmigrant student-alien shall not be eligible for rents described in § 236.55(b) of this Subpart less than the fair market rental; provided, however, that if such alien is a tenant in a project receiving interest reduction payments and, as a result thereof, is paying rent based on § 236.55(b) of this Subpart on November 17, 1981, such alien may continue to pay such rental charge provided in such lease until expiration of the current term of such lease. When the lease of a nonimmigrant student-alien providing for a rental charge less than the fair market rent terminates, 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 providing for payment of the full fair market rent.

* * * * *

9. Section 236.710 is amended by adding paragraph (c) as follows:

§ 236.710 Qualified tenant.

* * * * *

(c) A nonimmigrant student-alien, as defined in § 236.2 of this Part, is not eligible for the benefits of rental assistance payments; provided, however, that if such alien is a tenant in a project receiving rental assistance payments and such payments are being made for the benefit of such alien 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

10. Section 812.2 is revised by revising paragraph (d)(1) and adding a new paragraph (g) as follows:

§ 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 pursing 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.

(Sec. 214 of Housing and Community Dev. Act of 1980 (42 U.S.C. 1436a), sec. 7(d) Dept. of HUD Act [42 U.S.C. 3535(d)])

Issued at Washington, D.C., September 10, 1981.

Philip D. Winn,

Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 81-33072 Filed 11-16-81; 8:45 am]

BILLING CODE 4210-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1048

[Ex Parte MC 37 (Sub-35)]

Redefinition and Expansion of the Washington, DC, Commercial Zone

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: By petition filed April 1, 1981, the Prince William County, VA, Chamber of Commerce, the Prince William County Board of Supervisors, the City of Manassas, VA, and the City of Manassas Park, VA, seek redefinition and extension of the Washington, DC, commercial zone limits which have been defined individually as set forth in 49 CFR 1048.10. Petitioners seek to extend the partial exemption under 49 U.S.C. 10526(b)(1) of the Interstate Commerce Act to include all points in Prince William County, VA, including the City of Manassas and the City of Manassas Park. A total of 56 statements in support of the petition were filed by economic, social, and governmental interests. No statements were filed in opposition. The regulation set forth below is promulgted pursuant to the Commission's consideration of the evidence of record.

EFFECTIVE DATE: December 17, 1981.

FOR FURTHER INFORMATION CONTACT:
Barbara Reideler (202) 275-7982
or
Edward E. Guthrie (202) 275-7691

SUPPLEMENTARY INFORMATION: This regulation is issued under the authority of 49 U.S.C. 10321 and 40 U.S.C. 10526(b)(1) (the Interstate Commerce Act) and 5 U.S.C. 553 (the Administrative Procedure Act).

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

Federal Register
Vol. 46, No. 221
Tuesday, November 17, 1981

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

CIVIL AERONAUTICS BOARD

14 CFR Parts 207, 208, 212, and 380

[EDR-435; SPDR-84; Docket No. 40236; Dated: November 12, 1981]

Proposal To Allow Part Charters

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.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

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, 202-673-5088, 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 bases 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 charters 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 sheduled 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–300/SPDR–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) Passenger charter flights in air transportation shall be limited to the following:

* * * * *

(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:

* * * * *

(3) Air transportation performed on a time, mileage, or trip basis by a direct air carrier in accordance with Subpart E.

* * * * *

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) Passenger charter flights in air transportation shall be limited to the following:

* * * * *

(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:

* * * * *

(3) Air Transportation performed on a time, mileage, or trip basis by a direct air carrier in accordance with Subpart F.

* * * * *

PART 212—CHARTER TRIPS BY FOREIGN AIR CARRIERS

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

§ 212.3 Charter flight limitations.

(a) Passenger charter flights by foreign air carriers in foreign air transportation shall be limited to the movement of persons or their baggage on a time, mileage, or trip basis—

(1) Where all or part of an aircraft has been engaged by any of the following persons:

* * * * *

(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,

(2) Long-term wet lease to a direct air carrier or direct foreign air carrier,

(3) Charter flight for which the Board specially requires prior authorization under paragraph (e) or (f) of this section, or

(4) Flight carrying both charter and scheduled passenger traffic (hereafter "part charter").

* * * * *

3. In § 212.5, paragraph (a) would be amended by replacing the first sentence with two new sentences and paragraph (d)(2) would be amended by inserting "a part charter or for" in the first sentence as follows:

§ 212.5 Application for authorization.

(a) Application for a statement of authorization shall be submitted on CAB Form 433 (Appendix C), except that for part charters or long-term wet leases the application may be submitted in letter form. An application for a long-term wet lease shall describe the purpose and terms of the wet lease agreement. * * *

* * * * *

(d)(1) * * *

(2) Applications for a part charter or for a long-term wet lease to a direct air carrier or direct foreign air carrier shall be filed at least 45 days before the date of the first proposed flight.

* * * * *

PART 380—PUBLIC CHARTER

§ 380.10 [Amended]

In Part 380, *Public Charters*, § 380.10, *Public Charter general requirements*, would be amended by removing paragraph (e).

(Secs. 204, 401, 402, 403, 404, 407, 411, 416, 417, 418, 1002, and 1102, Pub. L. 85–726, as amended, 72 Stat. 743, 754, 757, 758, 760, 766, 769, 771, 788, 797, 76 Stat. 145, 91 Stat. 1284 (49 U.S.C. 1324, 1371, 1372, 1373, 1374, 1377, 1381, 1386, 1387, 1388, 1482, 1502))

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-33095 Filed 11-16-81; 8:45 am]

BILLING CODE 6320-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-18248; File No. S7-914]

Inspection of Newly Registered Brokers and Dealers by Self-Regulatory Organizations

AGENCY: Securities and Exchange Commission.

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, 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.

FOR FURTHER INFORMATION CONTACT: Robert A. Love, Esq., Division of Market Regulation, (202-272-2781).

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. 78o(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") SRDs 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,[1] 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.[2] 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.[3] 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 somewhat 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.

---

[1] *See generally* section 19 of the Act (15 U.S.C. 78s).

[2] *See* Study of the Securities Industry: Hearings Before the Subcomm. on Commerce & Finance of the House Comm. on Interstate & Foreign Commerce, 92d Cong., 1st Sess. 129 (Comm. Print, 1971).

[3] The section requires "an inspection of the broker or dealer to determine whether it is operating in conformity with the provisions of [the Act] and the rules and regulations thereunder * * *."

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 puruant 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. 34–18248, 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 15(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. R. Shad,

Chairman.

[FR Doc. 81-33096 Filed 11-16-81; 8:45 am]

BILLING CODE 8010-01-M

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)(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 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. 20426.

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

Issued: November 6, 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 (45 FR 56034, August 22, 1980), that the Niobrara Formation located in Chase, Cheyenne, Deuel, Dundy, Frontier, Garden, Hitchcock, Keith, and Perkins Counties,

Nebraska, be designated as a tight formation. Nebraska submitted supplemental data in support of its recommendation to the Commission on July 17, 1981, and October 19, 1981. 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)(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.

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. RM80-68 (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. 20426, 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.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3342)

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.

* * * * *

(56)-(78) [Reserved]

(79) *Niobrara Formation in Nebraska.* RM79-76 (Nebraska-1).

(i) *Delineation of formation.* The Niobrara Formation is found in all of Chase, Deuel, Dundy, Hitchcock, Keith, and Perkins Counties, the western half of Frontier County (Townships 5 through 8 North, Ranges 27 through 30 West), the eastern half of Cheyenne County (Townships 12 through 17 North, Ranges 46 through 49 West), and the southern most third of Garden County (Townships 15 through 19 North, Ranges 41 through 46 West).

(ii) *Depth.* The Niobrara Formation underlies the Fort Hays Limestone Formation and overlies the Pierre Shale Formation. The average depth to the top of the Niobrara Formation is 2,450 feet.

[FR Doc. 81-33014 Filed 11-16-81; 8:45 am]
BILLING CODE 6717-01-M

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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 a tight formation should be adopted. Texas' recommendation and supporting data are on file with the Commission and 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 2150 feet northwest of the southeast boundary and 2500 feet southwest of the northeast boundary of the Andrew Rabb 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 60 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. RM80–68 (45 FR 53456, 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, NE., 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. RM79–76 (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 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, NE., 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.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

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 (d)(18) 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) *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 11,700 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

Bonus, S. (Wilcox 13,900') Field, Wharton County, Texas, approximately 10 miles south of the town of Eagle Lake. The formation is described by a 2.5 mile radius around the Laurel Fuel Company Winterman No. 3 well and covers approximately 19.6 square miles.

(B) *Depth.* The top of the Lower Wilcox Formation is at an approximate depth of 13,900 feet and is between 60 and 70 feet thick.

[FR Doc. 81-33015 Filed 11-16-81; 8:45 am]
BILLING CODE 6717-01-M

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 created or organized in Puerto Rico.

DATES: Written comments and requests for a public hearing must be delivered or mailed by January 18, 1982. The amendments are proposed to be effective for taxable years ending after December 31, 1973.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (EE-39-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Eric A. Raps of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T (202-566-6212, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) to reflect section 1022 (i) of the Employee Retirement Income Security Act of 1974 (ERISA) (88 Stat. 942). They are to be issued under the authority contained in that section and section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Regulations Under ERISA Section 1022(i)(1)

Prior to the enactment of section 1022(i)(1), trusts under Puerto Rican plans had to say U.S. income tax on income derived from investment in the United States. Section 1022(i)(1) causes trusts under Puerto Rican plans meeting the section 1022(i)(1) requirements to be treated as trusts described in section 401 (a) of the Code for purposes of section 501(a). The practical result of this provision is that trusts under qualifying Puerto Rican plans may include United States investments in their portfolios without being subject to U.S. income tax on trust earnings. A new paragraph (e) is proposed to be added to § 1.501(a)-1 to reflect ERISA section 1022(i) (1). Under that section, for a Puerto Rican plan to qualify, all plan participants must be residents of the Commonwealth of Puerto Rico. Proposed § 1.501(a)-1(e) defines "residents of the Commonwealth of Puerto Rico" to include persons who perform labor or services primarily within Puerto Rico. This broad definition precludes a plan from losing favorable section 1022(i)(1) treatment if a person who is a nonresident for other purposes, but who works in 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 a former 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)(2)

Proposed § 1.401(a)-50 is added to implement ERISA section 1022(i)(2). Proposed § 1.401(a)-50(b) 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 made within 90 days of the publication of final regulations as if it had been made on any date between September 2, 1974, and the actual date of the election. At the time an irrevocable election is 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 861(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 an electing plan 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. Section 1022(i)(2) 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(i)(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 satisifies 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 qualifed trust under that section.

(b) *Manner and effect of election.* A plan administrator may make an election under ERISA section 1022(i)(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(i)(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 considered 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 871(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:

$$\frac{\text{Days of performance of labor services within the United States for the employer.}}{\text{Total days of performance of labor or services for the employer.}}$$

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 (e) is added to § 1.501(a)–1 to read as follows:

§ 1.501(a)–1 Exemption from taxation.

* * * * *

(e) *Certain Puerto Rican pension, etc., trust.* Effective for taxable years beginning after December 31, 1973, section 1022(i)(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 3165, 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(i)(1) is to exempt these trusts from U.S. income tax on income from their U.S. investment. For purposes of section 1022(i)(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 4830-01-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 928-7506; or Cecil Feeney (703) 860-6259, FTS 928-6259.

SUPPLEMENTARY INFORMATION: The principal authors of this proposed rulemaking are Walter Lewiecki, Branch of Solid Minerals Management, and Cecil Feeney, Branch of Rules and Procedures, both in the Office of Onshore Minerals Regulation, 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 (43 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. 275), 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. 81-33026 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 Secretary 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.

FOR FURTHER INFORMATION CONTACT: Carl C. Close, Acting Assistant Director, Program Operations and Inspection, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue NW., Washington, D.C. 20240, Telephone: (202) 343-4225.

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 steps 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 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 5886–5892). 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 5892, 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 Janaury 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 State Senate bill proposed to resolve this condition did not come out of committee for floor debate during the 1981 session of the Iowa General Assembly, Iowa has requested an extension beyond the January 1, 1982, deadline. The Secretary proposes to allow the State until September 1, 1982, to meet the condition.

In light of the small number of operating mines and violations expected to occur during the proposed extended period allowed for the deficiencies to be corrected, the Secretary believes that extension of this deadline would nont render the deficiency major, However, the Secretary specifically requests comments on whether the extension of the deadline would render the deficiency major, as that term is used under 30 CFR 732.17(i).

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 section 14(2) of the Iowa Surface Coal Mining Act and § 17A.18(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.

* * * * *

[FR Doc. 81-33071 Filed 11-16-81; 8:45 am]
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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.

ADDRESS: Selective Service System, Washington, D.C. 20435, Attn: Associate Director for Policy Development.

FOR FURTHER INFORMATION CONTACT: Edward A. Frankle, 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 80125 (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. (31 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. If we are going to provide it, we are required to do it reasonably well. We can only do this if we control the lists and keep them in the area offices.

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(h). 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. However, after a mobilization is underway, some notice of the RSN's expected to be reached in the next 30–45 days could be given.

Basis: To the extent that any claim has validity, the justification for that claim must exist at the time a registrant is to be inducted. The classification of a registrant a year, or even a month, prior to induction does not assure the appropriate classification of the registrant at the time of his imminent induction.

Furthermore, the filing of a claim and evidence substantially in advance of induction, would only serve to encumber the System with the responsibility for processing claims which may not even prove pertinent to the registrant's requested classification at the time of induction.

The filing of a claim, as a practical matter, should be as close in time as possible to the registrant's vulnerability to induction to assure that the claimant's justification is current. Evidence to support a claim should also be current in relation to the registrant's vulnerability to induction, to assure reliability and pertinence. Finally, adjudication of a claim should always be based on facts directly related to the registrant's circumstances at the time of his vulnerability to induction, to assure an equitable disposition of the claim.

However, registrants should be given as much notice of their pending induction as is possible. This can be done by making periodic announcements of the RSN's expected to be reached in the next 35–45 days. This will allow registrants to consider their situations and to gather evidence in support of anticipated claims, before they receive an order for induction.

Regulation: Section 1648.3. Claims based on conscientious objection *must be scheduled* for a personal appearance before a local board. Personal appearance before a local board *shall be afforded* to the registrant on all other claims.

Comment: All registrants should be required to appear personally before local and appeal boards. (21 comments)

Position: The regulation should remain unchanged. Conscientious objector claimants should be required to appear personally; all other claimants 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 claimants in the same manner as attorneys representing a client in a law suit. 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 agreed 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 to 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. However, the regulation has been amended to clearly state the policy of prohibiting the making of verbatim records by claimants, by either electronic recording or by shorthand reporters.

Basis: The legislative history of the Military Selective Service Act reflects the intent of Congress to keep the Selective Service classification proceedings on an informal basis. Verbatim transcription of proceedings is inconsistent with the informal character of the proceedings. Historically, this has been the policy followed by the Selective Service System.

Four features of the classification and appeal process assure that the claimant is adequately protected without a verbatim record. First, anything in the claimant's file is accessible to the claimant for copying. Second, the board must specify, with particularity, the basis for any denial or action by it. Third, both the board and the claimant may file summaries of the testimony, as each of them recalls that testimony. Fourth, at the hearing on appeal, the claimant will have an opportunity to again appear personally and to testify, and may even offer additional information (in documentary form) before the appeal is considered by the appeal board.

Previously, the regulation did not explicitly state the policy of prohibiting verbatim recordings by either the board or the claimant. The regulation has been amended to clearly state the policy so as to foreclose future misunderstanding.

Regulation: Section 1633.1(f). Compensated employees (defined as civilian and military, in § 1602.5) may reclassify a registrant to any class, except conscientious objector, ministry student, dependent hardship, and minister.

Comment: Military staff of the Selective Service System, particularly in the area offices, should be excluded from the decision making processes involved in a registrant's claim for reclassification. (1 comment)

Position: 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 anytime.

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 ultimate decisions regarding claims for reclassification away from military personnel remains intact and is substantially consistent with the comment.

Regulation: Section 1605.81(b). The following oath shall be administered to an interpreter each time he is used: "You swear (or affirm) that you will truly interpret in the matter now in hearing *So help you God.*"

Comment: The oath of office of an interpreter which requires him to acknowledge a diety is unconstitutional. (1 comment)

Position: The regulation and the oath have been amended to avoid language which may be unconstitutional.

Basis: The First Amendment to the Constitution of the United States, concerning separation of church and state, would appear to proscribe requirement of the phrase "So help you God" in the interpreter's oath of office.

Regulation: Sections 1648.5(i); 1651.4(q); and 1653.3(s). Previous regulations have been silent as to whether or not board hearings are to be open to the public.

Comment: All hearings before boards should be open to the public. (1 comment)

Position: Previous regulations did not address the matter of "open" hearings. Those regulations neither required no prohibited opening board hearings to the public as spectators. These regulations have been amended to reflect that local board and district appeal board hearings will be open to the public only at the request of or with permission of the registrant. National Appeal Board hearings will be closed to the public.

Basis: Historically, Selective Service board hearings have not been open to the public. The apparent purpose of this practice has been to protect the privacy of the registrant.

The Federal Open Meetings Act (5 U.S.C. 552b) does not apply to the Selective Service System; it applies only to collegial bodies of two or more members appointed by the President with the advice and consent of the Senate. But even absent a statutory basis, the case law on the subject of "open" 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

from non-unanimous District Appeal 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 Deferment, 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 1605.6. 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 anyplace.

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 1630.10. 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 serivce 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 1636.6(f). Board members may not reject beliefs of conscientious objector 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 reclassificaiton 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 (i). 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(h). 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 1636.8(i). A registrant may submit letters of reference and other supporting statements of friends, relatives and acquaintences to corroborate his claim, but such documentation is not necessary to prove a claim.

Comment: All claims should be supported by some documentary evidence.

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

Regulation: Section 1636.8(h). A registrant's responses to questions by the board 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: Boards should be able to use a registrant's prior statements as evidence for or against his claim.

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

Regulation: Part 1605. 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: All board decisions should be published, indexed, and maintained in U.S. Depository libraries.

Position: 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: Class 2–D, registrant deferred because of study preparing for the ministry is considered to be a judgmental classification. Class 2–M, registrant deferred because of study preparing for a specified medical specialty, is considered to be an administrative classification. Both classes should be the same type of classification; either judgmental or administrative. (3 comments)

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: Veterinarians and optometrists should not be permitted occupational deferment from military service, even if authorized by statute.

Position: Occupational deferments are not inlcuded in the regulations and, generally, have not been included since such deferments were effectively dropped in 1970, pursuant to Executive Order 11527 which amended the regulations at that time. Creation of occupational deferments is not contemplated at this time.

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 Selective 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(a)(1). Provides for the exemption or deferment of military and certain other governmental employees.

Comment: Merchant Marine seamen should be included in that group of military related occupations which are deferred by law.

MSSA: Section 6(g)(2). Provides for deferment of ministry students "pursing full-time courses of instruction".

Comment: Restrictions should be developed to prevent abuse of the ministry student deferment by students who pursue "full time course of instruction" without being "full time students" thus extending their deferments over a period far in excess of that which is usual for commitment and entry into the ministry.

MSSA: Section 6(o). Provides for exemption from peacetime military service for brothers who were *related by whole blood* to siblings who died in the line of duty or are in a captured or missing military service status; it also exempts sons of *fathers* who died in the line of duty or are in a captured or missing military service status.

Comment: The surviving son or brother exception discriminates against mothers and adopted children.

MSSA: Section 6(g)(1) and Section 16(g)(2). Provides for the exemption of regular ministers, as defined.

Comment: The definition of regular minister does not clearly include "lay brethren" who are members of religious orders or those persons who function exclusively in or as members of a religious community.

MSSA: Section 6(g)(1). Provides for 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 ministers.

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(i)(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 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, 05, 08, 14 and 21953 and 21954 (1971) and the Conference Committee Report in H.R. Rep. No. 433, 92d Cong., 1st Sess. 29 (1971) 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 processing for induction has been retained.

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

Sec.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.*; E.O. 11623.

§ 1602.1 Definitions to govern.

The definitions contained in section 16 of the Military Selective Service Act, and the definitions contained in this part shall govern in the interpretation of the regulaitons 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 national.

(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, or

(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 jursidiction.

§ 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, 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, and the Governor of Guam.

§ 1602.14 Judgmental classification.

A classification action relating to a registrant's claim for Class 1–A–O, 1–O, 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 1648 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

thereunder, and Proclamations of the President pertaining to registration under that Act.

§ 1602.22 Singular and plural.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular, except where the context clearly indicates otherwise.

§ 1602.23 State.

The word "State" includes, where applicable, the several States of the United States, the City of New York, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam.

PART 1605—SELECTIVE SERVICE SYSTEM ORGANIZATION

National Administration

Sec.
1605.1 Director of Selective Service.
1605.6 National appeal board.

Region Administration

1605.7 Region manager.
1605.8 Staff of region headquarters for Selective Service.

State Administration

1605.11 Governor.
1605.12 State Director of Selective Service.
1605.13 Staff of State Headquarters for Selective Service.
1605.14 State Director of Selective Service for New York City.

District Appeal Boards

1605.21 Area.
1605.22 Composition and appointment of district appeal boards.
1605.23 Designation.
1605.24 Jurisdiction.
1605.25 Disqualification.
1605.26 Organization and meeting.
1605.27 Minutes of meetings.
1605.28 Signing official papers.

Local Boards

1605.51 Local board areas.
1605.52 Composition of local boards.
1605.53 Designation.
1605.55 Disqualification.
1605.56 Organization and meetings.
1605.58 Minutes of meetings.
1605.59 Signing official papers.

Area Office Administration

1605.60 Area.
1605.61 Staff of area offices for Selective Service.

Interpreters

1605.81 Interpreters.

Authority: Military Selective Act, 50 U.S.C. App. 451 *et seq.*; E.O. 11623.

National Administration

§ 1605.1 Director of Selective Service.

The Director of Selective Service shall be responsible directly to the President. The Director of Selective Service is hereby authorized and directed:

(a) To prescribe such rules and regulations as he shall deem necessary for the administration of the Selective Service System, the conduct of its officers and employees, the distribution and performance of its business, and the custody, use, and preservation of its records, papers, and property.

(b) To issue such public notices, orders, and instructions, as shall be necessary for carrying out the functions of the Selective Service System.

(c) To obligate and authorize expenditures from funds appropriated for carrying out the functions of the Selective Service System.

(d) To appoint and to fix, in accordance with provisions of Chapter 51 and Subchapter III of Chapter 53 of Title 5, United States Code, relating to classification and General Schedule pay rates, the compensation of such officers, agents and employees as shall be necessary for carrying out the functions of the Selective Service System.

(e) To procure such space as he may deem necessary for carrying out the functions of the Selective Service System by lease pursuant to existing statutes.

(f) To obtain by purchase, loan, or gift such equipment, supplies, printing, binding, and blankbook work for the Selective Service System as he may deem necessary to carry out the functions of the Selective Service System.

(g) To perform such other duties as shall be required of him under the Selective Service Law or which may be delegated to him by the President.

(h) To delegate any of his authority to such officers, agents, or persons as he may designate and to provide for the subdelegation of any such authority.

§ 1605.6 National Appeal Board.

(a) There is hereby created and established within the Selective Service System a civilian agency of appeal which shall be known as the National Selective Service Appeal Board, hereinafter referred to as the National Board. The President shall appoint not less than three members to the National Board from among citizens of the United States who are not members of the Armed Forces, and he shall designate one member as chairman of the National Board. The National Board may sit *en banc*, or upon the request of the Director of Selective Service, or as determined by the chairman of the National Board, in panels, each panel to consist of at least three members. The chairman of the National Board shall designate the members of each panel and he 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, 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 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 tranferred, 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 of the board when 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 panel concerned, or an area office employee shall report that fact to the Director of Selective Service and such action as appropriate shall be taken. If, through death, resignation, or other causes, the membership of the board falls below the prescribed number of members, the board or panel shall continue to function, provided a quorum of the prescribed membership is present at each official meeting.

§ 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.

§ 1065.52 Composition of local boards.

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

§ 1065.53 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 in numerical sequence beginning with the numeral 1.

§ 1065.55 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 disqualifiy 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 munutes of each meeting of a local board. In the absence of a compensated employee the minutes wll be kept by a board member.

§ 1065.59 Signing officieal 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.

(b) The area office shall be an office of record and responsible for all administrative and operational support of the one or more local boards within its jurisdiction.

§ 1065.61 Staff of Area Offices for Selective Service.

Subject to applicable law and within the limits of available funds, the staff of each area office shall consist of as many compensated employees, either military or civilian, as shall be authorized by the Director of Selective Service.

Interpreters

§ 1605.81 Interpreters.

(a) The local board, district appeal board and the National Selective Service Appeal Board are authorized to use interpreters when necessary.

(b) The following oath shall be administered to an interpreter each time he is used:

Do you swear (or affirm) that you will truly interpret in the matter now in hearing?

(c) Any interpreter who fails to respond in the affirmative shall not be permitted to function in this capacity.

PART 1609—UNCOMPENSATED PERSONNEL

Sec.
1609.1 Uncompensated positions.
1609.2 Citizenship.
1609.3 Eligibility.
1609.4 Oath of Office.
1609.5 Suspension.
1609.6 Removal.
1609.7 Use of information.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 et seq.; E.O. 11623.

§ 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 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 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.

(c) 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.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.*; E.O. 11623.

§ 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 to the current mailing address last reported by him in writing to the Selective Service System.

PART 1621—DUTY OF REGISTRANTS

Sec.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.;* E.O. 11623.

§ 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.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.;* E.O. 11623.

§ 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 previously have been ordered to report for induction and whose exemptions or deferments have expired, 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 34 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 19 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 AFEES 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 filing 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; or

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

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

(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 no 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 action 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.

(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 issued to him a new Order to Report for Induction.

(h) Any registrant receiving a postponement under the provisions of this section, shall, after the expiration of such postponement, be rescheduled to 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 volunters.

Authority: Military Selective Service Act, 50 U.S.C. App 451 *et seq.*; E. O. 11623.

§ 1627.1 Who may volunteer.

Any registrant who has attained the age of 17 years, who has not attained the age of 26 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 unles he:

(a) Is classified in Class 4–F or is eligible for Class 4–F; 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–0 files an Application for Voluntary Induction, he shall be classified in Class 1–A and processed for induction.

PART 1630—CLASSIFICACTION RULES

Sec.
1630.2 Classes.
1630.10 Class 1–A: Available for Unrestricted Military Service.
1630.11 Class 1–A–0: Conscientious Objector Available for Noncombatant Military 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 Processing for Induction.
1630.17 Class 1–0: Conscientious Objector Available for Alternative Service.
1630.18 Class 1–W: Conscientious Objector Performing Alternative Service in Lieu of Induction.
1630.26 Class 2–D: Registrant Deferred Because of Study Preparing for the Ministry.
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 Whose Father or Sibling is Missing in Action.
1630.46 Class 4–T: Treaty Alien.
1630.47 Class 4–W: Registrant who has Completed Alternative Service in Lieu of Induction.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.*, E. O. 11623.

§ 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.

§ 1630.11 Class 1–A–O: Conscientious Objector Available for Noncombant Military Service Only.

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 staff 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: Deferment for Certain Members of a Reserve Component or Student taking Military Training.

(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 or termination of the course of instruction and so long thereafter as he continues in a reserve status upon being commissioned except during any period he his 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) Is other than a 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; or

(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 unit of the National Guard of that 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 determination by the President that the strength of the Ready Reserve 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;

enlists or accepts an appointment before attaining the age of 26 years, in the Ready Reserve of any Reserve component of the Armed Forces, the Army National Guard, or the Air National Guard. Such registrant shall remain eligible for Class 1-D-D so long as he serves satisfactorily as a member of an organized unit of such Ready Reserve or National Guard, or satisfactorily performs such other Ready Reserve service as may be prescribed by the Secretary of Defense, or serves satisfactorily as a member of the Ready Reserve of another reserve component, the Army National Guard, or the Air National Guard, as the case may be.

(d) Who at any time has enlisted in the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air Force Reserve, or the Coast Guard Reserve and who thereafter has been commissioned therein upon graduation from an Officer's Candidate School of such Armed Force and has not been ordered to active duty as a commissioned officer. Such registrant shall remain eligible for Class 1-D-D so long as he performs satisfactory service as a commissioned officer in an appropriate unit of the Ready Reserve, as determined under regulations prescribed by the Secretary of the department concerned.

(e) In Class 1-D-D shall be placed any registrant who is serving satisfactorily as a member of a reserve component of the armed forces and is not eligible for Class 1-D-D under the provisions of any other paragraph of this section: *Provided*, That, for the purpose of this paragraph, a member of a reserve component who is in the Standby Reserve or the Retired Reserve shall be deemed to be serving satisfactorily unless the armed force of which he is a member informs the Selective Service System that he is not serving satisfactorily.

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

In Class 1-D-E shall be placed any registrant who:

(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 transferrred 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.

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

In accord with Part 1636 of this chapter any registrant shall be placed in Class 1-O who:

(a) Has been found, by reason of religous, ethical, or moral belief to be conscientiously opposed to participation in war in any form and to be conscientioulsy 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 1639 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 in which 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 classificaiton 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 one year in the Army, the Navy, the Air Force, the Marine Corps, or the Coast Guard; or

(3) A registrant who has served 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 staff 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;

(4) A registrant who, while an alien, has served on active for a period of not less than 12 months in the armed forces of a nation determined by the Department of State to be a nation with which the United States is associated in mutual defense activities and which grants exemptions from training and service in its armed forces to citizens of the United States who have served on active duty in the Armed Forces of the United States for a period of not less than 12 months; *Provided:* That all information which is submitted to the Selective Service System concerning the registrant's service in the armed forces of a foreign nation shall be written in the English language; or

(5) A registrant who has completed six years of satisfactory service as a member of one or more of the Armed Forces including the Reserve components thereof.

(b) For the purpose of computation of periods of active duty referred to in paragraphs (a)(1), (2), or (3) of this section, no credit shall be allowed for:

(1) Periods of active duty training performed as a member of a reserve component pursuant to an order or call to active duty soley for training purposes; or

(2) Periods of active duty in which the service consisted solely of training under the Army specialized training program, the Army Air Force college training program, or any similar program under the jurisdiction of the Navy, Marine Corps, or Coast Guard; or

(3) Periods of active duty as a cadet at the United States Military Academy, United States Air Force Academy, or United States Coast Guard Academy, or as a midshipman at the United States Naval Academy, or in a preparatory school after nomination as a principal, alternate, or candidate for admission to any such academies; 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; or

(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 Adminstration, 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 the 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:

(a) Establishes that he is a national of the United States and of a country with which the United States has a treaty or agreement that provides that such person is exempt from liability for military service in the United States.

(b) Is an alien and who has departed from the United States prior to being issued an order to report for induction or alternative service that has not been canceled. If any registrant who is classified in Class 4–C pursuant to this paragraph returns to the United States he shall be classified anew.

(c) Has registered at a time when he was required by the Selective Service Law to present himself for and submit to registration and thereafter has acquired status within one of the groups of persons exempt from registration.

(d) Is an alien lawfully admitted for permanent residence as defined in paragraph (2) of section 101(a) of the Immigration and Nationality Act, as 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) Duly 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, 1960 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 after 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.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.*; E.O. 11623.

§ 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 1648 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, 4–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–

B, 4–C, 4–F, 4–G, 4–T or 4–W for which he is eligible.

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 accord 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 supercedes 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. Information and documentation in support of claims for reclassification and postponement of induction shall be filed in accordance with instructions from the Selective Service System.

(i) Any registrant who has received an order to report for induction may, at any time before his induction, submit a claim that he is eligible to be classified into any class other than Class 1–A based upon events that occurred on or after the day he is scheduled to report for induction, and over which he has no control.

§ 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 will 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 Study Preparing for the Ministry
Class 3–A: Registrant Deferred Because of Hardship of Others
Class 4–D: Minister of Religion
Class 1–D–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 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–B: Official Deferred by Law
Class 1–D–D: Deferment for Certain Members of Reserve Component or Student taking Military Training
Class 4–C: Alien or Dual National
Class 4–F: Registrant not Qualified for Military Service
Class 1–H: Registrant not Subject to Processing for Induction

§ 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.

§ 1633.9 Explanation of classification action.

Whenever a classifying authority denies the request of a registrant for classification into a particular class or classifies a registrant in a class other than that which he requested, it shall record the reasons therefor in the registrant's file.

§ 1633.10 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 reversions 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 reconsideration 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.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.*; E.O. 11623.

§ 1636.1 Purpose; definitions.

(a) The provisions of this Part govern the consideration of a claim by a registrant for classification in Class 1–A–O (section 1630.11 of this chapter), or Class 1–O (section 1630.17 of this chapter).

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

(1) Crystallization of a Registrant's Beliefs. The registrant's becoming conscious of the fact that he is opposed to participation in war in any form.

(2) Noncombatant Service. Service in any unit of the Armed Forces which is unarmed at all times; any other military assignment not requiring the bearing of arms or the use of arms in combat or training in the use of arms.

(3) Noncombatant Training. Any training which is not concerned with the study, use, or handling of arms or other implements of warfare designed to destroy human life.

§ 1636.2 The Claim of conscientious objection.

A claim to classification in Class 1–A–O or Class 1–O, must be made by the registrant in writing. Claims and documents in support of claims may only be submitted after the registrant has received an order to report for induction or after the Director has made a specific request for submission of such documents. All claims or documents in support of claims received prior to a registrant being ordered to report for induction or prior to the Director's specific request for such documentation will be returned to the registrant and no file or record of such submission will be established.

§ 1636.3 Basis for classification in class 1–A–O.

(a) A registrant must be conscientiously opposed to participation in war in any form and conscientiously opposed to combatant 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.

§ 1636.4 Basis for classification in class 1–O.

(a) 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.

§ 1636.5 Exclusion from class 1–A–O and class 1–O.

A registrant shall be excluded from Class 1–A–O or Class 1–O:

(a) Who asserts beliefs which are of a religious, moral or ethical nature, but who are not found to be sincere in their assertions; or

(b) Whose stated objection to participation in war does not rest at all upon moral, ethical, or religious principle, but instead rests solely upon considerations of policy, pragmatism, expediency, or their own self-interest or well-being; or

(c) Whose objection to participation in war is directed against a particular war rather than against war in any form (a selective objection). If a registrant objects to war in any form, but also believes in a theocratic, spiritual war between the forces of good and evil, he may not by reason of that belief alone be considered a selective conscientious objector.

§ 1636.6 Analysis of religious training and belief.

(a) A registrant claiming conscientious objection is not required to be a member of a "peace church" or any other church, religious organization, or religious sect to qualify for a 1–A–O or 1–O classification; nor is it necessary that he be affiliated with any particular group opposed to participation in war in any form.

(b) The registrant who identifies his beliefs with those of a traditional church or religious organization must show that he basically adheres to beliefs of that church or religious organization whether or not he is actually affiliated with the institution whose teachings he claims as the basis of his conscientious objection. He need not adhere to *all* beliefs of that church or religious organization.

(c) A registrant whose beliefs are not religious in the traditional sense, but are based primarily on moral or ethical principle should hold such beliefs with the same strength or conviction as the belief in a Supreme Being is held by a person who is religious in the traditional sense. Beliefs may be mixed; they may be a combination of traditional religious beliefs and nontraditional religious, moral or ethical beliefs. The registrant's beliefs must play a significant role in his life but should be evaluated only insofar as they pertain to his stated objection to his participation in war.

(d) Where the registrant is or has been a member of a church, religious organization, or religious sect, and where his claim of a conscientious objection is related to such membership, the board may properly inquire as to the registrant's membership, the religious teachings of the church, religious organization, or religious sect, and the registrant's religious activity, insofar as each relates to his objection to participation in war. The fact that the registrant may disagree with or not subscribe to some of the tenets of his church or religious sect does not necessarily discredit his claim.

(e)(1) The history of the process by which the registrant acquired his beliefs, whether founded on religious, moral, or ethical principle is relevant to the determination whether his stated opposition to participation in war in any form is sincere.

(2) The registrant must demonstrate that his religious, ethical, or moral convictions were acquired through training, study, contemplation, or other activity comparable to the processes by which traditional religious convictions are formulated. He must show that these religious, moral, or ethical convictions, once acquired, have directed his life in the way traditional religious convictions of equal strength, depth, and duration have directed the lives of those whose beliefs are clerly founded in traditional religious conviction.

(f) The registrant need not use formal or traditional language in discribing the religious, moral, or ethical nature of his beliefs. Board members are not free to reject beliefs because they find them incomprehensible or inconsistent with their own beliefs.

(g) Conscientious objection to participation in war in any form, if based on moral, ethical, or religious beliefs, may not be deemed disqualifying simply because those beliefs may influence the registrant concerning the Nation's domestic or foreign policy.

§ 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 objecton to participation in war crystallized.

(f) In the event that a registrant has previously worked in the development of 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 in 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 by the registrant. It is important to recognize that the registrant need not be eloquent in his answers. But, a clear inconsistency between the registrant's oral remarks at his personal appearance and his written submission to the board may be adequate grounds, if not satisfactorily 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.

§ 1636.9 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.

§ 1636.10 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 §§ 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 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.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.*; E.O. 11623.

§ 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 1630.26 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 instructions 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 satifactorily 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

(4) Current certification to the effect that the registrant, having completed 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 § 1621.1 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

Sec.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.* E.O. 11623.

§ 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 unborn 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 of the 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)(1) 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 his 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 one 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 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

Sec.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.*; E.O. 11623.

§ 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:

(1) The term "duly ordained minister of religion" means a person:

(i) Who 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 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 workship; 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.

(2) 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 minster of religion, and who is recognized by such church, sect, or organzation as a regular minister.

(3) 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.

(4) 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 a:

(a) Duly ordained minister of religion; or

(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 doctrines 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 customary and regular full-time profession, 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.

§ 1645.7 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; or

(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 clasification 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.

§ 1645.8 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.

§ 1645.9 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.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.*; E.O. 11623.

§ 1648.1 Authority of local board.

The local board of jurisdiction shall consider and determine all claims for classification which it receives.

§ 1648.2 Reassignment of local board.

(a) A registrant who wishes to have his board assignment changed to the board having jurisdiction over the area where he currently resides, must request that change at the time he files a claim for student postponement or reclassification.

(b) A registrant whose current address changes after he files a claim for student postponement or reclassification may request a change of board assignment to the board having jurisdiction over his new address: *Provided*, That,

(1) His claim has not yet been considered by the classifying authority; *and*

(2) His local board assignment has not previously been changed.

(c) Any registrant whose assignment was changed under provisions of this section will, if his claim is denied, be rescheduled to report to the AFEES to which he was originally ordered.

(d) A registrant whose assignment was changed under the provisions of this section will not be allowed a subsequent change of assignment until such time as any claims pending at the time of reassignment are adjudicated, unless specifically authorized by the Director.

(e) The Director of Selective Service may change a board assignment when he deems if necessary to assure the fair and equitable administration of the Selective Service Law.

1648.3 Opportunity for Personal Appearance.

(a) 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 of this part before his claim is considered, except for a claim arising under § 1630.15(b).

(b) A registrant who has filed a claim for classification in Class 2–D, Class 3–A, or Class 4–D, shall, upon his written request, be afforded an opportunity to appear in person before the board before his claim for classification is considered.

(c) Any registrant who has filed a claim for classification in class 1–C, 1–D–D, 1–D–E, 1–W, 4–A, 4–B, 4–C, 4–F, 4–G, 4–T, or 4–W and whose claim has been denied, shall be afforded an opportunity to appear before the board if he requests that the denial of such claim be reviewed by the board.

§ 1648.4 Appointment for personal appearance.

(a) Not less than 10 days (unless the registrant requests an earlier appointment) in advance of the meeting

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 classificatin 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 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 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 § 1605.81(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.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.*; E.O. 11623.

§ 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 therefor, 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 appeal will be considered by the board having jursidiction 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 that he is appealing is inappropriate, directing attention to any information in his file, and setting out 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 occured 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. 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 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.

PART 1653—APPEAL TO THE PRESIDENT

Sec.
1653.1 Who may appeal to the President.
1653.2 Procedures for taking an appeal to the President.
1653.3 Review by the National Selective Service Appeal Board.
1653.4 File to be returned after appeal to the President is decided.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.*: E.O. 11623.

§ 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 dissented 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 therefor, and that the registrant may appear in person before the National Board in accord with § 1653.1(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 procedural 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 shalll 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 the registant's personal appearance; and

(3) Written evidence submitted by the registrant to the board during his personal appearance.

(q) In the event that the board classifies the registrant in a class other than that which he requested, it shall record its reasons therefor in his file.

(r) 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 this testimony.

(s) Proceedings before the National Appeal Board are closed to the public.

§ 1653.4 File to be returned after appeal to the President is decided.

When the appeal to the president has been decided, the file shall be returned as prescribed by the Director of Selective Service.

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.

(2) 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.

(d) 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.

(e) 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.

(f) Burial expenses shall not exceed the maximum prescribed in Section 11 of the Military Selective Service Act in any one case.

(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 11623)

[FR Doc. 81-33070 Filed 11-16-81; 8:45 am]

BILLING CODE 8015-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1-FRL 1965-5]

Approval and Promulgation of Implementation Plans—Connecticut; Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

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, and revise regulation 19-508-18(f) to reduce the allowable TSP emissions from iron foundries, hot mix asphalt plants, and foundry sand processes. Once adopted, these changes will satisfy the conditions for approval of Connecticut's primary standard attainment plan for TSP, specified at 45 FR 84781 (December 23, 1980).

EPA's review is being conducted concurrently with the review and adoption of the same revisions at the state level. This concurrent review prior to final state regulatory action, which EPA refers to as "parallel processing", is designed to reduce the time necessary for EPA approval of SIP revisions.

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 1903, 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 1, Room 1903, 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 1903, 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 heat input.

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 84781.

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 84781 once the proposed regulatory changes are adopted by the State and formally submitted to EPA for incorporation into the SIP.

Under the "parallel process" procedures 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. section 605(b), the Administrator has certified that SIP approvals under sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. 46 FR 8709 (January 27, 1981). The attached 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 7601).

Dated: September 17, 1981.

Lester A. Sutton,

Regional Administrator.

[FR Doc. 81-33075 Filed 11-16-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-8-FRL-1970-4]

Approval and Promulgation of State Implementation Plans; Utah PSD Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rulemaking.

SUMMARY: This action proposes to approve a revision to the Utah State Implementation Plan (SIP) submitted by the Governor on August 17, 1981, which includes a State program for prevention of significant deterioration (PSD). In conjunction with approval of this plan EPA would remove the federal PSD program as it applies to lands under State jurisdiction.

DATES: Comments due December 17, 1981.

ADDRESSES: Written comments should be addressed to:

Robert R. DeSpain, Chief, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295

Copies of the revision are available for public inspection between 8:00 a.m. and 4:00 p.m. Monday through Friday at the following offices:

Environmental Protection Agency, Region VIII, Air Programs Branch, 1860 Lincoln Street, Denver, Colorado 80295,

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

FOR FURTHER INFORMATION CONTACT: David S. Kircher, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837-3711

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 an 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

gives redesignation authority to state Governors and Indian governing bodies.

The principal means of protecting the increments are the review and regulation of major new stationary sources and modifications, the tracking of minor source growth, and the periodic review of increment consumption. At present, EPA is implementing the program by a federal permit system designed to meet the requirements of Part C. In that program operators of major new sources and major modifications must obtain a permit before commencing construction and the permit will be granted only if, among other things: (a) The increments for the area are protected, and (b) best available control technology will be employed.

As indicated above, this program is presently implemented by EPA through regulations promulgated in 40 CFR 52.21. In addition EPA promulgated requirements for state PSD programs at 40 CFR 51.24. The regulations submitted by the State of Utah are designed to meet the requirements of 40 CFR 51.24 through the review of major stationary source growth. Section 3.6 of the Utah regulations will prohibit new source construction in clean areas unless best available control technology is employed and a demonstration is made that the increments and air quality related values are being protected.

The provisions of section 3.6, are in all major respects, identical to the Agency regulations. The principal difference between the two regulations is that the State's regulation would not necessarily apply on Indian Reservations. Therefore, EPA proposes to approve the State's regulation and remove its own regulation except as it applies to Indian Reservations.

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), The Administrator certified on 46 FR 8709 that the proposed action will not, if promulgated, have a significant economic impact on a substantial number of small entities. This action only approves state actions. It imposes no new requirements.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not Major because it imposes no new requirements. It only proposes to approve requirements adopted by the State. This action was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

This notice of proposed rulemaking is issued under the authority of section 110 of the Clean Air Act (42 U.S.C. 7410).

Dated: September 28, 1981.

Steven J. Durham,

Regional Administrator.

[FR Doc. 81-33076 Filed 11-16-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-3-FRL-1973-8]

Proposed Revision of the Maryland State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The State of Maryland has submitted a State Implementation Plan (SIP) for the control of lead (Pb) emissions. The State has demonstrated that the National Ambient Air Quality Standard (NAAQS) for lead will be met Statewide by 1982. The State has also provided regulations providing for review of new major stationary sources for lead. Therefore, EPA proposes to approve Maryland's lead SIP.

DATE: All comments must be submitted on or before December 17, 1981.

ADDRESSES: Copies of the proposed SIP revision and accompanying support documents are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Curtis Building, 10th Floor, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, Attn: Harold A. Frankford

State of Maryland, Air Management Administration, Department of Health and Mental Hygiene, 201 West Preston Street, Baltimore, Maryland 21201, Attn: Mr. George Ferreri

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

All comments should be submitted to: Mr. Henry J. Sokolowski, P.E., Chief, MD-DE-DC Metro Section, U.S. Environmental Protection Agency, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, PA 19106, Attn: AH400MD.

FOR FURTHER INFORMATION CONTACT: Mr. Harold A. Frankford at the above-mentioned address (phone 215/597-8392).

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 violation to both stationary sources and mobile sources. The State also discusses violations that have occurred in the National Capitol AQCR, 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 lead standard 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, exist 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 Intrastate 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 .03A(1)(g) 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 48240 (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 requirements of 40 CFR 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 51.80 through 51.88 (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 10.18.11.05C 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 8709 (January 27, 1981). This action, 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. 7401–642)

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

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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 33063). 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 06115. Copies of the Connecticut interim authorization application are available at the following addresses for inspection and copying by the public:

(1) Hazardous Materials Management Unit, Connecticut Department of Environmental Protection, Room 9, 122 Washington Street, Hartford, Connecticut 06106, (telephone (203) 566–4869).

(2) Environmental Protection Agency, Region I Office Library, Room 2100 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) 223–5775).

FOR FURTHER INFORMATION CONTACT: William R. Torrey, III, (617) 223–5775.

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.

[FR Doc. 81-33039 Filed 11-16-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 180

[PP 2E 1293/7E1980/P197; PH–FRL–1968–1]

2,4-D; Proposed Tolerances

Correction

In FR Doc. 81–31064, appearing at page 52395 in the issue of Tuesday, October 27, 1981, make the following corrections:

1. On page 52396, second column, the second commodity entry in the table, reading "Barley," should read "Barley, forage".

2. On page 52396, third column, in the first line, "octylamine, oleylamine, N-oleylamine," should have read, "octylamine, oleylamine,".

BILLING CODE 1505-01-M

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40 CFR Part 256

[SW-5-FRL-1986-7]

Availability of Minnesota State Solid Waste Management Plan and Request for Public Comment

AGENCY: Environmental Protection Agency.

ACTION: Notice of receipt and availability of State plan for public comment.

SUMMARY: On January 28, 1981, the State of Minnesota submitted to the U.S. Environmental Protection Agency (U.S. EPA) its adopted State Solid Waste Management Plan, as required under 40 CFR Part 256. Additions and revisions to the plan were submitted July 31, 1981, and October 15, 1981. Section 4008(a)(1) of the Solid Waste Disposal Act, as amended by The Resource Conservation and Recovery Act of 1976, as amended, (RCRA), authorized financial assistance for the development and implementation of State plans. Under section 4007 of RCRA, U.S. EPA shall approve State plans which meet the requirements of paragraphs (1), (2), (3) and (5) of section 4003 and which contain provisions for revision. Under the guidelines published

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.

ADDRESSES: 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, Headquarter's 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) 296–7716

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 particpation in the development of the plan, the annual work program, State regulations and the permitting of facilities.

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.

(Sec. 4007(a), Pub. L. 94–580, 90 Stat. 2817, (42 U.S.C. 6947))

Dated: November 3, 1981.

Valdas V. Adamkus,

Regional Administration.

[FR Doc. 81-33074 Filed 11-16-81; 8:45 am]

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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 whch 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

examined pursuant to Section 610(c) of the RFA during the first year 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.

3. 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 RRWG. 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., Washington, D.C. 20554.[1] 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. Tricarico,

Secretary.

[1] The original will be placed in the public docket and the Secretary will forward the copy to the appropriate Bureau or Office.

APPENDIX

Reviewing bureau/office	47 CFR	Title/description	Need	Legal basis
Office of Science and Technology.	Part 2, Subpart J	Equipment authorization procedures—type approval; type acceptance and certification.	These rules implement Section 302 of the Communications Act. Radio-frequency devices may not be marketed unless they have received an appropriate equipment authorization. Subpart 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.	47 U.S.C. §§ 302, 303(r).
	2.909	Written application required	do	Do.
	2.915	Grant of application	do	Do.
	2.917	Dismissal of application	do	Do.
	2.919	Denial of application	do	Do.
	2.921	Hearing on application	do	Do.
	2.925	Identification of equipment	do	Do.
	2.927	Limitations on grants	do	Do.
	2.929	Nonassignability of an equipment authorization	do	Do.
	2.931	Responsibility of the grantee	do	Do.
	2.932	Modification of equipment	do	Do.
	2.933	Change in identification of equipment	do	Do.
	2.934	Change in name of grantee	do	Do.
	2.935	Change in control of grantee	do	Do.
	2.936	FCC inspection	do	Do.
	2.937	Equipment defect and/or design change	do	Do.
	2.938	Retention of records	do	Do.
	2.939	Revocation or withdrawal of equipment authorization	do	Do.
	2.941	Availability of information relating to grants	do	Do.
	2.943	Submission of equipment for testing	do	Do.
	2.945	Sampling tests of equipment compliance	do	Do.
	2.963	Application for type approval	do	Do.
	2.965	Submission of equipment for type approval testing	do	Do.
	2.967	Changes in type approved equipment	do	Do.
	2.969	Identification label for type approved equipment	do	Do.
	2.983	Application for type acceptance	do	Do.
	2.985	Measurements required: RF power output	do	Do.
	2.987	Measurements required: Modulation characteristics	do	Do.
	2.989	Measurement required: Occupied bandwidth	do	Do.
	2.991	Measurements required: Spurious emissions at antenna terminals.	do	Do.
	2.993	Measurements required: Field strength of spurious radiation.	do	Do.
	2.995	Measurements required: Frequency stability	do	Do.
	2.997	Frequency spectrum to be investigated	do	Do.
	2.999	Measurement procedure	do	Do.
	2.1001	Changes in type accepted equipment	do	Do.
	2.1003	Identification label for type accepted equipment	do	Do.
	2.1033	Application for certification under Part 15	do	Do.
	2.1035	Abbreviated procedure for identical of private label equipment.	do	Do.
Office of Science and Technology.	2.1037	Application for prototype certification of ISM equipment	do	Do.
	2. 1039	On-site certification of ISM equipment	do	Do.
	2.1041	Measurement procedure	do	Do.

APPENDIX—Continued

Reviewing bureau/office	47 CFR	Title/description	Need	Legal basis
	2.1043	Changes in certificated equipment	do	Do.
	2.1045	Identification label for certification equipment	do	Do.
	2.1061	Submission of technical information for application reference.	do	Do.
	2.1063	Disclaimer re technical information filed for application reference.	do	Do.
	2.1065	Identification and changes in equipment information filed for application reference.	do	Do.
	*	* * *	* * *	
Office of Science and Technology.	Part 15, Subpart G.	Auditory training devices	This subpart governs low power communications devices designed to be used in institutional training programs to teach the deaf. The rules define who may use auditory training devices, the frequencies that they may operate on, the type of equipment authorizaton required and the technical standards to be met.	47 U.S.C. §§302, 303(g), and 303(r).
	15.331	Scope of this subpart	do	Do.
	15.333	Operation in the band 72–76 MHz	do	Do.
	15.335	Operation in the band 88–108 MHz	do	Do.
	15.337	Operation on other frequencies	do	Do.
	15.341	Interference from an auditory training system	do	Do.
	15.345	Certification of receiver	do	Do.
	15.347	Equipment authorization for transmitter	do	Do.
	15.351	Frequencies available in the band 72–76 MHZ	do	Do.
	15.353	Transmitter frequency tolerance (972–76 MHz)	do	Do.
	15.355	Transmitter power (72–76 MHz)	do	Do.
	15.357	Transmitter modulation requiremants (72–76 MHz)	do	Do.
	15.359	Transmitter emissions out of band (72–76 MHz)	do	Do.
	15.361	Receiver frequency stability (72–76 MHz)	do	Do.
	15.363	Receiver selectivity and desensitization (72–76 MHz)	do	Do.
	15.365	Receiver image frequency rejection (72–76 MHz)	do	Do.
	15.367	Receiver emission limitation (72–76 MHz)	do	Do.
	15.375	Identification of auditory training equipment (72–76 MHz).	do	Do.
	15.377	Measurement of field strength	do	Do.
Field Operations Bureau	Part 17	Construction, marking, lighting of antenna structures	The purpose of the rules in this part is to prescribe certain procedures and standards, developed in conjunction with the Federal Aviation Administration (FAA), with respect to the Commission's consideration of proposed antenna structures.	47 U.S.C. §§154 and 303.
	17.1	Basis and purpose	do	Do.
	17.2	Definitions	do	Do.
	17.4	Commission consideration of proposed antenna structure with respect to possible hazard to air navigation.	do	Do.
	17.7	Antenna structures requiring notification to the FAA	do	Do.
	17.8	Establishment of antenna farm areas	do	Do.
	17.9	Designated antenna farm areas	do	Do.
	17.10	Antenna structures over 304.80 meters (1,000 feet) in height.	do	Do.
	17.14	Certain antenna structures exempt from notification to the FAA.	do	Do.
	17.17	Existing structures	do	Do.
	17.21	Painting and lighting, when required	do	Do.
	17.22	Particular specifications to be used	do	Do.
	17.23	Specifications for the granting of antenna structures in accordance with § 17.21.	do	Do.
		Aviation red obstruction lighting	do	Do.
	17.24	Specifications for the lighting of antenna structures up to and including 45.72 meters (150 feet) in height.	do	Do.
	17.25	Specifications for the lighting of antenna structures over 45.72 meters (150 feet) up to and including 91.44 meters (300 feet) in height.	do	Do.
	17.26	Specifications for the lighting of antenna structures over 91.44 meters (300 feet) up to and including 137.16 meters (450 feet) in height.	do	Do.
	17.27	Specifications for the lighting of antenna structures over 17.16 meters (450 feet) up to and including 182.88 meters (600 feet) in height.	do	Do.
	17.28	Specifications for the lighting of antenna structures over 182.88 meters (600 feet) up to and including 228.60 meters (750 feet) in height.	do	Do.
	17.29	Specifications for the lighting of antenna structures over 228.60 meters (750 feet) up to and including 274.32 meters (900 feet) in height.	do	Do.
	17.30	Specifications for the lighting of antenna structures over 274.32 meters (900 feet) up to and including 320.04 meters (1,050 feet) in height.	do	Do.
	17.31	Specifications for the lighting of antenna structures over 320.04 meters (1,050 feet) up to and including 365.76 meter (1,200 feet) in height.	do	Do.
	17.32	Specifications for the lighting of antenna structures over 365.76 meters (1,200 feet) up to and including 411.48 meters (1,350 feet) in height.	do	Do.
	17.33	Specifications for the lighting of antenna structures over 411.48 meters (1,350 feet) and up to and including 457.20 meters (1,500 feet) in height.	do	Do.
	17.34	Specifications for the lighting of antenna structures over 457.20 meters (1,500 feet) and up to and including 502.92 meters (1,650 feet) in height above the ground.	do	Do.

APPENDIX—Continued

Reviewing bureau/office	47 CFR	Title/description	Need	Legal basis
	17.35	Specifications for the lighting of antenna structures over 502.92 meters (1,650 feet) up to and including 548.64 meters (1,800 feet) in height.	do	Do.
	17.36	Specifications for the lighting of antenna structures over 548.64 meters (1,800 feet) up to and including 594.36 meters (1,950 feet) in height.	do	Do.
	17.37	Specifications for the lighting of antenna structures over 594.36 meters (1,950 feet) up to and including 640.08 meters (2,100 feet) in height.	do	Do.
	17.38	Specifications for the lighting of antenna structures over 640.08 meters (2,100 feet) in height.	do	Do.
		HIGH-INTENSITY WHITE 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	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	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	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	Do.
	17.43	Painting and lighting of new and existing structures.	do	Do.
	17.45	Temporary warning lights	do	Do.
	17.47	Inspection of tower lights and associated control equipment.	do	Do.
	17.48	Notification of extinguishment or improper functioning of lights.	do	Do.
	17.49	Recording of tower light inspections in the station record.	do	Do.
	17.50	Cleaning and repainting	do	Do.
	17.51	Time when lights should be exhibited	do	Do.
	17.53	Lighting equipment and paint	do	Do.
	17.54	Rated lamp voltage	do	Do.
	17.56	Maintenance of lighting equipment	do	Do.
	17.57	Report of radio transmitting antenna construction, alteration and/or removal.	do	Do.
	17.58	Facilities to be located on land under the jurisdiction of the U.S. Forest Service or the Bureau of Land Management.	do	Do.
Common Carrier Bureau (Mobile Services Division).	Part 22	Public Mobile Radio Services	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(i) and 303(r).
	22.2	Definitions	do	Do.
	22.15	Technical content of applications	do	Do.
	22.20	Defective applications	do	Do.
	22.23	Amendment of Applications	do	Do.
	22.27	Public Notice period	do	Do.
	22.31	Mutually exclusive application	do	
	22.43	Period of construction	do	Do.
	22.103	Standards and limitations governing authorization and use of frequencies in the 72-76 MHz band.	do	Do.
	22.117	Transmitter location	do	Do.
	22.118	Transmitter construction and installation	do	Do.
	22.121	Replacement of equipment	do	Do.
	22.122	Microwave digital modulation	do	Do.
	22.205	Operator requirements	do	Do.
	22.208	Stations records	do	Do.
	22.209	Communications concerning safety of life and property	do	Do.
	22.213	Station identification	do	Do.
	22.501	Frequencies	do	Do.
	22.507	Bandwidth and emission limitations	do	Do.
	22.508	Modulation requirements	do	Do.
	22.509	Permissible communications	do	Do.
	22.511	Communication service to own mobile units	do	Do.
	22.513	Location of message center	do	Do.
	22.515	Control points, dispatch points and dispatch stations	do	Do.
	22.516	Additional showing required with application for assignment of additional channel or channels.	do	Do.
	22.519	Use of mobile station frequency for dispatch station	do	Do.
	22.520	Notification of operation of dispatch station without specific authorization.	do	Do.
	22.605	Modulation requirements	do	Do.
	22.1004	Modulation requirements	do	Do.

APPENDIX—Continued

Reviewing bureau/office	47 CFR	Title/description	Need	Legal basis
*	*	* * *	* * *	
Common Carrier Bureau (Domestic Facilities Division).	Part 25, Subpart C.	Satellite Communications—Technical Standards	These regulations establish the technical standards to be adhered to by licensees of satellite radio facilities in order to avoid radio interference between satellite radio systems and between satellite and other radio systems sharing the same radio spectrum.	47 U.S.C. §§ 154(i), 303 and 403.
	25.201	Definitions	do	Do.
	25.202	Frequencies, frequency tolerance and emission limitations.	do	Do.
	25.203	Choice of sites and frequencies	do	Do.
	25.204	Power limits	do	Do.
	25.205	Minimum angle of antenna elevation	do	Do.
	25.206	Station identification	do	Do.
	25.207	Cessation of emission	do	Do.
	25.208	Power flux density limits	do	Do.
	25.209	Antenna performance standards	do	Do.
*	*	* * *	* * *	
Common Carrier Bureau (Accounting and Audits Division).	Part 31	Uniform System of Accounts for Class A and Class B Telephone Companies.	The USOA regulations speicfied 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.	47 U.S.C. § 220(a)
	Part 33	Uniform System of Accounts for Class C Telephone Companies.	do	Do.
	Part 34	Uniform System of Accounts for Radiotelegraph Carriers.	do	Do.
	Part 35	Uniform System of Accounts for Wire-Telegraph and OceanCable Carriers.	do	Do.
*	*	* * *	* * *	
Common Carrier Bureau	Part 43	Reports of Communications Common Carriers and Certain Affiliates.	do	Do.
	43.51	Contracts and concessions	This rule requires filing with the FCC copies of certain contracts, agreements, concessions, licenses, authorizations or other arangements with respect to Communications traffic affected by the Act. To the extent the Act permits such contracts, this rule pemits the FCC to monitor contracts to ascertain the impact on the just and reasonable rates required by the Act.	47 U.S.C. §§ 154(i) and 211.
	43.52	Reports of negotiations regarding foreign communications matters.	This rule permits the FCC to monitor negotiations in order to ascertain their impact on the just and reasonable rates required by the Act.	Do.
	43.53	Reports regarding division of international telegraph communication charges.	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.	47 U.S.C. §§ 154(i), 211, and 222.
	43.54	Reports regarding services performed by telegraph carriers.	This rule requires notice of nontariffed service being provided by the regulated telegraph carrier to enable the FCC to guard against potential subsidization of unregulated services by regulated services.	47 U.S.C. § 154(i) and 215.
*	*	* * *	* * *	
Common Carrier Bureau	Part 61	Tariffs	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 nondominat carriers by relaxing requirements in the latter case.	47 U.S.C. §§ 154(i), 201 through 205.
*	*	* * *	* * *	

EXTENSION OF LINES AND DISCONTINUANCE OF SERVICE BY CARRIERS

	Part 63		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.	47 U.S.C. § 214.
	63.01	Contents of application	do	Do
	63.07	Special procedures for non-dominant domestic common carriers and domestic satellite common carriers.	do	Do.
	63.52	Copies required; fees	do	47 U.S.C. § 154(i).
*	*	* * *	* * *	
Common Carrier Bureau	63.53	Form	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 307 (1970).	47 U.S.C. § 151(i).
	63.54	Furnishing of facilities for cable television service to the viewing pubic.	do	47 U.S.C. §§ 154(i) and 214.
	63.55	Affiliation showings	do	Do.
	63.56	Waivers	do	Do.

APPENDIX—Continued

Reviewing bureau/office	47 CFR	Title/description	Need	Legal basis
	*	* * *	* * *	
	64.501	Recording of telephone conversations with telephones companies.	Sets forth conditions pursuant to which telephone companies may record telephine converstaions between the public and a telephone company officer of agent or any other person acting for or employed by the telephone company.	47 U.S.C. § 154(i)
	*	* * *	* * *	
Common Carrier Bureau	Part 68, Subpart C.	Connection of Terminal Equipment to the Telephone Network—Registration Procedures.	FCC utilizes these rules to carry out its registration program, which is designated to assure that terminal equipment connected to the nation's communications network does not harm that network.	47 U.S.C. § 154(i).
	68.200	Application for equipment registration	do	Do.
	68.202	Public Notice	do	Do.
	68.204	Comments and replies	do	Do.
	68.206	Grant of application	do	Do.
	68.208	Dismissal and return of application	do	Do.
	68.210	Denial of application	do	Do.
Broadcast Bureau	Part 74, Subpart D.	Remote Pickup Broadcast Stations	These rules specify the ways in which remote pickup broadcast stations may be used. These stations include both base stations and mobile stations and are associated with broadcasting stations with which they are principally used and to which they are licensed. They may be used for transmission of material from the locale of events occuring outside the studio and for transmission of cues and orders or related communications necessary to effect a broadcast.	47 U.S.C. §§ 302(a), 303(a)-(c), 303(f), 303(g) and 303(r).
	74.431	Special rules pertaining to use of this service; communications between stations; remote location operation; FCC authority; communications of cues, orders instructions, etc.; operation outside contermineus USA; use for operational communications; use in an emergency; use with EBA.	do	Do.
	74.432	Requirements and procedures pertaining to licensing	do	Do.
	74.439	Requests and grants for temporary authorization to operate.	do	Do.
	74.434	Regulations regarding remote control operation	do	Do.
	74.436	Requirements for authorization and installation of automatic relay stations.	do	Do.
	74.462	Operation of type accepted equipment in accordance with emission and bandwidth specifications.	do	Do.
	74.463	Requirements for modulation devices	do	Do.
	74.465	Measurements and monitoring of frequencies	do	Do.
	74.467	License and authorization posting	do	Do.
	74.468	Requirements for operators; operation; repair and maintenance.	do	Do.
	74.469	Maintenance and lighting of antenna structures	do	Do.
	74.481	Entries in and keeping of logs and records	do	Do.
	74.482	Rules pursuant to identification stations	do	Do.
	Part 74, Subpart E.	Aural Broadcast STL and Intercity Relay Stations	These rules define the nature and use of those facilities. Studio transmitter links (STLs) are fixed stations used for transmission of aural program material from a station's studio to its transmitter for either simultaneous or delayed broadcast; and an intercity relay station transmits such material between broadcast stations.	47 U.S.C. §§ 302(a), 303(a)-(c), 303(f), 303(g) and 303(r).
	74.502	Assignment of frequencies and the conditions pertaining to the use thereof.	do	Do.
	74.531	Permissible service conditions; multiplexing; and permission to use another stations transmissions.	do	Do.
	74.532	Requirements pertaining to licensing of STL's and intercity relay stations.	do	Do.
	74.533	Operating unattended and by remote control	do	Do.
	74.551	Equipment change application and notification	do	Do.
	74.562	Measuring frequency and determining maintainance of allowed frequency tolerances.	do	Do.
	74.565	Requirements pertaining to operators	do	Do.
	74.566	Maintenance and lighting of antenna structures	do	Do.
	74.581	Entries and keeping of logs and records	do	Do.
	74.582	Rules pursuant to station identification	do	Do.
	Part 74, Subpart F.	Television Auxiliary Broadcast Stations	These rules define the kinds of stations which are authorized in this service and specify the frequencies on which they can operate in the prescribed manner.	47 U.S.C. §§ 302(a), 303(a)-(c), 303(f), 303(g) and 303(r).
	74.602	Specifies the frequencies available for assignment to TV pickup, STL intercity relay and translator relay stations.	do	Do.
	74.603	Prescibes uses which may be made of the sound channel in TV auxiliary stations.	do	Do.
	74.604	Applicant's selection of a frequency to avoid interference to other stations.	do	Do.
	74.631	The kinds of service that are permissible by TV pickup, STL, intercity relay and tranlator relay stations.	do	Do.
	74.632	The licensing requirements for these auxiliary stations	do	Do.
	74.633	Provisions for temporary authorizations in these services.	do	Do.
	74.634	Requirements concerning remote control operation of these stations.	do	Do.
	74.635	Provisions as to unattended operation of these stations.	do	Do.

APPENDIX—Continued

Reviewing bureau/office	47 CFR	Title/description	Need	Legal basis
	74.651	Procedures for authority to change equipment	do	Do.
	74.664	Requirements concerning the posting of the station and operator licenses.	do	Do.
	74.665	Requirements as to operators which must be on duty at the various kinds of stations.	do	Do.
	74.681	Logs to be kept and the entries to be made	do	Do.
	74.682	Identification of the station by visual and oral call signs and the frequency thereof.	do	Do.
	Part 74, Subpart H	Low Power Auxiliary Stations	These rules prescribe the kinds of low power auxiliary stations which can be authorized and the frequencies on which they can operate.	47 U.S.C. §§ 302(a), 303(a)–(c), 303(f), 303(g) and 303(r).
	74.802	Frequencies on which these stations may operate and how the selection of frequency may be made.	do	Do.
	74.832	The licensing requirements for these stations		
	74.833	Provisions for temporary authorizations in this service	do	Do.
	74.861	Technical requirements for operation in this service	do	Do.
	74.868	Requirements as to operators which must be on duty at these stations.	do	Do.
	74.881	Logs and records which are required to be kept	do	Do.
Cable Bureau	Part 76, Subpart D.	Mandatory Cable Television Carriage of Local Television Broadcast Signals.	This subpart of the rules requires that cable television systems carry and distribute to their subscribers the signals of local television broadcast stations. The rules were intended to assure that cable systems operated as a supplement and not a replacement for over-the-air broadcast service, to assure against unreasonable restrictions on the ability of local stations to compete, and to assure that subscribers have access to local signals and that stations are not denied access to the audience they are licensed to serve.	47 U.S.C. §§ 152, 153, 154(i), 154(1), 301, 303, 307, 308, 309.
	76.51	Major television markets	do	Do.
	76.53	Reference points	do	Do.
	76.54	Significantly viewed signals; method to be followed for special showings.	do	Do.
	76.55	Manner of Carriage	do	Do.
	76.57	Provisions for systems operating in communities outside of all major and smaller television markets.	do	Do.
	76.59	Provisions for smaller television markets	do	Do.
	76.61	Provisions for the major television markets	do	Do.
	76.63	Provisions for second 150 major television markets	do	Do.
	76.65	Determination of signal contours	do	Do.
*	*	* *	* *	
	76.31	Cable television franchises fee limits	This rule prohibits state and local governments from changing cable television franchise fees which exceed 3% of a system's gross revenues (a fee of up to 5% may be charged with specific Commission approval). It was intended to place reasonsbale limits on local franchise fees so that such fees would not interfere with the effectuation of federal regulatory goals.	47 U.S.C. § 152,153, 154(i), 154(j), 301, 303, 307, 308, 309. *See U.S. v. Southwestern Cable*, 392 U.S. 157 (1968).
	76.501	Network and local television station cross-ownership rules.	This rule prohibits cross-ownership between cable television systems and the national television networks and between cable systems and television and television translator stations serving the same area. It was intended to promote economic competition and diversity of television programming, ownership and control.	47 U.S.C. §§ 152, 153, 154(i), 154(j), 301, 303, 307, 308, 309.
	76.610	Technical standards radiation limits	This rule relates to radiation from cable television systems in certain frequency bands that are used by aeronautical and certain other safety-of-life radio services. It is designed to assure that cable systems do not radiate and intefere with over-the-air radio services.	47U.S.C. §§ 151, 152, 302, 303, 307, 308, 309.
Private Radio Bureau		Stations On Shipboard in the Maritime Services	These rules establish operating guidelines, technical standards, and other uniform procedural and substantive requirements to foster proper and efficient operation of stations on shipboard in the maritime services.	47 U.S.C. §§ 154(i) and 303(r).
	83.24	Eligibility for station license	do	Do.
	83.26	Administrative classification of stations	do	Do.
	83.42	Changes during license term	do	Do.
	83.102	Posting station license	do	Do.
	83.103	Location of station	do	Do.
	83.104	Operating controls	do	Do.
	83.105	Requiring channels for radiotelegraphy	do	Do.
	83.106	Required frequencies for radiotelephony	do	Do.
	83.107	Antenna requirements	do	Do.
	83.111	Transmitter measurements	do	Do.
	83.112	General requirements for receiving apparatus	do	Do.
	83.115	Retention of radio station logs	do	Do.
	83.275	Ship position reports	do	Do.
	83.276	Free safety service	do	Do.
	83.277	Free service for national defense	do	Do.
*	*	* *	* *	
		Private Land Mobile Radio Services	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(i) and 303(r).
	90.17	Local government radio service	do	Do.
	90.19	Police Radio Service	do	Do.

APPENDIX—Continued

Reviewing bureau/office	47 CFR	Title/description	Need	Legal basis
	90.21	Fire Radio Service	do	Do.
	90.23	Highway Maintenance Radio Service	do	Do.
	90.25	Forestry—Conservation Radio Service	do	Do.
	90.35	Medical Services	do	Do.
	90.37	Rescue Organizations	do	Do.
	90.39	Veterinarians	do	Do.
	90.41	Disaster Relief Organizations	do	Do.
	90.43	School Buses	do	Do.
	90.45	Beach Patrols	do	Do.
	90.47	Eastablishment in Isolated Areas	do	Do.
	90.49	Communications Standby Facilities	do	Do.
	90.51	Emergency Repair of Public Communications Facilities	do	Do.
	90.53	Frequencies Available	do	Do.
	90.55	Paging Operations	do	Do.
	90.61	General Eligibility	do	Do.
	90.63	Power Radio Service	do	Do.
	90.65	Petroleum Radio Service	do	Do.
	90.67	Forest Products Radio Service	do	Do.
	90.69	Motion Picture Radio Service	do	Do.
	90.71	Relay Press Radio Service	do	Do.
		Private Land Mobile Radio Services	do	47 U.S.C. §§154(i) and 303(r).
	90.73	Special Industrial Radio Service	do	Do.
	90.75	Business Radio Service	do	Do.
	90.79	Manufacturers Radio Service	do	Do.
	90.81	Telephone Maintenance Radio Service	do	Do.
	90.87	General Eligibility	do	Do.
	90.89	Motor Carrier Radio Service	do	Do.
	90.91	Railroad Radio Service	do	Do.
	90.93	Taxicab Radio Service	do	Do.
	90.95	Automobile Emergency Radio Service	do	Do.
	90.103	Radiolocation Service	do	Do.
	*	* * *	* * *	
Private Radio Service		Personal Radio Services (Subpart A)	These rules are necessary to establish uniform licensing and operating requirements to foster proper and efficient operations in the General Mobile Radio Service.	47 U.S.C. §§154(i) and 303(r).
	95.11	Eligibility for Station License	do	Do.
	95.31	Types of Operation Authorized	do	Do.
	95.61	Permissible Communications	do	Do.
	95.65	Operation by, or on Behalf of, Persons Other Than the Licensee.	do	Do.
	95.101	Prohibited Communications	do	Do.
	95.111	Transmitter Service and Maintenance	do	Do.
	*	* * *	* * *	
Private Radio Service		Amateur Radio Service	These rules establish operating guidelines, technical standards and other substantive requirement to foster efficient operations of stations in the amateur radio service.	47 U.S.C. §§154(i) and 303(r).
	97.69	Digital Transmissions	do	Do.
	97.73	Purity of Emissions	do	Do.
	97.75	Use of External Radio Frequency (RF) Power Amplifiers.	do	Do.
	97.76	Requirements For Type Acceptance of External Radio Frequency (RF) Power Amplifiers and External Radio Frequency Power Amplifier Kits.	do	Do.
	97.77	Standards for Type Acceptance of External Radio Frequency (RF) Power Amplifiers and External Radio Frequency Power Amplifier Kit.	do	Do.

[FR Doc. 81-32954 Filed 11-16-81; 8:45 am]
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47 CFR Parts 2 and 21

[Gen. Docket No. 81-743; RM-3625; FCC 81-508]

Calculation of Necessary Bandwidth for Frequency Modulation Microwave Radio Relay Systems.

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 frequency modulated 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.

FOR FURTHER INFORMATION CONTACT: Alvin W. Paul, Technical Standards Branch, (202-653-6288) or Alex C. Latker, Network Analysis Branch (202-632-7695) 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 Sections 2.202 and 2.989 of the Rules.[1] AT&T claims 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.

Pleadings

2. Pleadings were filed by GTE Service Corporation (GTE), MCI Telecommunication 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 talker [2] 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 dBm0 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 imcorporation 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 1800 circuits on the 6 GHz band, increased loads to 1800 and 2400 circuits, respectively, while still meeting end-to-end telephone circuit peformance 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. GTE, 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 dBm0 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, and 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. Rockwell 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 expressionrelated to signal power in the channel where adopted, terms in the multiplying factors in Sections 2.202(f) and 2.989(f) of the Rules be considered as follows:

for: Nc=12 to 60, $-2.0+2 \log 10 Nc$; and
Nc=60 to 240, $-5.6+4 \log 10 Nc$;
Where Nc=number of 4 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 new 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 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 circuits. They also note that the bands in question (4 and 6 GHz) have been allocated for use by satellite and terrestrial carriers 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

[1] On March 11, 1980 Western Electric requested a waiver of these rules in connection with type acceptance of its applicable transmitters. In view of opposition to the filings of both AT&T and its subsidiary, the Commission believes that action on the request for waiver should await final action on the instant petition.

[2] The "average talker" constant represents the power level at a single frequency when measured at the input to a radio frequency modulator and is equivalent to the power level of the average user of the telephone network. This level is normally determined by calculating the statistical mean of measurements made on a large number of telephone channels in the network. The reference level that has been and is currently used is a power level of −15 dBm for channel loads of 240 or more. Since this level is in turn referenced against a zero (0) transmission level point, it is commonly referred to as a −15 dBm0 signal.

[3] AT&T's recent measurements indicating the average talker level is now −19.6 dBm0 supports an earlier measurement program made during the 1975-1976 period. The results of that program indicated that the average talker level was actually about 5 dB lower than the accepted −15 dBm0 level, i.e. about −20 dBm0.

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 § 21.710(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 can 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(f) (see Appendix A). Theoretically, under ideal conditions, up to 2500 4 kHz circuits could be transmitted on a 4 GHz FM radio channel [4] which has a 20 MHz licensed bandwidth. The analysis further indicates that the number of 4 kHz (up 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 dBm0). 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(f) formulas, in effect, would reduce the signal-to-noise performance level of some telephone circuits on a 1800 circuit system below normally acceptable standards. We agree that 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.)[5] During subsequent discussions with ASC and AT&T, similar curves were produced by AT&T. A comparison of these curves indicates that the power density level of a 1800 channel system implemented for −15 dBm0 average talker loads but actually carrying a smaller average talker load of −19.6 dBm0, will be about 5 dB less than if the system was implemented for an actual −19.6 dBm0 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 dBm0 or −19.6 dBm0 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 dBm0 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 dBM0 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 disadvantageous increase in the threat of interference from the wider (but lower level) occupied bandwidth as well as an advantageous 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.[6] In areas where frequency congestion is high, increasing loading to 1800 circuits may

[4] An FM transmission system of existing 2500 voice circuits constrained to a 20 MHz radio transmission bandwidth would never be considered as a candidate for service. Such a system would require that the transmitter deviation 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 microwave radio systems, if economic, will employ a different form of modulation process. For example, a theoretical maximum of 5000 circuits could be transmitted in a 20 MHz radio channel if single sideband technology were utilized.

[5] 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 99% 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 decrease, 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 stairstep apperance. ASC's concerns center around the fact that the higher level first order sidebands will occupy a larger part of the radio channel bandwidth if circuit loads are allowed to increase.

[6] In the 4.0 GHz band, terrestrial radio channels are spaced at 20 MHz. As we have observed, radio relay systems do not uniformly "fill-up" the radio channel. For 1500 circuit systems there exists a "slot" of about 5.5 MHz halfway between the 20 MHz radio channels that has a low spectral density. Satellite system users, such as ASC, have been successful in locating small earth stations in congested urban areas by confining their narrowband SCPC (single channel per carrier) transmissions and receptions to these "slots" and taking advantage of the resulting frequency offset advantage in coordinating the earth station site. *See e.g.*, American Satellite Corporation, 72 FCC 2d 750, 753—754 (1979). Increasing circuit loads to 1800 channels will reduce the width of the low spectral density area to 3 MHz.

leave only 3.0 MHz of the 5.5 MHz available to the earth stations. However the 8 dB reduction in the 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 Corportation, supra* note 7. AT&T recognizes this situation and states that "[i]n 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 increased 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)[7] in this Notice of Proposed Rulemaking. The proposed rule will require that terrestrial carriers coordinate all 4 GHz microwave routes that are intended to carry more than 1500 4 kHz 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(i), 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 § 1.415 of the regulations, interested persons may file comments on or before December 29, 1981 and reply comments on or before January 28, 1982. All 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.

19. The proposed modification of Part 2 could affect not only Domestic Public Radio Services and Satellite Communications but also the Private Operational-Fixed Microwave Services. Both manufacturers and users of equipment in the latter services are therefore invited to comment on this matter.

20. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a Notice of Proposed Rulemaking until the time a Public Notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation, addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be 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 proposes 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 121,

[7] Sharing between the common carrier terrestrial and the satellite services occurs in both the 4 and 6 GHz bands. However, at this time, only the earth station receivers operating at 4 GHz would be adversely affected by an uncoordinated increase in circuit capacity. Protection of terrestrial receivers at 6 GHz is usually effected on a co-channel basis for each 4 kHz of radio spectrum so that the terrestrial operator already knows the interference environment before deciding to increase circuit capacity. Thus, there is no need to impose a coordination requirement at this time in the 6 GHz band. It is also unlikely that the international earth station facilities operations in the shared 11 GHz bands would use the type of coordination techniques discussed by ASC.

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.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

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,

$$B_n = 2M + 2\left[d \times 3.76 \times \text{antilog}\left(\frac{-15 + 10 \log N_c}{20}\right)\right] K$$

where M = maximum modulation frequency in hertz

d = per channel deviation

3.76 peak load factor of 14dB (in volts)[1] [2]

−15 = average power in a message circuit in (dBm0)

Nc = number of circuits in the multiplexed message load

K = unity

Note.—The symbol

denotes "corresponds to"

The term enclosed in brackets is the peak deviation, D. The numerator of the fraction (−15+10 log Nc) 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, Bn (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.

* * * * *

(f) * * *

(1) * * *

(i) * * *

(ii) The value of D is then calculated by multiplying the rms value of the per-channel deviation by the appropriate factors, as follows:

Number of telephone channels	Multiplying factors
More than 3, but less than 12	* * *
At least 12, but less than 60	$3.76 \times \text{antilog}\left[\frac{-2.0 + 2 \log_{10} N_c}{20}\right]$
At least 60, but less than 240	$3.76 \times \text{antilog}\left[\frac{-5.6 + 4 \log_{10} N_c}{20}\right]$
240 or more	$3.76 \times \text{antilog}\left[\frac{-19.6 + 10 \log_{10} N_c}{20}\right]$

* * * * *

[1] Holbrook, B.C., and J.T. Dixon, *Load Rating Theory for Multichannel Amplifiers*, Bell System Technical Journal, October, 1939, pp 624-644.

[2] Smith, H.R. *The Use of Holbrook and Dixon Loading Factors in Setting Receiver Parameters for an FDM-FM Radio Telephone Communications System*. IEEE Transactions on Communication Technology, Dec. 1964, pp 155-161.

II—FREQUENCY MODULATION

Description and class of emission	Necessary bandwith in hertz	Examples	
		Details	Designation of emission
* * * * * * *			
Composite transmission: F9	$B_n = 2P + 2DK$, K = 1	Microwave 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_n: D = (200 × 10³ × 3.76 × 1.19) Hz = 0.895 × 10⁶; P = 0.331 × 10⁶ Hz. Bandwidth: 2.452 × 10⁶ Hz	2450F9.
Do	$B_n = 2M + 2DK$, K = 1	Microwave radio relay system specifications: 1200 telephone channels occupying baseband between 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_n: D = (200 × 10³ × 3.76 × 3.63) = 2.73 × 10⁶; M = 5.564 × 10⁶ Hz; P = 6.2 × 10⁶ Hz; (2M + 2DK) > 2P. Bandwidth: 16.59 × 10⁶	16,600F9.
Do	$B_n = 2P$	Microwave radio relay system specifications: 600 telephone channels occupying baseband between 60 and 2540 kHz; continuity pilot at 8500 kHz produces 140 kHz rms deviation of main carrier. Computation of B_n: D = (200 × 10³ × 3.76 × 2.565) = 1.93 × 10⁶ Hz; M = 2.54 × 10⁶ Hz; K = 1; P = 8.5 × 10⁶; (2M + 2DK) < 2P. Bandwidth: 17 × 10⁶ Hz	17,000F9.

2. In § 2.989, the last three entries in the table in paragraph (f)(2) are proposed to be revised to read as follows:

§ 2.989 Measurement required: Occupied bandwidth.

* * * * *

(f) * * *

(2) * * *

Number of telephone channels that modulate the transmitter	Number of dB by which the average power level test signal shall exceed the modulation reference level
More than 3 and less than 12.	* * *
At least 12 and less than 60	$-2.0 + 2 \log_{10} N_c$
At least 60 and less than 240.	$-5.6 + 4 \log_{10} N_c$
240 or more	$-19.6 + 10 \log_{10} N_c$

* * * * *

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:

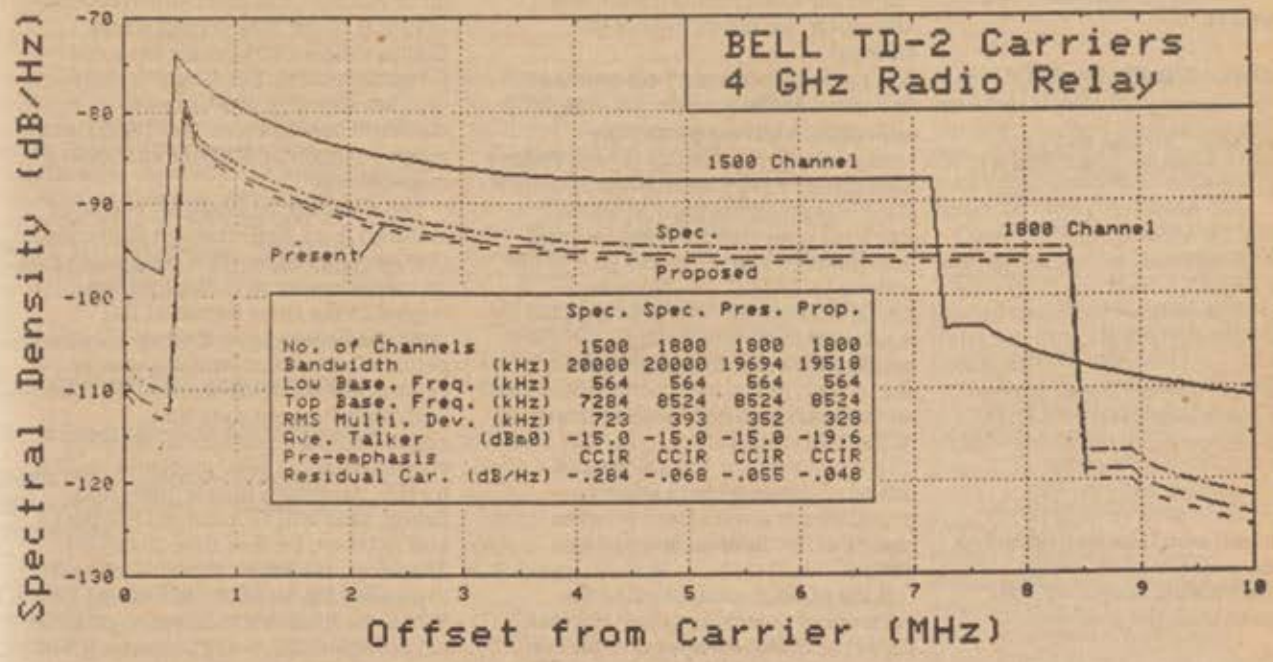
* * * * *

(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 § 21.706(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.

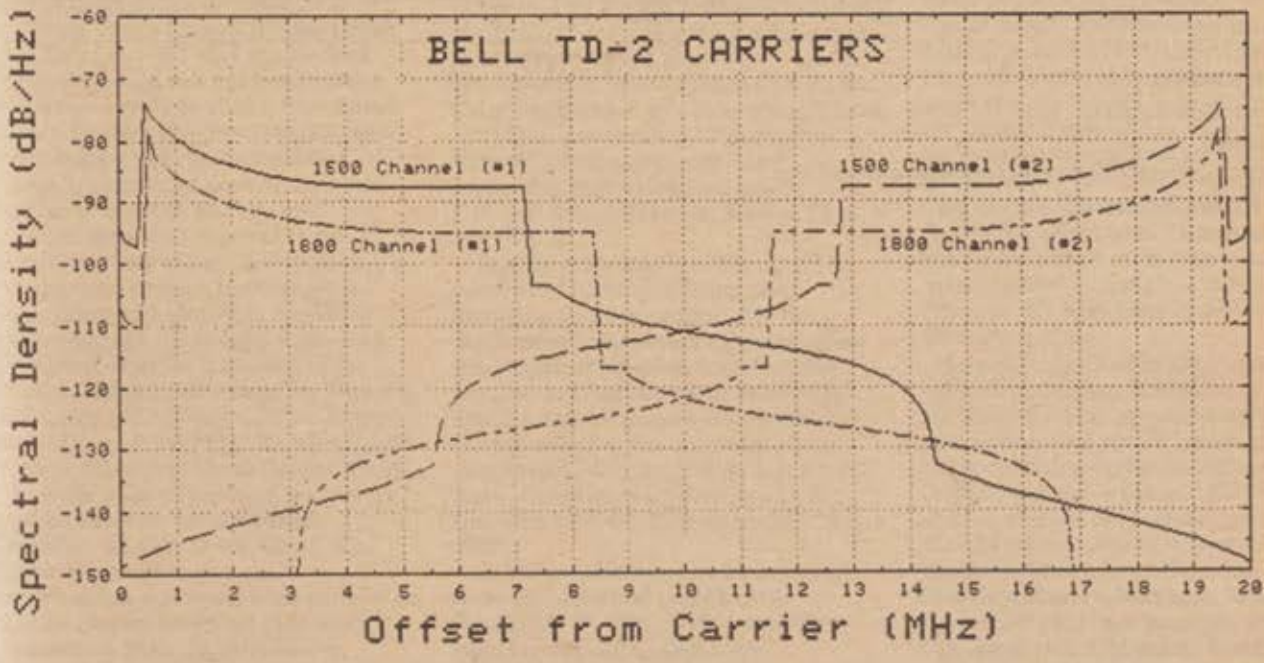
BILLING CODE 6712-01-M

Appendix C

RM-3625
EXHIBIT
for NPRM



		Spec.	Spec.	Pres.	Prop.
No. of Channels		1500	1800	1800	1800
Bandwidth	(kHz)	20000	20000	19694	19518
Low Base. Freq.	(kHz)	564	564	564	564
Top Base. Freq.	(kHz)	7284	8524	8524	8524
RMS Multi. Dev.	(kHz)	723	393	352	328
Ave. Talker	(dBm0)	-15.0	-15.0	-15.0	-19.6
Pre-emphasis		CCIR	CCIR	CCIR	CCIR
Residual Car.	(dB/Hz)	-.284	-.068	-.055	-.048



OST/SATELLITE SYSTEMS BRANCH
Nov. 1980

[FR Doc. 81-32909 Filed 11-16-81; 8:45 am]
BILLING CODE 6712-01-C

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.

Species and species code	Areas	OY	DAH	DAP	JVP=(DAH-DAP)	DNP	Reserve	TALFF
		CURRENT						
Mackerel fishery ..... Mackerel, Atlantic, 204	30,000	20,000				6,000	4,000	
		PROPOSED						
Mackerel fishery ..... Mackerel, Atlantic, 204	30,000	20,000				0	10,000	

(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

Notices

Federal Register
Vol. 46, No. 221
Tuesday, November 17, 1981

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

Basin Electric Power Cooperative, Bismarck, N. Dak.; Proposed Loan Guarantee

Under the authority of Pub. L. 93–32 (87 Stat. 65) and in conformance 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. 81–33069 Filed 11–16–81; 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 conformance with the 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 NW Nelson Station, Coal Unit No. 6.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed program, 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 75972.

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 the 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. 81–33068 Filed 11–16–81; 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 conformance 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 program, 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.

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. 81-33090 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 517-337-6702.

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 RC&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. 81-33049 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 614-469-6962.

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. 81-33050 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, Oil Conservation Service, Room 522, 200 North High Street, Columbus, Ohio 43215, telephone 614-469-6962.

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 Conservaton 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 County Road 47 RC&D Measure, Pike County, Ohio.

The environmenal 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 evironmental 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.

[FR Doc. 81-33061 Filed 11-16-81; 8:45 am]

BILLING CODE 3410-16-M

Hillsboro Park 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 614-469-6962.

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 Hillsboro Park R.C. & D. Measure, Highland 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 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.

(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. 81-33062 Filed 11-16-81; 8:45 am]

BILLING CODE 3410-16-M

Vinton County Land 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 614-469-6962.

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 Vinton County Land R.C. & D. Measure, Vinton 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 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.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: November 4, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-33063 Filed 11-16-81; 8:45 am]

BILLING 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 Loockerman Street, Dover, Delaware 19901, telephone 302–678–0750.

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. Deparment of Agriculture, gives notice that an enviornmental impact statement is not being prepared for the Silverbrook Run R. C. & D. Measure, New Castle County, Delaware.

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. 10.901, 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. 81–33054 Filed 11–16–81; 8:45 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.

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 Regiest Flood Prevention R.C. & D. Measure, Aroostook County, Maine.

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 of 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. 81–33055 Filed 11–16–81; 8:45 am]

BILLING CODE 3410–16–M

George D. Aiken R.C. & D. Area Critical Area Treatment R.C. & D. Meesures, 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 802–951–6795.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the George D. Aiken R.C. & D. Area, Orange, Addison, Windsor, Rutland, Bennington, and Windham Counties, Vermont.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. 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 planned action for treatment of critically eroding and

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.

(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.

[FR Doc. 81-33056 Filed 11-16-81; 8:45 am]

BILLING CODE 3410-16-M

Sam Houston R.C. & D. Area, Blackland Critical Area Treatment R.C. & D. Measure, Texas; No Significant Environment Impact

AGENCY: Soil Conservation Service, Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT:

Mr. George C. Marks, State Conservationist, Soil Conservation Service, 101 South Main Street, W.R. Poage Federal Building, P.O. Box 648, Temple, Texas 76501, telephone 817-774-1214.

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 Blackland Critical Area Treatment RC&D Measure, Walker County, Texas.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. George C. Marks, 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 treatment of critical erosion at 14 identified sites and includes 151 acres of shaping, 204 acres of vegetation, 14 grade stabilization structures, 4,500 feet of diversion terraces, and 8,100 feet of fencing.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. George C. Marks. 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.

[FR Doc. 81-33057 Filed 11-16-81; 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 39201, telephone 601-960-4335.

NOTICE: Mr. Billy C. Griffin, responsible Federal official for projects administered under the provisions of Public Law 83-566, 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)

[FR Doc. 81-33058 Filed 11-16-81; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations for the Week Ended November 6, 1981

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings. (See 14 CFR 302.1701 et seq.)

Date filed	Docket No.	Description
Nov. 2, 1981	40206	Blue Bell, Inc., Post Office Box 21486, Greensboro, North Carolina 27420. Application of Blue Bell, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a certificate of public convenience and necessity for an indefinite term to perform overseas and foreign charter air transportation of property and mail as follows: (1) Between any point in any State of the United States and the District of Columbia and any point in any territory or possession of the United States; (2) Between any point in any State of the United States, the District of Columbia, and any territory or possession of the United States and (a) Any point in Canada; (b) Any point in Mexico;

Date filed	Docket No.	Description
		(c) Any point in Jamaica, the Bahama Islands, Bermuda, Haiti, the Dominican Republic, Trinidad, Aruba, the Leeward and Windward Islands and any other foreign place in the Gulf of Mexico or the Caribbean Sea; (d) Any point in Central or South America; (e) Any point in Australia, Indonesia, and Asia, as far west as (and including) India; (f) Any point in Greenland, Iceland, the Azores, Europe, Africa and Asia as far east as (and including) India. Conforming Applications, motions to modify scope, and Answers may be filed by November 30, 1981.
Nov. 4, 1981	40216	Lone Star Airways, Inc., P.O. Box 2075, Dallas, Texas 75221. Application of Lone Star Airways, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests authority to engage in scheduled air transportation of passengers, property and mail to the following additional cities: Lafayette, La.; Lake Charles, La.; Baton Route, La.; Jackson, Miss.; Mobile, Ala.; Albuquerque, New Mexico; Santa Fe, New Mexico; Shreveport, La.; Denver, Colorado; Aspen, Colorado; and the following Texas points: Dallas/Ft. Worth; Beaumont; Amarillo; Austin; Corpus Christi; El Paso; Harlingen; Brownsville; McAllen; Lubbock; Midland/Odessa and San Antonio. Conforming Applications, motions to modify scope, and Answers may be filed by December 2, 1981.
Nov. 5, 1981	40223	Evergreen International Airlines, Inc., Mr. Ward R. Eason, President, 1621 North Baker Street, McMinnville, Oregon 97128. Application of Evergreen International Airlines, Inc. requests the Board pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations for renewal and amendment of its certificate of public convenience and necessity to engage in certain overseas and foreign charter air transportation with respect to persons, property, and mail: *CAB Order:* a. 79-2-3 *Renewal Authority:* To engage in supplemental air transportation of persons and their personal baggage worldwide except Japan, Australia and New Zealand; to engage in supplemental air transportation of propety worldwide except transatlantic markets and Japan, Australia and New Zealand. *Expiration Date:* April 14, 1982. And that all the above authority as revised be amended and combined into a single permanent certificate authorizing it to engage in overseas and foreign charter air transportation of persons, property, and mail as follows: a. Between any point in any State of the United States and the District of Columbia and any point in any territory or possession of the United States; b. Between any point in any territory or possession of the United States and any other point in any territory or possession of the United States; c. Between any point in any State of the United States, the District of Columbia, and any territory or possession of the United States and 1. Any point in Canada; 2. Any point in Mexico; 3. Any point in Jamaica, the Bahama Islands, Bermuda, Haiti, the Dominican Republic, Trinidad, Aruba, the Leeward and Windward Islands and any other foreign place in the Gulf of Mexico or the Caribbean Sea; 4. Any point in Central or South America; 5. Any point in Australia, Indonesia, and Asia, as far east (and including) India. 6. Any point in Greenland, Iceland, the Azores, Europe, Africa, and Asia as far east as (and including) India. d. Between or among any point pursuant to contracts with the Department of Defense. Answers may be filed on November 27, 1981.
Do	40224	Jet Charter Service Inc., c/o E. Thomas Watson, Esq., Arent, Fox, Kintner, Plotkin & Kahn, 1815 H Street, N.W., Washington, D.C. 20006. Application of Jet Charter Service, Inc. requests the Board pursuant to Section 401(d)(1) of the Act and Part 201 of the Board's Economic Regulations and Subpart Q of the Board's Procedural Regulations for certificate of public convenience and necessity to engage in foreign air transportation of property and mail as follows: "Between the co-terminal points New York, New York, Houston, Texas, Miami, Florida, and San Juan, Puerto Rico; and intermediate points in Jamaica, the Dominican Republic, Mexico, Costa Rica, Panama, Colombia, Venezuela, Peru, Bolivia, Brazil, Chile; and terminal points in Argentina." Conforming Applications, motions to modify scope, and Answers may be filed by December 3, 1981.
Do	39765	Lineas Aereas de Nicaragua, S. A. (LANICA), c/o Neal P. Rutledge, Esq., 3616 16th Street NW., Washington, D.C. 20010. Amendment No. 3 to the Application of Lineas Aereas de Nicaragua, S.A. for renewal of its foreign air carrier permit pursuant to Section 402 of the Act by (a) deleting therefrom its request for renewal of its present operating authority between Managua, Nicaragua and San Juan, Puerto Rico and by confining such application to its request for renewal of its present operating authority to carry persons, property, and mail between the terminal points Managua, Nicaragua and Miami, Florida. Answers may be filed by December 4, 1981.
Nov. 6, 1981	40229	People Express Airlines, Inc., Harold J. Pareti, Managing Officer, North Terminal, Newark International Airport, Newark, New Jersey 07114. Application of People Express Airlines, Inc. requests the Board pursuant to section 401(b) of the Act, and Parts 201 and 302 of the Board's Regulations and Subpart Q of the Board's Procedural Regulations, for amendment of this certificate of public convenience and necessity for Route 245 to authorize it to engage in interstate air transportation of persons and property between West Palm Beach, Florida, on the one hand, and New York/Newark (through Newark International Airport), Washington/Baltimore (through Baltimore/Washington International Airport), Columbus, Ohio, and Buffalo, New York, on the other hand. Conforming Applications, motions to modify scope, and Answers may be filed by December 4, 1981

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-33068 Filed 11-16-81; 8:45 am]

BILLING CODE 6320-01-M

[Docket 33428]

Wide World Travel Service, Inc., Arnold Polikoff, Whole World Travel and Robert A. Grinberg Respondents; Enforcement Proceeding; Assignment of Proceeding

This proceeding has been assigned to Chief Administrative Law Judge Joseph J. Saunders. Future communications should be addressed to him.

Dated at Washington, D.C., November 10, 1981.

Joseph J. Saunders,

Chief Aministrative Law Judge.

[FR Doc. 81-33069 Filed 11-16-81; 8:45 am]

BILLING CODE 6320-01-M

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 12, 1981, at the Miyako Hotel, 1625 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, 260 Eucalyptus Hill Drive, Santa Barbara, California 93103, (805) 969-1563 or the Western Regional Office, 3660 Wilshire Boulevard, Suite 810, Los Angeles, California 90010, (213) 688-3437.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 10, 1981.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 81-33029 Filed 11-16-81; 8:45 am]

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.

FOR FURTHER INFORMATION CONTACT: Betsy E. Stillman or David R. Chapman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-4833/2657).

SUPPLEMENTARY INFORMATION:

Background

On November 22, 1972, 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 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 clockwise 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 26418). 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 203 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, all 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 similar merchandise in accordance with § 353.16 of the Commerce Regulations and § 153.11 of the Customs Regulations, and for differences in packing, 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:

Japanese seller exporter	Time period	Margin Percent
A & A Japan Ltd. (mfr.—Kaken Corporation)	Nov. 1, 1978 to Oct. 31, 1980	9.38
Royal Industries Limited (seller—Nihon Seiki Co., Ltd.) (mfr.—Asahi Kinki Seisakusho Co., Ltd.).	July 1, 1979 to Oct. 31, 1980	2.42
Yagami Corporation:		
(mfr.—Asahi Keiki Seisakusho Co., Ltd.)	do	5.45
(mfr.—Taiyo Electric Co.)	Jan. 1, 1972 to May 31, 1973	7.0
	June 1, 1973 to Oct. 31 1973	[1] 7.0
(seller—Sanyo Electric) Company	Apr. 1, 1978 to Oct. 31, 1980	28.94
Ednar Inc.	Jan. 1, 1975 to Oct. 31, 1980	[1] 0.0
Shin-Ei Trading Co., Ltd.	do	[1] 0.0
Hatsune Electric Industrial Co., Ltd.	do	[1] 0.0
Honda Lock K.K.	Feb. 1, 1979 to Oct. 31, 1980	[1] 0.0
Kuwahara Co., Ltd.	Aug. 1, 1979 to Oct. 31, 1980	[1] 0.0
Maruka Machinery	Apr. 1, 1978 to Oct. 31, 1980	[1] 0.0
Sanyo Electric Trading Company (seller—Sanyo Electric Co.)	do	6.65
Marui Ltd. (seller—Sanyo Electric Company)	Feb. 1, 1977 to Oct. 31, 1980	28.94
	June 1, 1978 to Oct. 31, 1980	25.86
Fujimoto Trading Co., Ltd. (seller—Sanyo Electric Company)	Nov. 1, 1974 to Oct. 31, 1980	2.29
Toshoku, Ltd. (seller—Nichebei Fuji Cycle Co., Ltd.) (seller—Sanyo Electric Company).	Jan. 1, 1976 to Oct. 31, 1980	19.56
(seller—Sankyo International K.K.)	do	28.94
Inoue Trading Company (seller—Sanyo Electric Company)	July 1, 1976 to Oct. 31, 1980	14.67
Tokyo Pac Sales, Ltd. (seller—Sanyo Electric Company)	May 1, 1974 to May 31, 1974	4.39
	June 1, 1974 to Oct. 31, 1980	[1] 4.39
Sanyo Corporation (seller—Sankyo International K.K)	Jan. 1, 1975 to Oct. 31, 1980	28.94

[1] No shipments during period.

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 purchase dates during the time periods involved. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions separately on each shipper directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit based upon the most recent of the margins calculated above shall be required on all shipments of bicycle speedometers entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. This requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

November 11, 1981.

[FR Doc. 81-33030 Filed 11-16-81; 8:45 am]

BILLING CODE 3510-25-M

Truck Trailer Axle-and-Brake Assemblies and Parts Thereof From Hungary; Proposal Concerning Suspension of Investigation and Amendment to Preliminary Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Proposal Concerning Suspension of Investigation and Amendment to Preliminary Determination.

SUMMARY: The Department of Commerce is considering a proposal to suspend the antidumping investigation involving truck trailer axle-and-brake assemblies and parts thereof from the Hungarian People's Republic submitted by counsel for the Hungarian Railway Carriage and Machine Works (RABA) a manufacturer and exporter which accounts 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.

FOR FURTHER INFORMATION CONTACT: John J. Kenkel, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue N.W., Washington, D.C. 20230 (202-377-3464).

SUPPLEMENTARY INFORMATION: On February 12, 1981, we received a petition from counsel representing Rockwell International Corporation of Pittsburgh, Pennsylvania. The petitioner simultaneously 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, we instituted 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 733(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

determination and the reasons therefore 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.

Counsel for RABA, a manufacturer of truck trailer axle-and-brake assemblies and parts in Hungary, in a letter dated October 29, 1981, proposes to enter into a suspension agreement pursuant to section 734 of the Tariff Act of 1930 ("the Act") and § 353.42 of the Commerce Department Regulations. In the proposal RABA stated that all necessary price adjustments will be made to eliminate completely any amount by which the fair market value of the product exceeds the U.S. price. Furthermore, RABA will allow the Department to monitor the agreement. RABA will submit quarterly reports detailing sales of the product to the United States. RABA also will make any further price adjustments, as necessary, after each administrative review.

We have determined that the previously cited actions and commitments form an appropriate basis for proposing the suspension of the antidumping investigation of truck trailer axle-and-brake assemblies and parts thereof from Hungary pursuant to section 734(b) of the Act.

On November 3, 1981, we provided copies of the proposed suspension agreement between RABA and the Department of Commerce to the petitioner for its consultation and to other parties to the proceeding for their comments. If a suspension agreement is entered into, then a final determination will not be made in this case unless an interested party may request a continuation of the investigation.

Preliminary Determination

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. Horlick,

Deputy Assistant Secretary for Import Administration.

November 12, 1981.

[FR Doc. 81-33079 Filed 11-16-81; 8:45 am]

BILLING CODE 3510-25-M

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.

FOR FURTHER INFORMATION CONTACT: Mr. John W. Locke, NVLAP Coordinator, Room 4709, U.S. Department of Commerce, Washington, D.C. 20230; (202) 377–2054. Those interested in using the services of a NVLAP-accredited laboratory may obtain the latest copy of the list of test methods for which it is accredited either from the individual laboratory itself or from the NVLAP Coordinator. Also available from the NVLAP Coordinator is the *1980 NVLAP Annual Report* which contains a listing of all laboratories accredited in 1980 with a corresponding list of the test methods for which they are accredited.

SUPPLEMENTARY INFORMATION:

Background

The criteria used to make accreditation decisions on laboratories applying for NVLAP accreditation are described in §§ 7a.19–7a.30 of the NVLAP Procedures (15 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.

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 laboratory's accreditation, or otherwise terminated at the request of the laboratory.

Dated: November 10, 1981.

Robert B. Ellert,

Acting Assistant Secretary for Productivity, Technology, and Innovation.

Table 1—List of Newly Accredited Laboratories and the Test Methods for Which Each Laboratory is Accredited

LEWIS ENGINEERING, INC., Attn: William R. Cole, 402 East Main Street, Plainfied, IN 46168, Phone: (317) 839–2412

ASTM C31, Making and Curing Concrete Test Specimens in the Field

ASTM C172, Sampling Fresh Concrete

ASTM C143, Slump of Portland Cement Concrete

ASTM C138, Unit Weight, Yield, and Air Content (Gravimetric) of Concrete

ASTM C231, Air Content of Freshly Mixed Concrete by the Pressure Method

ASTM C39, Compressive Strength of Cylindrical Concrete Specimens

Note: Accreditation is granted on 10/20/81 and expires on 10/19/82.

PITTSBURGH TESTING LABORATORY, Attn: Martin C. Falk, 850 Poplar Street, Pittsburgh, PA 15220, Phone: (412) 922–4000

ASTM C355, Water vapor transmission; Thick materials; Desiccant method

ASTM D2842, Water absorption; Rigid cellular plastics

ASTM D1621, Compressive properties; Rigid cellular plastics (proc. A—crosshead)

Note: Accreditation is granted on 10/14/81 and expires on 10/13/81.

R. W. SIDLEY, INC., SIDLEY QUALITY CONTROL LAB, Attn: Lawrence McCune, 6900 Madison Road, Thompson, OH 44086, Phone: (216) 298–3232

ASTM C31, Making and Curing Concrete Test Specimens in the Field

ASTM C172, Sampling Fresh Concrete

ASTM C143, Slump of Portland Cement Concrete

ASTM C138, Unit Weight, Yield, and Air Content (Gravimetric) of Concrete

ASTM C231, Air Content of Freshly Mixed Concrete by the Pressure Method

ASTM C39, Compressive Strength of Cylindrical Concrete Specimens

ASTM C173, Air Content of Freshly Mixed Concrete by the Volumetric Method

Note: Accreditation is granted on 10/20/81 and expires on 10/19/82.

Table 2—Alphabetical List of Laboratories Which Had Their Accreditation Renewed

(Note: This list identifies the test methods which have been added or dropped (if any) from each laboratory's list of accredited test methods. For more information on these laboratories, including the complete list of test methods for which each is accredited, refer to the directory of accredited laboratories in the *1980 NVLAP Annual Report* or contact the NVLAP Coordinator.)

Aguirre Engineers, Inc.

American Admixtures and Chemicals Corp.
Dropped: ASTM C173.

American Carpet Laboratories, Inc.

Armstrong World Industries, Inc., Marietta Carpet Plant

Bigelow-Sanford, Inc., Georgia Rug Mill

Bigelow-Sanford, Inc., Technical Services

Bowser-Morner Testing Labs, Inc., Dayton, Ohio Laboratory

Bowser-Morner Testing Labs, Inc., Toledo, Ohio Laboratory

Butler Manufacturing Company Research Center

C. H. Masland & Sons

Central Ready Mixed Concrete, Research & Technical Center

CertainTeed Corporation Insulation Group, R & D Lab

Certified Testing Laboratories, Inc.

Chisholm Trail Testing and Engineering Company, Inc.

Commercial Testing Company, Inc.
Dropped: *ASTM E84.*

Construction Technology Lab, Division of Portland Cement Association

Coronet Carpet, Inc.

DOW Chemical U.S.A., Granville Research Center

Dynatech R/D Company

Dynatherm Engineering

E & B Carpet Mills, Inc.

Engineering Testing Laboratory, City of Akron

Factory Mutual Research Corp.

Galaxy Carpet Mills, Inc., Testing Laboratory

GARCO Testing Laboratories

Genstar Stone Products Co., Quality Control Laboratory

Geoscience Ltd.
Added: ASTM C302.

The H. C. Nutting Company
Added: ASTM C173.

Hardwood Plywood Manufacturers Association

Hauser Laboratories
Dropped: ASTM C411 and ASTM C687.

Herron Consultants, Inc.

Independent Textile Testing Service, Inc.

INTEST Laboratories, Inc.
Dropped: HH–I–515 (paragraphs 4.8.3 and 4.8.9, in D version, Amendment 1).

Jim Walter Research Corporation
Added: ASTM E96.

Johns-Manville Sales Corp., R & D Center
Added: ASTM C177. Dropped: ASTM C273.

Lander Thermal Conductivity Laboratory

Louisiana-Pacific Corporation, PABCO R & D Laboratory
Added: ASTM C177.

Monasco Corporation Physical Testing Laboratory

NAHB Research Foundation, Inc.

Northern Testing Laboratories, Inc., Billings Area Laboratory

Northern Testing Laboratories, Inc., Boise Area Laboratory

Olin Corporation Physical Testing Laboratory
Added: ASTM D2126 (proc. D) and ASTM D1621.

Owens-Corning Fiberglas Corp., Technical Center Laboratory

Owens-Corning Fiberglas Corp., Barrington, New Jersey Plant Laboratory

Owens-Corning Fiberglas Corp., Delmar, New York Plant Laboratory

Owens-Corning Fiberglas Corp., Fairburn, Georgia Plant Laboratory

Owens-Corning Fiberglas Corp., Kansas City, Kansas Plant Laboratory

Owens-Corning Fiberglas Corp., Newark, Ohio Plant Laboratory

Owens-Corning Fiberglas Corp., Santa Clara, California Plant Laboratory

Owens-Corning Fiberglas Corp., Waxahachie, Texas Plant Laboratory

Shaw Industries, Inc., Quality Control Laboratory
Added: ASTM D418, DDD–C–95A, and ASTM D1335, Federal Test Method Standards 191–5100 and 191–5950.

Southwest Research Institute, Department of Fire Technology
Dropped: HH–I–515 (paragraphs 4.8.3, 4.8.5, 4.8.6, and 4.8.9, in D version, Amendment 1), ASTM C739 (para. 10.4 in 77 version), ASTM D591, and ASTM D2020.

Southwestern Laboratories

Sparrell Engineering Research Corporation

Technical Micronics Control, Inc.
Dropped: ASTM E648.

Testing Engineers, Inc., Oakland Division

Testing Engineers, Inc., Santa Clara Division

Texas Testing Laboratories, Inc.

Thermtron Research Laboratory

Trend/Roxbury Divisions of WWG Industries, Inc.

Twin City Testing & Engineering Laboratory, Inc.

Underwriters Laboratories, Inc., Northbrook, Illinois
Dropped: ASTM C687.

Underwriters Laboratories, Inc., Santa Clara, California Laboratory
Added: HH–I–515 (para. 4.8.8 in D version, Amendment 1).

United States Testing Company, Inc., Hoboken, New Jersey Laboratory
Dropped: HH–I–515 (paragraphs 4.8.1, 4.8.3, 4.8.5, 4.8.6, 4.8.8, 4.8.9 in D version, Amendment 1), ASTM C355, ASTM E136, ASTM E96, ASTM C31, ASTM C172, ASTM C143, ASTM C138, ASTM C231, ASTM C39, and ASTM C173.

United States Testing Company, Inc., California Division
Added: ASTM C355 and UM 44C, Addenda 2 and 3.
Added: HH–I–515 (para. 4.8.3 and 4.8.8 in D version, Amendment 1).

United States Testing Company, Inc., Tulsa Division

The Upjohn Company, Donald S. Gilmore Laboratories
Dropped: ASTM D2126 (proc. D).

Western Technologies, Inc. (formerly Engineering Testing Laboratories, Inc.)

World Carpets, Inc. R & D

[FR Doc. 81–32895 Filed 11–16–81; 8:45 am]

BILLING CODE 3510–17–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Restraint Levels for Certain Cotton Textile Products From Pakistan

November 13, 1981.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: (1) Granting an increase for carryover for cotton printcloth in Category 315 from 53,438,720 square yards to 59,914,621 square yards; (2) Reducing the level for Category 339 (women's, girls' and infants' cotton knit shirts and blouses) by 110,000 dozen

resulting in a reduction in the level from 652,911 dozen to 542,911 dozen; and (3) Applying swing and 80,000 dozen transferred from the Category 339 level to the sublimit for Category 339, increasing the sublimit from 229,563 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 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), and October 5, 1981 (46 FR 48963) and October 27, 1981 (46 FR 52409))

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, as amended, to reduce 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 110,000 dozen and increase the level for sub-category 339 by 80,000 dozen during the same agreement period.

EFFECTIVE DATE: November 18, 1981.

FOR FURTHER INFORMATION CONTACT: Gordana Slijepcevic, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-2184).

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 established levels of restraint for certain specified categories of cotton textile products, including Categories 315, 339 and 339 pt., produced or manufactured in Pakistan and exported to the United States during the eighteen-month period which began on January 1, 1981 and extends through June 30, 1982. In accordance with the terms of the amended bilateral agreement, the United States Government has agreed to adjust the levels of restraint for cotton textile products in Categories 315, 339, and 339 pt. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to adjust the levels to the designated amounts.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

November 13, 1981.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C 20229.

Dear Mr. Commissioner: On December 19, 1980, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption, during the eighteen-month period beginning on January 1, 1981 and extending through June 30, 1982 of cotton textile products in certain specified categories, produced or manufactured in Pakistan, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton Textile Agreement of January 4 and 9, 1978, as amended, between the Governments of the United States and Pakistan; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to amend, effective on November 18, 1981, the eighteen-month levels of restraint established for cotton textile products in Categories 315, 339 and 339pt. to the following:

Category	Amended 12-month level of restraint [1]
315	59,914,621 square yards.
339	542,911 dozen.
339pt.[2]	324,270 dozen.

[1] The levels or restraint have not been adjusted to reflect any imports after December 31, 1980.
[2] In Category 339, only T.S.U.S.A. numbers 382.0669 and 382.0671.

The actions taken with respect to the Government 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. 553. This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation for Textile Agreements.

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-made Fiber Agreement of January 4 and 9, 1978, as amended, between the Governments of the United States and Pakistan, which provide, in part, that (1) within the aggregate and group limits, specific levels of restraint may be exceeded by designated percentages; (2) these same levels may be increased for carryover and carryforward; and, (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

[FR Doc. 81-33180 Filed 11-16-81; 8:45 am]
BILLING CODE 3510-25-M

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: Richard Shilts, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C., (202) 254-7303; or De'Ana J. Hamilton, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, (202) 254-8955.

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

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.

Other materials submitted by Comex in support of its application for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1981)). Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the terms and conditions of the proposed futures contract, or with respect to other materials submitted by Comex 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.

[FR Doc. 81-33094 Filed 11-16-81; 8:45 am]

BILLING CODE 6351-01-M

MidAmerica Commodity Exchange; Proposed Refined Sugar Futures Contact

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 Refined Sugar Futures Contract.

FOR FURTHER INFORMATION CONTACT: Nicholas Memoli, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. (200) 254–7303; or De'Ana J. Hamilton, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, (202) 254–8955.

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.

Other materials submitted by MACE in support of its application for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1981)). Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the 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 18, 1982. Such comments 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. Stucky,

Secretary of the Commission.

[FR Doc. 81-33092 Filed 11-16-81; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Auxiliary Airfield Operation Near Three-Points, Ariz., Recision of Notice of Intent To Prepare an Environmental Impact Statement

The National Guard Bureau announced in the **Federal Register** of August 7, 1981 the intent to prepare an environmental impact statement on a proposed action to establish an auxiliary airfield operation near Three-Points, Arizona, in the Altar Valley. Subsequent to the announcement, scoping meetings were conducted to define the environmental issues to be analyzed for the preferred location of Three Points, Arizona, and three alternative locations of Libby Army Airfield, Sierra Vista, Arizona; Bisbee-Douglas International Airport, Douglas, Arizona; and Gila Bend Air Force Auxiliary Air Field, Gila Bend, Arizona. The analysis has subsequently demonstrated that none of the environmental factors investigated would have a significant adverse impact on the quality of human environment at any of the alternative locations. Therefore, the environmental analysis has been issued as an environmental assessment with an accompanying finding of no significant impact (FONSI).

After a review of operational and environmental considerations, the Air Force selected Libby Army Airfield as the best choice as an auxiliary airfield for the Tucson, Arizona, area. This airfield will support the Arizona Air National Guard unit at Tucson International Airport as well as the active Air Force unit at Davis-Monthan Air Force Base.

Both the Environmental Assessment and FONSI will be available to interested parties for review for 30 days from the date of this notice before the decision on the location of the auxiliary airfield is implemented.

Additional information may be obtained from Mr. Keith Evans, NGB/DE, Room 2E254, Pentagon, Washington, D.C. 20310

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 81-33011 Filed 11-16-81; 8:45 am]

BILLING CODE 3910-01-M

Schedule for Awarding Bonuses

Notice is hereby given that the Department of the Air Force will be paying Senior Executive Service

bonuses no earlier than December 1, 1981.

For further information, contact the Senior Executive Service Management Office at (202) 695–5989.

Carol M. Rose,

Air Force Federal Register, Liaison Officer.

[FR Doc. 81-33061 Filed 11-16-81; 8:45 am]

BILLING CODE 3910-01-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.
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 Advertising Programs. 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 permitted by the Panel.

Robert A. Sullivan,

Major General, GS Deputy Chief of Staff for ROTC.

[FR Doc. 81-33042 Filed 11-16-81; 8:45 am]

BILLING CODE 3710-08-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 intention to grant 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.

For further information concerning this notice, contact: LTC Neil K. Nydegger, HQDA (DAJA–IP) Pentagon—Room 2D 444, Washington, DC 20310, Telephone No. 695–9356.

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

Corps of Engineers, Department of the Army

Notice of Intent Correction

The Notice of Intent to prepare a Final Draft Environmental Impact Statement (FEIS) for a Proposed Section 205 Small Flood Control Authority Project along Salt Creek at Laurelville, Ohio, published in FR Vol. 46, No. 185 on 24 September 1981, page 47109, should read Draft Environmental Impact Statement (DEIS).

John O. Roach II,

Department of the Army, Liaison Officer with the Federal Register.

[FR Doc. 81-33040 Filed 11-16-81; 8:45 am]

BILLING CODE 3710-08-M

Department of the Navy

Intent To Prepare a Draft Environmental Impact Statement

The U.S. Navy is developing an advanced amphibious assault craft capability utilizing existing air cushion vehicle technology. Two prototype craft have undergone successful test and evaluation, and the Landing Craft Air Cushion (LCAC) program has developed to the stage that a contract for the production of six operational craft has been awarded. A necessary component of the LCAC program is the development of associated support facilities, including operational bases from which the LCAC will function. A decision has been made, consistent with the philosophy of a multiple-ocean Navy, to provide an LCAC base on both the east and west coasts of the United States. It is anticipated that each base will provide support for 54 LCAC's and associated functions. Candidate sites have been restricted to a geographical area defined by a circle of 50-mile radius around the Naval Amphibious Bases (NAB) at Coronado, California, and Little Creek, Virginia; such areas of consideration provide for maximum reasonable proximity of functional interface with the NAB, and still remain within the range capability of the craft. All military installations within the areas of consideration that had approximately 50 acres of potentially 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 compatability, environmental factors, and physical characteristics. Based on that 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, Virginia.
Marine Corps Base, Camp Pendleton, California.

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 3810-AE-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. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: December 2–4, 1981, 8:30 a.m. to 5:30 p.m.

ADDRESS: U.S. Department of Education, 400 Maryland Avenue, S.W., Room 3000, Washington, D.C. 20202.

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. 929). 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, and

(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 Dependent Schools, determination of mechanisms for obtaining information on effective programs and practices in primary and secondary education; determination of criteria for giving advice on the design of the study of the defense dependents' education system and select a contractor to conduct the study referred to in section 1412(a)(2); discussion of proposed amendments to the Defense Dependents' Education Act of 1978 concerned with creating an intermediate advisory structure; and determination of the Council's scope of work, including specification of support requirements.

The December 3 meeting will be closed to the public from 7:30 to 9:30 p.m. to discuss criteria for giving advice on the design of the study of the defense dependents' education system and selection of a contractor to conduct it. The meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. Appendix I) and under exemption (9)(B) of section 552b(c) of the Government in the Sunshine Act (Pub. L. 94–409; 5 U.S.C. 522b(c)(9)(B). Discussion of the criteria will include information the premature disclosure of which would significantly hinder implementation of this study by giving unfair advantage to potential contractors who might attend the meeting if conducted in open session.

A summary of the activities at the closed session and related matters which are informative to the public consistent with the policy of Title 5 U.S.C. 552b will be available to the public within 14 days of the meeting.

Records are kept of all Council proceedings, and are available for inspection at the office of the Advisory Council on Dependents' Education, Room 3017, 400 Maryland Avenue, S.W., Washington, D.C. from the hours of 8:30 a.m. to 5 p.m.

Dated: November 11, 1981.

T. H. Bell,

Secretary, Department of Education.

[FR Doc. 81-33091 Filed 11-16-81; 8:45 am]

BILLING CODE 4000-01-M

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–0083–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 1978.

DATES: Written comments are invited and should be received at DOE by January 5, 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, NW., Room 3322, Washington, D.C. 20461, Phone: (202) 653–4511.

The public hearings will be held at:

John F. Kennedy Federal Building, Government Center, Conference Room 2003, Boston, Massachusetts 02203, December 16, 1981

26 Federal Plaza, Room 305C, New York, New York 10287, December 17, 1981

Federal Building, 1421 Cherry Street, Conference Room B—11th Floor, Philadelphia, Pennsylvania 19102, December 18, 1981

FOR FURTHER INFORMATION CONTACT:

Ms. Marsha S. Goldberg, Department of Energy, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3322, Washington, D.C. 20461, Phone: (202) 653–4511

Ms. Elizabeth V. Jankus, Department of Energy, NEPA Affairs Division, Room 4G–064, Forrestal Building, Washington, D.C. 20585, Phone: (202) 252–6374

SUPPLEMENTARY INFORMATION:

I. Background

DOE published a Notice of Intent (45 FR 41050) on June 17, 1980, regarding the preparation of the draft Northeast Regional Environmental Impact Statement (NEREIS). The statement was

prepared in connection with the Department's responsibilities under the Powerplant and Industrial Fuel Use Act of 1978 (Public Law 95–620) (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 lists 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., Room 3322A, Washington, DC 20461, Phone: (202) 653–4511, 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.

Copies of 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., Washington, DC 20461, Hours: 9:00 a.m.–4:00 p.m.

Public Information Room, Department of Energy, 1000 Independence Avenue, SW., Room 1E–190, Washington, DC 20585, Hours: 9:00 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: 9:00 a.m.–4:00 p.m.

U.S. Department of Energy, Region II, 26 Federal Plaza, Room 3200, New York, New York 10287, 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, Conference Room B—11th 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

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.

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 I. Tucker, Southwest District Manager for Enforcement, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, Southwest District Manager for Enforcement, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235 [phone] 214/767-7745.

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 205.199J(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, 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 205.199J, 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 $950,000 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 I. 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

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).

Issued in Dallas, Texas on the 30th day of October, 1981.

Wayne I. Tucker,

Southwest District Manager, Economic Regulatory Administration.

[FR Doc. 81-33065 Filed 11-16-81; 8:45 am]

BILLING CODE 6450-01-M

[ERA Case No. 51518-0672-21-22; Docket No. ERA-FC-81-019]

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. 8301 *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 38276 and 45 FR 38302), 10 CFR 500. This rule became effective August 5, 1980.

Kissimmee Municipal Electric plans to install a 29,000 KW natural gas-and/or oil-fired combustion turbine unit to be known as Roy Hansel Unit No. 21. Kissimmee certifies 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.

ERA accepted the petition pursuant to 10 CFR 501.3 and 501.63 on August 7, 1981, and published notice of its acceptance in the Federal Register on August 21, 1981 (46 FR 42502). Publication of the Notice of Acceptance commenced a 45-day public comment period pursuant to section 701 of FUA and 10 CFR 501.31 and 501.33, during which time interested persons were also afforded an opportunity to file comments and to request a public hearing on the petition. The comment period ended October 5, 1981. Comments received from the Environmental Protection Agency's Atlanta Regional Office on October 23, 1981, indicated that the proposed construction of the Kissimmee combined cycle turbine unit would be in full compliance with Federal Clean Air Act requirements. No requests for a public hearing were received.

Based upon ERA's review and analysis of the information presently contained in the record of this proceeding, a Tentative Staff Analysis has been made. The analysis recommends that ERA issue an order which would grant the requested peakload powerplant exemption.

DATES: Written comments on the Tentative Staff Analysis and requests for a public hearing are due on or before December 1, 1981.

ADDRESSES: Fifteen copies of written comments and any requests for a public hearing should be submitted to: Department of Energy, Case Control Unit, Room 6114, 2000 M Street, N.W., Washington, D.C. 20461. Docket Number ERA-FC-81-019 should be printed clearly on the outside of the envelope and on the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Jack C. Vandenberg, Office of Public Information, Economic Regulatory Administration, Department of Energy, Federal Building, Room 7120, Washington, D.C. 20461, Phone (202) 633-8760

Louis T. Krezanosky, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 6128H, Washington, D.C. 20461, Phone (202) 653-4208

Christina Simmons, Office of General Counsel, Department of Energy, 1000 Independence Avenue, S.W., Room 6B-178, Washington, D.C. 20585, Phone (202) 252-2987

The public file containing a copy of the Tentative Staff Analysis and other documents and supporting materials is available upon request at: ERA Room 7120, 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 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 503.41(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; and 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 503.41(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.

On August 11, 1980, DOE published in the Federal Register (45 FR 53199) a notice of proposed amendments to the guidelines for compliance with the National Environmental Policy Act of 1969 (NEPA). Pursuant to the guidelines, the granting or denial of certain FUA permanent exemptions, including the permanent exemption by certification for a peakload powerplant, was identified as an action which normally does not require an Environmental Impact Statement or an Environmental Assessment pursuant to NEPA (categorical exclusion).

This classification raises a rebuttable presumption that the grant or denial of the exemption will not significantly affect the quality of the human environment. Kissimmee has certified that it will secure all applicable permits and approvals prior to commencement of operation of the new unit under exemption. The Environmental Checklist, completed and certified to by

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 501.68 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 503.41(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 Hanzlik,

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 595 (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 (0.05 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 gas usage and resulting oil displacement volumes are listed below:

Location	Estimated volume (billion cubic feet)	Estimated oil displacement (000 barrel)		
		0.3% sulfur residual	0.05% sulfur kerosene	0.2% sulfur No. 2
Astoria, 20th Ave. & 12 St., Queens	0.725			
	0.154	121		
			26	
East River, 14th St. & East River, Manhattan	0.197	33		
Narrows, 53rd. St. & 1st Ave., Brooklyn	0.088			15
Ravenswood 7-18 37th Ave., Queens	0.725			
	0.065	121		
			11	
Waterside, 38th to 40th St. & East River, Manhattan	0.220	37		
East 60th St., 514 East 60th St., Manhattan	0.222		4	
Totals	2.196	312	41	15

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 1396, 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.**

Issued in Washington, D.C. on November 9, 1981.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

[FR Doc. 81-33063 Filed 11-16-81; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-R-80-29]

Public Utility Regulatory Policies Act of 1978; Withdrawal of the Proposed Voluntary Guideline For the Cost of Service Standard

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Withdrawal of proposed guideline.

SUMMARY: The Economic Regulatory Administration (ERA) is withdrawing its proposed voluntary guideline regarding cost of service. This guideline was issued on August 27, 1980 (45 FR 58760, September 4, 1980) pursuant to section 131 of the Public Utility Regulatory Policies Act of 1978 (PURPA).

FOR FURTHER INFORMATION CONTACT:
Howard Perry,
Office of Program Operations,
Economic Regulatory Administration,
Department of Energy,
2000 M Street, NW., Room 4014,
Washington, D.C. 20461,
Telephone: 202-653-3917

Jack Vandenburg,
Office of Public Information,
Economic Regulatory Administration,
Department of Energy,
12th & Pennsylvania Avenue N.W.,
Room 7120,
Washington, D.C. 20461,
Telephone: 202-633-9451

Arthur Perry Bruder,
Office of General Counsel,
Department of Energy,
1000 Independence Avenue S.W., Room 6B-144,
Washington, D.C. 20585,
Telephone: 202-252-9516

Cynthia Ford,
Office of Public Hearings Management,
Economic Regulatory Administration,
Department of Energy,
2000 M Street N.W., Room B-210,
Washington, D.C. 20461,
Telephone: 202-653-3971

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 extent 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 9, 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.

(Public Utility Regulatory Policies Act of 1978, Pub. L. 95-617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*); Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 *et seq.* (42 U.S.C. 7101 *et seq.*))

Issued in Washington, D.C. on November 4, 1981.

James B. Edwards,

Scretary of Energy.

[FR Doc. 81-33064 Filed 11-16-81; 8:45 am]

BILLING CODE 6450-01-M

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

[Week of October 23 Through October 30, 1981]

Date	Name and location of applicant	Case No.	Type of submission
Oct. 26, 1981	Bracewell & Patterson, Washington, D.C.	HFA-0010	Appeal of Information Request Denial. If granted: The September 25, 1981 Information Request Denial issued by the Deputy General Counsel for Regulation would be rescinded, and Bracewell and Patterson would receive access to certain documents concerning the final rule promulgated by the Economic Regulatory Administration on August 25, 1981 (technical amendments to tertiary incentive program and mechanism for entitlements adjustments for period prior to decontrol).
Do	Exxon Company, U.S.A., Houston, Texas	HFA-0011	Appeal of Information Request Denial. If granted: The September 24, 1981 Information Request Denial issued by the Office of Enforcement of the Economic Regulatory Administration would be rescinded, and Exxon Company, U.S.A. would receive access to certain DOE information.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of October 23 Through October 30, 1981]

Date	Name and location of applicant	Case No.	Type of submission
Do	Hideca Petroleum Corp., Washington, D.C.	HFA-0009	Appeal of Information Request Denial. If granted: The August 24, 1981 Information Request Denial issued by the Office of Enforcement of the Economic Regulatory Administration would be rescinded, and Hideca Petroleum Corp. would receive access to certain information regarding a Notice of Probable Violation issued to the firm on March 16, 1981.
Oct. 27, 1981	Ashland Oil, Inc., Ashland, Kentucky	HEE-0003	Exception from the Entitlements Program. If granted: Ashland Oil Inc. would receive an exception from the provisions of 10 CFR 211.67 regarding a disputed adjustment to the firm's reported crude oil receipts.
Do	do	HED-0004	Motion for Discovery. If granted: Discovery would be granted to Ashland Oil, Inc. in connection with its Application for Exception (Case No. HEE-0003).
Oct. 29, 1981	Office of Special Counsel, Washington, D.C.	HRZ-0003	Interlocutory Order. If granted: The "Errata Sheet for Texaco's Statement of Objections/Second Submission" would be stricken from the record in Case No. DRO-0199 as an unauthorized amendment of the firm's Statement of Factual Objections.

[FR Doc. 81-33067 Filed 11-16-81; 8:45am]

BILLING CODE 6450-01-M

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)(6) 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-793), 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, Environmental Protection Agency, Rm. E-216, 401 M Street SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on TMEs received by the EPA:

TME 81-45

Close of Review Period. December 30, 1981.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:

Annual sales—Over $500 million
Manufacturing site—Midwest region
Standard Industrial Classification Code—28

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Modified polyethylene oxide.

Use. Claimed confidential business information.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. Claimed confidential business information.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture 2 workers may experience dermal exposure up to 1 hr/day, up to 30 days/yr.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr will be released to land. The only release would be through accidential spills. Disposal of discarded material would be by landfill in an approved facility or by incineration.

TME 81-46

Close of Review Period. December 20, 1981.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:

Annual sales—Over $500 million
Manufacturing site—Midwest region
Standard Industrial Classification Code—28

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Polyglycol styrene acrylic polymer.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used in a contained use.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. Claimed confidential business information.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture, processing and use up to 4 workers may experience dermal exposure up to 4 hrs/day, up to 100 days/yr.

Environmental Release/Disposal. The manufacturer states that less than 50 kg/yr will be released to water. Disposal is to a publicly owned treatment works (POTW).

Dated: November 6, 1981.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 81-33041 Filed 11-16-81; 8:45 am]

BILLING CODE 6560-31-M

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Interagency Policy Statement Regarding Enforcement of the Equal Credit Opportunity and Fair Housing Acts

AGENCIES: 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.

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. Ther 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: Jerauld 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, 202/357–1080; 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 resulsting 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.[1]
- 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 foreclose 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 9, 1981.

William W. Wiles,

Secretary, Board of Governors of the Federal Reserve System.

Dated: November 6, 1981.

Hoyle 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,

Acting Comptroller of the Currency, Office of the Comptroller of the Currency.

[FR Doc. 81–33024 Filed 11–16–81; 8:45am]

BILLING CODE 6722–01–M

[1] Regulation B (12 CFR 202) of the Federal Reserve Board implements the Equal Credit Opportunity Act pursuant to section 703(a) of the Act.

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., 15366 Kuydndahl, #211, Houston, TX 77090, Officers: Issa Isid, President, Olga Isid, Vice President, Maria A. White, Vice President;

Roy Leon & Company, Inc., P.O. Box 593255 AMF, Miami, FL 33159, Officers: Roy Leon, President/Secretary, Manuela Leon, Vice President, Marcelo R. Leon, Treasurer/Assistant Secretary;

Trans-Overseas Corporation, 28055 Wick Road, Romulus, MI 48175, Officers: Jose Carlos Calio, President/Director, Eugene F.

Osowski, Vice President Director, Allan W. Bowie, Treasurer, Maryann Ouellette, Secretary, Noreen M. Danca, Vice President;

All-My Services, Corp., 7323 N.W. 79 Terrace, Miami, FL 33166, Officers: Lourdes Garcia, President/Treasurer, Rafael Falcon, Vice President/Secretary;

Albert Schwartz, One World Trade Center, Suite 1171, New York, NY 10048;

Thriftcargo Florida, Inc., 3290 N.W. 79th Avenue, Miami, FL 33122, Officers: Peter Espinet, President, Robert L. Vaughn, Vice President, Saul Rubin, Secretary/Treasurer.

By the Federal Maritime Commission.

Dated: November 12, 1981.

Francis C. Hurney,

Secretary.

[FR Doc. 81-33012 Filed 11-16-81; 8:45 am]

BILLING CODE 6730-01-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 of 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 or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than 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 E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 81-32997 Filed 11-16-81; 8:45 am]

BILLING CODE 6201-01-M

Bankeast Corp.; Acquisition of Bank

Bankeast Corporation, Manchester, New Hampshire, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with Heritage Banks, Inc., Rochester, New Hampshire. 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)).

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.

[FR Doc. 81-32998 Filed 11-16-81; 8:45 am]

BILLING CODE 6210-01-M

Bankeast Corp.; Proposed Acquisition of Rochester Savings Bank and Trust Company

Bankeast Corporation, Manchester, New Hampshire, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of 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(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or 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. Dowing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 81-32999 Filed 11-16-81; 8:45 am]

BILLING CODE 6210-01-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 per cent 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.

Board of Governors of the Federal Reserve System, November 9, 1981.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 81-33000 Filed 11-16-81; 8:45 am]

BILLING CODE 6210-01-M

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.

[FR Doc. 81-33001 Filed 11-16-81; 8:45 am]

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 per cent 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.

[FR Doc. 81-33002 Filed 11-16-81; 8:45 am]

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 per cent) 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.

[FR Doc. 81-33003 Filed 11-16-81; 8:45 am]

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 per cent or more of the voting shares of Peoples Bank of Lincoln County, Troy, Missouri, and by acquiring 80 per cent 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.

[FR Doc. 81-33004 Filed 11-16-81; 8:45 am]

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 per cent 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.

[FR Doc. 81-33005 Filed 11-16-81; 8:45 am]

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 88 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 at 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.

[FR Doc. 81-33006 Filed 11-16-81; 8:45 am]

BILLING CODE 6210-01-M

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 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 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.

[FR Doc. 81-33007 Filed 11-16-81; 8:45 am]

BILLING CODE 6210-01-M

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 at 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.

[FR Doc. 81-33008 Filed 11-16-81; 8:45 am]

BILLING CODE 6210-01-M

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 92.4 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)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to continue the activity of mortgage banking. These activities would be performed from the office of Applicant in Jacksonville, Florida, and the geographic areas to be served are Jacksonville, Florida. Such activities have been specified by the Board in 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices."

Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in disupte, 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 Atlanta.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank 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.

[FR Doc. 81-33009 Filed 11-16-81; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 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 Blout County, Tennessee, counties contiguous to Blout 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.

[FR Doc. 81-33010 Filed 11-16-81; 8:45 am]
BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

Location of Records and Hours of Use; Closing of Room 400, Microfilm Research Room

Notice is hereby given that from November 23 through November 27, 1981, the National Archives, 9th & Pennsylvania Avenue, NW., Washington, D.C., will close Room 400, the Microfilm Research Room, for renovation. Regular hours will resume on November 28, 1981. This closing will not affect the other research room operations in the building.

Dated: November 9, 1981.

Robert M. Warner,
Archivist of the United States.

[FR Doc. 81-33059 Filed 11-16-81; 8:45 am]
BILLING CODE 6820-26-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 81G-0282]

UOP, Inc.; Filing 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 is merase 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, 5600 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 (21 U.S.C. 348(b)(5))) 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 prefiling 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. 81-32938 Filed 11-16-81; 8:45 am]

BILLING CODE 4110-03-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 assure that it will maintain a first-year enrollment of full time students which exceeds the enrollment in 1976-77 by 5 percent, if such number was not more than 100, or by 2.5 percent, or 5 students, whichever is greater, if enrollment was more than 100.

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, Education 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) 436-6800.

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 4160-15-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) 436-6800.

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.

Dated: November 10, 1981.

Robert Graham,

Acting Administrator.

[FR Doc. 81-32994 Filed 11-16-81; 8:45 am]

BILLING CODE 4160-15-M

Public Health Service

Health Maintenance Organizations

Correction

In FR Doc. 81-32090, 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 1505-01-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) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: November 9, 1981.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 81-33044 Filed 11-16-81; 8:45 am]

BILLING CODE 4310-31-M

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 Conoco Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 1673, 4253, and 3339, Blocks 296, 303, and 304, Main Pass Area, offshore Louisiana and Mississippi.

The purpose of this notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the Office of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: November 9, 1981.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 81-33044 Filed 11-16-81; 8:45 am]

BILLING CODE 4310-31-M

Bureau of Land Management

[CA 7117 WR, CA 7118 WR, CA 7119 WR, CA 7120 WR, CA 7122 WR, CA 7124 WR, CA 7220 WR, CA 7222, WR]

California; Revocation of Small Tract Classifications

October 22, 1981.

Pursuant to the authority delegated by Bureau Order No. 701 of July 23, 1964 (29 FR 10526), 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, 1963.

No. C3–16

FR Doc. 64–9157, appearing at page 12787 in the issue of September 10, 1964.

No. C3–17

FR Doc. 64–8942, appearing at page 12558 in the issue of September 3, 1964.

No. 544

FR Doc. 58–3591, appearing at page 3276 in the issue of May 14, 1958.

No. 546

FR Doc. 58–3964, appearing at page 3675 in the issue of May 28, 1958.

No. 548

FR Doc. 58–6547, appearing at page 6309 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, 1961.

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, 1938 (52 Stat. 609; 43 U.S.C. 682a), as amended. The Small Tract Act of 1938 was repealed by Section 702 of the Federal Land Policy and Management Act of Octobr 21, 1976 (90 Stat. 2789); 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 1645 acres of land described in the above referenced

Federal Register notices were not disposed of and remain in Federal ownership.

3. 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 land should be addressed to the State Director, Bureau of Land Management, Room E-2841, Federal Building, 2800 Cottage Way, Sacramento, California 95825-1889.

Ron Hoffman,

Acting State Director.

[FR Doc. 81-33048 Filed 11-16-81; 8:45 am]

BILLING CODE 4310-84-M

[U-2922, U-3484, U-4445]

Utah; Termination of Classification for Multiple-Use Management

1. Pursuant to the authority delegated by Bureau Order No. 701 dated July 23, 1964 (29 FR 10526), the Bureau of Land Management Multiple-Use Classification Orders dated August 16, 1967, January 31, 1968, and April 16, 1968, Serial No's: U-2922, U-3484, and U-4445 published in the Federal Register August 17, 1967, Vol. 32, No. 159, Page 11894, February 1, 1968, Vol. 33, No. 22, Page 2454, and April 17, 1968, Vol. 33, No. 75, Page 5895 respectively, are hereby terminated.

The public lands involved aggregate 2,330,737 acres in Emery, Garfield, Kane, Piute, Sevier, and Wayne Counties.

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. 1171), and from disposition through State and private exchanges under section 8 of the Act of June 28, 1934 (48 Stat. 1272), as amended by section 3 of the Act of June 26, 1936 (49 Stat. 1976; 43 U.S.C. 315g) 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, 136 East South Temple, Salt Lake City, Utah 84111.

Dated: November 6, 1981.

Roland G. Robison Jr.,

State Director.

[FR Doc. 81-33047 Filed 11-16-81; 8:45 am]

BILLING CODE 4310-84-M

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 Vermillion Resource Area of the Arizona Strip District.

DATES: December 14 and 15, 1981.

ADDRESS: The Federal Building, 196 East Tabernacle Street, St. George, Utah 84770.

SUPPLEMENTARY INFORMATION: The meeting will be a 2 day tour of selected Wilderness Study Areas in the Vermillion Resource Area in northwestern Arizona. The council will depart from the Federal Building at 196 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 Vermillion Resource Area.

Interested persons are welcome to join the tour. However, the District can only guarantee transportation for council members.

FOR FURTHER INFORMATION CONTACT: Billy R. Templeton at 196 East Tabernacle Street in St. George, Utah or Telephone 801-673-3545.

Billy R. Templeton,

District Manager, Arizona Strip District.

[FR Doc. 81-33046 Filed 11-16-81; 8:45 am]

BILLING CODE 4310-84-M

[C-1018, et al.]

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 "Delores".

2. On page 55013, first column, fortieth line, "C-2707" should have read "C-2702".

3. On page 55013, first column, fifteenth line from the bottom of the page, the citation "33 FR 10583" should read "33 FR 10582, 10583".

BILLING CODE 1505-01-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. Frush, Chairman, Hagerstown, Maryland
Mrs. Constance Morella, Bethesda, Maryland
Miss Nancy Long, Glen Echo, Maryland
Mrs. Constance Lieder, Baltimore, Maryland
Mr. James B. Coulter, Annapolis, Maryland
Mrs. Dorothy Grotos, Arlington, Virginia
Miss Margaret Dietz, Lovettsville, Virginia
Mr. William H. Ansel, Jr., Romney, West Virginia
Mr. Silas Starry, Shepherdstown, West Virginia
Mr. Donald H. Shannon, Washington, D.C.
Mr. Rockwood H. Foster, Washington, D.C.
Mr. Kenneth S. Rollins, Brookmont, Maryland
Mr. Edwin F. Wesely, Jr., Brookmont, Maryland
Mrs. Minny Pohlmann, Dickerson, Maryland
Dr. James H. Gilford, Frederick, Maryland
Mr. R. Lee Downey, Williamsport, Maryland
Mr. John C. Frye, Gapland, Maryland
Ms. Bonnie Troxell, Cumberland, Maryland
Mr. John D. Millar, Cumberland, Maryland

Matters to be discussed at this meeting include:

1. Accomplishments of the Advisory Commission
2. Commercial Boating
3. Horse Policy
4. Cumberland/North Branch area plan
5. Williamsport area plan
6. Brunswick area plan
7. Superintendent's Report

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.

[FR Doc. 81-33087 Filed 11-16-81; 8:45 am]

BILLING CODE 4310-70-M

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 Ayala
Mr. Richard Bartke
Mr. Fred Blumberg
Ms. Margo Patterson Doss
Mr. Jerry Friedman
Ms. Daphne Greene
Mr. Peter Haas, Sr.
Mr. Burr Heneman
Mr. John Jacobs
Ms. Gimmy Park Li
Mr. Duane "Doc" Mattison
Mr. John Mitchell
Mr. Merritt 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.

[FR Doc. 81-33085 Filed 11-16-81; 8:45 am]

BILLING CODE 4310-70-M

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. Shull,

Acting Keeper of the National Register.

Hawaii

Honolulu County

Honolulu, *Van Tassel, Ernest Shelton, House,* 3280 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, *Coney Island Fire Station/Pumping Station,* 2301 Neptune Ave.

[FR Doc. 81-33086 Filed 11-16-81; 8:45 am]

BILLING CODE 4310-70-M

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 9c(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 to the Colony Development Operation consists of a standy 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 correspondance 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. 383), 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 303–234–6562; Thomas A. Gibbens, Bureau of Reclamation, Fryingpan-Arkansas Project Office, P.O. Box 515, Pueblo, Colorado 81002, telephone 303–544–5277, extension 206; 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 1120, Glenwood Springs, Colorado 81601.

Dated: November 13, 1981.

Eugene Hinds,

Assistant Commissioner, Bureau of Reclamation.

[FR Doc. 81-33211 Filed 11-16-81; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

[MC-F-14708]

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 with equipment 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;

and

(2) Pool Representative, David E. Tinker, Esq., Attorney-at-Law, 1000 Connecticut Ave., N.W., Suite 1112, Washington, D.C. 20036.

For copies of the full decision: Write to: Interstate Commerce Commission, Room 2227, 12th and Constitution Ave., NW., Washington, D.C. 20423 or call toll-free: 800–424–5403.

FOR FURTHER INFORMATION CONTACT: Ellen D. Hanson, 202–275–7245; Bruce Kasson, 202–275–7655.

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 7035-01-M

[Ex Parte No. MC43]

Lease and Interchange of Vehicles by Motor Carrier

Decided: October 29, 1981.

Lenertz, Inc. (No. MC–14275), and Lenertz, Inc. of Iowa (No. MC–151154) have filed a petition for waiver, with respect to equipment trip leased between them, of Paragraph (e) 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 lessee 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 Paragrah (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.

[FR Doc. 81-33018 Filed 11-16-81; 8:45 am]

BILLING CODE 7035-01-M

[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 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Ewing, and Shaffer.

Agatha L. Mergenovich,

Secretary.

MC 28088 (Sub-82)X, filed October 15, 1981. Applicant: NORTH & SOUTH LINES, INC., 2710 S. Main St., P.O. Box 49, Harrisonburg, VA 22801. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425—13th Street, NW., Washington, DC 20004. Subs 1, 5, 7, 8, 10, 12, 13, 16, 18, 20, 22, 23, 24, 25, 28, 29, 21, 32, 33, 41, 42, 43, 44, 45, 47, 48, 49, 52, 54 and 55 certificates and MC–143529 permit: (A) Broaden to (1) (a) "farm products" from alfalfa meal and livestock, "lumber and wood products" from locust posts, "coal and coal products" from coal, and "machinery" from farm machinery, Sub 1; (b) "chemicals and related products" from insecticides, fungicides, and fertilizer, Sub 1, from salt and salt products, Sub 13, salt, pepper and materials and supplies used in the agricultural, water treatment, food processing, wholesale grocery and institutional supply industries, Subs 18 and 22; feed supplements, Sub 25, salt and salt products, Subs 28 and 48; (c) "food and related products" from feed, apples and peaches, and corn, Sub 1, frozen foods and unfrozen feed and feed materials, Sub 5, rendered chicken fat and frozen poultry, Sub 8, frozen foods, Subs 10, 23, 29, 31, 32 and 42, fresh meats, meat products, meat by-products, and frozen meats, Subs 12, 16 and 23, salt, pepper, and materials and supplies used in the agricultural, water treatment, food processing, wholesale grocery, and institutional supply industries, Subs 18 and 22, horse meat, Sub 20, feed and feed materials/ingredients, Subs 24 and 47, malt beverages, Subs 33, 41 and 43, foodstuffs, Subs 44 and 49, materials used in the manufacture and distribution of frozen foods, Sub 45, foodstuffs and commodities used in the production, storage and distribution of foodstuffs, Sub 52; (d) "printed matter" from papeback books in paperboard cartons, Sub 55; and (e) "pulp, paper and related products" from corrugated containers, MC–143529; (2) county-wide authority: Rockingham County, VA (Broadway, Timberville and Bridgewater), Page County, VA (Luray), Shenandoah County, VA (Mount Jackson), New Castle County, DE and Salem County, NJ (Wilmington, DE), Jefferson County, WV (Charles Town and Duffields), Gloucester County, NJ (Pitman) Washington County, MD (Hagerstown), Frederick County, MD (Frederick and Sparks), Bucks County, PA (Vintage), Chester County, PA (Spring City), Montgomery County, PA (Limerick), Lancaster County, PA (Lancaster, Ephrata and New Holland), Chester County, PA (Kimberton), Berks County, PA (Reading), Dauphin County, PA (Harrisburg, Williamstown and Elizabethville), Cumberland County, PA (Carlisle), Adams County, PA (York Springs), Franklin County, PA (Chambersburg), Venango County, PA (Pittville), and Schuylkill County, PA (Tower City), Sub 1; Albemarle County, VA (Crozet), Subs 5 and 10; Rockingham County, VA (Timberville), Sub 12; Schuyler County, NY (Watkins Glen), New York County, NY and Hudson, Essex, Union and Bergen Counties, NJ (Jersey City, NJ), Sub 13; Ohio County, WV, and Belmont County, OH (Wheeling, WV), Sub 16; Wyoming County, NY (Silver Springs) and, Middlesex County, NJ (Perth Amboy, NJ), Sub 18; Campbell County, VA (Evington), Sub 20; Wayne County, OH (Rittman) and, Lake County, OH (Morton), Sub 22; Letcher County, KY (Blackey), Rockingham County, VA (Timberville), and Carroll County, MD (Mt. Airy), Sub 23; Cook and Will Counties, IL and Lake County, IN (Chicago Heights, IL) Sub 25; Westmoreland County, PA (New Kensington), Chemung County, NY (Horseheads), and Cleveland, OH (Whiskey Island), Sub 28; Cuyahoga County, OH (Solon), and Cuyahoga, Lorain, Lake, Summit, and Medina Counties, OH (Cleveland), Sub 29; Albermarle County, VA (Crozet), and Pope County, AR (Russellvile), Subs 31 and 45; Lehigh County, PA (Fogelsville), Franklin County, PA (Chambersburg), Northampton, Lehigh, Berks, and Bucks Counties, PA (Allentown), Benzie County, MI (Frankfort), Scott County, MO (Scott City), Scott, Mississippi, and Stoddard Counties, MO (Sikestown), St. Louis, St. Charles, and Jefferson Counties, MO, St. Louis, MO and Monroe, Madison, and St. Clair Counties, IL (St. Louis, MO), Sub 32; Rockingham County, NC (Fulton and Eden), Sub 33; Oswego County, NY (Fulton), and Rockingham County, NC (Eden), Sub 41; New York County, NY and Hudson, Essex, Union and Bergen Counties, NJ (Newark, NJ), Houston County, GA (Perry, (Pabst, sic) GA), and Frederick County, VA (Winchester), Sub 43; Schuyler County, NY (Watkins Glen), Cuyahoga, Lorain, Lake, Summit, and Medina Counties, OH (Cleveland), Chemung County, NY (Horseheads), Iberia Parish, LA (Avery Island), Livingston County, NY (Retsof), Hamilton, Butler, and Clermont Counties, OH, Boone, Kenton, and Cambell Counties, KY (Cincinnati, OH), Sub 48; and York County, PA (Hanover),

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, 7, 8, 10, 12, 13, 16, 18, 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–143529.

MC 30824 (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 Bldg., 425–13th 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 general commodities (exceptions), lead and Sub-8; "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 19; and "machinery, furniture and fixtures" from uncrated commercial refrigeration cases, check-out 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-12; St. Charles, St. Louis, 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 radial authority, Subs-12, 14, 19 and 20; (4) remove: size and weight and/or special equipment restrictions, Subs-4, 7, 15 and 20; vehicles restriction, Sub-15; facilities, originating at and destined to, commodities in bulk, and iron and steel articles restrictions, Sub-20; commodity exceptions, Sub-21.

MC 109724 (Sub-10)X, filed October 28, 1981. Applicant: PAUL J. SCHMIT, d.b.a. PAUL J. SCHMIT TRUCKING, 1480 North Springdale Rd., Waukesha, WI 53186. Representative: Richard C. Alexander, 710 North Plankinton Ave., Milwaukee, WI 53203. Lead permit: Broaden (1)(a) pig iron, in dump vehicles, to "metal products;" (b) drain tile, culvert pipe, and sewer pipe, crushed stone, and cut stone, to "clay, concrete, or stone products and metal products;" and (c) skids and pallets, to "containers, carriers or devices, and shipping, returned empty" (2) to "between points in the U.S.," under continuing contract(s) with named and unnamed shippers.

MC 112298 (Sub-6)X, filed November 3, 1981. Applicant: RAY'S GARAGE, INC., 14429 West Hwy. 24, P.O. Box 344, Hales Corners, WI 53130. Representative: James Salentine (same as applicant). Subs 1, 2, and 4: (1) Broaden wrecked, damaged, or disabled motor vehicles and replacement motor vehicles or parts (Sub 1) and wrecked, and disabled vehicles and replacement vehicles (Sub 2) to "transportation equipment" and self-propelled aerial work platform to "machinery, and materials, equipment, and supplies used in the manufacture thereof"; Sub 4; (2) remove the equipment restriction, Subs 1 and 2; and (3) remove the facilities limitation, Sub 4.

MC 116805 (Sub-10)X, filed October 8, 1981. Applicant: REFINERS TRANSPORT, INC., 7921 Castleway Dr., P.O. Box 50854, Indianapolis, IN 46250. Representative: Warren C. Moberly, 777 Chamber of Commerce Bldg., 320 North Meridian St., Indianapolis, IN 46204. Subs 1 and 7F certificates: (A) Broaden to (1) county-wide authority: (a) 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); St. Louis, St. Charles, and Jefferson Counties, MO, St. Louis, MO and Monroe, Madison and St. Clair Counties, IL (St. Louis), Sub 1; and (b) Douglas County, IL (Bourbon), Sub 7F; and (2) radial authority, both subs.

MC 120675 (Sub-16)X, filed November 3, 1981. Applicant: ACME TRUCK LINE, INC., P.O. Box 183, 2855 Lapalco Blvd, Harvey, LA 70059. Representative: Paul D. Angenend, 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 (Baytown) and (3) radial authority.

MC 134270 (Sub-3)X, filed November 3, 1981. Applicant: M.H.C. MESSENGERS, INCORPORATED, 31 Virginia Avenue, Carteret, NJ 07008. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Lead and Subs 1 and 2 to (1) broaden (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) in lead and Sub 1 authorize 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: Secaucus, 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 (medotopes).

MC 143257 (Sub-4)X, filed November 2, 1981. Applicant: CHAMBERS, LTD., P.O. Box 304, Corydon, IA 50060. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Sub-1F certificate. Broaden: (1) to "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 144867 (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: Broaden to (1) "machinery and equipment, part and accessories for machinery" from papermaking machinery and equipment, parts and accessories for papermaking machinery, and (2) Winnebago County, WI (Neenah).

MC 150229 (Sub-3)X, filed October 22, 1981. Applicant: CENTRAL PETROLEUM TRANSPORT, INC., P.O. Box 662, Sergeant Bluff, IA 51054. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Subs 1F and 2F certificates: (A) Broaden to (1) "chemicals and related products" from (a) anhydrous ammonia and dry fertilizer, Sub 1F, and (b) fertilizer, Sub 2F; (2) county-wide authority: (a) Marshall County, IA (Marshalltown), and Cass and Gage Counties, NE (facilities-Greenwood and Hoag), Sub 1F; and (b) Washington County, NE

(Blair), Sub 2F; and (3) radial authority, both Subs.

[FR Doc. 81-33019 Filed 11-16-81; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP1-302

Decided: November 6, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 48221 (Sub-34), filed October 26, 1981. Applicant: W. N. MOREHOUSE TRUCK LINE, INC., 4010 Dahlman Ave. Omaha, NE 68107. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106, (402) 392-1220. Transporting (1) *such commodities* as are dealt in by distributors of alcoholic beverages, between Memphis, TN and points in Gregg County, TX, on the one hand, and, on the other, points in Dodge and Gage Counties, NE, and (2) *meats and packinghouse products*, between points in Dawson County, NE, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 129150 (Sub-9), filed October 28, 1981. Applicant: CIACCIA TRUCKING CO., INC., 106 Industrial Street, Rochester, NY 14606. Representative: Robert V. Gianniny, 923 Midtown Tower, Rochester, NY 14604, (716) 546-4460. Transporting *motor vehicles* in truck-away service, between points in ME, NH, VT, NY, MA, RI, CT, MI, OH, PA, NJ, DE, MD, WV, VA, KY, TN, NC, SC, GA, FL, and DC.

MC 143631 (Sub-2), filed October 13, 1981. Applicant: KENNETH LEE RODGERS, d.b.a. RODGERS TRUCKING, P.O. Box 144, Chino Valley, AZ 86323. Representative: Kenneth Lee Rodgers (same address as applicant), (602) 636-2043. Transporting *such commodities* as are used in the chemical treatment of wood poles and posts, between points in the U.S., under continuing contract(s) with Southwest Forest Industries, of Phoenix, AZ.

MC 145461 (Sub-6), filed October 30, 1981. Applicant: TENNESSEE-TEXAS EXPRESS, INC., PO Box 888, Gallatin, TN 37066. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137, (901) 767-5600. Transporting *general commodities* (except classes A and B explosives), between points in Sumner and Trousdale Counties, TN, on the one hand, and, on the other, points in the U.S.

Note.—Applicant intends to tack this authority with its authority held in MC-145461 (Sub-No. 1).

MC 150960 (Sub-3), filed November 2, 1981. Applicant: DAVE STRICKLER, INC., 97 Anita Place, Mableton, GA 30059. Representative: Virgil H. Smith, 74 Highway N, Box 245, Tyrone, GA 30290, (404) 969-1980. Transporting *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-12), filed October 29, 1981. Applicant: STEINBECKER BROS., INC., PO Box 852, Greeley, CO 80632. Representative: Jack B. Wolfe, 1600 Sherman St., #665, Denver, CO 80203, (303) 839-5856. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Protimex Corporation of Los Angeles, CA and Southwestern Beef Co., of Tolleson, AZ.

MC 151611 (Sub-3), filed November 2, 1981. Applicant: WAYFARE TRUCKING, INC., 725 Industrial Ave., Port Huenume, CA. Representative: Ronald C. Chauvel, 100 Pine St., #2550, San Francisco, CA 94111, (415) 986-1414. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Oxnard Frozen Foods Cooperative, of Oxnard, CA.

MC 152730 (Sub-10), filed October 29, 1981. Applicant: DEPENDABLE TRANSIT, INC., PO Box 349, County Road 300 South, Hartford City, IN 47348. Representative: Larry Garrett (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) 291-1215. Transporting (1) *hides*, between points in AK, CO, IA, IL, KS, LA, MA, 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, Hillsboro 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 158930 (Sub-2), filed November 2, 1981. Applicant: U.S. TRANSPORTATION, INC., 585 Valley Blvd., Bloomington, CA 92316. Representative: Frederick J. Coffman, 1834 N. Kelly Ave., P.O. Box 1455, Upland, CA 91786, (714) 981–9961. Transporting *chemicals*, between points in Cuyahoga County, OH, on the one hand, and, on the other, points in CA.

MC 158960, filed October 29, 1981. Applicant: MILLER TRUCKING, INC., South Star Route, Chambers, NE 68725. Representative: Jack L. Shultz, PO Box 82028, Lincoln, NE 68501, (402) 475–6761. Transporting *dry fertilizer*, between points in Caribou County, ID, on the one hand, and, on the other, points in OK, IA, KS, NE, SD, and WY.

MC 158961, filed October 26, 1981. Applicant: FASTWAY FREIGHT, INC., R.D. #1, Box 361, Lawrence Corner Road, Elmer, NJ 08318. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110–1097. 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 and south of a line beginning at the NJ–PA State line and extending along U.S. Hwy 22 to junction Interstate Hwy 83, then along Interstate Hwy 83 to the PA–MD State line.

MC 159060, 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. OPY–2–219

Decided: November 5, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 15232 (Sub-1), filed October 26, 1981. Applicant: DODGE MOVING & STORAGE CO., INC., 2675 Rock Hill Industrial Court, St. Louis, MO 63144. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. Transporting *household goods, and furniture and fixtures* between points in AL, AR, CO, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NC, OH, OK, SC, TN, TX, VA, WV and WI.

MC 31422 (Sub-2), filed October 19, 1981. Applicant: GEORGE KU, INC., 1480 Mount Jackson Road, New Castle, PA 16102. Representative: Lewis S. Witherspoon, 2455 North Star Road, Columbus, OH 43221, (614) 486–0448. Transporting *passengers and their baggage, in the same vehicle with passengers*, in round-trip special and charter operations beginning and ending at points in Beaver, Butler, Lawrence, and Mercer Counties, PA and Columbiana County, OH, and extending to points in the U.S.

MC 32213 (Sub-8), filed October 26, 1981. Applicant: PORTER TRUCK SERVICE, INC., 2808 W. 6th St., Sioux Falls, SD 57106. Representative: Donald Jerke (same as applicant), (605) 336–9010. Transporting *those commodities which because of their size or weight require the use of special handling or equipment*, between points in SD, on the one hand, and, on the other, points in CO, IL, IN, IA, KS, MI, MN, MO, MT, NE, NM, ND, OH, OK, SD and TX.

MC 124692 (Sub-375), filed October 28, 1981. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, 317–846–6655. Transporting *general commodities* (except household goods, classes A and B explosives, and commodities in bulk), between those points in the U.S., and in west of PA, WV, KY, TN, AR, and LA.

MC 134752 (Sub-8), filed October 28, 1981. Applicant: HILL & WILLIAMS BROS., INC., 799–44th St., Marion, IA 53203. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50390, (515) 282–3525. Transporting (1) *such commodities* as are dealt in by grocery stores, between points in the U.S., under continuing contract(s) with Hawkeye Wholesale Grocery Co., Inc., of Iowa City, IA, and (2) *lumber and forest products*, between points in the U.S., under continuing contract(s) with John J. O'Connell Wholesale Lumber Company, d.b.a. Loftus Distributing Company, of Cedar Rapids, IA.

MC 142672 (Sub-184), filed October 26, 1981. Applicant: DAVID BENEUX PRODUCE AND TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Harry Keifer (same address as applicant), 501–997–1683. Transporting *general commodities* (except classes A and B explosives), between points in the U.S.

MC 146553 (Sub-25), filed October 27, 1981. Applicant: ADRIAN CARRIERS, INC., 1822 Rockingham Rd., Davenport, IA 52808. Representative: James M. Hodge, 1000 United Central Bank Bldg., Des Moines, IA 50309, (515) 243–6164. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of agricultural equipment, industrial equipment, and lawn and leisure products, between points in the U.S., under continuing contract(s) with John Deere Company, of Kansas City, MO.

MC 148622 (Sub-4), filed October 27, 1981. Applicant: EXPRESS SERVICE, INC., P.O. Box 140791, Nashville, TN 37214. Representative: Rebecca Lyford, 916 J.C. Bradford Bldg., Nashville, TN 37219, (615) 255–0441. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), (a) between poijnts in Christian, Todd, Logan, Simpson, Warren, Allen, Barren, Monroe, and Metcalf Counties, KY, on the one hand, and, on the other, points in Montgomery, Cheatham, Dickson, Robertson, Sumner, Macon, Trousdale, Clay, Jackson, Overton, Davidson, Wilson, Smith, Putnam, DeKalb, Cannon, Rutherford, Williamson, Maury, Coffee, Bedford, Marshall, Giles, Moore, Lawrence, Lincoln, Franklin, Warren, White, Grundy, Sequatchie, Hamilton, Marion, Rhea, Bradley, McMinn, and Monroe Counties, TN, and Dade, Whitfield, Murray, Walker, Chattooga, Gordon, Floyd, Bartow, Polk, Paulding, Douglas, Fulton, Cherokee, Cobb, Clayton, DeKalb, Rockdale, Newton, Walton, Gwinnett, Clarke, Barrow, Henry, Hall, and Forsyth Counties, GA, (b) Between points in Montgomery, Cheatham, Dickson, Robertson, Sumner, Macon, Trousdale, Clay, Jackson, Overton, Davidson, Wilson, Smith, Putnam, DeKalb, Cannon, Rutherford, Williamson, Maury, Coffee, Bedford, Marshall, Giles, Moore, Lawrence, Lincoln, Franklin, Warren, and White Counties, TN, on the one hand, and, on the other, points in Grundy, Sequatchie, Hamilton, Rhea, Bradley, McMinn, Monroe, and Marion Counties, TN, and Bartow, Dade, Whitfield, Murray, Walker, Chattooga, Gordon, Floyd, Polk, Paulding, Douglas, Fulton, Cherokee, Cobb, Clayton, DeKalb, Rockdale, Newton, Walton, Gwinnett, Clarke,

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 149573 (Sub-5), filed October 29, 1981. Applicant: NTL, INC., P.O. Box 6645, Lincoln, NE 68506. Representative: J. Max Harding (same address as applicant), 402–489–3585. 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 Ballwin, MO.

MC 152383 (Sub-4), filed October 21, 1981. Applicant: CCM ENTERPRISES, INC., Suite 40, 27 Produce Drive, Cincinnati, OH 45202. Representative: John R. Mateyko (same address as applicant), 513–621–7568. Transporting *metal products*, between Cincinnati, OH, 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 152513, filed October 19, 1981. Applicant: LARRY JACOBSON, d.b.a. JACOBSON FARMS, Rural Route #2, Box 43, Williston, ND 58801. Representative: Jack B. Wolfe, 1600 Sherman #665, 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, ND, SD, CO, WY, NE, and ID.

MC 152622 (Sub-2), filed October 26, 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. *Building materials*, between points in the U.S., under continuing contract(s) with Continental Timber Co., Inc., of Valley Center, KS.

MC 152942 (Sub-1), filed October 29, 1981. Applicant: TOGO TRUCKING COMPANY, Route 3, St. Joseph, MO 64505. Representative: James H. Counts, 320 Robidoux Center, St. Joseph, MO 64501, (816) 232–8411. 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 157313, filed October 27, 1981. Applicant: NICHELSON OIL, INC., 2305 7th Avenue North, Fargo, ND 58102. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126, (701) 235–4487. Transporting *petroleum and petroleum products* between points in the U.S., under continuing contract(s) with Inkster Oil Company, of Inkster, ND.

MC 158003 (Sub-2), filed October 22, 1981. Applicant: SAHARA EXPRESS, A DIVISION OF SAHARA PACKING COMPANY, 741½ Parkridge, P.O. Box 1932, Corona, CA 91720. Representative: Frederick J. Coffman, 1834 N. Kelly Ave., P.O. Box 1455, Upland, CA 91786, (714) 981–9981. 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 158042, 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), 415–928–5171. Transporting *passengers and their baggage*, in special and charter operations, in 15-passenger vans, beginning and ending at San Francisco, CA, and extending to points in Douglas and Washoe Counties, NV.

MC 159032, filed October 29, 1981. Applicant: JAY CARLLEY, INC., 3615 N. Emporia St., P.O. Box 67204, Wichita, KS 67219. Representative: James M. Burtch, 100 E. Broad St., Suite 1800, Columbus, OH 43215, (614) 228–1541. Transporting *meat, meat products and meat byproducts*, between points in Denver County, CO and O'Brien County, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Volume No. OPY–3–208

Decided: November 10, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Carleton not participating.)

MC 50915 (Sub-1), filed October 8, 1981, previously noticed in the **Federal Register** on October 23, 1981. Applicant: RICHARD CORIELL & CO., INC. 36 Sunnyslope, Millington, NJ 07946. Representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Washington, DC 20036, (202) 785–0024. Transporting *household goods*, as defined by the Commission, (1) between points in ME, NH, VT, MA, RI, CT, NY, NJ, PA, OH, MD, DE, FL, VA, NC, SC, GA, and DC, (2) between points in ME, NH, VT, MA, RI, CT, NY, NJ, PA, OH, MD, DE, VA, NC, SC, GA, FL, and DC, on the one hand, and, on the other, points in ME, NH, VT, MA, RI, CT, MI, IN, IL, and WI, and (3) between points in ME, NH, VT, MA, RI, CT, NY, NJ, PA, MD, DE, VA, WV, NC, SC, GA, FL, AL, MS, TN, KY, OH, MI, IN, IL, WI, and DC, on the one hand, and, on the other, points in MN, IA, MO, AR, LA, TX, OK, KS, NE, ND, SD, MT, WY, CO, NM, AZ, UT, ID, WA, OR, NV, and CA.

MC 61264 (Sub-39), filed October 28, 1981. Applicant: PILOT FREIGHT CARRIERS, INC., P.O. Box 615, Winston-Salem, NC 27102. Representative: Pansy Beroth (same address as applicant), (919) 722–3421. 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 E. I. du Pont de Nemours & Co., Inc., of Wilmington, DE.

MC 142204 (Sub-14), filed October 28, 1981. Applicant: GUNVILLE TRUCKING, INC., d.b.a. GUNVILLE TRUCKING, P.O. Box 77, Niagara, WI 54151. Representative: Michael S. Varda, P.O. Box 2509, Madison, WI 53701, (608) 255–8891. Transporting *general commodities* (except classes A and B explosives and, household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Champion International Corporation, of Stamford, CT, and Niagara of Wisconsin Paper Corporation, of Niagara, WI.

MC 143154 (Sub-13), filed November 2, 1981. Applicant: A & S TRUCKING, P.O. Box 4027, Missoula, MT 59806. Representative: Charles A. Murray, Jr., 2822 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, ND, SD, NE, KS, MN, IA, WI, TX, OK, LA, AZ, and NM.

MC 143384 (Sub-1), filed October 29, 1981. Applicant: SENTER TRANSPORTATION CO., INC., 65 Hale St., Haverhill, MA 01830. 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, and 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

corporation, P.O. Box 264 (Height Rd), Noxapater, MS 39346. Representative: Ronald L. Stichweh, 727 Frank Nelson Bldg., Birmingham, AL 35203, (205) 251–5223. 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 Thomasson Lumber Co., of Philadelphia, MS, Builder Marts of America, Inc., of Greenville, SC, Fordyce Wood Treaters, of Fordyce, AR, Merrit International Corp., of Southfield, MI, Henderson Steel Corp., of Meridian, MS, Monro Steel Corp., of Toledo, OH, Medart, Inc., of Greenwood, MS, Temtco Steel, Co., of Louisville, MS, Taylor Machine Works, of Louisville, MS, the Ohio Brass Co., of Barberton, OH, and Booth Equipment Limited, of Tempe, AZ.

MC 146284 (Sub-3), filed November 2, 1981. Applicant: JAMES A. GOULD, 3663 Mavis Rd., Unit #15, Mississauga, Ontario, Canada L5A 2Y9. Representative: William J. Hirsch, 1125 Convention Tower, 43 Court St., Buffalo, NY 14202, (716) 853–0200. Transporting *building materials*, between points in the U.S. (except AK and HI), under continuing contract(s) with (1) Domtar, Inc., The Construction Materials Group, of Mississauga, Ontario, Canada, and (2) Claybelt Lumber Limited, of Hearst, Ontario, Canada.

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 Foseco, Inc., of Brookpark, OH.

MC 147665 (Sub-6), filed October 28, 1981. Applicant: BASSETT FURNITURE INDUSTRIES OF NORTH CAROLINA, INC., d.b.a. BASSETT TRUCKING COMPANY, P.O. Box 47, Newton, NC 28658. Representative: Ronald N. Cobert, 1730 M St., NW., Washington, DC 20036, (202) 296–2900. 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., 7834 Hawn Freeway, Dallas, TX 75217. Representative: Edwin M. Snyder, P.O. Box 45538, Dallas, TX 75245, (214) 358–3341. 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 Lakeside Packing Company of Manitowac, WI.

MC 150805 (Sub-2), filed October 30, 1981. Applicant: WHITE TRUCKING, INC., R. R. #1, Washburn, IL 61570. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. 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 133134, (Sub-5), filed October 29, 1981. Applicant: HI COUNTRY CARRIERS, INC., 4061 S. Broadway, Englewood, CO 80110. Representative: Jack B. Wolfe, 1600 Sherman, #665, Denver, CO 80203, (303) 839–5856. 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 Kimstock, Inc., of Santa Ana, CA.

MC 153764, (Sub-2), filed October 30, 1981. Applicant: WILLIE L. TURNER, d.b.a. TURNER TRUCK SERVICE, Route 1, 520 K–45, Blanchard, OK 73010. Representative: Max G. Morgan, P.O. Box 1540, Edmond, OK 73034, (405) 348–7700. 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: NORTHWESTERN MICHIGAN TRUCKING, INC., 9196 11 Mile Rd., Bear Lake, MI 49614. Representative: William B. Elmer, 625 Third St., Traverse City, MI 49684, (616) 941–5313. Transporting *textile mill products*, between 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: WINDY HILL FOLIAGE, INC., P.O. Box 1642, Eustis, FL 32726. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703, (904) 357–2810. 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 158635, filed November 4, 1981. Applicant: NORTHLAND TRANSPORTATION, INC., P.O. Box 65, Magnet, NE 68749. Representative: Donald L. Stern, Suite 610, 7171 Mercy Rd., Omaha, NE 68106, (402) 392–1220. Transporting *commodities in bulk*, between points in IA, NE, KS, WY, SD, MN, and MO.

MC 158665, filed October 30, 1981. Applicant: W.S.B. LEASING COMPANY, 520 East Church St., Libertyville, IL 60048. Representative: Harold O. Orlofske, 145 West Wisconsin Ave., P.O. Box 368, Neenah, WI 43956, (414) 723–2848. 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 158984 (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 82079. Representative: Jeffrey A. Knoll, 5650 DTC Parkway, Englewood, CO, (303) 770–5610. Transporting *building materials*, between points in Albany County, WY, 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. Steiner, 29 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 subsidary National Supper Markets, Inc., both of Rosemont, IL.

MC 159014, filed October 28, 1981. Applicant: HOWARD WULK, d.b.a. WULK INSULATION, 6678 Supply Way, Boise, ID 83705. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (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, 2400 SW Fourth Ave., Portland, OR 97201, (503) 226–6491. Transporting *bananas*, between points in Los Angeles and Ventura Counties,

CA, on the one hand, and, on the other, points in Lane County, OR.

MC 159035, filed October 29, 1981. Applicant: TALBERT TRUCKING CO., INC., 602 South Cedar Ave., Andrews, SC 29510. Representative: Mitchell King, Jr., P.O. Box 5711, Greenville, SC 29606, (803) 288-6000. Transporting *general commodities* (except classes A and B explosives and household goods) between points in the U.S. (except AK and HI), under continuing contract(s) with Oneita Knitting Mills, of Andrews, SC.

MC 159104, filed November 2, 1981. Applicant: GRAHAM TRUCKING, INC., 5913 Meredith Dr., Des Moines, IA 50324. Representative: Thomas F. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309, (515) 245-4300. Transporting *metal products*, between Chicago, IL and St. Louis, MO, on the one hand, and, on the other, points in IA, MO, IL, NE, MN, and SD.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-33022 Filed 11-16-81; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Board for International Food and Agricultural Development; Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a), (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the Forty-sixth meeting of the Board for International Food and Agricultural Development (BIFAD) on December 2-3, 1981.

On December 2, from 2:00 p.m. to 5:00 p.m. the Board will meet with the BIFAD Support Staff to prepare for the December 3 meeting and consider future staff actions. This meeting will be held in Room 2248, New State Department Building, 22nd and C Streets, N.W., Washington, D.C. The meeting will continue from 7:30 p.m. to 9:30 p.m. at the National Association of State Universities and Land Grant Colleges, Room 827, 1 Dupont Circle, Washington, D.C.

On December 3, the regular BIFAD meeting will be held to consider the proposed Memoranda of Understanding between AID and Universities, the AID response to GAO Report on Title XII, plans for Strengthening Programs, a proposal for cooperative programs involving U.S. institutions, AID and International Agricultural Research Centers, the proposed Collaborative Research Support Programs (CRSPs) in Pond Dynamics and Peanuts, and the team report on an assessment of extension programs in Egypt. This meeting will begin at 9:00 a.m.; recess at 12:15 p.m., and reconvene from 1:30 p.m. to 3:30 p.m. The meeting will be held in Room 1105, New State Department Building, 22nd and C Streets, NW., Washington, D.C.

The meetings are open to the public. Any interested person may attend, may file written statements with the Board before or after the meetings, or may present oral statements in accordance with procedures established by the Board, and to the extent the time available for the meetings permit. An escort from the "C" Street Information Desk (diplomatic Entrance) will conduct you to the meeting.

Dr. Erven J. Long, Coordinator, Title XII Strengthening Grants and University Relations, Bureau for Science and Technology, Agency for International Development, is designated as A.I.D. Advisory Committee Representative at this meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, International Development Cooperation Agency, Washington, D.C. 20523, or telephone him at (703) 235-8929.

Erven J. Long,

A.I.D. Advisory Committee Representative, Board for International Food and Agricultural Development.

[FR Doc. 81-33093 Filed 11-16-81; 8:45 am]

BILLING CODE 6116-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Comprehensive Employment and Training Act; Native American Private Sector Initiatives Programs

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice provides the plans of the Employment and Training Administration for allocating funds for the Fiscal Year 1982 Native American Private Sector Initiatives Programs, under Title VII of the Comprehensive Employment and Training Act.

FOR FURTHER INFORMATION CONTACT: Mr. Pete Homer, Acting Director, Office of Indian and Native American Programs, Employment and Training Administration, 601 D Street NW., Room 6414, Washington, D.C. 20213.

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 regualtions 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.

Eligible Native American grantees will be advised at a later date of the proposal due date.

Signed in Washington, D.C., this 30th day of October 1981.

William J. Kacvinsky,

Acting Administrator, Office of National Programs.

[FR Doc. 81-33033 Filed 11-16-81; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for 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 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated.

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-11,187; Modern Industrial Plastics, Dayton, OH

TA-W-11,813; Industrial Steel Stamping, Inc., Monroe, MI

TA-W-11,225; Findlay Industries, Findlay, OH

TA-W-11,133; Ashland Crafts, Inc., Ashland, KY

TA-W-12,288; P.F. Industries, Inc., Bristol, RI

TA-W-11,328; Pilot Knob Pellet Co., Ironton, MO

TA-W-11,639; P.H.C. Industries, Inc., Camden, NJ

TA-W-11,666; Kenwood Knitting Mills, Babylon and Patchogue, NY

TA-W-11,322; Gulf and Western Mfg. Co., Bonney Forge Div., Allentown, PA

TA-W-11,617, 11,908, & 11,910; Arvin Industries, Inc., Arvin Automotive Div., Monroeville, AL and Columbus, IN

TA-W-11,054; Detroit Trailer Co., and Kendall Steel Co., Detroit, MI

TA-W-11,176; Forest City Foam Products, Inc., Wellington, OH

TA-W-12,191; Koehring Co., Atomaster Div., Bowling Green, KY

TA-W-12,091; Westinghouse Electric Corp., Small Motor Div., Bellefontaine, OH

TA-W-11,647; Towne Robinson Fastener Co., Dearborn, MI

TA-W-10,358; Sunflower Novelty Bags, Inc., Deer Park, NY

TA-W-11,524, 11,525, & 11,526; Wonderalls, Buffalo, MN, Minneapolis, MN, and Paynesville, MN

TA-W-11,486 & 11,486A; Parco, Inc., Marlette, MI and Snow Screw Products, Inc., Marlette, MI

In each of the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to worker separations at the firm.

TA-W-12,019; White Farm Equipment Co., Syracuse, NY

TA-W-12,582; D&E Components, A Div. of Avnet, Inc., Coloma, MI

In each of the following cases the investigation revealed that criterion (3) has not been met for the reason(s) specified.

TA-W-11,158, 11,159, & 11,698; McGregor Sportswear, McGregor-Doniger, Inc., Clearfield, PA, Philadelphia, 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-11,269; 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, Stillwater, OK; Plant #64, 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 sterndrive motors are negligible. U.S. imports of outboard motors have not increased.

TA-W-11,186; Millmaster 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 Maternities, Ltd., New York, NY

Aggregate U.S. imports of maternity pants 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-12,298; 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-11,938; Edmos Corporation, Glen Cove, NY

Aggregate U.S. imports of finished fabric are negligible.

TA-W-11,335; Marcil 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.

[FR Doc. 81-33031 Filed 11-16-81; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications 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 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to appy for adjustment assistance under 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, at the address shown below, not later than November 27, 1981.

The petitions filed in this case are available for inspection at the Office of 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.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Bird & Sone, Inc. (company)	Perth Amboy, N.J.	11/2/81	10/26/81	TA-W-13,085	Roofing—asphalt.
Fayscott, Div. of White Consolidated (IAMAW)	Dexter, Maine	11/4/81	10/29/81	TA-W-13,086	Equipment—production.
Frier Industries (company)	Carlstadt, N.J.	11/2/81	10/26/81	TA-W-13,087	Shoes—canvas, athletic.
Grico Manufacturing, Inc., (workers)	Mt. Clemens, Mich.	11/3/81	10/28/81	TA-W-13,088	Parts—tractor, Ford.
KMC, Stamping, (IAMAW)	Port Washington, Wis.	11/3/81	10/26/81	TA-W-13,089	Stampings—metal.
KMMCO, Inc. (company)	Pontotoc, Miss.	11/4/81	10/30/81	TA-W-13,090	Mouldings—automotive.
Paragon Gears, Inc. (UE)	Taunton, Mass.	11/3/81	10/27/81	TA-W-13,091	Transmissions—Marine, MG 502.
Servus Rubber Co., Vinyl Div. (ILGWU)	Chicopee, Mass.	11/2/81	10/29/81	TA-W-13,092	Footwear—molded, vinyl, plastic.
Shakespear of Arkansas (company)	Fayetteville, Ark.	11/3/81	10/27/81	TA-W-13,093	Reels—fishing.

[FR Doc. 81-33032 Filed 11-16-81; 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

North 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 (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 3041) of the approval of the North Carolina plan and the adoption of Subpart I to Part 1952 containing the decision.

The North Carolina Plan provides for the adoption of Federal standards as State standards by reference. Section 1953.20 of 29 CFR provides that "where an 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 a State Plan shall be required." In response to Federal standard changes, the State has submitted by letter, dated January 7, 1981 from Donald G. Wiseman, Director, Occupational Safety and Health Division, North Carolina Department of Labor, to Robert A. Wendell, Regional Administrator, and incorporated as a part of the State plan, State standards comparable to the following Federal standards: § 1910.20 Access to Employee Exposure and Medical Records, dated May 23, 1980; § 1910.440 Commercial Diving Operations, dated May 23, 1980; § 1910.1001 Asbestos, dated May 23, 1980; § 1910.1003 4-Nitrobiphenyl, dated May 23, 1980; § 1910.1004 alpha-Naphthylamine, dated May 23, 1980; § 1910.1006 Methyl chloromethyl ether, dated May 23, 1980; § 1910.1007 3,3'-Dichlorobenzidine (and its salts), dated May 23, 1980; 1910.1008 bis-Chloromethyl ether, dated May 23, 1980; § 1910.1009 beta-Naphthylamine, dated May 23, 1980; § 1910.1010 Benzidene, dated May 23, 1980; § 1910.1011 4-Aminodiphenyl, dated May 23, 1980; § 1910.1012 Ethyleneimine, dated May 23, 1980; § 1910.1013 beta-Propiolactone, dated May 23, 1980; § 1910.1014 2-Acetylaminofluorene, dated May 23, 1980; § 1910.1015 4-Dimethylaminoazobenzene, dated May 23, 1980; § 1910.1016 N-Nitrosodimethylamine, dated May 23, 1980; § 1910.1017 Vinyl chloride, dated May 23, 1980; § 1910.1018 Inorganic arsenic, dated May 23, 1980; § 1910.1025 Lead, dated May 23, 1980; § 1910.1028 Benzene, dated May 23, 1980; § 1910.1029 Coke oven emissions, dated May 23, 1980; § 1910.1043 Cotton dust, dated May 23, 1980; § 1910.1044 1,2-dibromo-3-chloropropane, dated May 23, 1980; § 1910.1045 Acrylonitrile, dated May 23, 1980; § 1910.1046 Exposure to cotton dust in cotton gins, dated May 23, 1980; § 1910.151 Model Standard pursuant to section 6(b) of Act, dated

May 23, 1980; § 1910.152 Model Emergency Temporary Standard pursuant to section 6(c), May 23, 1980; Part 1913 Access to Medical Records, dated May 23, 1980; § 1910.423 Commerical Diving Corrections, dated June 20, 1980; Part 1990 Model Standard Carcinogens, Corrections, dated June 27, 1980; Part 1910 and 1913 Access to Exposure and Medical Records, Corrections, dated August 15, 1980; § 1910.35 Definitions, dated September 12, 1980; § 1910.37 Means of Egress, dated September 12, 1980; § 1910.38 Employee Emergency Plans & Fire Prevention Plans, dated September 12, 1980; § 1910.107 Spray Finishing, dated September 12, 1980; § 1910.108 Dip Tanks, dated September 12, 1980; § 1910.109 Explosive and Blasting Agents, dated September 12, 1980; § 1910.155 Scope and Application, dated September 12, 1980; § 1910.156 Fire Brigades, dated September 12, 1980; § 1910.157 Portable Fire Extinguishers, dated September 12, 1980; § 1910.158 Standpipe and hose systems, dated September 12, 1980; § 1910.159 Automatic Sprinkler Systems, dated September 12, 1980; § 1910.160 Fixed Extinguishing Systems, dated September 12, 1980; § 1910.161 Fixed Extinguishing Systems, Dry Chemical, dated September 12, 1980; § 1910.162 Fixed Extinguishing Systems, gaseous agents, dated September 12, 1980; § 1910.163 Fixed Extinguishing Systems, water and foam, dated September 12, 1980; § 1910.164 Fire Detection Systems, dated September 12, 1980; § 1910.165 Employee Alarm Systems, dated September 12, 1980; § 1910.165(a) and 1910.165(b) Revoked, dated September 12, 1980: Part 1910 Appendix Subpart E, dated September 12, 1980; § 1903.4 Objection to Inspection, dated October 3, 1980; § 1926.500 Guardrails, handrails and covers, dated November 14, 1980; § 1926.502 Definition, dated November 14, 1980; § 1926.500(g)(1) Appendix A to Subpart M—Roof Widths, dated November 14, 1980.

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 9, 1980, respectively, pursuant to the North Carolina Occupational Safety and Health Act of 1973 (Chapter 295, General Statutes).

2. *Decision.* Having reviewed the state submission in comparison with Federal standards, it has been determined that the state standards are identifical 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 West Edenton, Raleigh, North Carolina 27601; Office of the Regional Administrator, Suite 587, 1375 Peachtree Street, NE., Atlanta, Georgia 30367, 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 identifical 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. 667))

Signed at Atlanta Ga., this 30th day of January 1981.

Karen L. Mann,

Acting Regional Administrator.

[FR Doc. 81-33034 Filed 11-16-81; 8:45 am]

BILLING CODE 4510-26-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. 667) (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 28, 1979; Part 1910, Subpart S, Electrical, dated January 16, 1981. The State amended the folowing 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; § 1926.351(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 Acts and Joint Resolutions, 1971 (Sections 40–261 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, South Carolina Department of Labor, 3600 Forest Drive, Columbia, South Carolina 29211; Office of the Regional Administrator, Suite 587, 1375 Peachtree Street, NE., Atlanta, Georgia 30367; and 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 South

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 essentially identical to the comparable Federal standards and are 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. 667))

Signed at Atlanta, Ga., this 25th day of August 1981.

Karen L. Mann,

Acting Regional Administrator.

[FR Doc. 81-33035 Filed 11-16-81; 8:45 am]

BILLING CODE 4510-26-M

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:

Dated: November 10, 1981.

Merit Systems Protection Board.

Ersa H. Poston,

Vice Chair.

Order on Motion for Consolidation

Appellant 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 (without 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 gorunds 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).[1] 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 appellant Trick'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 over 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 requested 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 issued 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 "support a consolidation 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. 95-969, 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

[1] 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 CFR 315.806. Those 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-consolidations 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 subconsolidations, or other precedural 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.[2] 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:[3]

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;[4]

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;[5]

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. DC0752811F1144," 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, 1120 Vermont Avenue, NW., Washington, D.C. 20419

4. 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. 30036

J. E. Murdock, III, Chief Counsel, Federal Aviation Administration, Room 900E, Washington, D.C. 20591

For the Board.

Ersa H. Poston,

Vice Chair.

Ronald P. Wertheim,

Member.

November 10, 1981, Washington, D.C.

[FR Doc. 81-33023 Filed 11-16-81; 8:45 am]

BILLING CODE 7400-01-M

[2] Regional Offices may give weight to potential avoidance of procedural burdens and considerations of expedition and efficiency in determining whether to certify rulings to the Board for interlocutory appeals pursuant to 5 CFR 1201.91–.93.

[3] Any appellant or agency party who is served, directly or by designated representative, with a copy of this Order and who fails to submit a timely response will be deemed to have waived any objection to the Board's action upon consideration of the matters set forth in this Order.

[4] The attached Certificate of Service includes information intended to facilitate communication among the parties for purposes of encouraging agreement on procedural or other matters that could reduce the burden of these cases on all parties. The Board's Secretary should be advised promptly by letter of any errors, omissions, or changes in the service list.

[5] Without regard to whether the proposed consolidation is ordered, the Board contemplates moving promptly to hearing and decision of potentially dispositive individual issues which are unrelated to the alleged strike.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 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 180, Room 101, Jet Propulsion Laboratory, 4800 Oak Grove Drive, Pasadena, CA 91109.

FOR FURTHER INFORMATION CONTACT: Mrs. Diane M. Mangel, National Aeronautics and Space Administration, Code SL–4, Washington, DC 20546 (202/755–3728).

SUPPLEMENTARY INFORMATION: The Informal Ad Hoc Solar System Exploration Committee was established under the NASA Advisory Council to translate the scientific strategy developed by the Committee on Planetary Exploration (COMPLEX) into a realistic, technically sound sequence of missions consistent with that strategy and with resources expected to be available for solar system exploration.

The committee will report its findings to the Council and to NASA. The

committee is chaired by Dr. Noel W. Hinners 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 80 persons, including committee members and invited meeting 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. 81-33017 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 1219, Conference Room 225, Hampton, VA.

FOR FURTHER INFORMATION CONTACT: Mr. Roger Winblade, National Aeronautics and Space Administration, Code RJT-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.
9:30 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

8:30 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. 81-33016 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, NFAH.

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: 807.
   Program: This meeting will review applications submitted for Elementary and Secondary Education, Division of Education Programs, for projects beginning after March 1, 1982.
2. Date: December 2, 1981.
   Time: 9:00 a.m. to 5:30 p.m.
   Room: 807.
   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 4, 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: 314.
   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.
6. Date: December 7-9, 1981.
   Time: 9:00 a.m. to 5:30 p.m.
   Room: 807.
   Program: This meeting will review applications submitted for Pilot Grants, Division of Education programs, for projects beginning after April 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 priviledged 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

section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506, or call (202) 724–0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 81-33007 Filed 11-16-81; 8:45 am]

BILLING CODE 7536-01-M

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, Highway, P.O. Box 1111, Lincoln, Rhode Island 02865; Eastern Edison Company, 110 Mulberry Street, Brockton, Massachusetts 02403; Montaup Electric Company, P.O. Box 391, Fall River, Massachusetts 02722; Eastern Utilities Associates, P.O. Box 2333, Boston, Massachusetts 02107.

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.

Eastern Edison, Montaup and Blackstone request authorization to issue and sell short-term notes to banks from time to time from December 28, 1981 to December 31, 1982 in aggregate amounts for Eastern Edison, Montaup and Blackstone not to exceed $9,800,000, $33,600,000 and $1,500,000, respectively. The notes will be dated the date of issue and will not mature later than September 30, 1983. The notes will bear interest at either a floating prime rate or at available money market rates. Notes bearing interest at the floating prime rate will have maximum maturities of nine months and will be subject to prepayment at any time without premium. Notes bearing interest at available money market rates, which in all cases will be less than the prime rate at time of issuance, will have maximum maturities of sixty days and will not be prepayable.

The applicant-declarants' credit lines with banks are subject in some cases to commitment fees and/or compensating balance requirements. The bank credit lines expire at various times in 1981 and 1982 and their continued availability is subject to continuing review by the banks involved. Bank credit lines may be changed and additional lines may be obtained from other banks.

The credit line agreements include: (1) Borrowing at the prime rate or money market rates, if lower, with no formal compensating balances; (2) borrowing at the prime rate of money market rates, if lower, with compensating balances not exceeding 10 percent, and (3) borrowing at the prime rate or money market rates, if lower, together with a commitment fee based on a fraction of the prime rate. Assuming a prime rate of 19.00 percent and the maximum balance requirements of 10 percent, the effective interest rate would be 21.09 percent.

Eastern Edison, Blackstone and Montaup will use the proceeds to (1) renew outstanding notes payable to banks, as they become due; (2) to finance their respective 1982 construction programs estimated to be approximately $10,300,000, $8,800,000 and $22,800,000 respectively; and (3) to provide funds to meet certain sinking fund requirements of Eastern Edison.

EUA also requests authorization to purchase 30,000 shares of Blackstone's common stock having a par value of $50 per share or to make capital contributions to Blackstone not in excess of $1,500,000. EUA expects to obtain the funds necessary to make such purchases or capital contributions from the proposed repayment of certain loans heretofore made by EUA to EUA Service Corporation.

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 applicant-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. A person who so requests will be notified of any hearing, if ordered, and will receive 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. 81-33101 Filed 11-16-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12030; 812–4979]

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 thereunder, 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

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. 9786, May 31, 1977).

Section 6(c) of the Act provides, in pertinent part, that upon application the Commission may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of any rule or regulation 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.

In support of the relief requested, Applicant indicates that it has been the experience of its Distributor in distributing other funds, including two other "money-market" type funds, that in order to attract investors and retain shareholders, the Applicant should possess the attributes of: (i) Stability of principal, i.e., a stable net asset value, and (ii) a steady flow of investment income.

Applicant believes that its investment policy of investing only in government securities and certificates of deposit having a remaining maturity of one year or less with an average portfolio maturity of 120 days, when combined with a stable price of $1.00 per share, will provide both stability of principal and a steady of investment income.

Applicant states that its trustees' experience with respect to securities within Applicant's investment policy indicates that with respect to instruments maturing in 120 days or less there is normally a negligible discrepancy between market value and the amortized cost value of such instruments. Thus, Applicant believes that valuation of its assets on the amortized cost basis, by enabling the maintenance of a stable price per share while at the same time allowing a flow of investment income less subject to fluctuation than under procedures whereby its dividend would be adjusted by all realized and unrealized gains and losses, will benefit its shareholders.

Applicant's trustees have determined in good faith that, in light of the characteristics of the Applicant as described above, absent unusual or extraordinary circumstances, the amortized cost method of valuing portfolio securities is appropriate and preferable for Applicant and reflects the fair value of such securities.

Applicant has agreed that each of the following may be made a condition to the granting of the exemptive relief requested:

1. The board of trustees, in supervising Applicant's operations and delegating responsibility for portfolio management to its investment manager, undertakes—as a particular responsibility within the overall duty of care owed to Applicant's shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stablize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedure to be adopted by the board of trustees will be the following:

(a) Review by the board of trustees, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's $1.00 amortized cost price per share, and maintenance of records of such review. To fulfill this condition, the Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its board of trustees in the exercise of its discretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money-market instruments published by reputable sources, including reputable pricing services.

(b) A requirement that the board of trustees will promptly consider what action, if any, should be taken in the event such deviation from Applicant's $1.00 amortized cost price per share exceeds one-half of one percent.

(c) Where the board of trustees believes the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it seems appropriate to minimize to the extent reasonably practicable such dilution or other unfair results, which may include: Selling portfolio instruments prior to maturity to realize capital gains or losses or to shorten Applicant's average portfolio maturity; withholding dividends; reducing the number of outstanding shares; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share: *Provided, however*, That the Applicant will not (a) purchase any

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 reponsibilities, 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.

[FR Doc. 81-33100 Filed 11-16-81; 8:45 am]

BILLING CODE 8010-01-M

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:

Gulf Canada Ltd., Common Stock, No Par Value (File No. 7-6074)
Imperial Chemical Ind., Ltd., American Depository Receipts (File No. 7-6075)

These securities are registered on one or more other national securities exchanges and are reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before December 3, 1981 written data, views and agruments 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 Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-33098 Filed 11-16-81; 8:45 am]

BILLING CODE 8010-01-M

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)(B) of the Securities Exchange Actof 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Dome Petroleum Ltd., Common Stock, No Par Value (File No. 7-6073)
Beatrice Foods Company, Common Stock, No Par Value (File No. 7-6076)

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 extensions of unlisted trading privileges pursuant to such applications are consistent with the maintance 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.

[FR Doc. 81-33099 Filed 11-16-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22269; 70-6654]

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—15,152,000 shares ($100,000,000); and Mississippi—870,000 shares ($20,010,000). (The issuance and sale of the 870,000 Mississippi shares has been previously authorized, File No. 70-6554, but Mississippi wants the time extended to December 31, 1982.) The net proceeds will be used by each subsidiary for the financing in part of (including the retirement of short-term indebtedness incurred in financing) its 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. 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. 81-33104 Filed 11-16-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-18246; File No. SR-MSTC-81-3]

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.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

The procedure outlined in *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.

B. 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.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written

communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 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. 81-33105 Filed 11-16-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-18250; File No. SR-MS RB-81-16]

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.*

[(ii)] through [(xv)] renumbered as (*iii*) through (*xvi*). No substantive change.

(f) through (1) No change.

[1] Italics indicate new language; [brackets] indicate deletions.

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 to and 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 inter-dealer 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.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 10, 1981.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-33106 Filed 11-16-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22267; 70-6661

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 6(a), 7 and 12(b) of Public Utility Holding Company Act of 1935 ("Act") and Rules 45 and 50(a)(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 capactiy of approximately 660,000 kilowatts, was placed in operation in late 1970, and Millstone Unit No. 2, with a capacity of approximately 830,000 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 an Operating Agreement between the Owners and NNEC.

Pursuant to a financing program authorized by Commission (HCAR No. 17786, 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 1975, 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) ½ 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 ¼ 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 (File No. 70-6639).

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 applicants-declarants 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. 81-33102 Filed 11-16-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12032; 812-4848]

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.

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 payment 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 $30 for 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 imposition of a contingent deferred sales charge. Partial redemptions may be effected under such 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 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)(35) 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, insurance premiums, issue taxes or administrative expenses or fees which are not properly chargeable to sales or promotional activities. Appliants 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)(35) 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 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 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. Appliants 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 selling 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 possesion 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 thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-33103 Filed 11-16-81; 8:45 am]

BILLING CODE 8010-01-M

Pacific Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

November 10, 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. 81-33097 Filed 11-16-81; 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 Bellin, 30 Wimbledon Lane, Easton, Connecticut 06612; Director

Emil Meshberg, 10 Brighton View Road, Fairfield, Connecticut 06430

Earnest Karkut, 3071 Morehouse Highway, Fairfield, Connecticut 06430; Director

The First Connecticut Capital Corporation, 177 State Street, Brdigeport, 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

the Small Business Investment Act of 1958, as amended.

The Officers and Directors of the Parent are:

Name and Title

James A. Breiner; Chairman of the Board
David Engelson; President and Director
Lawrence R. Yurdin; Vice President
Jerome Goldman, 540 Joan Drive, Fairfield, Connecticut 06430; Secretary
Louis I. Cohen, 103 Joan Drive, Westport, Connecticut 06880; Ass't Secty. Treasurer and Director
Edward Ardolino, Whiting Farm Road, Branford, Connecticut 06405; Director
Gordon F. Christie, 872 Hillside Road, Fairfield, Connecticut 06430; Director
F. Francis D'Addario, 70 Williams Road, Trumbull, Connecticut 06611; Director
Mario D'Addario, 51 Bonnieview 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. 20416.

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.

(Catalogue of Federal Domestic Assistance Program No. 59.012 Small Business Loans)

Michael Cardenas,

Administrator.

[FR Doc. 81-33083 Filed 11-16-81; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2015; Amdt. #1]

Texas; Declaration of Disaster Loan Area

The above numbered Declaration (See 46 FR 55174) is amended in accordance with the President's Declaration of October 23, 1981, to include Grayson, Palo Pinto and Tarrant Counties in the State of Texas. The Small Business Administration will accept applications for disaster relief loans from disaster victims in the above named counties only. All other information remains the same; i.e., the termination dates for filing applications for physical damage is close of business on December 24, 1981, and for economic injury until the close of business on July 23, 1982.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 3, 1981.

Michael Cardenas,

Administrator.

[FR Doc. 81-33084 Filed 11-16-81; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular Public Debt Series—No. 36-81]

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. 912827 MP 4). 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 must 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 ⅛ 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 paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reerve 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) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer from and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided

Paul H. Taylor,

Fiscal Assistant Secretary.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the departmental procedures applicable to such regulations.

[FR Doc. 81-33248 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. An Associate Deputy Administrator for Logistics is appointed to strengthen and provide policy-level review of the agency's construction, procurement and supply activities. An Associate Deputy Administrator for Administration is appointed to centralize and improve administrative support, personnel management, labor relations and equal opportunity matters. Finally, an Associate Deputy Administrator for Information Resources Management is appointed to foster an integrated approach to the development and management of automated and manual information processing systems.

Dated: November 6, 1981.

Robert P. Nimmo,

Administrator.

[FR Doc. 81-33058 Filed 11-16-81; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 221
Tuesday, November 17, 1981

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

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 10, 1981.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-1715-81 Filed 11-13-81; 1:55 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 matter:

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.

[S-1717-81 Filed 11-13-81; 3:55 pm]

BILLING CODE 6714-01-M

3

FEDERAL RESERVE SYSTEM

Board of Governors.

TIME AND DATE: 10 a.m., Monday, November 23, 1981.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

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, assignments, 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; 3:55 pm]

BILLING CODE 6210-01-M

4

INTERNATIONAL TRADE COMMISSION

[USITC SE-81-34A]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 46 FR 54666, November 3, 1981.

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 19 CFR 201.36(b)(4), Commissioners Alberger, Calhoun, Bedell, Stern, Eckes, and Frank voted by action jacket INV-81-163 to hold a portion of the discussion with respect to item No. 5 [Investigation 731-TA-50 [Preliminary] (Steel Clad Plate from Japan)—briefing and vote] in closed session.

Commissioners Alberger, Calhoun, Bedell, Stern, Eckes, and Frank determined, pursuant to 19 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-1713-81 Filed 11-13-81; 11:00 am]

BILLING CODE 7020-02-M

5

NATIONAL TRANSPORTATION SAFETY BOARD

[NM-81-40]

TIME AND DATE: 9 a.m., Tuesday, November 24, 1981.

PLACE: NTSB Board Room, National Transporation Safety Board, 800 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:

1. *Aircraft Accident Report:* Air U.S. Flight 716, Handly Page HP-137, N11360, Cessna TU-206, N4862F, Midair Collision, Fort Collins/Loveland Airport, Colorado, April 17, 1981.
2. *Safety Effectiveness Evaluation:* Coordination of Federal Highway Administration and National Highway Traffic Safety Administration in Small Car Vehicle Highway-Driver Safety Problems.
3. *Opinion and Order:* Administrator v. DeFresence, Docket SE-4815; disposition of respondent's appeal.

4. *Opinion and Order:* Administrator v. Fellows, Docket SE–5104; disposition of appeals of both parties.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202–382–6525.

November 13, 1981.

[S–1714–81 Filed 11–13–81; 1:39 pm]

BILLING CODE 4910–58–M

6

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 46 FR 55588, November 11, 1981.

STATUS: Open/closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

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.

[S–1715–81 Filed 11–13–81; 3:55 pm]

BILLING CODE 8010–01–M

federal register

Tuesday
November 17, 1981

Part II

Department of Agriculture

Food and Nutrition Service

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 17(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.

FOR FURTHER INFORMATION CONTACT: James I. Porter, Chief, Mid-Atlantic/New England Section, State Evaluation Branch, State Operations Division, Family Nutrition Programs, Food and Nutrition Service, Washington, D.C. 20250 (202) 447–4014.

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 ATP's 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 96 percent. This "one stop" feature of Direct Delivery is a significant benefit to receipients 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

federal register

Tuesday
November 17, 1981

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 650, Reston, Virginia 22092.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald R. Daniels, (703) 860–7535, (FTS) 928–7535, or Mr. Stephen H. Spector, (703) 860–6259, (FTS) 928–6259.

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. Salwerowicz, Deputy Conservation Manager for Oil and Gas, Central Region, and Mr. Stephen H. Spector, 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, even 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 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.

These suggestions 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 needed by the Supervisor to properly monitor leasehold operations. The major changes include elimination of the daily report of gas-producing wells; 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 system; and elimination of a separate report justifying a location 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 responsibility 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 lessees

of record agree to the designation and permit bond coverage to be provided by such designated operator. Evidence of actual notice to all lessees of record would be required.

Some comments suggested that well 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 requirements he considered incorrect pertaining to technical 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 "Notice 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 enacted. 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 assessments 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 290.

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

44 U.S.C. 3507 and assigned the following Clearance Numbers:

Form No.	Name	OMB No.
9-330	Well Completion or Recompletion Report and Log.	1028-0004
9-329/329A	Monthly Report of Operation (and Continuation).	1028-0005
9-361	Monthly Report of Sale and Royalty.	1028-0006
9-614A	Rental and Royalty Remittance Advice.	1028-0007
9-331	Sundry Notice and Reports on Wells.	1028-0011
9-331C	Application for Permit to Drill, Deepen, or Plug Back.	1028-0012

The remaining information collection requirements contained in Part 221 will be submitted to the OMB for approval as required by 44 U.S.C. 3507. Comments are specifically requested on the information collection requirements contained in the onshore oil and gas operating regulation.

A new section designated § 221.2–1, *Information Collection*, would be added to Part 221.

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. 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 entity flexibility analysis under the Regulatory Flexibility Act, Pub. L. 96–354, is not required.

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 (43 U.S.C. 4332(2)(C)) is required.

Under the authority of the Act of February 25, 1920 (30 U.S.C. 189), and Executive Order 12291 (46 FR 13193), it is proposed to revise Part 221, Chapter II, Title 30 of the Code of Federal Regulations as set forth below.

PART 221—ONSHORE OIL AND GAS OPERATIONS

General Provisions

Sec.
221.1 Purpose and scope.
221.2 Definitions.
221.2–1 Information collection.
221.3 Cross references.
221.4–221.9 [Reserved]

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 precautions.
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

221.40–221.59 [Reserved]

Noncompliance and Assessments

221.60 Acts of noncompliance.
221.61 Assessments for noncompliance.
221.62 Penalties.
221.63 Payment of assessments or penalties.
221.64–221.69 [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.
221.73–221.79 [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.

Authority: The Act of February 25, 1920 (30 U.S.C. 181, et seq.), as amended; the Act of May 21, 1930 (30 U.S.C. 301–306); the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351–359), as amended; the Act of March 3, 1909 (25 U.S.C. 396), as amended; the Act of May 11, 1938 (25 U.S.C. 396a–396q), as amended; the Act of February 28, 1891 (25 U.S.C. 397), as amended; the Act of May 29, 1924 (25 U.S.C. 398); the Act of March 3, 1927 (25 U.S.C. 398a–398e); the Act of June 30, 1919 (25 U.S.C. 399), as amended; R.S. 441 (43 U.S.C. 1457), see also Attorney General's Opinion of April 2, 1941 (40 Op. Atty. Gen. 41); the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.), as amended; and the Act of December 12, 1980 (Pub. L. 96–514, 94 Stat. 2964).

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) *Communitization 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, communitization, 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.

(h) *Division Chief.* The Chief, or designee, Conservation Division, U.S. Geological Survey.

(i) *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.

(j) *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.

(k) *Lease.* An agreement issued pursuant to 43 CFR Part 3100 which, in consideration of covenants to be observed, grants to a lessee the exclusive right and privilege of exploring for, developing, and producing oil or gas deposits owned by the lessor subject to the terms and conditions of the lease, regulations, and statutes.

(l) *Leased lands, leasehold.* Lands and deposits made subject to an oil and gas lease.

(m) *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.

(n) *Lessor.* The party to a lease who holds legal or beneficial title to the mineral estate in the leased lands.

(o) *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.

(p) *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.

(q) *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.

(r) *Onshore Oil and Gas Order.* A formal numbered order issued by the Division Chief that implements the regulations in this part.

(s) *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.

(t) *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.

(u) *Secretary.* The Secretary of the Interior or his duly authorized representative.

(v) *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.

(w) *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:

OPERATING FORMS

Form No.	Name and filing date	OMB No.
9-330	Well Completion or Recompletion Report and Log—Due 15 days after well completed.	1028-0004
9-329/329A	Monthly Report of Operation (and Continuation)—Due 10th day of second month following production month.	1028-0005
9-331	Sundry Notice and Reports on Wells—Subsequent report due 15 days after operations completed.	1029-0011
9-331C	Application for Permit to Drill, Deepen, or Plug Back—Due 30 days prior to planned action.	1028-0012

The information is being collected for Federal and Indian lease management purposes. The information will be used to allow evaluation of the technical, safety, and environmental factors involved with drilling and producing oil and gas on Federal and Indian oil and gas leases. The obligation to respond is mandatory only if the lessee elects to initiate drilling, completion, or subsequent operations on an oil and gas well. The Monthly Report of Operations is mandatory after drilling has commenced.

ROYALTY ACCOUNTING FORMS

Form No.	Name and filing date	OMB No.
9-361	Monthly Report of Sale and Royalty—Due 10th day of second month following production month.	1028-0006
9-614A	Rental and Royalty Remittance Advice—Due by end of month following sales month.	1028-0007

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 Part 1820 and Group 3100

§ 221.4—221.9 [Reserved]

Jurisdiction and Responsibility

§ 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 unitization, communitization, 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.

§ 221.14—221.19 [Reserved]

Requirements for Lessees and Operators

§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 authorize the actual conduct of operations in its behalf by designating 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 resoruces, 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 lessor 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 lessor 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 containing 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 preceding the lease serial number, or the name of the Indian allotted lessor. 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.

(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 required by the Supervisor, 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 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 lessor.

§ 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, alter casing, 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 of 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 appropriate 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 submitted to the Supervisor. Upon request, the lessee shall transmit to the Supervisor copies of such other records maintained in compliance with paragraph (a) of this section.

(c) Upon request, the lessee shall furnish the Supervisor a copy of the daily drilling report.

§ 221.33 Confidentiality.

(a) Information on file obtained pursuant to this part shall be open for public inspection and copying during regular office hours upon a written request, pursuant to rules at 43 CFR Part 2, except that: (1) upon request, information obtained from a lessee under this Part that constitutes trade secrets and commercial or financial information which is privileged or confidential or other information that may be withheld under the Freedom of Information Act (5 U.S.C. 552(b)), such as geologic and geophysical data and maps, shall not be available for public inspection or made public or disclosed 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 sytems 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 pursunat 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 14.73 psia 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.

(e) 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.

(f) When requested by the DCM, the lessee shall furnish, on the leasehold 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 or promulgated under the cited laws, the lease terms, the approved operating plan, or the written orders or instructions issued by the Supervisor. Immediate shut-in action may be taken where operations are initiated and conducted without prior approval or where continued operations could result in serious harm to life, property or the environment. Shut-in actions in other situations may only be taken after due notice, in writing, has been given.

§ 221.61 Assessments for noncompliance.

Certain instances of noncompliance result in loss or damage to the lessor, the amount of which is difficult or impracticable to ascertain. Except where actual losses or damages can be ascertained in an amount larger than that set forth below, the following amounts shall be deemed to cover loss or damage to the lessor from specific instances of noncompliance. Provided that as to paragraphs (a), (f), (g), and (j) of this section the specified loss or damage shall be applicable to each successive day that the noncompliance continues.

(a) For failure to comply with a written order or instructions of the Supervisor or DCM, $250 if compliance is not obtained within the time specified or after reasonable notice of noncompliance.

(b) For failure to perform any operation ordered in writing by the Supervisor, if said operation is thereafter performed by or through the Supervisor; the actual cost of performance and an additional 25 percent of such amount to compensate the United States for administrative costs.

(c) For failure to obtain approval of an Application for Permit to Drill prior to commencing operations or causing surface disturbance preliminary thereto or for failure to obtain approval before initiating any major departure from a previously approved permit to drill, $250.

(d) For failure to obtain approval of a plan for subsequent well operations before commencing work on a well to redrill, deepen, convert to injection, using any well for gas storage or water disposal, or any other operation requiring prior approval under § 221.27 of this part, $250.

(e) For failure to properly identify a well location or derrick, whether the well is drilling, producing, or abandoned, $100.

(f) For failure to install blowout preventors or other related drilling safety and control equipment as required by the approved drilling plan, $250.

(g) For failure to exercise due care and diligence in preventing undue damage to surface or subsurface resources or surface improvements as required by 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.

(c) Payments made pursuant to this section shall not relieve the lessee from the responsibility of compliance with the regulations in this part or from liability for waste or any other damage. A waiver of any particular assessment shall not be construed as precluding an assessment pursuant to § 221.61 for any other act of noncompliance occurring at the same time or at any other time.

§ 221.64–221.69 [Reserved]

Special Provisions

§ 221.70 Surface rights.

(a) Lessees shall have the right of surface use only to the extent specifically granted by the lease. With respect to restricted Indian lands, additional surface rights may be exercised when granted by a written agreement with the Indian surface owner and approved by the Superintendent of the Indian agency having jurisdiction.

(b) The Supervisor is responsible for approving the installation and monitoring the operation of all drilling, development, and production facilities on the leasehold. This includes storage tanks and processing equipment, sales facilities, all pipelines upstream from such facilities, and other facilities to aid production such as water disposal pits and lines, and gas or water injection lines.

§ 221.71 Damages on restricted Indian lands.

Assessments for damages to lands, crops, buildings, and to other improvements on restricted Indian lands shall be made by the Superintendent and be payable in the manner prescribed by said official.

§ 221.72 Oil and gas exploration and development contracts—restricted Indian lands.

Any contract entered into pursuant to the proviso contained in 25 U.S.C. 396b and which provides for the exploration, development, and production of oil and gas on restricted Indian lands shall be submitted to the DCM for review and recommendation to the Superintendent prior to approval of the contract by the Secretary or his authorized delegate. Operations conducted pursuant to such an approved contract are subject to the operating regulations in 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 lessees 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 lessees 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 regulations in this part shall govern with respect to the lessee'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 290. 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.

[FR Doc. 81-33025 Filed 11-16-81; 8:45 am]

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federal register

Tuesday
November 17, 1981

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 amplifies 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) 447-3527. 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 1978 (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 water conservation or enhancement measures during periods of severe drought. Section 403 authorized a program of assistance for 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 216 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 the authority provided in the Agricultural Credit Act for the previous authority where program operations are concerned. However, this rule is intended to govern the EWP program as it operates now or may operate in the future under either the authority provided in Section 403 of the Agricultural Credit Act of 1978 or the authority provided by Section 216 of the Flood Control Act of 1950.

The Secretary of Agriculture has directed that the Department's emergency conservation programs be carried out so that they are: (1) uniformly responsive in emergencies; (2) limited to practices and measures that are economically and environmentally defensible; and (3) efficiently administered. This rule has been written to comply with that directive.

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 in Room 5247, South Agriculture Building, 14th and Independence Avenue, S.W., Washington, D.C. 20013. A summary of the principal points made in the body of comments and the responses to them follow:

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 the 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 best be 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.

Comment—Section 624.5 defines the two broad types of emergency situations—exigency and nonexigency were vague and needed clarification.

Response—The definitions of exigency and nonexigency situations (§ 624.5) has been revised to improve clarity. The revised definitions distinguish between exigencies and nonexigencies according to the probability that the threats 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.

Comment—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 assistance if it can be demonstrated that such upland 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. 83–566), provide authority to develop long-term solutions that include the use of soil and water conservation practices and other nonstructural means instead of channel modification work if they are more economically defensible and environmentally sound.

Comment—Five respondents commented that the 10-day limit for obligating funds and the subsequent 30-day period for completing the emergency work in exigency situations do not provide enough time to carry out the program.

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.

Comment—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.

Comment—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?

Response—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.

Comments—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 retardation 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.

Restoration of public facilities, such as the treatment plant in a public water supply, is not eligible for EWP assistance. Assistance in repairing damages to public utilities is available from the Federal Emergency Management Agency (FEMA) or other Federal, State, or local programs.

Comment—Several commenters noted that the 80–20 percent cost sharing arrangement for nonexigency work is inequitable. In major disasters, funds available to local sources would be totally inadequate to finance their share of the cost.

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 bear up to 100 percent of the cost of constructing emergency measures in exigency situations. In nonexigency situations, Federal funds may bear 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 receive 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 not 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 excludes 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. 83–566, Resource Conservation and Development (RC&D), or Pub. L. 78–534.

Response—Section 403 of Pub. L. 96–334 (16 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. 83–566, 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.

Dated: November 6, 1981.

Norman A. Berg,

Chief, Soil Conservation Service.

Accordingly, Part 624 of Title 7 is revised to read as follows:

PART 624—EMERGENCY WATERSHED PROTECTION

Sec.

Authority: Sec. 216, Pub. L. 81-516, 33 U.S.C. 701b-1; and § 403, Pub. L. 95-334, 16 U.S.C. 2203, 5 U.S.C. 301.

§ 624.1 Purpose.

This part sets forth the requirements and procedures for Federal assistance administered by the Soil Conservation Service (SCS) under section 216, Pub. L. 81-516 and section 403 of Title IV of the Agricultural Credit Act of 1978, Pub. L. 95-334.

§ 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 water shed 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 imparied 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 administrative directive 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 those undertaken to remove or reduce hazards created by the disaster to safeguard life and property from flooding, drought, or the products of erosion.

(1) *Watershed Emergency.* A watershed emergency exists when a natural occurrence causes a sudden impairment of a watershed that creates an imminent threat to life or property. To be eligible for assistance, the imminent threat to life or property must significantly exceed that which existed before the impairment.

(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.

(iii) A *sudden watershed impairment* results from a single natural occurrence or a short-term combination of occurrences. Watershed impairments resulting from long-term combinations or series of natural or other occurrences are not considered sudden watershed impairments.

(iv) *Exigency and nonexigency situations.* Watershed emergencies are classified as either exigency or nonexigency situations.

(A) An *exigency* exists when the near-term probability of damage to life or property is high enough to demand immediate Federal action. An exigency continues to exist as long as the probability of damage continues at a high enough level.

(B) A *nonexigency* situation exists when the near-term probability of damage to life or property is high enought to constitute an emergency but not sufficiently high to be considered an exigency. A nonexigency situation continues to exist as long as the probability of damage remains high enough to be considered an emergency.

(v) *Changes in emergency situations.* Changes in the near-term probability of threat to life or property will be reflected by changes in the classification of emergencies. As the near-term probability that the threats will be realized is reduced because of emergency assistance or other factors, exigency and nonexigency situations will be appropriately reclassified. Similarly, as occurrences increase the probability of threats to life or property, situations previously considered nonemergencies will be appropriately reclassified as nonexigencies and previous nonexigency emergency situations will be appropriately reclassified as exigencies.

(vi) *Drought emergencies.* Assistance is available in drought emergencies when the eligibility criteria specified in this rule are met and the Agricultural Stabilization and Conservation Service (ASCS) determines that a drought emergency exists under regulations promulgated to carry out sections 401 and 402 of the Agriculture Credit Act of 1978 (Pub. L. 95-334).

(b) *Eligible recipients.* Include those public or private landowners, land managers, land 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.

Interested persons other than Federal agencies must be represented by a project sponsor. Project sponsors must: be a legal subdivision of a State government or a State itself; have legal authority and agree to use such authority to obtain needed landrights, water rights, and permits; and agree to provide for the operation and maintenance of completed emergency measures.

(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.

(iii) 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 measures to be installed on Federal lands such as National Forests or National Grasslands.

§ 624.6 Eligible measures.

(a) *Eligibility.* To be eligible for assistance a measure must—

(1) Retard runoff or prevent soil erosion;

(2) Reduce threats to life or property resulting from a watershed emergency;

(3) Be economically and environmentally defensible and sound from an engineering standpoint;

(4) Be limited to the minimum that will reduce applicable threats to a level not to exceed that which existed before the impairment of the watershed;

(5) Yield beneficial effects to more than one individual; and

(6) Conform to rules and regulations published by SCS for complying with Executive Order 11990, Protection of Wetlands, and Executive Order 11988, Floodplain Management.

(b) *Documentation.* (1) When an exigency does not exist, the economic rationale of proposed measures must be submitted in appropriate detail with the request for funds. Generally, the expected value of imminent damages (amount of damages multiplied by the near-term probability of their occurrence) must exceed the cost of emergency measures. Information provided in the request for emergency funds to support economic defensibility of the measures must include but is not limited to—

(i) Number and extent of values at risk because of the watershed impairment;

(ii) Estimated 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 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 are to 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. Measures needed to offset adverse impacts should be planned for installation concurrent with installation of the emergency measures. If they cannot be installed then, plans should be included to ensure their installation within 30 days.

(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.

(d) Perform work on features of projects installed under the authority of Pub. L. 83–566, Resource Conservation and Development, or Pub. L. 78–534.

(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. 91–190, 83 Stat. 852 (42 U.S.C. 4321 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.

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Part V

Environmental Protection Agency

Hazardous Waste Management System: Identification and Labeling of Hazardous Waste

ENVIRONMENTAL PROTECTION 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-562), 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 9:00 am to 4:00 pm, Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free at (800) 424-9346 or at (202) 554-1404. For technical information contact Judith S. Bellin, Ph.D, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 (202) 755-9187.

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 33066 (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 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 non-hazardous solid wastes (45 FR 33095), 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 33095). 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 non-hazardous waste. It was further recognized, however, that these 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 33095).

The regulated community has contended 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 non-hazardous 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 commenters 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 wastes 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.[1] Strict application of the mixture rule would cause to be hazardous waste a mixture of large volumes of non-hazardous 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 toxic wastes are mixed with wastewaters in concentrations sufficient to render hazardous the resulting mixture and wastewater treatment sludges. Furthermore, many wastewater treatment facilities contain unlined surface impoundments, which are of special environmental concern when they are used to treat, store, or dispose of hazardous waste. 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 the 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 manfacturing chemical 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 manufacturing plant's sewer system) and, in other cases, are reasonable and efficient practices for managing these small volumes of wastes. 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.[2,3] 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 [4] solvents carbon tetrachloride, tetrachloroethylene and trichloroethylene.[5,6] 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.[7,8,9]

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.[10] For example, a plastics manufacturing plant using acrylonitrile (a commercial chemical product listed in § 261.33(f)) 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.[11]

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.[12] 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.[13] 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's wastewater treatment system. On the average, in a typical refinery, about 75–150 kg per year of heat exchanger bundle sludges are flushed to the sewer system.[14] 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).[15] Sampling performed by the Agency at seven refineries showed less than 0.05 ppm of total chromium.[16] 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

[2] Data submission of the American Petroleum Institute (API), April 3, 1981. Although the data were gathered from only four refineries, API has indicated that they are representative of the petroleum refining industry.

[3] Development Document for Effluent Limitations Guidelines and Standards for the Petroleum Refining Point Source Category, EPA 440/1-79-014b, December 1979.

[4] EPA's Carcinogen Assessment Group (CAG) has determined that there is substantial evidence to indicate that these substances are potentially carcinogenic in human beings.

[5] See footnote 2

[6] See footnote 3

[7] See footnote 3

[8] Development Document for Effluent Limitations Guidelines and Standards for the Pharmaceutical Industry Point Source Category, EPA 440/1-80-084a, June 1980.

[9] The presence of these compounds in the wastewater does not necessarily derive from their use as solvents. They may also derive from manufacturing processes where the material is used as a reactant/raw material, rather than as a solvent, or from laboratory operations. Increased concentrations of these materials in wastewater attributable to their use as solvents will thus be less than the values reported above, reinforcing the Agency's view that its contemplated relaxation of the mixture rule for these materials will not jeopardize human health or the environment.

[10] Submission of the Chemical Manufacturers Association (CMA), March 25, 1981.

[11] See footnote 10.

[12] See footnote 2.

[13] See footnote 2.

[14] See footnote 2.

[15] Calculated from submission of API (see footnote 2).

[16] See footnote 3.

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 respect to wastewater mixtures, it does not apply to non-hazardous wastewaters that receive small quantities of listed hazardous wastes which are not principal 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 today'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.[17]

Today's amendment (except for § 261.3(a)(2)(iii)) applies only to wastewater mixtures managed in wastewater treatment systems whose discharge is subject to regulation under either Section 402 or 307(b) of the Clean Water Act. This requirement will help to prevent 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 307(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") that 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 reguation under the Clean Water Act. The privately owned treatment works to which these unregulated facilities discharge, however, may qualify for the mixture rule exclusion provided 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[18] 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 same 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.[19]) 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 resonable 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 Carcinogen 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, creyslic acid, nitrobenzene, toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, and spent chlorofluorocarbon solvents.[20] 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.[21] 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

[17] Most wastewaters are currently treated by chemical or biological treatment processes designed to degrade organic materials. Most of the listed hazardous wastes covered by today's amendment are hazardous because they contain organic hazardous constituents. Many of these constituents are capable of being treated by these wastewater treatment systems at the concentration allowed in today's amendment.

[18] Several of the other wastes listed in § 261.31 are sludgs from wastewater treatment and thereby are derived from rather than introduced into wastewaters.

[19] See Background Document to hazardous waste listings F001–F005, response to comments, November 14, 1980.

[20] The spent fluorocarbon solvents are included in this aggregate limitation even though 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 should, as a practical matter, help meet this concern by reducing the amount of fluorocarbon solvent available for release. The Agency, therefor 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.

[21] 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 higher criteria (ranging from 0.4 to 19.8 ppm) for 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 two liters of water, and consumption of 6.5 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 at the low 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 data submitted by API[22] indicate that wastewater treatment typically reduces these concentrations to a range of 10–100 ppb, levels that approach the Water Quality Criteria[23] which the Agency considered as a guide in assessing the relevant factors.

Spent solvent wastewater mixtures may be released before treatment is complete. Even in these situations, however, other attenuative mechanisms such as adsorption to organic soil constituents, biodegradation and dilution will typically operate to reduce the spent solvent concentrations in these releases before they are transported to points where human or environmental exposure may occur. Thus the Agency concluded that even where wastewater releases occur prior to full treatment, attenuative mechanisms will reduce spent solvent concentrations to levels that will not pose a substantial hazard to human health or the environment when the influent concentrations are limited to 1 and 25 ppm.

The Agency does not intend to determine compliance with this provision by requiring that generators actually monitor the concentration of spent solvent in untreated wastewater. Instead, the generator must be able to demonstrate that the maximum amount of solvents used during a week divided by the average weekly flow of the influent into the headworks of the final wastewater treatment step would not exceed the standards established herein. 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.[24] 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 take account of situations when the wastewater treatment system does not operate at design capacity; the treatment system's headworks is the appropriate part of the treatment facility on which to base average raw wastewater influent concentrations, because final combination of different raw wastewater streams typically takes place at that location.

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 5.3 ppm,[25] the average methylene chloride concentration is 1.1 ppm, and the combined concentration is 6.4 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 ascertain 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.[26]

At this time, in § 261.3(a)(2)(iv)(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

[22] See footnotes 2 and 3.

[23] See footnote 21.

[24] However, if a facility can demonstrate by means of appropriate records that any portion of solvents used at the facility are not disposed to wastewater, that portion is to be excluded from the calculation. That portion of solvents which is volatilized may not be excluded from the calculation of solvent usage.

[25] Calculated as follows: 700kg/wk x 1/7 wk/d x $1/5x10^6$ d/gal x 1/3.8 gal/1 x 1 1/kg = 5.3 ppm.

[26] For making such a demonstration for an individual plant, the petition process under § 260.22 can be used.

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.[27]

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),[28] 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 0.02 ppm of hexavalent chromium.[29] Two large refineries report 10–30 ppm of sulfide in untreated wastewater.[30] Although these wastes are alkaline (pH8–9)[31] 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.[32] Although the total environmental loading of chromium in petroleum refinery wastewaters resulting from heat exchanger bundle cleaning sludges is not inconsiderable (about 1300 kkg/year),[33] the fact that it is almost completely trivalent, and is present in low concentrations in those wastewaters, justifies exempting them from the mixture rule at 40 CFR 261.3(a)(2).

[27] Letter from S. M. D'Orsie, Exxon Company to M. Steinberg, Morgan, Lewis and Bockius, August 12, 1981.

[28] See footnote 3. These data were calculated from Tables III–5 and III–10 of the referenced document.

[29] See footnote 28.

[30] See footnote 27.

[31] See footnote 28.

[32] 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.

[33] See footnote 2.

[34] U.S. EPA. 1978. Compilation of Air Pollutant Emission Factors, 3rd. ed. Suppl. No. 8. NTIS. Springfield, VA Publ. No. PB 288–905. May 1978.

[35] U.S. EPA. 1980. VOC Fugitive Emissions in the Synthetic Organic Chemicals Manufacturing Industry—Background Information for Proposed Standards. EPA 450/3–80–033a. November 1980.

[36] U.S. DHHS. 1981. Control of Emissions from Seals and Fittings in Chemical Process Industries. DHHS (NIOSH) Publication No. 81.

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 *de minimis* losses in the normal handling of these 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 bags 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).[34–36] 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 often is 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 does not believe the wastewater mixture 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.[37] 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 § 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 sloppily 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 (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 plant maintenance). EPA believes that these discarded § 261.33 materials can and should be segregated and separately managed as hazardous wastes. If they are intentionally or unintentionally mixed with non-hazardous wastewaters, then such wastewaters must managed as hazardous wastes.

D. Mixtures of Wastewater and Wastes Which Are Generated by Laboratory Operations

In section 261.3(a)(2)(iv)(E) of today's amendment, EPA is exempting from the mixture rule mixtures of non-hazardous wastewaters and laboratory wastewaters that contain or may contain listed hazardous wastes, provided that the annual average concentration of laboratory wastewaters in the generator's total wastewater flow is less than one percent. Most manufacturing plants operate on-site laboratories either for the purpose of providing quality control [38] or for performing research and development, or both. These laboratories typically generate a variety of listed hazardous wastes including many of the spent solvents listed in § 261.31 and many materials listed in § 261.33.[39] These laboratories may also discard samples or portions of samples of listed hazardous wastes brought into the laboratory for analysis.

Proper disposal of these hazardous wastes and other laboratory wastes is a problem for all laboratories. [40-42] Some of these hazardous wastes are segregated and disposed of separately (e.g., by being sent to a landfill in carefully packed "lab packs", or to an off-site or on-site incinerator). However, a majority of these wastes are believed to be discharged through the laboratories' sewers into the plants' wastewater collection and 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 washwater 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 [43] 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).[44]

To assure that the exemption in today's amendment is only available to highly diluted [45] mixtures of laboratory wastes and nonhazardous wastewaters, 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 wastewaters 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.[46] 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

[37] Where an unused material (such as toluene) 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 against the 1 or 25 ppm exclusion level for spent solvents mixed with wastewater. In this case, what is being discarded is not a spent solvent, but an unused commercial product or intermediate.

[38] This exclusion covers laboratory wastes generated in the course of quality control measurements conducted near a unit operation, as well as analyses conducted in a formal laboratory setting. A pilot plant, however, is not considered to be 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.

[39] 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.

[40] Survey of Laboratory Practices and Policies for Employee Protection from Exposure to Chemicals. American Chemical Society, 1155 16th Street NW, Washington, D.C. 20036. July 1981.

[41] Muir, G. D., Hazards in the Chemical Laboratory. The Chemical Society, Burlington House, London W1V0BN. Second Edition, March 1977.

[42] N. A. S. Prudent Practices for Handling Hazardous Chemicals in Laboratories. National Academy Press, Washington, D.C. 1981.

[43] See Footnote 2.

[44] Moreover, the Agency believes that these concentrations in wastewaters will often be reduced by the physical, chemical or biological wastewater treatment processes typically employed.

[45] For reasons of laboratory safety, it is standard operating procedure to discard laboratory wastes to the sewer system by admixture with copious amounts of water. See footnotes 40–42.

[46] For the purpose of rendering regulatory compliance less burdensome the Agency has chosen to set a single limit for all hazardous laboratory wastes. The limit was set at 1 ppm of toxic (T) listed wastes because laboratories work with a wide mix of chemicals (see footnote 39), and an appreciable fraction of these chemicals are carcinogens: 5% of the laboratories surveyed use more than 250 gm of OSHA-regulated carcinogens daily, weekly or monthly (see document referred to in footnote 41). As a point of clarification: listed wastes which are hazardous solely because they exhibit one or more of the characteristics of hazardous waste identified in Subpart C of Part 261 are not included in this calculation. (See discussion in the text at III above). The regulatory language in § 261.2(a)(v)(E) reflects this point.

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, 261.32 and 261.33 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)(2)(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 comments criticizing 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 wastewater is 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, and, indeed, specifically invites comment on the issues raised herein. Thus, readers will have 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:

Authority: Secs. 1006, 2002(a), 2001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912, 6921, and 6922).

2. In § 261.3, paragraph (a)(2) is revised to read as follows:

§ 261.3 Definition of hazardous waste.

(a) * * *

(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, 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 hasd 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, tetrachloroethylene, trichoroethylene—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 sub-paragraph, *"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 rinsate 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.

* * * * *

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Part VI

Environmental Protection Agency

Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 265

[SWH–FRL 1960–5]

Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

AGENCY: Environmental Protection Agency.

ACTION: Interim final rule and interim final amendments to rules and request for comments.

SUMMARY: The Environmental Protection Agency (EPA) has issued standards applicable to owners and operators of hazardous waste management facilities as required by the Resource Conservation and Recovery Act (RCRA). One of these standards bans the disposal of most containerized liquid hazardous waste in landfills, effective 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.

DATES: Interim final rule and interim final amendments effective November 17, 1981.

COMMENT DATE: The Agency will accept comments on this rule and amendments until January 18, 1982.

ADDRESSES: Comments should be addressed to Deneen M. Shrader, Docket Clerk, Office of Solid Waste, (WH–562), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, telephone (202) 755–9173. Comments on today's interim final rule and amendments should identify the regulatory docket as follows: "Section 3004—Lab packs."

FOR FURTHER INFORMATION CONTACT: The RCRA hazardous waste hotline, toll free at (800) 424–9346 (544–1404 in Washington, D.C.). For technical information contact Kenneth Shuster, Program Manager, Land Disposal Branch, Office of Solid Waste (WH–564), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, telephone (202) 755–9125.

SUPPLEMENTARY INFORMATION:

I. Introduction

On May 19, 1980, EPA promulgated hazardous waste regulations in 40 CFR Parts 260–265 (45 FR 33066 *et seq.*) which established, in conjunction with earlier regulations promulgated on February 26, 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 landfills when packaged in "lab packs."

Laboratory wastes are commonly collected in small containers ranging in size from an ampule to 5 gallon pails. These containers are surrounded by some type of absorbent material such as vermiculite and overpacked in large drums (usually 55 gallon) prior to disposal in a secure landfill. The entire package is commonly called a lab pack.

Although the term lab pack is generally used to refer to a method of disposing of laboratory wastes, today's rule is not limited to the disposal of such wastes. The disposal option authorized by today's rule may be utilized by any type of generator. It is designed to accommodate generators who produce smaller quantities of many different wastes.

Today's amendments are designed to relax two separate prohibitions against the landfilling of lab packs which would otherwise have become effective on November 19, 1981. Section 265.312 allows the burial of containerized liquid ignitable waste in landfills until November 19, 1981. After that date, liquid ignitable waste may not be placed in landfills. Section 265.314 prohibits, after November 19, 1981, the burial of containerized liquid hazardous wastes except very small containers, such as an ampule, or containers designed to hold liquids for a use other than storage, such as a battery or capacitor. (See 45 FR 33213 (May 19, 1980) and 45 FR 33502 (June 29, 1981) for explanations of these prohibitions.) The Agency has received numerous requests to allow lab packs containing liquid and liquid ignitable hazardous wastes to be disposed of in secure landfills after November 19, 1981, the effective date of the prohibitions.

The disposal of hazardous wastes in lab packs is a common practice for many small volume generators (not necessarily small quantity generators as defined in 40 CFR 261.5) including, particularly, commercial research laboratories, school laboratories, and large Governmental laboratories. This represents a general trend away from previous improper disposal methods for these types of wastes, such as mixing these wastes in dumpsters with municipal waste or pouring the wastes down the drain.

Preliminarily, it should be noted that many high school, college and university, or other small laboratories may be small quantity generators and, therefore, need not comply with the full RCRA hazardous waste management regulations provided that the wastes are managed in accordance with § 261.5(g). If generators are small quantity generators as defined in 40 CFR 261.5, their wastes, including those placed in lab packs, are not subject to the RCRA regulations contained in Parts 262 through 267 and Parts 122 through 124, or to the notification requirements of section 3010 of RCRA, provided that the generator complies with § 261.5(g). Hazardous wastes subject to the reduced requirements of § 261.5 may be mixed with non-hazardous wastes and remain subject to these reduced requirements, even though the resultant mixture exceeds the quantity limitations identified in § 261.5, unless the mixture meets any of the characteristics of hazardous waste identified in Subpart C of Part 261.

Several commenters representing laboratories have stated that although they qualify for the small quantity generator exemption, they would prefer to dispose of their hazardous wastes at a RCRA-permitted or interim status hazardous waste landfill. By allowing the disposal of lab packs in hazardous waste landfills, the Agency is providing a practical disposal option for these generators, as well as for the generators who do not qualify for the small quantity generator exemption.

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 wastes 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—ampule 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 landfilling.

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 Faculties* (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 or 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 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 173.25) unless an exemption is obtained in accordance with 49 CFR Part 107 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 outside container. The purpose of this restriction is to prevent any potentially dangerous reaction between wastes packaged in the same lab pack. The DOT hazardous materials regulations contain a similar provision. Those regulations state that the offering of packages of hazardous materials in the same packaging, freight container, or overpack, with other hazardous materials, the mixture of contents of which would be liable to cause a dangerous evolution of heat or gas or produce corrosive materials, is forbidden except as specified (see 49 CFR 173.21). EPA has included a similar provision, however, because not all hazardous wastes and thus not all lab packs will be covered by the DOT regulations.

In addition to the prohibition against co-packaging incompatible wastes contained in § 265.316, it should be noted that § 265.313 already prohibits the placement of incompatible wastes or incompatible wastes and materials 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 265.313 is, of course, applicable to the placement of lab packs in landfills.

Section 265.316(b) deals with the outside container and the type of absorbent material required. EPA is requiring that the inside containers be overpacked 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 limitation coincides with 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

requiring 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 ruptured or 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- or 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 553(b) 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 landfull 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 absorbent 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 defined 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) 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.

[FR Doc. 81-33192 Filed 11-16-81; 8:45 am]

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Reader Aids

Federal Register

Vol. 46, No. 221

Tuesday, November 17, 1981

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Public Inspection Desk	523-4986
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235
Privacy Act Compilation	523-3517
United States Government Manual	523-5230

SERVICES

Agency services	523-3408
Automation	523-3408
Dial-a-Reg	
Chicago, Ill.	312-663-0884
Los Angeles, Calif.	213-688-6694
Washington, D.C.	202-523-5022
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-4986
Regulations Writing Seminar	523-5240
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, NOVEMBER

54313-54496.....2
54497-54720.....3
54721-54916.....4
54917-55080.....5
55081-55232.....6
55233-55502.....9
55503-55678.....10
55679-55912.....12
55913-56152.....13
56153-56406.....16
56407-56596.....17

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:

Presidential Determinations:

No. 82-1 of October 10, 1981.....55233

Notices:

November 10, 1980 (See Notice of November 12, 1981.....55915

November 12, 1981.....55915

Executive Orders:

July 2, 1910 (Revoked in part by PLO 6080).....54344

October 4, 1910 (Revoked in part by PLO 6078).....54345

June 13, 1925 (Revoked in part by PLO 6077).....54344

March 6, 1981 (Revoked by PLO 6081).....55265

12170 (See Notice of November 12, 1981).....55915

12332.....55913

Proclamations:

4806 (See Proc. 4884).....56407

4879.....54313

4880.....54315

4881.....54317

4882.....54917

4883.....56153

4884.....56407

5 CFR

Ch. XIV.....56155

330.....55081

831.....54497

890.....55503, 55679, 55917

Proposed Rules:

Ch. 1.....55533

550.....55119

7 CFR

29.....56155

53.....54919

271.....55083

272.....55083

275.....55083

277.....55083

282.....56561

319.....54319, 54321, 55235

330.....54322

331.....55918

354.....54323

624.....56574

905.....55919

907.....55680

910.....55082, 55920

928.....54920

981.....54921

2852.....54497

3015.....55636

Proposed Rules:

331.....55992

1001.....55876

1030.....54564

1032.....55707

1068.....54366

1133.....55707

1135.....54374

1701.....55122

1900.....54949

1924.....54751

1942.....54751

1943.....54751

1945.....54751

8 CFR

103.....54498

109.....55920

9 CFR

78.....55235

94.....54322

381.....55922

10 CFR

Ch. II.....54721

2.....55083

30.....55085

40.....55505

150.....55085

707.....55507

Proposed Rules:

Ch. II.....54476

Ch. III.....54476

Ch. X.....54476

19.....54956

20.....55271

50.....54378

71.....55992

205.....54499

210.....54499

212.....54499

456.....54499, 55836

478.....55628

504.....54753

508.....54753

516.....54378

12 CFR

201.....55237, 56409

217.....55237

552.....54722, 54723

563f.....54723

569a.....54922

571.....54724

614.....54726, 55085

615.....55085, 55088

701 55922
721 55922
1204 55507
Proposed Rules:
220 55533
225 54565
544 54754
563 ..... 54566, 54754
563c 54566
577 54754

13 CFR

121 55680
Proposed Rules:
Ch. I 55534

14 CFR

11 55682
39 ..... 54324, 54922, 55238–55244, 56157–56163
71 ..... 54325, 54326, 54925–54928, 55685, 56165–56167
73 54927
75 54928
91 ..... 54928, 55682
97 ..... 54326, 56168
109 55682
121 55682
127 55682
133 55682
135 55682
137 55682
139 55682
183 55682
205 54499
207 56425
208 56425
212 56425
294 54328
296 54726
300 55089
380 56425
1245 54328
Proposed Rules:
Ch. I 54957, 54958
1 56205
25 54958
39 ..... 55273, 56205, 56206
71 54961
73 55708
75 54963
39 ..... 54381, 54383

15 CFR

373 56169
379 56169
390 55508
399 ..... 54930, 55508, 56169

16 CFR

13 ..... 54931, 54932
1205 54932
1301 55923
Proposed Rules:
Ch. I 54868
13 ..... 54756, 54758

17 CFR

1 ..... 54500, 55925
4 56171
8 ..... 54500, 55925
9 ..... 54500, 55925
15 ..... 54500, 55925
16 ..... 54500, 55925
17 ..... 54500, 55925
18 ..... 54500, 55925
21 ..... 54500, 55925
33 ..... 54500, 55925
145 ..... 54500, 55925
147 ..... 54500, 55925
155 ..... 54500, 55925
166 ..... 54500, 55925
180 ..... 54500, 55925
210 ..... 54332, 56171
240 ..... 54332, 56171
251 55510
Proposed Rules:
1 ..... 54570, 55944
8 ..... 54570, 55944
9 ..... 54570, 55944
15 ..... 54570, 55944
16 ..... 54570, 55944
17 ..... 54570, 55944
18 ..... 54570, 55944
21 ..... 54570, 55944
33 ..... 54570, 55944
145 ..... 54570, 55944
147 ..... 54570, 55944
155 ..... 54570, 55944
166 ..... 54570, 55944
180 ..... 54570, 55944
240 56426

18 CFR

1 55245
2 55926
4 ..... 55245, 55252, 55926, 55944
5 55926
16 ..... 55926, 55944
35 55952
131 ..... 55926, 55944
282 55253
375 55944
Proposed Rules:
2 55535
4 55536
35 55535
271 ..... 54384, 55540, 44542, 56428, 56429
273 55542
274 55542

19 CFR

10 55686
Proposed Rules:
10 55273
12 55273

20 CFR

679 55090
Proposed Rules:
Ch. III 55612
404 ..... 54963, 55709

21 CFR

5 55090
74 55510
155 56409
193 ..... 54728, 55511
201 55512
211 56411
444 55091
510 56412
520 55954
540 55954
558 ..... 54537, 55955, 55956, 56412
561 ..... 55091, 55092, 55512
610 56411
1308 55688
Proposed Rules:
Ch. I 55612
145 55994
148 55994

22 CFR

41 54729
46 55513
223 55957

23 CFR

Ch. I 55253

24 CFR

200 56413
203 56420
215 56421
234 56420
235 56421
236 56421
241 54339
812 56421
Proposed Rules:
15 54571

25 CFR

Proposed Rules:
258 55542

26 CFR

5c 54538, 56148
6a 55513
22 54538
26a 54540
Proposed Rules:
1 ..... 55544, 56431

27 CFR

Proposed Rules:
4 ..... 54963, 55093, 55549
5 ..... 55093, 55549
7 ..... 55093, 55549

29 CFR

2619 55958
2640 55515
2643 55515
Proposed Rules:
Ch. V 55122

30 CFR

Ch. VII 54495
Proposed Rules:
221 56654
231 56433
840 54761
915 56433
925 54572
926 55275
936 55275
946 54385

31 CFR

Proposed Rules:
240 54763

32 CFR

114 55689
199 55515
706 55254
806b 54730
Proposed Rules:
Ch. XVI 55550, 56434
631 54964

33 CFR

100 54935
115 54935
117 54936
128 56181
165 ..... 54935, 56183
257 55516
265 55516
266 55516
305 55516
380 55516
384 55516
Proposed Rules:
117 ..... 56207, 56208, 56207
161 54973
165 54973

34 CFR

649 55255
Proposed Rules:
Subtitle A 54574
Ch. I 54574
Ch. II 54574
Ch. III 54574
Ch. IV 54574
Ch. VI 54574
Ch. VII 54574

36 CFR

50 55959
60 56183
Proposed Rules:
7 55709
60 56209

37 CFR

Proposed Rules:
1 55666
307 55276

38 CFR

3 55098
Proposed Rules:
6 56213
8 56213

39 CFR

111 54339

40 CFR

52 ..... 54541, 54542, 54730, 54939–54941, 55098–55107, 55517, 55518, 55690, 55967–55972, 56195–56198
60 55975
62 ..... 55972, 55974
65 54943
81 ..... 54340, 55108, 55257, 55261, 56199
120 55519
122 55110
123 ..... 54544, 54545
180 ..... 54546, 54944, 55113, 55114, 55693
261 56582
264 55110
265 56592
Proposed Rules:
35 55220
52 ..... 54767, 55123, 55550, 55551, 55714–55720, 55994, 56461–56463
81 ..... 54974, 55722, 55994

123.....54770, 55997, 56464
180.....54584, 54771, 55725, 55998, 56465
256.....54772-54776, 56465
723.....54585, 54688

41 CFR

Ch. 18.....54341
Ch. 101.....55262, 55263
9-1.....54732
9-3.....54732
9-4.....54732
9-7.....54732
9-9.....54732
9-15.....54732
9-16.....54732
9-23.....54732
9-50.....54732
101-30.....55991

Proposed Rules:

14-1.....54777
14-3.....54777
14-4.....54777
14-6.....54777
14-7.....54777
14-9.....54777
14-10.....54777
14-16.....54777
14-17.....54777
14-18.....54777
14-19.....54777
14-30.....54777
14-63.....54777

42 CFR

36.....54742
54.....55695
54a.....55695
401.....55695
405.....54743
431.....54743
433.....54743
435.....54743
436.....54743
440.....54743
447.....54743
456.....54743
563.....54743
466.....54743
478.....54743

Proposed Rules:

Ch. I.....55612
Ch. II.....55612
Ch. III.....55612
Ch. IV.....55612

43 CFR

3130.....55494
3140.....55494

Public Land Orders:

6005.....55264
6041.....55991
6048.....56200
6076.....54345
6077.....54344
6078.....54345
6079.....54345
6080.....54344
6081.....55265
6082.....55265

Proposed Rules:

4100.....56132

44 CFR

10.....54346, 55116
64.....54547
65.....54548, 54553
70.....54347-54365

Proposed Rules:

Ch. I.....54386
67.....54599-54612, 54975

45 CFR

302.....54554
303.....54554
304.....54554
1170.....55894

Proposed Rules:

Subtitle A.....55612
Ch. II.....55612
Ch. III.....55612
Ch. XIII.....55612
206.....54613

46 CFR

3.....56200
14.....56200
24.....56200
188.....56200
189.....56200

Proposed Rules:

42.....55278
66.....56318
67.....56318
68.....56318
69.....56318
536.....54390, 54391

47 CFR

15.....55520
73.....55116
90.....55701

Proposed Rules:

Ch. I.....55279, 55726, 56466
2.....55124, 56473
21.....55124, 56473
73.....54787, 55125, 55283, 56214
94.....55124

48 CFR

Proposed Rules:

22.....56223
37.....56223
49.....56223

49 CFR

Ch. X.....54745, 54746
1.....55265
173.....55266
179.....55266
512.....55266
525.....55266
537.....55266
555.....55266
1001.....54945
1002.....54945
1033.....54559-54562, 54747, 55267, 55705
1034.....54948
1048.....56423
1102.....55269
1116.....54945
1300.....55269

Proposed Rules:

Ch. X.....54613, 54614
571.....54391

50 CFR

17.....54748
259.....54563

Proposed Rules:

611.....55729-55732, 56480

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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.

Last Listing November 10, 1981